



JUSTICE

GENDER MAINSTREAMING GUIDANCE



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ABBREVIATIONS AND ACRONYMS

AWEN	Albanian Women Empowerment Network
BPfA	Beijing Platform for Action
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CoM	council of ministers
COVID-19	severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)
CPD	commissioner for the protection from discrimination
CRM	coordinated referral mechanism
CRPD	Committee on the Rights of Persons with Disabilities
CSO(s)	civil society organization(s)
DFLA	directorate for free legal aid
DV	domestic violence (violence in family relations)
EC	European Commission
EIGE	European Institute for Gender Equality
EU RF	EU Results Framework
EU	European Union
EU4GE	EU for Gender Equality
FLA	free legal aid
FPI-RF	Foreign Policy Instruments Result Framework
GAP	gender action plan
GBV	gender-based violence
GENDERNET	OECD DAC Network on Gender Equality
GIZ	German Corporation for International Cooperation GmbH
GRB	gender-responsive budgeting
GREVIO	group of experts on action against violence against women and domestic violence
GRPP	gender-responsive public procurement
ILO	International Labour Organization
INSTAT	Albanian Institute for Statistics
IPA	Instrument for Pre-Accession
IPO	immediate protection order

Istanbul Convention	The Council of Europe Convention on preventing and combating violence against women and domestic violence
LGBTI+	lesbian, gay, bisexual, transgender/transsexual, intersexual and any other individuals whose sexual orientation, gender identity expression, and/or sex characteristics differ from the cis-heterosexual
NDICI	Neighbourhood, Development and International Cooperation Instrument
NSGE	national strategy for gender equality
OECD	Organisation for Economic Co-operation and Development
OECD-DAC	Organisation for Economic Co-operation and Development - Development Assistance Committee
OHCHR	Office of the United Nations High Commissioner for Human Rights
PMIPO	preliminary measures of immediate protection order
PO	protection order
RIA	regulatory impact assessment
SANECA	Support to Accession Negotiations for Albania in Economic Chapters of Acquis
SDG	Sustainable Development Goal
SGBV	sexual and gender-based violence
TEU	Treaty of the European Union
TFEU	Treaty of the Functioning of the European Union
UN Women	UN Entity for Gender Equality and the Empowerment of Women
UN	United Nations
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNSCR	United Nations Security Council
UPR	Universal Periodic Review

INTRODUCTION

This gender mainstreaming Guidance is part of a series of resources made available through the EU's and UN Women's technical support to the Government of Albania for accelerating the process of EU integration. Its aim is to ensure that future policy, planning, and programming documents align more closely with the EU legal and policy framework on gender equality (the 'Gender Equality *acquis*'), and thus enhance equality outcomes for all women, men, girls, and boys in the country. It is addressed to development and integration partners involved in policy, programming, and planning initiatives in the EU accession context. This group includes primarily government staff developing policies and drafting IPA programmes, experts providing technical assistance, EU Delegation Task Managers, donors and international development partners supporting EU-aligned reform, and civil society organizations engaged in accountability and consultative processes. The purpose of this Guidance is to provide succinct information on the key gender issues in a particular policy area, and to show how gender mainstreaming can be done in practical terms. The Guidance document is envisaged as an initial primer. It can be used as reference document in individuals' daily work, and it also serves as training material in efforts to establish gender mainstreaming capacity and skills.

Equality between women and men is a fundamental principle of the European Union. The right of women to equal treatment is, above all, a fundamental human right. EU Law recognizes discrimination as politically unacceptable, economically unprofitable, and punishable by law. For this reason, countries are required to comply with the *acquis* on gender equality and non-discrimination when acceding to the EU. As defined by EU Law, the strategy for promoting equality between women and men, and combating discrimination, is gender mainstreaming. Consequently, gender mainstreaming is a prerequisite for aligning national standards with the EU principles and an integral element of ensuing reform processes.

Gender equality can be achieved only in a governance system based on rule of law, at the core of which is an effective judicial protection, which requires the independence, quality, and efficiency of national justice systems and equal access to justice for all.

Access to justice is both a basic human right and a means of implementation of other human rights. Access to justice enables individuals to protect themselves against infringements of their rights, to remedy civil wrongs, to hold executive power accountable, and to defend themselves in criminal proceedings. It is an important element of the rule of law and cuts across civil, criminal, and administrative law.¹

¹ European Union Agency for Fundamental Rights and Council of Europe (2016). Handbook on European law relating to access to justice. See: <https://fra.europa.eu/en/publication/2016/handbook-european-law-relating-access-justice>

Women's social and economic rights, citizenship, and empowerment in the 21st century cannot be realized without women's equal access to justice. For both women and men to enjoy their human rights fully, gender inequalities in accessing justice must be addressed and effectively reduced.² Structured in five brief sections, the Gender Mainstreaming Guidance for the justice sector supports stakeholders to:

- understand gender inequality issues in the justice sector;
- learn about relevant EU policy recommendations and Directives;
- identify relevant indicators for mainstreaming gender in the justice sector;
- know about standardized EU methods and tools to mainstream gender equality goals;
- engage in concrete follow-up, based on a succinct list of key recommended actions.

Gender Equality is not just about 'women'.

Rather it is about the different realities and needs of women and men across society; and the recognition that these realities and needs should be valued and - importantly - nurtured.

This necessitates ensuring that all people are empowered to take a full and productive role in the family, community, society, and the economy. To be in control of their own lives, to make the choices they wish, and thus have fair and equal access to services, support, and opportunity.

Gender-responsive governance is therefore about making sure that in all its policies, programmes, activities, priorities, and budgets, government takes into account the different needs and concerns of women and men, and addresses and reduces inequalities between them.

² European Commission (undated). Thematic brief: Gender and Access to Justice. Available at: https://eugender.itcilo.org/toolkit/online/story_content/external_files/TA_Justice.pdf

Access to justice is “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards”.³

Justice reforms are needed throughout the world to redress the impact of unequal power relations between men and women. Women are not a homogeneous group. Several personal characteristics and situational circumstances often combine to deepen their exclusion and marginalization. When one or more of the factors for exclusion overlap as is often the case - rural women, women with disabilities, women from ethnic, linguistic or other minorities, migrant women, women from the LGBTI+ community, etc. - the risk of social exclusion and marginalization is not only perpetuated, but also acquires an enduring quality that can span over a lifetime and across generations.

Adapted from: UN Women, UNDP, UNODC and OHCHR (2018). A Practitioner's Toolkit on Women's Access to Justice Programming. Available at: <https://www.ohchr.org/en/publications/policy-and-methodological-publications/practitioners-toolkit-womens-access-justice>

³ UNDP (2016). Human Development Report 2016: Human Development for Everyone, pp. 198-201. See: <https://hdr.undp.org/content/human-development-report-2016>

1 JUSTICE - KEY GENDER ISSUES IN ALBANIA

Since 2016, Albania has embarked in an important justice reform process which aims at building an independent, accountable, and efficient justice system. Adoption of the relevant legislation and establishment of a coherent institutional set up have already produced tangible results.⁴

However, despite significant progress in the legislation that would potentially lead to improved justice outcomes for Albanian citizens, women still face serious challenges in relation to the justice system, as evidenced in several reports of human rights mechanisms in recent years.⁵ Women from disadvantaged communities, who suffer intersecting forms of discrimination because of their gender and additional factors - such as women living in rural areas, elderly women, women with disabilities, Roma and Egyptian women, lesbian/bisexual/transgender women, trafficked women, and migrants - are at risk of facing increased barriers to accessing justice. This is due to specific disadvantages at the socio-economic level but can also be the result of a lack of awareness of their specific needs among justice and law-enforcement officials. Women from these groups are also often victims of stereotyping, which can result in bias and insensitivity on the part of the justice system, and even denial of justice.

The following section presents the main gender-related issues in Albania's justice sector that need to be adequately addressed in accordance with EU legislation and international human rights standards.

Measures to prevent gender-based violence (GBV), protect victims, and prosecute perpetrators are not sufficiently implemented. In recent years, Albania has made important progress to align its legislation and policy framework on GBV in accordance with international standards.⁶ However, several aspects need to improve in the justice system to ensure an adequate response to gender-based violence:

- **Not all forms of GBV are reflected in legislation or addressed by the institutional response.** While the Albanian Criminal Code defines stalking, harassment, and sexual violence as criminal acts⁷, prevention and protection

4 EU for Justice Annual Action Plan in favour of Albania for 2021. See: https://ec.europa.eu/neighbourhood-enlargement/system/files/2022-01/C_2021_9730_FI_ANNEX_EN_VI_PL_1674609.PDF

5 CEDAW (2016), GREVIO (2017), UPR (2019), CRPD (2019), etc.

6 UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW), The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), EU Gender Action Plan III, etc.

7 Articles 121/a, 108/a, and 107/a (as well as Articles 100, 101, 102, 102/a, 103, 104, 105, and 106) of the Criminal Code.

measures as well as access to services are often not available to women victims of these forms of violence.⁸ Furthermore, the Albanian criminal legislation still needs to be fully aligned with international standards, in particular with regards to the definition of 'sexual violence' and of 'sexual violence including rape', which remains forced-based instead of consent-based.⁹ Other forms of GBV such as 'female genital mutilation' and 'forced sterilization' also need to be included as criminal acts.¹⁰

- **The level of reporting of violence remains low.** According to the 2018 National Survey on Violence against Women and Girls in Albania, the prevalence of violence against women remains high: one out of three women, or 34 per cent, had experienced violence over the 12 months prior to the survey.¹¹ However, in the year of the survey (2018), the number of reported cases to the Police was just 4,591.¹² In 2019, 4,629 cases were reported to the police; in 2020, it was 4,701 cases; and 5,312 cases in 2021.¹³ Despite some increase in recent years, the number of cases reported to authorities continues to be very low compared to the actual number of women who experience violence.¹⁴

8 A growing body of research confirms that dating violence/youth intimate partner violence constitutes a public health and societal issue important to combat. A study on violence in intimate relations among 16 to 19 years old showed that 22 per cent of adolescents have had this experience. This violence was more reported among girls (28 per cent) and a little less among teen boys (20 per cent). Another national study amongst youth in Albania found that almost one out of ten female respondents have been forced to perform sexual intercourse for the first time against their will. Women are almost three times more likely than men to be forced to perform sexual intercourse due to fear from their partner/former partner. Two out of three respondents that experienced violence, report not having sought any type of help, due to the lack of trust in institutions (police and others), feeling of shame and confusion, and fear of damaging their family's reputation. 12 per cent of young women and five per cent of young men have reported the use of photos/videos or other materials with sexual content to blackmail them. Source: AWEN (2018), Intimate partner violence in adolescence in Albania, see: <https://awenetwork.org/eng/publikime/studime/intimate-partner-violence-in-adolescence-in-albania-a-research-study-2>; AWEN (2021), Intimate partner violence and sexual violence among young people in Albania, see: <https://awenetwork.org/eng/publikime/studime/intimate-partner-violence-and-sexual-violence-among-young-people-in-al>

9 The Istanbul Convention and CEDAW General Recommendation No.35.

10 For definitions, see the Istanbul Convention, respectively Articles 38 and 39. Available at: <https://rm.coe.int/168046246b>

11 See: <http://www.instat.gov.al/media/6123/publication-violence-against-women.pdf>

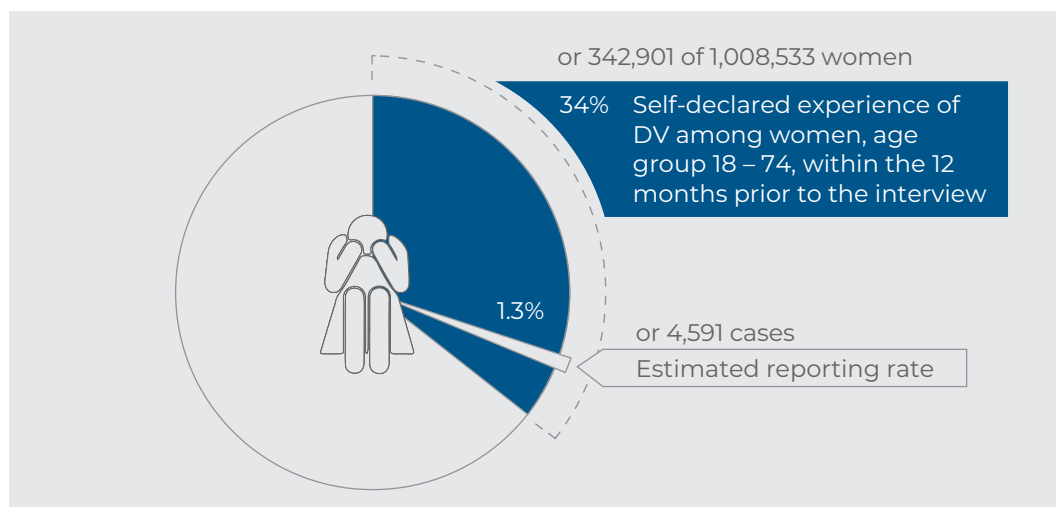
12 Administrative data shared by the General Directorate of State Police with file No.185/1, dated 31/01/2022, addressed to the Center for Civic Legal Initiatives.

