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Gender representation in Law: A study of Women Participation in Legal Professions in Albania

Abstract

The historical underrepresentation of female in the legal professions has created a male dominated justice system whereas the role of female has been shrunk to administrative duties. With the higher level of democratization of societies, the role of female in legal system is visible and important, especially related to judicial realm. In Albania since the democratic regime was established in early 90's the role of female in the legal system started to become more prominent and have become a rudder in delivering justice. This paper argues that gender bias in legal domain in Albania has been reduced in the last three decades and especially since 2000s the significant increase of women judicial appointment became a norm based on meritocracy.

Providing a normative analysis on the legislation in Albania regarding the appointments and career development criteria and an investigation of the justice system, Judicial Reform, National Reports for the delivery of justice, this paper suggests that judicial appointments and participation in other legal professions in Albania reflect a gender-based balance; yet certain structures indicate domination by either male or female gender. It is in the findings of this study, that despite the patterns above, the participation of women in the legal system in Albania has been improved especially since 2000.

Keywords: *gender bias, judicial appointments, meritocracy, justice reform.*

I. Introduction

Historically there has been an under-representation of women in the legal professions due to the cultural, social and political conditions. Improvement of these conditions and democratization of the society has empowered women in the law realm, but progress is different from country to country. Tremblay sheds light on the correlation between democracy and gender equality participation in the legal realm, proposing that despite variable might act differently in states, the more stable the democratic regime the better is gender balance reflected in the legislative². According to the 2013 study from Michelson, there has been a worldwide growing participation of women in the legal professions, as a large-scale of women entered the legal education and practice³. Based on the data provided by the study of the Council of Europe⁴, the study of the OECD countries, Organization for Economic Co-operation and Development suggests that the participation of women in judiciary has increased worldwide⁵. Such, OECD claims that women perform with efficiency in entrance examination, but are slower to progressing to senior posts due

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² Tremblay M., *Democracy, Representation, and Women: A Comparative Analysis*, Taylor and Francis Online Journal, 14:4, DOI: 10.1080/13510340701398261, 2007, pg.548

³ Michelson E., *Women in the Legal Profession, 1970-2010: A Study of the Global Supply of Lawyers*, Indiana Journal of Global Legal Studies Vol. 20, Issue 2, 2013, pg. 1102

⁴ Council of Europe, *European judicial systems Efficiency and quality of justice*, CEPEJ Studies No. 23, 2016

⁵ OECD, <https://www.oecd.org/gender/data/women-in-the-judiciary-working-towards-a-legal-system-reflective-of-society.htm>, accessed on April 24th, 2022.

to system culture, which has created a professional environment where women are still underrepresented in senior judicial positions.

Simultaneously, in the last thirty years Albania has undertaken significant initiatives to promote gender diversity in the legal system, especially in the judiciary appointments. As the society enjoyed an increased level of democratization especially since 2000s, simultaneously the participation of women in the legal professions has been improved, indication by the increasing issuance of licenses and/or institutional and judicial appointments, which have significantly empowered women' role in the Law. Such progress has been enabled by the *political conditionality* referring to the: (a) increasing enjoyment of higher level of democracy, (b) the country's effort to gain EU membership⁶ and (c) the Justice Reform focused in delivering an accountable and effective justice system in Albania. These factors have acted as rudders to provide a sustainable environment for fairer gender representation in the law.

This paper claims that gender bias in judicial appointments or gender gap participation in legal professions in Albania has been shrunk in the last three decades. Currently Albanian legislation on legal professions is driven by gender equality principle, as the legal system has become reflective of the society. Therefore, this article will be of explanatory nature and the analysis will focus on:

- i. Providing normative analysis of the primary legislation provisioning the recruitment, appointment, entrance requirements and career development criteria for judges, institutional appointments and the regulation of other legal professions.
- ii. Delivering a mapping of women participation in the legal professions in Albania, providing a picture of the existing gender representation in selective legal professions: (a) Magistrates (*Judges and Prosecutors*), (b) Notary Office and (c) Institutional Appointments in the scope of the Justice Reform Albania.
- iii. Discuss how the proposed *political conditionality* has affected women participation in the legal professions and supported country's commitment and efforts to build a transparent, accountable and efficient justice system; a system where gender participation in the legal realm is effectuated based on professional qualification and ability.

It's in the findings of this study that currently legal system in Albania is promoting the culture of meritocracy in judicial appointments and issuance of licenses for legal professions. Reflective to this conclusion is the increasing women participation in judicial appointments, institutional appointments in the structures that were established by the Justice Reform and the Notary profession. As well, this study highlights that there is still progress needed toward having more significant women participation in senior judicial positions.

II. Analysis

A. Magistrates. In Albania judicial system is hierarchically composed from First Instance District Court up to the Supreme Court. In total there are thirty-nine and Table no.2 offers an updated configuration of the judicial system in Albania:

Table no.1: Organization of Judicial system in Albania

Supreme Court

⁶In order to go to membership, we need to meet certain criteria that reflect enjoyment of democratic institutions. As such gender diversity in the judiciary system is considered to be an indicator of democracy

District Appeal Courts (6)	Administrative Appeal Court	Appeal Special Court Against Corruption and Organized Crime
First Instance Districts Courts (22)	First Instance Administrative Court (6)	Special Court Against Corruption and Organized Crime

Source: Ministry of Justice, accessed in the link <https://www.drejtesia.gov.al/> on November 20th, 2021

