

**XXII International Scientific Conference „Legal days –  
Prof. Slavko Carić”  
“LAW AND JUSTICE”**

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The University of Business Academy in Novi Sad  
The Faculty of Law for Commerce and Judiciary in Novi Sad

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## **MINORITY RIGHTS IN ALBANIA: A COMPARATIVE STUDY OF UN AND EU LEGAL FRAMEWORKS**

### **Summary:**

Protection of minority rights is essential for promoting equality, social integration, and peace within diverse societies. Albania, characterized by its ethnic and cultural diversity, has established a specific legal framework aimed at safeguarding minority rights. However, despite these legal provisions, significant challenges remain in their effective implementation. This paper addresses the research question to what extent does Albania's legal framework for minority rights protection align with international standards, particularly those of the United Nations (UN) and European Union (EU), and what gaps exist between legislation and practice. The research employs a mixed methodological approach, combining doctrinal legal analysis, comparative study, and case study examination. It focuses on two main objectives: first, to identify discrepancies between Albania's minority rights laws and their actual enforcement; second, to assess Albania's legal protections in comparison with international instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination, UN declarations, and the EU Charter of Fundamental Rights. Through comparative analysis, the paper evaluates the coherence between national laws and international norms, highlighting practical challenges as well as relevant rulings from the European Court of Human Rights. Ultimately, the research seeks to provide actionable recommendations aimed at bridging the gap between legal frameworks and practice, thereby improving the protection of minority rights in Albania through better alignment with international standards and more effective policy implementation.

***Keywords:*** *Minority Rights; Albania; United Nations; Legal Framework; European Union*

## 1. INTRODUCTION

Minority groups are essential to fostering cultural diversity, social inclusion, and democratic equality. The Office of the High Commissioner for Human Rights (OHCHR) defines a minority as “any group of persons which constitutes less than half of the population in the entire territory of a State whose members share common characteristics of culture, religion or language” (OHCHR, n.d.). Minority rights are generally categorized into four key areas: the right to exist, the right to identity, protection from discrimination, and the right to participation. These rights are fundamental to preserving equality, freedom, and democratic governance. Ensuring the protection of minority communities contributes significantly to a country’s political stability, social peace, and respect for human dignity<sup>1</sup>. In Albania, a country marked by ethnic and cultural diversity, the protection of minority rights is a national priority—particularly in the context of EU integration. The Albanian legal framework, including the Constitution and supporting legislation, recognizes nine official minority groups: Greek, Macedonian, Aromanian (Vlach), Montenegrin, Roma, Egyptian, Bosnian, Serbian, and Bulgarian. These rights are further reinforced through Albania’s commitment to international frameworks such as the Universal Declaration of Human Rights and International Convention on the Elimination of All Forms of Racial Discrimination<sup>2</sup>. As an EU candidate, Albania is actively aligning its laws with Chapter 23 of the EU acquis, which addresses fundamental rights and minority protections<sup>3</sup>. To align with European Union (EU) standards on minority protection, Albania continues to amend its legal framework to ensure equal access to rights and opportunities for all citizens, regardless of ethnicity or religion. However, despite notable legal reforms, Albania still faces challenges in the implementation of cultural, linguistic, economic, social, and political rights for minority groups. These communities, including Roma, Egyptian, and others, often experience systemic discrimination and marginalization. The gap between legal norms and practice results in inconsistencies that hinder the full integration of minorities into the country’s social, political, and economic life<sup>4</sup>.