13 *Ibid.*

14 According to INSTAT Pc-Axis Population data, in 2018, the overall number of women in the respectively corresponding age group (20-74) among Albania's population was 1,008,533. See: <http://databaza.instat.gov.al/pxweb/en/DST/>

FIGURE 1

Self-declared experience of DV among women versus cases reported to the Police, 2018



Source: Authors' calculation based on: INSTAT DV Survey 2019¹⁵; General Directory of the Albanian State Police as reported in INSTAT "Women and Men 2019"¹⁶; INSTAT Pc-Axis Population data¹⁷

- **The number of accepted requests for protection measures (PO/IPO)¹⁸ is low compared to the number of cases reported.** The ratio of protection measures requests by the police *versus* reported cases of violence varied from 53 to 61 per cent during 2014-2021.¹⁹ A similarly low level regards the number of actual requests accepted by the courts: from 2014 to 2017, a large number of cases – around 60 per cent of the proceedings for PO/IPO – were dismissed with no final court decision.²⁰ Limited change is observed in recent years: in 2020, there were 4,702 reports of domestic violence, 2,836 requests (60 per cent) brought to the Court for protection measures, and 1,596 (56 per

15 See: <http://www.instat.gov.al/media/6123/publication-violence-against-women.pdf>

16 See: <http://www.instat.gov.al/en/publications/books/2019/women-and-men-in-albania-2019/>

17 See: <http://databaza.instat.gov.al/pxweb/en/DST/>

18 Protection Orders/Immediate Protection Orders.

19 Analysis of data made public by the Albanian State Police.

20 Shadow Report of the Center for Legal and Civic Initiatives and the Monitoring Network submitted to the UPR third cycle of review on Albania, 2019. See: http://www.qag-al.org/ang/publication/upr_shadow_report_eng.pdf

cent) accepted by a court order.²¹ According to Albanian State Police data, in 2021, out of the 5,312 reports of domestic violence, 3,266 cases (61.5 per cent) were treated with requests for PO/IPO.^{22, 23} Civil society organizations (CSOs) providing legal aid and other support services to women victims of violence identify several reasons why cases do not succeed in going through the legal system, including: inability of victims to provide evidence, including a medical report²⁴; lack of psychological assessment reports²⁵; and lack of legal aid for victims. According to a recent monitoring report on the activity of the Tirana district court, during 2021, only 41 per cent of victims of domestic violence were represented by a lawyer during court proceedings for protection orders, of which 60 per cent of cases were represented by CSOs, 38 per cent by private lawyers, and only two per cent by lawyers appointed by the State, based on the 2017 Legal Aid Law.²⁶

- **Measures to prosecute perpetrators and issue the Preliminary Measures of Immediate Protection Order (PMIPO) are applied rarely.** In 2021, out of the 3,266 cases treated with requests for PO/IPO, the PMIPO was issued by the police in only 12.7 per cent (or 415) of cases. For just about half of them (52.6 per cent or 237 cases), the police decided to remove the perpetrator from the house.²⁷ In 2020, the removal of the

21 Data analyzed based on annual statistics of the Ministry of Justice and information made public by the Albanian State Police. See: <https://www.drejtesia.gov.al/wp-content/uploads/2022/01/Vjetari-2020-i-plote-per-publikim-1.pdf>

22 See data reported by the Albanian State Police to the Ministry of Health and Social Protection in the context of monitoring the implementation of the National Strategy for Gender Equality for the year 2021, as sent through official letter with Prot. No.1720/1, dated 25/03/2022.

23 The Statistical Yearbook for the same year (2021), published by the Ministry of Justice, reported 2,597 requests brought to the Court for protection orders, out of which 1,696 (65.3 per cent) were accepted by a court order. See: Ministry of Justice, Statistical Yearbook 2021 (pg.367), available at: <https://www.drejtesia.gov.al/wp-content/uploads/2022/06/REPUBLIKA-E-SHQIP%C3%8BRIS%C3%8B-Vjetari-Statistikor-2021-pdf.pdf>

24 Although the Court is required to request evidence from other institutions (Article 15 of the Law on Domestic Violence), in practice this does not take place, and the burden of proof remains mainly with the victims; (these are civil proceedings).

25 Monitoring of the decisions of the Tirana District Court on protection measures during January-June 2020 revealed that in only 11 per cent of cases such assessments were prepared.

26 Human Rights in Democracy Center (2021). Monitoring Study: Judicial system and protection of the rights of victims of gender-based violence and victims of domestic violence. See: <https://www.hrdc.al/index.php/al/sherbime/studime>

27 Government of Albania (2023). State report on the implementation of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (Istanbul Convention) - First round of thematic evaluation: Building trust through ensuring support, protection and justice. Available at: <https://rm.coe.int/state-report-addressed-to-grevio-/1680ac0c69>

perpetrator from the joint household became a mandatory measure for courts. Since 2018, this measure is foreseen to be implemented by the police, based on the results of the risk assessment. If the risk level from the assessment results in 'emergent', then the police must issue the PMIPO, which foresees the removal of the perpetrator from the joint household as the first measure. Exceptions are possible only in cases when the perpetrator is a minor, elderly, or a person with disabilities. The PMIPO issued by the police is valid until the court issues an IPO/PO. However, issuing of PMIPOs by the police is often skipped, and instead, just requests for IPO/PO under court responsibility are issued. Overall, both courts and the police show hesitation to implement the measure of removing the perpetrator from the joint household on the grounds that perpetrators have no alternative accommodation.

- **Lack of information on implementation and monitoring of protection measures by the police and local authorities**, which are obliged to collaborate and conduct regular monitoring of protection measures. According to the legislation, since 2018, local authorities are obliged to deliver to the police regular written monitoring reports on the implementation of the protection measures every 60 days, as well as whenever a violation of the protection order is noted. This requires strong collaboration between all members of the Coordinated Referral Mechanism (CRM), and a functional monitoring system equipped with monitoring methods and tools. Respective monitoring report formats and suggested methods are part of the officially adopted Protocol for Management of DV cases by CRM members. However, so far, monitoring is conducted mainly by phone calls, and not all municipalities follow the practice of delivering regular written reports.²⁸
- **Femicide (i.e., killing of women) is not effectively prevented.** Women are the main victims of murders in family relations. In 2021, out of 61 intentional homicides, about 26.2 per cent were killings within family relations (article 79/c of the Criminal Code), with 62.5 per cent of victims being women.²⁹ In 2020, out of 52 homicides, about 13.5 per cent were

28 People's Advocate (2021). Report on the situation of violence in family relation and of violence against women in Albania for the period January 2020-September 2021, sent to the Assembly of Albania in December 2021, pg.23. See: [https://www.avokatipopullit.gov.al/media/manager/website/reports/RAPORT%20MONITORIM%20DHUNA%20JANAR%202020%20-%20SHTATOR%202022\[1164\].pdf](https://www.avokatipopullit.gov.al/media/manager/website/reports/RAPORT%20MONITORIM%20DHUNA%20JANAR%202020%20-%20SHTATOR%202022[1164].pdf)

29 INSTAT (2022). Women and Men in Albania. See: <https://www.instat.gov.al/en/publications/books/2022/men-and-women-2022/>

killings within family relations (article 79/c of the Criminal Code), with 88.9 per cent of victims being women.³⁰ Expressed in figures, in 2021, ten women were killed by their spouse or other members of their family, six women in 2020, 12 in 2019, and 11 in 2018.³¹ These numbers do not include the women killed by non-partners or non-family members.

- **Low level of investigation and prosecution of GBV cases.** Based on information from CSOs working in the field and data analysis from the General Prosecution Office, the performance of prosecution offices and courts in terms of investigation and prosecution has improved.³² However, the rate of registered investigations among reported total cases of domestic violence remains very low (38 per cent in 2018, 28 per cent in 2019, and 32 per cent in 2020).³³
- **Lack of legal aid for victims of gender-based violence.** Despite recent improvements in the legal aid system, victims of gender-based violence have not benefited adequately. In 2020, out of a total of 4,100 cases that benefited primary legal aid (i.e., legal counseling), 157 were victims of domestic violence.³⁴ In 2021, out of the 8,002 cases benefiting primary legal aid (5,644 directly and 2,059 online or through the phone), 259 were victims of domestic violence. This means that while the number of overall beneficiaries almost doubled, victims of domestic violence did not benefit proportionally. As for secondary legal aid (i.e., court representation) and/or exemption from court fees, this included 65 victims of domestic violence.³⁵ Overall, these figures remain very low

30 INSTAT (2021). Women and Men in Albania. See: <https://www.instat.gov.al/en/themes/demography-and-social-indicators/gender-equality/publication/2022/women-and-men-in-albania-2021/>

31 *Ibid.*

32 Annual reports of the General Prosecution Office, available at: https://www.pp.gov.al/Dokumente/RAPORTE_T_PROKURORIT_T_P_RGJITHSH_M

33 Based on the calculation of data provided by the Government of Albania Action Plan on the execution of a domestic violence judgment of the European Court of Human Rights (Tërshana Albania). See: [https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:%5B%22T%26rshana%22%2C%22EXECIdentifier%22:%5B%22DH-DD\(2021\)746E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:%5B%22T%26rshana%22%2C%22EXECIdentifier%22:%5B%22DH-DD(2021)746E%22%5D%7D)

34 Annual report of the Free Legal Aid Department of the Ministry of Justice of Albania, 2020. Available at: <https://ndihmajuridike.gov.al/wp-content/uploads/2021/01/RAPORT-VJETOR-MBI-VEPRIMTARIN%26E-DNJF-RIPUNUAR...pdf>

