

Gender Equality and Discrimination in Appointed Local Government Bodies

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UN WOMEN

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GENDER EQUALITY AND DISCRIMINATION IN APPOINTED LOCAL GOVERNMENT BODIES



Foreword



The report prepared is focused on one of the aspects where gender discrimination is manifested in Albania, specifically at top management levels in local self-governance.

The violation of the equality principle through discriminatory behaviors based on gender, always displays itself to be both unique and common. It is considered as unique due to the fact that gender-based violence is the only form which defies the majority/minority logic in discriminative behavior, and it is considered as common due to the fact that it is one of the most typical structural discrimination cases, caused by the combination of several factors. As a consequence, it has been living in the midst of our societies for a very long time and it showcases itself in all types of human, social, economic, political and cultural relationships, etc.

The report prepared by the Commissioner for Protection from Discrimination, in cooperation with UN Women in Albania is focused on one of the aspects where gender discrimination is manifested in Albania, specifically at top management levels in local self-governance.

Very positive steps have been made towards gender representation in decision-making bodies, especially local self-governance ones, however very few efforts have been made by this power on the observance of legal provisions for an acceptable gender representation at top executive levels.

The following report aims at displaying the situation of local self-governance units (Municipalities) as regards the observation of Law No.139/2015 “On Local Self-governance” in combination with Law No.9970/2008 “On gender Equality in Society”, finding, but also proposing and recommending solutions for fixing the situation.

On the other hand, since the publication of our report will precede local elections in Albania, the ultimate goal is that the new local self-governance bodies that come out of these elections have a document that stipulates the legal standards to be implemented for the observance of gender equality. At the same time, CSOs that protect women’s rights should place the appropriate pressure for the implementation of such laws and for the Municipal Councils to monitor Mayors as regards these provisions.

A practice of the Office of the Commissioner for Protection from Discrimination will be carrying out special studies and reports in cooperation with international and civil society organizations with the aim to identify discrimination situations and give proposals for their solutions with the relevant recommendations and measures.

A special thanks goes to UN Women Albania, which immediately responded to this cooperation.

Commissioner
Robert GAJDA



There is little information about the women representation in the appointed local government bodies. This study is the first institutional approach to this phenomenon

Introduction

Equality between women and men is a fundamental right for anyone. It is an essential value of democracy in Albania and its integration to the European Union. In order to truly achieve, equality between women and men, it not only needs to be legally recognized, but also to be effectively applied in all aspects of life: political, economic, social and cultural.

Despite the various efforts to address gender equality and the progress achieved towards its formal recognition, equality between women and men is not yet a reality for everyday life: in practice, women and men do not enjoy the same rights, and social, political, economic and cultural inequalities do persist. These inequalities are the result of social attitudes deeply-rooted in the family, political processes, public life, administrative procedures and in the organization of society. However, these are areas in which it is possible to act and in which a structural change should be initiated.

There is little information about the women representation in the appointed local government bodies. This study is the first institutional approach to this phenomenon and will for the first time produce some statistics regarding the ratio of representation of women in the appointed local government bodies. The aim of this study is to portray a panorama, at the largest extent possible, of the gender configuration in the composition of the appointed local government bodies and on the basis of the analysis of this statistic, to make possible recommendations for decision-making and policy-making bodies. At the same time, this study is also the basic level over which in the following years the Commissioner for Protection from Discrimination will carry out other comparative analyzes, and which will show the trend of women's participation in the appointed bodies of local government in Albania.

1. The institutional and policy framework on gender equality

The institutional and policy framework on gender equality includes several key components: international documents and conventions that impose implementation obligations for the Republic of Albania in order to achieve better gender representation in domestic institutions, as well as laws and strategies that define norms and mechanisms to continuously improve gender equality.

1.1 International framework

The most widespread policy framework on gender equality in the world is presented by the Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women in 1995. This Platform is the leading international strategic plan for women's empowerment. It aims at removing all obstacles posed to the active participation of women in all spheres of public and private life through an equal division in economic, social, cultural and political decision-making. This implies that the principle of joint power and responsibility should be placed between women and men at home, in the workplace, as well as in the wider national and international communities. Equality between women and men is a matter of human rights, a prerequisite for social justice and also a prerequisite for equality, development and peace. A transformed partnership based on equality between women and men is considered a condition for a people-centered sustainable development. (Beijing Platform and Platform for Action, 15 September 1995).

The Beijing Platform for Action includes 12 major areas of concern: poverty, education and training, health, violence against women, armed conflicts, economy, women's political participation and decision-making, institutional mechanisms for women's empowerment, women and girls' rights, media and the environment. Governments bear the primary responsibility for implementing the Platform for Action and moreover, gender integration has been identified as a useful tool for improving gender equality.

The inclusion of a gender perspective is the assessment process of the implications for women and men for every planned action, including legislation, policies or programs, in all areas and at all levels.

This is a strategy for making women's and men's concerns as well as their experiences an integral dimension of drafting, implementing, monitoring and evaluating policies and programs in all political, economic and social spheres so that women and men benefit equally and so that inequality is not perpetuated. The ultimate goal is to achieve gender equality."(United Nations Economic and Social Council, 1997)

As a member of the United Nations, the Republic of Albania is committed to implementing the principles and goals stated in the Beijing Platform and therefore all its national and sectoral policies should be adapted to the objectives and the course of actions stated in this Platform.

The Assembly of the Republic of Albania adopted the Resolution on the 2030 Agenda for Sustainable Development Goals of the United Nations Member States¹ on December 4th, 2017. In this Resolution, the Assembly *underlines that peace and security, democracy and the rule of law, the elimination of all forms of discrimination, the empowerment of women, the engagement of younger generations and, last but not least, good governance are the essential requirements to ensure an irreversible evolution towards sustainable development.*

The second important international convention is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Convention defines the forms of discrimination against women and establishes a framework for national actions directed towards the elimination of all forms of discrimination against them. The Republic of Albania submitted the first report to the CEDAW Committee in 2002. The Republic of Albania's fourth periodic report was reviewed in 2016. In the most recent report, the Committee noted that all provisions of the Convention are directly applicable in domestic law and do not require applicable legislation. The Committee also noted the need for further legislative improvements to promote and protect gender equality and non-discrimination in Albania, in particular with regard to the prohibition of gender-based violence and sexual harassment. The Committee said it was concerned about the lack of implementation of legislation on gender equality and non-discrimination, as well as the lack of monitoring of the implementation of these laws and policies. In this context, the Committee urged Albania to further strengthen the mechanisms for advancing gender equality by providing sufficient human, technical and financial resources at central and local level.

