



Gender Equality in the Albanian Criminal Code: Legal Framework, Gaps, and Reform Proposals

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Abstract

Albania, as a newly established democratic state in the post-1990s era, has pursued EU membership by aligning its national legislation with international standards. The adoption of the Albanian Criminal Code in 1995, modeled after the legal provisions of Italy, France, and Germany, denoted a significant step in this process. Over subsequent years, the Code has undergone multiple amendments aimed at harmonizing substantive criminal law with international conventions ratified by Albania, including the Convention on the Elimination of All Forms of Discrimination against Women [CEDAW] and the Convention on Preventing and Combating Violence against Women and Domestic Violence [Istanbul Convention]. Although these reforms, evaluation reports from international bodies such as the European Commission and the Committee on the Elimination of Discrimination Against Women highlight persistent gaps, noting that the Criminal Code does not fully comply with the requirements of CEDAW, the Istanbul Convention, and related international instruments. This study uses descriptive and comparative examination to identify deficiencies within the Albanian Criminal Code. It proposes concrete recommendations for legislative reform, with particular emphasis on eliminating all forms of discrimination against women.

Keywords: Aligning legislation; CEDAW; criminal law – Albania; European Integration – Albania; legislative reform

1. Introduction

Albania's legislative harmonization with EU gender equality principles, derived from international and EU law, is based on these standards and ensures the constitutional principles stipulated in Article 122 and in international acts signed by Albania as a member state (Constitution of the Republic of Albania, 1998).

Among those is the criminalization of offenses under the Criminal Code of Albania (1995), which is based on the criminal codes of Germany, France, and Italy. The adoption of this code marked a change towards a new state; nevertheless, further amendments have been introduced in response to the ratified conventions. Nevertheless, reports of the Committee for the Elimination of Discrimination Against Women in 2023, the Group of Experts on Action against Violence against Women and Domestic Violence in 2024, and the European Commission in 2025 show that there are inconsistencies, since Albania has not been able to

comply with Convention for the Elimination of All Forms of Discrimination Against Women (United Nations, 1979), and the Convention on Preventing and Combating Violence Against Women and Domestic Violence (Council of Europe, 2011).

The purpose of this study is to evaluate the protection of gender equality in the Albanian Criminal Code from a comparative perspective of international norms and the EU legislative framework, to identify weaknesses, and to propose some recommendations for its improvement.

2. Methods

The research methodology used in this study includes qualitative legal research, complemented by comparative research.

The qualitative legal research in this study is based on the normative interpretation of the Criminal Code of the Republic of Albania, particularly its provisions addressing gender equality. This research methodology is grounded in legal theories and supplemented by a comparative examination of international law and European legal benchmarks.

The choice of international and European law instruments was based on several well-defined criteria. Instruments that established a legal obligation towards Albania by means of ratification or accession were given precedence because they generate obligations that require legislative harmonization within Albania. Furthermore, the chosen instruments have to be concerned with issues of gender equality, non-discrimination, violence against women, sexual offenses, or any other gender-specific harm. The European Union accession process of Albania also had to be taken into account, meaning that instruments that constitute the European *acquis* were relevant. In accordance with these criteria, the following law instruments were used in this study: the Universal Declaration of Human Rights, the Convention on the Political Rights of Women, the Convention on the Elimination of All Forms of Discrimination against Women, the European Convention on Human Rights, and the Convention on Preventing and Combating Violence Against Women and Domestic Violence.

The methodology involves assessing the conformity of the Criminal Code of Albania with international and European legislation regarding the issue under discussion. The procedure started with defining those articles of the Criminal Code of Albania that directly or indirectly influence gender equality and deal with various aspects like discrimination, domestic violence, sexual crimes, participation in politics, jurisdiction, and protection of the victims. After that, these norms were analyzed in comparison with the obligations imposed by the chosen documents and their standards. Special emphasis was placed on issues such as the existence of specific offenses, the scope of protection for victims, the language of the legislation, and jurisdiction.

Using the method outlined above allows addressing the following research question: Does the Criminal Code of the Republic of Albania fully protect gender equality?

The results point out inconsistencies of the Albanian Criminal Code relating to the protection of gender equality, including issues such as discriminatory language, jurisdiction, gender-based violence, sexual crimes, cyber-crimes, and electoral crimes. Finally, the study proposes amendments to the Criminal Code of the Republic of Albania.

To maintain uniformity in the assessment, results were presented in a compliance matrix. During the compliance assessment, each provision was compared against a set of alignment criteria developed in accordance with international and European standards. For this purpose, a qualitative coding scheme of two codes is used in the matrix. If the provision addresses the

issue but does not meet certain important features of the standard, such as scope, definition, or procedural-related guarantees, the provision will be assigned the code “Partial Compliance” (PC). If there is no provision dealing with the issue or if the provision is totally inconsistent with the international and European standards, then a “Gap” (G) is identified.

Table 1: Compliance assessment of Criminal Code articles to European Acts

Criminal Code Article	Issue Identified	EU Acts Requirements			Criteria for Alignment	Coding
		CEDA W	Istanbul Convention	Directive 2024/1385		
General Principles – Discriminatory Language	Use of male-only language; “homosexual relations” terminology in the Arts. 100–107	Art. 2 & 3: Non-discrimination; equality between men and women	Art. 4: Non-discrimination; equality		Language inclusivity; conceptual clarity	G: Fails to ensure gender-inclusive and non-discriminatory terminology
Art. 6(2): Jurisdiction Abroad	Requires dual punishability for crimes abroad	Art. 2 ensure appropriate measures, including sanctions, prohibiting all discrimination against women	Art. 44(3): Jurisdiction must not depend on dual punishability for sexual violence, forced marriage, female genital mutilation, forced abortion/stereilization	Art. 12(4): Extraterritorial jurisdiction for forced marriage and female genital mutilation	Jurisdiction scope; victim protection	PC: Jurisdiction exists but is conditioned on dual punishability, contrary to the Istanbul Convention
Art. 7(2) – Jurisdiction over Foreign Nationals	Excludes acts of violence against women	Art. 5: modify the social and cultural patterns of conduct on gender discrimination	Art. 42: No justification of violence by culture, custom, religion, tradition, or honor	Art. 75: culture, custom, religion, tradition, or honor is not a justification.	Jurisdiction inclusivity; non-justification	G: Fails to cover violence against women committed abroad by foreign nationals
Violence Against Women (No distinct offense)	Femicide & gender-based violence are not defined	Art. 2 (b)(c): legal protection on equality and against any act	Art. 3(a)(d): Definition of violence against women & gender-based violence	Art. 2 & 9: Definition of violence against women Criminalization	Definition: recognition scope	G: No distinct offense; indirect regulation only