35 Data from the Report of the People's Advocate (2021). Report on the situation of violence in family relation and of violence against women in Albania for the period January 2020-September 2021, sent to the Assembly of Albania in December 2021. See: [https://www.avokatipopullit.gov.al/media/manager/website/reports/RAPORT%20MONITORIM%20DHUNA%20JANAR%202020%20-%20SHTATOR%202022\[1164\].pdf](https://www.avokatipopullit.gov.al/media/manager/website/reports/RAPORT%20MONITORIM%20DHUNA%20JANAR%202020%20-%20SHTATOR%202022[1164].pdf)

compared to the actual number of reported cases of violence and the overall beneficiaries of legal aid. When legal aid is provided, it is mainly offered during civil proceedings for protection orders and not for criminal proceedings, even though victims of domestic violence are entitled to a lawyer, based on criminal legislation and the Free Legal Aid law. Obtaining fee waivers and reimbursement for court fees and experts' fees remains very difficult.³⁶ CSOs report that victims without access to legal aid are more likely to withdraw their case, failing to understand the importance of a protection order, finding it difficult to collect evidence, or succumbing to the court's harmful conciliation practices. Withdrawals for these reasons were particularly common until the 2018 amendments of the Law on Domestic Violence.³⁷

Child and early marriage persist. Monitoring of court orders reveals that courts may allow marriage before the legal minimum age on a case-by-case basis on the grounds of pregnancy, childbirth, and cohabitation, and that they often do not make these decisions in the best interests of the children concerned.³⁸ The vast majority of under-aged married children are girls. The number of married girls before the age of 18 was 16 in 2020. This was a decrease compared to 2019, when there were 20 marriages involving a minor. In 2020, the share of married girls at the age of 18 was 6.6 per cent, and 5.5 per cent for the age of 19. However, in 2021, the situation changed again, and the number of married girls before the age of 18 was 19, which represents an increase compared to the previous year. In 2021, the ratio of married girls at the age of 18 was 6.4 per cent, and 5.8 per cent for the age of 19. On the other hand, no marriages were registered for boys before the age of 18, and the share of married boys of 18-19 years of age is under one per cent.^{39,40} These figures do not include unregistered marriages, and hence the real prevalence rate is in fact higher. Child marriage rates are known to be elevated in rural and remote areas, and among Roma communities; however, accurate statistical data is unavailable.

36 UN Country Team Albania (2020), Common Country Analysis; UN Women (2020), Country Gender Equality Brief Albania.

37 Stakeholder Report for the United Nations Universal Periodic Review for the 33rd Session of the Working Group, submitted by the Advocates for Human Rights and Human Rights in Democracy Center, 2019.

38 UNICEF (2021). Situation analysis of Children and Adolescents in Albania. See: <https://www.unicef.org/albania/documents/situation-analysis-children-and-adolescents-albania>

39 INSTAT (2021). Women and Men in Albania. See: <https://www.instat.gov.al/en/themes/demography-and-social-indicators/gender-equality/publication/2022/women-and-men-in-albania-2021/>

40 INSTAT (2022). Women and Men in Albania. See: <https://www.instat.gov.al/en/publications/books/2022/men-and-women-2022/>

Experts on gender equality, family and child rights issues also report that courts do not consistently apply procedural guarantees which are intended to limit the application of exceptions on child marriage under the age of 18. There is lack of administrative data on court orders related to child marriage.

The number of cases with final convictions of traffickers of women and children remains very low. While Albania has made progress on combating trafficking in persons, it continues to suffer from this scourge, and there are signs of increased domestic trafficking of women and children for sexual exploitation and begging, including sexual exploitation in hotels or brothels and in tourist areas.⁴¹ In 2020, 86 victims were identified and assisted, compared to 92 victims in 2019. The Prosecutor's Office registered 28 new criminal proceedings for trafficking in human beings in 2020, compared to 25 proceedings in 2019. The number of cases with final convictions remained very low, with only two cases with three final convictions in 2020, and three cases with five final convictions in 2019.⁴² Albania remains a Tier 2 country in the classification of the US State Department, which - in its annual report - highlights lack of specialized experience and capacity among prosecutors to prosecute trafficking cases successfully, as well as insufficient resources and constant turnover within law enforcement agencies.⁴³

41 Information provided by IOM for the UNCT Alternative report to CEDAW, February 2022.

42 European Commission (2021). Albania 2021 Report. Available at: https://neighbourhood-enlargement.ec.europa.eu/albania-report-2021_en

43 U.S. Department of State (2021). 2021 Trafficking in Persons Report. See: <https://www.state.gov/reports/2021-trafficking-in-persons-report/>

BOX 1

Key policy area-specific EU indicators for which data is available in Albania

- Number of legislative actions taken in partner country to criminalize gender-based violence, including online, and to prosecute perpetrators, in line with international standards
- Number of legislative actions taken in partner country to ensure survivors of gender-based violence can access justice
- Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18
- Number of cases of sexual and gender-based violence (SGBV) reported to the police, per year, disaggregated at least by sex
- % of trafficking victims/survivors who were interviewed in a safe, private, examination room, disaggregated at least by sex

Source: European Commission (2020). Objectives and Indicators to frame the implementation of the EU Gender Action Plan III (2021-25). Available at: <https://op.europa.eu/en/publication-detail/-/publication/14a6e4fa-2f21-11eb-b27b-01aa75ed71a1/language-en>

Despite improvements in the anti-discrimination legislation, in practice, women do not benefit from legal remedies.⁴⁴ In general, anti-discrimination case-law of the Commissioner for the Protection from Discrimination (CPD) has not substantially developed yet.⁴⁵ In 2020, out of 175 complaints⁴⁶ submitted by individuals and treated by CPD (63 women or 36 per cent of complaints), 13 featured 'gender' as the basis of discrimination, leading to CPD review in seven cases and one decision issued. During 2021, out of 261 complaints submitted to the CDP by individuals⁴⁷ (53 women or 20.3 per cent of complaints), 30 were based on gender discrimination. 15 cases were reviewed, and three decisions were issued confirming discriminatory practice. During 2022, out of 221 complaints submitted to the

44 CEDAW (2016). Concluding Observations on the 4th periodic report of Albania, 2016, paragraphs 10 and 11. Available at: <https://digitallibrary.un.org/record/840818?ln=en>

45 European Commission (2021). Albania 2021 Report. Available at: https://neighbourhood-enlargement.ec.europa.eu/albania-report-2021_en

46 Of which 134 complaints by individuals were registered in 2020 and 41 complaints by individuals are carried over from 2019.

47 Of which 214 complaints by individuals were registered in 2021 and 47 complaints by individuals are carried over from 2020.

CDP by individuals⁴⁸ (93 women or 42 per cent of complaints), 16 were based on gender discrimination. Seven cases were reviewed, and two decisions were issued confirming discriminatory practice. The majority of these complaints is related to discrimination in the workplace.⁴⁹ So far, the judicial practice on anti-discrimination case law has not been consolidated, and there is lack of interpretation by courts of the principle of protection from discrimination, including from discrimination based on gender.⁵⁰ In general, the review process is slow, as illustrated by the significant number of cases carried over from previous years.

In February 2022, Albania ratified ILO Convention No.190 concerning the Elimination of Violence and Harassment in the World of Work (2019), but **data on the prevalence of violence and harassment in the world of work is lacking.**

BOX 2

Key specific EU indicators on access to justice

- Whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex
- Extent to which legislation is revised to remove gender-discriminatory clauses on family, divorce, custody of children, inheritance, employment, pay, social security, ownership of assets, land etc.
- % of the population who perceive the overall quality of justice dispensed as good or very good, disaggregated at least by sex
- Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law
- Number of consultations by partner government at national and local level with women's rights organizations engaged in law reform advocacy

Source: European Commission (2020). Objectives and Indicators to frame the implementation of the EU Gender Action Plan III (2021-25). Available at: <https://op.europa.eu/en/publication-detail/-/publication/14a6e4fa-2f21-11eb-b27b-01aa75ed71a1/language-en>

48 Of which 157 complaints by individuals were registered in 2022 and 64 complaints by individuals are carried over from 2021.

49 Annual reports of the Commissioner for Protection against Discrimination for 2020 and the first half of 2021. Available at: <https://www.kmd.al/raporte-vjetore/>

50 Assessment report 'Court Decisions on the principle of equality and non-discrimination, prepared by the CPD with the support of UNDP, 2021. Available at: https://www.undp.org/sites/g/files/zskgke326/files/2022-08/ENGLISH_UNDP%20Print_The%20Principle%20of%20Equality%20and%20Non-Discrimination%20Analysis%20of%20Case%20Law%202013-2020.pdf

Court decisions in favor of women in family, property, and other legal matters are not consistently executed. This issue is highlighted by CEDAW as a widespread problem and one of the most concerning issues related to women’s access to justice.⁵¹ Administrative data from 2016 to 2020 indicate that the per centage of non-executed court decisions related to alimony varies from 25 to 40 per cent with an increasing trend, proportional to the increase of such court decisions. Only a limited number of criminal charges have been filed against the debtor parent, i.e., the father. Bailiff cases with court decisions on children especially affect women, since in most cases, children are left to the mother for upbringing and education. The issue has also been raised in several reports of the office of the People’s Advocate, which has expressed its concern about bailiffs’ partial knowledge on the civil and procedural legislation in force, which negatively affects citizens’ procedural rights.⁵²

The Free Legal Aid system insufficiently serves marginalized women. Based on the 2017 Law on State Free Legal Aid, legal aid - including legal counseling (primary legal aid), court representation (secondary legal aid), and exemption from court and expert fees – should be provided to: a) those who are in financial difficulties and need to prove their status; and b) persons belonging to specific categories (e.g., persons with disabilities; victims of domestic violence, trafficking or sexual abuse; children; persons benefiting economic aid; and others) who automatically benefit based on their status.

However, the number of women who need free legal aid, and are in a difficult financial situation or among the law’s categories, is much higher compared to the number of women who actually receive support. From a total number of 5,644 beneficiaries of primary free legal aid in 2021 – which is a relatively low figure in view of the wide range of categories foreseen in the legislation – 3,263 were women and 2,381 men.⁵³ In 2020, 2,584 persons benefited legal aid in person, and 1,760 online, though there is no sex-disaggregated data for this year.⁵⁴ No information is available about the issues these women were

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

52 People’s Advocate (2020). Alternative report on the implementation of the CEDAW Convention in Albania 2016-2020. Prepared by the Ombudsperson of the Republic of Albania for the presentation before the United Nations Committee on the Elimination of All Forms of Discrimination against Women (CEDAW). Available at: <https://albania.unwomen.org/en/digital-library/publications/2020/12/alternative-report-on-the-implementation-of-the-cedaw-convention-in-albania>

53 This data does not include persons benefiting legal aid through online platform and telephone line, due to the inability of the Directorate for Free Legal Aid (DFLA) to disaggregate this data by sex.

54 See DFLA annual reports for 2021 and 2020: <https://ndihmajuridike.gov.al/wp-content/uploads/2022/01/Raporti-vjetor-per-vitin-2021-converted.pdf> and https://ndihmajuridike.gov.al/wp-content/uploads/2021/01/RAPORT-VJETOR-MBI-VEPRIMTARINË-E-DNJF_RIPUNUAR...pdf

represented on, and whether they belonged to marginalized groups (e.g., Roma and Egyptian women, women with disabilities, women from rural areas, etc.).

Particularly secondary legal aid (i.e., court representation and/or exemption from court and expert fees), which is one of the most important aspects of access to justice, is provided to a very limited number of women. In 2021, out of the total of 849 requests, 671 persons benefited from secondary legal aid. The majority of requests (70 per cent) were based on financial grounds, and 30 per cent came from special categories entitled to benefit from legal aid regardless of their financial status.⁵⁵ In 2020, a total of 157 court orders for approval of free legal aid were issued, the majority of which for legal representation, and a lower number for exemption from court and expert fees.⁵⁶ Contradicting the evident need for legal aid to women, in 2022, the respective budget allocation of the Ministry of Justice was slightly reduced compared to 2021.