The status and regulation of the offices of Judges and Prosecutors is regulated through Law no.96/2016 “On the Organization of the Judicial Power in the Republic of Albania”. It is in the requirement of this law that candidates for Judge/Prosecutor should be accepted and complete the Magistrates School; admission *praesto* is provisioned by Article 28 whereas candidates should meet the following criteria:

- *to have full capacity to act;*
- *to be an Albanian citizen*
- *have graduated with the minimum scoring as determined by the School of Magistrates the integrated studies in law or in a program of the second cycle of university studies in law*
- *Upon competition of studies as in article “c”, the candidate should have at least three years of professional experience in the judiciary or the prosecution office, public administration, free legal professions or teaching in law faculties, or in any other equivalent position in the private sector or international organizations;*
- *not to have been convicted by final verdict for a criminal offence.*
- *has not been dismissed from office or has not been deprived of his license*

These criteria do not in any way create any condition that limits participation of candidates based on gender, but on the contrary is based on the principle of meritocracy as its their performance in the entrance exam that will determine their admission or not. The limitations that the law *herein* carries are related to:

- *being a member of political parties at the time of application.* This conflicts the *impartiality principle* that a magistrate ought to be vested with;
- *has not been a member, collaborator or favored by the State Security before 1990 and has not been a collaborator, informant, or agent of any secret service.* As a post-communist country, Albania has been putting efforts to nourish a healthy democratic society where decision making and deliver of justice will be trusted to citizen who have not been part of the many unjust legal practices from communism.

Having met these criteria, applicants are to register for the entrance examination based on the respective Call as provisioned in articles 29-31; specifically, article 31/2 outlines the ranking list based on exam results as determinant for the successful admission of the candidates. Additionally, in the line with the Justice Reform, to provide a transparent, accountable and efficient judiciary the students who are ranked with the highest points to be able to start the initial training of the School of Magistrates, shall subject to a thorough asset and background checking. Failure to pass the check is linked with the candidate owning financial sources that do not justify his/her assets or when the candidate has not declared properties or assets, thus giving a false or inaccurate statement for his financial capabilities. Another exclusionary condition will be if the candidate has contact

with people who are involved in organized crime⁷ and/or due to serious inappropriate ethical and moral conduct that undermines public trust in the judicial or prosecution system. Based on the above, we can conclude that the recruitment of candidates for the magistrate training reveals no limitation based on gender, but rather on aspects that are linked with participation and involvement in certain offices during the communist regime or when the candidate fails to pass the financial assessment as per the requirements of the Justice Reform.

Regarding the Career Promotion in the ranks of Magistrates⁸, Article 47 provisions the criteria to be met by magistrates – among which – there is the requirement about the threshold of experience, accordingly: (47/2/a) minimum five years of experience in criminal justice for the position of judge in the Anti-Corruption and Organized Crime Specialized Court of First Instance; 47/2/a) minimum ten years of experience (five in criminal justice) for the position of judge in the Anti-Corruption and Organized Crime Specialized Court of Appeal; (47/4) minimum seven years of experience in the first instance (at least five years in relevant law area) for a position at second level courts or prosecution offices. As per the law requirements in advancing career in the Supreme Court or General Prosecution, it is obligatory for the candidate to have assumed the function not less than 13 years in a lower instance, (at least five years ought to be in the area of law relevant for the vacant position). Obviously, the first generations who were appointed in higher levels of judiciary like Second Instance Courts and Prosecution Offices, or Supreme Court were mainly male magistrates who could meet the experience in years criteria set by law.

Mapping gender representation: The first generation of graduated magistrates took place in 2000 the recent one was on 2020⁹. In total 433 magistrates were graduated¹⁰, out of which 152 were male; 65% of the magistrates are female and they are distributed to perform their duty in the twenty-two First Instance District Courts and their respective Prosecution Offices. Data indicates that Magistrates are a solid domain led by female participation, who have earned their place in the judiciary due to their high performance in studies and Entrance Exam.

Prosecution magistrates. Based on the information provided by High Prosecutorial Council institution, currently in Albania there are 276 magistrate prosecutors, of whom 183 are male prosecutors and 93 female prosecutors. Different to the judges, data indicates that men overreach women appointed prosecutors by 32%¹¹. The following table offers explanatory data mapping gender representation according to the levels of the prosecution offices:

Table no.2: Prosecutor -Gender based mapping in the Albanian Prosecutorial System

Nr.	Prosecution Office	No.of magistrates	Men	Women
1	General Prosecution	9	7	2
2	S.P.A.K	17	12	5

⁷As defined by the provisions of Law no.95/2016 “On the Organization and Functioning of Institutions for Combating Corruption and Organized Crime”.

⁸In accordance with article 47 of Law no.96/2016 “On the Organization of the Judicial Power in the Republic of Albania”, promotion in the magistrates offices refers to A position in the judicial or prosecutorial system to another position at a higher instance level; civil, criminal, administrative position at the Anti-Corruption and Organized Crime Specialized Courts or the Special Prosecution Office; a position as magistrate to the position of a chairperson of a court or prosecution office; a seconded position or a position in the mobility scheme to a position of a higher level than the position held prior to the secondment.