		of discrimination		of violence against women and femicide		
Art. 130/a – Domestic Violence	Defines Domestic Violence narrowly as physical and psychological violence	Art. 16: elimination of discrimination against women in all matters relating to marriage and family relations	Arts. 3(b): Physical, psychological, sexual, and economic violence	Art. 9: Comprehensive definition of domestic violence	Scope of violence; victim protection	PC: Covers physical and psychological violence but omits sexual and economic forms
Alternative sanctions in the general part of the Criminal Code	Possibility of alternative punishments		Art. 48: Prohibition of mandatory alternative dispute resolution processes, including mediation and conciliation, in relation to all forms of violence	Art. 112: Victim-entered justice	Procedural safeguards; victim rights	G: Application of alternative punishments
Arts. 101–102 – Sexual Relations/Rape	Rape is defined only as sexual relations involving violence; the burden of proof is on the victim.	GR No. 35 (2017): Criminalize all forms of gender-based violence; adopt a consent-based definition	Art. 36: Consent-based definition of sexual violence; criminalize penetration and forced sexual acts	Art. 15 (5): Consent-based definition of rape; victim support	Definition of rape, consent, and burden of proof	G: Definition based on force, not consent; inconsistent with international standards
Art. 101 – Age of Consent (14 years)	Age of consent lower than EU average; risk of child exploitation	GR No. 35 (2017): Protect minors from sexual exploitation;	Art. 18 & 36: Protect children from sexual violence; criminalize sex without consent	Art. 14 (5) (6): Child protection; safeguard against exploitation	Age of consent; child protection	PC: Age set at 14; needs to be raised to 16 with closer age exemptions

		raise the age of consent				
Art. 108/a – Sexual Harassment	No clear definition; workplace harassment is not covered	Art. 11: Eliminate discrimination in employment	Art. 40: Criminalize sexual harassment	Art. 28, 34(9), 36(6), 45(3): Support of victims of workplace harassment; ensure remedies	Definition clarity; workplace scope	G: Definition vague; workplace harassment omitted
No provision for Female Genital Mutilation	Female Genital Mutilation is not criminalized	GR No. 35 (2017): Protect women/girls from harmful practices	Art. 38: Criminalize Female Genital Mutilation	Art. 34(7): Preventive measures on harmful practices of female genital mutilation	Criminalization; victim protection	G: No offense defined for Female Genital Mutilation
Art. 112 – Prostitution	Criminalization of sex work harms health and rights	GR No. 38 (2023): Recommend decriminalization of sex work	No explicit article, but Art. 12 prohibits justification of violence; Art. 18 protects victims of exploitation	Art. 16: Protect victims of exploitation; ensure rights	Human rights; health protection; autonomy	PC: Criminalization of exploitation; inconsistent with CEDAW recommendations on decriminalization of sex work.
No explicit provision – Cyber Violence	Online harassment, stalking, non-consensual sharing of intimate materials, and incitement of hatred are not criminalized.	GR No. 35 (2017): Protect women from emerging forms of violence, including technology-facilitated abuse	Art. 17: States must encourage the private sector/media to prevent violence; Art. 34 & 40 cover harassment and stalking	Arts. 5–8: Explicit criminalization of cyber violence (image-based abuse, online harassment, stalking, incitement)	Criminalization; victim protection; digital safeguards	G: No explicit cyber violence provisions; fails Directive 2024/1385 standards
Arts. 325–331 – Electoral	Vague wording; does not	Art 7: Ensure the	Art. 12: No justification of violence;	Art. 1 (2): Obligati	Specificity of electoral violence; gender equality	PC/G: General electoral provisions exist, but lack

Offenses	capture gender-based electoral violence; no provision on the violation of gender equality.	elimination of discrimination against women in political and public life	Art. 18: Protect victims of any violence	on to protect victims of any acts of violence against women	protection	gender-specific protections and clarity
No explicit provision – Violation of Gender Equality in Politics	No criminalization of voluntary disregard of gender equality or discrimination in elections	Art 7: State's duty to take legal appropriate measures to eliminate discrimination against women in politics and ensure women's equal rights in terms of men	Art. 4: Non-discrimination principle	Art. 2: Gender equality as a fundamental principle	Recognition of gender equality, political participation	G: No explicit offense addressing gender equality violations in politics

While the doctrinal approach is especially suitable for assessing legal compliance and identifying normative inconsistencies, it is important to acknowledge its limitations. The study centers on the law as it is written and therefore does not examine how legal provisions are interpreted and applied by courts, prosecutors, law enforcement agencies, or other institutions. As a result, the analysis cannot determine the practical effectiveness of the Criminal Code in protecting gender equality or dealing with gender-based violence. Furthermore, although the coding framework is based on explicit juridical criteria, the assessment inevitably involves some interpretative judgment, and different interpretations may be possible in some cases. The study also does not employ empirical methods such as case-law analysis or statistical data due to a lack of data in open sources. Finally, given the ongoing international and European legal developments in this field, the findings constitute an assessment based on the legal benchmarks applicable at the time of the research. These limits do not detract from the worthiness of this research but rather emphasize that the purpose of this investigation is to evaluate, legislatively, whether any reforms are needed.

3. Results

3.1 Legal Framework of Gender Equality at the International and European Level

The European Convention on Human Rights (Council of Europe, 2010), which is an extension of the Universal Declaration of Human Rights (United Nations, 1948), the foundation for the protection of freedoms and fundamental human rights, constitutes the

primary normative basis for state obligations in the protection of gender equality, even when not specifically focused on the issue.

The Universal Declaration of Human Rights enshrines the principle of non-discrimination. It states that all human beings are born free and equal in their rights, entitled to those rights regardless of any discrimination, including discrimination based on gender.