While Free Legal Aid Clinics are under the administration of the Ministry of Justice, service delivery and day-to-day operations continue to be supported by international organizations and partners.⁵⁷ CSOs authorized to provide free legal aid are entitled to access government funding on a competitive basis; however, due to lack of clear procedures, this modality was not in use in 2020 and 2021. The majority of authorized CSOs are specialized in providing legal aid to women victims of gender-based violence, disadvantaged women and communities, children, and persons with disabilities, and they are equipped with professional legal expertise to provide such support.⁵⁸

Women's access to justice may face new challenges in view of the recent reform proposal for a new territorial distribution of first instance courts and reduction of their number from 22 to 12.⁵⁹ It may become increasingly difficult for women to attend court hearings that take place in districts far from their residence, particularly for women who do not own or drive a car, and women living in rural - and especially in remote - areas.

55 These categories include victims of domestic violence, sexual abuse, trafficking of human beings, persons with disabilities, minors who have committed an offence, children in social care institutions, persons whose rights have been infringed by an action or inaction that has led to discrimination, etc.

56 The annual report of the DFLA does not include sex disaggregated data, although this information is available in monthly reports published on the DFLA website.

57 Such as UNDP and the Austrian Development Agency.

58 See: <https://ndihmajuridike.gov.al/wp-content/uploads/2020/10/REGJISTRI-I-ORGANIZATAVE-JOFITIMPRURESE-QE-OFROJNE-NDIHME-JURIDKE-PARESORE.pdf>

59 See: <http://klgj.al/wp-content/uploads/2021/12/NJË-HARTË-E-RE-GJYQËSORE-.pdf>

Women’s property rights are impeded by low levels of registration as co-owner. The legislation guaranteeing women’s equal property and inheritance rights has improved considerably.⁶⁰ However, many women are still not registered as owners of their houses, land, and other property, which largely remain registered under the name of men spouses or other male members of the family. As a result, women cannot fully benefit from their property, including obtaining loans or credit, and they run the risk of losing their property rights in cases of divorce, or of having to enter into legal disputes to claim their rights. Data on women owning property is outdated and lacks a consistent methodology for sex-disaggregation used over time.

Gaps in gender data on justice prevent addressing inequalities and gender-specific challenges. Sex-disaggregated data and gender statistics are essential for understanding the situation of women and men in the justice sector. They are also key for conducting gender analysis, developing gender-responsive policies, and designing measures that address inequalities and gender-specific challenges. In principle, it would be possible to compute several key EU-indicators on gender and justice in Albania, based on existing administrative data.

⁶⁰ With the adoption of a new Law on Cadaster and a Law on Public Notaries in 2018.

BOX 3

Key policy area-specific EU indicators that could be computed in Albania

(Listed indicators are part of the thematic impact indicators under SDG 5 and SDG 16, and specifically refer to SDG Targets 5.2.13, SDG 5.2.23, SDG 5.3.2, and SDG 16.2.2)

- % of referred cases of gender-based and sexual violence against women and children that are investigated and sentenced
- % of women and girls who report feeling or/and experiencing increased safety in private and public spheres (including mobility)
- % of women, including those facing intersecting and multiple forms of discrimination, who report experiencing physical or sexual violence who seek help, by sector i.e. (a) government services and civil society services; or (b) social welfare, legal aid, housing/shelter, police protection
- % of gender-based violence cases reported to the police, brought to court which resulted in the perpetrators being sentenced, disaggregated at least by sex
- Number of cases of SGBV reported to the police, per year, disaggregated at least by sex
- % of gender-based violence cases reported to the police, per year, disaggregated at least by sex
- % of gender-based violence cases reported to the police that are brought to court, per year, disaggregated at least by sex
- % of trafficking victims/survivors who were interviewed in a safe, private, examination room, disaggregated at least by sex
- Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law

Source: European Commission (2020). Objectives and Indicators to frame the implementation of the EU Gender Action Plan III (2021-25). Available at: <https://op.europa.eu/en/publication-detail/-/publication/14a6e4fa-2f21-11eb-b27b-01aa75ed71a1/language-en>

A precondition for establishing these indicators is improved coordination between institutions. Data required for computing can be obtained from gender-based violence surveys conducted by INSTAT, reports of the General Directorate of Police, the Ministry of Justice, the Directorate of Free Legal Aid, the Bailiffs Office, the General Prosecution Office, the People's Advocate, the Commissioner for Protection against Discrimination, as well as other justice institutions.⁶¹

BOX 4

Summary of main gender inequality issues in the justice sector in Albania

- High prevalence of gender-based violence;
- Child marriage continues to exist and even keeps being tolerated by some courts;
- Low number of investigations and prosecutions for perpetrators of trafficking of women and children;
- Anti-discrimination mechanisms and courts do not effectively implement and enforce anti-discrimination legislation on gender equality and other intersecting forms of discrimination;
- Court decisions in favour of women in family, property, and other legal matters are not consistently enforced;
- Marginalized women do not benefit from the Free Legal Aid system, particularly from secondary legal aid;
- Many women remain not registered as co-owners of their property;
- Gaps in gender statistics on justice.

⁶¹ The metadata document for SDG-related indicators recommends the use of national data sources, with INSTAT's Gender-based Violence Survey being one among them.

2 GENDER EQUALITY AND JUSTICE IN THE EU ACCESSION CONTEXT

The justice sector falls primarily under the responsibility of EU Member States, which are required - based on their national legislation, EU law, and other international standards - to ensure equal access to justice for all individuals in their jurisdictions. At the same time, justice remains a core element of EU legislation, including the EU Charter of Fundamental Rights, which brings together all the personal, civic, political, economic, and social rights enjoyed by people within the EU in a single text. Several articles of the EU Charter guarantee equal access to justice for everyone.

The EU system has created a number of mechanisms provided by the Treaty on the Functioning of the European Union (TFEU) enabling citizens of all EU Member States to trigger the involvement of EU institutions in case of difficulties when accessing justice in their country. In addition, the EU institutions can act on their own initiative, based on the shared competence between the Union and the Member States in the areas of freedom, security and justice provided by Article 4(2)(j) of the TFEU.⁶² On that basis, the EU has adopted certain legal instruments to improve access to civil justice for citizens, which have a particular, positive impact on women, including:

- Directive 2002/8/EC on minimum common rules relating to legal aid;⁶³
- Directive 2012/29/EU on the rights of victims;⁶⁴
- Directive 2012/13/ EU on the right to information in criminal proceedings;⁶⁵
- Directive 2013/48/EU on access to a lawyer;⁶⁶
- Directive 2016/34 on the presumption of innocence.⁶⁷

EU institutions also implement programmes and initiatives to promote rule of law and access to justice, including the EU Justice Scoreboard⁶⁸ and several

62 European Parliament (2017). Effective Access to Justice. Study commissioned by the European Parliament Policy Department for Citizens' Rights and Constitutional Affairs upon request by PETI Committee. See: [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596818/IPOL_STU\(2017\)596818_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596818/IPOL_STU(2017)596818_EN.pdf)

63 See: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32003L0008>

64 See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029>

65 See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32012L0013>

66 See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0048>

67 See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L0343>

68 The EU Justice Scoreboard presents an annual overview of indicators on the efficiency, quality and independence of justice systems. Its purpose is to assist Member States in improving the effectiveness of their national justice systems by providing objective, reliable and comparable data.

tools to improve the effectiveness of national justice systems.⁶⁹

Concerning gender equality in the justice system, EU policy is mainly focused on combating gender-based violence and ensuring the protection of women victims of crime. In the last few years, the European Commission has taken several legislative and non-legislative measures to ensure the protection of women subjected to crimes, in particular violence, and the fight against gender-based violence.

Gender equality considerations play a key role in shaping the strategic directions in the justice sector in the EU. They determine EU internal policies as well as its external actions. The relevance of gender equality in the justice policy area is considered in view of the following points:

- **Access to justice is a human right and an integral aspect of the rule of law.** Addressing the issue of gender equality in access to justice is particularly important in the aftermath of the economic crisis, as inequalities at all levels of society have been rising and impacting negatively on women's lives.⁷⁰ Furthermore, despite a wide array of international laws ensuring equal rights for women and men, women's access to justice is not equal. This is due to a combination of inequalities at legal, institutional, structural, socio-economic, and cultural levels. Therefore, guaranteeing women's equal access to justice implies providing them with access to fair, affordable, accountable, and effective remedies so that both women and men can enjoy equal rights and are provided with equal opportunities to use these rights.⁷¹
- **Crime is a gender-oriented phenomenon, but the justice system does not equally accommodate women's and men's needs.** Crime is not a gender-neutral phenomenon. Various studies have shown that, in general, women and men commit different types of crimes. For

69 European Semester, Structural Funds supporting justice reforms, Technical support on justice reforms, Cooperation and Verification Mechanism, European e-Justice portal. See: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/improving-effectiveness-national-justice-systems_en

70 UN Women (2020). The impact of Covid-19 on women's and men's lives and livelihoods in Europe and Central Asia: Preliminary results from a Rapid Gender Assessment. See: <https://eca.unwomen.org/en/digital-library/publications/2020/07/the-impact-of-covid19-on-womens-and-mens-lives-and-livelihoods>

71 European Institute for Gender Equality (2022). Relevance of gender in the justice area. See: <https://eige.europa.eu/gender-mainstreaming/policy-areas/justice>

instance, when women offend, they commit more theft and burglary crimes, and are less involved in serious violence, criminal damage, and professional crime. However, the general concepts and principles of law are more representative of the experiences of men than those of women.⁷²

- **Acknowledging the gender dimension of crime is not only an issue of gender equality and human rights, but also an economic one.** The cost of intimate partner violence in the EU amounts to €122 billion, with intimate partner violence against women representing a cost of €109 billion, equaling 89 per cent of the total cost. The cost to the EU of all forms of gender-based violence against women amounts to €225 billion. This represents 87 per cent of the total cost of gender-based violence to the EU.⁷³

⁷² *Ibid.*

⁷³ *Ibid.*

TABLE 1

Examples of gender shortcomings in the justice system

Criminal Law	Civil Law
<ul style="list-style-type: none"> ▪ Women can be victims of extremely traumatizing crimes, of which gender-based violence in all its forms is the most obvious, producing both physical and psychological consequences. ▪ The judicial practices and existing procedural requirements are not sufficiently victim-friendly; too often they fail to avoid secondary victimization and alienation of victims from the process, potentially leading them to withdraw the case or give up. ▪ Secondary victimization needs to be avoided not only through the judicial procedures applied, but also by staff in the police and judicial system. Secondary victimization is rather common, for instance, in the case of women victims of domestic violence or sex workers who face sexual or domestic violence.⁷⁴ 	<ul style="list-style-type: none"> ▪ Family law and the civil law system cover a series of sensitive issues - such as divorce, spousal and child support (maintenance), parental responsibilities, guardianship, and the division of property - that are shaped by the values and norms of the society they govern. If such norms and values are characterized by gender inequalities and stereotypes, this provides gateways for discriminatory attitudes and gender stereotypes to surface. ▪ Women lose out in the division of property after divorce, mainly because implicit contracts within the marriage agreement are not honored. ▪ There is a low number of men who obtain custody over their children in case of divorce, due to the belief that women are better carers. ▪ Many custody decisions after spousal abuse by the male partner/father continue to place the right of the abuser to exercise parental responsibilities, and/or the right of the child to continued contact with both parents, over the right to safety and other concerns of the victim and her children.⁷⁵

