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**PREVENTING DOMESTIC VIOLENCE AGAINST WOMEN: THE RESULTS OF
ISTANBUL CONVENTION RATIFICATION BY ALBANIA**

Master's Thesis

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INTRODUCTION

Human rights are fundamental to the functioning and continuity of a democratic society.¹ The protection and promotion of human rights in the international arena have received tremendous attention. We are all human beings, and we all want our rights to be protected and not violated. Despite the many positive attempts to protect human rights, they are being violated day by day from the easiest to the most severe forms. Domestic violence is one of the social phenomena that has been part of humanity for years. Being closely related to the notion of conflict has been studied by researchers and scientists to find out the reasons why it occurs. Non-peaceful resolution and the inability of the person to compromise peacefully leads to family problems and domestic violence.² Domestic violence is a phenomenon that occurs all over the world, both in democratic countries and in developing countries.³ Statistics and mechanisms usually change, and the prevalence of the phenomenon in developing countries is more significant than in developed countries. Albania is a developing country, and this phenomenon is widespread. The culture and traditions in Albania are robust and are preserved with fanaticism. On the one hand, it is a good and valuable thing to preserve the traditions and culture, but on the other hand, it is misinterpreted and related to the quality of being violent and dominant in the family.⁴ The need for men to be dominant in every aspect of life and follow history models that play an essential role for some is good. Therefore, the analysis of this phenomenon must consider the traditions, culture, and history of the Albanian state, which are essential. One of the most disturbing factors and phenomena in all of humanity is precisely domestic violence. In Albania, it has been and continues to be a growing phenomenon, especially in recent years. In Albanian society, the consequences of this phenomenon include a series of economic, social, and psychological factors. The surest basis is that the family is being threatened, harming every individual with full rights such as women, children, and the community where we live.⁵ In many countries, democracy has brought great progressive changes, especially in the field of human rights. However, the same cannot be said for Albania. State institutions are not yet at the right

¹ I. Luarasi, A. Fuga, A. Pilika... Study About Victims of Domestic Violence and Sexual Assault in Albania. Counseling Line for Women and Girls 2013. p.10.

² Ibid. p.110.

³ C. Garcia, M. Pallito, Ch. Pallito... Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence. World Health Organization. Geneva, Switzerland 2013. p.2

⁴ G. Tushi. Grate Ne Kohen e Tyre, Kunder Dhunes Pro Barazise Gjimore. Natyra 2016. p.78.

⁵ A. Qafa. The Domestic Violence. Law no. 9669 of 18/12/2006 "Measures Against the Violence in Family Relations" in Albania. -5 Mediterranean Journal of Social Sciences, Rome, Ital, 2004. p.36.

level to reduce level of domestic violence due to the many problems that the country has had. Albania has taken measures to prevent domestic violence.⁶ With the democratization of society has come the need for a more secure justice system, where many legislative initiatives have taken place to ensure at least some protection for these abused families. One of the primary roles of the state is to ensure respect for human rights by providing maximum security for their protection. The more developed and advanced the Albanian legislation is for protecting human rights, the more security it creates for its citizens. The most effective legal act that aims at the principle of non-discrimination and ensuring human rights is the Constitution of the Republic of Albania.⁷ In order to maintain this rhythm and be as effective as possible, is needed the cooperation of governmental, institutional actors, and the organizations operating in Albania⁸ It takes a high level of preoccupation between them to achieve this success to reduce as much as possible the phenomenon of domestic violence. As mentioned above, this phenomenon is not just a criminal act that is punished, but a social problem in the Albanian tradition and continues to remain so.

Honor has been the main factor in Albanian culture and tradition that has existed since the creation of the Customary Code in 1400 "Kanun i Leke Dukagjini." This code served to preserve Albanian traditions from Ottoman influence. In 1933, its first written version was made, where it was divided into eight chapters that dealt with various topics of society.⁹ According to Albanian tradition, the main role belonged to the family's father, thus categorizing him in a patriarchal society. Any other member of this family would obey only the father and should not oppose him.¹⁰

On the other hand, the woman's role, who is considered submissive in patriarchal families, has been the person who should maintain honor in the family. Women's role is explained differently in the Kanun as to her behavior, which should be correct and faithful in the family. The paper also notes the importance of morality, where the husband of the family had the right, according

⁶ Ibid. p.37.

⁷ Ligji Nr. 8417. Kushtetuta e Republikës së Shqipërisë. 22.11.1998. Ndryshuar 30.07.2020, Pjesa e II. Kreu I. Neni 18.

⁸ Ibid. p.37.

⁹ Sh. Gjecovi. Kanuni i Leke Dukagjinit. Botime Franceskane. 2016. p.35.

¹⁰ M. Llapushi. Violence Against Women and Domestic Violence in Albania and Kosovo: The Incoherence Between Laws and Traditions. Università Ca' Foscari Venezia 2019. p.32.

to the Kanun, to kill his wife if she did not treat well the guests who would come home. Another role of the woman in the family was to dedicate herself to the husband and home, where the husband had no such obligations. According to the patriarchal tradition in the Kanun, the wife was the property of her husband, and he had the right to use violence or kill her if she did not meet the conditions of honor and fidelity.¹¹ Years passed, and many changes came in the Albanian legislation, but the tradition has not been left in the shadows even today. It has continued to remain a way of life for Albanian society, and this has brought many difficulties to change and improve this mentality.

In 1945, Enver Hoxha took power by bringing Albania the totalitarian regime. This communist regime lasted for 40 years in Albania, where the Kanun was repealed, and women received equal rights and responsibilities with men.¹² Lack of education was an essential factor in the increase of illiteracy of women. Due to education, women had limited their emancipation in society and politics. One of the goals of the feminist movements was precisely to educate women to make progress for them in their family and social life. For the reason that women's rights were neglected before the communist regime, Enver Hoxha decided to include them in society and politics.¹³ They were given the right to work in state structures and to work equally with men. For their further emancipation, the Women's Union was created, which supported them in their rights and freedoms.¹⁴ On the other hand, the woman gained the right to divorce, which had previously been denied to her. However, the progress of women did not come the same for all areas of Albania. Many rural areas remained with their tradition. In addition, gender equality initiatives were not focused on every aspect of life. When it came to paid employment, the wife would have an equal role with the husband, but on the other hand, the wife's commitment to housework and family remained the same. Their role was twofold.¹⁵ They would work and dedicate themselves to daily work just like men, but when they went to their family environment, gender equality no longer worked as the woman would continue to play the role of the member who would take care of the children and the house, leaving the husband out of these responsibilities. The woman in the family also served as a "reproductive machine"

¹¹ Ibid. p.33.

¹²E. Danaj, K. Këllecı (eds.) Promoting Equality, Perpetuating Inequality -7 D. Bathory. History of Communism in Europe: Gender Propaganda in Communist Albania 2016. p.41.

¹³ Ibid. p.49.

¹⁴ Ibid. p.41.

¹⁵ Ibid. p.47.

to increase the birth rate and the population.¹⁶ Enver Hoxha in that period took very restrictive measures regarding abortion. In 1980 the population of Albania experienced an increase of 2.3%. A tremendous focus was given to the social life of women and not to their family life. This led to an increase in the risk of domestic violence and the continuation of patriarchal authority in Albanian families. In 1985, Enver Hoxha's death came to the end of the totalitarian regime in Albania. The end of this regime created a significant influence on Albanian women. They left the job labor and returned to lock up inside the house. The patriarchal spirit returned to Albania many decades ago. The husband was the main person bringing economic resources home, making him superior in the family.¹⁷

In this way, women created financial dependence on their husbands. Due to the communist regime, men felt threatened by the current of gender equality, as their tradition had taught them to remain superior to women. In this way, many organizations for the protection of women began to go bankrupt because they were not sufficiently funded, and men did not pay much attention to their emancipation in society.¹⁸ In a way, it was considered a way of "revenge" that men did to women. It was considered a reduction in the authority of a man to work in the same way as a woman. The woman began to be seen again as a worthless role in society. In Albania, the power of man in many aspects of life was restored. Women constantly have had to continue their fight against this patriarchal phenomenon. At the beginning of 2000, the issue of gender inequality in Albania was again in focus. It was in 2006 that the first laws on women's rights were enacted. These laws brought significant changes in Albania regarding women's rights in family relations, but comparing Albania with many other emancipated countries, the change was noticeable. It took much work to achieve progress, which continues to this day. Although Albania has made great progress in meeting many international standards, there are still major social and legal problems that lead to the continued subjugation of women and domestic violence. With the ratification of the Istanbul Convention in 2013, Albania has taken the initiative to improve the national legislation to be in accordance with the treaty.

¹⁶ Ibid. p.49.

¹⁷ B. Fevziu. Enver Hoxha, e para biografi e bazuar në dokumentet e arkivit personal dhe në rrëfimet e atyre që e njohën. Botimi I gjashtë. UET Press 2014. p.231.

¹⁸ B. Fevziu. Op.cit. p.197.

The presented thesis revolves around the problems of women's domestic violence in Albania. In 2013 EU adopted the Istanbul Convention to provide adequate protection for women, and Albania was the second country that ratified the Istanbul Convention in 2013 and signed it in 2011. The thesis aims to assess the changes made by the Albanian state after the ratification of the Istanbul Convention. Thesis identifies the compliance of Albanian legislation and measures taken with the recommendations given by GREVIO experts. The thesis will identify the procedures that the national strategies put before the government. Moreover, how the procedures and aims were put in reality. Finally, the thesis will assess where those national strategies helpful or not. The thesis will also provide a comparison of the statistical data. These data will be analyzed and shed light on how respectfully and rigorously the implemented aims of the national strategies were realized in reality. The statistical data will be analyzed based on the INSTAT, which has been the most reliable source, being responsible for the production of statistics in Albania. Also, the thesis will determine the changes adopted by Albania after the ratification of the Istanbul Convention to determine how effective the amendment where. Furthermore, the cases adopted by Albanian courts will show the general overview of the practice adopted by judges regarding domestic violence.

According to the Albanian ex- Ombudsman, Igli Totozani " improper functioning of the mechanisms that have the duty to control and prevent violence against women, increases the cases of violence against them. In a detailed report, the Lawyer states that the number of protection orders issued against women has increased, but these decisions have remained unimplemented by bailiffs" thus, the research will be developed based on the questions: (i) What are the forms of domestic violence and why domestic violence nowadays is considered a “shame” by the victims of this phenomenon ? (ii) What are the steps taken by Albania for the prevention of domestic violence against women? (iii) How adoption of the Istanbul Convention availed and resulted in defense for domestic violence against women in Albania?

In support of the above questions, the thesis applies the analytical method to analyze the issues regarding domestic violence in Albania. To determine the endeavor of the state in fighting domestic violence and furthermore to show the effectiveness of the actions rendered by Albania also to underline the actions which Albania did not implement based on the National Strategies. The comparative and statistical methods will be used to endorse the thesis with the statistical

data. The comparative method also supports to emphasize the differences between the 3 national strategies adopted by Albania. Statistical data will reveal the fluctuated numbers of domestic violence rates during 2007-2018-time range. The historical method will encompass the period when domestic violence was first implemented on the legal system of Albania especially of the period of "Kanun" of Lek Dukagjini. Moreover, the thesis will use the case law to distinguish the practical overview of the domestic violence issue. To show the overview of practical defense of the victims of domestic violence. The presented thesis will be supported by the scholars studies, experts opinions, institutional reports.

The hypothesis of the thesis evolves around that (i) The Istanbul Convention ratification changed the reality regarding domestic violence in a positive way. (ii) Despite the implemented actions made by the state to prevent domestic violence the practice reality does not altered the judicial practice. Consequently, the main research objects include the laws of Albania regarding domestic violence against women. The National Strategies adopted by Albania endorsed by the reports made by the experts. Moreover, statistical data will provide an overview of the changes in the numbers of domestic violence victims. All these documents will provide information on Albania's endeavor to implement all the terms of the Istanbul Convention regarding domestic violence against women.

The thesis is divided into three chapters. The first chapter elaborates on a general overview of the forms of domestic violence. This general overview will analyze 5 forms of domestic violence against women. Moreover, it will provide the historical background of domestic violence in Albania which will underline the reasons for the causes and consequences of violence in the domestic realm. Finally, the chapter will analyze Albanian laws regarding the mentioned issues.

The second chapter will study two national strategies adopted by the Albanian government during 2007-2015. These national strategies will be compared to determine the differences between them and the actions that Albania implemented during this time range. The strategies will be endorsed by the judgments for the protection orders. This information will underline the period of the domestic violence frame before the ratification of the Istanbul Convention.

Furthermore, will be discussed the Istanbul Convention which the EU adopted in 2014 also Albania's actions during the ratification of the mentioned treaty.

Chapter three will consist of GREVIO recommendations which the experts adopted after Albania's ratification. The recommendations will emphasize the ways for Albania to deal with issues regarding domestic violence against women. The results of the recommendation will support the national strategy adopted by the country from 2016-2020. This four-year national strategy what the state implemented from the GREVIO recommendations into the document. Finally, the chapter will underline the significance of the judgments adopted by the national courts after the ratification of the Istanbul Convention. Those judgments will shed a light on the amendments that the ratification of the treaty brought to the state. Finally, the chapter will discuss the last changes in the national legislation of Albania.

KEY WORDS: Domestic Violence Against Women, Istanbul Convention, National Strategies, Albania

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1. DOMESTIC VIOLENCE AS A COMPLEX SOCIAL PHENOMENON

Domestic violence, a phenomenon of a bitter social reality that has affected all of humanity around the world, significantly affects fundamental human rights, and in recent years has taken on very worrisome aspects for the community. The consequences of domestic violence are severe and can affect society, the economy, and the psychology of people who are affected. Moreover, this phenomenon damages security, freedom of life, and peace in the family and the community. Every human being is born free to live life the way he wants safely without being harmed by others.¹⁹ The impact of domestic violence affects every member of the family, starting from women, children, men, and every family member. In democratic countries such as Albania, the long transition has caused many problems and social issues which continue to be present today. Although it has been improving during the years of difficult transition, Albanian legislation still remains problematic, having gaps. Central and local institutions are not at the right level and do not have the power to stop this phenomenon that year after year is destroying the lives of Albanian women. Legislative initiatives play a crucial role in preventing violence against women and democratizing society.²⁰ Through laws, the protection of victims of violence against women in the family is ensured by providing legal support to ensure harmony in family life. Albania has ratified a series of conventions and international agreements on human rights, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), on the Elimination of All Forms of Discrimination Against Women (CEDAW), and many others on which the Albanian Constitution was based. The Constitution of Albania was adopted in 1998. The adoption of the Constitution brought a new spirit for protection and gender equality. The main goals of justice are to ensure that members of society enjoy their rights and provide protection from all forms of violence, including domestic violence. The legal framework for protecting and respecting fundamental rights in a society is the basis for a democratized society to function. The efficiency of the legal framework regulates the improvement of the life of the individuals in the society. Moreover, the more effective and comprehensive the legislation is, the more it secures these rights. The cooperation of national institutions with various non-

¹⁹ United Nations General Assembly resolution 217.A on Universal Declaration of Human Rights. 10.12.1948.

²⁰ A. Qafa. Op.cit. p.37.

governmental organizations is necessary to be adequate in the protection against domestic violence.²¹

In the Albanian legislation in Law No. 9669, dated 18.12.2006 amended on 23.7.2018 " On Measures Against Violence In Domestic Relations " respectively in article 3 defines domestic violence as: "Domestic violence" is any act of violence, defined according to point 1 of this article, which occurs within the family or household unit, exercised between family members, defined in point 7, of this article, who are or have been in family relations, regardless of whether the abuser separates or shared the same apartment with the victim. "²²

Whereas in the Criminal Code of Albania. (amended), respectively in article 130 / a, it defines domestic violence as "Beating, as well as any other act of violence, against a person who is a spouse, ex-spouse, cohabitant or ex-cohabitant, close gender or close relationship with the perpetrator of the criminal offense, with consequent violation of his physical, psycho-social and economic integrity ".²³ Furthermore, Article 130 /a also recognizes domestic violence as "Serious threat of murder or grievous bodily harm to a person who is a spouse, ex-spouse, cohabitant or ex-cohabitant, close relative or close relative of the perpetrator, resulting in a violation of his psychic integrity "²⁴

Albanian legislation condemns domestic violence as an illegal act that violates fundamental human rights. The definition in Article 3 (amended) in Law No. 9669 is comprehensive, including "spouse or cohabitant or ex-spouse or ex-cohabiting partner; brothers, sisters, parents of the spouse or cohabitant, guardian, persons who are or have been in an intimate relationship, ancestors and descendants in a straight line".²⁵ The changes in the structures of social life brought by the fall of communism have increased the emergence of new problems that the Albanian state faces day by day. The social issues of society, such as domestic violence, have brought the need to reform the system, bring laws into line with international conventions, and ensure more comprehensive protection.