In addition to these fundamental human rights conventions, there are other international documents which seek to protect gender equality, such as the Convention on the Political Rights of Women (United Nations, 1953), Convention No. 111 of the International Labour Organization on Discrimination in Respect of Employment and Occupation (International Labour Organization, 1958), Convention No. 190 of the International Labour Organization on Violence and Harassment (International Labour Organization, 2019), and the Beijing Declaration and Platform for Action (United Nations, 1995).

The most comprehensive and central international instruments on gender equality are the Convention of the United Nations on the Elimination of All Forms of Discrimination Against Women and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence.

3.1.1 Convention on the Elimination of All Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW] is one of the principal documents of international human rights law, defining the rights of women across politics, the economy, society, culture, and civil life. It is based on the United Nations' obligation to equality and dignity.

The Convention requires countries to take legislative and other actions to guarantee equality, rather than merely recognizing it.

This Convention covers issues like marriage and family relations, legal capacity, and reproductive rights, stating explicitly that pregnancy should not be a basis for discrimination.

However, in addition to being a legal treaty, CEDAW also broadens the definition of human rights. This is a legal tool, as well as an attempt to create a new order of global justice, by establishing a universal notion of equality in every aspect of people's lives (United Nations, 1979)

3.1.2 Istanbul Convention

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, better known as the "Istanbul Convention", was signed and ratified by Albania in 2014.

The convention sees violence against women as a form of gender violence, and calls on member countries to prevent such violence, protect its victims, and prosecute its perpetrators. It points out the fact that equality is not possible in the face of widespread violence, and needs policies which deal with its underlying causes, including cultural stereotypes and discrimination against women (Council of Europe, 2011).

3.2 Legal Framework on Gender Equality in Albania

To ensure gender equality, legislation in the form of a set of laws that govern Albanian laws and regulations has been developed in Albania, which includes the Law on Gender Equality in Society (Albanian Parliament, 2008), the Law on Protection from Discrimination (Albanian Parliament, 2010), and the Labor Code (Labor Code of the Republic of Albania, 1995).

The Constitution is the supreme law of the Albanian state that protects human rights, which are the basis of democracy. The Constitution safeguards human rights, particularly Articles 3 and 5, which ensure respect for human rights and treaties/conventions adopted at an international level. Gender discrimination cannot take place under Article 18 of the Constitution. Although the Constitution does not provide an extensive explanation of gender discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, which Albania ratified in 1993, presents a complete definition of gender discrimination. Article 122 of the Albanian Constitution makes this Convention part of Albania's domestic law (Constitution of the Republic of Albania, 1998).

To fulfill its commitments to gender equality, Albania adopted the National Strategy on Gender Equality and the Action Plan 2021-2030 in accordance with the Istanbul Convention. Its objectives consist of enhancing women's economic and social rights, empowerment, and eliminating harmful practices and gender-based violence. In addition, the strategy stresses the need to review sexual offenses and other crimes as part of the revision of the Criminal Code (Council of Ministers of the Republic of Albania, 2021).

Following this universal principle, men and women, as subjects of the law, are treated equally and have equal rights and obligations. Still, in real life, equality has not yet been achieved (Qirjako, 2016). For this reason, the state has a duty to protect gender equality by law, with the Criminal Code playing a special role. Its function is not only to sanction unlawful acts related to gender discrimination but also to serve as a preventive mechanism.

3.3 Protection Of Gender Equality by Albanian Criminal Law

3.3.1 The Provisions of the Criminal Code on Gender Equality Protection

Based on Article 2 of the Convention on "Elimination of All Forms of Discrimination Against Women", the state condemns discrimination against women in all its forms by all appropriate means, including the application of sanctions where appropriate. National criminal provisions confronting discrimination against women contribute to the effective protection of women against all forms of discriminatory conduct.

Similarly, Article 2 of the Istanbul Convention stipulates that state parties must condemn all forms of discrimination against women and, without delay, take the steps necessary to prevent and eradicate this discrimination, including imposing sanctions. Article 3 sets forth the scope of protection and the state's obligation to protect the rights of those who suffer from gender discrimination. Moreover, Article 12 also imposes on the state an obligation to ensure the prevention of gender-based violence and discrimination.

The Albanian Criminal Code (1995) incorporates these fundamental principles of the above Conventions, as follows:

- It provides for the protection of human dignity, human rights, and freedoms, as well as their prevention in Article 1/b. Accordingly, the Code protects gender equality as a human right and prevents gender-related discrimination.
- It is based on the constitutional principle of equality before the law as foreseen in Article 1/c.

This Code has various provisions that deal with the protection of gender equality and discrimination against women, including:

- ✓ The commission of a criminal offense motivated by gender-related reasons constitutes an aggravating circumstance under Article 50/j.
- ✓ Intentional homicide against pregnant women is classified as a murder committed under qualifying circumstances in Article 79.

- ✓ The termination of pregnancy without the woman's consent is foreseen as a criminal offense under Article 93.
- ✓ Sexual offenses include twelve types of criminal acts relating to sexual or homosexual conduct in Articles 100 – 108/a, Chapter II, Section IV.
- ✓ Domestic violence is criminalized under Article 130/a.
- ✓ When a state official or public service employee discriminates based on sex, sexual orientation, or gender identity while performing their duties, they may be held criminally liable for violating the equality of citizens under Article 253, which includes creating unfair privileges or denying someone a lawful right or benefit.
- ✓ Criminal offenses affecting free elections and the democratic electoral system, as included in Chapter X, list fifteen types of electoral crimes that are against the law. Even though they are general and use language that is not gender-specific, they could also be used in cases where these violations are linked to violence against women.

Other crimes are not related to gender aspects but are usually committed against women, such as: Human trafficking in Articles 110/a-110/c, Prostitution and its exploitation in Articles 113-115, Unfair interference with private life in Article 121, Stalking in Article 121/a, etc.