The Committee recommended that Albania should promote substantial equality for positions in political and public life by monitoring the implementation of special temporary measures provided for in the Law "On Gender Equality" regarding the participation of women in decision-making bodies at central and local level, such as in the public and private sector, in order to meet the objectives, set out in the law.

Considering Albania's path towards the accession to the European Union, the international policy framework for Albania is also defined by the European Union documents. Among the numerous documents and directives that regulate gender equality issues in various fields, the European Charter on Equality of Women and Men in Local Life, adopted by the Council of European Municipalities and Regions in May 2006 is of significant importance. The charter is addressed to the local and regional communities of European countries which are invited to sign it, make a formal public commitment to the principle of gender equality and implement the commitments set out in the Charter's framework within their territory. To assist in the implementation of these commitments, each signatory authority

1. 1. Goal 5 of the Sustainable Development Goals is "Achieving gender equality and empowering all women and girls."

must produce an Action Plan on Gender Equality, which sets out its priorities, actions and resources for this purpose. In addition, each authority should engage all institutions and organizations in the local community in order to encourage real equality between men and women in practice.

The Charter emphasizes that equality between women and men “*constitutes a fundamental right for all and an essential value for any democracy. To achieve this right, it is needed not only to be legally recognized, but to be effectively applied in all aspects of life: political, economic, social and cultural*”. Local authorities are recognized as areas of government closest to people, and as the best actors to fight persistence and production of inequalities between men and women. They can, through their competences and cooperation with the entire spectrum of local actors, undertake concrete actions in favor of gender equality.

1.2. National Framework

Important steps have been taken over the last few years to build the institutional framework for gender equality in Albania.

The Albanian Constitution adopted in 1998 provides for and guarantees equality between men and women and the policy on equal opportunities and the prohibition of discrimination, among other causes, also because of gender. (Article 18).

The National Strategy and Action Plan on Gender Equality were adopted in 2016 and extend their effects by 2020. The main principles underlying this strategy are:

- *Political engagement* - providing women with equal opportunities as well as boys/men, are prerequisites for comprehensive development of the country.
- *Sensitivity and equal treatment to the specific needs of both genders* - The envisaged actions should provide opportunities for treatment in accordance with these needs and experiences - equality should not be confused with uniformity.
- *Recognizing, evaluating and respecting diversity* - between girls and women, boys and men, in terms of age, ability, sexual orientation, gender identity, ethnic and social origin, religious practices and life choices.
- *Zero tolerance to violence against women and domestic violence* - the protection of life, dignity and human integrity is a prerequisite for the development of a country: any form of violence is an attack on human dignity and a violation of human rights, so it should not be tolerated.
- *Cross-institutional coordination and cooperation* - based on the characteristics and the cross-sectoral nature of the issues that constitute the pillars of this strategy. State institutions, civil society organizations, the media, the private sector, religious institutions, international organizations and all stakeholders and partners must work together by coordinating actions to address gender inequalities and injustices as effectively as possible for women/girls and men/boys.

The Law “On Gender Equality” was adopted in 2008. This law regulates the fundamental issues of gender equality problems, by requiring equal treatment of women and men and equal opportunities and chances in exercising their rights in all areas of social life. It defines “gender equality” as: equal participation of women and men in all areas of life, equal status between women and men, equal opportunities and chances to enjoy rights and fulfill obligations in society and obtain equal benefits from their achievements and developments. The law defines “gender-based discrimination” (Article

4/3) as distinctions, exclusions or restrictions made due to gender, that aim or result in the impairment, non-recognition, non-enjoyment and non-exercise, equally by both genders of their human rights and fundamental freedoms in the political, economic, social, cultural, and civil fields, as envisaged in the Constitution and in the legislation. Although this law complies with other laws, such as the Labor Code, the Electoral Code, the Law on Higher Education, etc., it does not regulate these areas in detail; consequently, it does no more than set the standards of gender equality. The Law “On Gender Equality” should be considered as a complementary mechanism of other laws in specific areas. It complements these laws, which contain procedures for reaching the standard.

The Albanian Parliament adopted the law “On Protection from Discrimination” in February 2010. According to this law, no one shall discriminate on any ground such as gender, race, color, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, educational or social status, pregnancy, family affiliation, parental responsibility, age, family or marital status, civil status, place of residence, health status, genetic predisposition, disability, affiliation to a particular group or any other cause. Pursuant to Article 7 of the Law ‘Protection from Discrimination’ any act or omission of public authorities or natural or legal persons participating in public or private life and sectors, that provide grounds for denying equality to a person or group or exposing them to unfair and unequal treatment when they are in the same or similar circumstances as compared to other persons or other groups of persons, constitutes discrimination. The elimination of all privileges and unjustified discrimination is guaranteed for everyone on the basis of their personal, political, economic, social and cultural rights provided by the Constitution of the Republic of Albania and the international acts ratified by the Republic of Albania, as well as by the laws in force.

However, the implementation of the above-mentioned strategies and legal provisions is not highly efficient, as is noticed in the data on current gender inequalities. Therefore, the strengthening of institutional mechanisms for gender integration in all state policies and the correct and full implementation of adopted laws, as well as the forecasting of the monitoring conditions for their implementation, are of crucial importance for improving gender equality in Albania. Although national institutions, policies and strategies provide a general framework, an effective local gender mechanism is essential in improving gender equality and increasing confidence in local communities.

2. Gender Equality: Mechanisms and Policies

It is not only about the fact that the numerical representation of women in local government matters, but also that the most fundamental issue is their active participation in understanding the ability to contribute to decisions on policies and resource allocation. The challenge is the translation of formal equality - equality in the Constitution and before the law - into substantive equality: the actual and concrete exercise of the right to equal participation. The mere presence of women in local government is not enough if this presence does not translate into their current power to make decisions about policies and issues on the political agenda. Representation and participation of women in politics at the level of local government is a major incentive for their empowerment. It is precisely the level of local government where political parties are able to “recruit” their members and identify potential candidates who may later be able to compete at the national level. Moreover, a higher probability of women’s direct impact on politics due to their proximity to the community is present at local level.