²¹ A. Qafa, Op.cit. p.

²² Ligji Nr. 9669. Kuvendi I Kushtetutes se Shqiperise Ndryshuar 23.7.2018 " Per Masa Ndaj Dhunes ne Marredheniet", Neni 3.

²³ Ligji Nr. 7895, Kodi Penal I Republike se Shqiperise, 27.1.1995. Ndryshuar 23.04.2020, Seksioni IX, Neni 130/a.

²⁴ Ibid. Neni 130/a.

²⁵ Ligji Nr. 9669. Kuvendi I Kushtetutes se Shqiperise. Neni 3.

1.1. Forms of domestic violence

Violence against women fundamentally violates human rights and does not allow maximum performance in women's lives. Non-compliance with these rights seriously affects the integrity of women in the role they play in the family. Elimination of domestic violence against women is essential for realizing rights and the achievement of equal social development. Under international law, states must have the proper tools and care to prevent the ending of violence against women.²⁶ Domestic violence is a phenomenon that harms the whole society and the community. In Albania, this violence is widespread in various forms, and women have been subjected to physical, psychological, emotional, sexual, and economic abuse. This violence prevents women from enjoying the fundamental rights and freedoms provided to them by the law. Domestic violence against women is a manifestation of relationships that have historically been unequal, giving men more power.²⁷ It has been perpetuated by traditional and customary practices that match women's lower status in the family, workplace, community, and society, and social pressures have exacerbated this situation. Based on the definition given in article 3 Law No. 9669, are distinguished the forms in which violence against women is expressed which are:²⁸

1.1.1. Physical violence

Often when different individuals talk about domestic violence, they refer to physical violence against a woman committed by an intimate partner or husband. Physical abuse defines the use of physical force to harm or endanger a person. Physical abuse in domestic violence situations usually involves a variety of behaviors that include beatings, hair pulling, strangulation, kicking, and the most serious of these are gun attacks that can result in death.²⁹ The variety of types of physical violence are distinguished in most cases based on the severity of the injury and the severe or mild consequences it causes. However, no matter how severe or light the physical assault on family relationships is, it is considered a crime. It is also considered a crime, even if it happens outside the home. Physical abuse is not related to being old or young,

²⁶ United Nations General Assembly resolution 48/104 Declaration on the Elimination of Violence Against Women. 20.12.1993. Article 4.

²⁷ M.Kocaqi, M.Fishka, S.Alimadhi... Raport: Vleresimi I Funkcionimit te Strukturave Kunder Dhunes ne Familje ne Policine e Shtetit, Si Pjese e Mekanizmit te Referimit dhe Trajtimet te Rasteve te Dhunes ne Marredheniet Familjare. Programi Mbështetja e Qeverisë Suedeze ndaj Ministrisë së Brendshme/Policisë së Shtetit Shqiptar për Policimin në Komunitet. Tiranë 2015. p.16.

²⁸ Ligji Nr. 9669, Kuvendi I Kushtetutes se Shqiperise Op.cit. Neni 3.

²⁹ Ligji Nr. 9669, Kuvendi I Kushtetutes se Shqiperise Op.cit. Neni 3.

race, religion, ethnicity, and many other categories, but is present in every nation and society.³⁰ The intimate partner or spouse uses physical abuse of a woman in order to control and oppress the other person. Physical abuse is not an innocent act of the moment, but an act done in a way to hurt the other person.³¹ According to a report by the Institute of Statistics in Albania (INSTAT), women who experience physical violence in their relationships or marriages are more likely to experience more than one type of violence.³² Because of the essence of its exercise and the noticeable marks it leaves on the victim, physical abuse is a type of violence that victims find easier to interpret and acknowledge. The consequences of physical violence can be very severe, leaving long-term consequences in the life of the abused person and even terrible consequences such as death or suicide.³³

1.1.2. Emotional abuse

Emotional abuse refers to a series of actions that affect a woman's character and damage her sense of self-worth and esteem.³⁴ One of the most challenging types of violence to identify is emotional abuse because it can be very subtle and manipulative. One of the purposes of practicing emotional abuse is to isolate and silence the victim, creating a sense of entanglement. Emotional abuse is a behavior committed by a spouse, intimate partner, or a family member who tries to hurt or exploit the other person's insecurity or character. Emotional abuse is a form of domestic violence against women to control or manipulate, causing fear and anxiety. Moreover, this type of abuse includes constant criticism, underestimation of the other person's abilities, and humiliation.³⁵ Furthermore, an abused woman may react to criticism and ignorance by trying to change herself or her husband / partner's abusive behaviors, finding other reasons to understand her partner's behavior. However, over time many women realize that nothing they do makes any difference and their sense of security in the relationship is minimized.³⁶

³⁰ Raport. Për Dhunën Ndaj Grave dhe Veprimtarinë e Avokatit të Popullit. Avokati I Popullit 2012. p.5.

³¹ Ibid, p.6-7.

³² R. Haarr, D. Ibrahimaj, B. Metaj. Dhuna Ndaj Grave dhe Vajzave ne Shqiperi- Vrojtim Kombetare Me Baze Popullaten 2018. Instituti I Statistikave 2019. p.76-78.

³³ Ibid, p.82.

³⁴ G. Karakurt, K. Silver. Emotional Abuse in Intimate Relationships: The Role of Gender and Age. – 28 (5) R. Maiuro. Violence and Victims 2013, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3876290/>

³⁵ M. Luljeta. Domestic Violence in Albania: The Applicable Law. -5 European Journal of Humanities and Social Sciences, 2019, p. 142.

³⁶ Ibid, p.142.

1.1.3. Psychological abuse

Psychological violence involves a variety of behaviors that intend to control, intimidate, and isolate the woman. Psychological abuse differs from emotional abuse, including a range of behaviors that aim to intimidate and frighten women and isolate them from family and friends. Often abusers deny them the opportunity to work outside the home or, if they work outside, control their payment. Unlike emotional abuse that affects a partner's feelings by manipulating them, psychological abuse affects how they think. One of the forms of psychological violence is causing fear to the victim that it will hurt her or her relatives by destroying everything that matters to her by establishing control over her. Psychological violence also includes threats of physical harm, threats of abandonment, or threats of child custody, which is why many women continue to stay with an abusive partner.³⁷ Psychologically abused women often live in fear, experience anxiety and difficulty concentrating, have poor performance at work, present physical health problems and are at serious risk of developing depression. Another consequence is that they are also at risk of suicidal thoughts and attempts.³⁸

1.1.4 Sexual abuse

Sexual abuse is another form of domestic violence that involves the coercion to have physical contact or sexual behavior without obtaining the other person's consent. Sexual violence includes any situation in which a woman is forced to engage in degraded, unwanted, or unsafe sexual activity (including forced sex by the spouse/partner with whom the woman also has had sex with her consent). Sexual abuse is also the use of objects in someone else's body without consent and is punishable under Albanian law.³⁹ Sexual abuse includes marital rape, forcing a partner to have sexual intercourse and treating him or her in a degrading sexual manner. There are no sexual violence referral centers in Albania. Sexual abuse includes marital rape, forcing a partner to have sexual intercourse, and treating him or her in a degrading sexual manner. There are no sexual violence referral centers in Albania. Sexual abuse is usually addressed in the health services where it is also provided the service. According to international standards, there are no primary conditions in these services to perform a proper forensic examination.⁴⁰

³⁷ R. Haarr, D. Ibrahimaj, B. Metaj. Op.cit. p.80.

³⁸ I. Luarasi, A. Fuga, A. Pilika... Op.cit. p.48.

³⁹ Ligji Nr. 7895. Kodi Penal I Republike se Shqiperise. Op.cit. Section VI, Krimet Seksuale, Neni 102.

⁴⁰ R. Haarr, Dhuna në familje në Shqipëri: Vrojt看 kombëtar me bazë popullatën 2013. Insituti I Statistikave 2013 p.37-38.

Another form of rape that women experience is trafficking, severely affecting the dignity, fundamental rights, and freedoms of women.⁴¹ Moreover, trafficking is a severe problem at the national level and is increasingly receiving attention and treatment from the international level as long as trafficking is associated with crossing borders and affects more than one country.⁴²

1.1.5. Economic Abuse

Economic violence usually involves controlling a partner's use of money by monitoring the spending or distribution of money to a family member. Economic violence includes the threat of employment maltreatment and economic dependence. Denial of money, or refusal to contribute to basic needs are part of economic abuse. Economic violence is used to control the partner's wages when working outside the home and a comprehensive control of the family budget.⁴³ Women are powerless to make ends meet but must "get permission" for any financial action they take. With the impossibility of having economic independence, women are often forced to create dependence on the partner and not having the power to leave.⁴⁴ One reason why woman stay with an abusive partner is economic dependence. Having no economic income because the partner does not allow them to work, as a consequence, they are unable to afford to live on their own.

1.1.6. Causes of violence

To make progress in taking measures to combat domestic violence, it is crucial to discover the factors that cause it. Developments of programs to prevent the phenomenon by working on the causes of domestic violence will be able to achieve a minimization of the situation. Domestic violence is an issue that affects the whole world and is a very complex phenomenon to study. Domestic violence is multidimensional and does not have one single factor that causes it.⁴⁵ The combination of many factors operating at different levels reinforces gender-based discriminatory attitudes that contribute to domestic violence. Not having a balance in power-

⁴¹ I. Agoli, A. Bruci. Government Responses to the Survivors of Trafficking in Human Beings: A Study of Albania. – 13. World Academy of Science, Engineering and Technology International Journal of Law and Political Sciences 2019, p. 489-499.

⁴² Ibid, p. 490-492.

⁴³ R. Haarr, D. Ibrahimaj, B. Metaj, Op.cit. p.74-75.

⁴⁴ L. Howard, G. Feder, R. Davies. Domestic Violence and Mental Health. The Royal College of Psychiatrist 2013. p.9.7

⁴⁵ M. Luljeta, Op.cit. p. 144.

sharing creates chaos where the consequences can be destructive.⁴⁶ Abuse of women lies behind cultural, individual, social, family, material, and many other factors. Furthermore, In Albania, one of the main problems is seeing domestic violence levels that require attention and commitment to preventing it.

Gender-based domestic violence is one of the most severe types of human rights violations in the country. Victims of gender-based domestic violence can be any girl or woman regardless of education level, age, or profession. Domestic violence in Albania results from strong patriarchal traditions where male dominance has remained for a long time in history, where the role of women has been to accept the role of subordinate.⁴⁷

These habits and traditions inherited from the past have led many elements of society to be resistant to recent changes and hold the same attitudes.⁴⁸ The Kanun of Lek Dukagjini, being applicable for years, has made it even more difficult to eradicate these traditions and continue to having discrimination against women in the family. The most affected part of the Albanian population by this tradition is North of Albania. Considering that, for many years in Albania, talking about domestic violence has been "shameful." Many women do not express themselves when they experience violence. The deep roots of the patriarchal tradition are challenging to fade, and this is one of the main problems that this phenomenon is widespread in Albania.⁴⁹ In Northern Albania, the cases of reporting are less than in other regions. The lack of cases is not happening because there is no violence, or in that region is less violence, but because the victims of violence come from the area where these traditions are more dominant than other parts of Albania. Causes that affect domestic violence are low levels of economic and social development. Another reason is the lack of a democratic culture of tolerance. Having a lack of tolerance in the family leads to a lack of understanding of the parties and, consequently, can lead to violence. In Albania, domestic violence is conceived as something very private, and that

⁴⁶ M. Luljeta, Op.cit. p.144.

⁴⁷ R. Phillips, E. Bruch. Domestic Violence in Albania. United States of America. Minnesota Advocates for Human Rights 1996. P.10.

⁴⁸ M.A. Scott, E. Bell, J. Holden. Note: Shifting Social Norms to Tackle Violence Against Women and Girls (VAWG). DFID Guidance Note. London, VAWG Help Desk, 2016. p.17.

⁴⁹ M. Luljeta, Op.cit. p.147.

the only solution is within the doors of the house. Moreover, being considered as a very private problem has brought to the difficulty of denouncing this violence.⁵⁰

It is regretful that sexual violence is still considered a "shame" for women in Albania. They often become guilty after being raped. This fact has sometimes led abused women to have a forced marriage with the abuser to "establish honor in the family." The backward mentality is destructive to the raped and abused woman in every way. It is traumatic for the woman to live with the person who abused her. Living with the abuser will affect the children that grow up in this family where everything started through sexual abuse, and the father is an abuser. Children coming from such a family will have consequences that will affect their personality in the future. Various personality traits, including past childhood traits that partners bring into a relationship, can be factors that can increase or decrease the potential for violence. In addition to traditional factors, social factors are another factor of individual attitudes and behaviors of an individual in a relationship.⁵¹ In different social environments where opinions are that "violence is a problem that only affects women with certain personalities" or where "violence is a problem belonging to the poor," this phenomenon becomes more challenging to understand. Domestic violence affects every social stratum regardless of wealth and education. Moreover, material factors influence the spread of domestic violence. The inability of women to be economically independent or poverty in the family plays a significant role, but this does not mean that only material factors are the sole cause of this violence. The combination of different factors also determines the likelihood of abuse. When we talk about the factors of domestic violence, the use of alcoholic beverages should also be mentioned. Alcohol, however, is not a factor of domestic violence, but it is an excuse used by the partner to be violent. The use of alcoholic beverages does not make them violent, but it can affect the severity of the violence. Domestic violence is about dominance in a relationship and not about losing control because of alcohol. According to INSTAT statistics, more than 50% of respondents confirmed that their spouse or intimate partner consumed alcohol. Alcohol use and domestic violence are complex combinations.⁵²

⁵⁰ M.A. Scott, E. Bell, J. Holden. Op. cit. p.7.

⁵¹ M.A. Scott, E. Bell, J. Holden. Op. cit. p.7.

⁵² R. Haarr, D. Ibrahimaj, B. Metaj. Op.cit. p.96.

Jealousy also plays a role in relationships. In recent years, many murders have occurred as a result of jealousy. As mentioned above, having a closed mentality where the woman is considered property, every action or inaction of women translates into jealousy. Although there have been changes in the perception of domestic violence by the Albanian population, different stereotypes with backward mentalities continue to exist.⁵³

In Albania, in 1997, there was a collapse of permanent financial schemes. Many Albanians lost all their savings, and this resulted in mass demonstrations against the government. The country was in chaos. At the same time, small arms were seized from army depots. The number of weapons seized was relatively large. Although there were programs for their collection, it is thought that 200,000 weapons are still in the hands of citizens, being a factor for crimes of domestic violence.⁵⁴

1.2. Consequences of Domestic Violence

Domestic violence is a problem that has dire consequences in society, with severe consequences for the health of those affected. Individuals affected by domestic violence face many significant challenges to recover and adapt to society.⁵⁵ The effects of domestic violence are mainly continuous and affect mental, emotional, and physical health. The pain of the victims in the experiences of violence is paramount, and if the violence continues for a long time, the consequent time and recovery will be plodding.⁵⁶ The effects of domestic violence are not the same in every individual. Furthermore, they vary in many factors, such as the severity of the abuse and the stress level caused by the trauma. Violence can also be seen in terms of avoiding further victimization.⁵⁷ The abused person is likely to lose faith in justice and see violence as a means of escape from being abused.⁵⁸ According to a study, women who experience violence in the past are believed to be more likely to use violence as a means of self-defense against threats than individuals who have never experienced violence.⁵⁹ The consequences of violence can directly or indirectly affect a woman, leading to psychological distress and, sometimes even

⁵³ L. Imeraj. Dhuna.Burimi, Kuptimi, Parandalimi. Naimi. 2017. p.301-307.

⁵⁴ P. Holtom, H. Smith, B. Mariani... Report: Turning the page: Small arms and light weapons in Albania, Saferworld 2005. p.5-24.