3.3.2 Comparison Between Albanian Criminal Legislation on Gender Equality and That of Countries in the Region

The European Commission's 2025 report emphasized Albania's progress in criminalizing gender-based violence, which aims not only to reduce violence against women but also to address participation in employment, political and public institutions, and access to justice. The Albanian government has made steps to protect itself from gender-based discrimination through the introduction of new legislation that punishes any cases of gender-based discrimination, including holding public officials responsible for these acts. Albania has more closely followed the EU's guidelines, as gender equality is now part of its penal code and administrative laws (European Commission, 2025, A). On the other hand, Montenegro has low compliance with anti-discrimination laws and criminalizes non-compliance with gender equality legislation (European Commission, 2025, B). Lastly, North Macedonia is said to be facing a retrograde trend in gender equality due to changes in educational laws, politicized equality structures, and weak mechanisms (European Commission, 2025, C).

In a comparative view of Albania, Montenegro, and North Macedonia, the EU emphasizes that criminal law reforms should be accompanied by effective enforcement and implementation of criminal law provisions, as well as reliable victim support systems in these countries. Albania and Montenegro also have to do training for justice officials. In the meantime, North Macedonia must have independent institutions and reliable complaint mechanisms to ensure the protection of gender equality.

As per the Criminal Codes of Albania, Montenegro, and North Macedonia, there is a difference in their approach in terms of gender equality and criminalization of gender-based violence. While the legislation of all three countries bans discrimination and covers issues like domestic violence and sexual abuse, the extent to which the notion of gender equality is included in the texts differs.

In particular, Albania has gradually strengthened legislative steps against gender-related discrimination and abuse, introducing laws concerning discrimination, domestic violence, sexual harassment, as well as abuses of equality performed by authorities. The Criminal Code is based on the principle of equality before the law and the dignity of people; however, there is no explicit prohibition of some forms of gender-based violence, such as femicide, online

harassment, and abuse, thus making the Criminal Code inconsistent with recent standards (Shabani & Mëçalla, 2025).

The Montenegrin Criminal Code, last amended in 2024 and adopted in 2003, aims to protect human dignity and social values. It protects against discrimination and penalizes acts of domestic violence. Although the country does not have a well-established gender perspective in its legal system, it acknowledges using any form of prejudice based on sex, gender identity, and sexual orientation as aggravating circumstances when committing crimes, which implies additional anti-discrimination legislation. However, no special measures are established to address the problems of various forms of gender-related violence, such as coercive control. Consequently, gender equality is indirectly embedded in Montenegrin laws (Criminal Code of the Republic of Montenegro, 2003).

The Criminal Code of North Macedonia contains more explicit provisions on gender and gender-based violence. The Code defines gender-based violence against women and recognizes it as a specific form of violence that may result in physical, sexual, psychological, or economic harm (Criminal Code of the Republic of North Macedonia, 1996). Judicial reforms have been extensively conducted in North Macedonia recently. The amendment to the Criminal Code in 2023 criminalized femicide, stalking, marital rape, sexual harassment, female genital mutilation, and redefined sexual violence to include cyber-related offenses (UN Women, 2023; Gjakova, 2024). The legislative framework described above made North Macedonia the leader in terms of gender equality in criminal law among the selected states. Despite this, many problems remain unresolved, including a lack of public awareness, insufficient training for judges, and a scarcity of victim assistance resources (OSCE & ODIHR, 2023).

In conclusion, all three countries have made progress in integrating gender equality into their criminal legislation. It seems that North Macedonia represents the jurisdiction with the most elaborate and explicit provisions regarding gender-based violence, which comply with international norms of today. On the contrary, Albania shows partial compliance with international obligations, while Montenegro provides only general provisions and has little or no gender-specific legislation.

3.3.3 Procedural Issues in Criminal Protection of Gender Equality

The rules governing criminal proceedings for offenses that violate the principles of gender equality are set out in the Criminal Procedure Code of the Republic of Albania, adopted in 1995. According to Article 1 of this code, the criminal procedure system should aim to provide fair, equal, and lawful criminal proceedings while ensuring the freedoms, rights, and legitimate interests of all citizens (Criminal Procedure Code of the Republic of Albania, 1995).

The amendments adopted in 2017 include Article 9/a, which states that, in criminal proceedings, the victim enjoys the rights enshrined in this Code and that public authorities must guarantee the human dignity of victims of criminal offenses by protecting them from further victimization in the course of exercising their rights under this Code. The rights of victims of human trafficking and sexual violence can be found in Article 58/b of this Code.

Though some steps have been taken, there is much more that needs to be done regarding violence against women in Albania. GREVIO recommends that changes be made in accordance with Article 25 of the Istanbul Convention; these include forensic examination without a prior complaint, the establishment of national sexual violence centers, increased access to legal proceedings, and the possibility of securing forensic samples. Additional recommendations made by GREVIO include creating specialized units within the police

force, training police in cybercrime, and holding them accountable for failing to take appropriate safety measures for victims. It also highlights the need to report the incidents and manage the case effectively, especially for women facing various forms of discrimination.

GREVIO also urges Albania to require professional training for all professionals in education, health care, and the legal profession. Any form of violence, including cyberbullying, should be identified and responded to by judges, prosecutors, lawyers, law enforcement officials, and relevant professionals. Professional training has to focus on empowering victims.

Another problem under the Criminal Procedure Code concerns a category of crimes that may be brought before the court based on the complaint of the offended party, in accordance with Article 284. Under this article, some crimes, such as adult sexual relations in Article 102/1, coercion in Article 130, and malicious use of telephone communication in Article 275, must be brought to trial on the initiative of the offended person only. As a result of various social factors, re-victimization, victims often decide not to take part in trials, which leads to impunity in crimes committed against them. GREVIO's Report from 2024 calls on Albania to abolish mandatory conciliation in crimes of violence committed against women, particularly in rape, sexual exploitation, and forced marriages. Despite previous recommendations (GREVIO, 2017), these crimes remain dependent on victims' complaints and conciliations regulated by the Law on Mediation. GREVIO claims that such a procedure is contrary to the principle of automatic investigation and prosecution of offenses enshrined in the Istanbul Convention (GREVIO, 2024).

4 Discussion

Despite significant progress made by the country, violence against women and gender-based discrimination continue to exist in Albania. Violence against women and domestic violence not only represent crimes, but also serious human rights violations as well as discrimination. Struggles against them are a priority for the European Commission to ensure the realization of the EU's values and the EU Charter of Fundamental Rights. Although Albania's legislation on gender equality is rather progressive and its implementation is satisfactory, discrepancies remain in the Criminal Code (UN Women Albania, 2025).

