

# Gender Equality, Albanian National Mechanism Within the Framework of EU Legislation

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## Abstract

Gender equality is a cornerstone in the process of Albania's integration into the European Union. Although gender equality terminology was once considered impossible, progressive steps have now been taken to increase female involvement at the top of public office, decision-making, and local government. The continuous political changes of our country have created a huge legal gap over the role of women in society. Political and economic reforms after the 1990s aimed to create an equitable system of benefits between women and men, concerning their freedoms and personal rights. It is very important to emphasize that gender equality policies have an impact on improving the welfare of society by creating a parity that aims to flourish in a modern state. Reforming the legal framework on gender equality policies in Albania is a challenge, but its implementation is a considerable legal treasure trove for human rights. The same treatment of both genders will lead to the national restructuring of the monetary and human resources which will be governed by the treaties ratified by our state in creating a very good legal guide to the implementation of European standards.

**Keywords:** gender equality; reform; social integration; challenge; monitoring; convention; Europe.

## Introduction

Of particular importance in this approach to gender equality will be Albania's historical social development at different periods of time. The purpose of the historical analysis is to show how the woman's position has evolved in the family, politics, work and society nowadays. The issue of treatment is the reflection of the woman's position, which appears as an inexistent image in appearance. Albania serves us as a patriarchal story, the woman often displayed as the husband's shadow, such as depicted in the Laberia Canon, whose prediction exceeds human norms, allowing the killing of women in cases of opposing with moral norms. The legal analysis goes further with the family rights arising from marriage according to the provisions of the Civil Code 1929 and subsequently improved with some constitutional guarantees of the Communist era. History continues, after the 1990s, in presenting another improved picture of the female figure, but the climax of legal regulation on gender equality is behind the Stabilization Association Agreement, where there is a change in the legal provisions dictated by European space.

## Historical Overview of Women's Legal Status in Albania

The legal analysis of the position of women in Albania dates back to the late 1800s and early 1900s. A period that coincides with the Laberia Canon, which sanctioned a system of values on the fundamental principles of protection of honor<sup>1</sup>, combined with customary norms of the time. For historical significance, we call it the "Code", within the codified legal, property, family, work and criminal offenses. In the heading of "Marriage Relationships"<sup>2</sup>, the canon provided for a division between the rights and obligations of spouses. An element that sparked in its articles was the lack of equality between men and women, not only in the family but also in her social freedoms or political rights, clearly stated in the title of Article 291<sup>3</sup>. The Canon for the southern area and the period he represented was a norm regulator, the projections of his articles sanctioned excessively severe rates on the role of woman in the family and society, showing an enslaved figure, whose own rights was in the hands of the man. In the cases of disrespect of submission to the husband, violence was foreseen (beating and rape)<sup>4</sup>. The canonical acts followed through the years until the Declaration of Independence in 1912. However, for the period in which the Laberia Canon flourished, we must emphasize that we did not have a state authority as the leading regulatory body in a state, therefore beating, revenge, killings are identified as a salvation for the restoration of justice in war between customary norms and moral norms of society.

Time varies, history continues, Civil Code of Albanian Kingdom 1929<sup>5</sup>, deals with Chapter IX "Rights and Obligations arising from marriage"<sup>6</sup>. Otherwise, the role of women in this period, always followed by the husband's civil position, is displayed, but the code expresses for the first time until this period, the full civil capacity of women and the right to work, but with the consent of the husband<sup>7</sup>. The story of its creation is known for the European spirit that brought to the Albanian legal space, due to its implementation from European Civil Codes, such as France, Germany, Italy. But the distinctive feature in the field of gender equality is that in this Code we still maintain patriarchal principles as an inherent part of the customary domestic norms.

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<sup>1</sup> Elez, I. "Laberia Canon" 2006

<sup>2</sup> Ibid page 120

<sup>3</sup> Article 291 Lack of equality, "The wife (spouse), has no equal rights with the husband. She is subject to the husband's orders both in family life and in social, economic and political life and is obliged to obey to honor him, his parents and his brother-in-law, and his sister-in-law, but always maintains and defends her dignity" Page 120

<sup>4</sup> Article 297 The husband's right to a woman, "The husband has the opportunity to advise and rebuke, beat and bind when he is guilty and does not obey the husband but has no cling to his life, except for adultery. If he killed or wounded, he enraged with her parents " Page 122

<sup>5</sup> "Civil Code of 1929", 2010

<sup>6</sup> Article 188 "The husband is the head of the family. The woman follows the husband's civil position...." Page 85