⁵⁵ A. Mandro. E Drejta Familjare Familja: Fëmijët, Martesa dhe Bashkëshortët. EMAL. Tirane 2009. p.153.

⁵⁶ A. Mandro, A. Fullani, T. Zaka... E drejta familjare, Kristalina KH, botimi i parë, Tiranë 2006. p.264.

⁵⁷ B. Kennedy. Domestic Violence A.K.A Intimate Partner Violence. New York 2007. p.7.

⁵⁸ P. Kernsmith. Gender Differences in the Impact of Family of Origin Violence on Perpetrators of Domestic Violence. -21 Journal of Family Violence, 2006. p.164.

⁵⁹ Ibid, p.165.

worse, fatal life decisions. In addition, the health consequences of physical abuse range from fractures, injuries caused by high-risk objects to irreversible spinal cord injuries. Psychological problems of domestic violence often create depression, loss of self-esteem, panic attacks leaving victims with severe post-traumatic stress disorder.⁶⁰ Violence from an abusive partner also brings about reproductive health problems causing unwanted pregnancies as well as sexually transmitted diseases. In Albania, in rural areas, abused women are at greater risk of suffering permanent injuries or loss of life because health services and emergencies in many cases are not immediately available. Abused women prefer to suffer in silence, not being able to benefit from health services.⁶¹

The perpetrators of domestic violence are generally men, but the tendency of women to kill their husbands has also increased. Frequent experiences of partner violence have led to this phenomenon involving both crime perpetrators and women.⁶² A 2004 study of women in prison of women in Albania, found that most convicts committed partner murder. In most cases the perpetrators of these crimes were due to the consequences of strong psychological shock from domestic violence perpetrated by the partner.⁶³ Article 82 of the Penal Code provides for the crime of "murder committed in a state of severe psychological shock."⁶⁴ This article has had various interpretations in judicial practice decisions. For this article to be applied in court, it must be proven that there have been many strong shocks of the individual, and it must be proven that the murder was committed at the moment of experiencing solid psychological shocks. This article has been used in some cases when the perpetrators are systematic violence caused by the partner. Systematic ill-treatment and violence committed at the time of the performance of the criminal offense, cause in some cases, that murders to be committed by women. The Criminal College of the High Court, in a decision, has stated that there must be adequate evidence to prove the psychological, emotional state and the consequences that have come from external

⁶⁰ M. Flury, E. Nyberg, Anita. Rössler. Domestic Violence Against Women: Definitions, Epidemiology, Risk Factors and Consequence. Swiss Med Wkly. 02.09.2010. p.4.

⁶¹ A. Balili, D. Doracaj, I. Nasufi. Report Healthcare Field - Case of Albania. Submitted to the United Nation's Committee on the Convention on the Elimination of All Forms of Discrimination Against Women. Albanian Center for Population and Development (ACPD). Tirane 2016. p.40.

⁶² P. Kazazi. Femrat si subjekte të veprave penale sipas legjislacionit shqiptar dhe riintegrimi i tyre në shoqëri. 2017. p.7-8.

https://www.academia.edu/35631176/Femrat_si_subjekte_t%C3%AB_veprave_penale_sipas_legjislacionitshqiptar_dhe_riintegrimi_i_tyre_n%C3%AB_shoq%C3%ABri_docx

⁶³ Dhuna kundër grave në familje: "Nuk është turpi i saj", Amnesty International. London, United Kingdom. 11.02 2006. p.42-43. <https://www.amnesty.org/en/documents/eur11/002/2006/sq/>

⁶⁴ Ligji Nr.7895 Kodi Penal I Republike se Shqiperise. Op.cit. Kreu II, Seksioni I, Neni 82.

actions that cause loss of control.⁶⁵ The case below reflects that systematic maltreatment causes aggravated emotional state. The use of violence is a motivating factor which pushes to commit the crime of murder.

D.K was convicted of killing her husband under Article 76 of the Criminal Code for "intentional homicide". D.K.'s lawyer requested that according to Article 82 of the Criminal Code, charges be filed in connection with D.K.'s aggravated psychological condition. Witnesses of D.K.'s continued violence were her children and sister-in-law. As a result of failure to present evidence, D.K was convicted under Article 76 of "intentional homicide". The court reasoned that the crime was not committed due to the violent attack. D.K had waited for several hours for her husband to return home, where she later committed the murder. The court considered that the commission of the crime occurred due to violent actions from repeated insults and accusations. It should be noted that the husband was a police officer. Given this fact, phone calls made by the woman to report the violence were frequent but unanswered due to the husband's position.⁶⁶

The loss of the victim's trust in police institutions is another factor that leads to the criminal offense of murder. As the victim has not found protection from state institutions and the aggravated mental condition due to constant domestic violence, it leads to the loss of control of the victim. The application of law 82 of the Criminal Code should expand the interpretations made by the judicial bodies.

1.3. Albanian Legislation prevention of domestic violence

Fundamental rights and freedoms are protected in the Constitution of the Republic of Albania, which is the supreme law. The Constitution provides protection and sanctions perpetrators of violence. Albanian legislation contains provisions to protect violence against women and domestic violence and enables the protection of victims of violence.⁶⁷

⁶⁵Vendim Nr.375. Kolegji Penal i Gjykatës së Lartë. 01.06.2005.

⁶⁶ Vendimi Nr. 72. Gjykata e Rrethit të Lezhës, 07.06.2004.

⁶⁷ Ligji Nr. 8417. Kushtetuta e Republikës së Shqipërisë. Kreu III. Neni 25.

Family Code in Article 62 provides for sanctions for perpetrators of domestic violence and gives them the right to appeal to a court for a protection order. Provides legal equality between spouses by offering a special protection to family life.⁶⁸

Law no. 9669, dated 18.12.2006 (amended) "On Measures against Domestic Violence" offers first-time specific protection for domestic violence. In 2004, talks began between institutions and NGOs to draft a law on domestic violence supporting article 62 of the Family Code. This bill started with the initiative of NGOs and 20,000 Albanian citizens in order to prevent domestic violence. Law no. 9669 is the first and only law in Albania that has come from citizens' initiative. The bill was introduced in parliament in 2006 and was approved by a majority of votes.⁶⁹ Law no.9669 provides for two crucial legal remedies for the protection of family members from violence.⁷⁰ As provided in Article 62 of the Family Code, law no. 9669 provides more specific legal protection through the protection order (articles 10-17) and the immediate protection order (articles 18-20).⁷¹ The adoption of law no.9669 was in line with the recommendations given by the CEDAW Committee, which were addressed to Albania to have a specific law on the prevention of domestic violence.⁷² Albania has ratified CEDAW as a response to combat the phenomenon of violence against women which was a large-scale social problem. Law No. 9669 provides for the establishment and cooperation of institutions responsible for the protection and rehabilitation of domestic violence. Strengthening the courts is one of the objectives set by this law. The service from the social centers should be accessible, free of charge and it should be fast in order to provide the victims of domestic violence with timely support.

The Penal Code is in accordance with the Constitution of Albania, and sanctions domestic violence by providing for imprisonment of 2 to 5 years.⁷³ Article 130 / a (amended) provides sanctions for domestic violence and increases the sentence for spouse/ex-spouse, partner/ex-partner, and other family members. It also provides for penalties if these offenses are repeated,

⁶⁸ Ligji Nr.9062. Kodi I Familjes. 08.5.2003. Ndryshuar 05.12.2015. Titulli II. Kreu I. Neni 62.

⁶⁹ Amnesty International. Op.cit. p.3-5

⁷⁰ Ligji Nr. 9669. Kuvendi I Kushtetutes se Shqiperise. Op.cit. Neni. 10-17.

⁷¹ Ligji Nr. 9669. Kuvendi I Kushtetutes se Shqiperise. Op.cit. Neni.18-20.

⁷² Ch. Kapalata, Draft Report. Committee on the Elimination of Discrimination against Women Twenty-eighth session 13. Consideration of reports of States parties. Albania. 31.01 2003. p1-2.
<https://www.un.org/womenwatch/daw/cedaw/cedaw28/ConComAlbania.PDF>

⁷³ Ligji Nr.7895. Kodi Penal I Republike se Shqiperise. Op.cit. Seksioni IX. Neni 130/a.

increasing sanctions by up to 5 years. In defense of victims of violence is provided as a criminal offense and harassment of the person continues to cause fear.⁷⁴ The second paragraph of Article 321 provides for sanctions when the individual commits actions contrary to the protection order issued by the court. For committing actions contrary to the court decision, the penalty is up to 2 years. This law provides protection from the state for women who are victims of domestic violence on an ongoing basis, even though they have a protection order.⁷⁵ With the amendments to the Criminal Code in 2013, committing a violent relationship between spouses or cohabitants is a criminal offense and punishable by law.⁷⁶ Amendments to the Penal Code provide greater protection for victims of domestic violence. Considering domestic violence as a criminal offense enables women to be protected by law when these abuses occur. Legislation is the one that protects individuals, being the most potent and most specific legislation, the greater the protection by the responsible bodies.

⁷⁴ Ligji Nr.7895. Kodi Penal I Republike se Shqiperise. Op.cit. SeksioniI VIII. Neni 121/a.

⁷⁵ Ligji Nr.7895. Kodi Penal I Republike se Shqiperise. Op.cit. Kreu IX. Neni 321.

⁷⁶ Ligji Nr.7895. Kodi Penal I Republike se Shqiperise. Op.cit. Seksioni VI. Neni 102.

2. ROLE OF THE ALBANIAN STATE IN PREVENTING DOMESTIC VIOLENCE

Domestic violence against women is a phenomenon that in Albania requires taking concrete measures by the governing bodies. The state mechanism is at the center of the actions carried out by the state of Albania. Improving state mechanisms helps prevent domestic violence against women. Awareness of employees of institutions responsible for the prevention of violence and civil society is a crucial factor in improving domestic violence. Awareness activities reduce the customary attitudes of society. Prevention requires the development of educational programs in schools and universities, and state actors to equip them with knowledge of structures. Cooperation between responsible state institutions at central and local levels, government organizations, NGOs, and international collaborators is essential because it helps develop the fight against the phenomenon. Changing legislation over the years has brought advantages in terms of victim protection. However, even though the legal framework criminalizes domestic violence, implementation is complex because it involves many actors. Access to victims of violence in justice institutions is challenging. Social service workers need to be trained to provide the service at the right time and in the right way. Professional ability is essential to provide support to victims of violence. Changes in legislation should inform the competent authorities and provide training to provide them with specific knowledge to enhance their performance. In order to improve the situation of domestic violence and violence against women Albania implemented National Strategies.

2.1 National Strategy for Gender Equality and Against Domestic Violence 2007-2010

The Ministry of Labor Social Affairs and Equal Opportunities has drafted the National Strategy for Gender Equality and Against Domestic Violence and the Action Plan for the 2007-2010 period. The National Strategy 2007-2010 was drafted in July 2006 and approved in December 2007 to address gender-based violence and domestic violence.⁷⁷ With the approval of this National Strategy, the Albanian state has made one of the initial achievements to improve the situation in the country. This political commitment taken by the Albanian government guarantees the principle of gender equality and aims to meet international standards. In the implementation of the National Strategy 2007-2010, the ministries responsible for achieving

⁷⁷ Ministria e Punës, Çështjeve Sociale dhe Shanseve të Barabarta. Strategjia Kombëtare për Barazim Gjinor dhe Kunder Dhunës në Familje 2007-2010. miratuar me Vendim të Këshillit të Ministrave Nr.913. 19.12.2007, Pegi, Tiranë. Shqiperi 2008. p.6.

the objectives of this plan relating to domestic violence are committed to fulfilling their obligations.⁷⁸ Through gender-based integration in public policymaking, the strategy aimed to reduce gender differences and strengthen the prevention and protection of victims of domestic violence. The National Strategy has been monitored, and the report "Implementation of the National Strategy for Gender Equality and Domestic Violence" 2007-2010 has been issued to evaluate the implementation of this strategy.⁷⁹ This report identifies the problems that remain challenging for Albania. The National Strategy 2007-2010 has made some progress in improving the institutional mechanisms.⁸⁰ The strategy is realized by a long process designed by the cooperation of many representatives of different institutions at the central and local level, by various experts in the field and representatives of civil society.⁸¹

In reviewing this strategy, the cooperation has been even more remarkable. MSA has headed, including NGOs, representatives of political parties, academics, and international partners. National groups were set up in cooperation with the United Nations to collect and monitor domestic violence and gender equality situations. This collaboration created a particular group of "Gender Indicators" to collect data on violence against women. In 2010, a Guideline was issued by the Minister regarding the definition of indicators on monitoring domestic violence.⁸² This guideline, was made to process and collect these indicators. The role of state mechanisms to prevent violence against women and domestic violence is of significant importance. Prevention of violence requires the participation of the state to undertake educational actions for the recognition of structures. Another vital element for state authorities is the sharing of best practices, which serve to be based on policy-making and changes in legislation. The National Strategy 2007-2010 predicts actions to mitigate these attitudes and includes raising awareness of abusive behavior towards women. It is important to note that the strategy provides features to protect victims who have survived the violence. Another aspect mentioned in this strategy is the easing of housing conditions in the long term.⁸³ The National Strategy 2007-2010 had envisaged institutions responsible for taking measures to prevent violence against women. In

⁷⁸ Ibid. p.6.

⁷⁹ Raport. Zbatimi I Strategjise Kombetare te Barazise Gjimore dhe Dhunes ne Familje 2007-2010 si dhe Ligjit "Per Masa Ndaj Dhunes ne Marredheniet Familjare. Fondacioni I Shoqerise Se Hapurt Per Shqiperine. Tiranë, 2010. p.4.

⁸⁰ Ibid. p.4.

⁸¹ Ministria e Punes, Çeshtjeve Sociale dhe Shanseve te Barabarta. Op.cit. p.45.

⁸² Ministria e Punes, Çeshtjeve Sociale dhe Shanseve te Barabarta. Op.cit. p. 101.

⁸³ Ministria e Punes, Çeshtjeve Sociale dhe Shanseve te Barabarta. Op.cit. p. 51.

the monitoring report, these institutions are evaluated for their performance and effectiveness in violence cases. Referral cases of violence have been carried out in several different municipalities of Albania through a coordination mechanism made by these institutions. In addition, to reduce the abusive behavior of perpetrators, the strategy aimed to rehabilitate them.⁸⁴

This strategy aimed to provide for their rehabilitation awareness programs. Awareness of society and perpetrators is essential to prevent domestic violence and violence against women.⁸⁵ Awareness of society not to tolerate violence is another aspect of this National Strategy 2007-2010, which remains one of the main challenges in preventing violence. This National Strategy includes a series of suggestions for changing the legislation of the Code of Criminal Procedure. The stricter punishments for perpetrators of domestic violence criminal offenses have also been submitted to the Criminal Code, but it was not applied.⁸⁶ This National Strategy 2007-2010 has also provided for protection orders and immediate protection orders. In order to provide adequate protection for women who experience domestic violence, the implementation of these orders by judges must be done, but this remains an enormous challenge. Furthermore, the training of judicial officials, staff, and social workers to prevent domestic violence would bring about progress in intervening in the phenomenon.⁸⁷ Collecting accurate statistics on domestic violence and violence against women by analyzing them in detail is a challenge. Based on these initiatives, it is easier to understand the risk of public health that comes from this violence. Another awareness tool is the media. The information disseminated in the media is more accessible by society and occupies an important place in raising public awareness of violence against women.⁸⁸

2.1.1 Obstacles of National Strategy 2007-2010

The National Strategy 2007-2010 has had challenges in preventing domestic violence and violence against women. As it was the first Strategy and there have been no previous practices

⁸⁴ Ministria e Punes, Çeshtjeve Sociale dhe Shanseve te Barabarta. Op.cit. p.89.

⁸⁵ Ministria e Punes, Çeshtjeve Sociale dhe Shanseve te Barabarta. Op.cit. p.26-27.

⁸⁶ Ministria e Punes, Çeshtjeve Sociale dhe Shanseve te Barabarta. Op.cit. p.29.