The Criminal Code of Albania, approved in 1995 with 334 articles, has undergone notable changes through 25 laws and nine Constitutional Court decisions, adding 166 articles, amending 154, and repealing five. The amendments reflect instability in this legal instrument. They were made in response to social changes and to commitments the state made on the international stage. With the amendments of 2012, 2013, 2020, and 2026, the criminal code included additional crimes and definitions of violence against women, which were consistent with the Istanbul Convention. It imposed stricter punishments on offenders of such crimes. Although these amendments, the Criminal Code continues to fall short of full compliance with European standards. This is stated by several international organizations, which recommend revising the Albanian Criminal Code.

As one of the states that signed CEDAW, Albania was applauded for adopting National Strategies for Gender Equality in 2021, but was advised to review existing laws regarding violence against women. The Committee was worried that neither cyber violence nor femicide had been treated as a crime. That rape entailed force or threat, rather than involving non-consent (Committee on the Elimination of Discrimination Against Women, 2023). In its next recommendation in 2026, the Committee, referring to General Recommendation No. 35 and Sustainable Development Goal 5.2, recommended that laws be enforced and amended to

criminalize both femicide and cyberviolence and to recognize various forms of violence as separate crimes (Committee on the Elimination of Discrimination Against Women, 2026).

Albania is a signatory to the Istanbul Convention, a legal instrument that combats gender-based violence. There are elements of the Istanbul Convention that are not fully considered in Albania's Criminal Code. The latest 2024 evaluation conducted by GREVIO suggested that changes to the Criminal Code have been included among the measures Albania is to take in accordance with the Istanbul Convention.

The European Commission's Report on Progress for Albania in 2025 reinforces the need to strengthen the overall framework for the protection of fundamental rights and to improve their implementation and enforcement. The institutional and legal structures for promoting, defending, and protecting human rights are deficient and require improvement. Although there is some institutional and legal support for gender equality, further improvements are needed in implementation, enforcement, and legislative compliance with the EU acquis.

The Strategy and Action Plan on Gender Equality in Albania 2021-2030, which is in accordance with the Istanbul Convention, emphasizes amending articles related to crimes of a sexual and gender nature in the criminal law; however, these reforms have yet to be implemented (Council of Ministers of the Republic of Albania, 2021). There are some shortcomings, such as a lack of legislative harmonization with the EU acquis Communautaire or the Convention. Violence against women and girls, especially high femicide rates, are issues present in the country. Thus, according to the European Commission, amendments to the Criminal Code are needed (European Commission, 2025, A).

In addition, the Albanian Commissioner for Protection from Discrimination has, throughout the years, advocated the elimination of the phrase "homosexual relations" from both the title and contents of Articles 100 to 107, Chapter VI of the Criminal Code on Sexual Offenses. These articles should also be amended (Commissioner for Protection from Discrimination, 2025). Nonetheless, no changes have been made in these provisions so far.

From a legislative perspective, both constitutional and institutional aspects should be considered. Regarding the former, the suggested amendments are fully consistent with the Constitution of the Republic of Albania, as they ensure equality before the law, prohibit discrimination, and protect human dignity. In turn, it requires the state to protect people's fundamental rights and freedoms. Thus, the proposed legislative actions regarding the enhancement of protection against gender-based violence and discrimination will not contradict constitutional principles but, on the contrary, will promote them.

In this connection, however, alignment alone is not enough to protect people from harm. The implementation of any further amendment will depend on how effectively the judicial and enforcement bodies perform their roles. Specifically, there is a need to pay special attention to the prosecutorial discretion in the process of investigating offenses of domestic violence, sexual crimes, cybercrimes against women, and other acts of gender-based violence. Guiding principles for prosecution should be developed and promoted to ensure consistent interpretation of offenses, avoid irregularities in charging, and adopt a victim-centered approach throughout prosecutions. The development of guidance should become crucial if new offenses, including femicide or technological violence against women, were included in the Criminal Code.

Finally, efficient implementation would necessitate continuous specialized training of prosecutors, judges, police officers, and victim assistance workers on how to conduct gender-sensitive investigations, use interview strategies that are sensitive to traumatized victims,

collect electronic evidence in cybercrime cases, identify the victims of crime, and meet international standards stipulated by the Istanbul Convention, CEDAW, and EU acquis.

In addition, implementing new criminal law provisions would require adequate financial and workforce resources. Expert investigative teams, computer forensic capabilities, assistance for victims, shelter homes, legal advice systems, and coordination among institutions would all play important roles in implementing law reform measures. If there are insufficient resources, the new legislation may not be effective in practice either. Thus, in addition to updating laws, efforts must also address resource availability.

Legislative reform should also be analyzed on constitutional and institutional grounds. In terms of constitutionality, all amendments aimed at improving the guarantee of gender equality are fully compatible with the Constitution of the Republic of Albania. According to the Constitution of the country, there is equality under the law; the law does not recognize discrimination in any form; and it protects the dignity of man; the state safeguards human rights and freedoms. Thus, new legislative changes addressing gender-based violence and gender discrimination would be in line with the constitutional order and international and European human rights treaties.

However, legislation is not enough to protect effectively. The implementation of any proposed amendment will largely depend on the ability of judicial and law enforcement agencies to properly apply new legislation. Special attention should be paid to the role of prosecution in gender equality cases. There must be well-defined guidelines for prosecutors on interpreting charges for newly created crimes to reduce incoherencies and adopt a victim-centered approach in criminal procedure (GREVIO, 2024). Such guidelines might be especially useful when introducing new crimes.

Furthermore, success in implementing such an amendment can only be achieved in tandem with training for prosecutors, judges, police, and experts who will assist victims throughout the process. Such a training process should cover topics such as gender-sensitive investigations, interviewing in cases of trauma, collecting electronic evidence, identifying victims, and international/EU-level monitoring (Committee on the Elimination of Discrimination against Women, 2023; GREVIO, 2024). International monitoring bodies have repeatedly stressed that legislation would work best in combination with institutional knowledge (European Commission, 2025, A; GREVIO, 2024).