<sup>7</sup> Article 191 "The married woman has full civil capacity to practice a profession or an industry must obtain the consent of the husband..." page 86

Following the historical chronology, there are some legal predictions that we may call emancipation for the period in which they were created, serving another view of the position and role of women in society.<sup>8</sup> The constitutional acts of the People's Socialist Republic of Albania express an equal woman in every detail either at work, in the right to be elected, allowing her free private, political and social space.<sup>9</sup> If we take into account the constitutional acts of different periods of the communist regime, it is noticed that the same distinctive feature of the existence of gender equality between men and women is maintained, emphasizing in these predictions that women's image should have been liberated<sup>10</sup> from any political oppression, economic exploitation by attributing the equal right with man at work, to the benefits of social security, education and all family, political and social activity. The legal concepts were changing in Albania, normative acts were expressing the importance of gender equality terminology, their essence was that there should not be any limitation or privilege in the rights and duties of men and women in education in society or wherever the image of women appeared as an etalon covering every area of life. Perhaps it is a bit surprising that we analyze democratic principles in the communist era, but today we must show that women will always have their human and legal spaces in spite of the periods. The era of political transition brought radical changes to the legislature on gender equality not in its early years, but after the 1992s<sup>11</sup> with the ratification of a series of European conventions on equality and non-discrimination between men and women, featuring another legal internal tabloid fundamental changes in improving and integrating women into society not only as political leaders but also as leaders of moral and family values.

### **National legal perspectives, in line with European directives**

The national legal challenge, as part of its compatibility with European legislation, dates back to June 1993, on the criteria set by the Council of Europe and after the ratification of a number of important European acts. The legal and institutional

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<sup>8</sup> Decree No.24, dated 15 March 1945 "Statute of the People's Republic of Albania" ART. 15. "The woman is the same with her husband in every area of private, political and social life. A woman has the right to be rewarded alike with her husband for equal work. She has the same right and social security. The state particularly cares for the mother and child's interests by providing the right to a paid leave before and after the birth and creating homes for women who are born and homes for raising and sheltering the children".

<sup>9</sup> Constitution of the People's Republic of Albania, 1950, Article 17 "The woman is the same as the husband in every area of private, political and social life. A woman has the right to be rewarded alike with her husband for equal work. She has the same right and social security".

<sup>10</sup> Law No.5506, dated 28.12.1976 "Constitution of the People's Socialist Republic of Albania" Article 41 "The woman, liberated from political oppression and economic exploitation, as a great force of revolution, actively participates in the country's socialist construction and defense of the homeland. The woman enjoys equal rights with her husband at work, in reward, at break, in social security, in education, in all social-political activity and in the family. "

<sup>11</sup> Law No. 7676, dated 09.11.1993, On Accession to the Convention "On the Elimination of All Forms of Discrimination Against Women", Law no. 8086, dated 13.03.1996 On the Accession of the Republic of Albania to the Conventions of International Labor Organizations, No.111 "On Discrimination in Work and Occupation", Law No 8137, dated 31.07.1996 "On the Ratification of the European Convention for the Protection of Rights Human and Fundamental Freedoms ".

readiness to follow the European path would culminate with the Stabilization and Association Agreement<sup>12</sup>, as a bridge to later win the Status of the Candidate Country. The Stabilization and Association Agreement is a pact of engagement on legal duties in the field of justice, politics, the economic, social sphere and the creation of adaptable institutions within the control of the implementation of reforms in the respective fields. In support of the immediate demands of Albanian society due to the problems related to discrimination in the areas of vitality, such as work, family and education, and the proposal of civil society operating in Albania in the field of protection of human rights and in particular the protection and empowerment of women in Albanian society, steps were taken to make progress in the European integration process by creating the Law "On Protection from Discrimination"<sup>13</sup>, which came as a concrete step in the field of human rights protection in the spirit of international documents and, at the same time, a concrete step towards meeting EU membership standards. In the new legal framework, a competent and enforceable body was legally appointed "Commissioner for Protection from Discrimination"<sup>14</sup>. The idea of creating a specific subject is related to legal aspects of the functioning of this body to target a strategic plan of interaction and cooperation in the field of protection of discrimination, especially in regulating legal balances. Concretely with the establishment of the commission were defined the legal priorities and key strategic goals of the Commission for Protection from Discrimination, fulfilling the implementation of the strategic objectives set by the International Acts, in particular from the SAA. The main objectives of the Commissioner's functional interaction will be to support these key pillars:<sup>15</sup>

- Development and improvement of domestic legislation in the field of protection against discrimination, in accordance with European standards
- Establishing cooperation relations between the Commission and the courts, particularly in cases of dismissal for gender, as well as in cases of domestic violence
- Increase and cooperation between the Commission and public institutions, as well as maximum engagement in raising media information, in order to ensure the effective implementation of the law;
- Planning and implementation of concrete measures for intervention in school curricula in order to avoid discriminatory elements and inclusion of anti-discrimination concepts.