2.1. From Representation to Participation

The efforts to ensure women’s equal representation in decision-making and/or appointed bodies, including local government, assume that this would be an adequate mechanism for ensuring their participation in such institutions. Representation can be increased through legal and institutional means, and such efforts have been mainly linked to quotas and the design of electoral systems. Numerous studies argue that while participation is an important impetus to representation, it would be wrong to consider representation as an end in itself. It is tempting to assume that better representation will guarantee higher participation. However, the evidence clearly indicates that quotas and legally approved mechanisms designed to increase women’s representation can be easily compromised by the elements of the institutional design itself. The numerical presence of women in representative and appointed bodies cannot ensure their most effective participation in such bodies.

Women’s effective participation cannot be enacted in the legislative sense. Conversely, it involves the creation of a political, social and cultural environment in which women develop the awareness, information base, and confidence to articulate their concerns, as well as an institutional environment that is open and responsive to these articulations. This undoubtedly requires more committed and sustainable initiatives by political parties and civil society. Such interventions must be innovative, but also sensitive to the specificity of the social context, because despite many common features of many countries, what functions in an Eastern European country may not function in Albania. As such, while laws and institutions can create conditions for representation, political parties and civil society - particularly women’s organizations and movements - play an important role in creating the conditions for effective participation.

3. Arguments for Women's Political Representation and Participation

Although those who fight for women's involvement in decision-making usually support their engagement through a complex analysis of the origin of gender inequality and its structural forms at the present time, it is helpful to remember some strong arguments which are of benefit to the continuation of efforts. The idea that gender equality has already been achieved is largely noticed among the political leaders. It is important for us to oppose this idea.

Women should be integrated into decision-making processes at local level in order to improve their status and to enjoy the fruits of development initiatives. There are wide-ranging arguments for increasing the representation and participation of women in decision-making and/or appointed bodies. Women are considered as effective agents of change at the local level due to their strong views and invaluable suggestions in local processes deriving from their detailed knowledge of problems and small communities around them.

Their presence in the state authority bodies is crucial to ensuring that their interests, needs and concerns are incorporated in the policy process with their contribution. Some scholars have argued that women can play an important role in local politics due to their particular interests in local governance. The ability of any group of people or their elected representatives to participate in decisions affecting their lives not only puts them in a position to contribute with ideas, but also provides them with the means and opportunities for reshaping management, and enables valuable input into the program results, thus affecting their future. Therefore, it is important to engage women in decision-making processes within the communities where they live.

A sufficient number of reasons exist as to why women should be included in the representative and/or appointed local government structures:

- (a) Inclusion will improve the efficiency of local governance and will therefore make this level of governance more responsive;
- (b) It advances democracy and equality, as it will strengthen democratic representative institutions with participatory forms. The demand for proportional representation of women in politics and executive decision-making is inevitable; gender equality relates to fundamental notions on the quality of social justice, human rights and the nature of democracy.
- (c) Women are well-informed and experienced in their basic problems and needs. However, they are deprived of an equal share if they are not properly represented in the political and decision-making process; there is clear empirical evidence indicating that inclusion of both sexes in policy making makes this process more qualitative and better suited to a diverse public.
- (c) Increasing the participation in politics and in decision-making bodies will facilitate greater development and open up more space for them; *and*
- (d) For the efficient and maximal utilization of human resources, an increasing number of women should be allowed to participate in politics and decision-making.

4. Equality and non-discrimination as a basis for special temporary measures: positive actions

The principle of equality combines formal equality before the law and equal protection of the law, with substantial or *de facto* equality in the enjoyment and exercise of human rights. In the framework of international acts and national legislation, Albania has undertaken the obligation to respect, protect and promote the right of women to non-discrimination and to ensure the development and advancement of women in order to improve their position in achieving *de facto* and *de jure* equality with men.

It has been shown that a legal approach only is not enough to guarantee substantial equality between women and men. In order to ensure substantial equality, it is not enough for women to be treated the same way as men: in certain situations, and when it turns out that women are underrepresented, unequal treatment of women in relation to men is necessary for addressing and correcting these differences. The implementation of special temporary measures or positive actions should not be seen as an exception to the principle of non-discrimination but should be understood as a necessity for ensuring substantial equality between women and men as regards the enjoyment of fundamental rights and freedoms.

According to the General Recommendation No. 25 of the CEDAW, on the special temporary measures, the implementation of these measures, although often correcting the effects of past discrimination against women, the obligation of the Member States of the Convention (*including Albania*) to improve the position of women in order to achieve *de facto* equality or substantial equality with men, lies regardless of the existence of evidence of a previous discrimination. The CEDAW Committee underlines that states which adopt and implement these measures are not discriminating against men. This obligation which the Convention imposes on Member States has been implemented in national legislation by the Law “On Gender Equality in Society”, Article 8 and Article 15, and the Law “On Protection from Discrimination” in Article 11.

Article 8 of the Law “On Gender Equality in Society”, stipulates that temporary special measures shall include the quota for reaching equal gender representation, increasing the participation of the less represented gender in decision-making and public life, empowering persons of both genders

economically and in terms of their status and employment, equally improving their education level, as well as other measures in every field, where persons of one gender do not enjoy an equal status with persons of the opposite gender. Temporary special measures, including legal provisions, which aim at accelerating the establishment of a factual equality between women and men, shall not constitute gender discrimination. Such measures must terminate as soon as the gender equality goals for which they were created, are reached.

Article 15 of the Law “On Gender Equality in Society” stipulates that equal gender representation in all bodies of legislative, executive and judicial authorities and other public institutions is achieved when the below are ensured:

- a representation of above 30 percent of both genders, including their steering bodies;
- equal observation of competition procedures and criteria for both genders for the appointment in these bodies;
- a participation of above 30 per cent of both genders in the list of candidates for the local government elections;
- a participation of no less than 30 per cent of each gender in the candidates’ proportional system list presented by the political parties for the general Assembly elections;
- a participation of above 30 per cent of each gender in the central and local elections process administration bodies.

Article 11 of the Law “On Protection from Discrimination” stipulates that a particular temporary measure that aims at accelerating the realization of equality, when the absence of equality is caused by discrimination for any cause referred to in Article 1 of this Law, is considered a positive action and does not constitute discrimination. This measure is terminated as soon as the objectives of equal treatment and provision are achieved.

The term “*non-discrimination*” does not imply the need for uniform treatment when there are significant differences between a person or a group with others, or in other words, if there is an objective and reasonable justification for differential treatment. Equally handling persons or groups whose situations or standings are objectively different constitutes discrimination in consequence, as well as unequal treatment between persons whose situations are objectively the same. The European Court of Human Rights has stated that “*the right not to be discriminated in the enjoyment of the rights guaranteed by the Convention is violated even when states fail to treat persons who are in different situations in an important way*”².