Also, the effective implementation of criminal law provisions demands expanded financial and human resources. Investigative and forensic capacities, support measures for victims, shelters, legal aid programs, and interinstitutional alliances can, in many ways, help with the successful implementation of laws and norms (Council of Ministers of the Republic of Albania, 2021). Certainly, according to the European Commission, there is an urgent need to strengthen the capacity of individuals responsible for safeguarding basic rights and implementing gender equality policies. Lack of effective institutions may render even sophisticated laws inadequate. Thus, the process of bringing the Criminal Code of Laws up to par with European and international standards will necessarily include efforts to build institutional capacity as well (European Commission, 2025, A; GREVIO, 2024).

For these reasons, there is an urgent need to revise the provisions of the Albanian Criminal Code on gender equality and to analyze aspects that call for further improvement.

4.1 Discriminatory Language

Throughout the text of the Criminal Code, discriminatory language is used, referring only to the male gender. It is therefore recommended, as far as possible, to adopt gender-inclusive language that represents both men and women.

Where it is not feasible to amend all the provisions of the Code, to avoid the discriminatory language used, it is proposed that in the article on the principles of this Code, a general paragraph be included with this content: *Gender equality is one of the fundamental principles of the Penal/Criminal Code. The use of the masculine gender in the text is not intended to prejudice against different genders and includes the feminine gender as well.*

Another issue relating to discriminatory language is the use of the term “sexual or homosexual relations” in the provisions of Articles 100 – 107 on sexual crimes. Both sexual relationships between people of the same gender and those of different genders are included in the term "sexual relations". Accordingly, it is recommended to avoid using the term "homosexual relations" in the content of the aforementioned articles to ensure conceptual clarity, along with reflecting better the legal connection or social value that the criminal legislation intends to protect through these offenses.

4.2 Criminal liability for Offenses Committed Outside the Territory of the Republic of Albania

Article 6, paragraph 2, of the Criminal Code provides for the criminal liability of Albanian citizens for offenses committed abroad, provided that the offense is simultaneously punishable and that no final decision has been issued by a foreign court. However, this provision fails to meet the condition of simultaneous/dual punishability within the territory of the other state, as it conflicts with Article 44/3 of the Istanbul Convention. According to that article, for the prosecution of offenses defined in accordance with Articles 36 on sexual violence, 37 on forced marriage, 38 on female genital mutilation, and 39 on forced abortion or sterilization of the Convention, States Parties must take the necessary legislative or other measures to ensure that their jurisdiction does not depend on the fact that the offenses are punishable in the territory where they were committed.

Similarly, Article 7, paragraph 2 of the Criminal Code stipulates that it can be used against a foreign national who, while outside the Republic of Albania, commits one of numerous serious offenses against the interests of an Albanian person, which do not include acts of violence against women. This runs counter to Article 12 of the Istanbul Convention, which states that the Parties should make sure that no act of violence covered by this Convention is justified by culture, customs, religion, tradition, or so-called "honor".

On this basis, it is proposed that Articles 6 and 7 have to be amended to include sexual violence, forced marriage, female genital mutilation, and forced abortion or sterilization.

4.3 Provisions on Violence Against Women

Violence against women in Albania is certainly not something new to the country. In fact, this type of violence is deep-rooted within certain social values that have been around for a very long time in Albanian culture. They include tight social gender identity, patriarchal power, social codes of honor and shame, control embedded by the elderly on their families, as well as involving socioeconomic issues like poverty and unemployment (UN Women Albania, 2020).

In the Criminal Code of the Republic of Albania, femicide and gender-based violence are not expressly defined as distinct criminal offenses, taking into account that the provisions in the Code remain gender neutral. This contradicts Article 3/a of the Istanbul Convention, which defines violence against women, as well as Article 3/d of the Convention, which specifies that gender-based violence against women means violence directed at her because she is a woman or violence that disproportionately influences women. In the meantime, femicide statistics for 2021-2023 show that 24 cases of 32 women murdered are classified as femicides, 90% of perpetrators were partners or family members, and 60% of murders

occurred at home. Thus, gender-based violence or violence against women is currently handled in an indirect manner using different sections dealing with other types of violence, but not explicitly recognized as a distinct type of violence.

Furthermore, the Criminal Code does not include specific provisions for criminal offenses related to forms of violence against women that appear in Albania, such as violence against women in politics or gender-based online violence. A special provision on gender-based or sex-based violence would help identify this type of violence, highlight the most important problems, and prevent any violence, which is one of the main goals of criminal legislation.

On this basis, it is proposed that a new provision be introduced with the following content: *Gender-based violence – Acts of violence based on sex or gender that lead to physical, sexual, psychological harm or suffering, or disproportionate treatment, including threats to commit such acts, coercion or arbitrary deprivation of liberty, whether or not occurs in public or private life, where such acts do not constitute the elements of a more serious criminal offense, shall be punishable by imprisonment of up to three years.*

4.4 Provisions on Domestic Violence

Under Article 3/b of the Istanbul Convention, a general definition of all forms of violence against women in the form of gender-based violence within the domestic context is provided, covering physical, psychological, sexual, and economic violence. However, in Article 130/a of the Albanian Criminal Code, the term domestic violence includes only physical and psychological violence, and other types of violence are not considered equally important, as stipulated under Articles 3/b, 33, and 34 of the Convention.

4.5 Prohibition of Alternative Sanctions

Meanwhile, Article 48 of the Istanbul Convention prohibits mandatory alternative conflict-resolution processes, including mediation and conciliation, for all forms of violence covered by this Convention. From this perspective, the perpetrators of domestic violence and sexual harassment should not benefit from the alternative sanctions provided in the general part of the Criminal Code.

4.6 Provisions on Sexual Crimes

4.6.1 The Concept of Rape

The Albanian Criminal Code does not define explicitly rape and forced sexual acts; it criminalizes only sexual relations involving violence in Articles 101–102.

Rape is a term whose definition has changed drastically in academic and legislative discourse over time. Understanding of rape and sexual violence is never static and universal, insensitive regarding historical, cultural, and spatial specificities (Laverty, 2022). Legal traditions dating back centuries regarded rape as a violation of someone's right over a woman who is his property or belongs to him in some way. The earliest forms of the rape law did not see it as a violation against the victim herself. Rape came to be considered the offense of attacking female chastity and morality instead of accepting the rights of individual women (Brownmiller, 1975).