⁸⁷ A. Aliaj, Preventing and Combating Violence Against Women and Domestic Violence in Albania. University of Bergamo, Italy, 2014, p. 15.

https://www.academia.edu/34899910/Preventing_and_combating_violence_against_women_and_domestic_violence_in_Albania

⁸⁸ Ibid, p. 14-15.

for domestic violence, there have been challenges in its implementation. The evaluation of the National Strategy 2007-2010 has shown that this Strategy's effectiveness has been limited. The Albanian government, being in charge, has shown commitment to implement and cooperate with organizations and members of civil society. The National Strategy 2007-2010 was complex because it required the cooperation of many different sectors required a greater mutual understanding. There have been gaps in the implementation of the Strategy regarding the staff who support the interventions. The staff has been insufficient to fully implement this Strategy. An Action Plan was envisaged to enable the administration of results. Administrative resources were lacking to provide effective intervention. There have been few initiatives taken to organize programs. This Strategy has specified the measures to be taken to prevent this phenomenon but has nevertheless remained within a project and has not made progress in designing other programs.⁸⁹ In addition, the Austrian Development Agency was the donor that has brought initiatives for programs such as "Equality for Governance". In the absence of these programs, even the developments and the results obtained will not be in the right level.

This strategy was satisfactorily foreseen, but problems arose from the unpredictability of the financial aspect.⁹⁰ As a result, the strategy has depended solely on donors. Addressing the costs of domestic violence has been another stalemate. The lack of dialogue has been the reason that the quotas for encouraging the prevention of domestic violence have not been addressed.⁹¹ Monitoring annual reports have been part of the monitoring process of the National Strategy 2007-2010 to enable evaluation. In these reports the indicators have not been evident and have brought difficulties in accurately evaluating the strategy. The support of the responsible institutions is a facilitator in the access of women to domestic violence. The need for coordination by Ministries, courts and the state police, is essential to improve the rigorous implementation of the prevention of domestic violence. The Strategy had many aims but just few of them were achieved due to lack of cooperation between the institutions. One of the main goals of the strategy was to promote a society that does not tolerate violence against women

⁸⁹ Raport, Zbatimi I Strategjise Kombetare te Barazise Gjinore dhe Dhunes ne Familje 2007-2010 si dhe Ligjit "Per Masa Ndaj Dhunes ne Marredheniet Familjare. Op.cit. p.13.

⁹⁰ Ministria e Punes, Çeshtjeve Sociale dhe Shanseve te Barabarta. Op.cit. p. 61-64.

⁹¹ Raport, Zbatimi I Strategjise Kombetare te Barazise Gjinore dhe Dhunes ne Familje 2007-2010 si dhe Ligjit "Per Masa Ndaj Dhunes ne Marredheniet Familjare. Op.cit. p.14.

and domestic violence in all areas of life such as social, economic and many more.⁹² For achieving this goal, the state implemented another strategy.

2.2 National Strategy 2011-2015

The National Strategy for Gender Equality and the Reduction of Gender-Based Violence and Domestic Violence 2011-2015 was a continuation of the National Strategy 2007-2010. One of the National Strategy 2011-2015 goals was to strengthen the legal and institutional mechanisms that provide greater protection for violence against women and domestic violence. Furthermore, another goal was the economic empowerment of women. Knowing that one of the reasons women stay with abusive partners is the economy.⁹³

The One UN program "On Gender Equality in Albania" contributed to the development of this Strategy. The vision of the National Strategy 2011-2015 was the respect for gender equality and support for victims of this violence. In contrast to the National Strategy 2007-2010, this Strategy defined donors and financial costs.

Moreover, another innovation was that it had more concrete measures and clear objectives. Based on the suggestions given by the organizations, this document addressed domestic violence and violence against women inclusively. The National Strategy 2011-2015 based women's economic empowerment on education, health access, and social support to empower them. Moreover, the Strategy aimed to provide social protection through a combination of employment programs to provide economic security.⁹⁴

Lack of access to health services is an influential factor for women's economic empowerment, which was treated as a priority in this National Strategy 2011-2015. Women spending time caring for the family rather than engaging in work that brings economic benefits or caring for themselves is another aspect of the impossibility of economic independence. In difficult situations, women who are affected by domestic violence should be provided with social

⁹² Ministria e Punes, Çeshtjeve Sociale dhe Shanseve te Barabarta. Op.cit. p.105.

⁹³ A. Orgocka, M. Dhamo, E. Danaj, Strategjia Kombetare per Barazine Gjinore dhe Reduktimin e Dhunes me Baze Gjinore dhe Dhunes ne Familje, Republika E shqiperise, Ministria e Punes, Ceshtjeve Sociale dhe Shanseve te Barabarta, 2011-2015 Miratuar me VKM Nr.573, 16.06.2011. p.75-77.

⁹⁴ Ibid, P. 72-73

protection to fulfill their economic rights. What is emphasized in this Strategy is that women's economic empowerment improves their role in the family, which is achieved through improved access to economic resources. Employment programs enable women to access the labor market and give them economic independence.⁹⁵

Evaluations from the National Strategy 2007-2010 showed that this Strategy was more focused on the products that should bring and not on the relatively significant consequences. Moreover, this made monitoring of this Strategy unsuccessful and impossible. The National Strategy 2011-2015 was focused on monitoring on a case-by-case basis. Every area that has been given priority in this Strategy has been linked to the consequences.⁹⁶ The National Strategy 2011-2015 aimed at the duration to be sustainable. Furthermore, this strategy aimed to serve society to reduce violence against women and domestic violence and make society aware of supporting women not to tolerate violence.⁹⁷

Institutional Mechanisms were responsible for the implementation of policies outlined in this Strategy.⁹⁸ Cooperation with various structures at a central and local level is essential to improve the structures of state mechanization. Effectiveness is also based on the cooperation of responsible institutions at the governmental level to support the programs provided in this Strategy. This Strategy also aimed to changing the legislation on property issues in cases of divorce. It also addressed adjustments to the legal status of women concerning the property. As a result of implementation of these legislative. changes, women would gain financial benefits and be empowered not to depend on the partner.⁹⁹

Strategy 2011-2015 involved the State Police in preventing domestic violence. Furthermore, it envisages increasing the capacity of judges to deal with sensitive cases of domestic violence. This policy intends for judges to have a greater sensitivity when dealing with domestic violence because sometimes it involves children. Moreover, this policy encourages training and preparation by other actors in the justice system.¹⁰⁰

⁹⁵ Ibid. p.74.

⁹⁶ Ibid. p.74.

⁹⁷ Ibid. p. 76.

⁹⁸ Ibid. p.91-92.

⁹⁹ Ibid. p.95-96.

¹⁰⁰ Ibid. p.99.

The National Strategy 2011-2015 focused on changes and improvements in the Criminal Code to criminalize domestic violence, including the psychological aspect. Moreover, to improve the amendments that focus on marital rape and specify this act as a criminal offense. These changes would bring developments in the prosecution of domestic violence. This policy also addresses the provision of the burden of proof. The burden of proof in cases of domestic violence to be placed on the abuser not the victim.¹⁰¹

2.2.1. Challenges of National Strategy 2011-2015

Domestic violence is an issue for the Albanian state in terms of cost recovery and prevalence in society. From the observations made by Supreme State Audit, there was a lack of professionalism in preparing the material by the local structures. The legal framework lacked protection for victims after referring to violence. Cooperation through the General Directorate of Tirana Region and other structures dealing with domestic violence cases was lacking. In addition, the document revealed that police representatives did not participated in training designed to manage domestic violence cases. Lack of training affected the realization of the goals set by the National Strategy 2011-2015. As a result, cases of domestic violence were not managed successfully.¹⁰² Financial resources did not meet the standards for services provided to victims of domestic violence.

In National Strategy 2011-2015, the quality of these services was not at the appropriate levels, and it has not been possible to provide the services.¹⁰³ According to the audit document, the centers that dealt with domestic violence cases had staff shortages, and work was impossible due to the influx of interested persons. Moreover, these centers were not able to provide the necessary services to the victims. Legal advice was impossible to cover by employees. Moreover, handling cases and the representation of victims could not be done promptly. A free counseling line for victims of domestic violence could not be established. By not achieving

¹⁰¹ Ibid. p.100.

¹⁰² A. Hasanbelliu, M. Kabo, B. Kërçuku... Efektiviteti i Strategjisë Kombëtare për Barazinë Gjinore dhe Reduktimin e Dhunës me Bazë Gjinore dhe Dhunës në Familje 2011-2015. Kontrolli I Lartë I Shtetit. Departamenti I Auditimit të Performances, Tiranë, 2015. p.1.

¹⁰³ Ibid. p.2.

these objectives, victims could not have access to services. The initiatives targeted by the National Strategy 2011-2015 to change the legal framework did not implement.¹⁰⁴

2.3. A comparison of statistics during 2007 - 2015

From various studies conducted in Albania, it is seen that domestic violence is challenging to measure at the level of prevalence because it is considered a family issue. Moreover, in a patriarchal society, many factors affect the low levels of reporting of this phenomenon. According to various studies of INSTAT, factors that affect the low reporting of domestic violence are shame, cultural norms, fear. As a result, various national and international surveys do not always really reflect the prevalence of this phenomenon in the country.¹⁰⁵ In recent years in Albania, the situation has changed. A significant part of the population has shifted the blame for this phenomenon. The concept of domestic violence has shifted by blaming the perpetrator and not the victim. This transition has been challenging and not as complete as might be desired, but significant improvements must be made.¹⁰⁶ Data analysis will start from 2007 to 2013.

Comparing European Union (EU) and Organization for Security and Co-operation in Europe (OSCE) data on gender attitudes to domestic violence shows that women were less likely to report domestic violence when they believe domestic violence is a private matter. Moreover, in countries where awareness of this violence was widespread, reports were higher. INSTAT in 2007 and 2013 has conducted two national surveys for the spread of domestic violence against women. The methodologies used for these two surveys were similar.¹⁰⁷ In surveys conducted in 2013, the age of respondents was from 18 to 55 years old, while in 2007, the age of respondents was 15 to 49 years old. The age of the respondents was not the same. In the 2007 survey, there were 2,590 women. Statistics show that 56% of the respondents had experienced at least one form of domestic violence at least once in their lives.¹⁰⁸ The survey conducted in 2013 showed that more than 50% of respondents had ever experienced domestic violence from

¹⁰⁴ Ibid. p.2.

¹⁰⁵ A. Berzani, E. Osmani,, Raport i Studimit Baze Mbi Dhunen ne Familje dhe Policine e Shtetit Shqipetare. Data Centrum Study Institute. 2012. p. 41.

¹⁰⁶ I. Kola. Politikat e Prokurorisë për Ndjekjen e Rasteve të Dhunës në Familje në Shqipëri: Rasti Studimor per Politikat Amerikane.(s.l) (s.a). http://www.gadc.org.al/media/files/upload/_Artikulli%20Ildize%20Kola.pdf

¹⁰⁷ Domestic Violence in Albania: National survey. The National Institute of Statistics of the Republic of Albania (INSTAT) March 2009. p.25.

¹⁰⁸ OSCE Leadership Survey on Violence Against Women in Albania Women's Welfare and Security. OSCE 2019. p.2.

a husband or intimate partner in their life. In these data, the difference is negligible. Furthermore, it showed that most women in Albania had experienced violence at least once by a husband or intimate partner throughout their lives. The number of victims was considerable and shows that domestic violence against women is widespread in high numbers. In the National survey conducted in 2013, the most widespread violence was psychological violence, where the figures showed that 58% of women had experienced this type of violence throughout their lives. According to this data, 24% of women had experienced physical violence and 8% sexual violence. Compared to 2007 data the survey results the number was increased by 3%.¹⁰⁹ The study showed that the highest concentration of domestic violence experience was among divorced women and women in rural areas. Women who were not employed were also predisposed to experience domestic violence. A significant fact in the surveys conducted was that the level of education was related to domestic violence. Women who were most affected by this phenomenon, their husbands or intimate partners, had low level of education.¹¹⁰ In 2013, only 7% of women who were currently abused sought help. This shows that women are afraid to report and do not find the right support in the responsible bodies. This fact also proves that the National Strategies did not improve much the situation.

This phenomenon brings significant and tragic consequences to women, such as the loss of life. Behind the data are hidden many painful stories of women who experience violence from their husbands or intimate partners. The percentage of reports was increased from the data compared to 2007 data but is still low compared to violence cases. Statistics of Department of Police State data in contrast to 2005, in 2012 the number of reporting cases to the police has increased by 26.8 times. In contrast to 2009, where 1217 cases were reported in 2012, 2526 were reported.¹¹¹ The change in women's reporting shows that awareness of this phenomenon has increased over the years. The data show that violence against women has increased in recent years, but for a country like Albania, where reporting domestic violence is considered a private matter, these data show that culture is changing, and women are empowered to express injustices. There was no accurate data on reports of violence against women in the past, and there were no national

¹⁰⁹ Canada: Immigration and Refugee Board of Canada, Albania: Domestic Violence, Including Legislation, State Protection, and Services Available to Victims; Access to Employment and Housing for Victims (2008-August 2011), 6.10.2011. <https://www.refworld.org/docid/4f5f216a2.html>

¹¹⁰ Ibid.

¹¹¹ E.Zenelaj, A. Prifti. Psycho-social, Criminological and Legal Aspects of Domestic Violence in Albania. Journal of Law. -12 Journal of Law, Policy and Globalization 2013.p.21-22.

surveys to understand how profound this violence is in Albanian society. The domestic violence as a rule, is directed against women. In the report made by the General Directorate of Police from 2009 to 2011, 81% of the cases reported in domestic violence reported the victim was woman.¹¹²

2.4. Judgments of the Courts for restricted orders

National Strategies aimed to change the legislation in order to protect domestic violence victims. The protection order has been a tool to provide the victim with more protection measures. According to article 10 of law no. 9669, dated 18.12.2006 (amended 2010) "On measures against domestic violence," the court has provided emergency measures to oblige the perpetrator to stay away from the victim. Subsequently, the legislation had been further enriched by introducing new elements to detain the perpetrator. The diversity of protection measures has included many innovations starting from the fact that regardless of who owns the property, it prevents the perpetrator from entering the property for a certain period. The purpose of taking these measures for the perpetrator was to protect the victims and eradicate stereotypes. After the changes in law no.9669, reported cases of abusive situations increased. The changes appeared in the sense of identification of abusive situations. Changes in the number of reported cases of abused women were increased. Women have been the victims of most abuses and have sought protection from the responsible authorities.¹¹³

According to statistics obtained in 2012 by the Tirana Court, 643 protection orders were issued. In comparison with previous years, the number of protection orders was increased. However, protection orders issued by the court have not been prominent in numbers.¹¹⁴ Statistics reveal that 155 applications of protection orders were approved, and the vast majority of applications were withdrawn or failed because the applicants withdrew or did not appear in court. Withdrawal of applications from applicants was one of the biggest obstacles that the protection of women does not occur. As a result, perpetrators of domestic violence continue to roam free.

¹¹² A. Berzani, E. Osmani. Op.cit. p.53-56.

¹¹³ A. Bozo. Domestic Violence, Institutional Response and challenges in Addressing Domestic Violence in Albania. - 6 Mediterranean Journal of Social Sciences, MCSER Publishing, Rome-Italy, January 2015. p.453.

¹¹⁴ A. Mandro, A Bozo, A. Anastasi, Report on Knowledge and Implementation of the Gender Equality Standarts in Court Decisions. Report on the main findings from monitoring of the judicial practice in Tirana, Durrësi, Shkodra and Vlora District Courts January 1, 2011- June 1, 2012. Center for Legal Civic Initiatives.Tirana 2013. p. 52-53.