The terms “special temporary measures” and “positive actions” should be considered as functionally equivalent and have an autonomous meaning. The term “positive discrimination” in the context of human rights standards should be avoided³. “Measures” include all legislative, executive, administrative and other regulatory instruments, policies and practices such as support programs, distribution and/or redistribution of resources, preferential treatment, recruitment, employment and targeted promotion, objectives set out in number and time limits and quota systems⁴.

2. ECHR, *Thlimmenos v. Greece* [GC] (No. 34369/97), 6.04.2000, para. 44. ECHR, *Pretty v. United Kingdom* (No. 2346/02), 29.04.2002, para. 88.

3. CEDAW, General Recommendation No. 25 (2004)

4. CEDAW, General Recommendation No. 25 (2004)

5. Promotion of gender equality and prohibition of discrimination in appointed bodies of local government

The decentralization process in Albania is conceived in neutral gender terms. That is, there has been very little discussion about the fact that decentralization can affect women and men, girls and boys in different ways. This issue has only recently been addressed through legal and policy frameworks on gender equality, which underline the obligations of local government units in the area of gender equality.

These legal and policy documents introduced municipalities' obligation to establish institutional mechanisms in support of the implementation of gender equality policies at local level. What the local government is required to do, above all, is to embrace the concept of equality as a prominent indicator of good governance, a commitment to the enforcement of the law on equality and national policies for capacity building and acquiring necessary skills to act. Local governments are the key actors in promoting gender equality in Albania, considering their special role and mandate, as well as their direct link to the community. Gender equality and local governance are inextricably intertwined together. They are essential to the socio-economic development and democratization. During the mandate to develop local policies that reflect the specific socio-economic situation, backed by evidence-based facts and certified through consultations with men and women citizens, local gender act plans should be applied to develop interventions that address gender-specific inequalities in communities.

Gender equality and local governance are inextricably linked together. They are essential for socio-economic development and democratization. Unlike the previous legislative practice, the new organic law "On Local Self-governance" has included the issue of gender equality in the field of appointed local government bodies in a series of its provisions. This is a novelty since such concept is introduced in an organic law for the first time. The legislator was not satisfied with the general reference in the Law "On Gender Equality" (as is commonly found in other laws) but specifically enacted special incentive provisions for gender equality in this law.

More specifically:

Article 3

The Mission of Local Self-Governance

Local self-governance in the Republic of Albania shall ensure governance which is effective, efficient and closer to citizens by:

- a) recognizing the existence of different identities and values of communities;
- b) respecting the fundamental rights and freedoms of citizens sanctioned in the Constitution or other laws;
- d) delivering services in appropriate forms, based on the needs of community members;
- dh) effectively promoting the community's comprehensive participation in local government;

Article 33

Public services administration instruments

1. Local government units shall ensure the provision of public services through one or more of the following instruments:

- a) its organizational units, which are part of the administrative structure of the local unit;
- b) enterprises for public services, according to the legislation in force;
- d) establishment of commercial companies owned by or in joint ownership of the local unit, according to the legislation in force.

2. In any case, regardless of the selected instrument, the local unit shall be responsible for:

- b) designing and deploying a system of indicators, including the gender aspect for performance measurement;
- c) creating a special unit in the structure of the local self-governance unit, which will be responsible for the presentation, supervision and monitoring of performance and service, including the gender aspect.

Article 59

Mayor

3. The mayor shall be assisted by one or more deputy mayors in performing his/her functions and exercising his/her competences. The number of deputy mayors shall be determined by the mayor, in compliance with the law on gender equality. Appointment and dismissal of deputy-mayors shall be performed by the mayor.

Article 64

The competences and duties of the mayor

The Mayor shall have the following competences and duties:

- e) appoints and dismisses the deputy mayor/mayors, in compliance with the law on gender equality;
- h) appoints and dismisses administrators of administrative units/districts, in compliance with the law on gender equality;
- f) decides on the appointment or dismissal of the members of the managing bodies of commercial companies owned by the municipality, as well as the managers of the subordinate enterprises and institutions;
- g) appoints and dismisses other employees of the subordinate structures and units of the municipality, unless otherwise provided in the law on civil servants;

The initiative for conducting a study on the representation of women in the appointed bodies of local government was initiated for the first time by the Commissioner for Protection from Discrimination. For this purpose, referred to Article 15, paragraph 1 of Law No. 9970/2008 *“On Gender Equality in Albania”*, it is noted that equal gender representation in all legislative, executive and judicial authorities and other public institutions is achieved when: *“a) a representation of over 30% for each gender, including their steering bodies is ensured “.*

Given the importance of the implementation of positive measures in order to eliminate discrimination and to accelerate real equality, as seen from the point of view of the obligation imposed on Mayors (under Article 64 of Law No. 139/2015 *“On Local Self-governance”*) to implement and respect gender equality in the appointments of deputy mayor/s of the municipality and in the appointments of administrator/administrators of administrative units/districts, through letter with Prot. No.1001, dated 13.7.2018 the CPD requested information from 61 Municipalities on the appointments of Deputy Mayor/s and appointments of administrator/administrators at administrative units. The Mayors of the following Municipalities responded to this official request: Municipality Of Tirana, Korça, Tepelena, Saranda, Maliq, Divjakë, Gramsh, Peqin, Belsh, Waterwork, Poliçan, Roskovec Konispol, Mird, Himarë, Puca, Delvina, Skrapar, Has, Pustec, Light, Circle, Kurb, Rrogozhin, Librazhd, Finiq, Lushnjë, Memaliaj, Fier, Elbasan, Gjirokastër, Patos, Prrenjas, Durres, Berat, Great Malays, Vau Deja, Pogradec, Vora, Mat, Selenica, Klos, Permet, Tropojë, Mallakastër, Kukë, Devoll, Lzhë, Kamëz, Shkodra, Dropull.

In compiling this report regarding the findings related to gender quota and appointment of gender equality employees in all the municipalities of Republic of Albania, the municipalities of Pustec, Himara, and Malësi e Madhe failed to provide the Commissioner for Protection from Discrimination with the proper information. Notwithstanding the resubmitting of the request for information with Prot. No. 1177, dated 28.08.2018, referring to Law No. 190/14 *“On the Right to Information”*, which also aims to promote the integrity, transparency and accountability of public authorities, such information is missing and was not made available to the Commissioner for Protection from Discrimination even after his repeated insistence on receiving a response.