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<sup>12</sup> Law No. 9590, dated 27.07.2006 "On the Ratification of the Stabilization and Association Agreement between the Republic of Albania and the European Communities of their Member States" Official Journal No.87, 14 August 2006

<sup>13</sup> Law No.10221, dated 04.02.2010 "On the Protection from Discrimination", Official Journal No.15, dated 25 February 2010

<sup>14</sup> Ibid Article 21

<sup>15</sup> The drafting of the Strategic Plan and Action Plan by the Commissioner for Protection from Discrimination for the years 2012-2015 has been made possible thanks to the professional expertise and financial support of the Open Society Foundation for Albania, Soros.

Through the development of the Office of the Commissioner, it will be intended to become an instrument for all other public and non-public actors for a common goal of protecting the situations of discrimination by creating new legal space for coping. The Commissioner's strategy will present co-operation and co-ordination among all public or private entities, defining their respective roles and responsibilities, in order to reach an efficient and harmonized approach to the fight against discrimination, especially cases of gender discrimination.

The inter-communitarian<sup>16</sup> pact between Albania and EU member states provided equal employment opportunities for everyone, insisting on the immediate and progressive harmonization of Albanian legislation with that of the European recommendation.

A continuation of the European reforms was created by the Albanian government, the "National Plan for European Integration 2014-2020"<sup>17</sup>, which envisaged social and employment policies, including the improvement of standards in the field of labor law, equal opportunities, health and safety at work and an important role in the field of discrimination. The principle of non-discrimination is provided for in the Charter of Fundamental Rights of the European Union and in directives governing the application and observance of the principle of equal treatment.

The National Plan identified the priorities of the Albanian state, which has undertaken to fight gender discrimination, gender-based violence and domestic violence, in close cooperation with civil society and international organizations, particularly within the framework of European Programs.<sup>18</sup>

As part of the long-term programs, the Albanian state through the European integration strategy has harmonized domestic legislation with international instruments for the implementation of the national strategy "On gender equality, reduction of gender-based violence and domestic violence 2011-2015"<sup>19</sup> and strengthening the state structures in support of gender equality, against violence against women and domestic violence, as well as raising public awareness on these issues.

Albania took place before the European challenge aimed at establishing the "National Plan for European Integration 2014-2020", foresaw its maximum engagement in achieving strategic objectives, which would significantly increase the impact of state mechanisms in protecting social problems, particularly in preserving gender balance.

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<sup>16</sup> The Stabilization and Association Agreement

<sup>17</sup> Council of Ministers Decision No.438, dated 02.07.2014 "On the Approval of the National Plan for European Integration 2014-2020", Official Journal No.110, dated 14 July 2014.

<sup>18</sup> Ibid page 4666

<sup>19</sup> Ibid page 4667

## **Increasing Gender Equality in Albania and Empowering Women's Role in Politics**

If we analyze the current situation on empowering women's role in Albanian society, especially in politics, we should first put emphasis on the statutes of political parties and their electoral programs, what they contain and how strongly parties take a stand on empowerment and gender equality in the structures of candidates as deputy or in local decision-making. The concept of gender equality is an important social issue dictated by the European space, which has become an integral part of the Albanian legislation, aiming at increasingly approximating our legislation with that of the EU, within the framework of fulfillment of the obligations as a signatory party of a number of approved acts, where we adhere.

The purpose of our engagement as a state requiring candidate status for the European Union is at national level to further increase the legal capacity on human rights, gender equality and to strengthen the principle of non-discrimination in Albanian society, aiming to rank alongside European countries as an emancipating society with a legal framework that regulates women's participation in active political life in Albania.

