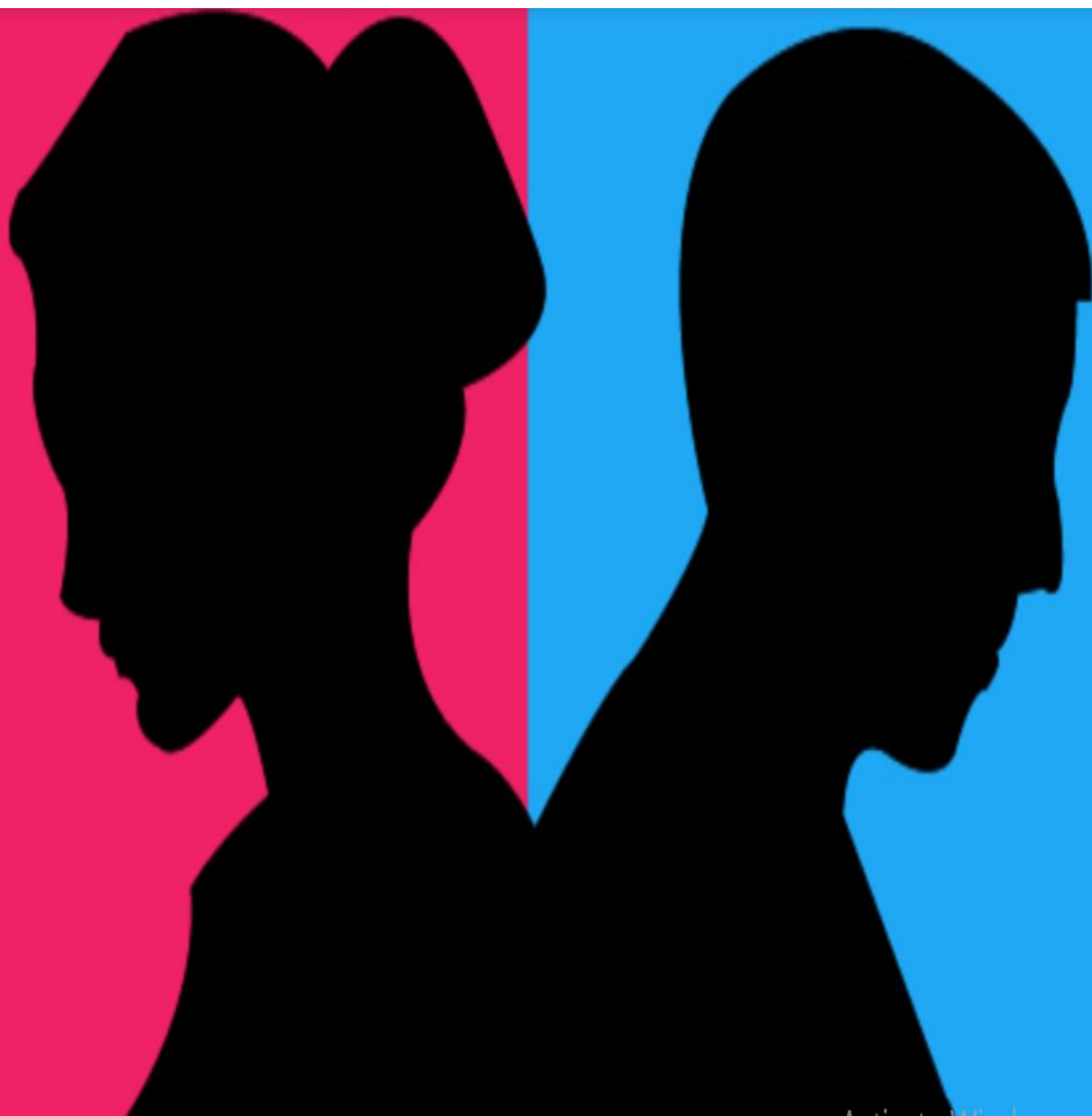


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## The impacts of legal framework and public administration practices on gender equality in family elements

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Project Title: *"Support to strengthening the institutional capacities of the CPD in the protection of fundamental human rights and freedoms to promote the principle of equality and non-discrimination, with gender lens"*.

This study was developed in the context of the project: "Expanding the Free Legal Aid Service for Women and Men in Albania" (EFLAS), which is implemented by UNDP in partnership with the Ministry of Justice and the financial support of the Austrian Development Cooperation (ADC).

Opinions and views expressed in this study do not necessarily reflect those of United Nations Development Programme or its donor.

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## **Abbreviation List:**

<b>UN</b>	United Nations
<b>UDHR</b>	Universal Declaration of Human Rights
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CRC</b>	Convention on the Rights of the Child
<b>GR</b>	General Recommendation
<b>GC</b>	General Comment
<b>HRC</b>	Human Rights Committee
<b>ECHR</b>	European Convention on Human Rights
<b>ECHR</b>	European Court of Human Rights
<b>CoE</b>	Council of Europe
<b>CoA</b>	Constitution of Albania
<b>CC</b>	Civil Code
<b>FC</b>	Family Code
<b>NCSR</b>	National Civil Status Registry
<b>GEIS</b>	Law No. 9970, dated July 24, 2008, "On Gender Equality in Society"
<b>LPD</b>	Law No. 10 221, dated February 4, 2010, "On protection from discrimination," amended
<b>CPD</b>	Commissioner for Protection from Discrimination

## **Executive summary**

Gender equality is one of the most essential components of the principle of equality as a whole, as well as one of the most powerful indicators of the realization of effective equality in society. Consequently, gender-based discrimination is one of the most negative phenomena, reflecting consequences in every field of life. In all societies, this discrimination occurs against women and girls and one of the main reasons is related to traditions and customs as well as their reflection in normative acts and in the activity of public administration.

Since the family is the main social formation where daily relationships take place and life develops between husband and wife, it is important to understand the inequalities within it as well as their impact on the development of children's personality. In this sense, it results that, in the Albanian family, man is still in a position of superiority against the woman.

Thus, it results that in 2.4% of Albanian families the head of the family is a woman, including families where the woman is the only head of the family. Whereas, only in 0.41% of families that have both husbands, the head of the family is a woman. The process of determining the head of the family does not have a regulation and as a result is done by the actions of the civil status office, thus leaving a wide impact of the patriarchal tradition in this process of determination.

According to the findings of the study, only in 2.84% of the total amount of Albanian families, the common surname of the family is that of the woman. Meanwhile, the number of families where each of the spouses kept their own surname is 10.67% of the total number of families. Among these, only in 2% of families where spouses kept their

surnames before marriage, the surname of the children was that of the mother. In these cases, inequality is generated by the provisions of the Family Code but also by the lack of information and a clear regulation on the actions of the Civil Status Office.

Even in the identification of the person in various administrative acts, generally only paternity is required. In response to the questionnaires, over 60% of various administrative employees affirm that they request the paternity of the person in administrative acts, while about 25% of them affirm that they request it occasionally. Also, 55% of employees affirm the provision of paternity only in normative acts, but even when this is not the case, 45% affirm that they require it as a result of work practice. Only 20% of respondents affirm that sometimes they also require maternity.

Identification of paternity prevails in various administrative acts, over 55%, as well as in all documents and certificates related to the system of education.

Overall, the study finds that the parental identity of persons in general and children in particular is not treated equally in terms of gender. This is due to the practice of the surname and nonreflecting of motherhood in various administrative documents where the identity of the person is required by public authorities, or the identification only by paternity in these documents.

As a result of these findings, it is evident the predominance of the man in the family and children's identity, as well as the disappearance of woman's identity by not being reflected in the children. This does not only put the woman in an unequal and discriminatory position in the family, but also affects towards an incomplete development of the child's personality. This disproportionate reflection of parental identities in children, nurtures gender inequality as a normality within the family, firmly maintaining stereotypes on gender roles and placing de jure and de facto the man as the head of the family. This situation is simultaneously a product of the patriarchal mindset and normative acts that, by feeding each other, create a vicious circle.

Apart from photographing the situation regarding the gender implications of legal and sub-legal acts that regulate the identity of children, the findings of this study aim to enable a wider discussion on gender roles in the family, effective equality between genders in the family and reflection of this approach in legal acts and administrative practice.

In response to an adjustment of this inequality as well as the adaptation of Albania's context with international standards of UN and CoE, the study also provides some recommendations aiming the adjustment of normative acts but also at changing the practice of the administration, considering the findings of ECHR jurisprudence.

## Introduction

Equal treatment under the law is a fundamental pillar of rule of law. When we discuss the rule of law- a fundamental priority in the operation of a democratic society that places a central emphasis on upholding human rights- we inherently imply the importance of achieving genuine gender equality. Therefore, equality between men and women is not only a fundamental right, but also a crucial value for democracy. In practice, this means that gender equality should not only be legally acknowledged, but also efficiently implemented across all facets of political, economic, social, and cultural life.<sup>1</sup>

The Republic of Albania has ratified a range of Conventions designed to combat gender discrimination and advance gender equality. These international agreements not only carry legal obligations for the Albanian state, holding a high position within the hierarchy of legislative acts, but also serve as guiding principles for understanding fundamental human rights, both within constitutional provisions and the operations of all public institutions. To gain a more comprehensive understanding of these Conventions and their implementation in accordance with their intended spirit, the work of various supervisory Committees through their recommendations and the decisions of Courts plays a crucial role.

In Article 18 of the Constitution of Albania, the principles of both formal and substantive equality are established. It stipulates that no one can be subjected to discrimination based on factors such as gender and parental affiliation. Moreover, it clarifies that distinctions may be made, but only if they are objective and have a reasonable justification. In accordance with the Constitution and international conventions, several significant laws have been enacted, including the Family Code (Law No. 9062, dated 8.5.2003, as amended), Law No. 10 129, dated 11.05.2003 "*On Civil Status*," as amended (Law on Civil Status), Law No. 9970, dated 24.7.2008, "*On Gender Equality in Society*" (GEIS), and Law No. 10 221, dated 04.02.2010, "*On Protection from Discrimination*," as amended (LPD).

In accordance with and in implementation of these laws, administrative procedures are also established to record family status based on identity, gender, and familial relationships, always upholding the principle of equality and the best interests of the

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<sup>1</sup> "*Gender Equality and Discrimination in Appointed Local Government Bodies*" Monitoring Report conducted by the Commissioner for Protection from Discrimination in collaboration with UN Women Albania, Tirana, 2019.

<https://www.kmd.al/wp-content/uploads/2023/05/Barazia-gjinore-dhe-diskriminimi-ne-organet-e-meruarate-pushtetit-vendor.pdf>



child. From a public law standpoint, it becomes the State's responsibility to regulate matters concerning personal identity primarily for reasons of security and public interest, as well as for the regulation of family law. Conversely, from a private law perspective, these state regulations must strike a balance, respecting individual dignity, freedom, personal identity, and the principle of equality.<sup>2</sup>

In spite of the existing legal framework, gender-based discrimination against women frequently remains concealed within entrenched traditions that eventually solidify into customary practices, and sometimes, even formal rules. One widespread form of discrimination is the implied denial, prevalent in most national legal systems, of a woman's right to transmit her surname to her children. Many countries automatically assign the father's surname to newborns born during their parents' marriage or formally acknowledged by their father.<sup>3</sup>

This practice not only discriminates against women as mothers but also as daughters, as it often leads to an unwarranted preference among parents, particularly fathers, for male children. The rationale behind this preference primarily stems from the belief that a son can perpetuate the father's surname. The automatic assignment of the father's surname is frequently linked to the desire to maintain the unity of the family unit. In reality, this argument appears to have weakened due to the crisis that marriage has experienced with the rise in divorce rates.<sup>4</sup>

Different countries have adopted various solutions to ensure gender equality when it comes to determining the surnames of their offspring and to establish a less discriminatory regime towards women. In this context, the European Court of Human Rights has established a consistent practice that recognizes women's right to pass on their surname to their children.

In Albania, there has also been notable progress in the implementation of laws and international standards concerning the protection of human rights. In this regard, the approach to gender equality and fair treatment has been regulated with a different

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<sup>2</sup> For a comprehensive overview of family law in Albania and its legal aspects, please refer to the following sources:

Aleks Luarasi, "Marrëdhëniet Familjare" (Family Relations), Published by SHB Luarasi, Tirana, 2001.

Arta Mandro, "E drejta Familjare" (Family Law), Published by SHB Emal, Tirana, 2009.

<sup>3</sup> Fabbriotti. A (2017), "Il diritto al cognome materno. Profili di diritto civile italiano, di diritto internazionale, dell'Unione europea, comparato ed internazionale private". (The Right to the Maternal Surname. Aspects of Italian Civil Law, International Law, European Union Law, Comparative Law, and Private International Law) [https://www.academia.edu/31880354/Il\\_diritto\\_al\\_cognome\\_materno\\_Profili\\_di\\_diritto\\_civile\\_italiano\\_di\\_diritto\\_internazionale\\_dell\\_Unione\\_europea\\_comparato\\_ed\\_internazionale\\_privato](https://www.academia.edu/31880354/Il_diritto_al_cognome_materno_Profili_di_diritto_civile_italiano_di_diritto_internazionale_dell_Unione_europea_comparato_ed_internazionale_privato)

<sup>4</sup> Ibid.

perspective, creating a distinct legal framework.<sup>5</sup> The assignment of surnames for future spouses and their descendants, it is governed by the provisions of the Family Code. According to the Code's provisions, individuals have the option to either adopt a shared surname or retain their respective surnames. Concerning children, the Code dictates that they inherit the common surname of their parents. In situations where parents have different surnames, a single surname is chosen for all children, typically through parental agreement. Nevertheless, if parental consensus cannot be reached, the children inherit their father's surname.

In light of all the above, it is essential to consider not only the identity aspect of legal regulations but also the fact that these regulations serve as the basis for the design and creation of a series of other legal and sub-legal acts. These acts are necessary for the acquisition of various social payments, including economic assistance, different types of pensions, reimbursements, disability payments, and more.

Regarding the latter, based on the study "*Improved protection against discrimination of customers in need through the implementation of the legal and regulatory framework*"<sup>6</sup> (Study on Customers in need), it became evident that certain crucial social payments related to electricity reimbursement<sup>7</sup> were associated with the concept of the Head of Household.<sup>8</sup>

Additionally, in the recommendation of the Commissioner for the Protection against Discrimination, no. 1080, dated 21/07/2022, addressed to the Council of Ministers for review of relevant sub-legal acts, were outlined limiting issues related to the concept of the Head of Household, and it was recommended to "*determine eligibility for compensation for the difference in the price of electricity when one of the spouses has a disability, regardless of whether they are the head of the household or not.*"

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<sup>5</sup> Regarding broader aspects of gender equality, reference is made to: A. Mandro, A. Anastasi, E. Shkurti, A. Bozo, 'Gender Equality and Non-Discrimination', SHB Dajti, Tirana, 2011.

<sup>6</sup> The study was conducted by the Commissioner for Protection against Discrimination in collaboration with several civil society organizations, with the support of UNDP Albania and the Norwegian Embassy.:<https://www.kmd.al/wp-content/uploads/2023/04/Studim-Klienti-ne-nevoje.pdf>

<sup>7</sup> Council of Ministers Decision No. 565, dated 09/08/2006, "On the protection of vulnerable groups from the increase in the price of electricity," as amended.; Council of Ministers Decision No. 8, dated 14.01.2015, "On the protection of vulnerable groups, for the purpose of removing the electricity consumption band up to 300 kwh per month," as amended; Council of Ministers Decision No. 404, dated 20.6.2012 On the determination of criteria and procedures for obtaining financial compensation for persons with the status of the blind and disabled, paraplegic and quadriplegic, for the electricity and fixed telephone bills" (amended by Council of Ministers Decision No. 616, dated 22.9.2022).

<sup>8</sup> One of the recommendations from this study regarding the argument was: "*separating the benefits provided by the existing Council of Ministers' decisions from the concept of the Head of the Family.*"

Based on the investigation carried out to address this Recommendation, it was revealed, among other things, that only 2.41%<sup>9</sup> of Albanian families had a female head of household listed on the family certificate. Also, referring to the Council of Ministers Decision No. 882, dated 24.12.2019, "*On the mechanism of interinstitutional coordination for the referral of employment for individuals and active working-age family members benefiting from economic assistance.*" it was revealed that when it comes to receiving economic assistance, "*families with male heads dominate,*" whereas "female heads of households constitute only 10% of families with general benefits."<sup>10</sup>

In the Albanian legal framework, the term Head of Household lacks a precise legal definition. This concept *de facto* aligns with that of the Head of the Family, which carries elements of patriarchal tradition where the central figure in the family is the husband. This alignment has been codified in previous legal documents. For instance, in the Civil Code of the Albanian Kingdom from 1929, Article 188 stipulated that "*the husband is the head of the family: the wife assumes the civil status of the husband, adopts his surname, and is obliged to accompany him wherever he chooses to establish the family's residence.*"

In the current legal framework, this patriarchal tradition, which is reflected in civil status documents, as well as in various sublegal acts and even in some legal statutes, contradicts the principle of equality and the Family Code. According to the Family Code, "*...marriage, as a legal cohabitation, is founded on the moral and legal equality of the spouses...*". From a gender perspective, it is apparent that in a very small percentage of Albanian families, the woman holds the position of Head of the Family on the family certificate, representing roughly 0.41% of families with both spouses.

In practice, this gender restriction not only hinders access to social benefits but also serves as a significant indicator of gender inequality between men and women in civil status documents, highlighting the continued dominance of men's roles within families despite the spirit of equality that runs through legal statutes.

Based on the significance and ongoing evolution of many of the concepts and rights mentioned earlier, this study seeks to assess whether the legal, sub-legal, and administrative regulations governing the principle of equality and the role of women in family matters, as well as the personal identity of children, are aligned with the principle of equality.

More specifically, this study will scrutinize the issue of surnames within the context of personal identity regarding maternal lineage, the determination of an individual's

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<sup>9</sup> This percentage also includes single-parent families with a female head of the household.

<sup>10</sup> Ibid.

identity through paternal lineage, and the gender-related implications of the concept of the head of the family. It will take into account not only normative provisions but also the impact of socio-cultural factors on administrative practices.