⁷⁴ Council of Europe (2017). Training Manual for Judges and Prosecutors on Ensuring Women's Access to Justice. See: <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>; Council of Europe (2018). Women's Access to Justice: A Guide for Legal Practitioners. See: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

⁷⁵ *Ibid.*

Positive examples from the EU on gender mainstreaming in the justice sector

Court Watch, Bulgaria: A positive example from the EU on gender mainstreaming in the justice sector is the application of the method of court watch for monitoring the implementation of the law on protection against domestic violence (DV) in Bulgaria. This programme aimed to improve the effectiveness of protection of victims of domestic violence in Varna courts, involving trained volunteers attending court cases on DV. These volunteers monitored a set of indicators, such as the demographic characteristics of the victims and perpetrators, whether or not a protection order was issued, and how many cases were withdrawn or delayed. This court monitoring process resulted in reducing the incidence of bias and discrimination, and also improved indicators such as the number of immediate protection orders, the range of measures included in the final decisions, and the average duration of the lawsuit.⁷⁶

Network of Victim Support Offices, Spain: Another example from Spain relates to the practice of establishment of a network of Victim Support Offices. These offices operate through a multi-agency and victim-centered approach which aims to provide comprehensive, coordinated and specialist assistance to victims of crime, and to respond to their specific legal, psychological, and social needs. The Victim Support Offices provide assistance in four phases: reception-guidance, information, intervention, and follow-up. Specialized reports on individual assistance are prepared by the offices and transmitted to the relevant prosecutorial and judicial authorities, where they inform the adoption of protection measures. Victims are also assisted in the process of applying for compensation.⁷⁷

⁷⁶ European Institute for Gender Equality (2022). Bulgaria's court watch reduces discrimination and delay in the courts. See: https://eige.europa.eu/sites/default/files/documents/court_watching_in_varna_-_support_services_-_bulgaria.pdf

⁷⁷ Council of Europe (2022). Mid-term Horizontal Review of GREVIO baseline evaluation reports. See: <https://rm.coe.int/prems-010522-gbr-grevio-mid-term-horizontal-review-rev-february-2022/1680a58499>

3 LINKING JUSTICE WITH THE EU GENDER EQUALITY ACQUIS

Gender mainstreaming is a strategy which involves the integration of a gender perspective into the preparation, design, implementation, monitoring and evaluation of policies, strategies, budgets, spending programmes, project activities, regulatory measures, administrative functions, and institutional culture, with a view to promoting **equality between women and men**, and preventing and eliminating discrimination.

Gender mainstreaming ensures that policy-making and legislative work are of higher quality, and policies respond more effectively to the needs of all citizens – women and men, girls and boys. With gender mainstreaming, public interventions are more effective, ensuring that inequalities are not perpetuated.

The main objective of EU programmes in (pre-)accession countries is to support potential Member States to adopt and implement all reforms (i.e., political, institutional, legal, administrative, social, and economic) that are required to comply with EU values and align with EU rules, standards, policies, and practices. The accession criteria (Copenhagen Criteria) include clear preconditions for stable institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities.⁷⁸ Gender equality - as one of the key rule-of-law principles - forms an inherent part of the Enlargement Strategy.⁷⁹ Enlargement requires each accession country to adopt the body of common rights and obligations (the EU *acquis*) that are binding for all EU member countries.⁸⁰ Gender equality is integral to accession and legal harmonization processes by applying the rights-based approach principles of (i) legality, universality and indivisibility of human rights; (ii) participation; (iii) non-discrimination; (iv) accountability; and (v) transparency, in each step of programming, implementation, monitoring, and evaluation of EU-support.

78 Conclusions of the Presidency, European Council, Copenhagen, 21-22 June 1993. See: <https://www.consilium.europa.eu/media/21225/72921.pdf>

79 COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, 2018, pg.4. Available at: https://www.eeas.europa.eu/sites/default/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

80 See: <https://eur-lex.europa.eu/summary/glossary/acquis.html>

At EU-level, the obligation to engage in gender mainstreaming emanates, among others, from:

- the Treaty of the European Union (TEU);⁸¹
- the Treaty of the Functioning of the European Union (TFEU)⁸² Articles 8 and 10, which mandate the EU and Member States to ensure gender equality goals are mainstreamed in all EU activities;
- Council Directive 2004/113/EC of 13 December 2004⁸³, 'Implementing the principle of equal treatment between men and women in the access to and supply of goods and services';
- the Directive of the European Parliament and of the Council 2006/54/EC of 5 July 2006⁸⁴ 'On the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation' (Recast Directive).

Furthermore, gender mainstreaming is clearly reflected in the EU Gender Action Plan III (2021-2025)⁸⁵, and it is integral part of the Regulations of the EU Instrument for Pre-Accession Assistance (IPA III)⁸⁶: **when accessing the EU, candidate countries are required to comply with the *acquis* on gender equality and non-discrimination.**

81 Consolidated version of the Treaty of the European Union (TEU). See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT>

82 Consolidated version of the Treaty of the Functioning of the European Union (TFEU). See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>

83 Council Directive 2004/113/EC of 13 December 2004 'Implementing the principle of equal treatment between men and women in the access to and supply of goods and services'. See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0113>

84 Directive of the European Parliament and of the Council 2006/54/EC of 5 July 2006 'On the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation' (Recast Directive). See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0054>

85 Joint Communication of the European Parliament and the Council: EU Gender Action Plan (GAP) III – An ambitious agenda for gender equality and women's empowerment in EU external action. See: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020JC0017>

86 REGULATION (EU) 2021/947 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No.466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No.480/2009. See: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0947&from=EN>

At international level, Albania has ratified and/or endorsed essential international treaties and policies obliging the country to safeguard women's rights and support gender equality, including:

- the United Nations Convention on the Elimination of all forms of Discrimination Against Women (UN CEDAW);⁸⁷
- The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention);⁸⁸
- the Beijing Declaration and Platform for Action (BPfA);⁸⁹
- the United Nations Security Council Resolution 1325 'Women Peace and Security' (UNSCR 1325);⁹⁰ and
- the International Labour Organisation (ILO) Fundamental Conventions⁹¹, and C190 concerning the Elimination of Violence and Harassment in the World of Work.⁹²

EU Gender Law and EU GAP III are aligned with the abovementioned documents and hence constitute an integral part of the EU accession process.

At national level, the Albanian Constitution prohibits discrimination on the basis of gender (Article 18/2).⁹³ Law No.9970, dated 24/07/2008, 'On Gender Equality in Society'⁹⁴, defines the term 'gender mainstreaming'. Law No.10221,

87 United Nations General Assembly (1979). Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). See: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

88 Council of Europe Convention on preventing and combating violence against women and domestic violence (2011). See <https://www.coe.int/en/web/istanbul-convention/home?>

89 Beijing Declaration and Platform of Action (1995). See: <https://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>

90 United Nations Security Council Resolution 1325 on women and peace and security (2000). See: <https://www.unwomen.org/en/docs/2000/10/un-security-council-resolution-1325>

91 ILO Conventions and Recommendations [Online]. See: <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>

92 ILO (2019). Convention No.190 concerning the Elimination of Violence and Harassment in the World of Work: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190; see also: <https://www.ilo.org/global/topics/violence-harassment/lang--en/index.htm>

93 Constitution of the Republic of Albania. Available at: <https://www.osce.org/albania/41888>

94 Law No.9970, dated 24/07/2008 'On gender equality in society', as published in the Official Gazette No.125, dated 01/08/2008. Available at: <http://www.osce.org/albania/36682>

dated 04/02/2010, 'On Protection from Discrimination', amended in 2020⁹⁵, obliges public authorities in their entirety to promote equality and prevent discrimination in exercising their functions (Article 7, Protection from discrimination). Furthermore, the law addresses structural and intersectional discrimination, as well as the elimination of privilege.

The National Strategy for Gender Equality (NSGE) 2021-2030, adopted through Council of Ministers' Decision No.400, dated 30/06/2021, through its Strategic Goal IV, establishes the "Application of gender mainstreaming as the main tool of achieving gender equality and gender justice in society".⁹⁶ It foresees monitoring of new strategies that integrate a gender perspective, and the allocation of respectively matching budget allocations at central and municipal level. Thereby, the NSGE provides the strategic framework for gender mainstreaming across sectors and levels of governance.

3.1. Alignment with EU Gender Action Plan (GAP) III and relevant indicators

As evidenced in documents such as Country Reports and Country Gender Profiles for Albania, significant gaps persist in addressing gender inequality issues and in the application of gender mainstreaming.⁹⁷ This applies also to policy areas in which women's unequal status is well-documented and clearly evidenced by administrative data. Underlying reasons include:

- (i) the stereotypical and erroneous conceptualization of a 'standard citizen' who is male;
- (ii) limited gender mainstreaming capacity and skills within the administration;

⁹⁵ As amended by the Law No.124/2020. See: <https://www.kmd.al/wp-content/uploads/2021/04/Law-on-Protection-from-Discrimination-Albania.-2020.pdf>

⁹⁶ National Strategy for Gender Equality 2021-2030, published in the Official Gazette Fletorja Zyrtare e Republikës së Shqipërisë Nr.112, datë 15/07/2021, see: <https://qbz.gov.al/eli/fz/2021/112>; the English version is available at: https://albania.unwomen.org/sites/default/files/2022-02/WEB_Strategjia%20Kombetare%20-%20EN.pdf

⁹⁷ European Commission Reports in 2017, 2018, 2019, and 2020; UNDP and UN Women (2016). Gender Brief Albania. See: <https://eca.unwomen.org/en/digital-library/publications/2016/10/albania-gender-brief>; UN Women (2020). Country Gender Equality Brief Albania 2020. See: https://eca.unwomen.org/sites/default/files/Field%20Office%20Albania/Attachments/Publications/2020/12/CGEB%20Albania_REPORT_1.pdf

- (iii) absence of the obligation to conduct policy area-specific gender analysis on a routine basis; and
- (iv) weak reflection of gender equality norms and standards in processes, procedures, and systems of governance.

A further obstacle is posed by the fact that individuals involved in the drafting of policies and programmes find it difficult to precisely pinpoint the main gender inequality issues in their specific area of engagement. As a consequence, the vast majority of policies, plans, and programmes remain without concrete gender equality objectives.

Public policies are expected to work for specific outcomes. Indicators outline the regulatory markers of achievement of these outcomes. With regard to monitoring progress on gender equality, the indicators of the EU Gender Action Plan 2021-2025 (GAP III) serve as valuable guidance, including in the justice sector.⁹⁸ They illustrate what kind of change (i.e., outcomes) in the lives of women/girls and men/boys needs to be achieved and measured in a policy area.

In EU GAP III, gender disparities in the justice sector feature primarily in Thematic Area 1 “Ensuring freedom from all forms of gender-based violence” and Thematic Area 4 “Promoting equal participation and leadership”.

For EU GAP III Thematic Area 1, the Overall Thematic Objective aims at an impact-level change by:

- increasing protection – by supporting legislation criminalizing all forms of gender-based violence, and capacity building of law enforcement institutions, in line with international legal and policy frameworks;
- contributing to increasing prosecution of perpetrators including those involved in human trafficking by strengthening a victim-centered approach by the law-enforcement bodies;
- increasing protection of survivors also by supporting access to life-saving social and justice services with a survivor-centered approach, particularly in fragile and conflict/post-conflict settings or when survivors face intersecting discriminations.

⁹⁸ European Commission and High Representative of the Union for Foreign Affairs and Security Policy (2020). JOINT STAFF WORKING DOCUMENT Objectives and Indicators to Frame the Implementation of the Gender Action Plan III (2021-25), p.27. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020SC0284>

For EU GAP III Thematic Area 4, the Overall Thematic Objective on justice aims at an impact-level change by:

- enhancing equal legal capacity and access for women to justice through support to grassroots efforts and to legal and justice systems reforms.