⁹School of Magistrates, Annual reports 2000-2020, Tirana

¹⁰Judges and Prosecutors

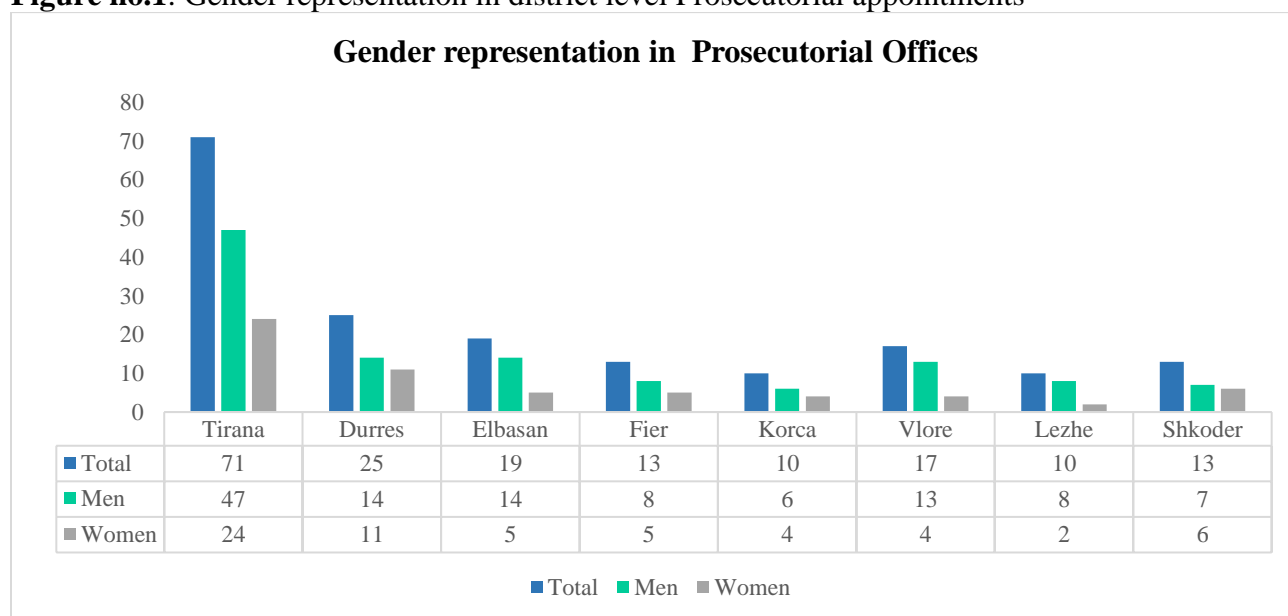
¹¹Data has been provided by High Prosecutorial Council based on the individual request of the author. Email dated April 28th,2022.

3	HPC	6	4	2
4	District Level	226	148	78
5	Appeal Level	18	12	6
	Total	276	183	93

Source: *High Prosecutorial Council Albania, April 28th 2022*

As data confirms, in all the levels of the prosecution offices, male prosecutors prevail over female colleagues; the High Prosecutorial Council together with the Appeal tier prosecutors represent a 50% overturn preponderance in appointments, whilst in the other tiers the gender share difference is bigger. In the following graph some of the District Level based prosecutorial appointments will be analyzed to understand on a local level the current status of the gender participation:

Figure no.1: Gender representation in district level Prosecutorial appointments



Source: *High Prosecutorial Council Albania, April 28th 2022*

In all the first level prosecution offices male magistrates exceed female colleagues; additionally, data in figure no.1 is in support to this argument as the biggest district prosecution offices are analyzed. Respectively none of the offices represents a 50/50 gender participation; Shkodër district has the largest women prosecution appointments with 46% of the total appointments, whilst the lowest women appointments are in Vlorë district with 23.5 %.

Judge magistrates. Based on the data provided by the High Judicial Council, currently in the Republic of Albania 323 magistrate judges operate in the judiciary, of whom 177 are women Judges and 146 men Judges. As the data indicates, women overreach men appointed judges by 9.59 %¹². The following table offers explanatory data mapping gender representation according to the levels of the courts: the current total number of judges in Albania vs. their share into the levels of judiciary based on gender participation.

¹² Data has been provided by High Judicial Council based on the individual request of the author. Email dated April 26th,2022.

Table no.3: Judge – Gender based mapping in the Albanian Court System

Nr.	Court	No.of magistrates	Women	Men
1	Supreme Court	12	2	10
2	Courts of Appeal	51	26	25
3	District Courts	207	118	89
4	Administrative Courts	41	22	19
5	Courts of Special Jurisdiction	12	9	3
	Total	323	177	146

Source: *High Judicial Council Albania, April 26th 2022*

Data confirms that women currently overreach men judge appointments up to the Courts of Appeal, with a significant domination in the District Courts where women make 57 % of the total judges' appointments; whilst data from the Courts of Appeal suggests that we have a near parity in terms of gender participation. Only Supreme Court is a men domain judgeship representing 83.3% of the appointments.

As well, this study will focus on the micro data of selective courts to understand the composition of the judges: First Instance District Court of Tirana and District Appeal Court of Tirana– They cover a jurisdiction of approximately about one million Albanian citizens, or 32.9% of the population¹³; Administrative Court of Tirana and Administrative Appeal Court of Tirana and Supreme Court. Additionally, the appointments in the Constitutional Court will be included in the study, as it represents an important judicial career institution guarding the guarantee of the constitutional rights.

First Instance District Court and Appeal Court of Tirana

District Court of Tirana has in total eighty-three judges distributed in two chambers: Civil (46) and Criminal (37) divisions. Out of eighty-three judges, forty-two are men and forty-one are women, thus we have a fifty-fifty share of positions. However, important to note most of the female judges are in the Civil division who make 63% of the judicial staff, whilst in the Criminal division men dominate by holding 67.5% of the positions¹⁴. On the other hand, Appeal Court of Tirana presents more of male dominance in the positions of judges who hold thirty-three seats from fifty-three seats. This is due to the fact that the criteria set for the Appeal Court Judges requires a minimum of seven years in first instance and mostly it is met by male judges who made most of the first generations and thus fulfilled the required criteria. However, as many female judges have now assumed the necessary experience in years, the second level courts judge offices are starting to have an increasing women presence.