## Methodology

This study aims apart from elucidating on how regulatory acts reflect, reinforce, and in some cases shape social norms regarding gender identity and children's personal identity, but furthermore to guide public debate on these issues, especially concerning possible legal interventions and improvements. Therefore, this study can be categorized as applied research, with its main goal being to shape policymaking and public discourse on this matter. Since there are very few studies on this topic in Albania, the study is based on a holistic approach, offering an overview of international developments, legal regulation and framework in Albania, administrative practices, as well as how these topics are understood and dealt with by the administration in implementing relevant norms.

To achieve the above, the study combines a mixed-method approach of qualitative and quantitative analyses<sup>11</sup>. This combination is common in social science research as it allows for providing numerical, more objective data and in-depth analysis of these data to identify causal mechanisms explaining the identified phenomena<sup>12</sup>.

Specifically, in this study, qualitative analysis was based on a careful review of relevant legal and sub-legal acts, as well as international acts and standards. Ratified conventions by the Republic of Albania, general recommendations from supervisory committees, jurisprudence of the European Court of Human Rights, Albanian legislation, and various sub-legal acts were analyzed.

To ensure a preliminary understanding of the current situation, cases and level of gender discrimination based on the patrilineal system, an analysis of reports and studies conducted earlier were examined in targeted services. All these analyses aim to offer a clear overview of international standards and the Albanian reality as an instrument for comparison.

Additionally, the added value of the study, from the perspective of obtaining new primary data, is based on the development of two questionnaires and in-depth interviews with employees of Civil Status Offices at the national level and employees of

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<sup>11</sup> Bennett, Andrew and Colin Elman. 2006. "Qualitative Research: Recent Developments in Case Study Methods." *Annual Review of Political Science*, 9: 455-476.

Hay, Colin. 2006. "Political Ontology." In Goodin and Charles Tilly (Ed.s.), *The Oxford Handbook of Contextual Political Analysis*. Oxford University Press: Oxford, UK. 78- 96.

<sup>12</sup> Stinchcombe, Arthur. 1968. *Constructing Social Theories*. University of Chicago Press: Chicago, Ill.

Amenta, Edwin and Kelly Ramsey. 2010. "Institutional Theory." In Leicht and J. Craig Jenkins (Ed.s.), *Handbook of Politics: State and Society in Global Perspective*. Springer: New York, NY. 15-39.

Fentress, James and Chris Wickham. 1992. *Social Memory*. Blackwell: Oxford, UK.

Hacking, Ian. 1999. *The Social Construction of What?* Harvard University Press: Cambridge, UK.

various institutions mainly providing social services in Korça, Vlorë, Fier, Shkodër, Durrës, and Tiranë.

The two developed and distributed questionnaires were as follows:

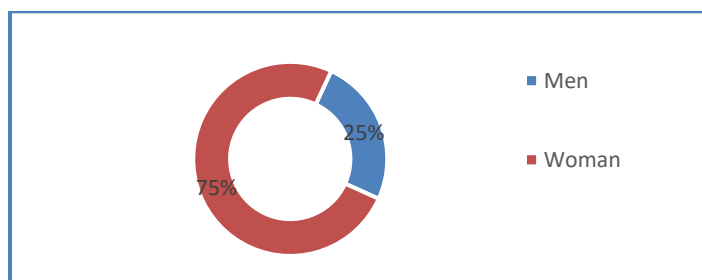
1. Questionnaire to assess civil status administration practices regarding procedures for determining the head of the family and the children's surname.
2. Questionnaire to collect data regarding the parental gender identity of individuals in public administration.

The first questionnaire was specifically designed for civil status offices and comprised 21 questions. Its purpose was to highlight civil status administration practices concerning the concept of the head of the family and its determination in the family certificate, as well as the determination of children's surnames in cases where spouses have different surnames, to understand the gender implications and adherence for the principle of equality between men and women.

The second questionnaire included 19 questions and was specifically designed for employees of central institutions and their regional directorates, such as INSTAT, ALEAT, CPU, universities, Free Legal Aid, NBC (National Business Centre), Cultural Centers, Preuniversity Education Local Offices, General RoadTransport Directorates, Local Police Departments, Domestic Violence Units, Community Centers, OSHEE, UKT, Post Offices, Social Insurance, Homeless Shelters, AKU, Healthcare Service Providers, Municipalities.

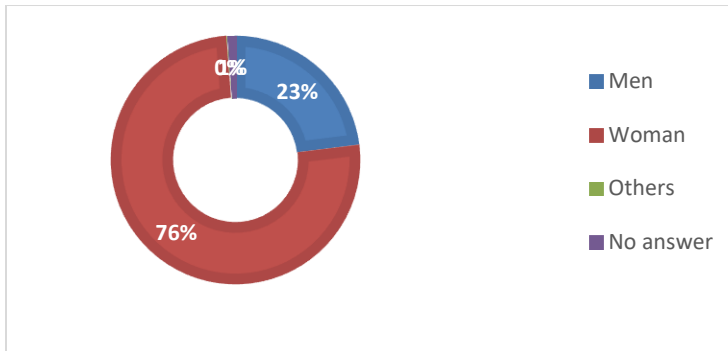
The questionnaires were developed and tested in the period in a period of two months. After finalizing the questionnaires, they were distributed to the targeted groups during December 2022 - January 2023. The questionnaires directed to civil status offices were distributed and completed electronically. The questionnaire regarding parental gender identity was completed through direct contact with all respondents, conducting short interviews to clarify data or gather additional information not included in the questionnaire. After completing this process, data processing was carried out using the statistical program SPSS 17.

### 1. First questionnaire completed from Civil Status – total 242.



The General Directorate of Civil Status provided considerable support for completing the questionnaires, which were conducted electronically, with a total of 566 for both questionnaires. In the questionnaire dedicated to civil status offices, 182 women, around 75%, and 60 men, approximately 25%, were included, totalling 242 respondents.

## 2. Second questionair completed from institutions – 1133 in total



The second questionnaire addressed to other institutions providing various services was completed directly by about 1133 participants (employees) in the targeted regions, including 261 men, 859 women, 1 respondent provided another identification, and 12 others did not answer this question. Regarding the civil status questionnaire, 324 respondents, 87 men and 237 women responded, all of whom are included in the total number of 1133 participants.

Overall, a dominance of women in employment is observed, while a dominance of men is noticed concerning service receipt.

The data generated from these questionnaires enabled a comprehensive mapping of the service delivery methods and the implementation of regulatory acts by the administration regarding gender identity and children's personal identity. The analysis of the obtained data allows for the identification of mechanisms such as legal and social actions, administrative measures, and administrative interpretations of these acts, which can lead to gender inequality between men and women.

## Limitations

Like other studies, there are certain limitations<sup>13</sup>. As mentioned above, this is an applied study which had as its aim and audience policymakers and leaders of public administration.

The first limitation is related to the fact that the recommendations of the Monitoring Committees of the Conventions and the Periodic Reports for Albania are not available in the Albanian language and always require sporadic and partial translation, which may not always be accurate. Researchers worked with documents in foreign languages.

The second limitation focuses on the practices and viewpoints of employees of the administration providing specific services. Although they are generally representative of characteristics of Albanian society as a whole, the generalization of the data cannot go beyond the employees of the administration. Perhaps in the future, it would be interesting to target the population receiving supportive services from the central or local administration.

Regarding the questionnaires, we are aware that, in some cases, they were completed without the attention required due to the essential workload of administrative staff. Overall, this is a risk and limitation that was considered and was addressed by having a very high number of participants in the questionnaires as well as conducting interviews with participants who filled out the questionnaires.

Lastly, a general lack of information as well as different interpretations of the same procedures was noticed, which sometimes leads to confusion in the analysis and processing of data, especially for procedures that should be standardized across all branches of the institutions.

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<sup>13</sup> McKeown, Timothy. 2004. "Case Studies and the Limits of the Quantitative Worldview." In Brady and David Collier (Ed.s.), *Rethinking Social Inquiry: Diverse Tools, Shared Standards*. Rowman and Littlefield Publishers: London, UK. 139-167



# I. International Standards

## 1. *Universal Declaration of Human Rights and Core United Nations Conventions.*

United Nations standards regarding human rights are embodied in various conventions developed over the years, starting with the Universal Declaration of Human Rights (UDHR) and followed by the International Covenant on Civil and Political Rights (ICCPR)<sup>14</sup>, the International Covenant on Economic, Social, and Cultural Rights (ICESCR)<sup>15</sup>, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>16</sup>, the Convention on the Rights of the Child (CRC)<sup>17</sup>. Their ultimate goal is to make human rights universal, while their practical aim is to be incorporated into the legal frameworks of different countries by establishing these standards as guiding principles based on each Constitution, legal norms, and institutional activities. Acceptance and ratification of Human Rights Conventions indicate a positive will and approach by states to undertake national and international commitments to respect, protect, and promote human rights.

Albania is among the countries that have ratified all core United Nations Conventions since its transition to a democratic state.

For the purposes of our study, we will draw principles and fundamental human rights primarily from these Conventions, most of which are widely recognized and constitute an ongoing effort to ensure their respect and protection. Our main focus will be on the principles of equality and non-discrimination, particularly in relation to gender aspects. In fact, these two principles permeate the UDHR in its entirety and are enshrined in both its preamble and specific provisions.

In the first paragraph of the declaration, the equality of dignity among all individuals is established as a fundamental value of the "human family"<sup>18</sup> and subsequently, gender equality between men and women is set as a fundamental value alongside the indivisibility of rights and the worth of the individual. In Article 1 of the UDHR, it is stated that "*All human beings are born free and equal in dignity and rights,*" and in Article

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<sup>14</sup> Ratified by Law No. 7510 on 08.08.1991.

<sup>15</sup> Ratified by Law No. 7511 on 08.08.1991.

<sup>16</sup> Ratified by Law No. 7767 on 09.11.1993.

<sup>17</sup> Ratified by Law No. 7531 on 11.12.1991.

<sup>18</sup> Similarly, equality is established as a fundamental principle in both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights.

7 of the UDHR, it is further declared that *"All are equal before the law and are entitled without any discrimination to equal protection of the law."*

Even in the International Covenant on Civil and Political Rights (ICCPR), the principle of equality is established as a fundamental value, both in a general sense and with a particular emphasis on gender equality. Thus, in Article 26 of the ICCPR, it is stated that *"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law,"* and further, *"the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour sex, language, religion, political or other opinion, national or social origin, property, birth or other status."* Article 3 of the ICCPR places special emphasis on gender equality, stating that *"The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant."*<sup>19</sup>

In the core instruments of the United Nations, the gender aspect holds a distinct significance and is consistently intertwined with the right to family. Thus, in the Universal Declaration, states acknowledge that both men and women have the right to marry and form a family, recognizing the family as the *"natural and fundamental group unit of society."*<sup>20</sup> Furthermore, they enjoy equal rights *"both in the case of marriage, during marriage, and in case of dissolution of marriage."* The same provision is reiterated in Article 23 of the International Covenant on Civil and Political Rights, with the addition that *"in the event of dissolution of marriage, measures shall be taken with a view to ensuring necessary protection for the children"*<sup>21</sup>. Additionally, Article 10 of the International Covenant on Economic, Social, and Cultural Rights specifies that families must be provided with *"the broadest possible protection and assistance... especially for their formation and while they are responsible for the care and education of dependent children."*

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<sup>19</sup> The same provision is made in Article 3 of the ICCPR, which states that *"The States Parties to this Covenant undertake to ensure the equal right of men and women to enjoy all of the economic, social, and cultural rights set forth in this Covenant."*

<sup>20</sup> Article 16 of the UDHR- 1. *Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.* 2. *Marriage shall be entered into only with the free and full consent of the intending spouses.* 3. *The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*

<sup>21</sup> Article 23(4) of the International Covenant on Civil and Political Rights - *States Parties to this Covenant shall take appropriate measures to ensure equality of rights and responsibilities of spouses concerning marriage, during marriage, and at the time of divorce. In the case of divorce, measures shall be taken to ensure necessary protection for the children.*

In relation to Article 23 of the International Covenant on Civil and Political Rights and equality between spouses, the Human Rights Committee (HRC) in its General Comment No. 19, paragraph 7, stipulates that in the context of the principle of equality, *"the right of each person to retain his or her own surname or for both spouses to take a combined name should be protected, as well as the right of each to participate on an equal basis in the choice of any other name."*

Regarding children, in continuation of the care and special assistance outlined in the Universal Declaration,<sup>22</sup> as well as in line with the rights to family,<sup>23</sup> education,<sup>24</sup> nationality,<sup>25</sup> healthy development<sup>26</sup> and personality development,<sup>27</sup> the right of every child to have an identity is also provided for. Article 24 of the International Covenant on Civil and Political Rights envisages the adoption of specific protective measures that should be ensured by the family, society, and the state. In paragraph 2 of this article, it is expressly stated as a fundamental right directly related to identity and legal personality, the right of every child *"to be registered immediately after birth and to have a name."*<sup>28</sup>

As discernible through an examination of the fundamental convention provisions, the principles of gender equality between men and women, the entitlement to family, and the rights within familial settings coupled with the family's purpose in procreation, safeguarding, and fostering children's personal development, are intricately interconnected. They demand concrete and efficacious measures to be undertaken by state parties to ensure their utmost realization.

Recognizing the paramount importance of these provisions, it becomes imperative to commit to more tangible commitments and establish more effective guarantees pertaining to both gender equality and the rights of children. The United Nations has formulated two exceptionally significant conventions dedicated to two specific

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<sup>22</sup> Article 25(2) of the Universal Declaration of Human Rights - *Mothers and children are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protections.*

<sup>23</sup> UDHR Article 25, ICCPR Article 23, ICESCR Articles 10 and 11.

<sup>24</sup> UDHR Article 26, ICCPR Article 18, ICESCR Article 13.

<sup>25</sup> ICCPR Article 24

<sup>26</sup> ICESCR Article 12(2)(a).

<sup>27</sup> UDHR Article 22 and 26, ICESCR Article 13.

<sup>28</sup> According to the Human Rights Committee (HRC) in its General Comment (GC) No. 17, this provision is designed to promote the recognition of the legal personality of the child. Additionally, this provision should be closely interpreted in connection with other provisions of the Covenant related to special measures for the protection of children (Article 23(4) and Article 24(1)). According to this Comment, the right to a name holds particular significance, especially for children born out of wedlock, while registration is seen as a protective measure to mitigate the risks of abduction, sale, or trafficking of children.

categories in need of distinct protection and greater assurances of core equality and non-discrimination: children and women.

## **2. Convention on the Elimination of All Forms of Discrimination Against Women**

Although the Universal Declaration and the core covenants place special emphasis on the principle of equality, particularly equality between men and women, it has been a matter of concern that "*despite all these various instruments, significant discrimination against women continues to exist,*" especially in cases of women living in impoverished conditions.<sup>29</sup> Furthermore, the observation of gender-based discrimination and the lack of gender equality extend to all areas of life, including political, economic, legal, social, and cultural aspects. Special attention is also given to the need for "*a change in the traditional role of men and women within the family and in society to achieve full equality between men and women*".<sup>30</sup>

To encourage gender equality and combat all forms of discrimination against women, the United Nations General Assembly, through its Resolution 34/180 dated December 18, 1979, adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This convention serves as the cornerstone for raising awareness among states regarding discrimination against women<sup>31</sup> and establishes specific commitments and obligations for:

- (a)<sup>32</sup> To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;*
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;*
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;*
- (ç) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;*

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<sup>29</sup> The preamble of CEDAW.

<sup>30</sup> CEDAW Article 2.

<sup>31</sup> According to the Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".

<sup>32</sup> The listing will be done in accordance with the Albanian translation of the Convention.

- (d) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;*
- (dh) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;*
- (e) To repeal all national penal provisions which constitute discrimination against women.*<sup>33</sup>

In addition to safeguarding many fundamental rights of women as human beings, such as prohibiting trafficking and the exploitation of prostitution (Article 6), the equal right to choose and be elected and women's participation in all aspects of political, public, and decision-making life (Articles 7-8), the right to equal conditions in education (Article 10), equal rights in employment and special measures (Article 11), the right to health (Article 12), rights in other social and economic fields (Article 13), women's rights in rural areas (Article 14), equal civil, property, and legal rights (Article 15), as well as taking temporary special measures to combat *de facto* inequalities (Article 4), the Convention also includes important provisions regarding women's personality, marital rights, and their role in the family.

Firstly, in Article 5 of the Convention, it is required to take appropriate measures "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for men and women."<sup>34</sup> In this sense, the Convention goes beyond the aspect of international law and state legality, recognizing as fundamental the importance of the influence of culture and traditions on attitudes and behavior, as well as the key role they play in limiting the fundamental rights of women.<sup>35</sup> Furthermore, the Convention calls for the recognition of the "joint responsibility of men and women in the upbringing and development of their children..."

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<sup>33</sup> Article 2 of the Convention defines the nature of all obligations of the parties and is crucial for the full implementation of the Convention. For a clear understanding of Article 2 and the Convention itself, CEDAW has adopted General Recommendation No. 28, among other things, states parties also have the obligation to translate it into their national languages.

<sup>34</sup> Regarding this provision, the Committee on the Elimination of Discrimination against Women, in GR No. 28, suggests that it should be read and interpreted in conjunction with Article 2, paragraph (d), in the social and cultural context of identities and roles constructed by society based on biological differences, the result of which establishes a hierarchical relationship between women and men in the distribution of power and rights, favoring men and disadvantaging women.

<sup>35</sup> Refer to General Recommendation No. 21 of the Committee on the Elimination of Discrimination against Women.

Secondly, in Article 9, the Convention establishes equality between men and women concerning the nationality of spouses and children. Thus, "neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband," and parties to the Convention "shall grant women equal rights with men with respect to the nationality of their children."

Thirdly, in Article 15 of the Convention, which provides for equal legal recognition between men and women, it also establishes the obligation for parties to recognize "same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile."

Fourthly, Article 16 obliges all states to "*take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations.*" In detail, this provision specifies rights and freedoms such as the full right to enter into marriage and equal responsibilities both during marriage and in case of its dissolution, as well as "*equal rights and responsibilities as to marriage, during marriage and at its dissolution,*" including the right to choose one's surname, profession, and occupation. Additionally, Article 16 also covers "*the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount*".