In the framework of Albania’s EU accession process, mainstreaming gender equality requires that EU GAP III objectives and indicators are gradually accommodated within the country’s policy framework. Towards this end, the below table presents the alignment between (i) the EU Chapters relevant for a particular policy area; (ii) the respective national policy documents which shall accommodate the EU gender equality considerations; and (iii) the specific EU GAP III objectives and indicators which need to be incorporated into national monitoring frameworks. The alignment is supplemented by listing the matching gender-related SDG Indicators, which links gender mainstreaming in the EU accession process to gender equality goals at global level.

TABLE 2

Alignment of Chapter 23 with EU GAP III Indicators

Chapter 23 – Judiciary and Fundamental Rights	
Related national strategic documents	National Strategy on Gender Equality and Action Plan 2021-2030
	Inter-sectoral Strategy of Justice and Action Plan 2021-2025
	Strategy on Legal Education of the Public 2019-2023 and Action Plan 2020-2023
	National Action Plan on Combatting Trafficking in Persons 2021-2023
	National Action Plan on the Rights of Persons with Disabilities 2021-2025
	National Action Plan on LGBTI+ persons 2021-2027
	National Strategy and Action Plan on Migration 2019-2022

<p>Related EU GAP III Overall Thematic Objective (Impact)</p>	<p>Thematic Area 1: Women, men, girls and boys are free from all forms of gender-based violence in the public and private spheres, in the work place and online</p> <p>Thematic Area 4: Women, men, girls and boys, in all their diversity, participate equally in decision-making processes, in all spheres and at all levels of political and public life, including online, to take on leadership roles, to enjoy and exercise their human rights and seek redress if these rights are denied</p>
<p>Related EU GAP III Specific Thematic Objectives</p>	<p>Thematic Area 1:</p> <ul style="list-style-type: none"> - Specific thematic objective 1: Women, men, girls and boys, in all their diversity, are better protected from all forms of gender-based violence in the public and private spheres, in the work place and online through legislation and effective enforcement - Specific thematic objective 3: Women, men, girls and boys, in all their diversity, who experience gender-based violence have increased access to essential services and protection - Specific thematic objective 8: Quality, disaggregated and globally comparable data on different forms of gender-based violence and harmful practices are increasingly collected and used to inform laws, policies and programmes <p>Thematic Area 4:</p> <ul style="list-style-type: none"> - Specific Thematic Objective 2: Women and girls, in all their diversity, have improved access to justice to safeguard their civil and political rights

**Related EU GAP
III Indicators**

Thematic Area 1 impact Indicators:

- Proportion of ever-partnered women and girls aged 15 years and older subjected to physical, sexual or psychological violence by a current or former intimate partner, in the previous 12 months, by form of violence and by age
- Proportion of women and girls aged 15 years and older subjected to sexual violence by persons other than an intimate partner in the previous 12 months, by age and place of occurrence
- Number of victims of human trafficking per 100,000 population by sex, age and form of exploitation

Thematic Area 1 Indicators relevant to specific thematic objectives

Objective 1:

- % of referred cases of gender-based and sexual violence against women and children that are investigated and sentenced (FPI RF)
- Extent to which state entities and justice structures allocate resources for the prevention and elimination of all forms of gender-based violence (SI 2.2 amended)
- Number of legislative actions taken in partner country to criminalise gender-based violence, including online, and to prosecute perpetrators, in line with international standards
- Number of legislative actions taken in partner country to ensure survivors of gender based violence can access justice

Objective 2:

- Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18
- Proportion of people who think it is justifiable for a person to subject an intimate partner to violence, by gender and age of the respondent
- Number of actions on preventive intervention and treatment programmes for perpetrators of gender-based violence to stop recidivism

	<p>Objective 3:</p> <ul style="list-style-type: none"> - % of women, including those facing intersecting and multiple forms of discrimination, who report experiencing physical or sexual violence who seek help, by sector i.e. (a) government services and civil society services; or (b) social welfare, legal aid, housing/shelter, police protection - % of gender-based violence cases reported to the police, brought to court which resulted in the perpetrators being sentenced, disaggregated at least by sex - Extent to which partner country institutions' capacities to fight gender-based violence are increased - Number of cases of sexual and gender-based violence (SGBV) reported to the police, per year, disaggregated at least by sex - % of gender-based violence cases reported to the police, per year, disaggregated at least by sex - % of gender-based violence cases reported to the police that are brought to court, per year, disaggregated at least by sex - Number of cases of gender-based online violence, harassment and cyber-bullying targeting women, men, girls and boys, in all their diversity, reported to the police, per year, disaggregated at least by sex <p>Objective 5:</p> <ul style="list-style-type: none"> - % of trafficking victims/survivors who were interviewed by a police officer that have taken part in victim-centred training, disaggregated at least by sex - % of trafficking victims/survivors who were interviewed in a safe, private, examination room, disaggregated at least by sex - Number of measures taken by government (i.e. protection, prevention, prosecution of traffickers, coordination and cooperation among key actors, knowledge) to combat trafficking in human beings
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	<p>Objective 6:</p> <ul style="list-style-type: none"> - Extent to which local counterparts (security and justice institutions among others) act to prevent and combat sexual and gender-based violence - Number of refugees in partner country who receive government and civil society services, disaggregated at least by sex - Extent to which the law enforcement, security forces or justice institutions recognise and integrate a gender perspective into their responses - Extent to which local counterparts' policies or actions are contributing to increasing the number of women employed in law enforcement, security forces or justice institutions <p>Objective 8:</p> <ul style="list-style-type: none"> - Extent to which partner country national statistics office, police, justice sector, healthcare institutions and others collect quality, globally comparable and at least disaggregated by sex data annually in line with international standards, on the prevalence and incidences of gender-based violence, and harmful practices where relevant - Extent to which data collection on the prevalence and incidence of gender-based violence is coordinated among key actors - Extent to which data on the prevalence and incidence of gender-based violence is analysed and published at national and/or decentralized levels - Extent to which data on the prevalence and incidence of gender-based violence inform policy- and decision-making
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	<p>Thematic Area 4, Specific Thematic Objective 2 Indicators</p> <ul style="list-style-type: none"> - Whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex - Extent to which legislation is revised to remove gender-discriminatory clauses on family, divorce, custody of children, inheritance, employment, pay, social security, ownership of assets, land etc. - % of the population who perceive the overall quality of justice dispensed as good or very good, disaggregated at least by sex - Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law - Number of consultations by partner government at national and local level with women’s rights organisations engaged in law reform advocacy
<p>Gender-related SDG Indicators</p>	<p>5.1.1. Whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex</p> <p>5.a.1. Proportion of people with ownership or secure rights over agricultural land (out of total agricultural population), by sex (%)</p> <p>5.a.1. Share of women among owners or rights-bearers of agricultural land, by type of tenure (%)</p> <p>5.a.2. Degree to which the legal framework (including customary law) guarantees women’s equal rights to land ownership and/or control (1=No evidence to 6=Highest levels of guarantees)</p> <p>5.6.2. Extent to which countries have laws and regulations that guarantee full and equal access to women and men aged 15 years and older to sexual and reproductive health care, information and education (%)</p> <p>5.3.1. Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18</p>

3.2. Instrument for Pre-Accession Assistance (IPA) III: gender mainstreaming as per the ‘NDICI Regulations’

Albania’s reform and accession agenda receives significant financial support through EU funding as well as from EU Member States directly. The EU as primary promoter of equality between women and men in the region has set clear standards, explicitly defined in the European Commission’s ‘Neighborhood, Development and International Cooperation Instrument’ (NDICI) Regulations, adopted in June 2021.⁹⁹ These Regulations apply to EU IPA III actions to be funded and implemented in Albania, and they are explicit on the gender equality requirements:

“[...] Strengthening gender equality and women’s empowerment in the Union’s external action and increasing efforts to reach the minimum standards of performance indicated by the EU Gender Action Plans should lead to a gender sensitive and transformative approach in all Union external action and international cooperation. At least 85% of new actions implemented under the Instrument should have gender equality as a principal or a significant objective, as defined by the gender equality policy marker of the OECD Development Assistance Committee. At least 5% of those actions should have gender equality and women’s and girls’ rights and empowerment as a principal objective.”

In light of the EU NDICI Regulations, which foresee the target of 85 per cent gender-sensitive actions in the future, the Government of Albania needs to define – in concrete terms – the activities, structures, mechanisms, and capacities for implementing gender-sensitive actions as a requirement and precondition for successfully absorbing EU IPA III funds.

⁹⁹ REGULATION (EU) 2021/947 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No.466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No.480/2009. See: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0947&from=EN>

3.3. The OECD-DAC gender equality policy marker

The OECD-DAC gender equality policy marker¹⁰⁰ is a key monitoring and accountability tool in the context of the 2030 Agenda. Its aim is to identify gaps between legal, policy, and financial commitments, and incentivize efforts to close them. Undertaking a gender analysis and pursuing a 'do-no-harm' approach are obligatory for all programs/actions.

Programs/actions that have been screened against the marker, but not found to target gender equality, are classified Score 0. Such a score requires narrative justification. Programs/actions with gender equality as an important and deliberate objective, but not the principal reason for undertaking the program/action, are classified Score 1. Programs/actions with gender equality as the main objective, and fundamental in design and results, are classified Score 2.

The EU NDICI Regulations - which apply to, for example, IPA III Action Documents - make explicit reference to the obligatory application of the common minimum criteria for the three categories of the OECD-DAC gender equality policy marker. They set a target of 85 per cent of all actions classified at least as Score 1, with 5 per cent qualified as Score 2. In practice, a Score 1 classification requires gender responsiveness to be reflected at the level of problem analysis, objectives, indicators, and targets.

Score 1 Definition:

- Gender equality is an important and deliberate objective, but not the principal reason for undertaking the project/programme.
- The gender equality objective must be explicit in the project/programme documentation and cannot be implicit or assumed.
- The project/programme, in addition to other objectives, is designed to have a positive impact on advancing gender equality and/or the empowerment of women and girls, reducing gender discrimination or inequalities, or meeting gender-specific needs.

¹⁰⁰ OECD DAC Network on Gender Equality (GENDERNET) (2016). Definition and minimum recommended criteria for the DAC gender equality policy marker. See: <https://www.oecd.org/dac/gender-development/Minimum-recommended-criteria-for-DAC-gender-marker.pdf>

TABLE 3

Minimum requirements for meeting OECD-DAC gender equality policy marker Score 1 criteria

Level	Requirement	Check	Action to be taken to get there
Problem analysis	An analysis of the status, role, position and situation of women/girls and men/boys in relation to the policy area/sector/sub-sector, in which the project/programme/action is embedded, has been conducted	<input type="checkbox"/>	Whenever the gender analysis is inexistent, incomplete, or outdated, commission/undertake a sector- or sub-sector specific gender analysis
	Findings from the gender analysis:		
	- are included in the problem description	<input type="checkbox"/>	
	- are substantiated with numbers (gender statistics)	<input type="checkbox"/>	
	- have informed the design of the project/programme/action	<input type="checkbox"/>	
	The main gender inequality issues specific for the policy area/sector/sub-sector are mentioned	<input type="checkbox"/>	
	The intervention adopts a “do no harm” approach	<input type="checkbox"/>	
	Data and indicators are disaggregated by sex and further identity markers, where relevant	<input type="checkbox"/>	

Objectives	Presence of at least one explicit gender equality objective (e.g., explicitly aiming at achieving gender equality goals), in line with the gender inequality issues described in the narrative analysis	□	Make gender mainstreaming expertise an integral part of working groups that draft/review documents
Activities	Proposed activities specifically respond to the described situation of women/girls and men/boys, contribute to achieving gender equality outcomes, and prevent discrimination including structural and intersectional discrimination	□	Make gender mainstreaming expertise an integral part of working groups that draft/review documents
Indicators	Any gender equality objective formulated is backed by at least one gender-sensitive indicator, enabling the <ul style="list-style-type: none"> - identification of gender gaps in benefiting from measures - monitoring of the impact of measures/activities on women/girls and men/boys 	□	Align with relevant EU and global indicators (such as SDGs, Eurostat/EU GAP III, and similar)
Targets	Specific values for women/girls and men/boys are set	□	Reflect the aim to close gender gaps/achieve gender equality outcomes when setting target values

The OECD-DAC gender equality policy marker Score 2 classification requires that gender equality is the main objective of the project/programme and fundamental in its design and expected results. Until now, the number and scope of EU IPA-funded actions that classify as Score 2 has remained very low.