Amnesty International has repeatedly insisted that the Albanian authorities investigate further the factors that influence the withdrawal of claims. Factors that influence the withdrawal of these claims were usually fear of the abuser, lack of economic independence, pressure and lack of family support, and inability to have legal advice. However, in 2013, the Albanian Parliament adopted amendments to the Law on "Legal Aid," which included free legal aid for victims of domestic violence. In accordance, one of the factors for withdrawing the demand was economic independence. The changes in the Law No. 9669 give more opportunities to the applicants to have legal advice. According to statistics, more women have sought free legal aid after the changes in the Law. As stated by Amnesty International, it is worrying how the protection mechanisms work. The mechanisms for enforcing protection orders issued by the Courts were not at the appropriate level. The perpetrators of domestic violence have had cases of disobeying protection orders and attacking the victim again. Furthermore, this shows that the sanctions provided for the perpetrators of the crime are not applied continuously. Albanian authorities in recent years have implemented a policy which is "the policy of not withdrawing the case". This policy is one of the most positive initiatives taken by the Albanian government not to withdraw requests. In this context, the state in domestic violence cases does not allow the case to be withdrawn if the victim does not appear in court.¹¹⁵

The state assumes the representation of the victim (the role of the accuser) at the moment when a request for a protection order is made. This policy assists the victim in pursuing the case against their abusers. Pressure on the applicant, being one of the main factors in withdrawing the case will diminish during the trial. The withdrawal of the accusation will not have an impact on the withdrawal of the case due to the pressure exerted by the abuser or his family members. The law specifies that when the woman makes the request, it is compulsory for her to be present as she is considered a witness.¹¹⁶

Despite changes in the law, according to the General Department of Police, cases of protection orders had been considerable. There was an increase in protection orders. In 2012, 119 protection orders have been violated, while in 2013, 138 have been violated. According to these

¹¹⁵ A. Corsilles. No-Drop Policies in the Prosecution of Domestic Violence Cases: Guarantee To Action or Dangerous Solution? – 63 L. Fordham. 1994. p.856.

¹¹⁶ R. Haarr, D. Ibrahimaj, B. Metaj. Op.cit. p.30.

data, it is reflected that the responsible authorities should strengthen the mechanisms for the implementation of protection orders.¹¹⁷

The Bailiff's Office, the Social Services Offices and the police as responsible authorities need to strengthen their role. The coordination of these authorities for the implementation of the protection order was weak.¹¹⁸ Their role in different municipalities and communes in Albania was unclear. It means that implementation was not at the right level, and there was no advanced approach for domestic violence victims. According to statistics by the Police Department, although awareness has increased, it turns out that the population and the responsible authorities treat domestic violence as a private matter. The reflection of the weak cooperation of the responsible authorities was seen in the cases of terminated court decisions in the orders of protection of domestic violence. A positive innovation made in the legislation has been the possibility for the victim to be represented by the state in court hearings and free legal aid.

2.5. Ratification of Istanbul Convention

The Council of Europe Convention on Preventing and Combating Violence against Women and the Domestic Violence Treaty known as the "Istanbul Convention" is a legally binding instrument for violence against women. This Convention, with its great importance for violence against women and domestic violence, condemns all forms of violence against women and has been used as a point of reference by many member states who have ratified it.¹¹⁹ The Istanbul Convention was ratified by 32 countries. The Convention entered into force on 1 August 2014. The purpose of this Convention is to eliminate all forms of violence against women due to the fact that they are female. Gender-based violence is understood as a form of violence against women and is considered a violation of human rights. One of the main purposes of this treaty is the elimination of all forms of gender-based violence and the protection of victims by perpetrators.¹²⁰ The states parties to this treaty are obliged to address all forms of violence

¹¹⁷ A. Berzani, E. Osmani. Op.cit. p.25-27.

¹¹⁸ A. Bozo. Op.cit. p.453.

¹¹⁹ S. Vido. The ratification of the Council of Europe Istanbul Convention by the EU: A step forward in the protection of women from Violence in the European legal system, April 2017, https://www.researchgate.net/publication/323475461_The_ratification_of_the_Council_of_Europe_Istanbul_Convention_by_the_EU_A_step_forward_in_the_protection_of_women_from_Violence_in_the_European_legal_system p.71-72.

¹²⁰ Council of Europe. Convention on preventing and combating violence against women and domestic violence, Council of Europe Treaty Series no.210, 11.V.2011, ratified in 01/08/2014, Istanbul, Turkey.

against women.¹²¹ The Istanbul Convention is a very important tool for increasing freedom and security for citizens. Furthermore, it applies to all victims of violence regardless of gender and specifically pays special attention to gender-based violence, which is women. The Convention has a legal framework with a series of measures that include raising awareness, criminalizing certain forms of violence, and legal action to punish violence. Preventing violence against women is crucial because it prevents abuse and enables women to enjoy their rights and freedoms. Moreover, the Convention sets the standards that a country must follow to eliminate the gender inequality that has always existed.¹²² It is important to note that the Convention was intended to dissect gender roles considered appropriate by a particular society. Moreover, are also examined understandings of individuals for the notion of domestic violence. Emphasis has been placed on expanding the "economic damage" of psychological violence. The Convention contains comprehensive provisions with measures that states must consider to prevent domestic violence and punish perpetrators of criminal offenses. Moreover, it points out the fact that violence against women comes as a result of gender inequality and a low tolerance due to culture.¹²³

The Istanbul Convention is the first international instrument that defines gender by bringing to attention the existence of a social context for defining roles and behaviors. Furthermore, this treaty calls for a change in the behaviors and stereotypes that lead to domestic violence against women.¹²⁴ It is important to note that this Convention has clearly stated that domestic violence is an issue that states should address constructively and not be considered a private matter. Moreover, domestic violence against women is considered a criminal offense, and anyone who abuses should be brought to justice.¹²⁵

For the first time, various forms of violence are included, such as physical, psychological, economic violence, sexual harassment, female genital mutilation, sterilization, and forced

¹²¹ Ibid. Art. 1.

¹²² B. Vos, The Intent and Importance of the Istanbul Convention, 11.09.2020, Geneva, <https://www.soroptimistinternational.org/the-intent-and-importance-of-the-istanbul-convention/>

¹²³ N. Meurens, H. D'souza, S.Mohamed...Tackling violence against women and domestic violence in Europe, The added value of the Istanbul Convention and remaining challenges, European Union 2020. p.28.

¹²⁴ Briefing Paper Benefits and Challenges the CSSP Platform has faced in the Process of Implementing and Monitoring the Istanbul Convention, European Union. p.4-7. <https://www.wave-network.org/wp-content/uploads/CSSPBriefing-paper-FINAL.pdf>

¹²⁵ Ibid. 4-7.

abortion. Articles 33 and 35-39 criminalize various forms of violence and require parties to consider them as criminal offenses in their legislation. With the ratification and acceptance of the Convention, States Parties have certain obligations to amend domestic law in order to prevent domestic violence against women.¹²⁶ Standards are also provided specifying the types of services to support victim empowerment. The Convention requires states to coordinate all relevant institutions and services in cooperation with NGOs. All institutions, including NGOs, must comply with the Istanbul Convention.¹²⁷ Monitoring of the implementation of the Istanbul Convention is carried out by the Expert Group on Measures against Violence against Women and Domestic Violence. GREVIO is an independent group of experts who monitor the legal obligations of the governments.¹²⁸ The Istanbul Convention has enabled the improvement of many legislations, such as the Albanian one, where it has harmonized the internal laws with those of the Convention to address domestic violence.

The Istanbul Convention has been ratified and signed by Albania. It was signed in 2011 and ratified in 2013. The Istanbul Convention entered into force in Albania in 2014. It should be mentioned that Albania was one of the first countries to sign this Convention. By ratifying the Istanbul Convention, the Albanian state has changed and improved the legislation on domestic violence and violence against women. Legislation has been significantly improved by creating more sustainable criminal and civil legislation to address domestic violence. Albania, even though it has changed the legislation on domestic violence, reports are low. Statistics show that the number of reports is still low compared to cases reported in crime offices.¹²⁹ The Istanbul Convention has been ratified without any reservation by Albania. GREVIO has published the first report for the Albanian state in 2017. It should be noted that Albania has approved all recommendations from GREVIO and the Committee of the Parties. The report covers the entire Istanbul Convention assessing the compatibility of Albanian legislation and practices in each

¹²⁶ Ibid. 4-7.

¹²⁷ Briefing Paper Benefits and Challenges the CSSP Platform has faced in the Process of Implementing and Monitoring the Istanbul Convention, European Union. <https://www.wave-network.org/wp-content/uploads/CSSPBriefing-paper-FINAL.pdf>

¹²⁸ Udhezues I Edukimit Ligjor Per Organizatat e Shoqerise Civile Per Mbrojtjen e Grave Kunder Dhunes se Bazuar ne Gjini dhe Dhunes ne Familje, Prishtinë. 2018. p 25-28.
<https://womensnetwork.org/wp-content/uploads/2018/11/20180523132241336.pdf>

¹²⁹ p.4.5.6.7. Briefing Paper Benefits and Challenges the CSSP Platform has faced in the Process of Implementing and Monitoring the Istanbul Convention, <https://www.wave-network.org/wp-content/uploads/CSSPBriefing-paper-FINAL.pdf>

area covered by the Convention. GREVIO proposes measures and recommendations to strengthen legislation to comply with the Convention.

Albania was complimented on its efforts to train gender-based violence in the CEDAW Committee report. This report underlines that domestic violence is criminalized, including many forms of it, one of which is marital rape.¹³⁰ Legal aid has become more accessible since the adoption of the Istanbul Convention, and more economic aid has been provided under the protection order. In cases of sexual harassment, the amount of evidence to be presented in the opening of a court case has been reduced. Gender-based violence is not reported because it would bring shame to the family and fear that the perpetrator would retaliate.¹³¹ The changes with the ratification of the Istanbul Convention were numerous. There have been changes in legislation and in the mechanisms used to prevent domestic violence against women. There has been a greater awareness of NGOs and governmental ones. Furthermore, the state has provided wider protection to victims. The Albanian state police have become aware of taking domestic violence issues into account with a fuller consideration.

¹³⁰ United Nations. Committee on the Elimination of Discrimination against Women. Consideration of reports submitted by States parties under article 18 of the Convention Fourth periodic report: Albania. 06.06.2016. P.18.

¹³¹ Study. "Respect of the Rights of Victims/Survivors of Domestic Violence in the Judicial Process". Findings and Recommendations from the Monitoring of Judgments of Tirana District Court, Monitoring Period 01.01.2016-31.12.2017. Human Rights in Democracy Center. Tirane 2017. p.19. <https://www.hrdc.al/index.php/en/news/56-monitoring-of-tirana-district-court-%20protection-orders>

3. IMPLEMENATION OF ISTANBUL CONVENTION IN ALBANIA AND FUTURE PRESPECTIVE

The Albanian authorities made the legislation comprehensive and with a broader context to combat gender-based violence by adopting the Istanbul Convention. According to the GREVIO report, politics expresses violence against women as a gender-based issue. This comes as a result of two basic social concepts. On the one hand, having a patriarchal society, the woman has been historically unequal. On the other hand, they have been economically dependent on the position of the husband. According to experts, society's opinion on violence against women is related to the economic factor and the low level of education. Moreover, part of the public opinion, not having a perception about violence against women based on gender, thinks that it happens only in some poor parts of the country.¹³²

The GREVIO report on monitoring the implementation of the Istanbul Convention by Albania was based on the information gathered during the initial evaluation procedure and was defined in Article 68 of this Convention. The assessment made for Albania includes a written report made by the Albanian authorities and an assessment made by a 5-day visit to Albania. It also includes information submitted by non-governmental organizations and through state communication between the Albanian governmental authorities and GREVIO on several selected issues.¹³³

This perception does not correspond to reality and the evidence that the economic factor is not the only factor influencing gender-based violence. Women who are not in such positions are part of gender-based violence and are not excluded just because they are in good economic condition. As mentioned above in the first Chapter, violence against women does not have a single factor but a combination of factors. The GREVIO report notes that a large section of society tends not to act when gender-based violence occurs, for the very fact that they claim to preserve family values. It is disturbing that this opinion has dominance and is reflected in reported violence cases against women in the family. Women believe that in order to maintain

¹³² Ibid. p.8-9.

¹³³ Council of Europe, GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) Albania, 24 November 2017, Strasbourg. Cedex. France. p.7.

a united family, they must sacrifice by enduring domestic violence. The 2006 study shows that among the many European countries, Albania is part of those countries that do not pay the same attention to forms of violence against women, as much as domestic violence as a phenomenon.¹³⁴ With the approval of the law of the year no. 9669/2006 "On measures against domestic violence"(changed) was the first initiative where Albania took measures to stop violence against women and to provide support. Furthermore, the focus of this law has been the woman as a family member. According to the GREVIO report, the introduction of this law has covered various campaigns to protect and prevent domestic violence. Law no. 9669 also has covered the prosecution of perpetrators.

Regarding forms of violence against women, such as sexual harassment and forced marriage, there has been no attention from the legislation of the Albanian state. The availability of data regarding these forms of violence indicates that they have not been addressed inclusively.¹³⁵ Another problem lies in the implementation of protection orders. At the time of applying for a protection order, the interpretation made in these cases is unfavorable, and forced conciliation is often required. This makes it even more difficult to access justice. The implementation of state mechanisms and strategies for domestic violence has encountered difficulties. Reference mechanisms in terms of protection orders have problems with the adequacy of the answers given by the justice system. There has not been proper implementation by the justice system and forensic experts due to a lack of knowledge about domestic violence against women who do not perform their duties properly. In criminal and civil law, Albania, even though with some gaps in the treatment of legislative reforms, has a developed framework regarding the coverage of domestic violence. To enable adequate protection for victims of violence, the interpretation of laws considering the legislator's intent is necessary. In Albania, the interpretations of the law are incompatible and different, causing great damage.¹³⁶ As a consequence, and access to the justice system in some cases is not efficient. In these cases, there is a need for awareness for legal staff in cases of intervention in cases of violence against women to avoid repeated

¹³⁴ C. Hagemann. Combating Violence Against Women, Stocktaking Study on The Measures and Actions Taken in Council of Europe Member States. Council of Europe 2006. Strasbourg. p.8.

¹³⁵ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p .9.

¹³⁶ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.9.

victimization. Decisions should be based on the protection of human rights by enabling women the right to live without violence. Local referral mechanisms enable the cooperation of a group of representatives from civil society and various relevant authorities to be coordinated to have a merger against domestic violence. The cooperation of different sectors at the municipal level enables consolidated protection of victims of domestic violence. According to the GREVIO report, the role of NGOs has been significant in referral mechanisms. The difficulty of improving these mechanisms lies in the cooperation between institutions. The most significant shortcomings are noticed in the implementation of protection orders. Equipment with relevant protocols for professionals must be done to achieve the goal. Encouraging professionals to promote change and prepare them professionally would guarantee the effectiveness of protecting women in the justice system.

3.1. GREVIO recommendations for Albania

The GREVIO report for Albania has dealt with every chapter of the Convention, but in some of them, it gave priority by treating them in more detail. This subchapter will describe the recommendations given in the GREVIO baseline report. In the GREVIO Report, the Albanian authorities in 2016 have enabled a single national non-stop telephone line that offers free service.¹³⁷ Other local telephone lines have been established, but their availability is not always available, and this service is offered for a charge. As mentioned in Chapter II, in Albania, the National Strategy dedicated to violence against women had shortcomings in addressing funding issues. Furthermore, funds for the national line service have not been allocated. GREVIO's suggestion to the Albanian authorities was to enable sustainable funding for these telephone lines to be more accessible. Financial support was also required for the implementation of laws on crimes of marital rape. Laws have undergone change related to this crime. Protective measures have been created for women cohabiting with their abusers, but funding is needed for these services.¹³⁸

¹³⁷GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. P.40.

¹³⁸ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.62.

The Istanbul Convention covers all forms of violence against women. In Albanian legislation, there is a discrepancy between civil and criminal law. The definition of domestic violence in criminal law includes forms of violence such as economic, psychological, and physical harm. In civil law, the victim's harm includes all forms of domestic violence. Having a discrepancy, the interpretation made in court proceedings may be incorrect, resulting from not having a unification in the legislation. In addition, in Albanian legislation, the most vulnerable individuals in domestic violence are not women, even though, according to statistics, they are more affected than any other category. Children and the elderly are treated as the most vulnerable categories. Albania, concerning non-discrimination, has taken measures by providing it in law no. 9970 "On Gender Equality in Society".¹³⁹ Although the legislation covers this part, women are discriminated against in both private and public areas.¹⁴⁰

The Istanbul Convention, in Article 9, also includes non-governmental organizations as part of the change.¹⁴¹ NGOs have played a key role in protecting women. The progress achieved through the activities has made it possible to house victims of violence. NGOs have built several shelters and facilitated the rehabilitation of victims. Moreover, they have participated in the awareness of society through the organization of campaigns.¹⁴² According to the GREVIO report, the Albanian authorities appear to be providing sustainable funding to NGOs that support victims of violence against women, to enable the victims' needs to be met.¹⁴³ Involvement of the whole society is one of the goals of the measures taken against domestic violence. In Albania, traditional values are ingrained in society and represent an obstacle to the principle of prevention. From these values, violent actions tend to be considered normal and consequently make them acceptable. In the GREVIO Report, it is recommended to increase efforts for victims to have proper access to information in every part of Albania in campaigns.¹⁴⁴

¹³⁹ Ligji Nr.9970. Kuvendi I Republikes se Shqiperise. 24.07.2008. Neni 2.