This paper explores the extent to which Albania’s legal framework aligns with international standards, particularly those established by the United Nations (UN) and the EU. It examines key instruments such as the Universal Declaration of Human Rights<sup>5</sup>, the Charter of Fundamental Rights of the European Union<sup>6</sup> and the International Covenant on Civil and Political Rights<sup>7</sup>. A comparative analysis is conducted to evaluate Albanian legislation—especially Law No. 96/2017—against these international standards. The objective is to identify gaps between legal provisions and their implementation and to offer policy recommendations that harmonize national legislation with global human rights obligations. From the methodological point of view this paper adopts a multi-method legal research framework, primarily using doctrinal (black-letter) analysis to examine Albanian and international legal instruments governing minority rights. It further incorporates comparative legal analysis to evaluate the alignment between Albania’s domestic laws and key international standards set by the United Nations and the European Union, such as the *International Covenant on Civil and Political Rights* and the *Charter of Fundamental*

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1 Council of Europe, 1995.

2 United Nations, 1948; 1965.

3 European Commission, 2022.

4 Council of Europe, 2023; OSCE/ODIHR, 2020.

5 United Nations, 1948.

6 European Union, 2012.

7 United Nations, 1966.

*Rights of the European Union*<sup>8</sup>. To bridge the gap between legal theory and practice, the research also applies case study analysis, drawing on rulings from both Albanian courts and the European Court of Human Rights (ECtHR). Although this research does not employ empirical methods such as interviews or surveys—an acknowledged limitation—it offers critical insight into how legal protections for minorities are implemented in judicial decisions, providing a comprehensive assessment of Albania's conformity with international obligations.

## 2. LEGAL ANALYSIS

### 2.1. United Nations International Standards and Legal Instruments regarding Minority

After World War II (1939–1945), the international community prioritized peace, security, and cooperation. To achieve these goals, the United Nations (UN) was established in October 1945, replacing the League of Nations, which had failed to prevent global conflict. The UN Charter, signed by 50 nations at the San Francisco Conference, laid the foundation for what is now the world's largest international organization, with 193 member states<sup>9</sup>. The UN has developed a comprehensive framework of legal standards to promote human rights, including the protection of minorities. These standards emphasize non-discrimination, cultural preservation, participation, equality, good governance, and peaceful coexistence<sup>10</sup>. The UN Charter requires states to resolve disputes peacefully, refrain from the use of force, and cooperate in maintaining international peace—conditions essential for safeguarding minority rights. Furthermore, the Sustainable Development Goals (SDGs), adopted in 2015, reinforce global commitments to equality and inclusive development by 2030<sup>11</sup>. Key UN instruments include the *Universal Declaration of Human Rights* (1948), the *International Covenant on Civil and Political Rights* (1966), and the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* (1992). These legal instruments establish the foundation for member states to respect, protect, and fulfill minority rights across political, social, and cultural domains<sup>12</sup>.

#### 2.1.1. UN Monitoring Mechanisms

The UN's legal framework for minority rights is reinforced by monitoring mechanisms and specialized agencies. The UNDP and the Office of the High Commissioner for Human Rights (OHCHR) play key roles in supporting minority protection<sup>13</sup>. The Human Rights Committee oversees implementation of the *International Covenant on Civil and Political Rights* (ICCPR), ensuring states respect civil and political rights, including non-discrimination, freedom of expression, and political participation<sup>14</sup>. Similarly, the Committee on the Elimination of Racial Discrimination (CERD) monitors compliance

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8 United Nations, 1966; European Union, 2012.

9 United Nations, n.d.-a.

10 United Nations, n.d.-b.

11 United Nations, n.d.-c.

12 United Nations, n.d.-b.

13 UNDP, n.d.; OHCHR, n.d.-a.

14 OHCHR, n.d.-b.

with the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), reviews state reports, and addresses complaints related to racial discrimination<sup>15</sup>. In addition, the UN Special Rapporteur on Minority Issues monitors global minority rights, raises awareness of challenges, and provides recommendations to governments and international organizations<sup>16</sup>. Collectively, these mechanisms aim to uphold human rights and strengthen minority protections worldwide.