Article 16 of CEDAW is considered very important by the Committee on the Elimination of Discrimination against Women (CEDAW Committee) because it is practically linked to all gender implications of the family. For this reason, the CEDAW Committee has issued two General Recommendations (GR) related to Article 16: GR No. 21 titled "*Equality in Marriage and Family Relations*" and GR No. 29 titled "*Economic Consequences of Marriage, Family Relations, and Their Dissolution.*"<sup>36</sup>

In GR No. 21, the CEDAW Committee provides a detailed explanation of the provisions that stipulate rights and responsibilities in family relations, with a particular focus on Articles 9 and 15 of the Convention, and dedicates special attention to Article 16. Regarding Article 9 of the Convention, which deals with nationality status, the CEDAW Committee's interpretation is such that it severs any possible link to the loss of

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<sup>36</sup> For the purpose of this study, we focus on GR No. 21, while GR No. 29 is recommended for consultation as it elaborates on the economic consequences and the status of women due to inequality in family and discriminatory approaches towards women.

nationality by a woman due to divorce or due to a change in nationality by the husband or father.

In relation to Article 15 of the Convention, among other things, the CEDAW Committee provides a recommendatory interpretation of the meaning of freedom of movement and the free choice of residence and domicile. Regarding the latter, as well as in relation to nationality, the CEDAW Committee observes that in many countries, women are not free to decide on their residence or family domicile. For this reason, it recommends that states ensure that women are free to choose their residence regardless of their marital status and that they have equal rights with men in this regard. According to the findings of the CEDAW Committee, restricting a woman's freedom to choose her residence in the same way as a man can limit her right to access the courts of the country where she lives or prevent her from entering and leaving the country freely.

In reference to Article 16 of the Convention, the CEDAW Committee initially acknowledges the concern about traditionally predefined roles between men and women in the private and family sphere, emphasizing the inequality and inferiority of women resulting from these roles. It goes further to highlight that even in cases where legal equality between men and women is provided, society still assigns different roles, placing women in subordinate positions. For this reason, even though the constitutions of states and their laws may be in line with the Convention, it is often customs and traditions that hinder the implementation of these laws and consequently go against the Convention. In many cases, it is in the name of ideologies, traditions, and customs that inequality in the family and discrimination against women are justified.<sup>37</sup>

This is evident in some countries concerning the equal right to enter into marriage with the full and free consent of the woman, as well as to choose her spouse freely (Article 16, paragraphs 1 letters a and b).

The same approach is observed concerning rights and responsibilities during marriage and in cases of its dissolution, where often laws and the principle of equality are overlapped in practice by customs and traditions, limiting women's rights to the extent that in many countries, the husband is granted the status of **Head of Household**, giving him control over all family decisions (Article 16, paragraph 1 letter c).<sup>38</sup> While the right to choose a surname, according to the CEDAW, is linked to equality, justice, and the individual fulfillment of each family member by recognizing each spouse's right to keep

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<sup>37</sup> Refer to point 2 of GR No. 29.

<sup>38</sup> Refer to point 17 of GR No. 21.

their own surname. This right is connected to personal freedom as well as the preservation of one's individuality and identity within the community, making them distinguishable and unique from any other member of society. According to the CEDAW, wherever a woman is compelled by law or customs to change her surname due to marriage, she is being denied the rights guaranteed to her by the Convention.<sup>39</sup>

In summary, and within the framework of the analysis for the purpose of this study, there are standards provided in the Convention and detailed by the CEDAW: equality in rights and responsibilities within the family between husbands and wives, encompassing all aspects related to children and their development; preservation and protection of the individuality and identity of spouses and every family member; elimination of all family-related inequalities stemming from *de jure* legislation, but especially from *de facto* practices influenced by culture, customs, and traditions; dismantling the superior role of the husband within the family, establishing not only a foundation of equality but also justice among its members.

### ***3. Convention on the Rights of the Child.***

Guided by the provisions of the UDHR and the insistence of foundational conventions that "*childhood has the right to special care and assistance,*" and simultaneously that this protection must be effectively ensured for the child's family so that it can be "*a natural environment for the growth and well-being of all its members and especially the child,*" with the ultimate goal of "*the full and harmonious development of his/her personality [...] for a full life in society*,"<sup>40</sup> the United Nations General Assembly on November 20, 1989, adopts the Convention on the Rights of the Child. The general spirit and the key principle that characterize the CRC is the best interests of the child. According to Article 3 of the Convention:

*1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, **the best interests of the child shall be a primary consideration.***<sup>41</sup>

*2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal*

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<sup>39</sup> Refer to point 24 of GR No. 21

<sup>40</sup> See the preamble of the CRC

<sup>41</sup> For a broader understanding of this principle, refer to General Comment No. 14 (2013) of the Committee on the Rights of the Child.



*guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*

*3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.*

Among the many rights granted to the child, aimed at protecting them from any form of harm to their dignity and promoting all means of their full personal development, the Convention attaches particular importance to the child's connection with the family, the role of the family as primary in the child's development, and the aspect of identity as a fundamental right of the child.

Firstly, the child cannot be discriminated against, among other things, because of family background or any other status of the child or their parents. In this regard, "*States Parties shall take all appropriate measures to ensure that the child is effectively protected from all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.*" They must respect the responsibilities, rights, and duties of parents (Article 5), ensure that the child is not separated from their parents against their will (Article 9), guarantee family reunification (Article 10), prevent arbitrary or unlawful interference in the child's private life, family, and home (Article 16), ensure a family environment for the child (Articles 20, 21), as well as guaranteeing these rights even in cases of refugee children (Article 22) and children with disabilities (Article 23).

Secondly, the Convention guarantees the child the right to have a name as part of their identity and ensures the preservation of the child's identity. Thus, Article 7(1) of the CRC stipulates that "*the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by his or her parents,*" and States Parties must take all appropriate measures to ensure the implementation of this right.

Thirdly, the Convention specifically addresses the aspect of a child's identity as a fundamental right related to their being and personality development. Article 8 of the CRC is exclusively concerned with the child's identity and imposes the obligation on States Parties to "*respect the right of the child to preserve his or her identity, including nationality, name, and family relations as recognized by law, without unlawful interference,*" and in cases where there is a breach or denial of some or all elements of

the child's identity, they must take all appropriate measures to provide *"appropriate assistance and protection with a view to re-establishing speedily his or her identity."*

As can be discerned, an inseparable component of a child's personality is their identity, which comprises several elements considered essential and for which the Convention demands effective protection and implementation. This identity is linked to the individual right of the child to be registered and given a name, as well as the need for a broad understanding of identity related to family affiliation (surname and family relations) and cultural and social belonging (nationality). Concerning the latter, the Convention ensures the development of the child's personality by making one of primary objective of the right to education *"The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own"* (Article 29(1)(c)), with attention also given to the communal identity aspect of children belonging to national minorities (Article 30).

Upon reading the Convention in its entirety and embracing its principles and values, as well as those upheld by the Committee on the Rights of the Child, it becomes evident that the paramount consideration is the child's best interest. This practical principle should steer governmental actions to ensure the child's enjoyment of all rights stipulated in both international and national contexts. The ultimate goal is to foster the child's complete personal development.

At the core of a child's holistic development lies the recognition and preservation of their identity. This identity is naturally nurtured within the familial setting. To enable families to fulfill their vital role in the child's life, it's not only crucial that they receive state protection but also that the principle of equality between spouses and parental responsibilities is guaranteed within the family structure.

In this context, gender equality between husbands and wives extends to the preservation of the individual identities of both spouses within the family unit. This preservation should subsequently extend to the children, allowing them to undergo comprehensive personal development.

#### **4. The European Convention on Human Rights and the principles of the Council of Europe.**

According to the principle of gender equality and non-discrimination, the European Convention on Human Rights (ECHR) provides important provisions.

Firstly, Article 14 (Prohibition of Discrimination) states that "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."<sup>42</sup> In expanding the protection of human rights beyond the Convention's specific provisions, Protocol 12 to the ECHR in Article 1 (General prohibition of discrimination),<sup>43</sup> makes it possible to apply the principle of non-discrimination in the Contracting States not only in relation to the rights expressly provided in the Convention but also to all rights recognized by the States to their nationals through their national legislation.<sup>44</sup>

Secondly, through Article 8 (Right to respect for private and family life), the ECHR places importance on everyone's right to respect for their "*private and family life, home, and correspondence,*" specifying that public authority cannot interfere with the exercise of this right except to the extent provided by law and when "*necessary in a democratic society, in the interests of national security, public safety, the economic well-being of the country, the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*"<sup>45</sup> This provision has a broad application in the jurisprudence of the ECtHR, and its understanding encompasses important aspects related to the individualistic understanding of the person, their identity, the development of their personality, and the family sphere. *According to the*

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<sup>42</sup> For a broader understanding of Article 14 and Protocol 12, especially from the jurisprudence of the European Court of Human Rights (ECtHR), please refer to the Council of Europe guidelines:

[https://www.echr.coe.int/Documents/Guide\\_Art\\_14\\_Art\\_1\\_Protocol\\_12\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_14_Art_1_Protocol_12_ENG.pdf)

<sup>43</sup> For a more comprehensive understanding of Protocol 12 to the ECHR, please refer to the Council of Europe's Explanatory Report:

<https://rm.coe.int/09000016800cce48>

<sup>44</sup> *Article 1 General prohibition of discrimination, Protocol 12 to the ECHR:*

*1. The enjoyment of any right set forth by law must be secured without any discrimination based on grounds such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or any other status. 2. No one shall be discriminated against by any public authority on any of the grounds specified in paragraph 1.*

<sup>45</sup> For a broader understanding of Article 8 of the ECHR and the jurisprudence of the ECtHR, please refer to the Council of Europe's guidelines:

[https://www.echr.coe.int/documents/guide\\_art\\_8\\_eng.pdf](https://www.echr.coe.int/documents/guide_art_8_eng.pdf)

ECtHR, "Article 8 of the Convention does not contain a clear provision on the issue of name, but as a means of personal identification and connection to a family, a person's name does not fall within his private and family life. The fact that the state and society have an interest in regulating its use is not sufficient to exclude the issue of a person's name from the field of private and family life, which is conceived to include the individual's right to establish relationships with his fellow citizens."<sup>46</sup>

Thirdly, Article 12 ECHR (Right to marry) provides that "*Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.*"<sup>47</sup> In its jurisprudence, the ECtHR has given a strict interpretation to this provision, limiting it only to the freedom and aspect of marriage, without using its implications in the personal and family rights, which are fully covered in Article 8 ECHR.

Fourthly, Article 5 of Protocol 7 to the ECHR (Equality between spouses) provides that "*Spouses shall enjoy equality of rights and responsibilities of a civil character with respect to their matrimonial relations. This Article shall not prevent States from taking such measures as are necessary in the interests of children.*" Unlike Article 12 ECHR, this provision is not solely related to the aspect of marriage but also to relations during and after marriage, emphasizing the principle of equality between spouses.

These convention provisions underpin a range of rights related to gender equality within the family, the preservation of identity and personality without discrimination in family relationships, as well as the development of children's personalities, always taking into account their best interests. Despite these provisions, the Committee of Ministers of the Council of Europe (CoE) has noted the progressive guarantee of the principle of equality between spouses in national legislation, but it "*appears, however, that discrimination against spouses still exists in some states and is sanctioned by legal provisions.*" Given the promotion of equality between "*spouses in civil law while respecting national customs as far as possible,*" as well as the "*need to ensure or promote the equality of spouses in other branches of law, especially in constitutional, administrative, fiscal, criminal, social, or labor laws,*" the Committee of Ministers adopted Resolution (78) 37 "*On equality of spouses in civil law*" on September 27, 1978.<sup>48</sup>

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<sup>46</sup> Decision of the ECtHR *Ünal Tekeli v. Turkey*, para. 42.

<sup>47</sup> For a broader understanding of Article 12 of the ECHR and the jurisprudence of the ECtHR, refer to the CoE guidelines:

[https://www.echr.coe.int/Documents/Guide\\_Art\\_12\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_12_ENG.pdf)

<sup>48</sup> <https://rm.coe.int/res-78-37e-on-the-equality-of-spouses-in-civil-law/1680a3b3f1>

This Resolution contains important provisions and recommends measures to be taken by the member states, legislative regulations, and the enforcement of laws to achieve real gender equality between spouses, particularly within civil and, more specifically, family relationships. As general principles, this Resolution first and foremost prohibits differentiation between spouses on the basis of gender, "*by which one of the spouses is placed in a more favorable position than the other,*" which becomes especially evident in cases where the position of the Head of Household is stipulated, who entirely dominates the decision-making and representative aspects within the family, placing the other spouse in a discriminatory position based on gender. Secondly, in the pursuit of effective substantive equality between spouses, the Resolution establishes, as a primary principle, the agreement between spouses to resolve various issues, and states should take measures to ensure that, in the event of a lack of agreement, legislation is not discriminatory on gender grounds.

Among the many specific provisions related to effective equality between spouses, such as free movement on equal terms (paragraph 3 of the Resolution), equality in exercising trade, profession, and continuing studies (paragraph 4), equality in family expenses and financial aspects (paragraph 8), in marital contracts (paragraph 10), in the property regime (paragraph 12), in the management and division of property during marriage and its dissolution (Articles 13, 14, 15, 16), as well as concerning children (Articles 18, 19), the Resolution also includes specific provisions regarding the identity of spouses and their children.

Therefore, first and foremost, the Resolution places importance on equality between spouses regarding the preservation of their identity, specifically referring to one of the key elements, which is the surname. According to paragraph 6 of the Resolution, states must regulate "*matters related to the surname of spouses to ensure that a spouse is not legally required to change their surname to adopt the surname of the other spouse.*" In further elaboration, the Resolution provides concrete solutions that can and should be considered by the states:

*i. Choosing a common surname by agreement with the other spouse, especially a surname of one of the spouses, a surname formed by combining the surnames of both spouses, or a different surname from the surname of each spouse.*

*ii. Retaining the surname that each spouse had before the marriage.*

*iii. Establishing a common surname based on the law by combining the surnames of both spouses.*

Also, in cases of marriage dissolution, the legislation should allow that *"each of the spouses keeps the common surname, except in the case when [...] one of the spouses has obtained a decision from the relevant authority that requires the former spouse not to use the common surname, for serious reasons, which apply equally to both spouses"* (point 7).

Secondly, in the interest of equality between spouses, member states must ensure that *"[...] both spouses have equal rights to choose the common place of residence of the family, and that each spouse has an equal right to a separate residence from that of the other spouse, in cases where this right is granted"* (point 5).

Thirdly, in protection of the principle of equality regarding children and their identity, point 17 of the Resolution provides that states should take necessary steps *"[...] to allow both spouses equal rights with regard to the surname given to children born from their marriage or adopted by them [...]"*. In this regard, the Resolution offers specific solutions for certain cases. In situations where parents do not have a common surname, it is recommended that the child has the option *"[...] to take the surname of the parent, which is not given to him by law,"* or it should be provided that *"[...] the surname of the children is chosen by mutual agreement of the parents."* Meanwhile, in cases where parents have, in addition to their family names, a common surname that has either been chosen by them or has been formed as a result of the application of the law, it should be ensured that *"[...] the abandonment of part of the family name does not constitute discrimination in relation to the choice of the family name or the surname to be removed."*

Over the years, given that the implementation of Resolution (78) 37 "On Equality between Spouses in Civil Law" has not yet been widely adopted in many member states of the Council of Europe, the Parliamentary Assembly (PA) of the Council of Europe has, at different times, adopted two identical Recommendations: "Recommendation 1271 (1995) on discrimination between men and women in the choice of a surname and in the passing on of parents' surnames to children"<sup>49</sup> and Recommendation 1362 (1998) with the same title<sup>50</sup>.

Through these two Recommendations, the Parliamentary Assembly of the Council of Europe makes several important observations and, at the same time, expresses concerns regarding the respect for the principle of gender equality in member states.

Firstly, it expresses concern about the failure of some member states to take into consideration Resolution (78) 37 and is surprised that many of these states are also

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<sup>49</sup> <https://pace.coe.int/en/files/15305/html>

<sup>50</sup> <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16599&lang=en>

parties to the Convention on the Elimination of All Forms of Discrimination Against Women.

Secondly, the Parliamentary Assembly notes that although there has been some progress in amending legislation, "*other countries have retained traditional legal systems based on criteria that are often doubly discriminatory: discriminatory between the mother and father and discriminatory with regard to whether the child was born within or outside of marriage.*"

Thirdly, the Parliamentary Assembly reminds member states that "*the name is an element that defines the identity of individuals and that, for this reason, the choice of the name is a matter of considerable importance,*" therefore, "*ongoing discrimination between men and women in this field is unacceptable.*"

Fourthly, the Parliamentary Assembly draws attention to the implementation of Resolution (78) 37 regarding "*the elimination of discrimination between men and women in the legal system regulating surnames*" and the taking of necessary measures "*to eliminate all sexist provisions regarding the right to choose a surname,*" in implementation of Article 16 of the CEDAW.

Fifthly, the Parliamentary Assembly calls on the Committee of Ministers to identify member states that "*retain sexist discrimination*" with the aim of taking measures to:

- *Ensure strict equality between the mother and father in the passing on of surnames to their children;*
- *Guarantee strict equality in cases of marriage concerning the choice of a common surname for both spouses;*
- *Eliminate any discrimination in the legal system regarding the giving of surnames to children born within and outside of marriage.*

Although two important bodies of the Council of Europe, namely the Committee of Ministers and the Parliamentary Assembly, have raised concerns about gender discrimination among spouses and in the identities of children for some time, legislative changes in many member states have been slow and still not fully aligned with the principles of the Council of Europe. For a more effective implementation of Resolution (78) 37 and Recommendations 1271 (1995) and 1362 (1998) of the Parliamentary Assembly, and especially for a more accurate understanding of the European

Convention on Human Rights, the European Court of Human Rights is also involved. This court examines the specific national legislation of Council of Europe member states.

### ***5. The jurisprudence of the European Court of Human Rights (ECtHR) regarding family name and respect for gender equality in parental identity of children.***

The European Court of Human Rights has a rich jurisprudence on issues related to the violation of Article 14 of the ECHR, especially concerning its violation in conjunction with Article 8 of the ECHR. In this regard, through its practice, it has ensured the respect of the principle of equality between men and women, as well as the dignity and personality of the individual. Particularly in family relations in all their dimensions, the ECtHR has developed an evolving jurisprudence on the interpretation of these provisions, expanding their interpretation with the aim of including as many rights as possible and offering a new understanding of rights, more comprehensive in terms of equality and simultaneously more sensitive to individual freedoms in the context of human dignity.

