

Accelerating progress on gender equality in Albania A UN perspective on the revision of the Law on Gender Equality in Society¹

Over the years, Albania's progress on women's empowerment has been remarkable. The 2008 Law on Gender Equality in Society (the Gender Equality Law)² was instrumental to create a strong normative framework on equality between women and men. The Gender Equality Law deserves recognition for fundamental achievements, including the introduction of gender quotas in elected and nominated decision-making positions; the establishment of a gender equality mechanism at the central and local levels; the creation of a legal and policy environment for gender-responsive budgeting; and the improvement of sex-disaggregated data collection. Yet, its implementation has not been fully effective due to several factors. Fourteen years after its adoption, following important developments in the gender equality agenda at the international and national levels, and drawing on the country's progress and priorities on EU integration, it is time to reflect on its continued effectiveness to promote and protect the rights of all women and girls living in the country.

It is not by coincidence that the revision of the Gender Equality Law is included in the [National Strategy on Gender Equality 2021-2030](#), as a key step to strengthen the promotion of a gender equal and just society. The UN Albania hopes that a public conversation will start soon, to ensure more progressive gender equality measures and stronger investments and implementation. To contribute to that debate, this paper articulates the main challenges that have hindered the full implementation of the Law, as well as developments in the international and national legal frameworks that need to be addressed. Rather than constituting a full legal review of each aspect of the law, this paper advocates for the revision of the Gender Equality Law and points to the most urgent aspects that need to be revisited to ensure alignment with key international and national frameworks, including EU Law. The paper argues that a full review of the Gender Equality Law is appropriate and desirable to ensure such alignment and to fulfil the commitments made in the National Strategy for Gender Equality 2021-2030.

1. The implementation of the 2008 Law on Gender Equality in Society

The Gender Equality Law introduced temporary special measures to ensure equal representation across legislative, executive, judicial organs, as well as in other public institutions. **Gender quotas** were instrumental for increasing women's representation in the Albanian Parliament and central government, but were not applied and did not improve women's representation in other public spheres, such as the police, the army, and the judiciary.³ Women from disadvantaged groups have not benefited from quotas, and remain largely unrepresented in public life, a concern specifically raised by the CEDAW Committee.⁴

¹ The Paper was drafted by Agustela Nini-Pavli, Gender and Human Rights Consultant, UN Women Albania, with input and contribution of Dolly Wittberger, Senior Gender Mainstreaming and EU Integration Advisor, UN Women Albania; Emira Shkurti, Justice for Children Specialist, UNICEF Albania; Estela Bulku, Head of Programme, UN Women Albania and Rachele Megna, Junior Professional Officer/Programme Analyst, UN Women, Albania

² Law No.9870/2008 on Gender Equality in Society Version in Albanian: <https://www.osce.org/files/f/documents/0/6/36683.pdf>; Version in English: <https://www.osce.org/files/f/documents/6/e/36682.pdf>

³ Albanian Parliament and Westminster Foundation for Democracy (2020), Parliamentary Oversight of the Implementation of the Law on Gender Equality in Albania/ Kontrolli post-legjislativ i ligjit për barazinë gjinore në shoqëri. See <https://www.parlament.al/Files/Lajme/Dokument/raportbarazie.pdf>

⁴ CEDAW (2022) List of issues and questions in relation to the fifth periodic report on Albania. See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fALB%2fQ%2f5&Lang=en

The Gender Equality Law provided for **gender mainstreaming** across law and policy making, planning, budgeting, and implementation processes, and established the National Council on Gender Equality to monitor its effective application under these areas. It also requires accompanying every draft law with an analysis on the effects on women and men. However, those provisions proved insufficient (particularly in the absence of secondary legislation as required by the EU), were rarely implemented in practice, and are not applied in the development of national strategies, which as result often remain gender blind.