Administrative Court of Tirana and Administrative Appeal Court of Tirana

Administrative Court of Tirana has in total seventeen judges and the gender distribution of positions is fifty-fifty; judge positions in the Appeal Court are dominated by 73% by women. Both the courts are new, as they were established in 2013 as separate courts and many judges applied for the vacancies¹⁵. As the application mainly came from First Instance Courts that are dominated

¹³INSTAT, Popullsia e Shqipërisë , Janar 2022

¹⁴ District Court of Tirana link at <http://www.gjykatatirana.gov.al/>, accessed on November 20th, 2021 e

¹⁵See Law No.49/2012, “On Administrative Courts and judgement of administrative disputes”

by female holding the positions, naturally the Administrative Courts as well have majority female judges.

Supreme Court

First operation of the Supreme Court in the Republic of Albania dates during the period of 1920-1939 and since has been subject to changes due to regime type and recently due to the Judicial Reforms taking place in the scope of fighting corruption and meeting the criteria for an EU membership. To become a judge in the Supreme Court, among the standard criteria as mentioned above, is the condition to have a professional career in the law field of at least thirteen years. 1/5 of the members should come from Advocacy, Faculty of Law pedagogues or from Public Administrations. Currently, Supreme Court has 12 members and two are female. Important noting that since the establishment in 1920 Supreme Court has had fifteen Chairmen and only one was female – Shpresa Becaj from 2008-2013.

Constitutional Court

The composition of Constitutional Court is as following: nine members out of whom three members are elected by the President, three members are elected by the Assembly and three members are elected from the Supreme Court. Their mandate is nine years, not renovated. Candidates elected can be judges, advocates, from public administration or academia who should have a career of at least fifteen years in the field of law. Currently there are eight members, of whom five are female and the Chairman is as well female. It's the first time that the highest court in the country has a female dominance; when first established in 1991 Constitutional Court of Albania had eight male members and only one female member. The current Chairman of the Constitutional Court is Mrs. Vitore Tusha. In comparison to the Supreme Court, the current Constitutional Court Judgeship represents a composition with a more significant presence of women as judges. This was enabled due to the implementation of Law no.76/2016 "On some amendments to Law no.8417 dated 21.10.1998 "Constitution of the Republic of Albania" which introduces the quota system between the President, Parliament and Supreme Court which relieved the deadlock appointments¹⁶ and paved the path for more female representation in the Constitutional Court.

B. Justice Reform. One of the most important cornerstone legal reforms in Albania during the last three decades¹⁷ is the Justice Reform in Albania which was initiated in 2016 by amending the Constitution of Republic of Albania, respectively altered twenty-one of twenty-six existing articles related to corruption and added twenty-three new ones¹⁸.

The Justice Reform is the most comprehensive and most important legal initiative to combat corruption in all levels – from public to high positions including judges, prosecutors and other positions vested with political power. The main aim of the Reform is to provide a Transparent, Accountable and Effective justice system, thus restoring public trust in the law and ensuring Albania's process of integration toward European Union Membership¹⁹; the implementation of the reform did impact the decision making of the European Commission to open the accession

¹⁶ Prior to 2016 all the judicial appointments in the Constitutional Court were made by the President with the consent of the Assembly.

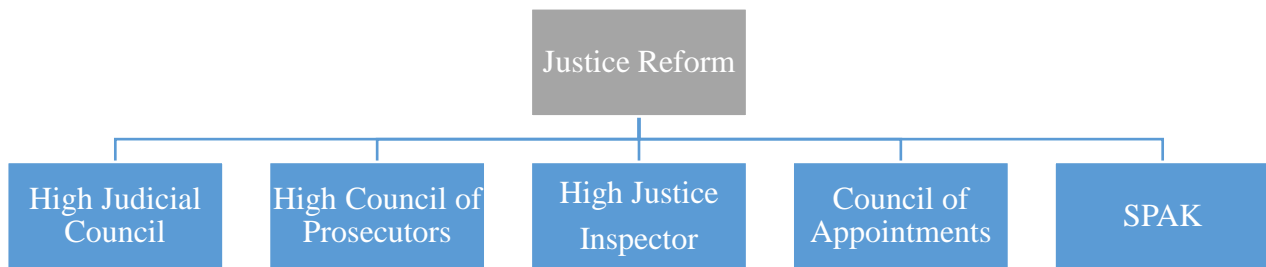
¹⁷ In this study data will be analyzed for the time period from 1990 to nowadays which is the timeframe of democracy in Albania, having shifted from Communism to Democracy in 1990.