Although the principles of equality and individual freedom often seem to be in conflict and encroach on each other's space for realization, in the practice of the ECtHR regarding the concept of the individual within the family, it manages to reconcile these rights in a way that they complement each other, balancing them with the principle of public interest and the traditions and customs that have evolved over centuries in the societies of the member states of the ECHR. In this sense, the ECtHR is aware of the influence of traditions and customs on family relationships, while simultaneously recognizing the public nature of these relationships.

The influence of traditions and customs that later found reflection in the legislation of states is recognized in all human rights conventions, particularly in the creation and maintenance of gender inequality by acknowledging and guaranteeing the man a dominant position within the family sphere. From the perspective of the ECtHR, it is the rigid adherence to traditions and customs, along with the public interest they generate, that perpetuates gender inequality between men and women. It is precisely this space that the ECtHR begins to erode in order to give due space to equality, individual freedom, and human dignity.

In this sense, the ECtHR's continuous effort in its practice seeks to establish a balance between respecting these rights and the public interest, traditions, or the preservation of family unity that states usually establish as prevailing principles.



Continuing, several cases will be presented where the ECtHR initially prioritized establishing genuine equality within the family between husbands and wives, placing special emphasis on preserving the identity of spouses as an integral part of their dignity. As its jurisprudence evolved, the ECtHR also addressed the importance of ensuring true equality between husbands and wives concerning the identity of children, recognizing this as essential for their personal development.

The principles that emerge from the ECtHR's case law regarding gender equality between spouses and parental identity of children, along with the practical recommendations offered by the ECtHR for aligning legislation with Articles 8 and 14 of the ECHR, are of particular interest in this study.

### *5.1 Case Ünal Tekeli v. Turkey (2004)*<sup>51</sup>

After the marriage, the petitioner automatically took her husband's surname in accordance with the provisions of the Turkish Civil Code at the time. She practiced as a trainee lawyer during her marriage. Since she was known by her maiden name in her professional life, her request was to keep only her maiden name after marriage. Her request was rejected with the reasoning that Turkish domestic law required married women to retain their husband's surname throughout their married life. In 2001, the Turkish Civil Code was subsequently amended to allow married women to keep their maiden names along with their husband's surname. Among other changes aimed at diminishing traditions and the primary role of the husband in the family, the Turkish legislature also abolished the provision designating the husband as the head of the family.

However, the petitioner sought to retain only her maiden name as her surname after marriage, which was not allowed even after the approved changes, despite consensus between the spouses on this matter. She considered herself discriminated against compared to married men who could keep their own surnames after marriage, while women could not.

The Court found that the Turkish state had violated Article 8 in conjunction with Article 14 of the ECHR and argued that the family name plays an important role as it influences and identifies a person in their private and family life and is linked to the ability to establish and develop social, cultural, or other relationships with other human beings (para. 35). At the same time, the surname also has a public relevance, and in this specific

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<sup>51</sup> In this decision, the ECtHR expands and clarifies the principles established in a previous judgment, *Burghartz v. Switzerland* (1994).

case, the arguments of the Turkish state exclusively linked this interest to the "preservation of family unity" as part of tradition.<sup>52</sup> However, the refusal to allow the applicant to use only her maiden name, with which she claimed to be known in her private circle and in her cultural or political activities, could have significantly impacted her professional activities as well as her identity as a person.

According to the Court, the Convention requires that any measure taken to reflect family unity must be applied equally to both men and women, except in cases where there are convincing different reasons. In this context, *"it should be recalled that while family unity can be reflected by choosing the husband's surname as the surname, that unity can be equally well reflected by choosing the wife's surname or a common surname selected by the spouses"* (paragraph 64 of the judgment).

The Court emphasized that according to the practice of the parties and applicable systems in Europe, it was entirely possible for family unity to be preserved and consolidated where a married couple chose not to share a common surname. According to the Court, in the present case, the Turkish government did not demonstrate specific or substantial difficulties for the married partners and/or third parties, or the harm to the public interest that family unity could face due to the absence of a common family name.

In those circumstances, the Court found that the obligation on married women, in the name of family unity, to compulsorily bear their husband's surname or even in cases where they could choose to keep their maiden name alongside their husband's surname, did not constitute any objective and reasonable justification for not allowing the sole use of the maiden name.

The Court also takes into account the fact that the transition from a traditional system to other systems that allow married partners to either bear their own surname or freely choose a common surname may have a significant impact on the maintenance of birth, marriage, and death records. However, it emphasizes that society can reasonably be expected to tolerate such inconvenience to enable individuals to live with dignity and value in accordance with their chosen surname. In conclusion, according to the ECtHR,

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<sup>52</sup> *The first question for the Court is whether the tradition of reflecting family unity through the husband's surname can be considered a decisive factor in the present case. Undoubtedly, this tradition derives from the primary role of the husband and the secondary role of the wife in the family. In today's world, the advancement of gender equality in the member states of the Council of Europe, including Turkey, and especially the importance of the non-discrimination principle, prevent states from imposing this tradition on married women (paragraph. 63)*

the objective of achieving family unity through a common surname cannot justify gender-based differential treatment.<sup>53</sup>

### *5.2 The case of Cusan and Fazzo v. Italy (2014)*

The applicants are an Italian couple residing in Milan. In 1999, their daughter was born, and they attempted together to register her with her mother's surname (Cusan). Their request was denied, and the civil registry officer automatically assigned the father's surname to the daughter. The parents appealed to the first-instance court, which rejected their request, stating that although there was no specific legal provision requiring the child to be registered with the father's surname, this was based on Italian tradition and customs, as well as the previous legislation that primarily recognized the role of the father in the family. The parents proceeded to appeal the decision, which upheld the first-instance court's ruling.

The Court of Cassation of Italy suspended the consideration of the case and referred it for examination in the form of incidental control to the Constitutional Court. The Constitutional Court assessed that the Italian system was the result of a patriarchal view of the family rooted in Roman law and was incompatible with the constitutional principle of equality between men and women. However, the Constitutional Court considered itself unable to intervene, stating that it is the responsibility of the legislature to adopt a solution in accordance with the principles of equality, the rights of the child, and the principle of family unity.

In 2011, the complainants obtained authorization from the Minister of the Interior to add the mother's surname to the child's surname, so that the child could bear both surnames (Fazzo and Cusan). However, they were prohibited from registering their child with only the mother's surname. The complainants submitted a request to the European Court of Human Rights (ECtHR) claiming that the Italian government had violated their right to private and family life, as well as non-discrimination, under Articles 8 and 14 of the European Convention on Human Rights (ECHR). Furthermore, the complainants alleged a violation of the right to equality between spouses (Article 5 of Protocol 7), either alone or in conjunction with the two aforementioned articles.

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<sup>53</sup> Consolidating these principles (gender equality versus family unity), the ECtHR also conveys it in the Case of *Losonci Rose and Rose v. Switzerland* (2010), where the violation of the principle of equality between spouses was linked to their nationality. In this case as well, respecting gender equality in terms of surname and identity must be ensured even in the case of marriage between two persons of different nationalities, and domestic legislation should not tolerate discrimination.

First and foremost, the ECtHR unequivocally includes the right to a name and surname of every person in Article 8 of the ECHR, recognizing them as highly important for the identification of the individual and, consequently, integral to their private and family life. Furthermore, according to the ECtHR, *"the fact that the state and society have an interest in regulating their use is not sufficient to exclude the issue of a person's surname from the sphere of private and family life, understood as encompassing the individual's right to establish relationships with his or her fellow human beings"* (paragraph 55).

Secondly, regarding the right to non-discrimination under Article 14, the ECtHR reiterates the principle of gender equality between spouses and the elimination of any discrimination based on sex in the choice of the surname. Thus, based on the interpretation of Italian legislation, which, when read together, reflects traditional norms where the predominant figure in the family is that of the father, their application fundamentally undermines the principle of gender equality between spouses. Therefore, the ECtHR is of the opinion that, in the context of giving the surname, the father and mother of the child are treated differently without any objective reason or legitimate purpose. Unlike the father and despite any agreement between the spouses, the child cannot take the mother's surname.

In the specific case, the choice of the child's surname was determined solely based on the gender of the parents, as the rule in question required that the given surname be that of the father, without exception and regardless of the choice made by the spouses. The Italian Constitutional Court itself had acknowledged that the existing system had its roots in a patriarchal concept of the family, which was not in line with the constitutional principle of equality between men and women. The ECtHR found that the practice of allowing the father, but not the mother, to give their surname to a child resulted in unequal treatment of the father and mother because the difference in treatment occurred solely due to the different genders of the two parents.

In this context, the Italian State's argument that it seeks to protect the public interest through family unity cannot serve as a valid reason to avoid implementing the principle of gender equality. There are lawful and proportionate ways to ensure both gender equality and the preservation of the public interest without one conflicting with the other. From this perspective, ECtHR fails to see why family unity cannot be maintained by allowing only the mother's surname to be chosen. Thus, the traditional patriarchal concept, which insists that family unity relies solely on the father's surname, is considered discriminatory against women.

### 5.3 *The Case León Madrid v. Spain (2021)*

On November 9, 2005, the applicant gave birth to a daughter who was initially registered with her mother's surname. In a decision dated February 14, 2007, the competent court recognized the biological paternity of the mother's former partner. Subsequently, in accordance with the existing legislation, the court decided that the child should bear her father's surname followed by her mother's surname. In her appeals through the courts, including the Spanish Constitutional Court, the applicant's request was at least to have her surname placed before the father's surname. The request for changing the surnames held by her minor daughter was denied.

In essence, the applicant accepted that the child could bear both surnames but contested the fact that in cases of disagreement between the parents, the father's surname was automatically placed first, regardless of the circumstances. She considered this legal provision, which gave priority to the father solely based on gender, as problematic. The key circumstance that the applicant highlighted as crucial in the specific case was that the father had not lived with the child for a single day and had even encouraged the mother to have an abortion.

One of the objections was related to the fact that Article 194 of the Civil Status Regulation was adopted in the 1950s when the legislation favored men more than women and, as a result, reinforced the rights of the father over those of the mother.

The principle that the Government aimed to balance was that of the public interest. In this context, it argued that parents should reach agreements on matters concerning the child's surname. However, to ensure legal certainty and the protection of minors, the father's surname was automatically given priority. This approach was taken because, without automatically placing the father's surname first, children with the same parents could potentially have different surnames, which might compromise the personal rights of the children.

Nevertheless, in pursuit of a more equitable balance of rights and principles, the Spanish legislature intervened in 2011 by revising the regulation. According to the revised provision, in situations where parents cannot agree on the child's surname, the court is responsible for making case-specific decisions, always prioritizing the best interests of the child. However, this new provision could not be applied in the case of the applicant.

In the opinion of the ECtHR, firstly, the Spanish legislation had treated parents differently based solely on gender.

Secondly, this differential treatment had occurred due to the patriarchal concept that prevailed in Spanish society at the time when the provisions were adopted. Even the legislator, in the explanatory memorandum of the amending law in 2011, acknowledged that the primary aim of the changes was to achieve gender equality by eliminating traditions that could undermine it. In this way, the legislator's opinion aligns with the jurisprudence of the ECtHR, which holds that the principle of gender equality cannot be compromised due to the traditions of a country.

Thirdly, the ECtHR highlights the reasoning behind guaranteeing the public interest by automatically placing the father's surname as unreasonable. Once again, it characterizes the automatic placement of the father's surname for the sake of ensuring legal certainty as discriminatory when the same objective could be achieved by placing the mother's surname.

As seen in the jurisprudence of the ECtHR concerning the interpretation of rights under the ECHR, a challenge remains in finding the right balance between safeguarding these rights and domestic legislation that still perpetuates gender inequality in family relations. This inequality often stems from a recognition of a predominant role for men, largely influenced by cultural and traditional norms. Such norms can sometimes limit individuals' rights under the guise of protecting the public interest, particularly the interest of family unity. The ECtHR's jurisprudence does not inherently view the cultures and local traditions of member states negatively, nor does it discredit the construction of the public interest based on these traditions. Instead, it assesses each case individually to determine whether the reflection of these traditions in legislation or administrative actions maintains a proportionate balance with the principles of equality, personal identity, and human dignity. In all cases where gender differentiation, whether within marital relationships or in relationships with children, lacks reasonable and objective justification and simultaneously fails to genuinely serve the public interest, it is considered discriminatory and contrary to the principle of gender equality as enshrined in the ECHR.

## **II. Analysis of Albanian Legislation and Administrative Practices.**

The Constitution of Albania (CA) contains significant provisions concerning human dignity, the principle of equality, and the family. Human dignity is established as a value to be safeguarded in the preamble of the Constitution and is enshrined in Article 3 of the CA, where it is stated that "*...human dignity, rights, and freedoms...*" form the foundation

of the Albanian state, which has the duty to protect and respect them. The principle of equality and non-discrimination is outlined in Article 18 of the CA, which declares that "*everyone is equal before the law,*" and prohibits discrimination on various grounds, including gender, social status, or parental affiliation.

The principle of equality in Albania, allows for different treatments in similar situations only when there are reasonable and objective justifications. The Constitution provides special protection for children, youth, pregnant women, and young mothers, while simultaneously prohibiting discrimination or differential treatment based on whether children are born within or outside of marriage. Additionally, Article 53 guarantees the right of everyone to form a family, ensuring that marriage and family receive special protection from the state, with all regulations pertaining to this matter delegated to the law. Unlike other European constitutions, the Constitution of Albania does not explicitly address personal identity, individualism, or personal development<sup>54</sup>. The sole reference to this concept is found in its preamble, which includes the protection of the "*human personality.*"

### ***1. Regarding the surname***

For a more comprehensive exploration of an individual's personality and, in particular, their sense of identity, as well as the understanding of the principle of gender equality within the family, it is essential to examine Albanian legislation. The Albanian Civil Code (Law 7850, dated 29.07.1994, with amendments) establishes the right to one's name as an inherent individual right directly associated with their subjective rights. Article 5 of the Civil Code (CC) specifies that every person "*has the right and duty to have their first name and surname as determined by the law,*" safeguarding it against any infringement or denial of its use. Additionally, the CC extends the protection of the name beyond personal rights by connecting it to familial interests.

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<sup>54</sup> According to Article 2 of the Italian Constitution, "*The Republic recognizes and guarantees the inviolable rights of the person, both as an individual and in the social formations **where human personality is developed,** and requires the fulfillment of the essential duties of political, economic, and social solidarity.*"

According to Article 10(1) of the Spanish Constitution, "*The dignity of the individual, the inviolable rights which are inherent, **the free development of the personality,** respect for the law and for the rights of others are the foundation of political order and social peace.*"

According to Article 2(1) of the German Constitution, "*Every person shall **have the right to free development of his personality** insofar as he does not violate the rights of others or offend against the constitutional order or the moral law.*"

Nevertheless, the provision in the CC remains general, and for a deeper understanding of the significance of a person's identity, the Family Code (FC)<sup>55</sup> and Law No. 10129 dated 11.05.2009 "On Civil Status," as amended, provide essential characteristics.

From the perspective of civil status, the surname is one of the identifying components of an individual, alongside the first name, personal identification number, date of birth, place of birth, gender, nationality, parental relationships, civil status, death, declaration of disappearance, residence, domicile, and other facts stipulated by law (Article 6/1 of the Law on Civil Status). The surname must appear in several fundamental documents related to an individual's civil status, such as the birth certificate (Article 42/2), the marriage certificate (Article 48), and is a component that can be changed (Article 8), in accordance with the provisions of the Law on Civil Status (Chapter IX) and the Family Code.

The Family Code (FC) addresses the rights and familial relationships among individuals. In the context of this study, we will specifically examine aspects related to marital equality<sup>56</sup>, parental responsibilities, as well as the FC's provisions regarding the identity of children born within or outside of marriage, as well as those who are adopted. According to the provisions of Article 1 of the FC, marriage is a legal cohabitation that is *"based on the moral and legal equality of the spouses, on the feelings of love, respect, and mutual understanding, as the foundation of unity in the family."*

In reinforcing the principle of equality, *"in marriage, the husband and wife have the same rights and assume the same duties"* (Article 50). Concerning children, the Code stipulates that *"every child, for a complete and harmonious development of their personality, has the right to grow up in a family environment, in an atmosphere of joy, love, and understanding"* (Article 5), and for this reason, *"parents have the duty and the right to care for the well-being, development, welfare, education, and upbringing of children born within or outside of marriage"* (Article 3/1), always considering the *"best interests of the child"* as a primary consideration (Article 2).

Furthermore, Article 215 of the FC outlines parental responsibility, encompassing *"the entirety of rights and duties aimed at ensuring the emotional, social, and material well-being of the child, by caring for them, maintaining personal relationships with them, ensuring their welfare, education, upbringing, legal representation, and management of their assets."* This responsibility *"belongs to and is exercised jointly by both parents*

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<sup>55</sup> Law No. 9062 dated 08.05.2003 "On the Family Code," as amended.

<sup>56</sup> Expanded aspects of equality between spouses can also be explored in Arta Mandro-Balili's work, *"Gender Discrimination in Family and Marriage Matters,"* published by the School of Magistracy, Tirana, in 2014.



*concerning the child born during their marriage or outside of marriage if acknowledged by both parents." However, "if the parents do not agree on what is in the best interest of the child, they may turn to the court, which decides after attempting to resolve the matter amicably."*

In regard to the identity of spouses, as well as the identity of children, especially concerning their surnames, the FC makes significant but not overly detailed provisions.

According to Article 51 of the Family Code (Surname of the Spouse), "*when spouses enter into marriage, they have the right to choose to either adopt one of their surnames as a common surname or each retain their own surname.*" In light of this provision, a family can have one of the spouses' surnames as the common surname, without discrimination between them. It also grants spouses the option of not establishing a shared family surname, thus allowing each of them to retain their individual surnames.