Another central piece of the Law is the **gender equality mechanism** through which, institutions at both central and local levels were called to ensure its implementation. However, responsible authorities have faced challenges of limited human resources, capacities and investments⁵. In addition, while institutions have been identified as accountable for overseeing the implementation of different aspects of the Law (e.g. the National Council on Gender Equality, the Minister in charge of oversight over gender equality issues, the State Labour Inspectorate), none was tasked to ensure overall coordination, oversight and monitoring. Similarly, the Gender Equality Law does not provide for monitoring procedures by national human rights institutions or the Albanian Parliament. The 2018 order of the Prime Minister that appointed the Deputy Prime Minister as the national coordinator for gender equality⁶ has not been implemented systematically. In 2020, the Commissioner on the Protection from Discrimination was tasked to monitor the Law.

Gender mainstreaming across sectors and levels of government, and a functioning national gender equality mechanism constitute core obligations under the EU accession and EU Gender Action Plan 2021-2025. The EU explicitly expects candidate countries to progressively align their legislation with the **EU gender equality acquis** and establish a functioning institutional framework to enforce it.

The Gender Equality Law suffered also from lack of enforcement of **anti-discrimination provisions**, leaving many women who face discrimination without the legal guarantees they are entitled to. This is due to lack of awareness among women, legal professionals, and civil society, about the complaint and remedy mechanisms, but also to ambiguities about required procedures for gender-based discrimination cases. An analysis of courts' decisions on different grounds of discrimination (from 2013 to 2020) revealed that only 3 percent of cases related to gender-based discrimination.⁷ The Commissioner for the Protection from Discrimination issued only 8 and 15 decisions on gender-based discrimination in 2020 and 2021.⁸ Most of these cases relate to discrimination in the workplace drawing on the Law on Protection from Discrimination and labour rights legislation, rather than the Gender Equality Law. Information is also lacking on complaints, investigations or sanctions issued by the State Labour Inspectorate, the only administrative body mandated to enforce gender equality measures on labor relationships, social and health insurance, and safety at work. The Gender Equality Law does not even feature as part of the Inspectorate's legal framework in its website.⁹

⁵ CEDAW (2016). Concluding Observations on the 4th periodic report of Albania, 2016. See: <https://digitallibrary.un.org/record/840818?ln=en>

⁶ Order No. 32 of the Prime Minister dated 12.2.2018 "On appointing the national coordinator for gender equality"

⁷ UNDP and Commissioner for Protection against Discrimination (2022), The Principle of Equality and Non-Discrimination Analysis of Case Law 2013-2020. See: <https://www.undp.org/albania/publications/principle-equality-and-non-discrimination-analysis-case-law-2013-2020>

⁸ Commissioner for Protection against Discrimination (2020, 2021) Annual reports of the Commissioner for Protection against Discrimination for 2020 and 2021. See <https://www.kmd.al/wp-content/uploads/2021/03/Raporti-Vjetor-i-KMD-2020.pdf> and <https://www.kmd.al/wp-content/uploads/2022/04/Raporti-KMD-2021-versioni-perfundimtar.pdf>

⁹ <https://inspektoriatipunes.gov.al/legjislacioni-ku-mbeshitet-inspektimiurdhera-vkm-ligje-rregullore/>

The Gender Equality Law provides also for the evaluation of unpaid work which has not been implemented, due to lack of adequate legal provisions including relevant by-laws and establishment of proper institutional and policy measures that would ensure adequate benefits for women engaged in unpaid work.

Key developments in the international legal framework on Gender Equality

At the time of its adoption, the Gender Equality Law was largely based on existing international standards, particularly the International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).¹⁰ Such standards have further evolved thanks to strong feminist advocacy worldwide. While some were reflected in other parts of Albanian legislation, the following instruments need to be specifically incorporated in the Gender Equality Law, to ensure *de facto* and across the board equality between women and men.