Indicator No. 1

Women appointed as Deputy Mayors at the Municipality, July 2018

This indicator is reflected in Graph. 1 titled “Women appointed as Deputy Mayors at the Municipality, July 2018” and “Disaggregation by Representation of Municipalities with more than 1 Deputy Mayor and with women Deputy Mayors, July 2018”.

Out of the 58 municipalities that provided information on the number of deputy mayors, 37 of them have more than 1 deputy mayor. The remaining 21 municipalities report that they have only one deputy mayor in the structure and none are reported to be women. Out of 20 municipalities reporting that their only deputy mayor is a man, none of them have a woman as mayor. This emphasizes the fact that Mayors or Deputy Mayors are only men. For 2 of the municipalities that have only one mayor, it is not reported whether he/she is a man or woman, what means that reporting lacks there or that this position was vacant when the reporting was made.

Out of the 37 municipalities that have 2 or more deputy mayors, gender representation of women is 30% or more in only 15 of them. The percentage is zero in 20 out of 37 municipalities, meaning that no women hold the position of deputy mayor, although the municipality has at least 2 deputy mayors. The Municipalities with 0% gender representation of women as deputy mayors are *Elbasan, Kamza, Durres, Saranda, Cërriku, Finiqi, Kolonjë, Roskoveci, Fushë-Arrëzi, Vora, Perrenjas, UraVajgurore, Dibra, Delvina, Shijaku, Devolli, Kukes, Gjirokastra*. The most extreme cases are the Municipalities of Elbasan, Durres, Kamza and Saranda where all 4 deputy mayors are reported to be men.

Indicator no. 2

Women appointed as Administrators at the Municipality, July 2018.

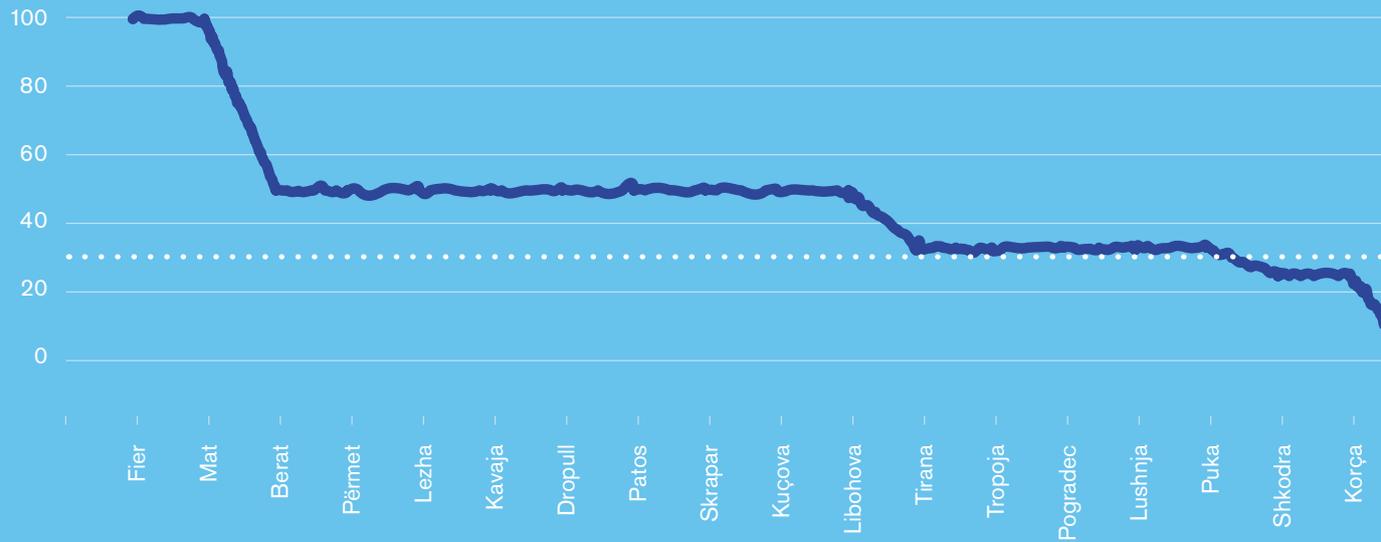
This indicator is reflected in Graph. 2 titled “Women appointed as Administrators at the Municipality; July 2018” and “Disaggregation by Representation of Municipalities with more than 1 Administrator and with Women Administrators, July 2018”.

Out of the 58 municipalities that have provided information on the number of municipal administrators, it results that 54 have more than one administrator. The remaining 4 municipalities report that they have only one administrator in the structure and only the Municipality of Saranda reports that the sole Administrator is a woman. For one of the municipalities, namely the municipality of Fushë-Arrëz, the total number of administrators was reported, but the women/men ratio was not recorded. Out of the 53 municipalities that have 2 or more Administrators and that also have data, only in 8 of them women representation is 30% or more. 27 out of 53 municipalities have 0% gender representation, meaning that no women hold the position of Administrator, although the municipality has at least 2 administrators. The Municipalities with 0% women representation as Administrator are *Durrës, Shkodra, Lezha, Skrapar, Pogradec, Librazhdi, Peqini, Memaliaj, Përmeti, Rogozhine, UraVajgurore, Members, Divjaka, Puka, Belshi, Finiqi, Berat, Tepelena, Këlcyrë, Klos, Kurbini, Dropull, Taskin, Has, Poliçani, Roskovec and Vora*.

In total, out of 343 appointed Municipal Administrators (in 58 municipalities for which we have records) there are only 52 women administrators. This accounts for only 15% of the total.