¹⁴⁰ M. Llapushi. Op.cit. p.89.

¹⁴¹ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. Op.cit. Art.9.

¹⁴² Ibid. p.89.

¹⁴³ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p. 67.

¹⁴⁴ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.26.

In Article 14 of the Istanbul Convention, the parties must take the necessary measures in the field of education to include the necessary materials to contribute to the prevention process.¹⁴⁵ In the report presented to GREVIO, the Albanian government states that there have been efforts to educate students.¹⁴⁶ These initiatives took place to educate them about the phenomenon of violence against women. Experts noted that there is general knowledge of this issue, but there is no comprehensive knowledge of the many forms of violence against women. In the GREVIO report, the involvement of the education sector is of particular importance for the prevention of violence against women. Educating them about violence against women can help to understand the phenomenon and not accept it. Incorporating information on gender-based non-discrimination into textbooks would enable information. Of particular importance is the awareness of teachers through teacher training programs. In this report, it was noted that in Albania, the conditions of Article 14 were not fully met. There were no special programs in universities to address forms of violence against women. GREVIO considers that the preparation of schools to break the taboos of society for the reluctance to talk about violence against women should be equipped with the right tools. The recommendations in the GREVIO report were to enrich education programs with various forms of gender-based violence and raise awareness in the field of education.¹⁴⁷

Chapter 4 of the Istanbul Convention on the "Protection and Support of Victims" seeks from parties specialized support for all forms of violence covered by the Convention. The parties are required to offer support professional support to women. Fulfillment of requirements is provided by the support services that the parties must provide. Albania, in this context, has set up referral mechanisms. Although these mechanisms have been set up, they were not complete. Out of 61 municipalities, only 29 were equipped with this service.¹⁴⁸ Unlike other countries in the region, Albania has consolidated cooperation between agencies for service to citizens. However, there is a lack of legal effectiveness. The lack of an information system on forms of

¹⁴⁵ Convention on Preventing and Combating Violence Against Women and Domestic Violence. Op.cit. Art.14.

¹⁴⁶ Council of Europe. Report submitted by Albania Pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence. (Baseline Report). 19.012017. p.29-30.

¹⁴⁷ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit, p.27-28.

¹⁴⁸ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.34.

violence is insufficient because the coverage falls into only a few categories. There is a lack of information on the rights and services provided to the victims. The measures created for protection against domestic violence were provided in two different forms. The first service was general, while the second service was specialized. Both of these services provided social and economic support to victims of domestic violence. One factor that hinders these services from advancing further is because the state does not provide sufficient financial resources to this sector. The GREVIO report states that Albania has some problems with general support services. Moreover, health care professionals do not have the proper training to implement even the minimum service standards. As a result, victims' reporting of the violence they have experienced will be more limited, as these professionals may not understand the importance and seriousness of the problem.

Moreover, professionals think that problems of this kind are part of the private life of individuals. The first institutions responsible for identifying victims of violence are health care centers and hospitals. The cases are then referred to the relevant authorities. Moreover, the employees in these health centers often ignore the evidence, and these cases are not being referred. Another reason is that the victims hide the truth so that the proceedings do not continue.¹⁴⁹ Services provided by other referral sectors pay the most attention to domestic violence. The category of specialized support services refers to victim support for specific needs. Accommodation for victims plays an essential role in supporting these needs. Shelters provide victims with accommodation, including their children. Beyond this service, they are offered psychological, legal, and also counseling assistance. As far as shelters are concerned, they do not meet the standards required by the Council of Europe. From the report of the Albanian state for GREVIO, there are eight shelters and, respectively, 153 beds.¹⁵⁰ According to the standards of the Council of Europe, the provision of this service is not enough. In Albania, according to the report, this service is more available in the capital than in rural areas where. In rural areas, the protection is insufficient and limited.

Furthermore, another problem are emergency shelters. Before a court issues a protection order, victims have difficulty seeking immediate shelter. During the time before the protection order,

¹⁴⁹ M. Llapushi. Op.cit p.91-93.

¹⁵⁰ Report submitted by Albania Pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence. Op.cit. p.43.

these victims may be left without protection. In the report, GREVIO recommends that the Albanian authorities provide a more specialized service for women and increase the shelters' capacity to cover emergency cases.¹⁵¹

The fifth chapter of the Istanbul Convention includes the provisions on substantive law. Furthermore, it includes provisions in civil law and criminal law. The purpose of these provisions is to protect and prevent violence against women. The legal provisions in the Albanian legislation provide criminal liability for perpetrators for acts of violence against women. After the criminal offense of violence against women has been criminalized and convicted, the number of reported cases has increased. As punishments increase, there is a tendency for victims to feel more secure and to report. According to GREVIO, the fact that a small percentage seeks help is concerning according to the statistics. In order to have an increase in reporting, the courts must be in the same line as lawmakers to react and punish the perpetrators.¹⁵²

Article 5 of the Istanbul Convention requires civil servants to investigate, punish and compensate for acts of violence.¹⁵³ Based on this principle, civilian means should be made available to victims in cases where state authorities have not fulfilled their duty. In the case of Albania, damage compensation against state authorities is applied by civil means. According to the report, there has been a failure by civil servants to implement protection orders. The claim for compensation of victims has never occurred. GREVIO urges the authorities to assess the cause of the victims' obstruction of civil remedies against the state authorities.¹⁵⁴

There have been some changes in the Penal Code, some of which are in line with the Istanbul Convention. Albanian legislation has provided free legal aid to people who cannot afford it.

¹⁵¹ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.39-41.

¹⁵² GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.41-42.

¹⁵³ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. Op.cit. Art.5.

¹⁵⁴ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.42-43.

However, there are some gaps in the Penal Code, such as the definition of rape and psychological violence. These definitions in the Penal Code is not in line with the Istanbul Convention.¹⁵⁵ Furthermore, it must take appropriate measures to ensure that legislation is applied to any criminal offense of sexual violence between ex-spouses or current spouses to guarantee the fulfillment of the provisions in the Convention. GREVIO urges the authorities to make more efforts to address all forms of violence against women, including sexual violence.¹⁵⁶

3.2 Implementation of recommendations from state authorities

The GREVIO report was significant in identifying and recommending Albania's measures to prevent violence against women and domestic violence. In the comments made from Albania responding to the GREVIO report, the authorities stated that they intend to take timely and effective actions to fulfill the recommendations.¹⁵⁷ The preparation of the comments of the Albanian State for the GREVIO report is made possible by the cooperation of the main responsible ministries and international organizations which support domestic violence and violence against women. Fulfilling the obligations arising from the Istanbul Convention are a commitment for the Albanian authorities.

The Ministry of Health and Social Protection has drafted a plan on Albania's precautions to implement the Istanbul Convention. In this plan, the presentation of these measures considers the recommendations of GREVIO. Ratification of the Istanbul Convention is proof that Albania is making efforts to implement international standards regarding domestic violence. The steps taken by the Albanian State to implement international requirements show progress towards the prevention of domestic violence. All reports and assessments drawn from the cooperation of

¹⁵⁵ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.47.

¹⁵⁶ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.47.

¹⁵⁷ Council of Europe, Albania's comments on GREVIO's draft final report on the implementation of the Istanbul Convention, Comments submitted by Albania on GREVIO's final report on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), Tirana, 2017. p.1.

Albanian institutions with GREVIO show important steps in following an effective learning process.¹⁵⁸

In Article 70 of the Istanbul Convention, the parties must submit official reports prepared by GREVIO to the parliament, and the parliament is invited to participate in the monitoring process for the implementation of the Convention.¹⁵⁹ In accordance with this article, the initial report made for Albania has been submitted to the Albanian Parliament. Furthermore, in order to monitor the implementation of the Convention, the Albanian Parliament has offered to follow the continuation of the work.¹⁶⁰ The report made by GREVIO for Albania has been translated into the Albanian language. Moreover, it has been published and distributed to responsible institutions to associate this report and its recommendations. Considering the "urgent" recommendations in the GREVIO report, the plan drafted by the Ministry of Health and Social Protection presents the main measures taken in this regard.

In accordance with the recommendations of GREVIO, in order to comprehensively address all forms of violence against women and to coordinate the definition of domestic violence with the Istanbul Convention, it was proposed to amend Law No.9669/2006. Amendments made to article 3/1 "On applicable legislation" of Law No. 47 23.07.2018 are based on the Istanbul Convention and other acts Albania has ratified.¹⁶¹

Based on the recommendation of GREVIO to promote a clearer understanding of violence against women in the gender context and not to accept this violence with any justification, in Albania, with the cooperation of international organizations, national campaigns have been made which have covered the category of violence against women based on gender.

¹⁵⁸Plani mbi Masat Paraprake te Ndermarra nga Shqiperia për zbatimin e Konventës së Këshillit të Evropës për Parandalimin dhe Luftimin Dhunës ndaj Grave dhe Dhunës në Familje (Konventa e Stambollit). Ministria e Shendetesise dhe Mbrojtjes Sociale 30.01.2018. p.1.

¹⁵⁹ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. Op.cit. Art 70.

¹⁶⁰ Ministria e Shendetesise dhe Mbrojtjes Sociale. Op.cit. p.1-2.

¹⁶¹ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.12.

The campaign made every year in the framework of the international campaign "16 Days of Activism against Violence against Women" has been developed in Albania with the theme to end violence against women and girls. This activity has been involved in many regions targeting all communities. Another step made from Albania in this direction is the implementation of the regional project by UN women and MHSP to raise public awareness of violence against women based on gender and encouragement to end this violence.¹⁶²

Considering the recommendations of GREVIO that urge the Albanian authorities to strengthen the mechanisms for combating violence against women and domestic violence and provide financial resources at the central and municipal level, it is included and enforced in the budget framework law the notion of gender budget. The application of this budgeting has become obligatory to be included in drafting plans at the local and regional levels. The drafting of plans at the municipal level to strengthen the mechanisms of violence against women has also begun. In addition, public administration staff has been trained to prepare gender-sensitive budgets.¹⁶³

In implementing referral mechanisms at the local level for domestic violence, a project has been carried out to monitor these mechanisms in 2018. Regarding this reform, it has been possible to serve the referral mechanisms of domestic violence cases in communities living in rural areas. Domestic Violence Specialists, after the introduction of the Territorial Administrative Reform (RAT), have also received data in rural areas, but there have been complications in reporting this data.¹⁶⁴ Institutional staff did not report this data, and as a result, there was an inconsistency of data in institutions and referral mechanisms. Moreover, this was due to the lack of budget from the administrative units.

A positive step has been the organization of awareness campaigns for domestic violence in schools which have been in both cities and rural areas. Unlike previous years, municipalities have followed domestic violence cases by improving the quality of services for these cases. community.¹⁶⁵

¹⁶² Ministria e Shëndetësisë dhe Mbrojtjes Sociale. Op.cit. p.6.

¹⁶³ Ministria e Shëndetësisë dhe Mbrojtjes Sociale. Op.cit. p.7-8.

¹⁶⁴ A. Ruci, I. Kuqi, R.Skikuli... Monitorimi i Mekanizmit të Referimit për Rastet e Dhunës në Familje në Nivel Lokal, Aktivizem Qytetar për Permisimin e tij, Lëviz Albania 2018. p.31-33.

¹⁶⁵ Ibid. p.32.

With the Law's approval on "Legal Aid", the Albanian authorities have implemented the recommendation in the GREVIO report. This Law provides free legal aid at any stage of criminal proceedings to victims of domestic violence. The Ministry of Justice has also opened the Office of Legal Aid and the Office for the Coordination of Domestic Violence, which provides free counseling to victims of domestic violence. Furthermore, it has provided relief for women who are victims of domestic violence to have free legal aid in cases where they cannot afford it.¹⁶⁶ In the period January-March 2021, three centers that provide legal aid have been opened. It is important to raise the awareness of citizens to benefit from this free legal aid. Service centers that provide legal aid should also focus on raising citizens' awareness to benefit as many individuals as possible from this service. Providing this service to the justice system enables equal access to all individuals.¹⁶⁷

Law No.9669 (changed) includes the possibility of making requests for urgent detention orders and protection orders. The progress in this law made by the Albanian government protects the victims of violence. As mentioned in Chapter II, the protection order is not always respected by judges. Law No.9669 is a positive step and is in line with the Istanbul Convention, but this law's implementation in practice encounters many problems in the Court's judgments.¹⁶⁸

After the ratification of the Istanbul Convention, the organization "Refleksione" carried out a project to include the provisions of the Convention at the local level. This project has been implemented in 10 municipalities. The purpose of this project was to implement mechanisms to prevent domestic violence and gender-based violence. The implementation of protection measures for victims of domestic violence in this project began with the establishment of referral mechanisms. In addition, the project aimed to offer training for the staff responsible for referral mechanisms. The training was conducted according to the provisions of the Istanbul

¹⁶⁶ Ministria e Shendetesise dhe Mbrojtjes Sociale. Op.cit. p.18.

¹⁶⁷ Report. Ministria e Drejtesise, Drejtoria e Ndhimes Juridike Falas, Analiza e Performances Janar-Mars 2021. P.5-15, <https://ndihmajuridike.gov.al/wp-content/uploads/2021/04/Analiza-e-performances-Janar-Mars-2021-MD.pdf>

¹⁶⁸ Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), Council of Europe, Strasbourg, 24 November 2017. p.57.

Convention to equip them with the necessary skills to serve victims of domestic violence and violence against women.¹⁶⁹

3.2.1 National strategy 2016-2020

A committed and non-violent state should consider domestic violence and violence against women as a priority. The National Strategy for Gender Equality and the Action Plan 2016-2020 was approved on 20.10.2016 as an initiative taken by the government to contribute to the progress of domestic violence issues. The National Strategy 2016-2020 aimed to fill the gaps identified by previous Strategies (2007-2010, 2011-2015). Strengthening institutional mechanisms is essential in meeting the goals of this Strategy.¹⁷⁰ The National Strategy 2016-2020 was based on the programs of the Government of Albania and the obligations deriving from the ratification of the Istanbul Convention. Furthermore, the National Strategy 2016-2020 was drafted based on the recommendations given by GREVIO. The goals were to increase cooperation with international organizations, NGOs, and other civil society actors whose focus was on addressing issues of domestic violence and violence against women.¹⁷¹ The main goals of this Strategy prevailed in the experiences and previous monitoring to reinforce them to achieve effective prevention of these issues. Despite positive efforts and steps to make progress on domestic violence and violence against women, there are still stereotypes that promote violent behavior. Taking steps to make society aware of not tolerating violence was one of the main goals of this Strategy.

The main objective in this Strategy was to harmonize Albanian legislation with international legislation and the expansion of services provided to have consolidated effectiveness.¹⁷² This Strategy set out objectives to ensure the immediate protection of family members who are affected by violence.¹⁷³ The Strategy aimed to constituent all structures to strengthen the sustainability to achieve the desired results. After the ratification of the Istanbul Convention, the National Council for Gender Equality (NCGE) has been designated as the body responsible

¹⁶⁹ A. Ruci. Bringing the Istanbul Convention to the local level, Albania, Refleksione. 2017, p 12 <https://rm.coe.int/168070a745>

¹⁷⁰ M. Xhafaj, E. Sheshi, B. Dervishaj. Strategjia Kombëtare për Barazinë Gjinore dhe Plani i Veprimit 2016-2020, Ministria e Mireqenies Sociale dhe Rinise, Tiranë. 20.10.2016. p.7

¹⁷¹ Ibid. p.7.

¹⁷² Raport. Monitorimi I Strategjise Kombetare per Barazine Gjinore dhe Planit te Veprimit 2016-2020, Janar-Dhjetor 2018. Ministria e Shendetesise dhe Mbrojtjes Sociale. 2018. P.7.