CEDAW Committee General Recommendations (GR)¹¹: the Committee issues General Recommendations, to interpret the Convention and provide guidance to Member States on measures required to implement the treaty's provisions. Such [recommendations](#) provide useful guidance in assessing the Gender Equality Law's compatibility with developments in the gender equality normative agenda. These include general recommendations on access to justice, the rights of rural women, the right to education, elimination of gender-based violence, harmful practices, and gender-related dimensions of disaster risk reduction.

Convention on the Rights of Persons with Disability (CRPD)¹² and other mechanisms addressing intersecting forms of discrimination. Albania's ratification of the CRPD in 2012 requires revisions of legislation, including the Gender Equality Law, which does not include provisions on protection of women facing intersecting forms of discrimination such as women with disabilities or other disadvantaged groups (e.g., Roma women, women from the LGBTI+ community). The CEDAW Committee specifically recommended the Albanian Government to strengthen the use of temporary special measures on the subject, in all areas in which women are underrepresented or disadvantaged.¹³

The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention)¹⁴: the Convention describes gender-based violence as both the cause and the result of unequal power relations between women and men that lead to women's subordinate status in public and private spheres.¹⁵ The European Court of Human Rights also recognized gender-based violence, including domestic violence, as an inequality issue. The Gender Equality Law should recognize gender-based violence as a form of discrimination and provide women and girls with a possibility to seek remedy when authorities fail to protect them.¹⁶

¹⁰ UN, Convention on the Elimination of all forms of Discrimination against Women, in English: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>; in Albanian: <https://hrrp.eu/alb/docs/CEDAW-a.pdf>

¹¹ CEDAW Committee General Recommendations, <https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations>

¹² Convention on the Rights of Persons with Disability (CRPD), in English: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>; in Albanian https://www.un.org/disabilities/documents/convention/crpd_albanian.pdf

¹³ CEDAW (2016). Concluding Observations on the 4th periodic report of Albania, 2016. See: <https://digitallibrary.un.org/record/840818?ln=en>

¹⁴ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence in English: <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=210>; in Albanian: <https://rm.coe.int/168046246b>

¹⁵ Council of Europe; Key facts about the Istanbul Convention, <https://www.coe.int/en/web/istanbul-convention/key-facts>

¹⁶ It is also worth noting General Recommendation No.1 of Grevio on digital dimension of violence against women, available at <https://www.coe.int/en/web/istanbul-convention/-/grevio-publishes-its-general-recommendation-no-1>

ILO Convention on Violence and Harassment in the Workplace (190)¹⁷: The Convention was ratified by the Albanian Parliament in February 2022, and its provisions need to be integrated in the Albanian legislation, as also recommended by the European Commission's latest Albania Report.¹⁸

EU Gender Equality Law: EU anti-discrimination legislation includes the Treaty on the Functioning of the EU, and the EU Charter on Fundamental Rights, which prohibit discrimination on different grounds, including sex. The EU has also adopted multiple directives to guarantee equal treatment on the basis of sex in matters of pay, social security schemes and access to employment, vocational training, promotion and working conditions, self-employment as well as pregnancy and parental leave.¹⁹ A recent directive makes gender quotas mandatory in the private sector, requiring that by 2026 at least 40% of non-executive positions in listed companies are held by members of the underrepresented sex.²⁰ As a EU candidate country, currently undertaking accession negotiations, Albania needs to ensure that its national legislation on gender equality and non-discrimination is fully compliant with the *EU acquis*.²¹

Key developments in the national legal framework on gender equality

The Gender Equality Law needs to be reviewed to fully align with several progressive laws that were adopted, directly or indirectly addressing human rights and gender equality. These include the following:

Law On Protection from Discrimination (LPD)²²: the 2020 amendments introduced several provisions to approximate with EU anti-discrimination legislation, including expansion of gender-related grounds for discrimination, such as gender identity, sexual orientation and sex characteristics. Other provisions that need to be reflected in the Gender Equality Law include the reversal of the burden of proof in complaints submitted to the Commissioner or to courts from the applicant to the party against which the complaint is brought. The Commissioner was also entrusted to monitor the implementation of the Law, but details on how this monitoring process will take place and with what resources are lacking.