In the 2017 parliamentary elections, 18 political parties and 2,666 candidates were registered, out of which 1,073 women or 40% of female lists were represented by women. What was noted in the 2017 parliamentary elections was that the main political parties did not respect the principle of equal representation, unlike pre-election promises and engagements<sup>20</sup>. The ODIHR/OSCE official report estimated that despite the increase, women continued to be underrepresented in these elections. In their reports, foreign representatives stressed that none of the chairpersons of the competitive parties was a woman. The percentage of women at election administration levels was low, only 20%.<sup>21</sup>

Despite the sanctions provided for in the Electoral Code, gender quotas were not respected by political parties in various districts of the country, however, as long as a sanction is envisaged in case of non-compliance, a similar case occurred with political entities, where the Central Election Commission, the Collegial Compensation Body and the Controller on the Applicability of Legal Laws determined by the Electoral Code, imposed a fine of 1 million Lek for the Socialist Movement for Integration for non-respect of the gender quota in Tirana, and the same monetary value for the subject Political, Socialist Party for the District of Berat.

According to the historical analysis of the performance and the boycott of elections in Albania, whether it was parliamentary or local, it is noticed that the system of fines, sanctioned in the Electoral Code in every election mandate changes and improves depending on the recommendations of political parties and actors, shows that

<sup>20</sup> "Political Parties Representation Standards", Institute of Political Studies

<sup>21</sup> Ibid page 11

earlier this system has not been very effective, but with the increase of the level of penalization, it is hoped that it will be more effective in the future to move towards the system of candidacy in respect of gender quotas. The most typical case in the recent parliamentary elections was the disregard of gender quotas by the Democratic Party political party, which had not respected these quotas in 12 districts of the country, fined by the Central Election Commission with 12 million Lek, one of the figures financial penalties for a political entity since the entry into force of the quota system application.

However, we must stress that, despite the problems that emerged in the 2017 parliamentary elections, respecting gender quotas and applying sanctioning measures was part of the improvements compared to previous elections.

## **Conclusions**

Legislation on Gender Equality in Albania, like our country itself, has been in transition, too, with many legal challenges, overcoming the customary norms, with many obstacles of perhaps patriarchal mentality to reach specific legislation on this quite delicate field. The Gender Equality Strategy and the National Plan for European Integration, closely related to the SAA's legal requirements, made the turnaround in Albanian legislation, changing after 2017 with the new Labor Code, providing equal rights between men and women by. The Family Code with the legal changes after 2017 provided punitive measures for domestic violence by foreseen as a criminal offense. So the wind of change of equality between men and women is felt in Albania either in family relationships but also in the benefits of insurance as an allowance after giving birth, the right of women to be free, independent in practicing the profession, the right to work or even in specific cases in the exercise of her political career. Our internal legislation is reflected in the European legal acts that have already been ratified, such as the European Convention on Human Rights, where the principle of protection of discrimination in any form, in particular gender discrimination, is emphasized. Under the auspices of the Stabilization and Association Agreement, we emphasize that these conventions were the first steps in setting up a joint legal and institutional venture that will offer engagement in the field of gender equality. This would probably be the fulfillment of the Stabilization and Association Agreement mission by strengthening the rule of law, political, economic and institutional stability. We can't conclude that gender equality in Albania has reached the heights of legislative excellence, not yet, the problems are still present. One of them is the disregard of gender quotas in central and local political bodies. The impetus for women's entry into politics has been the rule on gender quotas that political parties proposed to become part of the electoral legislation, even though some of the parties did not respect this fact, but these two

last legislatures have made possible balancing of lists, so that men and women are equally represented. However, it does not mean that at the moment of gender quota compliance, the perfection of gender equality legislation was necessarily achieved, this is not one of the links that every woman of every level of life feels represented through a woman to seek rights. For all women, this is still not being realized in Albania, we are still in the first steps of entering women in the political sphere, which are fighting for the release of space from men, and maybe when it comes to representing 50% to 50% will raise the voice to seek the rights of those women who are now locked up because of blood feud, customary old-fashioned norms, for women who are raped every day and can't denounce for the preservation of family honor, uneducated women due to economic conditions and for many other women who dream of a personal and legal status equal in every detail to men. Reforms carried out in this area should require more critical dimensions not only purely formal, through a regulatory normative act, but should be further deepened in the disturbing issues of society, violence against girls and women, cultural background, trafficking and prostitution, women's integration in rural areas, married couples with familial acquaintances and family relationships. However, with the passing of the obstacles, gender equality will again be a constant struggle of Albanian society, because otherwise it would appear unimpaired and inefficient. The most important role belongs to the state mechanisms, which should create a thriving environment in support of women's rights.

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