¹⁸ Alesia Balliu, "The reform of Justice in Albania", Beijing Law Review, 2020, vol.11, pg.709-72

¹⁹ Assembly of Tirana and Euralius V, Justice Reform Albania, 2020.

negotiations with Albania in March 2020. The Reform scope is focused in three main directions: (i) Anti – corruption efforts compressed of the Vetting process for all sitting magistrates, establishment of permanent structures combating corruption and lifting of immunity regarding criminal investigations against magistrates; (ii) Accountability institutionalized by presenting a modern disciplinary system for all magistrates , ensuring heterogenous composition of the High Judicial Council and High Prosecutorial Council (lay members inclusivity) and establishing a sing body to carry out the disciplinary actions against magistrates -the High Justice Inspector; and , (iii) Access to Justice by addressing a new legal aid system. Having said this, understandably the structures that were established to implement the reform are of vital importance for the legal process in Albania. In this paper, appointments made in these structures will be analyzed and provide a gender-participation as reflected in the members’ composition. Figure no.1 reflects the structural organization of the institutions that are reformed by the Justice Reform:

Figure 2: The organizational chart of the Institutions amended by the Justice Reform



Source: From author

In the scope of the purpose of this paper, the following will be an analysis of the appointments/elections in these structures to understand what is the gender representation of the most important institutional appointments in Albanian legal system.

High Judicial Council(HJC) is composed of eleven members:

In accordance with the procedures and regulations provisioned by Law no. 115/2016 “On Governance Institutions of the Justice System” the appointments of the members are as following:

- Six Judge members are elected by the General Meeting of judges from all levels.
- Five Lay members are elected from the ranks of advocates, corps of pedagogues of law faculties and the School of Magistrates as well as the civil society.

Based on the requirements of Law no.115/2016 “On Governance Institutions of the Justice System”, provisions the requirements the candidates should meet in order to be appointed as members in HJC²⁰.

- **Article 8.** For the candidates coming from the Judiciary, criteria to be met include but not limited to: have a minimum ten years’ experience as judge; to have earned a “Very good” note in the last two ethical and professional performance evaluation. For the Supreme Court judges having met the criteria above is eligible to apply, whilst for the judges coming from Fist

²⁰For the purposes of this study, only the main specific requirements will be addressed here, additional to the standard criteria such as: Being an Albanian citizen; have not been convicted; to have not been members, collaborators in the former State Security before the 1990s and to not be collaborators, informants or agents of secret services; At the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first degree relatives who are incumbent Council members or candidates for members.

Instance/Appeal Courts additionally need to have the support of at least ten colleagues to be able to apply.

- **Article 19.** For the candidates coming from the Advocacy, criteria to be met include but not limited to: have earned a Master Degree diploma, issued the Advocate license, have at least 15 years of experience as jurist²¹; not have held any political function in the public administration or leadership positions in political parties in the last 10 (ten) years; have not been dismissed from a previous duty as judge, prosecutor or judicial police officer due to disciplinary measures;
- **Article 36.** For the candidates coming from the Academia and School of Magistrates, criteria to be met include but not limited to: Have at least 15 years of professional experience as jurist; candidates must be full-time pedagogues and have a minimum five years' experience in the Law Faculty of a Higher Education Institution (HEI) or full-time or part-time non-magistrate pedagogues at the School of Magistrates
- **Article 54.** For the candidates coming from the Civil Society, criteria to be met include but not limited to: Have earned a Master Degree education diploma, followed by at least 15 years of professional experience; candidates are expected to represent a high moral integrity and high professional qualification in law and human rights; and be employed or engaged full-time or part-time for at least five consecutive years with a civil society organization in fields related to justice system or human rights; have not held political functions in the public administration or leadership positions in political parties in the last 10 years;

The criteria here do not reflect or embody any discriminatory gender-based criteria, or to be of such nature that would positively favor one gender more. The criteria are related to the professional requirements, educational level and embody high ethical standards. In Albania these requirements can be met fairly by both men and women, because women have started to build a career in the legal system in Albania since 2000s, therefore the minimum professional years' criteria is met by many women candidates.

Mapping gender representation: The current HJC appointments are in the proportion six female members²² and five male members²³. The Chairman of the High Judicial Council is Mrs. Naureda Llagami. This structure represents a nearly fifty-fifty gender-based share, led by a woman, carrying out very difficult processes related to the judicial performance of Albania. It is important to highlight that the elections of the members are based on strict criteria set in Law No. 115/2016²⁴ and supervised by EU presence in Albania; therefore, having a 50% women presence in the appointments is of significant importance and this process has reaffirmed the commitment of Albania to support the role of women and trust them with the most difficult tasks, such as the implementation of the Justice Reform in Albania.

High Council of Prosecutors (HCP) is composed of eleven members:

In accordance with the procedures and regulations provisioned by Law no. 115/2016 “On Governance Institutions of the Justice System” the appointments of the members are as following:

²¹ This article provides the condition that the last 10 years should have been exercised in the advocate's profession without interruption.

²² Naureda Llagami, Brikena Ukperaj, Irena Plaku, Yllka Rupa, Fatmira Luli, Marçela Shehu.

²³ Ilir Rusi, Alban Toro, Dritan Hallunaj, Klodian Kurushi, Ridvan Hado

²⁴ Article 7 for Judges, 19 for Advocates, 36 for Pedagogues and School of Magistrates and 54 for Civil Society

- Six Prosecutor members
- Five Lay members are elected from the ranks of advocates, corps of pedagogues of law faculties and the School of Magistrates as well as the civil society.

Based on the requirements of Law no.115/2016 “On Governance Institutions of the Justice System”, provisions the requirements the candidates should meet in order to be appointed as members in HPC ²⁵.