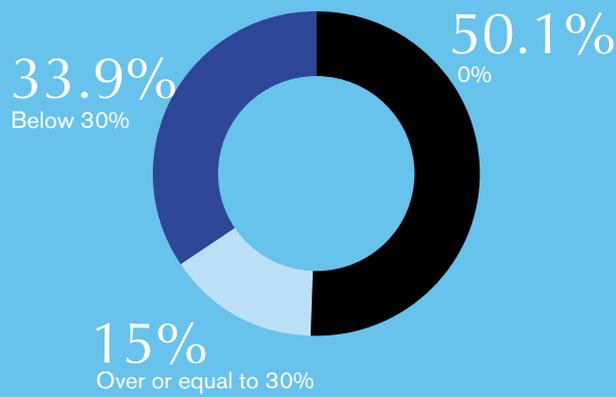
GRAPH 1

Women appointed as Deputy Mayor in Municipalities, July 2018

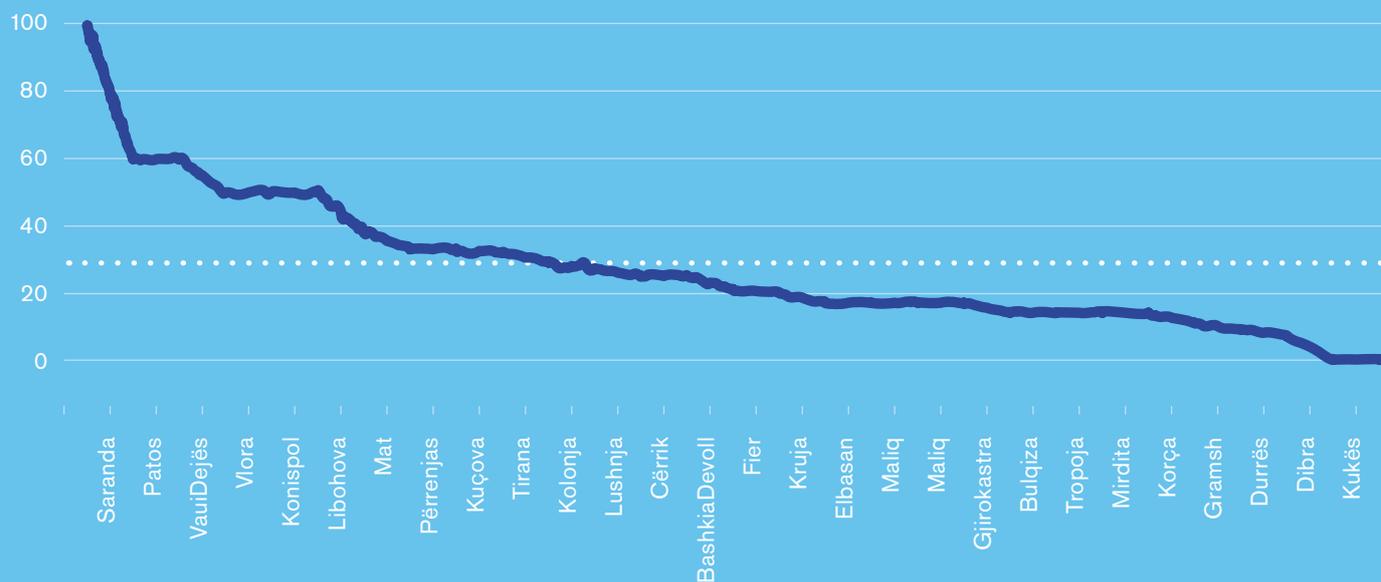


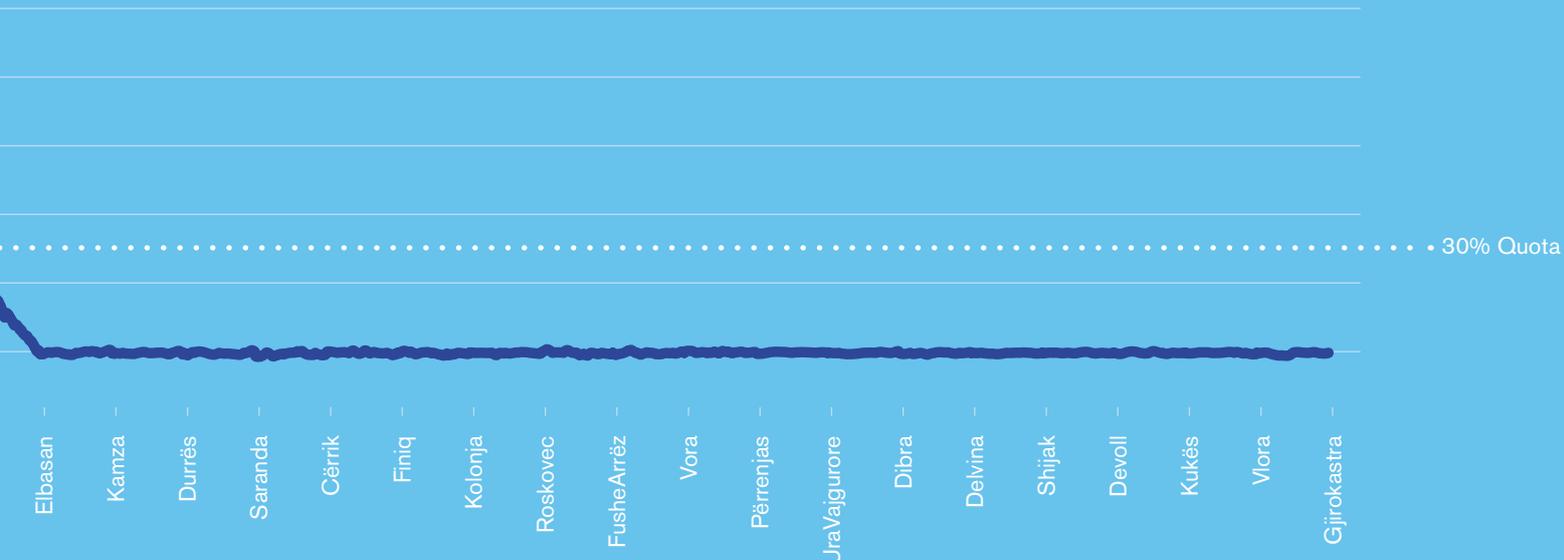
GRAPH 2

Women appointed Administrators at the Municipality, July 2018

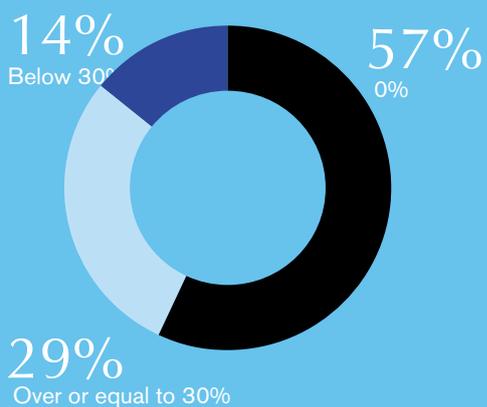


Women appointed Administrators at the Municipality, July 2018

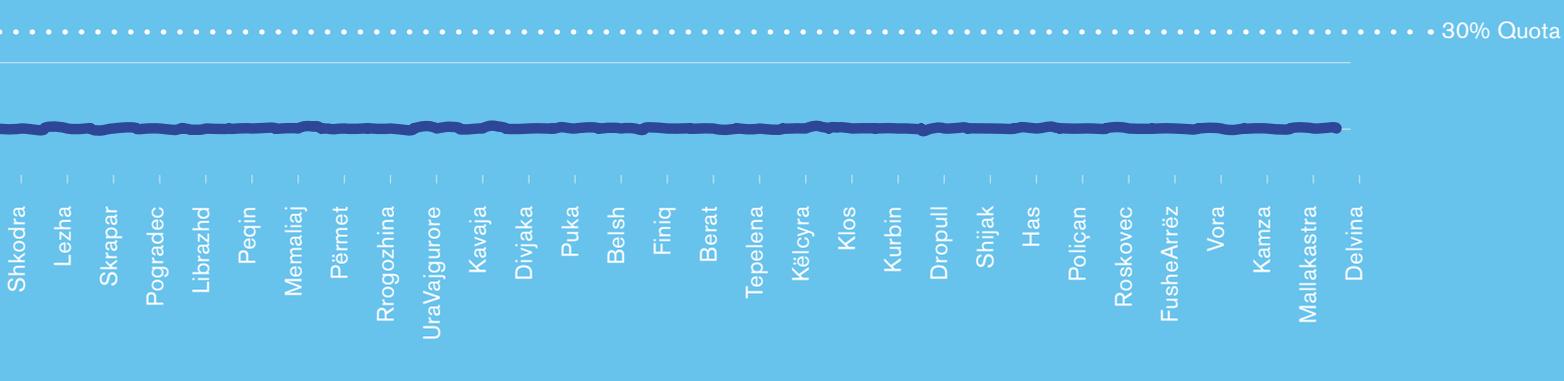
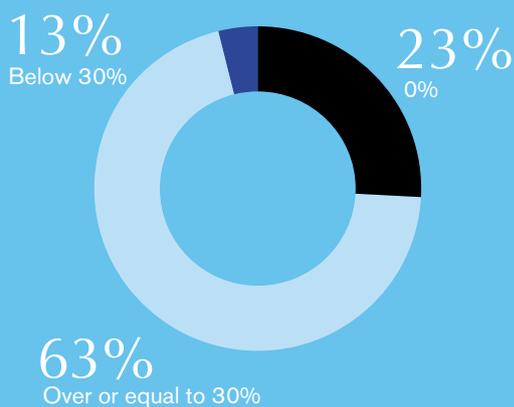




GRAPH 3
Women Appointed as Administrators of Commercial Companies owned by Municipalities, July 2018



GRAPH 4
Women appointed as administrator of local institutions, July 2018



Indicator no. 3

Women appointed as Administrator of Commercial Companies owned by Municipalities, July 2018

This indicator is reflected in Graph.3 titled “Women Appointed as Administrators of Commercial Companies owned by Municipalities, July 2018” and “Disaggregation of Municipalities with more than 1 Commercial Company Administrator based on the employment of women as Administrators, July 2018”

Out of the **58** municipalities that provided information on the number of commercial companies they own, it results that the main part has provided invalid information (numbers are not provided and are inaccurate). Out of the 113 commercial companies under the ownership of the municipalities that the Open Data Albania project reported for 2016-2017, in the evidence presented to the Commissioner for Protection from Discrimination for July 2018, only 64 companies are declared.

The evidence submitted for this indicator displays shortcomings. The main shortcoming is the fact that the Company Administrator is often confused with the Company’s Supervisory Board Member. Both the Administrator and the Supervisory Board Member are appointed positions. Some municipalities have declared a number of Administrators far greater than the number of companies, implying that board members have also been declared. For this reason, we have excluded these municipalities with problematic data from the analysis.

Out of 14 municipalities that have referred the data, it results that only **4** of them have respected the representation ratio of at least 30% women administrators of commercial companies owned by Municipalities. While **8** out of 14 municipalities do not have any Commercial Company Administrators who are women (owned by the Municipality). In two cases, municipalities have appointed women, however below 30%.

The Municipalities with a zero level for this indicator are Kolonja, Tepelena, Berat, Lushnja, Elbasani, Dibra, Shkodra and Librazhdi.

Tirana and Korça municipalities with a high number of commercially owned companies remain at low levels of representation for women Administrators below 30%.