Score 2 Definition:

- Gender equality is the main objective of the project/programme and is fundamental in its design and expected results. The project/programme would not have been undertaken without this gender equality objective.
- The project/programme is designed with the principal intention of advancing gender equality and/or the empowerment of women and girls, reducing gender discrimination or inequalities, or meeting gender-specific needs.

4 MAIN TOOLS FOR GENDER MAINSTREAMING

This section contains a selection of EU standardized gender mainstreaming tools to be applied in policy revision, strategic planning of line Ministries, programming, budgeting, and similar governance processes. The complete collection of EU standardized toolkits and materials, including elaborate descriptions of specific gender mainstreaming tools, is available on the website of the European Institute for Gender Equality (EIGE), accessible at: <https://eige.europa.eu/gender-mainstreaming/methods-tools>

4.1. Gender analysis¹⁰¹

Gender analysis provides the necessary data and information to integrate a gender perspective into policies, programmes, and projects. As a starting point for gender mainstreaming, gender analysis identifies the differences between and among women/girls and men/boys in terms of their relative position in society, and the distribution of resources, opportunities, constraints, and power in a given context. In this way, conducting a gender analysis allows for the subsequent development of interventions that adequately address gender inequalities and meet the different needs of women/girls and men/boys. The purpose of gender analysis is to identify and address gender inequalities by:

- acknowledging differences between and among women/girls and men/boys, based on the unequal distribution of resources, opportunities, constraints, and power,
- ensuring that the different needs of women/girls and men/boys are clearly identified and addressed at all stages of the policy cycle,
- recognizing that policies, programmes, and projects can have different effects on women/girls and men/boys,
- seeking and articulating the viewpoints of women/girls and men/boys and making their contribution a critical part of developing policies, programmes, and projects,
- promoting women's participation and engagement in community, political, and economic life, and
- supporting better informed, gender-responsive, and effective interventions.

¹⁰¹ European Institute for Gender Equality (EIGE) [Online]. Gender Mainstreaming Methods and Tools. Available at: <https://eige.europa.eu/gender-mainstreaming/methods-tools/gender-analysis#:~:text=As%20a%20starting%20point%20for,power%20in%20a%20given%20context>

Gender analysis includes consideration of women's particular experiences, roles, and responsibilities, and their level of access to resources and decision-making. Gender analysis also involves acknowledging the historical and social inequalities faced by women/girls, and aims to inform the design of policies, programmes, and projects to address - and to remedy - these inequalities.

A thorough gender analysis enables policymakers to understand gender inequalities in a given situation or sector: it describes the current state of contextual situations by gender, and also explores the causes and effects of gender disparities on the target group. Looking at the underlying causes of gender inequalities and discrimination assists in setting relevant and targeted objectives and measures to eliminate gender inequalities. In this way, gender analysis contributes to the improved gender-responsiveness of policies and legislation, as it provides the basis for ensuring that the needs of all citizens — women, men, girls, and boys — are adequately addressed.

4.2. Gender statistics on justice in the Albanian context

Gender statistics describe or measure gender inequalities. They rely on data on individuals broken down by sex, i.e., collected and tabulated separately for women/girls and men/boys. These sex-disaggregated data reflect the realities of the lives of women/girls and men/boys, and the policy issues relating to gender. They allow for the measurement of differences between women and men on various social and economic dimensions and are one of the requirements for obtaining gender statistics. For monitoring actual progress in gender equality, the concepts, definitions, and methods used in data production and analysis need to be designed in a way that they reflect gender roles, relations, and inequalities in society.¹⁰²

In Albania, gender statistics are published annually in INSTAT's dedicated publication entitled 'Women and Men in Albania'.¹⁰³ Its main objective is to make available sex-disaggregated data and gender statistics for the purpose of monitoring cross-sectorial policies with regard to achieving gender equality goals and sustainable development objectives. The publication contains not only administrative data, but also data based on social surveys conducted by INSTAT at the household unit.

102 European Institute for Gender Equality (EIGE) [Online]. Gender Mainstreaming Methods and Tools – Sex-disaggregated data. Available at: <https://eige.europa.eu/gender-mainstreaming/methods-tools/sex-disaggregated-data#:~:text=Data%20collected%20and%20tabulated%20separately,requirements%20in%20obtaining%20gender%20statistics>

103 See: <http://www.instat.gov.al/en/themes/demography-and-social-indicators/gender-equality/#tab3>

One of the relevant surveys related to justice is the gender-based violence survey which INSTAT has been conducting since 2007 every five years. While 2007 and 2013 surveys focused on domestic violence only, the latest survey, published in March 2019, collected - for the first time - data on the nature and prevalence of other forms of violence: dating violence, non-partner violence, sexual harassment, and stalking.¹⁰⁴ It also yielded findings on the prevalent social norms related to violence against women. Over the years, the methodology¹⁰⁵ and questionnaire used for the survey were gradually modified to fully align with Eurostat requirements.¹⁰⁶ Current data and indicators are comparable with those used by EU countries.

INSTAT's effort in aligning national gender statistics with Eurostat has been a continuous process and is ongoing. In 2021, INSTAT's database was restructured and aligned with Eurostat's methodology and database. All existing administrative data was assessed against Eurostat indicators, while for social surveys, indicators were produced based on a unified methodology. It is important to note that continuous alignment of statistics - including gender statistics - with EU standards is a requirement that goes beyond INSTAT; it concerns all data-producing institutions across sectors and levels of government.

As for administrative data on justice, several institutions collect and produce regular reports that include gender-relevant data. This data is standardized and published by INSTAT through the collaboration already established with the General Directorate of Police, the Ministry of Justice, the General Prosecution Office, and the People's Advocate. This collaboration needs to be expanded to include additional and important gender data producers, such as the Directorate of Free Legal Aid, the Bailiffs Office, and the Commissioner for Protection against Discrimination. Upon standardization of the data-gathering methodology by INSTAT, several of the data produced by these institutions could be directly used to report on EU GAP III indicators, for example, the "number of legislative actions taken in partner country to criminalise gender-based violence, including online, and to prosecute perpetrators, in line with international standards". Additional EU GAP III indicators could be computed based on information obtained from other institutions, for example "% of gender-based violence cases reported to the police, brought to court which resulted in the perpetrators being sentenced, disaggregated at least by sex".

104 INSTAT (2019). 2018 National Population Survey: Violence against women and girls in Albania. See: <http://www.instat.gov.al/media/6123/publication-violence-against-women.pdf>

105 For example, during the period 2007–2018, the age group of women surveyed was modified, posing a challenge to comparing DV data over time.

106 Regulation (EC) No.808/2004 of the European Parliament and of the Council of 21 April 2004 concerning Community statistics on the information society. Available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32004R0808>

4.3. Gender impact assessment

Gender impact assessment is an EU-standardized method routinely used for *ex-ante* evaluation of legal documents, strategic policy plans, and programmes under implementation.¹⁰⁷ Broader use of gender impact assessment helps policymakers and public servants to analyze and foresee the impact on women/girls and men/boys of any important decision under consideration, which helps to improve existing measures and inform decisions regarding budget allocation. The findings of any gender impact assessment should be made available on time, so that legal regulations and related policies can be amended during the design and planning stages.

“Gender impact assessment can be applied to legislation, policy plans, policy programmes, budgets, concrete actions, bills and reports or calls for research. Gender impact assessment methods do not only have to be applied to policy in the making, they can also be applied to existing policies. They can be used in the administration as well as by external actors; in both cases they require a considerable amount of knowledge of gender issues.”¹⁰⁸

In the framework of the GIZ-run SANECA Project, the standard EU *ex-ante* Gender Impact Assessment tool was recently adapted to the Albanian context, with special focus on mainstreaming gender equality goals into the so-called EU “Internal Market Chapters” (i.e., Chapters 1, 3, 20 and 28).¹⁰⁹ In Kosovo, the Agency for Gender Equality – operating under the Prime Minister’s Office - prepared a dedicated Gender Impact Assessment Manual in 2019, supported with funding from Sweden.¹¹⁰

107 European Institute for Gender Equality (EIGE) [Online]. Gender Mainstreaming Methods and Tools. Available at: <https://eige.europa.eu/gender-mainstreaming/toolkits/gender-impact-assessment/what-gender-impact-assessment>

108 Council of Europe (2004). Gender mainstreaming: Conceptual framework, methodology and presentation of good practices. Available at: <https://rm.coe.int/1680596135>

109 GIZ (2022). Gender Mainstreaming in the Internal Market Chapters of the Acquis - Guidelines and Tools. Accessible at: https://pubhtml5.com/qzcc/xxqq/Gender_Mainstreaming_in_the_Internal_Market_Chapters_of_the_Acquis/3

110 Republic of Kosovo Gender Equality Agency (2019). Gender Impact Assessment Manual. Available at: <https://abgj.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ/Gender%20Equality%20Impact%20Assessment%20Manual.pdf>

4.4. Gender-responsive budgeting in the justice sector

Gender-responsive budgeting (GRB) is a key process to incorporate a gender perspective in planning. It “seeks to ensure that the collection and allocation of public resources is carried out in ways that are effective and contribute to advancing gender equality and women’s empowerment”¹¹¹. It is important to note that gender-responsive budgeting is not about having a separate budget for women, nor does it mean to just increase spending on programmes for women. Examples of how to apply gender-responsive budgeting when mainstreaming gender in the justice system are¹¹²:

- ✓ Design objectives and activities to address gender gaps identified and include them in strategic documents, plans, logical frameworks, financing agreements, and budgets.
- ✓ Include and budget for initiatives to address specific needs and constraints faced by women or men, including legal empowerment programmes for disadvantaged women to access justice.
- ✓ Allocate resources for gender mainstreaming, capacity building and awareness raising at all levels and in ways that are adapted to the needs of different target groups, for example programme staff, staff from relevant local institutions intervening in the justice chain (judges, lawyers, police, representatives of law enforcement authorities), staff from service delivery institutions (health care professionals, social workers, etc.), women and men beneficiaries.
- ✓ Allocate resources to gender-specific activities when needed (e.g., psychological support for women survivors of sexual violence).
- ✓ Establish formal consultation mechanisms with gender stakeholders to ensure that women can participate in defining the objectives of policies/interventions.
- ✓ Design and budget for participatory and gender-sensitive monitoring processes, particularly at the implementation phase of a programme, such as design, mandate, and implementation of reparation courts in case of conflicts.

111 UN Women Asia Pacific [Online]. Gender Responsive Budgeting. See: <https://asiapacific.unwomen.org/en/focus-areas/women-poverty-economics/gender-responsive-budgeting>, 1st para.