Albanian legislation does not permit the creation of a family surname that is different from the surnames of the spouses, nor does it allow for the simultaneous use of both individual surnames as a common family surname. The law also regulates the matter of surnames in cases of marriage dissolution, stipulating that "*the spouse who changed their surname upon entering into marriage, after the dissolution of the marriage, takes the surname they had before the marriage.*" The use of the marriage surname by the spouse after the dissolution of the marriage is allowed but only by court decision when it is deemed to be in the interest of the spouse or the children (Article 14 of the FC).

Despite Article 51 of the Family Code being gender-neutral in allowing spouses to choose their family surname and enabling them to retain their pre-marriage surnames, official data from the National Civil Registry (NCR) indicates that only 2.84% of Albanian families<sup>57</sup>, have the wife's surname as the common family surname. In contrast, 10.67% of all families are comprised of spouses who maintain their individual surnames from before marriage.

Despite the relatively low percentages, especially in cases where the wife's surname predominates as the common family surname, signaling a gender imbalance, it's worth noting that over the 20 years since the current Family Code was enacted, there has been a substantial impact in terms of gender balance, specifically regarding the percentage of families where both spouses retain their pre-marriage surnames. This suggests that the Family Code has started to establish its influence in upholding the principle of gender

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<sup>57</sup> The total number of Albanian families according to the Civil Registry and Real Estate Agency (data from May 2023) is 974,497.

equality in the realm of marital identity.<sup>58</sup> Conversely, it's essential to ascertain whether this equality approach extends to children. Regarding children's surnames, the Family Code makes provisions for children born within marriage, outside of marriage, and adopted children.

For children born within a marriage, as outlined in Article 52 of the Family Code, the fundamental principle is that *"the child adopts the common surname of the parents."* Another significant principle is that children should share the same surname, which applies when spouses have retained their individual surnames, signifying that the parents have different surnames. In such cases, it is crucial for the parental spouses to jointly decide on the common surname their children will carry through an agreement.

As highlighted by the aforementioned international standards, the agreement between spouses is considered one of the best and most desirable means for settling family surname matters, particularly the surnames of children. Additionally, it's essential to consider cases where spouses cannot reach an agreement on their children's surname. In such instances, the Family Code stipulates that *"when an agreement is not reached, children bear the father's surname."*<sup>59</sup>

The same provision regarding the automatic assignment of the father's surname in the event of disagreement between parents is also applied to children born outside of marriage (Article 171 of the FC) and adopted children (Article 260 of the FC).

This provision clearly favors the father's position regarding the children's surname, and it lacks any apparent objective or legal justification. Such a provision is in conflict with the principle of gender equality as enshrined in the Constitution, international standards established by ratified Conventions for the protection of rights, and even contradicts the principles of the FC itself. According to the FC, spouses should have equal standing in all aspects of marriage, particularly as parents in matters concerning their children.

The issue with this provision extends beyond its automatic assignment of surname-deciding authority to the father in cases of disagreement. It also exacerbates an imbalance in the positions of the husband and wife when it comes to reaching an agreement. The automatic assignment of the father's surname can be seen as a favorable mechanism for the husband, discouraging meaningful discussions on matters related to

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<sup>58</sup> It should be noted that the provision in Article 51 of the Family Code closely resembles Article 26 of the Family Code from 1982, implying that these effects are not solely attributed to the current Family Code.

<sup>59</sup> Article 52 of the Family Code closely resembles Article 27 of the 1982 Family Code.

the children's surname. This problem is further magnified, particularly in cases involving children born outside of marriage, where the potential for disagreement between the child's parents may be even greater. (Refer to the Leon v. Madrid v. Spain case for context)

In this context, despite the inclination of Albanian legislation toward gender equality, a conspicuous gender disparity persists within the legal framework, especially within family relationships. This disparity appears to stem primarily from traditionalist and patriarchal influences on the role of men within the family.

What underscores this issue further is that, although the Family Code designates the court as the arbitrator in many other cases that might give rise to disputes between parents, when it comes to children's surnames, where their paramount interests are at stake, the Code introduces an automatic *ex lege* solution. This solution notably favors the gender that holds a more advantageous position in society, thereby creating circumstances that challenge equality through gender-based discrimination.

According to data from the National Civil Registry, in only 2% of families where spouses retained their surnames from before marriage<sup>60</sup>, the children's surname has been that of the mother. If we consider that this percentage refers to cases where spouses reached an agreement to use the mother's surname for the children, it remains remarkably low. Meanwhile, it appears that in 47% of families where spouses kept their pre-marriage surnames, the children's surname has been that of the father.<sup>61</sup>

## ***2. Survey results regarding surname-related matters***

Based on the information gathered, there is no available data regarding disagreements between spouses on surname-related issues. Nevertheless, according to the questionnaires directed to the Civil Status Administration, it appears that:

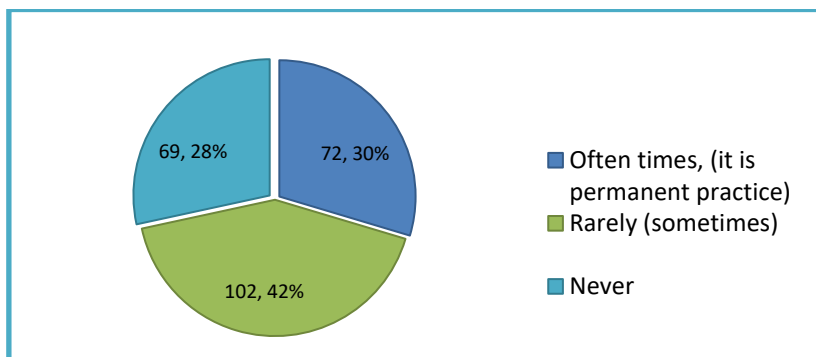
- In response to the question, "Have you had any concrete practice of agreement between spouses with different surnames regarding the child's surname? (Question No. 15 in Questionnaire 1)," it has been found that during the activities of the Civil Status Administration, 30% of them have had concrete practices of agreement between spouses regarding the child's surname.

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<sup>60</sup> In total, the number of these families is 104,046.

<sup>61</sup> The remaining 51% is presumed to consist of families without children in their composition.

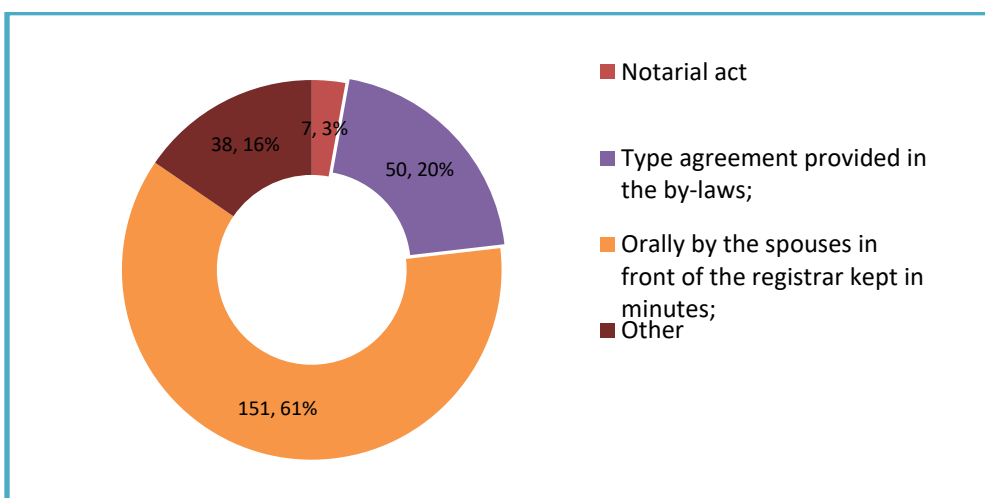
**15. Have you had a concrete practice of agreement between spouses about the children's surname?**



Graph No. 1

- Regarding the question “What is the legal form of the agreement between spouses who have different surnames regarding the child's surname?” (Question No. 16 in Questionnaire 1), it appears that in over 61% of cases the agreement was made verbally, and implied in 16%. Meanwhile, 20% claim that it was made using a standard form, even though there is no legal basis to support the existence of such a form in the legislative acts. Only 3% mention a notarial form of agreement.

**16. What is the legal form of the agreement between spouses who have different surnames regarding the child's surname?**



Graph No. 2

Although the responses from the civil registry administration indicate that spouses have reached agreement in around 70% of the cases treated with agreements, this consensus does not seem to have been formed with a clear legal will, but rather gives the impression of a will accepted based on mentality rather than information. On the other hand, it appears that there have been cases of disagreement (30%) declared in the practice of civil status, but there is no evidence of the legal treatment of these cases.

Based on the information provided above, it becomes apparent that there is a pronounced prevalence of the paternal identity over the maternal identity, particularly concerning the children's surnames. This phenomenon arises due to both the legal provisions within the Family Code and the substantial influence of patriarchal traditions on how society perceives the concept of family. The impact of legal provisions favoring the husband's surname is particularly conspicuous, especially in cases where parents have different surnames. Furthermore, the societal influence of the patriarchal notion of family is clearly evident, despite the Family Code's acknowledgment of equal rights for spouses in selecting a common family surname. In more than 85% of Albanian families, the family surname is that of the husband.

### ***3. Regarding the identification of individuals in administrative procedures.***

In the daily lives of all citizens, they frequently encounter various administrative processes and documents issued by public authorities for specific and individual matters. The primary and fundamental method through which individuals engage with these administrative procedures, make requests, initiate administrative processes, or obtain administrative documents is by means of their identity. While the Law on Civil Status encompasses several significant elements that constitute a person's identity, such as the determination of parentage and kinship relationships, it is common practice in many subsidiary regulations and within administrative procedures to primarily identify individuals based on their first name, last name, and paternal surname.

For the purpose of this study, we will not delve into the legislation that outlines the procedures for establishing a person's parentage and maternity. These provisions are extensively detailed in the Family Code, Part Three, Title One, titled "*Parentage and Paternity*."

The Law on Civil Status itself makes reference to the Family Code regarding these components. This study aims to assess whether the principles of gender equality and equality between parents are upheld in the identification of individuals and the potential gender-related implications on a person's development. It's important to note from the

outset that the prevalent method for identifying individuals relies solely and exclusively on the "paternity" element, often disregarding the individual's maternity.

In rare instances, the law itself includes paternity as an additional identification element. However, in the majority of cases, sub-legal regulations mandate the determination of paternity, particularly through standardized forms used for various legal and administrative purposes.

Within the Civil Procedure Code, there are provisions related to identifying individuals, especially in the context of filing lawsuits and identifying witnesses or third parties. These provisions explicitly require the inclusion of paternity in addition to the person's name and surname (as stated in Article 154 of the Civil Procedure Code). The same requirement can be found in Article 158 of the Civil Procedure Code, which deals with preliminary actions taken by judges, and in Article 568 of the Civil Procedure Code, concerning the announcement of auctions.

In most cases, various sub-legal regulations, including standardized application forms, insist on including paternity alongside the person's name and surname for identification purposes. For this study, we have considered several different sub-legal regulations. However, it's worth noting that this requirement is widely implemented in sub-legal documents, administrative processes, also by private entities.

As an illustrative example, we draw attention to some specific acts, although these examples are not exhaustive, as there are numerous similar sub-legal regulations. These examples are meant to help illustrate the issue:

- Council of Ministers Decision No. 722, dated 11/11/2019, "*On determining the measures, criteria, procedures, and documentation for assessing and obtaining disability and personal assistance, and the responsible structures and their duties,*" as amended. **(See Annex No. 1)**
- Instruction No. 66, dated 2/4/2021, "*On approving the format of the registry for registering decrees for the acquisition, reacquisition, and renunciation of Albanian citizenship.*" **(See Annex No. 2)**
- Instruction No. 1, dated 1/8/2021, "*On the criteria, procedures, and administration of the agricultural fuel support scheme,*" as amended. **(See Annex No. 3)**
- Council of Ministers Decision No. 453, dated 3/7/2019, "*On the amount of interest subsidy and its issuance procedure for families benefiting from low-cost housing with state-subsidized loans,*" as amended. **(See Annex No. 4)**

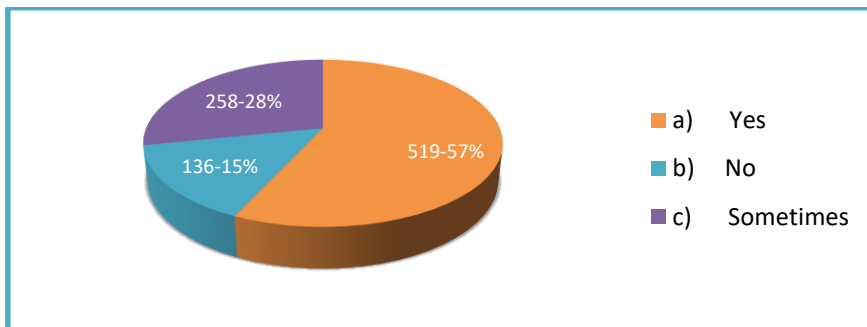
- Instruction No. 402, dated 14/05/2019, "On the procedures for hiring medical professionals in public healthcare institutions in the Republic of Albania through the electronic platform." (See Annex No. 5)
- Decision of the Bank of Albania No. 68, dated 13/10/2010, "Approving the guideline, 'On the procedure of issuing the credit report and reviewing the data held in the credit registry'." (See Annex No. 6)

The prominence of the paternal aspect of a person's identity is apparent, whereas the maternal element is overlooked and disregarded.

#### 4. Survey results regarding the person's identity

In Question 13 of Questionnaire No. 2, it is asked: In the forms/templates of requests that citizens fill out or submit to your institution, is paternity also required as part of personal identification? The answer from administrative staff was YES in approximately 60% of cases.

#### 13. In the forms/templates of requests that citizens fill out or submit to your institution, is paternity also required as part of personal identification?



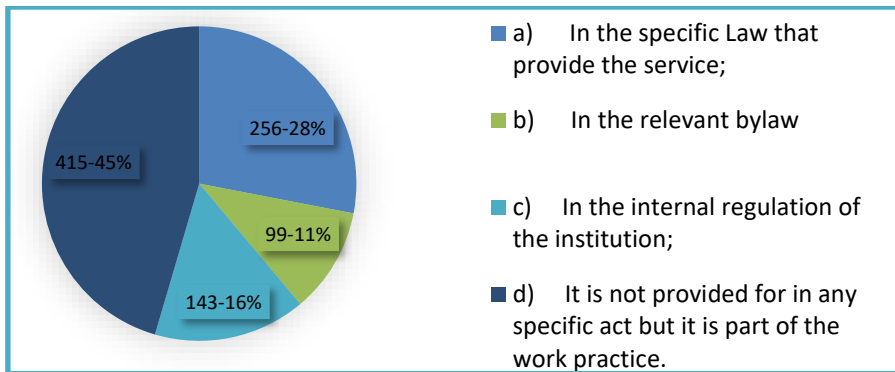
Graph No. 3

Conversely, when questioned (Question 14 of Questionnaire 2): In cases where the paternity of an individual is required in a request or for identification, where is this requirement based? - The responses from administrative staff were as follows: in the specific law governing the service 28%; in the relevant sub-legal act 11%; in the institution's internal regulations 16%; while acknowledging the absence of a specific act but rather a customary practice in handling paternity requests, 45%.

This last response provides valuable insights, shedding light not only on the impact of legal and sub-legal regulations on this determination but also on the widespread

acceptance of paternal identification as a societal norm within the concept of personal identity. Equally significant, this figure (45%) highlights the existing opportunity, without the necessity for legal amendments, to incorporate maternity into personal identification. Such a change can only occur when administrative leaders become aware of the social implications of administrative actions and the role they can play in promoting new gender relationship models.

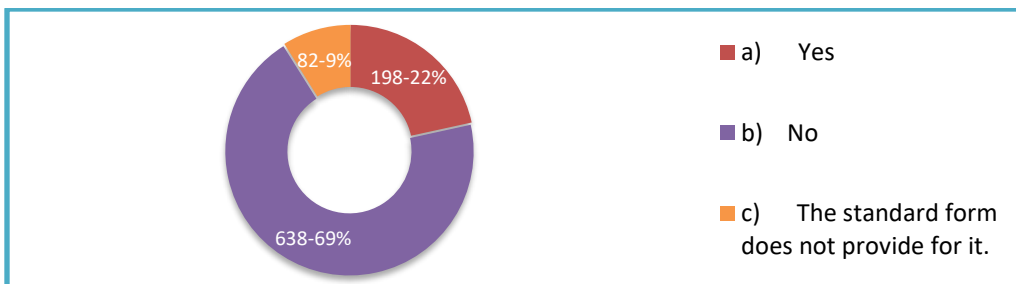
**14. In the case where the paternity of an individual is required in a request or for identification, where is this requirement based?**



Graph No. 4

When asked if they require maternity as a means of personal identification in addition to paternity? (Question No. 16 in Questionnaire 2) - The responses from administrative staff were NO - 69%, YES - 22%, and 9% confirmed that they do not do so because it is not provided for in the standard form.

**16. In addition to Paternity, do you require Maternity as a way of identifying the person? So, First Name, Paternity, Maternity, Surname?**

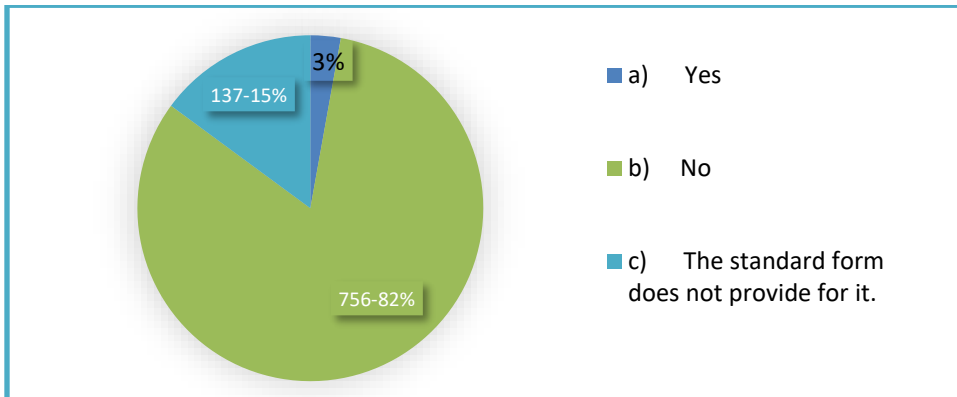


Graph No. 5



When asked in the subsequent question whether they have requested only maternity as a means of identification alongside the name and surname, the responses were as follows: NO - 82%, and 15% confirmed that they have not done so because it is not provided for in the standard form.