- **Article 105.** For the Prosecutor candidates, criteria to be met include but not limited to: have a minimum ten years’ experience as Prosecutor; to have earned a “Very good” note in the last two ethical and professional performance evaluation. For the candidates coming from the General Prosecution Office having met the criteria above are eligible to apply, whilst for the judges coming from Prosecution Offices with normal jurisdiction additionally need to have the support of at least ten colleagues to be able to apply. Regarding the composition of the prosecutors to be part of this structure, it is requested that at least one prosecutor comes from a prosecutor office outside Tirana and two shall be prosecutors of the prosecution offices attached to courts of appeal. This threshold urges the participation and enables the opportunity to prosecutors outside the capital to be part.
- **Article 117.** For the candidates coming from the Advocacy, criteria to be met include but not limited to: have earned a Master Degree diploma, issued the Advocate license, have at least 15 years of experience as jurist²⁶; not have held any political function in the public administration or leadership positions in political parties in the last 10 (ten) years; have not been dismissed from a previous duty as judge, prosecutor or judicial police officer due to disciplinary measures;
- **Article 134.** For the candidates coming from the Academia and School of Magistrates, criteria to be met include but not limited to: Have at least 15 years of professional experience as jurist; candidates must be full-time pedagogues and have a minimum five years’ experience in the Law Faculty of a Higher Education Institution (HEI) or full-time or part-time non-magistrate pedagogues at the School of Magistrates
- **Article 152.** For the candidates coming from the Civil Society, criteria to be met include but not limited to: Have earned a Master Degree education diploma in the field of Law , followed by at least 15 years of professional experience; candidates are expected to represent a high moral integrity and high professional qualification in law and human rights; and be employed or engaged full-time or part-time for at least five consecutive years with a civil society organization in fields related to justice system or human rights; have not held political functions in the public administration or leadership positions in political parties in the last 10 years;

Similar to the requirements for the High Judicial Council, here as well the criteria here do not reflect or embody any discriminatory gender-based criteria, or to be of such nature that would positively favor one gender more. The criteria are related to the professional requirements,

²⁵ Similar to HJC, for the purposes of this study, only the main specific requirements will be addressed here, additional to the standard criteria such as: Being an Albanian citizen; have not been convicted; to have not been members, collaborators in the former State Security before the 1990s and to not be collaborators, informants or agents of secret services; At the time of application, have no family members in the meaning of the Law "On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials" and first degree relatives who are incumbent Council members or candidates for members.

²⁶ This article provides the condition that the last 10 years should have been exercised in the advocate’s profession without interruption.

educational level and embody high ethical standards to which in case of non-fulfillment candidates go through a disqualification process as per provisions of Article 128 of this law.

Mapping gender representation: The current HCP appointments are in the proportion four female members²⁷ – six male members²⁸. Similar to HJC, elected members in this institution follow a nearly 50/50 gender-based share. The elections of the members are based on strict criteria set in Law No.115/2016²⁹ and supervised by EU presence in Albania and demonstrates that the role of female in the judicial system is of importance and supported by a country who is putting best efforts to move forward.

High Justice Inspector (HJI):

The current High Justice Inspector is held by Mr. Artur Metani elected in 2020 with ninety-eight votes by the Assembly of the Republic of Albania in compliance with the requirements from Articles 199-201 of Law no. 115/2016 “On Governance Institutions of the Justice System” the appointments of the members. Accordingly, the candidate requirements are provisioned in Article 199 – among others, candidate is expected to: Have at least a Master of Science Degree in law, followed by at least 15 years of professional experience as a jurist and to not have held any political function in the public administration or leading positions in political parties in the last 10 (ten) years prior to putting up the candidacy. This institution has currently 56 employees, out of which 38 positions or 68% are held by women³⁰.

C. Notary. The profession of Notary in the Republic of Albania is regulated through Law no.110/2018 “On the Notary” which provisions the organization and operation of Notary Offices throughout the country. In accordance with article 5, to become a Notary a candidate should fulfill the following criteria:

- a. *Have Albanian citizenship*
- b. *Have legal capacity to act*
- c. *Not to be convicted*
- d. *Own Bachelor and Master of Science Degree in Law*
- e. *Complete the two-year internship as a Candidate in a Notary Office*³¹
- f. *Attend the one-year program for Notaries at Albanian Center for the Training of the Notaries*

Having met these criteria, candidates can register for the Exam which officially would qualify them to exercise the profession of Notary. The provisions of this Law have no article that would create ground for gender-based discrimination or favor one of the genders. The criteria are equally applied for men and female and the success of one’s candidature depends on their performance and results on the exam.

To provide an insight on how the Notary professions are distributed in gender-based share, the data is obtained by the official web page of National Chamber of Notaries Albania. The following

²⁷ Eloida Goxhi, Esmeralda Cami, Mirela Bogdani and Nurihan Seita Metaj

²⁸ Alfred Balla, Bujar Sheshi, Ludovik Dodaj, Sokol Stojani, Tartar Bazaj, Zeqir Hoda

²⁹ Articles 105 for Judges, 117 for Advocates, 134 for Pedagogues and School of Magistrates and 156 in relation to article 35 for Civil Society

³⁰ High Inspector of Justice, link at <https://ild.al/en/office-of-the-high-inspector-of-justice/our-staff/>, accessed on December 10th, 2021

³¹ The Candidate should not be related in two generations with the Notary, thus to create equal opportunities for candidates and not to favor the ones who have family relations with the Notaries.

table contains the data and as well provides information on the districts where the Notary Offices operate:

Table no.2: Notaries in the Republic of Albania

<i>District</i>	<i>Total no.of Notaries</i>	<i>Male</i>	<i>Female</i>
<i>Durres</i>	97	34	63
<i>Gjirokaster</i>	22	17	5
<i>Korce</i>	17	9	8
<i>Shkoder</i>	51	18	33
<i>Tirane</i>	296	47	249
<i>Vlore</i>	70	24	46
Total	553	149	404

Source:National Chamber of Notaries Albania, accessible at <https://notariati.al/lista-e-notereve/>

As the data indicates, in Albania 553 jurists exercise the profession of the Notary distributed in six districts, of which 27% of Notaries are men and 73% are women. Clearly there is a disproportionate gender-based share of the profession in favor of women. Only in the district of Gjirokastër the profession is more exercised by men, whilst in Korça district its more of a parity. In Albania, historically the profession of Notaries has been more of a female preference, while men have shown more interest toward Law Enforcement/Prosecutor/Judge professions. This trend seems to continue, as in the applications made for the exam for the Notary in 2021, only 27% of them were men whilst 73% were women³².