¹⁷³ Ibid. p.8.

for implementation and monitoring to have the primary role in preventing domestic violence and all its forms. NCGE having this role has obligations to define policies and monitor violence against women in the family. The National Strategy 2016-2020 had clearly defined the state budget funds and foreign resources not to have the problems encountered in the previous National Strategies (2007-2010, 2011-2015). Albania, in recent years, has had improvements in the legal framework for the prevention of domestic violence and gender-based violence. Nevertheless, the legal framework is not entirely in line with international conventions such as the Istanbul Convention. Albania needs to take concrete steps to meet the requirements of international conventions such as CEDAW and the Istanbul Convention. The level of effectiveness of the cooperation of inter-institutional mechanisms is not the same for all municipalities in the country. It is essential to have concrete plans for the functioning and formalization of existing mechanisms.¹⁷⁴

Financial planning to set up these mechanisms was of particular importance in order for them to function sustainably to be helpful. The problem lay in the effectiveness of service providers, who had significant deficiencies in knowledge about legislation and international standards for domestic violence cases. As a consequence of not recognizing the legal framework, the case management and service were not adequate. During the National Strategy 2016-2020, free services were provided by all providers of these services and were not adapted in different languages. Addressing various forms of legislation was not achieved, which is of particular importance in justice reform. Judicial reform is significant to ensure the improvement of legislation and to ensure that these changes are in line with international standards.¹⁷⁵ In contrast to previous Strategies (2007-2010, 2011-2015) in organized campaigns to combat gender-based domestic violence, both men and boys were engaged in the efforts to prevent it.

The effectiveness of referral mechanisms in this Strategy was also considered. Measures have been taken to improve violence services through the coordination of organizations and agencies. Priority was given to housing services for victims of violence. As mentioned above, only NGOs provided shelter services to victims. A national shelter offering these services has already been

¹⁷⁴ Ibid. p.10.

¹⁷⁵ Ibid. p.11.

opened. Special attention was paid to police and justice staff to improve the proficiency of the professionals.¹⁷⁶

In Albania, the role of NGOs is of particular importance in the provision of services, fulfilling the obligations that the state must fulfill. Through awareness-raising activities and the provision of services to address cases of gender-based domestic violence, they are often the only ones trying to improve the situation of victims.¹⁷⁷ Often these NGOs risk not covering all cases of violence due to lack of funding. The need for financial support must be provided by governing bodies to achieve the objectives of supporting victims of gender-based domestic violence. There are shortcomings in those institutions that provide specialized support services. Setting up services to fill these gaps is very important in providing a complete and specialized service.

Bringing perpetrators of domestic violence to justice to improve the safety of victims is an achievement that this Strategy aimed to achieve. The drafting of this Strategy was not based solely on the objectives of setting up the services needed for victims or their number in numbers because it was not sufficient to provide the standards to provide the services required. Improving them is a necessary process to facilitate the access of women who experience domestic violence.¹⁷⁸ Violence referral mechanisms work in only 39 out of 61 municipalities. It was been an increase of referral mechanisms in comparison with previous years. Nevertheless, there has been irresponsibility of municipal employees who have not paid attention to the referral of cases of domestic violence. The Steering Committees have not functioning, and the cooperation between them has been inadequate. The Steering Committee members did not have information about the changes that occurred in the law and had a lack of understanding of the law of domestic violence. The prosecution and mayors are not effective in supporting referral mechanisms. The role of these heads of institutions should be more cooperative to provide protection for victims of domestic violence.¹⁷⁹ According to the recommendations of GREVIO, the LILIUM Center has been set up, offering service 24 hours

¹⁷⁶ Ibid. p.12.

¹⁷⁷ Ibid. p.14-17.

¹⁷⁸ M. Xhafaj, E. Sheshi, B. Dervishaj. Op.cit. p.22-24.

¹⁷⁹ Report, Analysis of the Functioning of the Coordinated Mechanism for Referral of Domestic Violence Cases at the Local Level in Albania. Ministry of Health and Social Protection 2019. P.33-35.

a day, 7 days a week. The center is in line with the Istanbul Convention to provide the socio-health model with specialized employees from every field at the service of all individuals in society.¹⁸⁰ It is needed to offer more trainings for the service providers in cases of domestic violence. Changes in the legislation have to be known by them in order to improve the legal services they offer.

The implementation of the Istanbul Convention and the National Strategy following the recommendations given by GREVIO has brought positive aspects in the legislation and in cases of reporting domestic violence. Men's involvement in campaigns for domestic violence and violence against women has brought greater awareness of society. Domestic violence referral centers are expanding throughout Albania. The provision of free service has led to more cases of reporting domestic violence.

3.3. Analyze from 2017 to 2018

The survey was conducted by INSTAT in cooperation with the United Nations Development Program (UNDP) and UN Women. This survey was conducted in 12 prefectures of Albania within the regional project for gender statistics. The survey conducted in 2018 included 3,443 families, and their age group was from 18 to 74 years old. With the same statistics as the two previous surveys in Albania, one in two women have experienced domestic violence during their lifetime.¹⁸¹

The national survey of domestic violence conducted in 2018, in contrast to the first (2007) and second surveillance (2013), for the first time, receives data on the extent of other forms of violence such as violence from a partner, violence in a love affair and sexual harassment. In this survey, 47% of women had ever experienced violence from an intimate partner, while 18.2% of them had ever experienced violence from a non-partner. In the subsequent, 65.8% had ever experienced violence from an intimate partner.¹⁸² The difference in data is noticeable concerning violence compared to the two national surveys (2007,2013). One aspect that is worrying is that one in two women think that domestic violence is a very private matter to be

¹⁸⁰ Ibid. p.11.

¹⁸¹ R. Haarr, D. Ibrahimaj, B. Metaj. Op.cit. p. 5-6.

¹⁸² R. Haarr, D. Ibrahimaj, B. Metaj. Op.cit. p.6.

told and reported, and 46.5% of this study think that a woman should endure this violence to keep the family together. These statistics show that the steps forward in reporting domestic abuse are plodding. Brian Williams, Resident Coordinator of the United Nations in Albania, expressed that from the survey in 2018, Albania needed to strengthen its policies and action plan. According to Brian Williams, the legislation should include new and recently adopted forms to protect women from domestic violence. The survey also shows that 26.1% of respondents think that women should be ashamed to talk to someone about the abuses that occur to them and are judged in cases of spousal violence. Most women do not seek help from governmental organizations, NGOs, or the police, but they turn to their family members or close friends.¹⁸³

Amendments to Law No. 9669 and Law no. 7895 have improved the methodology for monitoring domestic violence cases. In contrast to previous years, statistics are also collected by the State Police based on the number of violated articles of Law no. 9699 and in Law No.7895. With the changes in these laws, there have been improvements in monitoring and comparing statistics.¹⁸⁴

In conclusion, from the comparisons made in three national surveys, despite the improvements in reporting cases, it is noticed that the situation of women's rights in Albania is not at the proper level. The survey shows that domestic violence is still taboo and not spoken out loud. Women in Albania do not widely report and talk about abuses committed by a husband or intimate partner. More than 50% had never talked about domestic violence with anyone thinking that the problem was theirs. Furthermore, they have been trying to solve the situation on their own. The statistics show that even though the survey participants had experienced severe physical and sexual violence incidents, they did not have the confidence to report. Women were the ones who, in most cases, were victims of domestic violence. The disproportion of statistics was notable, and more than 81% of the reported cases were female. Patriarchal traditions and culture have not been completely erased regarding the treatment of women in the family. According to

¹⁸³ R. Haarr, D. Ibrahimaj, B. Metaj. Op.cit. p.15.

¹⁸⁴ M. Kocaqi, A. Plaku, D. Wittberger. Gender Dossier, UN Women and UNDP, UN Women, Albania. 2016. p. 16.
<https://www2.unwomen.org/media/field%20office%20eca/attachments/publications/country/albania/dosja%20gjinore%20%20per%20web%20gender%20brief%20in%20albanian.pdf?la=en&vs=5045>

the survey, the fear of reporting was significant, and in some cases, the police did not have the power to defend them. Women did not have the proper and specialized services to be protected. A large proportion of participants acknowledges physical and sexual violence and, in most cases, is treated as a regular occurrence. The incentive to tolerate violence cannot allow them to benefit from the services provided. Lack of financial independence makes women stay with the abuser. It leads to the fact that they do not have anywhere to go. The national referral mechanisms need to be further developed in obtaining data and in the total capacity of this system. In rural areas, the reporting situation shows resistance to accepting domestic violence than in other cities. According to these observations, the situation has been improving and violence is becoming more tolerable. Social norms are changing in the aspect of accepting the abuses that occur against women in the family and raising awareness about this phenomenon.

3.4. The court Practice

The thesis, to shed light on the practical endeavor of the state, will present the discussion of seven judgments. Those judgments the courts ruled after the adoption of the Istanbul convention. Thus, these cases will determine the changes and still existing flaws in the country's judicial system regarding domestic violence. The court during this period did not implement judgments where victims of domestic violence could be defended from harm. The judgments presented in the thesis will show the handicapped nature of the court. Mentioned 7 cases would shed light on the challenging situations in the sense of practice regarding domestic violence cases after the adoption of the Istanbul Convention. It can be concluded that both "daily domestic violence" and the most severe domestic violence cases have a meager criminal value in Albania. This thesis deals with some domestic violence cases, of which, in addition to the trial of the case by the judiciary, there are also cases not tried because of lack of evidence and delayed reporting of the case.

- The case below will reflect when the protection order has not been implemented and the state has failed to protect the victim. In December 2016, a tragic event with fatal consequences occurred in Albania. In one family, the husband threw his wife off the balcony, and as a result, her death occurred. The woman had requested a protection order from the court before the event took place. The court had offered him an emergency detention order just one month before the tragic event. The court order

consisted of obliging the abuser to stay two meters away from the victim. As the protection order was only 2 meters away, the couple stayed in the same apartment after issuing the protection order. After the perpetrator's arrest after the commission of the criminal offense, the perpetrator stated that he had committed the crime as a result of the request for a protection order by his wife. Such a case shows that the protection provided by the state for survivors of domestic violence has many obstacles and, in many cases, does not enable the victim. The incompatibility with the legislation by the court is reflected in this tragic issue.¹⁸⁵

In 2017, a judge was executed by her ex-husband with a gun inside her car. The aggravated family crime occurred because the defendant could not accept the divorce from his ex-wife. Several times, the judge had denounced her ex-husband's violence, but justice institutions failed to offer her protection. The court sentenced him to five years in prison. Instead of completing five years of detention, he completed his sentence for only one year. He threatened his wife several times, and the victim denounced him many times, but the state did not protect her. The state did not take any precautionary measures, although its protection requests were persistent. These cases show that no one is immune to domestic violence.¹⁸⁶

- F.K was convicted on the charge of "Production, illegal possession of weapons" and "Domestic violence" under Article 278/4 and 130 /a/4 of the Penal Code.¹⁸⁷ Court of Appeal Durres with decision no. 00-2018-151, dated 17.04.2018, sentenced the citizen F.K to 5 years in prison.¹⁸⁸
- The Court of the Judicial District of Tirana with the decision no. 00-2018-209, dated 11.06.2018¹⁸⁹ decides the sentence of the citizen F.K in accordance with article 79 of the Penal Code "Murder in Other Qualifying Circumstances".¹⁹⁰

Many women suffer in silence. However, the murder of the judge was a good example to show why women do not feel safe to denounce crime. This case in Albania brought back to society the dysfunction of the Albanian state in terms of protecting victims of domestic violence. When

¹⁸⁵ Nr. regj.23001-02354-62-2016 (149). Gjykata e shkalles se rrethi Fier. 11.11.2016.

¹⁸⁶ E. Hoxhaj. Autori i vrasjes së gjyqtarës Fildes Hafizi dënohet me burgim të përjetshëm. Tirane. Reporter.al 2019. <https://www.reporter.al/autori-i-vrasjes-se-gjyqtar-es-fildes-hafizi-denohet-me-burgim-te-perjetshem/>

¹⁸⁷ Ligji Nr. 7895 Kodi Penal I Republike se Shqiperise. Op.cit. Neni 278/4.

¹⁸⁸ Vendimi nr. 00-2018-151. Gjykata e Apelit Durres.17.04.2018.

¹⁸⁹ Vendimi nr. 00-2018-209. Gjykata e Rrethit Gjyqesor Tirane. 11.06.2018.

¹⁹⁰ Ligji Nr. 7895. Op.cit. Neni 79.

it is seen that victims of violence become members of judicial institutions, where the law is established and should be implemented and possible, this brings a great fear for ordinary citizens to feel safe and protected from this phenomenon. The case shows that the further progress of the Albanian state in the better implementation of these laws is not at the right level.

- The case of violence (physical abuse) of S.Z occurred in May 2018 by the perpetrator (spouse) Q.Z, who divorced her husband (separated) three years before, they still lived in the same apartment. The abuser Q.Z, throughout the three years of divorce, returned to the apartment and committed physical violence against his ex-wife and in the presence of three children, gaining financial means through threatening pressures. At the same time, they were in the process of division of property. At the end of the review, the Court of the Tirana Judicial District was based on facts and evidence presented by the prosecutor with the decision no. 62, dated 14.12.2018.¹⁹¹ The Court of Tirana Judicial District decided the guilty plea of the perpetrator Q.Z for committing the criminal offense of "Domestic Violence" and under Article 130 / a / 1 of the Penal Code¹⁹² sentenced him to 8 months imprisonment.

In this case, the thesis asserts that the Court flawed when they did not accompany the decision for divorce by a decision for security measures of the victim and, at the same time, was not requested and reconciled with the court case of division of property (process that was realized after four years). Referring to the victim's claim, at the time of the divorce request, the Court had extended the deadline for the trial of the case. Moreover, he has not even assessed the denunciation of violence since the moment of the divorce application in order to prevent repeated physical violence.

- The case of the violence against L.B by the perpetrator A.S in May 2018. From 22 years of cohabitation, they have no children, and for this fact, the abuser has repeatedly physically abused, threatened with life, and insulted for the honor. According to the statements of the judicial status, it turns out that A.S has been convicted in the state of Greece, where he has been an immigrant for eight years. The violence committed was committed in flagrante delicto. The victim has denounced the violence by proving the

¹⁹¹ Vendimi Nr. 62. Gykata e Rrethit Gjyqesor Tirane. 14.12.2018.

¹⁹² Ligji Nr. 7895. Kodi Penal I Republike se Shqiperise. Op.cit. Neni 130/a/1.

concrete facts of the forensic doctor's evaluation. At the end of the abbreviated trial, the Tirana Judicial District Court based on facts and evidence presented by the prosecutor with the decision no. 80, dated 21.01.2019, sentenced the perpetrator A.S for committing the criminal offense of "Domestic Violence" under Article 130 / a / 1 of the Penal Code sentenced him to 8 months imprisonment.¹⁹³

- The case of violence against E.SH. by the perpetrator (brother) R.K. on 24.08.2016. Physical violence has been committed repeatedly and has as its object motives of ownership of the apartment after the parent's death. The victim denounced the violence, proving the concrete facts of the forensic doctor's evaluation. At the end of the trial, the Court of the Tirana Judicial District based on facts and evidence presented by the prosecutor with the decision no. 1258, dated 15.05.2019, has decided the sentence of the perpetrator R.K., for committing the criminal offense of "Domestic Violence" "according to article 130 / a of the Criminal Code sentenced him to 1-month imprisonment.¹⁹⁴
- The case of violence against B.S. by the cohabiting couple B.M and D.M (the mother of the victim B.S.) on 10.01.2019. Physical and psychological violence against the cohabitant was committed up to severe physical injuries to the head and body. The perpetrators B.M and D.M in the trial did not dispute the facts and evidence of their guilt and stated that the relationship is very good, the cohabitation usually continues, and the couple already has a minor child. Simultaneously with mediation, the victim declared her pardon of the violence, asking not to be punished because they have a minor child and their relationship is very good. At the end of the trial, the Tirana Judicial District Court with the decision no. 2062, dated 18.09.2019, has decided the guilty plea of the perpetrators according to article 130 / a / 3 and 25 of the Criminal Code. Furthermore, according to articles 59 and 60 of the Criminal Code, the Court has suspended the execution of guilt provided that the perpetrator for a probationary period of 12 months does not commit another criminal offense, does not associate with convicted persons and maintains contact with the probation service.¹⁹⁵

¹⁹³ Vendimi nr.80. Gjykata e Rrethit Gjyqësor Tiranë. 21.01.2019.