Albanian Electoral Code²³: The Code has undergone several amendments, which also addressed gender equality in elections. Gender quotas introduced in the Gender Equality Law were crucial to influence the Code, which in 2015 went even further and required a 50 percent gender quota for candidates of local councils. In 2020, gender equality principles were strengthened with the introduction of a 30 percent gender quota for elective bodies of principal local government units and for all levels of the electoral administration. The amendment included the rejection of candidate lists that fail to comply with gender

¹⁷ ILO Convention on Violence and Harassment in the Workplace (190)

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

¹⁸ European Commission (2022), [Directorate-General for Neighbourhood and Enlargement Negotiations](#), Albania 2022 Report. See:

https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en

¹⁹ European Commission (2019), Gender Equality Law in Europe, European Commission, see <https://op.europa.eu/en/publication-detail/-/publication/9b101483-3a44-11e9-8d04-01aa75ed71a1>

²⁰ Council of the EU, Press release, 17 October 2022. See: <https://www.consilium.europa.eu/en/press/press-releases/2022/10/17/council-approves-eu-law-to-improve-gender-balance-on-company-boards/>

²¹ In terms of EU accession, it is also worth noting the EU Directive on Combating Violence against Women. While this is not adopted, it would be beneficial for the revision of the Gender Equality Law to take this into account in order to ensure that the Albanian legislation is already in line with it: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0105>

²² Law 10221/2010 "On Protection from Discrimination", as amended <https://www.kmd.al/wp-content/uploads/2021/05/2.pdf>

²³ Law No. 10019, 29.12.2008 "On the Electoral Code of the Republic of Albania", as amended <https://qbz.gov.al/preview/75122d2e-9ebc-45de-b0ea-b5efde2f6836>

quotas, replacing the previous ineffective fines system. Additional recommendations submitted by the Working Group on Gender and Equality in Decision-Making²⁴ remain still unaddressed (e.g. the 50 percent quota for parliamentary and mayoral candidates, or measures to address gender bias and violence against women in politics and elections) and need to be considered by the Law on gender Equality.

Law on Measures against Violence in Family Relations.²⁵ Amendments in 2018 and 2020 incorporated relevant provisions based in the Istanbul Convention and CEDAW. Therefore, the Gender Equality Law needs to recognize domestic violence and other forms of gender-based violence as discrimination, and ensure legal measures to prevent and protect women, girls and boys apply in such cases.

Organic Budget Law:²⁶ Based on 2016 amendments of the Organic Budget Law, Gender Equality is one of the core Budgetary System Principles and standard budget instructions issued on a yearly basis contain gender responsive budgeting as part of the State's budget criteria. Since 2019, the Albanian Financial Management Information System (AFMIS) represents a tracking tool for gender responsive budget allocations and since 2022 a Gender Budget Statement is officially attached to the project budget. This allows for an effective inclusion of gender responsive budgeting in all the phases of central management cycles-medium term and annual budget programming, monitoring & reporting, evaluation and auditing. However, substantial linking between Gender Equality Law and gender responsive budgeting should be effected through secondary legislation as to ensure quality inclusion of GRB in the public finance system.

Law on Local Self-Government Financing:²⁷ In 2017 gender responsive budgeting was introduced as a requirement in the Local Government Financial Management cycle. Legislation on Gender Responsive Budgeting requires the application of gender perspectives across all stages of local financing. Local Government Units must address and clearly indicate gender equality results, and what percentage of their overall expenditures go towards supporting policies for the promotion of gender equality. While the Gender Equality Law facilitated progress in this area, there is limited information on how these obligations are implemented and monitored in practice, suggesting that secondary legislation should be developed.