Force and violence were historically used to define rape in most countries' criminal codes (Committee on the Elimination of Violence against Women, 2017). Many feminist legal academics and theorists have criticized this method for years. This approach fails to consider many cases of coercion, does not reflect the actual nature of sexual assaults, and places too much emphasis on proof, which makes victims feel unwilling to report these cases (Estrich, 1987). Consent should be at the center of modern definitions, alongside coercion and a

knowledge of the structural context (McGlynn & Munro, 2010). According to recent studies, consent alone is what differentiates criminal activity from the act of sex. This is because the law recognizes both activities (Bhattacharya & Singh, 2024). In fact, most nations have defined their laws based on the idea of consent (Adoch, 2022). It is for this reason that recent literature recommends that the lack of consent in cases of rape be emphasized in the definition of rape.

In Article 36 of the Istanbul Convention, the concept of rape is stated as a form of forceful act, and the responsibility to prove violence or resistance lies with the victim, and not because there was no consent. Failure by the victim to demonstrate any resistance will mean that the act of rape may not be reported (UN Women Albania, 2025). This is not in line with Article 36 of the Istanbul Convention, according to which the States Parties shall take the necessary legislative steps to ensure the punishment of such intentional conduct, such as: engaging in forced vaginal, anal, or oral penetration of a sexual nature into another person's body with bodily parts or objects; engaging a person in other forced acts of a sexual nature; or causing another person to engage a third person in forced acts of a sexual nature.

As a conclusion, Albania has to change the Criminal Code, including a definition of rape based on the lack of consent of the victim and the description of ways of committing this crime, in full harmonization with international acts.

4.6.2 Sexual Crimes

Based on Article 101 of the Albanian Criminal Code, the minimum age of consent for sexual intercourse by minors is 14 years. This age limit is substantially lower than in other European nations, where the age of consent is 16 years (Waites, 2005). International mechanisms have also emphasized the importance of improving the protection of minors. For instance, according to the Istanbul Convention, countries must ensure that all acts involving sex without consent are criminalized and must take appropriate actions to ensure that children do not suffer from any exploitation. In addition, the CEDAW Committee, in its 2017 General Recommendation No. 35, highlights the need for alignment between national legislation and international norms by raising the age of consent to protect teenagers' rights. Accordingly, experts in the field strongly suggest reviewing Albania's current policy on the issue of child sexual abuse and setting the age of consent at 16 years, with the provision of close-in-age exemptions to prevent the criminalization of peer sexual relations.

Article 108/a of the Criminal Code, which addresses sexual harassment, does not provide a definition aligned with Article 40 of the Istanbul Convention, leaving space for subjectivity in criminal proceedings against perpetrators of such offenses. The Criminal Code also does not provide for sexual harassment in the workplace.

The Criminal Code does not provide for female genital mutilation as a criminal offense, which is inconsistent with the obligations of Article 38 of the Istanbul Convention.

In summary, the Albanian Criminal Code requires reform to explicitly define sexual crimes, raise the age of consent for sexual relations, criminalize female genital mutilation, and strengthen harassment provisions in line with international standards.

4.6.3 Provisions On the Criminalization of Prostitution

The commission of prostitution is criminally punishable under Article 112 of the Albanian Criminal Code.

A significant amount of literature indicates that decriminalization of prostitution is needed to protect the health of those who are sexually active in prostitution. The studies show that decriminalization would help reduce the chances of violence, the risk of contracting HIV, and

increase overall health because there would be less of an impediment to accessing medical treatment and social services (Platt et al., 2018). Decriminalization will give more protection to workers from sexual exploitation, racism, and discrimination based on their economic status, thus guaranteeing that these workers can exercise freedom of choice (Sudirham & Sari, 2024). Public health agencies have begun to advocate decriminalization as a policy option aimed at reducing the problems endured by individuals who work in the sex industry. For example, the WHO has advocated for the decriminalization of prostitution within the framework of its HIV-prevention policies (WHO, 2012).

Similarly, human rights groups support the idea of decriminalization of prostitution. Amnesty International, for example, has advocated for the complete decriminalization of consensual adult commercial sex work, since imposing criminal penalties on sex workers violates their human rights to good health, safety, equality, and dignity (Amnesty International, 2016). Similar developments have occurred in several jurisdictions in Europe as well, where the law no longer holds any person criminally responsible for engaging in prostitution because such changes correspond better with personal rights and liberties. Indeed, there are calls from the Committee on the Elimination of Discrimination against Women (2023) for adopting measures to protect persons working in sexual labor industries.

Nevertheless, prostitution reform continues to provoke controversy. According to the opponents, decriminalization or legalization could lead to the expansion of the demand for sex industry workers, thus creating room for human trafficking and sex exploitation (Cho et al., 2013). The problem is in the difficulty of distinguishing voluntary prostitution from exploitation. Indeed, the presence of economic marginalization, mobility, organized criminality, and gender discrimination creates obstacles to detecting cases of forced labor in sex-related industries (Farley, 2004). Research has shown that the existence of legal prostitution does not rule out trafficking and exploitation (Cho et al., 2013). In addition, prostitution is commonly practiced under conditions of poverty and social deprivation, raising serious issues about its voluntariness (Farley, 2004).

They seem particularly appropriate when talking about Albania. Indeed, it has been identified as one of the countries that practices sex trafficking. That is, not only are people trafficked from other countries and used for sexual purposes in Albania, but the country's citizens themselves are sold for sexual exploitation inside and outside the country (United Nations Office on Drugs and Crime, 2024; GREVIO, 2024). In this regard, any modifications made to Article 112 must ensure that authorities can differentiate between consensual sexual labor and human trafficking/exploitation.

To handle these issues, some European countries have resorted to the so-called Nordic Model, which entails not holding criminally liable persons engaging in prostitution and making it illegal to purchase their sexual services. In addition, third-party profiteers are also prosecuted under this model. According to the proponents of this approach, it tries to reduce the demand and avoid exploitation of individuals involved in the selling of their sexual services without punishing them (Committee on the Elimination of Discrimination against Women, 2023).

Taking a constitutionally based approach, the legalization of prostitution in Albania seems possible on condition that it does not run counter to such constitutional values as equality, dignity, and autonomy. Nonetheless, it should likewise ensure compliance with the relevant EU Directives (for example, Directive 2011/36/EU), which criminalize prostitution. As a result, any new legislation should make a distinction between sexual work involving adults' mutual consent and exploitation of victims, as well as ensure strict punishment of crimes related to trafficking.