Going back to the problems and lack of evidence, the Municipalities of Durrës, Fier, Kukës, Kamza have provided zero evidence for their business entities, which reflects a lack of seriousness in keeping evidence and managing commercial companies owned by the municipality.

Out of the **64** reported commercial companies, only 9 state that they are run by women administrators. In **15** Municipalities that own only one commercial company, only 1 Municipality has trusted the management of the company to a woman, specifically the Municipality of Gramsh.

6. Conclusions and Recommendations

- Gender equality represented in political decision-making and administration processes has always been recognized as a major source of legitimacy for democratic governance. However, although significant progress has been made for years, women remain to be under-represented in the public sector in many countries. Albania in this respect is no exception and the statistics presented in this study confirm this conclusion.

- Fair gender representation has its significance in political life. From a symbolic point of view, the people choose their representatives not only as their “trusted person”, but also through this election, they delegate their right to make decisions to the latter, who will represent them in the process. In other words, “representation” is symbolic and the failure to include women in political positions and public administration will be considered as “evidence” of structural discrimination against women.

- The lack of involvement and representation of women in public services at local level and in various agencies at this level of power has a number of serious administrative implications. In order not to have state services unilaterally provided by one gender, there should be a sufficient number of women in public administration and public services at local level. In this way, the specific requirements will be understood and represented, and the message that women’s needs will not be neglected will be clearly given. Women’s participation in local governance thus brings new inputs and perspectives to the political process and administrative mechanism, making governance more responsive to the needs of the people.

- On the other hand, there is also an economic aspect that goes in favor of women’s representation in the public service. Due to the modernization and globalization of every aspect of life, information and consumption, there is a great need for the contribution of women both in the public and private sector. Precisely due to the increased competitiveness of governance in this modern world, the public bureaucracy at national and local level must make wise use of women’s talent as a valuable human resource, as well.

-For all these reasons, the under-representation of women in the appointed local government bodies constitutes a discrimination against women. Consequently, as with any other type of discrimination, the approach to this phenomenon should be multifaceted.