III. Political Conditionality

In the section above the study offered a normative analysis explaining how legal provisions have enabled a gender balanced participation in legal professions. This discussion will be focused on explaining how *political conditionality* has affected women participation in the legal professions and supported country’s commitment and efforts to build a transparent, accountable and efficient justice system; a system where gender participation in the legal realm is effectuated based on professional qualification and ability. Political conditionality in this paper is referred to three political factors that have acted as prerequisite to develop laws which promote human rights and opportunities for individuals to further their careers or professional growth.

Democratic Regime. After the establishment of the democratic regime in 1992³³, the legal system underwent major reformation, as normative provisions and constitutional rights would now be adopted into a new framework of principles and freedoms. Democratic regime enables courts to deliver justice to a diverse society and provide legitimacy through individual contexts, which would lack if the court would not be reflective of the society³⁴. Thus, participation of women in

³²National Chamber of Notaries Albania, link <https://notariati.al/wp-content/uploads/2021/05/LISTA-E-APLIKANTEVE-PER-PROVIM-2021.pdf> , accessed on November 20th, 2021

³³ Democratic Party of Albania won the general elections in the country based on multi-party elections, which in 1991 had a stronghold by the Communists. This is considered to be the establishment of the IV Republic in Albania

³⁴ Cahillane L. “Judicial Diversity in Ireland”, Irish Journal of Legal Studies, Vol.6(1)

Hunter R. “More than Just a Different Face? Judicial Diversity and Decision-making”, Oxford University Press,2015

modern democracies is essential to the intellectual power they embark, and gender equality is endorsed as a necessity to build up a healthy society that serves all³⁵. In Albania, the 1976 Constitution from the Communist Regime remained effective until 1991, followed by temporary law to accouterment the new pluralist system and the capitalist economy. After many drafts, in 1998 the new Democratic Constitution of Albania was ratified, thus paving the path to essential freedoms and rights that were missing during Communism: their independence from the other branches of the power; equally important, the new regime enabled the freedom of the citizens who met the criteria to apply for the magistrate, which included the impartiality³⁶. Ratification of Law No. 8043/1995“On the Control of the Moral Figure of Officials and Other Persons Connected with the Protection of the Democratic State”³⁷, represents a very important legal momentum in the transitional Albania as the first legal steps were taken to purify public administration – including here the offices of Judges and Prosecutors – from officials who had ties with the former communist regime. This law established the base requirement that public officials should not have been members, collaborators in the former State Security before the 1990s and to not be collaborators, informants or agents of secret services. This provision applies to this day and was one of the criteria supported during the reformation of the justice based on the Justice Reform. In the scope of the new reformed legal system, the School of Magistrates was established in 1997, in stating that the recruitments of candidates for judges and prosecutors were based on meritocracy: meeting formal criteria and dependable on the results from the Entrance Exam. First generation to be graduated was in 2000 and from nineteen graduates six were female; in the coming generations the disproportionate gap started to shrink – For example in the following year 2001 out of 20 graduates ten were females. Since 2000, about 433 magistrates have graduated³⁸, reflecting a gender share of 35% are man/ 65% women magistrates.

Judicial Reform in the scope of EU membership process. The transitional democracy in Albania has been a political phenomenon since establishment and now we are three decades in a process of strengthening Rule of Law and ensuring compliance with European standards in respect to our journey to become a member of European Union. Having said this Albania has been undergone several reforms to meet the expectations, with a special focus on the judicial sector. The most comprehensive has been the Justice Reform was launched in 2014 with the aim to transform the judiciary and provide a transparent, accountable and effective judicial system. In regard to judicial appointments, this reform enabled the VETTING of public officials in the country from the President of the Republic to the Public Administration Officers³⁹. So far, the vetting process has focused on the magistrates, counting 117 dismissed judges and 70 dismissed prosecutors⁴⁰ who failed to successfully pass the professional, ethical and financial investigation. The Vetting Reform has created opportunities for jurists in the country to build careers in the judiciary based on meritocracy, regardless gender. As well based on the data analysis of the appointments in the

³⁵ European Union, Policy Department for Citizens’ Rights and Constitutional Affairs, “Mapping the Representation of Women and Men in Legal Professions Across the EU, 2017

³⁶ During Communism, ethical standards a judge ought to endorse included their commitment to the communist ideology.

³⁷ This law has been subject to further amendments based on: Law No. 8152, dated 12.09.1996; Law No. 8220, dated 13.05.1997; Law No. 8232, dated 19.08.1997 and Law No. 8280, dated 15.01.1998.

³⁸ Judges and Prosecutors

³⁹ European Commission for Democracy through Law, “On the Appointment of Judges to the Constitutional Court Albania: Strasbourg, 2019.