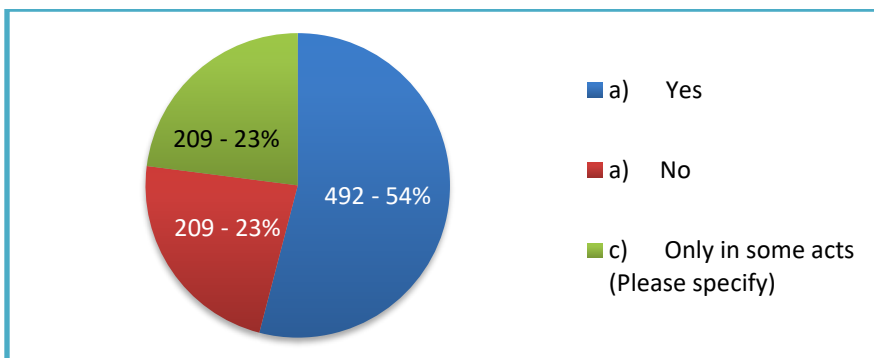
**17. Do you require only maternity as a way of identification? So, First Name Maternity Surname?**



Graph No. 6

This method of identification is not only common solely in the case of citizens' requests when dealing with the administration, but also appears to be present in the administrative acts issued by the administration itself. In Question No. 15 of Questionnaire 2, which asks: Is the inclusion of paternity also provided for in the administrative act issued by the institution? - The responses from administrative staff were YES - 54%, NO - 23%.

**15. Is the inclusion of Paternity also provided for in the administrative act issued by the institution? So, First Name, Paternity, Last Name?**



Graph No. 7

Significant emphasis has been placed on the documents associated with the registration of children and young individuals in pre-university education and public higher education institutions. This consideration takes into account the influence of these documents on the perception of personal identification, which primarily relies on paternal lineage. Furthermore, this mode of identification continues to be associated with the individual even in the documentation obtained upon completing their studies, such as certificates or diplomas of maturity. We bring attention to the sub-legal acts issued by the Ministry of Education and Sports:

- Order No. 31, dated 28.1.2020, '*On approving the regulations for the functioning of pre-university educational institutions in the Republic of Albania.*' **(See Annex No. 7)**
- Instruction No. 16, dated 8.7.2019 "*On the provision of higher education institutions with the foundational student registry, the academic achievement registry, and the diploma and certificate issuance registry.*" **(See Annex No. 8)**
- Instruction No. 10, dated 15.5.2019, "*On the procedures for application and registration in first-cycle study programs, professional study programs, as well as integrated second-cycle study programs, in institutions of higher education,*" as amended. **(See Annex No. 9)**

There is no legal or juridical justification for this predominance of paternity in personal identification, except for the traditionalist understanding of the father's role in the family and the close association of identifying children solely with the father, and not the mother. At a minimum, this approach appears to disregard the principle of gender equality within the constitutional, convention, and legal frameworks, as it attributes, similarly to the case of surnames, a strongly patriarchal inclination to the concept of personal identification, both in sub-legal acts and administrative practices.

As an illustration, Instruction No. 10, dated 30.3.2020 "*Regarding the determination of constituent elements, the format of diplomas or certificates issued by higher education institutions, and their registration procedure in the state registry of diplomas and certificates for higher education and scientific research,*" is referenced. In point 1, letter b) of this Instruction, among other constituent elements of the Diploma/Certificate, the specification of the student's identity is provided for. According to this provision, the Diploma includes the Name, Paternity, Surname.

According to information obtained from various public higher education institutions in Albania, it appears that the identification of students, from their registration until the completion of the first cycle of studies, is solely based on paternity. Additionally, for the

second cycle of studies (Master's) and for Executive Master's and Doctoral programs, the identification of individuals, both at the time of registration and when obtaining the completion document, is done exclusively through paternity.

The identifying details of students provided by pre-university education institutions are also exclusively based on paternity. It is observed that only in a few internal regulations of pre-university education, such as the maintenance of the student's identification number and the Class Register, are both parents of the student specified (See Instruction No.28 dated 2/8/2013 "On equipping students with class certificates"). However, regardless of these fundamental internal acts where a child is identified with both paternity and maternity, in the certificates and diplomas issued by pre-university education institutions, identification is done solely through paternity. In practice, these are the documents that attest to the completion of pre-university education cycles and accompany the individual throughout their life. **(See Annex No. 10).**

The research findings indicate that many sub-legal regulations of public authorities include paternity as an additional identification element. This practice has also been adopted by numerous private entities responsible for managing personal identification data. Additionally, even in cases where there is no explicit sub-legal requirement for paternity as an identification component, administrative practices tend to incorporate it. Furthermore, the inclusion of this extra element appears redundant, considering that every individual already possesses their unique personal identification number.

From a legal standpoint, there is no singular justification for the exclusive reliance on this additional identification element, even though it is found in many sub-legal acts. On the other hand, the substantial impact of mandating only this element for personal identification and its exclusive inclusion in numerous administrative acts, including those related to education, is noteworthy. This practice notably contributes to the preservation of a patriarchal perception of family and individual identity, consequently reinforcing gender inequality in Albanian society.

### ***5. Preliminary Summary of Findings***

Drawing from the aforementioned information and the analysis of the questionnaires, it becomes evident that we are confronted with a situation in which paternity is prominently highlighted and favored over maternity in official documentation and administrative practices. This bias significantly influences the perception of an individual's identity.

Due to this inclination towards paternity and the marginalization of maternity, several issues come to the forefront, as outlined below:

- The prevalence of paternity: The questionnaire responses clearly indicate that paternity is more emphasized and preferred in official documentation and administrative practices compared to maternity. This prevalence is primarily rooted in administrative traditions and practices developed over time, rather than specific legal obligations. This continuation of tradition highlights the exclusive association of a child's identity with their father, rather than their mother.
- Non-recognition of maternity as an equivalent identification method: Government bodies and institutions have played a role in not recognizing maternity as an equivalent method of identification, even though it is possible and important in some cases. This overall stance is a result of administrative practices.
- Prevalence of paternity and non-acceptance of maternity as an equal identification method have bolstered patriarchal paradigms of gender inequality. This situation seems to influence a traditional perception of the father's role and the allocation of identification responsibility primarily to paternity.
- All of the above creates obstacles to achieving effective gender equality in Albanian society. In general, the bias towards paternity in identification fosters an unjust perception of an individual's identity, encourages inequality, and sustains a patriarchal view of society.

Nevertheless, the data generated by this study also reveals a positive and significant aspect for the future. In nearly half of the instances involving administrative practices, paternity was sought as an identification tool based on administrative tradition rather than legal requirements. This could potentially serve as a starting point for future improvements. Through gender education, these practices, particularly at the local level, can be identified and transformed. Consequently, it is possible to initiate a shift in the perception of children's identity, no longer exclusively tied to their fathers. These local changes can then serve as examples or catalysts for broader transformations at the national level.

### III. On the Concept of the Head of Household

Despite legal provisions, especially those within the Family Code, and the underlying principles of the Constitution and conventions pointing towards a fundamental understanding of gender equality between spouses, Albanian legal practice encompasses a broader concept known as the Head of Household, particularly evident in sublegal acts. Although not explicitly defined, legal reference related to this concept can be found in the Law on Civil Status. Article 16 of the Law on Civil Status (Right to declare residence) states that "*the declaration of residence or domicile for the members of a family may be made by the head of household or, in his absence, any adult member of the family.*" According to this provision (paragraph 3), minors have the residence of the Head of Household. Furthermore, according to Article 17 of the Law on Civil Status, when one family resides in the domicile of another family, it is the Heads of Household who jointly make the declaration by "*expressing their will for this purpose before the civil status office clerk, in the jurisdiction where the receiving family resides.*"

As evident, the provision related to the concept of the Head of Household in this Law is sporadic and only addresses one aspect of family life, which is declaring residence. Concerning residence, both the spirit of conventions and the Family Code emphasize that it should be determined jointly by the spouses. Thus, according to Article 55 of the Family Code, "*the family's place of residence is the place chosen by the spouses by mutual agreement,*" with the court being the authority to resolve the situation in case the spouses cannot agree on the place of residence. In this context, assigning the sole right to declare residence to the Head of Household appears to be in contradiction with the Law on Civil Status and the Family Code.

On the other hand, even though the Law on Civil Status doesn't explicitly define or incorporate the concept of the Head of Household, this concept plays a significant role in one of the most crucial civil status documents, the family certificate. According to Council of Ministers Decision No. 332, dated 17.03.2010, "*On determining the form, constituent elements, storage method, and validity period of basic documents held and issued by the Civil Status Service,*" as amended., Modules 13 and 13/1 outline the form and content of the family certificate. **(See Annex No. 11)**

According to this numerical ranking-based model designed for the family certificate, the following elements are included: Numeric List/ Name and Surname/ Father's Name/ Mother's Name/ Gender/ **Relation to the Head of Household**/ Date of Birth/ Marital Status/ Place of Birth/ Nationality/ Personal Identification Number. However, all the components of the certificate have legal provisions and are related to aspects of personal

identification, except for the "Relation to the Head of Household," for which there is no legal basis.

Based on the legal provisions outlined in the Family Code, which emphasize equality among families and spouses, the concept of the head of household appears to directly contradict not only the Family Code but also the fundamental principle of equality, particularly gender equality.

Thus, despite the concept of the head of household being gender-neutral in its definition (although the term itself may carry a male connotation), it is evident that only 0.41% of Albanian families with both spouses present have a female head of household<sup>62</sup>. Furthermore, according to data from 2022, only 2.4% of Albanian families have a female head of household, including situations where the woman is the sole head of household.<sup>63</sup>

It is evident that a concept that, in itself, lacks a strong legal basis for its existence but finds broad ground in normative acts not only in civil status but also in various benefit-related regulations, primarily relies on historical gender inequality between spouses, which is tied to the cultural, traditional, patriarchal heritage of Albanian society.<sup>64</sup> The influence of these factors remains strong, both in the normative and societal aspects, consequently affecting administrative practices as well.

In the normative aspect, it is noteworthy to mention Law No. 57/2019 "On Social Assistance in the Republic of Albania." Article 16 (Application and receipt of economic assistance), paragraph 5, stipulates that "the right to withdraw and receive economic assistance for needy families belongs to the spouse of the head of household," thereby implying a gender-specific interpretation of the head of household as male. Furthermore, the provision insists that "*in cases where the family structure lacks the spouse, the right to withdraw it belongs to the head of the family,*" implying the husband in this context.

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<sup>62</sup> Out of the total 974,697 families with both spouses as of May 2023, only in 4,020 families, the head of household is a woman.

<sup>63</sup> In May 2022, the total number of families in Albania was 942,101, while the number of families with a female head of household was 22,718.

<sup>64</sup> Regarding gender aspects and the dominant role of men closely related to traditions and patriarchal cultural aspects, reference is made to the Third Periodic Report on Albania by the Committee on the Elimination of Discrimination against Women, published in 2008.

<https://www.refworld.org/publisher,CEDAW,,ALB,4a646c080,0.html>

Also, on the same gender-related aspects, there's a publication by Arta Mandro-Balili titled "Gender Discrimination in Family and Marriage Issues," published by the Magistracy School in Tirana, 2014.

In the social aspect, it is evident that despite the absence of gender-specific determinations in assigning the head of household, and in principle, it can be freely chosen between the husband and wife, it is still apparent that in 99% of Albanian families, the head of household is typically the husband.

### ***1. The economic implications of employing the concept of the head of household.***

The concept of the head of household significance not only in terms of its formal role in family composition, along with the gender-related implications mentioned earlier, but it also connects to various financial benefits and legal rights outlined in numerous legislative and sub-legislative acts.

In Law No. 10 418, dated 21/04/2011, "On the legalization of capital and amnesty of a portion of tax and customs debt," as amended which addresses "*the amnesty of a portion of tax and customs debt, contributions for social and health insurance, and the competencies of tax and customs administration authorities, which identify taxpayers/debtors benefiting from this law,*" Article 29 (Amnesty of unpaid electricity obligations) is included. According to this provision, overdue obligations for electricity, billed and unpaid until December 31, 2006, and the interest calculated due to non-payment of the mentioned bills to the KESH company, sh.a., are granted amnesty. These provisions apply to family debtors as specified in this article, who are:

- a) **Head of household** in families receiving economic assistance;*
- b) Families with members having disabilities, blindness, paraplegia, or tetraplegia, whether from birth or due to later disability, who are declared unfit for work by special medical commissions and receive a disability allowance when they are the **head of household** and have no family members employed in the public or private sector or self-employed in the private sector;*
- c) **Head of household** receiving unemployment benefits and having no other income;*
- ç) **Head of household** receiving old-age pensions and living alone or having dependent children with no income and who are unemployed;*
- d) **Head of household** receiving pensions, including all categories, as well as beneficiaries with special treatment, whose benefit amount is lower than the minimum income received by pensioners with no other income;*
- dh) **Head of household** receiving disability pensions and having no family members employed in the public or private sector or who are not self-employed;*
- e) Female head of household;*
- ë) All persons who are the head of the family and have the status of orphans.*

According to this law, only those families whose Head of household has had the required status have benefited from the amnesty of obligations related to electricity. Therefore, in all cases where the spouse has had the required status but has not been designated as the Head of Household in the family certificate, amnesty has not been obtained.

The same provisions are also made in Council of Ministers Decision No. 8, dated 14.01.2015, "*On the protection of vulnerable groups, for the purpose of removing the electricity consumption band up to 300 kwh per month,*" as amended, and consequently in Instruction No. 1, dated 02.02.2015, "*On the implementation of Decision No. 8, dated 14.01.2015, of the Council of Ministers for the protection of vulnerable groups, from the removal of the threshold up to 300 kwh for the billing of electricity price,*" as amended. Provisions related to the Head of Household are found in various other acts related to property rights, such as Council of Ministers Decision No. 319, dated 18.5.2022 "*On the transfer to the municipalities of Shijak, Kamëz, Kavajë, and Krujë of individual housing units*"; social benefits, Council of Ministers Decision No. 474, dated 30.07.2021, "*On an amendment to Decision No. 486, dated 17.6.2020, of the Council of Ministers, 'On the printing, publishing, distribution, and sale of pre-university education system textbooks'*"; Council of Ministers Decision No.159, dated 12.3.2022 "*On financial support for certain specific categories to mitigate the effects affected by the war in Ukraine.*" **(See Annex No. 12)**<sup>65</sup>

The connection between the Head of Household and the husband is so strong that it is even reflected in a very important law such as Law No. 57/2019 "On social assistance in the Republic of Albania," which "sets the rules and mechanisms for receiving social assistance, the responsible authorities for guaranteeing this right, as well as the financial relationships of offering and receiving social assistance." An attempt is made to define the Head of Household in this law. According to this law, in Article 4, letter h), it is determined that the Head of Household is "*the person first in order on the family certificate,*" making it one of the rare cases where a legal provision finds its legal support in a sub-legal act. It is also noteworthy in this law that the concept of Head of Family is mentioned as a synonym interchangeable with that of the Head of Household.

## ***2. Findings from the questionnaires regarding the head of household.***

In terms of administrative practice, valuable insights emerge from the responses of civil registry employees. For instance, regarding the question based on which legal act you

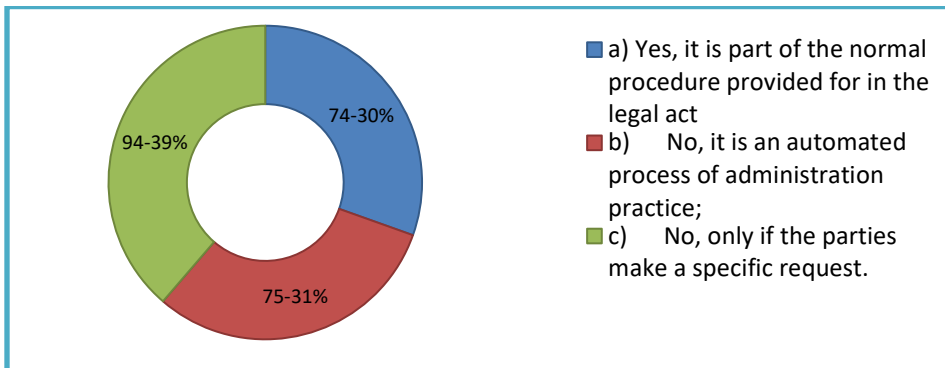
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<sup>65</sup> In this annex, a table has been provided that includes the majority of legal and sub-legal normative acts where the term "head of household" is evident, based on the data obtained from the official website <https://qbz.gov.al/>



rely on to determine a Head of Household in the family certificate (Question No. 11 in Questionnaire 1), around 98% answered that they rely on the Law on Civil Status, even though this law does not specify it as a component of civil status acts. Regarding the question of whether, based on your practice, spouses of a family are asked who will be the Head of Household (Question No. 12 in Questionnaire 1), the responses have been as follows:

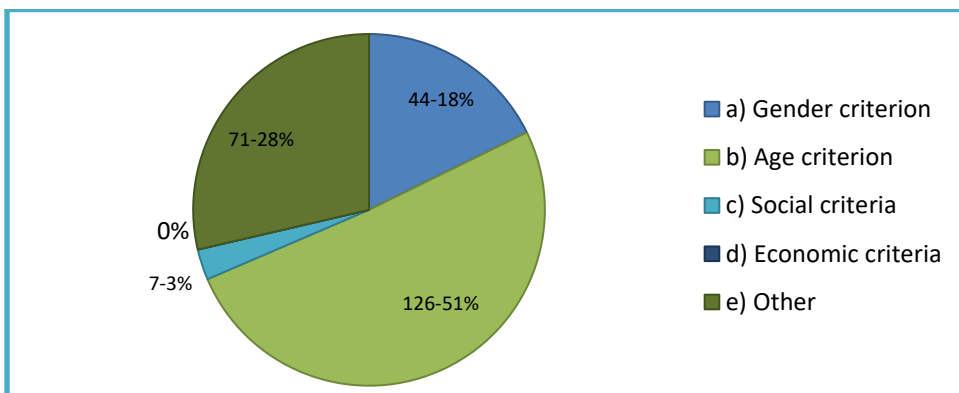
**12. Based on your practice, are the spouses of a family asked who will be the head of the household?**



Graph No.8

Regarding the question of which criteria are followed in determining the number 1 in the ranking of individuals within a family in the composition of the family certificate, with options including gender, age, social status, economic status, or other (Question No. 13 in Questionnaire 1), the responses were as follows:

**13. Which criteria are followed in determining No. 1 in the ranking of individual of a family in the composition of the family certificate?**



Graph No. 9

Based on the responses, it is evident that the administrative process for determining the Head of Household is predominantly automated, with only about 30% of cases involving inquiries about the spouses' preferences in designating the head of household. This implies that the designation of the Head of Household is largely influenced by a deeply ingrained patriarchal societal norm, automatically assigning this role to the husband. Although the responses in Figure No. 9 may suggest that the gender criterion does not have a high percentage in designating the husband as the head of household and that the age criterion has a greater impact at 51%, the ultimate result remains that, in families with equal status, the head of household is invariably the husband. Furthermore, in Albania, husbands tend to be older than their wives, making the age criterion a biased way to select the husband as the head of household.