To conclude, the decriminalization of prostitution can bring considerable benefits to public health by lowering stigma and increasing access to health care services, legal protection, and other benefits (Amnesty International, 2016; Platt et al., 2018). However, considering the current problems with trafficking, abuse, and violence in the country, it will be necessary to adopt corresponding amendments, such as increased safeguards against trafficking and victim assistance. Such an approach will enable Albania to strike a balance between protecting people's autonomy and complying with international and European regulations.

4.7 Provisions on Cyber Violence

While the Albanian Criminal Code shows substantial alignment with the Istanbul Convention, there are gaps, especially concerning online violence, in the violation of the requirements of Articles 5 – 10 of Directive 2024/1385 of the European Parliament and the Council of Europe, adopted on May 14, 2024, on combating violence against women and domestic violence (European Parliament, 2024). This Directive aims to bridge gaps in national criminal codes.

Manipulating or sharing intimate materials without consent.

- Online stalking.
- Online harassment.
- Online incitement of violence or hatred based on sex.

4.8 Violence Against Women in Elections

UN Women has proposed amendments to some provisions of the Criminal Code on violence against women in elections (UN Women Albania, 2021). The report “Analysis of Albanian Legislation for Protection from Violence against Women in Elections” examines Albanian legislation in comparison with the international standards and concludes that certain forms of actions targeting electoral subjects or political candidates, while they can be directed against both men and women, disproportionately affect women's participation in political processes. In Albania, violence against women in elections is usually manifested through acts of pressure, harassment, intimidation, and threats that negatively affect gender equality in elections and politics, reducing the number of women running for elections and preventing them from aspiring to serve and to develop their careers in politics. Several provisions in Articles 325 – 331 of the Criminal Code are vague and general regarding the obstruction of electoral subjects and election participants “by any other means”. Such wording lacks specificity and does not adequately capture gender-based forms of electoral violence. Such a revision would make the provision clearer and more applicable in the case of violence against women and girls in elections.

Furthermore, the Criminal Code does not contain a specific provision addressing gender equality violations. It is therefore recommended to criminalize the voluntary disregard of gender equality in violation of the applicable legal provisions and gender-based discrimination in politics.

5 Conclusions

To achieve integration into the EU, Albania has adopted international instruments that recognize gender equality as a basic human right. Ratifying these international instruments imposes on Albania the responsibility to harmonize its national laws with international law, in line with the principles of the Constitution of the Republic of Albania.

In Albania, gender-based discrimination and violence against women are still a reality. The Criminal Code plays a central role in safeguarding gender equality. Adopted in 1995, it has undergone major changes over the years to improve it and bring it closer to European

standards. Despite the changes and improvements, the Criminal Code continues to present gaps in protecting gender equality. These gaps include the absence of provisions criminalizing many unlawful actions, as well as the need to amend and add to existing provisions. Under these circumstances, the Criminal Code must be revised to align with the requirements of international acts/instruments.

The main areas of inconsistency of the Albanian Criminal Code include:

- ✓ Discriminatory language in criminal provisions and terminology
- ✓ Jurisdictional limitations affecting the extraterritorial application of gender-based offenses
- ✓ Lack of proper regulations governing cases of gender-based violence, including the omission of certain offenses
- ✓ Insufficient legal definitions of sexual offenses
- ✓ Lack of criminalization of cyber-based gender-based violence
- ✓ Gaps in electoral crime provisions related to gender equality and political participation.

Amendments to the Criminal Code will also require corresponding measures, including specialized training for judges, prosecutors, and law enforcement officials, as well as parallel revisions to the Criminal Procedure Code and other related legislation.

In conclusion, considerable progress has been made in Albania towards bringing about a level of legal conformity in relation to gender equality laws and legislation to prevent sexual crimes. There are, however, still some important omissions in both the legislation and its implementation.

Compliance with international standards would require further legal amendments, changes in practice within relevant institutions, and consideration for the needs of victims.

Ultimately, gender equality must be actively pursued through both legal and institutional measures. Only then can the protections established in law be fully realized in practice.

The above conclusions and recommendations are presented as a roadmap to further aid policymakers.

Reform of the Criminal Code of Albania, as well as other legal instruments, should be based on a defined hierarchy of priorities. In the immediate term, within the first year, the focus must be on revising the Criminal Code to harmonize it with European Union directives and ensure consistency with international standards. This revision must include adding the absent provisions that criminalize many unlawful actions, amending and adding to existing provisions to eliminate discriminatory language from the Code.

Medium-term goals within 1-3 years for reforming the Criminal Code aim to broaden its scope by ensuring uniform application across all courts and criminal prosecution agencies. Electoral crimes must be supplemented with the necessary measures to secure equal rights to gendered political representation, namely, preventing manipulation that leads to the exclusion of female candidates from elections.

Goals of a long-term strategy within 3-5 years include establishing specialized gender equality units within prosecution offices, introducing a continuing education program for judges, prosecutors, and police officers, and creating a database of cases involving gender-based crimes.

Such reforms need the support of various actors. Government agencies such as the Ministry of Justice, Parliament, and the Constitutional Court are responsible for initiating legislative

changes. However, the judicial sector, which includes judges, prosecutors, police officers, and police training academies, will ensure implementation. Civil society actors, as well as women's rights activists and NGOs, will help with advocacy and monitoring. International actors, including the European Commission, the Council of Europe, and UN Women, will offer expertise and monitor the situation. Academic institutions and private lawyers will also assist.

Progress would be monitored using certain metrics. The progress of legislative alignment will be determined based on the number of Criminal Code provisions that comply with the EU directives. Training progress should be measured by the number of personnel in the justice sector trained in gender equality legislation. Tracking cases is necessary, and this will be done by monitoring the number of discrimination cases investigated, prosecuted, and decided each year. Finally, monitoring of victim protection will depend on the availability of a complaint mechanism and legal aid for victims. Public awareness can be assessed through citizen surveys of their understanding of gender equality rights. In contrast, EU criteria can be assessed through the European Commission's reports on Albania's compliance with its accession obligations.

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