## 2.2. Minority Rights Protection in the European Union

Following the devastation of World War II, six European states—Belgium, France, West Germany, Italy, Luxembourg, and the Netherlands—founded the European Economic Community (EEC) to foster peace through economic integration. Over time, this evolved into the European Union (EU), with human rights, democracy, and minority protection becoming central values<sup>17</sup>. Foundational treaties, including the Treaty of Rome (1957), Treaty of Maastricht (1992), Treaty of Amsterdam (1997), and Treaty of Lisbon (2007), progressively integrated human rights standards into the EU's legal framework. The Charter of Fundamental Rights of the European Union (2000), now legally binding, explicitly prohibits discrimination and affirms cultural and linguistic diversity<sup>18</sup>.

The EU's primary legislation, or treaties, provides the constitutional basis for minority rights protection. Notably, Article 2 of the Treaty on European Union establishes respect for human dignity, equality, democracy, and minority rights as Union values, while Article 49 requires candidate states to comply with these standards<sup>19</sup>. Although the EU lacks direct legislative competence over cultural and linguistic minority rights, Member States are bound by broader human rights provisions under both EU and Council of Europe instruments, such as the European Convention on Human Rights (ECHR)<sup>20</sup>. The European Court of Human Rights has played a key role in protecting minorities by interpreting provisions on non-discrimination and freedoms of religion and expression. Secondary legislation also supports minority rights through anti-discrimination measures. The Race Equality Directive (2000/43/EC) and Employment Equality Directive (2000/78/EC) prohibit discrimination in employment, education, housing, and social protection<sup>21</sup>. These directives extend protections across Member States, requiring equal treatment irrespective of ethnic origin or belief.

For candidate countries, the Copenhagen Criteria (1993)<sup>22</sup> established accession conditions, including stable democratic institutions, rule of law, human rights, and explicit protection of minorities<sup>23</sup>. This framework has influenced reforms in Central and Eastern European countries, where minority rights protections—such as language rights and educational access—were strengthened prior to accession. Today, candidate countries, including Albania, must demonstrate compliance with these requirements to progress in

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15 OHCHR, n.d.-c.

16 OHCHR, n.d.-d.

17 European Union [EU], n.d.-a.

18 EU, n.d.-b.

19 EU, n.d.-a.

20 Council of Europe, n.d.

21 EU, n.d.-c.

22 European Council. (1993). European Council in Copenhagen – Conclusions of the Presidency.

23 European Council, 1993.

EU membership negotiations. The EU also supports minority rights through institutions such as the European Union Agency for Fundamental Rights (FRA), which provides data, legal advice, and monitoring mechanisms to improve protections across Member States and candidate states<sup>24</sup>. Collectively, EU primary and secondary legislation, monitoring bodies, and accession criteria constitute a robust framework for minority rights protection, despite the absence of a single, binding minority rights instrument.

## **2.3. Albanian Legal Framework**

### **2.3.1. Minority Rights in Albania: Historical Context**

Albania, a parliamentary republic in the Western Balkans, has undergone profound political and social transformations. Following nearly 450 years under Ottoman rule and five decades of communist isolation, the country transitioned to democracy in the early 1990s<sup>25</sup>. Despite progress, this transition remains incomplete, and the legacy of past regimes continues to shape minority rights. Demographic shifts have further complicated the issue. The 2023 census reported Albania's population at 2,186,917, reflecting a sharp decline from 2,821,977 in 2011 due to emigration, low birth rates, and an aging population. Ethnic Albanians make up 99.4% of the population, while minorities—including Greeks, Roma, Egyptians, Macedonians, and others—constitute only 0.6%<sup>26</sup>.

Historically, minority rights in Albania were shaped by regime changes. Under the Ottoman Empire, rights were tied to religion rather than ethnicity, leaving little recognition of cultural or linguistic diversity<sup>27</sup>. After independence in 1912, Albania joined the League of Nations in 1920 and adopted the 1921 Declaration, which prioritized international obligations for minority protection over domestic laws<sup>28</sup>. The communist era (1946–1991), however, marked a severe regression: political and religious freedoms were suppressed, Albania was declared the first atheist state in 1967, and minority identities were assimilated under nationalist policies<sup>29</sup>. The democratic transition after 1991 brought substantial reforms. The 1998 Constitution, adopted by referendum, guarantees human rights and explicitly protects minorities<sup>30</sup>. While Albania has made significant progress—joining NATO and opening EU accession negotiations—challenges in fully protecting minority rights remain central to its democratic consolidation and European integration<sup>31</sup>.