### ***3. Preliminary Summary of Findings:***

The previous analysis regarding the utilization of the concept of the head of household in legal frameworks and its repercussions on gender equality demonstrates that, although it isn't explicitly defined as an exclusive prerogative of the husband, it is frequently linked to an unequal perception of gender roles. In the majority of cases, the head of household is the husband, even though there are legal provisions that establish spousal equality.

The use of the concept of the head of household has had an impact on various legal and sub-legal practices, such as social benefits, amnesty of obligations, property rights, etc. The use of this concept has determined who has the right to benefit from these advantages and how, and this determination has had gender dimensions. The use of the concept of the head of household often results in gender inequality and is inconsistent with recent developments towards gender equality and individual freedoms.

Nonetheless, it is equally crucial, as highlighted earlier, that the nearly automatic appointment of the husband as the head of household is rooted in administrative practices rather than legal mandates or obligations. Consequently, this practice can be rectified through the education or training of civil registry administration personnel, ensuring that the designation of the head of household is not automatic, and that the parties are informed of their right to make the choice themselves.

## IV. Conclusions and Recommendations

### 1. Conclusions

The principle of gender equality is an ongoing endeavor aimed at solidifying its formal meaning through the assurance of substantive equality. The Albanian State has implemented various simultaneous interventions across multiple aspects of life to establish genuine gender equality between men and women.

These interventions are observed from a legal standpoint, stemming from Albania's Constitution, the ratification of significant human rights conventions, various social-oriented laws that consistently prioritize gender equality, as well as strategies<sup>66</sup> and a multitude of sub-legal acts that clearly demonstrate Albania's commitment to ensuring this equality.

Furthermore, substantial efforts have been made to implement temporary affirmative actions designed to advance gender equality. These measures encompass political arenas, including elections for decision-making bodies and appointments to public institutions. Additionally, they extend into the economic sphere through a variety of measures aimed at mitigating gender disparities.

In the realm of family law as well, the Albanian legal framework is predominantly in line with constitutional principles and international convention-based rights, although some interventionist aspects are evident, as will be recommended below.

Nonetheless, despite the multifaceted interventions across various aspects of life aimed at achieving genuine gender equality, significant challenges remain<sup>67</sup>. Some of the most critical issues include domestic violence<sup>68</sup>, economic considerations, and property rights<sup>69</sup>. Moreover, the effectiveness of these interventions often faces resistance during the implementation phase.

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<sup>66</sup> Currently, Albania, through Council of Ministers Decision No. 400 dated 30/06/2021, has adopted the National Strategy for Gender Equality 2021-2030

[https://shendetesia.gov.al/wp-content/uploads/2022/02/WEB\\_Strategjia-Kombetare-AL.pdf](https://shendetesia.gov.al/wp-content/uploads/2022/02/WEB_Strategjia-Kombetare-AL.pdf)

<sup>67</sup> For a comprehensive overview of the gender equality situation in Albania, one can refer to the periodic reports III, IV, and V submitted by Albania to CEDAW.

<sup>68</sup> Regarding aspects related to domestic violence, reference is made to the GREVIO report for Albania adopted on 12/10/2017. GREVIO/Inf(2017)13.

<https://www.kmd.al/wp-content/uploads/2020/07/Raporti-GREVIO.pdf>

<sup>69</sup> As a detailed study on property rights and gender implications, as well as the specific issues reflected by the concept of Head of the Household in the exercise of these rights, reference is made to: "Property Rights of Women in Albania: An Analysis of Legal Standards and Their Implementation in Practice," UN Women, Tirana, 2016.

This resistance has its roots in the cultural and social aspects of Albanian society, which diminish the effectiveness of laws and the implementation of various policies. Various influences in this cultural aspect are mainly associated with patriarchal reflections of gender perception and social roles of men and women.<sup>70</sup>

In this context, the effective implementation of gender equality policies relies on the presence of a society that is attuned to human rights and open to reevaluating traditional notions of gender roles. Normative acts and administrative practices play pivotal roles in fostering such an environment. Therefore, it is of utmost importance to dismantle the patriarchal influence on the concept of family and the societal roles of men and women.

As evident from the previous chapters and considering the long-standing standards set by the United Nations and the Council of Europe, Albanian legislation still perpetuates gender inequality, particularly within the family context. This legal framework tends to maintain a superior position for men over women, especially in matters related to the personal identity of children.

Although the concept of the Head of the Household is different and milder than that of the Head of the Family, it still upholds the idea of a single, central figure as the most important within the family, especially when it comes to the majority of Albanian families, where this position aligns with that of the husband. This position of superiority has not only social implications but also legal ones, as the status and role of the Head of the Household are prescribed in various legal and sub-legal acts for accessing numerous state-provided social benefits.

This provision remains a relic of Albanian tradition and customary law, directly conflicting with the provisions of the Family Code, which state that "*marriage, as a legal cohabitation, is based on the moral and legal equality of the spouses.*" If the foundation of family unity is indeed this equality between spouses, then the designation of a family head that further reflects a significant gender imbalance undermines this unity.

This male superiority within the family is also reflected in one of the most fundamental existential reasons for the family's existence, which is the development of the personalities of the children, and one of the key aspects of this is the identity of the individuals.

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<sup>70</sup> Regarding the perpetuation of gender stereotypes, the patriarchal aspect, gender roles, and the de facto discrimination against women in Albanian society as a result of these phenomena, reference is made to the Third Periodic Report on Albania by CEDAW.

Especially when it comes to personal identity, where the name represents the primary and most immediate characteristic, it is directly associated with the development of an individual's personality, particularly that of a child. This right requires that within the context of the crucial social institution of the family, a dual approach to the mother's right to transmit her surname to her child and the child's right to bear identification from both parents should be ensured. This approach illustrates the continuity of their family history, even in terms of the maternal lineage.<sup>71</sup>

The value of a person's identity, in its fullness and complexity of expressions, and the awareness of the public and private value of the right to a name as a means of expressing an individual's belonging within a family group, are reflected in the criteria for attributing surnames to minors, which play a significant role in determining their personal identity and how it manifests within their social personality.<sup>72</sup>

Although the Family Code includes a provision regarding equality between spouses, permitting them to retain their respective surnames after marriage, this provision appears to conflict with the Constitution and international standards when it comes to the surnames of children.

It should be noted that the post-communist Albanian legislature has not introduced any changes regarding surname issues. Instead, it has retained the same provisions as those found in the 1982 Family Code. The legal provisions in the current Family Code exhibit two deficiencies, which, when coupled with a patriarchal mindset, continue to prioritize the father's identity over that of the children.

The first deficiency is related to the fact that the Family Code does not provide for the possibility of the family having a joint surname comprising both spouses' surnames. This limitation means that the family can only have one of the spouses' surnames without discrimination. However, as highlighted earlier, the husband's surname overwhelmingly prevails in Albanian families, resulting in children carrying only this surname.

This deficiency is not unique to Albania but has been prevalent in many countries such as Italy, Turkey, Spain, and others. However, it appears that in a significant number of Council of Europe member states, legislative changes have been made to allow both spouses to have joint surnames as the family's shared surname. It's worth noting that in most of these countries, all of which share a similar patriarchal mindset, the need for

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<sup>71</sup> The Decision 61/2006 of the Italian Constitutional Court.

<sup>72</sup> Decision 286/2016 of the Italian Constitutional Court.

these changes is primarily related to the identity of children, especially reflecting maternal identity. This change aims to facilitate the full development of children's personalities and ensure their best interests. Furthermore, GREVIO has also considered it as one of the most appropriate tools for guaranteeing gender equality between parents regarding the personal identity of their children.

This second deficiency is related to the fact that only for the issue related to the surname of children when spouses with different surnames cannot agree, the Family Code does not provide a judicial solution but maintains the provision of the previous Code, resolving the matter *ex lege* in favor of the father.

This provision evidently places parents in an unequal position, resulting in gender-based discrimination that violates not only the Constitution and international conventions but also the provisions of the Family Code itself.

On the other hand, this provision clearly reflects the influence of patriarchal thinking, particularly regarding the inheritance of paternal identity by children.

This mindset, concerning the issue of identity, is further entrenched by the continued practice of exclusively attributing paternity in various official state administrative documents. Despite the fact that every individual now has their unique personal identification number, and these identifying elements provide assurances for personal identification, numerous sub-legal acts still necessitate paternal involvement for personal identification purposes.

All these elements together: the prevalence of the husband's figure in the family, the association of the family with the husband's surname, and the linking of personal identification with the father's name, undeniably create a gender imbalance by perpetuating gender role stereotypes and completely eliminating the reflection of a person's maternal identity.

This discriminatory approach towards women in their family roles and the perception of this position, through normative acts, administrative practices, and societal context, maintains gender barriers, projects an incomplete identity onto children, and hinders the development of their personalities. Moreover, it leads to serious consequences, including the violation of the right to life due to selective abortion.<sup>73</sup>

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<sup>73</sup> "Selective gender-based abortion in Albania," Together for Life Association, July 2018, reveals one of the primary reasons why Albanian families tend to prefer having boys. According to many interviewed individuals, this preference is linked to the inheritance of the family surname and the preservation of the family lineage.

## **2. Recommendations**

To achieve effective gender equality between men and women, avoiding discriminatory provisions and behaviors, as well as reflecting international best practices for realizing the full identity and personal development of children, based on the findings of the above analysis, the Albanian state authorities are recommended to first and foremost provide official translations in response to the recommendations issued by various Committees tasked with overseeing the implementation of the International Conventions ratified by Albania. Furthermore, there is an essential need for comprehensive translations of the Periodic Reports directed at Albania by these Committees into the Albanian language. These documents should be made easily accessible to all stakeholders, including the public, civil society, and the private sector.

### **Recommendations addressed to the Parliament of Albania for legislative changes:**

- Firstly, amendments to the Family Code (Article 51) to allow both spouses to have joint surnames as the family's shared surname. This implementation would not only align Albania with the standards set by the political and judicial bodies of the Council of Europe but would also create fair conditions for establishing equality between spouses in shaping their identity with regard to their children.
- Secondly, changes in the Family Code (Article 52) regarding the provision that in the case of disagreement over the surname of the children between spouses with different surnames, the father's surname is automatically chosen. This provision needs to be altered by removing the *ex-league* attribution of the father's surname and by providing for a judicial resolution of the matter. This change would definitively remove the legal provision from the influence of patriarchal thinking, which evidently places parents in unequal positions due to gender. At the same time, the amendment would align the provision logically with the Family Code's own provisions, respecting equality between parents, and settling the disagreement in the manner most conducive to the child's best interests, which is a judicial solution.
- Thirdly, the amendment of Article 52 of the Family Code should also be reflected in the provisions of the code dealing with the regulation of the surname for

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As per these respondents, parents often feel compelled to have sons as it is perceived as the only way to carry on the family name and maintain the family's wealth.

You can also reference: UNFPA (2012), "Sex imbalances at birth in Albania," for further insights into this topic. [https://www.unfpa.org/sites/default/files/resource-pdf/UNFPA\\_report\\_Albania2012.pdf](https://www.unfpa.org/sites/default/files/resource-pdf/UNFPA_report_Albania2012.pdf)

children born outside of marriage (Article 171 FC) and adopted children (Article 260 FC), as they present the same situation and identical content.

- Fourthly, regarding the concept of the Head of the Household in Law No. 10129, dated 11/05/2009, "On Civil Status," as amended, Articles 16 and 17 should be revised to align with Article 55 of the Family Code, which stipulates the agreement between spouses regarding the choice of residence<sup>74</sup>.
- Fifthly, a reconsideration of the concept of the Head of the Household in various laws that use it, with the aim of eliminating it.

**Recommendations addressed to the Council of Ministers to reevaluate sub-legal acts, particularly those related to the concept of the Head of the Household and the inclusion of paternity in identification documents concerning administrative matters.**

- First, a reconsideration of the concept of the Head of the Household, either by eliminating it entirely or explicitly recognizing it in the plural form and with equal value for both spouses in all sub-legal acts where this concept is mentioned.
- Second, the removal of this concept from the civil status document corresponding to the family certificate or the equal recognition of the attribute for both spouses.
- Third, the elimination of the sole identification of a person through paternity in all administrative acts of public administration.
- Fourth, the removal of this element should be immediate, particularly in educational administrative acts directly related to children, which accompany them throughout all educational cycles, including certificates, diplomas, and transcripts.
- Fifth, the inclusion of both components, maternity and paternity, in all state registers containing the identities of individuals.
- Sixth, the inclusion of both identifying elements, maternity and paternity, in various requests and applications submitted to public administration by individuals, or the omission of either of these components. A good example of the inclusion of both maternity and paternity is evident in the filing of lawsuits in court as well as the application form for complaints to the Commissioner for the Protection from Discrimination, while the omission of either of these

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<sup>74</sup> In 2015, CPD has sent to the Ministry of Internal Affairs a recommendation (No. 306 prot, dated 02.04.2015), for the amendment of articles 16 and 17, of the law no. 10129, dated 11.05.2009 "On civil status", as amended, with the aim of elimination of provisions that bring discriminatory consequences on the ground of gender



components is illustrated by the complaint form submitted to the Commissioner for the Right to Information and Protection of Personal Data.

### **Recommendations addressed to the Office of Civil Registry:**

- Develop a standardized form for parental agreement on the surname of children that clearly reflects the provisions of the Family Code and the expression of their preferences.
- Ensure that spouses are informed about the provisions related to their rights concerning the family name, their own surnames, and the surnames of their children.
- Until the necessary legal and sub-legal changes are implemented, discontinue the automatic attribution of the Head of Household with the male component on the family certificate. This attribution is solely a result of administrative behavior influenced by prevailing social attitudes, lacking a legal basis concerning the gender of the Head of Household.
- Simultaneously, until the necessary legal and sub-legal changes are enacted, the Office of Civil Registry should enhance the information provided to spouses during the marriage registration process regarding the concept of the Head of Household and the opportunity for spouses to express their preferences in determining the family certificate.
- Implement comprehensive training programs for Office of Civil Registry employees, especially focusing on the gender implications of administrative actions that are not explicitly mandated by normative acts.

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# **ANNEXES**

## ***1. Content of Annexes***

### **Annex 1**

Annex 1, contains: Application form "Assessment of the determination of disability", before the State Social Service. In section A "Specific information on the applicant", among others, the following data are required for the applicant: 1. First name, 2. Surname, 3. Father's name, 4. Personal identification number, 5. Gender, 6. Date of birth, 7. Place of birth, 8. Citizenship.

Application form "Medical evaluation for the determination of disability by the general practitioner (Form for adults)", before the State Social Service. In section A "Specific information about the patient ", among others, the following data are required for the applicant: 1. First name, 2. Surname, 3. Father's name, 4. Personal identification number (ID) 5. Gender, 6. Date of birth, 7. Place of birth, 8. Citizenship.

### **Annex 2**

Annex 2, contains: Instruction No. 66, dated 4.2.2021 "On the approval of the format of the register for the registration of the decree on obtaining, re-obtaining and giving up Albanian citizenship" of the Minister of Interior. In Appendix 1, which is attached to the instruction, among the data that must contain in the Register of decrees on the obtaining re-obtaining and giving up Albanian citizenship, is included: Name, Father's name, Surname.

### **Annex 3**

Annex 3, contains:

Consent Agreement (Type) of members of the agricultural family.

Consent Agreement (Type) of the co-owners in the certificate of ownership

In both of these Consent Agreements, the data required for the identity of the person/persons are: Name, Father's name, Surname, Personal identification number (ID).

### **Annex 4**

Annex 4, contains:

The table is part of the Council of Ministers Decision No. 453, dated 3/7/2019, "On the amount of interest subsidy and its issuance procedure for families benefiting from low-cost housing with state-subsidized loans," as amended. According to the data presented in the table, the father's name, is one of the identifying element of the families benefiting from low cost housing with state subsidized loans.

## **Annex 5**

Annex 5, contains

Appendix 3 "Statement of judicial status"

Data of the self-declarant, required are: Name, Father's name, Surname, Date of birth, Place of birth, Identification document: (copy attached to the form)

## **Annex 6**

Annex 6, contains:

Request Form for Data Review, directed to the Bank of Albania. According to this form, the necessary data for the identification of the applicant from the Credit Register are: Name, Father's name, Surname, Identification document number.

## **Annex 7**

Annex 7, contains:

Application Form "For the registration of children in preschool education". In section A "Information on the applicant", among others, the following data are required: 1. First name, 2. Surname, 3. Father's name, 4. Personal identification number (ID), 5. Gender, 6. Date of birth, 7. Place of birth, 8. Citizenship.

Application Form "For the registration of students in basic education (First grade)". In section A "Information on the applicant", among others, the following data are required: 1. First name, 2. Surname, 3. Father's name, 4. Personal identification number (ID), 5. Gender, 6. Date of birth, 7. Place of birth, 8. Citizenship.