⁴⁰ Komisioni i Pavarur i Kualifikimit, Raport Statistikor 2018-2022

judicial institutions following the Justice Reform, they reflect a balanced share of gender participation and it is clear that women's appointments in these senior and career positions have been supported. Worthy to note, the Justice Reform granted Albania to open accession negotiations with EU in March 2020. For this reason, the structures that were established to implement the reform are of vital importance for the legal process in Albania, and women participate in around half of the member seats.

Mapping the current gender representation in judiciary. What has been a pattern in our judicial system was that in the early years appointments of judges were oriented to be: mostly male judges for the criminal cases and more female judges in the civil cases. This explains why in the District Court of Tirana out of thirty-seven judges in the criminal division twenty-five are male judges, and out of forty-six judges in the civil division thirty-nine are female judges. Currently this judicial trend is flipping, as many new appointments in the criminal cases are female judges and male judges have been appointed in civil cases as well. Serving this argument, First Instance Court for Serious Crimes which was established in 2004 as per Law no.9110 “On the organization and operation of Serious Crimes Court”, had in its composition female judges and this was quite important because the cases judged by this court included the investigation and judgement of criminal organizations which operated in Albania during 1997 during the Civil War.

The courts where the dominion is mainly to male judge appointments have been Supreme Court and Constitutional Court. Supreme Court still remains a stronghold of male judges, with the current structure consisting of twelvemembers and only two are female. As well, as data indicates since the establishment in 1920 Supreme Court has had fifteen Chairmen and only one was female – Shpresa Becaj from 2008-2013.

Constitutional Court differs from Supreme Court. Currently the structure consists of eightmembers, of whom five are women, including the Chairman as well. It's the first time that the Constitutional Court has a female dominance; when first established in 1991 Constitutional Court of Albania had eight male members and only one female member. This was enabled due to the implementation of Law no.76/2016 “On some amendments to Law no.8417 dated 21.10.1998 “Constitution of the Republic of Albania” which introduces the quota system between the President, Parliament and Supreme Court which relieved the deadlock appointments⁴¹ and paved the path for more female representation in the Constitutional Court.

Regarding Prosecutorial Offices as the data provided in the analysis section indicates, at all levels male prosecutorial appointments prevail over female colleagues; yet the gender-based gap is significant contrary to a more balanced judiciary. As prosecution offices work with the criminal law only, for the prosecutor offices, the approach of “male gender magistrate” was better embraced by candidates and the system, as more inclined to work in the criminal investigations.

Regarding other legal professions -Notaries analyzed in this study, data indicates that in Albania Notaries are dominated by women; as data shows there are in total 553 notaries, and 73% of them are female notaries. This is due to the fact that in Albania historically the profession of notaries has been more of a female preference, while men have shown more interest toward Law Enforcement/Prosecutor/Judge professions. Serving to this argument, data confirms that Law Enforcement Officers (LEO) are dominated significantly by male – from 151 licensed LEO, 80% are men; this is due to the fact that in the Albanian society the law enforcement is a profession that requires “muscle”, therefore has historically been a realm of men.

⁴¹ Prior to 2016 all the judicial appointments in the Constitutional Court were made by the President with the consent of the Assembly.

Finally, I would like to mention in this study that increased female participation in the law realm is as well reflected in the Parliament of the Republic of Albania where the current Assembly is composed of 30% female deputies, a unique representation in our Parliament since establishment; worth mentioning the Parliament is under the guidance of a Chairwoman.

IV. Conclusions

Normative analysis and quantitative data in this study suggests within the realm of legal professions, magistrate and judicial appointments in Albania women' participation has been increased in the last two decades. Female presence in the judiciary be as magistrates or appointed members of judicial institutions indicate that Albania is working to provide an environment to provide equal opportunities to both genders. Nevertheless, there are dominions that are more of a certain gender stronghold, such as Prosecution Offices having a more significant male magistrate participation and notary mainly consisting of female professionals.

Current legislation in force in Albania provides an environment where women as well as men have equal opportunities to achieve careers in the law. Legal provisions and requirements for the exercise of legal professions and/or pursuing career in the judiciary are based on individual performance, educational achievements and entrance examination results. None of the laws - subject of analysis in this paper- did not reflect any positive discrimination based on gender, but rather relies on personal merit basis. However, in terms of career advancing, this study addresses those senior positions in the judiciary are related to particular threshold years of experience, which have given advantage to male candidates to further sooner. This due to the fact that the first generations consisted more of men candidates who were able to meet the experience criteria and consequently pursue upper levels of magistrate positions. Currently, only Supreme Court represents a career path to having significantly more men than women. Regarding other legal professions like Notary, data concludes that Notary offices reflect a disbalanced gender-share with a dominance by female notaries who make 73% of the total number of notaries.

The democratic political system has considerably impacted the empowerment of women participation in the law, based on the principles of creating equal opportunities for citizens and granting constitutional rights and freedoms. In Albania, especially since 2000s, as the democracy started to strengthen, so did the women participation become more significant. Current female judicial appointments are overturning male appointments in the First Instance Courts and achieved parity in Courts of Appeals. Judicial appointment in the Supreme Court remains a male judge stronghold, whilst the current composition of the Constitutional Court has a larger participation of women members.

Justice Reform in the scope of its aim to create a transparent, accountable and efficient judiciary system in Albania, has ensured to provide a system of institutional appointments based on meritocracy, professionalism and ethical standards, where both genders were provided equal opportunities to become candidates. Supportive is the data which shows that High Judicial Council and High Prosecutorial Council - subject to this study - represent a nearly 50/50 based participation from both genders.

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