- It is necessary to amend Law no. 10221/2010 “On Protection from Discrimination” by extending the competence of the Commissioner for Protection from Discrimination in this regard. Non-compliance with the provisions of the Law “On Local Self-governance” for the inclusion and representation of women at this level of power needs to be continuously monitored, administratively punished and/or to take other measures to realize the intended purpose of the legislator with the approval of this law and ensuring the fulfillment of the Republic of Albania’s international obligations.

- The Law “On Gender Equality in Society” does not provide for an authority to oversee compliance with the obligation set out in Article 15, sub-clause “a” of this law. In order to ensure its effective

implementation, it is necessary to provide for a monitoring and sanctioning mechanism in relation to this provision

- It results that the Law “On Gender Equality in Society” needs to be reviewed in some other aspects. As an illustration, Article 28 of this law stipulates that the State Labor Inspectorate is the responsible authority for cases of violations of the obligations set forth in Article 26 of the Law. Article 26 deals with gender equality issues in the media. The second paragraph of this article states that broadcasting, printing and publishing materials and information that contain or imply humiliating or offensive differences, exclusions or limitations of one of the genders due to gender-based discrimination is prohibited.

-The State Labor Inspectorate cannot be the responsible authority with respect to the obligations laid down in Article 26 of the Law “On Gender Equality in Society”. This example shows that it is necessary to fully reconsider the responsible authorities which should monitor the enforceability of the envisaged obligations in order to ensure compliance with the obligations of this law in order to meet the objectives set out in it.

Furthermore, setting the 30% quota for municipal councils in article 15 is already lower than the provision that the Electoral Code has increased to 50%.

Likewise, Article 15 imposes sanctions while the Electoral Code also imposes sanctions on the multi-name lists of electoral subjects in general elections, and even gives a different meaning to the multi-name lists themselves with representation of women in them.

- This study also identifies the need for amendments to Law No. 139/2015 “On Local Self-governance”, with the aim of addressing the 30% gender quota, according to the provisions of Article 15 of the Law “On Gender Equality in Society”. In Article 64, sub-clauses “f” and “g” of Law No. 139/2015 “On Local Self Government”, it is stipulated that the Mayor has the power to decide on the appointment or dismissal of the members of the governing bodies of commercial companies owned by the municipality, as well as the directors of the subordinated enterprises and institutions, and to appoint and dismiss other employees of the subordinate structures and units, unless otherwise provided in the law on civil servants. It is recommended that sub-clauses “f” and “g” of Article 64 of Law no. 139/2015 “On Local Self-governance” be amended, stipulating that the Mayor exercises these competences while respecting the law on gender equality.

- It is necessary to take legal measures and establish an effective mechanism to ensure representation of women in cases of recruitment of employees in local public administration. This mechanism is currently missing. In this regard, there are no statistics on the number of women working in local administration, and more importantly, women who hold or aspire to hold middle and high-level managerial positions in the local public administration should be carefully considered and prioritized. Civil service legislation needs to be amended in order to ensure that at least 30% of local public administration manager positions are held by the least represented gender and should contain sufficient incentives to achieve this objective.

- In all the entities, trade companies, agencies, etc., established by the local government, it is necessary to respect the gender quota of their composition, both in the case of the managerial positions and of the composition of the steering councils, administration, etc. This requirement should first be reflected in the Law “On Local Self-governance” and should be implemented at the first moment when municipal councils decide on their establishment and/or composition. Even on these issues, the Commissioner

for Protection from Discrimination should have the power to verify the actual facts and take legal measures to eliminate discrimination against women in this aspect of the local government body.

- The issue of gender equality in the local public service and in any body or agency appointed by it should be seen also from the point of view of changing the mentality, especially considering the major changes that are evident between the urban developed areas in Albania and those municipalities which are small or in rural areas. Therefore, the first step of legal amendments should be accompanied by an awareness mechanism to promote and develop full gender equality in these municipalities as well. Such a task is not the responsibility of only one institution, but of all the state mechanism that should enable it by creating bridges of cooperation with civil society and the media.

- Each municipality should have clear and published evidence (e.g. on the website or other means) regarding gender equality issues. Statistics should be up-to-date and readily accessible by the general public. Municipalities should legally have the clear obligation to keep these statistics, update them and formally send them to the Office of the Commissioner for Protection from Discrimination.

- Mayor and/or municipal council by-laws should clearly define the position or sector at the Municipality that aggregates and reports the evidence on gender representation reflecting the respective analysis. For this reason, it is necessary to:

- i) create a final, exhaustive list of gender representation indicators in the municipality.
- ii) prepare an explanatory manual for the indicators, giving precise descriptions and disaggregation for each indicator.
- iii) establish a methodology for statistical processing and comparison in diachrony (time extension) and synchrony (at the same time but between municipalities).
- iv) establish a Gender Representation Performance Assessment Index for the appointed persons at the Municipality.
- v) instruct and train employees as above for keeping records and aggregating data.

Bibliography

Law No. 10 221, dated 04.02.2010 "On Protection from Discrimination"

<http://kmd.alwp-content/uploads/2018/05/1308053956-Ligji-per-mbrojtjen-nga-diskriminimi.pdf>

Law No. 9970, dated 24.07.2008 "On Gender Equality in Society"

<http://kmd.alwp-content/uploads/2018/05/1306486003-Ligji-per-barazine-gjinore-ne-shoqeri.pdf>

Constitution of the Republic of Albania

<http://kmd.alwp-content/uploads/2018/05/1306485566-Kushtetuta.pdf>

http://kmd.alwp-content/uploads/2018/05/1524738224-Kodi_i_Procedurave_Administrative.pdf

<http://kmd.alwp-content/uploads/2018/05/1524738180-Kodi-i-Punes-se-R.Sh-.pdf>

<http://www.qbz.gov.al/Ligje.pdf/qeverisja%20vendore/LIGJ%20Nr.%20139-2015.pdf>

Law No. 139/2015 is published in the Official Gazette No. 249, dated 14 January 2016.

Universal Declaration of Human Rights

<http://kmd.alwp-content/uploads/2018/05/1524735491-DEKLARATA-UNIVERSALE-E-TE-DREJTAVE-TE-NJERIUT.pdf>

Council Directive 2000/78 / EC of 27 November 2000 establishing of a general framework for equal treatment in employment and occupation.

Convention on the Elimination of All Forms of Discrimination against Women

BEIJING DECLARATION AND PLATFORM FOR ACTION

<https://kmd.al/aktet-nderkombetare/>

www.opendata.al