Application Form "For the registration of students in high school". In section A "Information on the applicant", among others, the following data are required: 1. First name, 2. Surname, 3. Father's name, 4. Personal identification number (ID), 5. Gender, 6. Date of birth, 7. Place of birth, 8. Citizenship.



Application Form "For the registration of students in the oriented secondary education school". In section A "Information on the applicant", among others, the following data are required: 1. First name, 2. Surname, 3. Father's name, 4. Personal identification number (ID), 5. Gender, 6. Date of birth, 7. Place of birth, 8. Citizenship.

## **Annex 8**

Annex 8, contains:

Appendix no. 2 "The basic student register data". Among other things, the data that must be contained in the Basic Register of Students are: Name, Father's name, Surname, 12. Surname, Date of birth, Gender, Civil status, Place of birth, Citizenship.

Instruction for Completing the Academic Achievement Register. According to this instruction, the data required among others are: Name, Father's name, Surname.

Appendix no. 5 "The data for completing the Academic Achievement Register". According to this appendix, the data required among others are: Name, Father's name, Surname.

Appendix no. 6 "The register of issuance of diplomas and certificates". According to this appendix, the data required among others are: Name, Father's name, Surname.

Instructions for completing the Register for issuing diplomas and certificates. According to this instruction, the data required among others are: Name, Father's name, Surname.

Appendix no. 7 "Diploma and certificate issuance register data". According to this appendix, the data required among others are: Name, Father's name, Surname.

## **Annex 9**

Annex 9, contains:

Appendix no. 1 and appendix no.2, two "Statement", through which among others is given the authorization, for, handling of personal data in the context of the application and registration for the continuation of university studies as well as their eventual publication and performing all verifications and obtaining all information related to the completion of university studies and the student. The requested data regarding the identity of the declarant include: Name, Father's name, Surname.

Appendix no. 3, Application Form (For the registration in a study program of the first cycle/professional/ integrated of the second cycle, in the Institution of Higher

Education). The requested data regarding the identity of the student include: Name, Father's name, Surname.

Appendix no. 4, Application Form (Application to enroll in the study program in a higher education institution). The requested data regarding the identity of the student include: Name, Father's name, Surname.

Appendix no. 6, Application Form (Application to enroll in the study program of the second / third cycle: "Professional Master", "Master of Science" / "Master of Arts", "Executive Master"). The requested data regarding the identity of the student include: Name, Father's name, Surname.

Table 1a. Data of all applicants for transfer of studies at the end of the review by the Equivalence and Evaluation Commission. The requested data are among others include: Name, Father's name, Surname.

Table 1b. Data of all applicants for the second study program at the end of the review of the Equivalence and Evaluation Commission. The requested data are among others include: Name, Father's name, Surname.

## **Annex 10**

Annex 10, are part of the Instruction No.28 dated 2/8/2013 "On equipping students with class certificates". According to the data present in the table, the father's name of the student, is one of the identifying elements. Contains:

Certificate "For the First Grade of Primary Education". The student's data reflected in this document, among others, include: name, father's name, date of birth and place of birth.

Certificate "For the Fifth Class of Primary Education". The student's data reflected in this document, among others, include: name, father's name, date of birth and place of birth.

Certificate "For the Eighth Grade of Lower Secondary Education". The student's data reflected in this document, among others, include: name, father's name, date of birth and place of birth.

Release Certificate (for finishing 9-year school). The student's data reflected in this document, among others, include: name, father's name, date of birth and place of birth.

Certificate “For the Tenth Class of Higher Secondary Education”. The student's data reflected in this document, among others, include: name, father’s name, date of birth and place of birth.

Certificate “For the Eleventh Class of Higher Secondary Education”. The student's data reflected in this document, among others, include: name, father’s name, date of birth and place of birth.

### **Annex 11**

Annex 11, contains:

Family certificate. In this act, which is issued by the Office of Civil Registry, among other things, is also included: Relation to Head of Household.

## Annex 12

LAW	CMD	INSTRUCTION
Law No. 9047, dated 10.07.2003, " <i>On military service in the Republic of Albania,</i> " as amended.	Council of Ministers Decision No. 8, dated 14.01.2015, " <i>On the protection of vulnerable groups, for the purpose of removing the electricity consumption band up to 300 kwh per month,</i> " as amended.	Instruction No. 10, dated 07/03/2014, " <i>On some amendments to instruction No. 1945, dated 10/04/2010, for the implementation of decision No. 617, dated 09/07/2006, of the Council of Ministers, 'On determining the assessment and monitoring indicators of economic assistance programs, payment for persons with disabilities, and social services.'</i> "
Law No. 10 129, dated 11/05/2009, " <i>On Civil Status,</i> " as amended.	Council of Ministers Decision No. 565, dated 09/08/2006, " <i>On the protection of vulnerable groups from the increase in the price of electricity,</i> " as amended.	Instruction No. 10, dated 15/03/2019, " <i>On some additions and amendments to Instruction No. 24, dated 02/09/2008, 'On tax procedures in the Republic of Albania,' as amended.'</i> "
Law No. 10 418, dated 21/04/2011, " <i>On the legalization of capital and amnesty of a portion of tax and customs debt,</i> " as amended.	Council of Ministers Decision No. 56, dated 31/01/2018, " <i>On the determination of specific categories of disadvantaged groups.'</i> "	Instruction No. 4441-2, dated 19/11/2014, " <i>On some amendments and additions to Instruction No. 6257, dated 02/09/2008, 'Regarding the determination of the subsidy amount for families benefiting from state-supported loans,' as amended.'</i> "
Law No. 101, dated 23/07/2020, " <i>On several additions and changes to Law No. 10,019, dated 29/12/2008,</i>	Council of Ministers Decision No. 486, dated 17/06/2020, " <i>On the printing, publishing, distribution, and sale of</i>	Instruction No. 1, dated 06/01/2005, " <i>On the procedures for the collection and processing of data for unauthorized building</i>

<i>'The Electoral Code of the Republic of Albania,' as amended."</i>	<i>pre-university education texts," as amended.</i>	<i>constructions in informal areas."</i>
Law No. 22 dated 03.05.2018 <i>"On social housing,"</i> as amended.	Decision No. 407 dated 29.08.2002 <i>"On the treatment of paraplegic and tetraplegic individuals in need of shelter."</i>	Instruction No. 3, dated 11/03/2000, <i>"On the implementation of Decision No. 190, dated 03/05/1995, and Council of Ministers Decision No. 562, dated 02/12/1999, regarding the acceptance and review of requests for the Status of Veteran of the Anti-Fascist National Liberation War."</i>
Law No. 119, dated 18/04/2013, <i>"On the allocation of land for educational, health, and social care institutions."</i>	Council of Ministers Decision No. 495, dated 29/06/2016, <i>"On several amendments and additions to Decision No. 8, dated 14/01/2015, of the Council of Ministers, 'On the protection of vulnerable groups, as a result of the removal of the consumption band of electric energy up to 300 kwh per Month.'"</i>	Instruction No. 9, dated 23/06/2014, <i>"On the implementation of Council of Ministers Decision No. 904, dated 12/12/2012, 'On the determination of criteria, procedures, and documentation for economic assistance in pilot areas.'"</i>
Law No. 57 dated 18.07.2019 <i>"On Social Assistance in the Republic of Albania."</i>	Decision of the Council of Ministers, No. 899 dated 29.12.2022 <i>'On the financial support for certain special categories to mitigate the impact of the crisis.'</i>	Instruction No. 27 dated 27.04.2009 <i>'On determining the rules and methods of payment for the compensation of the price of identification document for vulnerable groups'</i>

<p>Law No. 7874 dated 17.11.1994 <i>'On the status of veterans of the War against the Nazi-Fascist occupiers of the Albanian people,'</i> as amended.</p>	<p>Decision of the Council of Ministers, No. 96 dated 07.02.2012 <i>'On some amendments and additions to Decision No. 787, dated 14.12.2005, of the Council of Ministers, 'On determining the criteria, procedures, and measure of economic assistance,'</i> as amended.</p>	<p>Instruction No. 15, dated 08.04.2015, <i>"On some amendments to Instruction No. 1, dated 02.02.2015, 'On the implementation of Decision No. 8, dated 14.01.2015 of the Council of Ministers on the protection of vulnerable groups, from the removal of the threshold up to 300 kwh for the billing of the electricity price."</i></p>
<p>Law No. 15 dated 13.03.2019 <i>"On the promotion of employment,"</i> as amended.</p>	<p>Decision No. 617 dated 22.09.2022 <i>"On some amendments and additions to Decision No. 597, dated 04.09.2019, of the Council of Ministers, 'On determining the procedures, documentation, and monthly measure of economic assistance and the use of additional funds above the conditioned fund for economic assistance,'</i> as amended."</p>	<p>Instruction No. 2348 dated 17.04.2009 <i>"On several additions and changes to Instruction No. 6257, dated 02.09.2008, 'On determining the subsidy for families benefiting from state-subsidized loans.'"</i></p>
<p>Law No. 140, dated 26.11.2020, <i>"On the population and housing census."</i></p>	<p>Council of Ministers Decision No. 754, dated 30.11.2019, <i>"On the organization of temporary accommodation for the earthquake-affected individuals in the Durrës, Tiranë, and</i></p>	<p>Instruction No. 23, dated 09.12.2014, <i>"On the collection of mandatory contributions for social and health insurance,"</i> as amended.</p>

<i>Lezhë regions, in accommodation facilities."</i>	
Council of Ministers Decision No. 882, dated 24.12.2019, <i>"On the mechanism of interinstitutional coordination for the referral of employment for individuals and active working-age family members benefiting from economic assistance."</i>	Instruction No. 26 dated 10.08.2010 <i>"On the progress of the teaching-educational work in the pre-university education system in the school year 2010-2011"</i>
Council of Ministers Decision No. 316, dated 04.07.2002, <i>"On the treatment and care of orphans."</i>	Instruction No. 659, dated 23.09.2019, <i>"On the rules and procedures for covering expenses in providing educational, health, or rehabilitative services, in accordance with the specific needs, in a local government unit different from where the child with disabilities resides."</i>
Council of Ministers Decision No. 336, dated 15.04.2009, <i>"On compensating the fee for the provision of identification documents for vulnerable groups."</i>	Instruction No. 12, dated 16.09.1993, <i>"On the procedure for granting the status of former prisoners and political persecutees from the communist system."</i>
Council of Ministers Decision No. 753, dated 05.11.2004, <i>"On the use of budget funds and the 'direct procurement'</i>	Instruction No. 19, dated 13.09.2007, <i>"On the determination of general rules for the implementation of the</i>

<p><i>procedure for the rehabilitation of infrastructure in the municipalities of Vau-Dejës, Hajmel, and the Municipality of Vau i Dejës, Shkodër County, and for providing assistance to families affected by the floods of the Gjadër River."</i></p>	<p><i>low-cost housing program" as amended.</i></p>
<p>Council of Ministers Decision No. 80, dated 28.01.2008, "<i>On the approval of the sectoral strategy for social protection and its action plan for implementation,</i>" as amended.</p>	<p>Instruction No. 1, dated 08.01.2021, "<i>On the criteria, procedures, and administration of the fuel support scheme for agriculture,</i>" as amended.</p>
<p>Council of Ministers Decision No. 381, dated 01.06.2022, "<i>On some additions to Decision No. 721, dated 05.12.2018, of the Council of Ministers, 'On the approval of the ticket prices for the National Theater'.</i>"</p>	<p>Instruction No. 3, dated 17.02.2017, "<i>On the implementation of Decision No. 955, dated 07.12.2016, of the Council of Ministers, 'On determining the criteria, procedures, documentation, and the measure of economic assistance,' as amended.</i>"</p>
<p>Council of Ministers Decision No. 657, dated 25.09.2003, "<i>On an addition to Decision No. 321, dated 5.7.1999, of the Council of Ministers, 'On the approval of fund allocation by regions,</i></p>	<p>Instruction No. 1, dated 02.02.2015, "<i>On the implementation of Decision No. 8, dated 14.01.2015, of the Council of Ministers for the protection of vulnerable groups, from the removal of the threshold up to 300 kwh</i></p>



<p><i>the procedures for approving families eligible for and the conditions for granting credit under the Greek housing credit program'."</i></p>	<p><i>for the billing of electricity price," as amended.</i></p>
<p>Council of Ministers Decision No. 140, dated 29.03.2007, "<i>On providing a fund for the purchase of residential apartments to assist families at risk due to the collapse of the building in the 'Dukas' neighborhood in the Municipality of Patos, Fier District."</i></p>	<p>Instruction No. 338-3, dated 10.03.2006, "<i>On the implementation of the Council of Ministers Decision No. 787, dated 14.12.2005, 'On determining the criteria, procedures, and the measure of economic assistance,' as amended."</i></p>
<p>Council of Ministers Decision No. 1477, dated 12.11.2018, "<i>On several additions to Decision No. 1114, dated 30.7.2008, of the Council of Ministers, 'On certain matters in the implementation of Law No. 7703, dated 11.5.1993, 'On social insurance in the Republic of Albania,' as amended,' No. 9136, dated 11.09.2003, 'On the collection of mandatory contributions for social and health insurance in the</i></p>	

*Republic of Albania,' as amended, and No. 7870, dated 13.10.1994, 'On health insurance in the Republic of Albania,' as amended."*

*Council of Ministers Decision No. 597, dated 04.09.2019, "On determining the procedures, documentation, and monthly measure of economic assistance and the use of additional fund over the conditioned fund for economic assistance," as amended.*

*Council of Ministers Decision No. 550, dated 07.07.2010, "On providing additional financial assistance to the municipalities of Qukë and Librazhd, in the Elbasan County, to be distributed to the families of these municipalities due to the damage to their houses from various disasters."*

*Council of Ministers Decision No. 142, dated 10.03.2021, "On defining the criteria for beneficiaries of the program for area*

*development, with the aim of shelter, the method of ensuring their shelter during the construction period, the form of transferring ownership for designated quotas of social housing by builders or owners, for the housing of beneficiaries who have been displaced by them."*

Council of Ministers  
Decision No. 659, dated  
04.08.2010, "*On providing a fund in the 2010 budget to the Municipality of Kukur in the Elbasan District, as assistance for the families whose houses have been damaged by the massive land slide.*"

Council of Ministers  
Decision No. 310, dated  
24.07.1992, "*On compensation for the increase in the prices of certain food items,*" as amended.

Council of Ministers  
Decision No. 555, dated  
15.07.2020, "*On the procedures, criteria, and priorities for granting immediate grants for low-cost housing from the state budget.*"

Council of Ministers  
Decision No. 299, dated  
03.05.2010, "*On the  
establishment of working  
groups for the  
identification,  
assessment, and  
reevaluation of damages  
caused by recent rainfall  
and floods in the  
Shkodër District.*"

Council of Ministers  
Decision No. 46, dated  
31.01.2007, "*On an  
amendment to Decision  
No. 565, dated 9.8.2006,  
of the Council of  
Ministers, 'On the  
protection of vulnerable  
groups from the increase  
in electricity prices'.*"

Council of Ministers  
Decision No. 268, dated  
29.04.2022, "*On several  
amendments and  
additions to Decision  
No. 453, dated 3.7.2019,  
of the Council of  
Ministers, 'On the  
measure of subsidizing  
loan interest and the  
procedure for its  
provision to families  
benefiting from low-cost  
housing with state-  
subsidized loans'.*"

Council of Ministers  
Decision No. 1174,

dated 24.12.2020, "*On the procedures for the registration of AMTPs, the determination of boundaries and areas, as well as the standards for additional state-owned areas and service properties.*"

Council of Ministers  
Decision No. 597, dated 04.09.2019, "*On determining the procedures, documentation, and monthly measure of economic assistance and the use of additional fund over the conditioned fund for economic assistance,*" as amended.

Council of Ministers  
Decision No. 18, dated 12.01.2018, "*On subsidizing the conclusion of contracts and the installation of water meters for categories in need.*"

Council of Ministers  
Decision No. 86, dated 27.01.2009, "*On compensating the families of the village of Levrushk, Municipality of Qelëz, Pukë District, for the damage caused*

<p><i>by the presence of the Koman hydroelectric power plant."</i></p>
<p>Council of Ministers Decision No. 38, dated 31.01.1994, "<i>On the treatment of free humanitarian aid."</i></p>
<p>Council of Ministers Decision No. 474, dated 30.07.2021, "<i>On an amendment to Decision No. 486, dated 17.6.2020, of the Council of Ministers, 'On the printing, publishing, distribution, and sale of pre-university education system textbooks'."</i></p>
<p>Council of Ministers Decision No. 321, dated 05.07.1999, "<i>On approving the allocation of funds by regions, the procedures for approving families eligible for and the conditions for granting credit under the Greek housing credit program, as amended.</i></p>
<p>Council of Ministers Decision No. 792, dated 26.11.2003, "<i>On the use of funds from former foundations for the construction of apartments for creditors</i></p>

<p><i>who lost their homes due to the collapse of pyramid schemes."</i></p>
<p>Council of Ministers Decision No. 803, dated 29.12.2017, "<i>On compensating the families of the villages Zall-Mënär and Bulcesh, Municipality of Zall-Bastar, affected by the construction of the Bovillë reservoir,</i>" as amended.</p>
<p>Council of Ministers Decision No. 603, dated 08.09.2006, "<i>On the rules and actions of civil status offices for transferring the civil status data of citizens registered in the temporary registry,</i>" as amended.</p>
<p>Council of Ministers Decision No. 486, dated 17.06.2020, "<i>On the printing, publishing, distribution, and sale of pre-university education system textbooks,</i>" as amended.</p>
<p>Council of Ministers Decision No. 906, dated 17.12.2014, "<i>On rewarding and compensating certain</i></p>

<p><i>special categories for the end-of-year holidays."</i></p>
<p>Council of Ministers Decision No. 332, dated 17.03.2010, "<i>On determining the form, constituent elements, storage method, and validity period of basic documents held and issued by the Civil Status Service,</i>" as amended.</p>
<p>Council of Ministers Decision No. 248, dated 18.05.2010, "<i>On granting assistance to several families whose homes have been damaged as a result of disasters.</i>"</p>
<p>Council of Ministers Decision No. 617, dated 20.10.2021, "<i>On the statistical indicators for the assessment and monitoring of economic assistance programs, payments for persons with disabilities, and social services, as well as the frequency of their collection.</i>"</p>