¹⁹⁴ Vendimi nr.1258. Gjykata e Rrethit Gjyqësor Tiranë. 15.05.2019.

¹⁹⁵ Vendimi nr.2062. Gjykata e Rrethit Gjyqësor Tiranë. 18.09.2019.

- Albania ratified the European Convention on Human Rights in 1996.¹⁹⁶ The case (Tershana v. Albania) concerns an acid attack on an Albanian citizen in 2009. The citizen suspected that her ex-husband carried out the attack. T. has referred the matter to the responsible state authorities, who have shown irresponsibility concerning the case in question. The Albanian victim of domestic violence took the case even in the international judicial institution to defend her rights. The Court has reviewed the situation of violence against women in Albania and the ineffective measures of the Albanian state to prevent violence. According to Articles 2 and Article 13 of the Convention, the Court decided that T. should seek compensation from the opposing party. Furthermore, according to Articles 13 and Article 8 of the Convention, the Court decided that the T. should receive compensation from the opposing party.¹⁹⁷

This issue shows that in the judicial system, there are major shortcomings to address cases and guarantee the rights of citizens. Delays in litigation pose a problem in enabling adequate protection by governing bodies.

- The case of violence against F.B on 16.12.2016 by the perpetrator M.M (ex-husband) divorced for two years. The victim has been living in the parents' apartment since the time of the divorce with the decision dated 25.11.2014 of the Durrës Judicial District Court, while the perpetrator has returned after serving time in prison in Germany for physical violence of his wife repeatedly committed during their cohabitation. Repeated violence in the presence of children even after divorce. At the end of the trial, the Court of the Tirana Judicial District with the decision no. 2434, dated 25.10.2019, has imposed the sentence of the perpetrator M. M for committing the criminal offense of "Domestic Violence" according to Article 130 / a / 1 of the Criminal Code sentenced him to 2 months imprisonment.¹⁹⁸

¹⁹⁶ Ligji Nr. 8137 “Per Ratifikimin e Konventes Europiane per Mbrojtjen e te Drejtave te Njeriut dhe Lirive Themelore”. Fletorja Zyrtare e Republikes se Shqiperise. 31.07.1996 a.i.f. Ligji Nr. 9453, 15.12.2005.

¹⁹⁷ ECtHR 48756/14, Tërshana v. Albania.

¹⁹⁸ Vendimi Nr.2434. Gjykata e Rrethit Gjyqësor Tiranë. 25.10.2019.

In evaluating the decisions ruled by the judiciary on domestic violence described in this study, the thesis emphasizes that the review of the court cases until the decision is made, has an extended review period (up to 769 days). Decisions were taken after more than 30 court hearings arguing with the non-appearance of the perpetrators in court, non-appearance of the perpetrator's lawyer in the court session, non-formation of the trial panel, and waiver of the judge's trial. Moreover, the sentences given to perpetrators are small, actions with consequences of violence even after the trial of cases creating a precedent of non-denunciation by force of victims. Thus, as a result, the mentioned above reasons render the loss of trust in the judiciary.

3.5. Changes in legislation in accordance with Istanbul Convention

The Government of Albania in the prevention of domestic violence after the ratification of Istanbul and considering the recommendations of GREVIO approved Law no.125 / 2020, "On some additions and changes to law no. 9669/2006, "On measures against domestic violence" (amended).¹⁹⁹ Legislation has been amended to strengthen prevention and training measures based on cases and crimes committed in the family. Law No. 125 aims to prevent any form of domestic violence and to guarantee more comprehensive protection from any responsible institution. The novelty of this law is the involvement of the State Police, which are assigned special obligations (Article 13/2) to take precautionary measures to protect victims of domestic violence before receiving a protection order from the court.²⁰⁰ According to Article 13/2, in cases when the victim and the abuser live in the same residence, determines the immediate removal of the abuser from the apartment. When the country is in a state of emergency, the State Police must take immediate measures to issue an order for immediate protection without waiting for the immediate order issued by the court (13/1). Furthermore, the State Police must deal with the factors that lead to violence and must effectively prevent them from building trust in society.²⁰¹

The new law no.125 provides that it has provided that every citizen has the right to report violence, regardless of whether or not he is a victim of domestic violence. In addition, the

¹⁹⁹Masat dhe Adresimi I Problematikave te Dhunes ne Familje , Ministria e Brendshme, Policia e shtetit. <https://mb.gov.al/wp-content/uploads/2021/02/MASAT-DHE-ADRESIMI-I-PROBLEMATIKAVE-TË-DHUNËS-NË-FAMILJE.pdf>

²⁰⁰Ligji Nr. 125/2020, Republika e Shqiperise, Kuvendi Per disa Shtesa dhe Ndryshime ne Ligjin Nr.9669, Date 18.12.2006 "Per Masa Ndaj Dhunes ne Marredheniet Familjare" te Ndryshuar, Kreu IV, Neni. 13/2.

²⁰¹ Ibid. Neni 13/1.

purpose of this Law was to raise public awareness to report as a problem that can happen to any citizen. According to Article 2 of Law no. 125, in the case of the victim's appearance for the first time, the police are obliged to refer the case to the prosecution. Furthermore, this will enable the prosecution to consider how serious the violation will be to impose an arrest warrant. Financial resources to set up referral mechanisms to ensure proper service are made available. The new law no.125 provides that every citizen has the right to report violence, regardless of whether or not he is a victim of domestic violence. In addition, the purpose of this Law was to raise awareness to report as a problem that can happen to any citizen. According to Article 2 of Law no. 125, in the cases of the victims who report for the first time, the police are obliged to refer the case to the prosecution. Furthermore, this change will enable the prosecution to consider how serious the violation will be to impose an arrest warrant. Financial resources are made available to set up referral mechanisms to ensure proper service.

The draft law of Law no. 125 has started with the initiative of deputies in cooperation with the Ministry of Health and Social Protection. The measures for the obligation to remove the perpetrator will be implemented in any case without exceptions. In any case of domestic violence, the abuser will be forced to leave the place of residence.

The definition of domestic violence and its forms have been changed according to the recommendations given by GREVIO and adapted to the Istanbul Convention. Referral centers for domestic violence cases have been set up where health and legal services have been made available in accordance with international standards. This Law made exclusion of the conciliation process. Before adopting this Law, it was obligated to have a conciliation process before receiving a protection order in cases of violence. Changes in Law. 125 avoid delays in the process to receive a protection order. Risk assessment has changed by being excluded in the protection ordering process. Moreover, this will provide to the victims not to have delays.²⁰² Article 17/1 of the Constitution of the Republic of Albania provides that in order to protect the rights of others, it may restrict the fundamental rights of an individual.²⁰³ Moreover, it restricts the rights in cases of public interest. In this case the removal of the perpetrator from residence

²⁰² Relacion Shpjegues per Projektligjin. Per Disa Shtesa dhe Ndryshime ne Ligjin Nr.9669, Date 18.12.2006. Per Masat Ndaj Dhunes ne Marredheniet Familjare. p.4.

²⁰³ Kushtetuta e Republikes se Shqiperise, Pjesa e II. Kreu I. Neni 17.

is not a violation of the Constitution, because domestic violence is a phenomenon that has public interest.

The recommendations of GREVIO emphasized the lack of procedural procedures for psychological violence and the consideration of this form of domestic violence as a criminal offense.²⁰⁴ The draft law to make changes in the Criminal Code was made at the initiative of MPs E. Gjermeni and K. Bushka. The Council of Ministers has also taken the initiative to make changes to the legislation.²⁰⁵ After being reviewed by experts from civil society organizations and responsible institutions, it was approved by the members of parliament. In the Penal Code was adopted psychological violence (Article 130 /a) as a form of domestic violence considering it a criminal offense. This law provides protection even in cases when psychological violence occurs, which is very common in Albania. Previously, the form of psychological violence was accompanied by physical violence to be called a criminal offense.²⁰⁶ However, with the improvement of administrative legislation to increase the protection needed by victims of domestic violence, cases of violence are not being reduced. The expansion of service measures and access to justice has improved, but the results have not been sufficient given the cases of rape and murder of women. The courts' functioning is problematic and still do not provide the necessary services in decisions and the issuance of an immediate protection order with unnecessary delays.²⁰⁷

²⁰⁴ GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Op.cit. p.45.

²⁰⁵ Kuvendi. Komisioni për Çështjet Ligjore, Administratën Publike dhe të Drejtat e Njeriut, Dokument parlamentar. Raport per Projektligjin "Per nje Shtese ne Ligjin Nr.7895, Date 27.1.1995. Kodi Penal i Republikes se Shqiperise. Te Ndryshuar, Nisme e Deputeteve, Tiranë, më 14.04.2020. p.1-2.

²⁰⁶ Kuvendi I Republikes se Shqiperise, Ligj Nr. 35/2020, Per Disa Shtesa dhe Ndryshime ne Ligjin Nr.7895, Date 27.1.1995, "Kodi Penal I Republikes se Shqiperise", Seksioni IX, Vepra Penale Kunder Femijeve, Marteses dhe Familjes, Neni 130/a

²⁰⁷ Relacion Shpjegues per Projektligjin. p.5.

CONCLUSION

The purpose of the thesis presented was to determine whether the implementation of the Istanbul Convention had a positive impact on the protection of women who were victims of domestic violence in Albania. Moreover, the thesis will explain if the legislation of Albania is in accordance with the standards of the Istanbul Convention.

The first research question is about the general picture of forms of domestic violence. The thesis discussed five types of domestic violence against women. All forms described the severe nature of this problem. The author has clarified the problems of domestic violence by highlighting some of the causes resulting from the difficult periods of transition in Albania. Another essential role in defining the causes of domestic violence is played by the intervention of society and the family. The author presents domestic violence as a private issue, which is preferred not to be expressed publicly. According to this fact, the author highlights the second problem of the first research question; why domestic violence is considered a "shame" in Albanian society. The thesis has cited some of the cultural, economic, and social reasons that influence domestic violence victims' mentality. The writer has clearly stated that Albanian society is still "ashamed" to accept domestic violence, thus making it more difficult to identify cases of this phenomenon.

The second research question encompassed the actions implemented by Albania to defend the victims of domestic violence. The state adopted a pretty robust system. The given system was presented in the national strategies of Albania. Albania adopted two national strategies. Both of them had almost four years of performance. The first national Strategy was adopted in December of 2007 and lasted till 2010. The given Strategy aimed to improve the situation of domestic violence by improving the institutional mechanisms. The Strategy foreseen measures that aimed to diminish the violent attitudes and raise awareness of society in the abusive behaviors towards women. One of the national strategy's exciting points was to adopt a national shelter system for the victims of domestic violence. The national Strategy aimed to make changes in the national legislation for women to have more protection from the law. The Strategy's goal was to implement the protection order and immediate protection order given by the court to the victims that experienced abusive behaviors in their families. Before the adoption of this Strategy, there was not accurately collected data in Albania for domestic violence.

Collaboration of national institutions, academics, NGOs, and international organizations adopted "Gender Indicators" to gather the precise data on violence against women and domestic violence. The aim was to examine the statistics in detail to realize the reality of the cases in Albania. Although the first strategy aimed to strengthen the sanctions for the abusers of domestic violence in the Penal Code, this objective did not apply. The first national strategy had many challenges, and the results brought the need for a second national strategy to strengthen the aims of the first strategy. The second national strategy determines the financial costs for the strategy. Nevertheless, the requirement of the provided services for the victims of violence did not meet the standards needed. Because the one reason that women stay with the abusers was economic dependence, the second national strategy aimed to empower women economically. Even the first national strategy had the same aim, but it was not accomplished. Unlike the first national strategy intentions, the second national strategy intended to strengthen the responsible institutions that protect women from domestic violence.

The Penal Code changes to criminalize psychological violence did not happen as the second strategy aimed to achieve. Moreover, the achievements for the second national strategy implemented by the state did not meet the aims. The surveys made in the 2007 and 2013-time frame showed that the awareness of this phenomenon was increased. Another reason for the increase in the numbers of women seeking help was the changes in legislation that included protection orders and emergency protection orders. The adoption of the law in 2013 on "Legal Aid" included free legal advice given for victims of domestic violence. In addition, Statistics obtained in 2012 by the Court of Tirana show the increasing numbers of protection orders sought by the victims. Despite this fact, the courts' mechanisms for imposing protection orders were not at the appropriate level. The coordination of the responsible bodies are presented by the court cases in the decisions for protection orders.

Albania adopted the Istanbul Convention as a response to prevent domestic violence. Adopting the Istanbul Convention brought changes in the civil legislation addressing all forms of violence and enlarging the scope of the protection for the victims of domestic violence.

The third research question encompassed the implementation of the Istanbul Convention by Albania to protect domestic violence against women. The thesis will present the

recommendations given by GREVIO for Albania. The GREVIO report addresses general and particular issues such as (i) articles of the legislation that concerned support services, (ii) health care system, (iii) support system of the employees of the institutions who assist, (iv) shelters, (v) education sector, (vi) referral mechanisms, (vii) damage compensation, (viii) criminalization of psychological violence in Penal Code (ix) address all the forms of violence. Furthermore, the thesis will present the changes made from considering the recommendations of GREVIO. Albania in 2018 addressed in the national civil law all forms of domestic violence. The criminalization of psychological violence was made under the civil law of Albania. The attempts to raise awareness were made due to the campaigns with the aim of violence against women.

Furthermore, the adoption of law no.125 was adopted to raise awareness to report cases by every individual in the society, not only from the victim or police. Moreover, the exclusion of the conciliation process before the obtaining protection order exempts the delays of the process to obtain a protection order.

With the new law adopted in 2020, the police department has the responsibility to report the case if it is for the first time. This fact will facilitate the prosecution to consider the seriousness of the situation and will enforce warrant arrest. As the thesis presented by the court cases, the delays of the court judgments can last up to 769 days. The protection orders that the courts give cannot protect the victims for this long. The new law will ensure the victim's protection to be in a proper way and not to live with the fear of experiencing further violence by the perpetrator. According to the survey made by the INSTAT in 2018, victims were afraid to report because the police did not have the power to protect them, but with the implementation of the new law, police have the power to defend giving the immediate protection orders immediately.

With the changes made in law no.9669 in Article 13/2, the perpetrators will not live in the same place as the victims. It must consider the fact that before enacted the new law, court decisions on protection orders placed the victim in the same environment as the perpetrator. This law ensures the security of the victims even in a state of emergency, where the police should take immediate measures and issue a protection order without waiting for the confirmation of the courts. This method will facilitate and expedite procedures.

Furthermore, provided financial backup by the state for the referral mechanisms made under the Convention, the service got better, and a new center is opened that provide free legal services and health services for the victims of violence. The free services provided by the state make it easier for the victims of domestic violence to profit access in health institutions and get legal counseling. Knowing that the victims stay with the perpetrator for economic issues, the help received from the state would play an essential and helpful role so that the victim would no longer be dependent on the perpetrator. In the third national strategy, also some men participated in campaigns to combat domestic violence. The thesis demonstrates that the involvement of men and boys raises awareness and breaks the taboos of Albanian society and shows that men in Albania are also willing to fight violence against women.

Not all the recommendations given by GREVIO are established in Albania because the cooperation between institutions needs to be strengthened. The professionals working with the victims of domestic violence have to be trained to adapt to the changes in the legislation so the victims fully have access to the services offered by the responsible institutions. Shelters must be more accessible from the victims of domestic violence. Considering the recommendations given by GRAVIO, Albania has to meet the international standards. Although the implementation of the Istanbul Convention has brought positive aspects to Albania's national legislation, the functioning of the courts has gaps, which lead to not providing the necessary services for the victims of domestic violence.

At the end of the master thesis, the author has highlighted in detail the positive changes that the Istanbul Convention has made concerning violence against women in Albania. The thesis has also emphasized through concrete cases the shortcomings that continue nowadays in court practice in Albanian.

ABBREIVATIONS

EU	European Union
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
CEDAW	Elimination of All Forms of Discrimination against Women
INSTAT	Institute of Statistics in Albania
NGO	Non-governmental organization
UN	United Nations
RAT	Territorial Administrative Reform
NCGE	National Council for Gender Equality
UNDP	United Nations Development Program
GREVIO	Group of Experts on Action against Violence against Women and Domestic

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