Law on the Rights and Protection of the Child²⁸: this law stipulates equality and non-discrimination as a fundamental principle of the realisation and protection of child rights, while refraining from providing a definition of these, thereby leaving this task to the most relevant laws, such as the Gender Equality Law and the Law on Protection from Discrimination. Revisions to the Gender Equality Law are required to specify that the purpose, definitions, oversight, protective measures and remedies provided for, apply equally to boys and girls, in addition to women and men.

²⁴ A group of international and national organizations in Albania invested in promoting meaningful women political participation.

²⁵ Law No 9669/2006 on Measures against Violence in Family Relations

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjNtrlwur7AhVoVKQEHIqBUYQFnoECAkQAQ&url=http%3A%2F%2Fshendetesia.gov.al%2Fwp-content%2Fuploads%2F2019%2F01%2FLigj-Nr.9669-date18.12.2006-perditesimi-3.doc&usg=AOvVaw3htjeDZ3TQtVMS6WBWoi_T

²⁶ Law Nr.57 dated 02.06.2016 on Amendments On The Law No.9936/2008 "On Management Of Budgetary System In The Republic Of Albania (Amended)"=https://financa.gov.al/wp-content/uploads/2017/11/LOB_i_ri_nr_57_dt_02.06.2016_-_MIRATUAR_ne_KUVEND_ENGLISH.rtf

²⁷ Law No. 67/2017 on Local Self-Government Financing (2017), <https://financa.gov.al/wp-content/uploads/2019/02/LIGJ-nr.-68-date-27.4.2017.pdf>

²⁸ Law No. 18/2017 on the Rights and Protection of the Child, https://www.drejtesia.gov.al/wp-content/uploads/2017/11/04_Ligj_18_2017_23.02.2017_Per_te_drejtat_dhe_mbrojtjen_e_femijes.pdf

Law on Legal Aid Guaranteed by the State²⁹: the law enables persons whose rights have been infringed through an action or inaction that constitutes discrimination, including gender-based discrimination to benefit state free legal aid regardless of their financial status. The Law on Gender Equality also needs to reflect this opportunity and ensure coordination with the Law on Legal Aid for provision of legal aid to persons facing gender-based discrimination.

Recommendations and Next Steps

As evidenced above, the 2008 Law on Gender Equality in Society, which has been instrumental in advancing gender equality in Albania, needs extensive revisions to bring it in full conformity with legal developments at both international and national levels, as well as in view of Albanian's efforts to align its legislation with the EU *acquis* on gender equality. A new Gender Equality Law should address gaps that have impacted implementation in practice, including lack of gender quotas across all sectors to promote consistent women's representation and participation in public life; insufficient provisions and secondary legislation for gender mainstreaming and gender analysis in government action; lack of effective accountability system for the gender equality mechanism; and lack of clear administrative and judicial complaint mechanisms to ensure enforcement of gender anti-discriminatory measures. It is also critical that the new Gender Equality Law establishes systematic links with the National Strategy on Gender Equality and related costing, to allow for relevant investments. The [Report of Parliamentary Oversight of the Implementation of the Law on Gender Equality in Albania](#) provides an analysis of additional challenges related to the Law's implementation.

Other countries' experience of progressive gender equality and non-discrimination legislation, such as EU member states or candidate countries (e.g. [France](#), [Spain](#) [Serbia](#)) or non-EU countries (e.g. [United States](#)), can be taken into consideration during the revision and drafting. The European Commission's [Gender Equality Law in Europe](#) also provides an overview of how EU gender equality law is implemented by EU Member States, countries in the European Economic Area and EU candidate countries.

The UN Albania calls on relevant national authorities such as the National Council on Gender Equality, the Ministry of Health and Social Protection, and the Parliament of Albania to initiate the revision process in consultations with key government institutions, human rights mechanisms, civil society, and the academia. The UN family in Albania is fully committed to support this work, because further advancement of gender equality and the empowerment of women is critical to accelerate progress over the Sustainable Development Goals in Albania.

²⁹ <https://www.drejtesia.gov.al/wp-content/uploads/2019/02/LIGJ-nr.-111-2017-date-14.12.2017.pdf>