112 European Commission's knowledge sharing platform for International Cooperation and Development [Online]. Thematic Brief Justice. Available at: https://europa.eu/capacity4dev/public-gender/documents?sort=flag_c4m_log_content_recommend_count&order=asc>erm%5B0%5D=5013&page=22

- ☑ Define performance monitoring frameworks and processes which can capture progress in gender-related objectives.

In direct budget support initiatives:

- ☑ Include gender indicators in financing agreements between donor and recipient countries. For example, useful indicators could be: “existence of laws protecting women’s human rights (e.g., social, economic, political and sexual)”; and “existence of protocols to implement laws and mechanisms to ensure coordination between different institutions intervening in the legal chain”.
- ☑ Respect equal opportunity principles in management arrangements and establish accountability structures for gender mainstreaming at programme level.
- ☑ In the budget support modality, payments should be linked to progress made on the gender objectives and gender indicators.
- ☑ Part of the budget should be earmarked for dedicated, specific gender equality objectives.

4.5. Gender-responsive public procurement

Gender-responsive public procurement (GRPP) is procurement that promotes gender equality through the goods, services, or works being purchased. This means that buyers and suppliers (i) examine the impact of all contracted activities on women’s and men’s needs, interests, and concerns; and (ii) design and deliver contracts in a way that reduces inequalities. GRPP does not necessarily entail higher costs but does require knowledge and capacity.¹¹³ Public procurement/outsourcing to private companies which hire external labor can positively impact local employment in general, and women’s employment opportunities in particular. Clauses that refer to obligatory social deliverables (e.g., the share of locally contracted workers per category; the share of women to be employed; the obligation to reduce gender inequalities; adherence to gender equality principles; and similar) can be integrated in the calls for proposals of funding programmes, or in the terms of reference of public procurement procedures. Such gender clauses can also be included in calls for contractors to be hired for policy support services. This will ensure that projects and services

¹¹³ European Institute for Gender Equality (EIGE) [Online]. Gender Mainstreaming Methods and Tools. Available at: <https://eige.europa.eu/gender-mainstreaming/methods-tools/gender-responsive-public-procurement>

receiving funds have gender capacity on board, respond to the different needs of women/girls/men/boys, and contribute to achieving gender equality.¹¹⁴

The European Commission explicitly states in its Gender Equality Strategy for 2020–2025 that '[t]he Commission's guidance on socially responsible public procurement will fight discrimination and promote gender equality in public tenders'.¹¹⁵ As one of the first deliverables of the Strategy, in April 2023, the Commission adopted new rules and binding measures on pay transparency under the Pay Transparency Directive, which specifically addresses equal pay and the gender pay gap in the context of public procurement (Article 21).¹¹⁶ For detailed EU Guidance on GRPP see: <https://eige.europa.eu/gender-mainstreaming/methods-tools/gender-responsive-public-procurement>.

4.6. Gender-sensitive monitoring and evaluation

Gender-sensitive monitoring and evaluation is used to reveal whether a programme addresses the different priorities and needs of women/girls and men/boys. The aim is to assess whether it has the intended (but also unintended) impact on gender relations, and to determine the gender aspects that need to be integrated into monitoring and evaluation systems. Effective gender-responsive monitoring and evaluation need to include both qualitative and quantitative data that measure the impact on gender relations. Without sufficient data, a meaningful analysis of the impact on gender equality is very difficult. This implies that all data should be collected, presented, and analyzed at minimum in a sex-disaggregated manner.¹¹⁷ Results and insights from gender-sensitive monitoring and evaluation also feed into the policy cycle: they identify those aspects for which inclusion of explicit gender equality objectives and indicators are required at the planning stage.

114 European Institute for Gender Equality (EIGE) (2016). Gender and Digital Agenda. See: <https://eige.europa.eu/publications/gender-and-digital-agenda>

115 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Union of equality: Gender equality strategy 2020–2025, COM(2020) 152, 0503/2020. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>

116 DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, 2021/0050(COD), PE-CONS 81/22, 11.4.2023. See: <https://data.consilium.europa.eu/doc/document/PE-81-2022-INIT/en/pdf>

117 European Institute for Gender Equality (EIGE) Thesaurus [Online]. Available at: <https://eige.europa.eu/thesaurus/terms/1217?lang=en>

5 KEY RECOMMENDED ACTION IN THE JUSTICE SECTOR

Conducting gender mainstreaming interventions includes capacity building for undertaking gender analysis, as well as the active involvement of gender mainstreaming specialists throughout the design, implementation, and monitoring of strategies and policies. Moreover, already existing policies under implementation should be reviewed for their gender responsiveness (i.e., assessing how well they address gender inequalities in the sector/policy area). If needed, these policies then need to be revised, in order to mainstream gender equality within sectoral strategies, and into the structures, systems, and processes of all institutions involved.

TABLE 4

Priority actions for integrating gender equality goals in the justice sector¹¹⁸

Main gender issue	Priority Policy Actions
<p>High prevalence of gender-based violence</p>	<ul style="list-style-type: none"> ☑ Fully align legislation with EU and international standards to comprehensively address all forms of violence against women, including the definition of rape; ☑ Conduct in-depth analysis of and ensure adequate responses to (i) causes that still limit women’s reporting of violence; and (ii) the low number of cases that make it into the judicial system for protection measures and prosecution of perpetrators; ☑ Address factors that may impact women’s reporting of violence, including prevailing gender stereotypes and patriarchal norms that normalize violence, as well as lack of trust in the justice system; ☑ Take measures to address the main causes that hinder law enforcement and the judiciary to take protection measures for victims of GBV, such as institutionalized misogyny, lack of knowledge about relevant legislation and the role of the police, lack of human resources, social pressure, and fear of retaliation from perpetrators especially in small communities; ☑ Ensure that victims of GBV, including those from disadvantaged communities, enjoy priority access to legal aid and, in particular, court representation in both civil and criminal proceedings; ☑ Take measures to uphold the principle of civil responsibility of all public officials who fail in their duty to take the necessary preventive or protective measures in accordance with international standards, including those who fail to enforce protection orders, by applying the relevant criminal sanctions; ☑ Ensure psychological reports submitted before courts comply with the required criteria of professionalism and objectivity; ☑ Guarantee that the fees for obtaining the obligatory psychological report do not constitute a barrier for women to access justice.

¹¹⁸ Recommendations are based on those brought forward in various resources, including: CEDAW Committee (2016), Concluding Observations on Albania; GREVIO (2017), Baseline Evaluation Report Albania; UN Women (2020), Country Gender Equality Brief Albania; European Commission (2021), Albania 2021 Report; and U.S. Department of State (2021), Trafficking in Persons Report.

<p>Child marriage continues to exist and is even being tolerated by some courts</p>	<ul style="list-style-type: none"> ☑ Assess whether relevant legislation on child marriage (e.g., the Family Code) creates loopholes for allowing child marriages, and address possible legal gaps; ☑ Ensure that the judicial governing bodies exercise their mandate to supervise the court's practice in relation to child marriage; ☑ Promote sustained leadership and political will to end child marriage; ☑ Develop comprehensive legal frameworks and action plans with clear milestones and timelines, and integrate child marriage prevention measures across different sectors.
<p>Low number of investigations and prosecutions for perpetrators of trafficking of women and children</p>	<ul style="list-style-type: none"> ☑ Increase efforts on the early identification of victims and potential victims, in particular in mixed migration flows, and intensify cross-border cooperation with neighboring countries and international cooperation; ☑ Expand the jurisdiction of labor inspectors to inspect businesses that are not legally registered, which could improve identification of victims and potential victims; ☑ Address surging forms of trafficking in human beings (e.g., sexual exploitation in coastal tourist areas) including through strengthened collaboration with the private sector; ☑ Provide dedicated, gender-sensitive training on legislation against trafficking in human beings and the rights of victims for police, prosecutors and judges, including guidance on issues of consent and coercion in the context of labor and sex trafficking; ☑ Consider adoption of a new law on the protection of victims of trafficking introducing in particular a state-funded compensation scheme.

<p>Anti-discrimination mechanisms and courts do not effectively implement and enforce anti-discrimination legislation</p>	<ul style="list-style-type: none"> ☑ Revise the Code of Civil Proceedings with regards to provisions that relate to the burden of proof on civil proceedings related to discriminatory practice in accordance with the amended Law against Discrimination, the Labour Code, and the Code of Administrative Proceedings, which have reversed the burden of proof in favor of the plaintiff; ☑ Increase knowledge and awareness among the general population (including men and boys), and among women in particular, about the legislation on gender equality and anti-discrimination legislation, and available legal remedies; ☑ Increase capacities of CPD, including its human resources, to ensure that the institution effectively monitors the implementation of anti-discrimination legislation including the Law on Gender Equality, and initiates <i>ex officio</i> cases in accordance with current legislation; ☑ Increase capacities of the judiciary to effectively enforce anti-discrimination legislation, including the Law on Gender Equality; ☑ Harmonize the national legal framework with ILO Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work, and ensure its full implementation; ☑ Collect data, including through surveys, on sexual harassment in the workplace.
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<p>Court decisions in favor of women in family, property and other legal matters are not consistently enforced</p>	<ul style="list-style-type: none"> ☑ Intensify legal measures - including those foreseen in the law on domestic violence and in civil and criminal procedure legislation - on the enforcement of court decisions, together with regular monitoring of these decisions, to ensure that cases of violation are duly identified and offenders duly prosecuted; ☑ Increase bailiffs' professionalism, capacity, and knowledge of the legislation on gender equality and violence against women; ☑ Enforce the principle of civil responsibility of public officials who fail in their duty to enforce court decisions.
<p>Marginalized women do not benefit from the Free Legal Aid system, particularly from secondary legal aid</p>	<ul style="list-style-type: none"> ☑ Ensure adequate financial and human resources to sustain existing free legal aid (FLA) services, and further development of the FLA system and its management institutions; ☑ Strengthen the secondary legal aid system, including facilitating procedures for ensuring access, to ensure that women victims of GBV and women from disadvantaged communities benefit from representation in courts, as well as from exemption from court and expert fees, which represent a significant burden in family civil proceedings; ☑ Provide adequate financial support to CSOs specialized in free legal aid, based on the criteria established by the law; ☑ Ensure that any reform plan on the territorial distribution of courts is preceded by an <i>ex ante</i> gender impact assessment of women's access to justice, in line with EU methodology.

<p>Many women remain not registered as co-owners of their property</p>	<ul style="list-style-type: none"> ☑ Increase awareness and provide legal aid to women to ensure they fully benefit from improved provisions which enable the registration of joint property during marriage under the name of both spouses; ☑ Increase knowledge and awareness among the general population about women’s property and inheritance rights; ☑ Increase capacities of public notaries, cadaster officials and judges, and enhance compliance monitoring, to ensure women benefit equally and are registered as co-owners of family joint property.
<p>Gaps in gender statistics on justice</p>	<ul style="list-style-type: none"> ☑ Enhance co-ordination among data-producing institutions and INSTAT with the aim to compute EU-aligned gender indicators in the justice sector for Albania; ☑ Engage in all steps required for establishing and monitoring EU-aligned gender indicators in the justice sector, in line with EU methodology.



JUSTICE

ANTI-CORRUPTION MEASURES

HEALTH

AGRICULTURE AND RURAL DEVELOPMENT

DISASTER RISK REDUCTION AND CLIMATE CHANGE

DIGITALIZATION AND ICT

PUBLIC ADMINISTRATION

LOCAL GOVERNANCE AND LOCAL DEVELOPMENT

YOUTH