### **2.3.2. Constitutional and Legislative Protections of Minority Rights in Albania**

The Albanian Constitution guarantees equality and non-discrimination while safeguarding the rights of national minorities in alignment with international human rights

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24 EU, n.d.-d.

25 De Waal, 2005.

26 INSTAT, 2023.

27 Clayer, 2017.

28 League of Nations, 1921.

29 Vickers, 1999.

30 The constitution of the Republic of Albania, 1998.

31 European Commission, 2023.

standards<sup>32</sup>. Several articles explicitly protect these communities. Article 18 prohibits unjust discrimination based on ethnicity, language, religion, or other grounds. Article 20 ensures that minorities may preserve and develop their cultural, religious, and linguistic identity, as well as organize collectively to protect their interests. Article 24 guarantees freedom of conscience and religion, while Article 45 provides equal political participation rights, and Article 57 secures the right to education, including in minority languages.

Beyond the Constitution, domestic legislation further enforces minority protections. The Anti-Discrimination Law (Law No. 10221/2010) prohibits discrimination based on race, ethnicity, language, or similar grounds and created the Commissioner for Protection from Discrimination as an independent enforcement body<sup>33</sup>. The Law on Audio-Visual Media (No. 97/2013) requires public and private broadcasters to provide programming in minority languages, ensuring cultural preservation and representation in the media. The most significant reform came with the Law on the Protection of National Minorities (No. 96/2017), which officially recognized nine national minorities and abolished the previous unequal distinction between “national” and “linguistic” minorities<sup>34</sup>. This law was seen as a milestone in harmonizing Albanian legislation with European standards. Furthermore, amendments to the Law on Pre-University Education (2021) introduced protections for linguistic and cultural identity in curricula, teacher training, and access to education for vulnerable groups such as Roma and Egyptian students<sup>35</sup>.

International commitments reinforce Albania’s domestic framework. Treaties such as the International Covenant on Civil and Political Rights, the Framework Convention for the Protection of National Minorities, and the European Convention on Human Rights have been ratified, making them directly applicable under Article 122 of the Constitution<sup>36</sup>. While progress is recognized, reports by the European Commission (2019, 2022) note that the adoption of secondary legislation remains pending, which continues to limit the effective implementation of minority protections. Nevertheless, Albania’s legal framework demonstrates a significant effort toward building an inclusive system in line with European integration requirements.

### 3. CASE LAW ANALYSIS

The effective enforcement of minority rights is indispensable, as legal provisions hold little value without practical implementation. Courts play a crucial role in resolving disputes concerning minority protections, yet judicial remedies alone often prove insufficient to guarantee substantive equality. The jurisprudence of the European Court of Human Rights (ECtHR) offers valuable insight into both the advances made and the challenges that persist in safeguarding minority rights across Europe.

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32 The constitution of the Republic of Albania, 1998/2020.

33 European Commission, 2018.

34 European Commission, 2019.

35 European Commission, 2022.

36 Council of Europe, 1999; United Nations, 1991.

### 3.1. D.H. and Others v. the Czech Republic

In **D.H. and Others v. the Czech Republic** (2007)<sup>37</sup>, the ECtHR examined the systemic placement of Roma children in special schools, constituting indirect racial discrimination. The Court found a violation of Article 14 (prohibition of discrimination) in conjunction with Article 2 of Protocol No. 1 (right to education) of the European Convention on Human Rights (ECHR). This was the first judgment where the ECtHR recognized indirect discrimination, emphasizing that discriminatory intent is irrelevant when practices produce discriminatory effects<sup>38</sup>. The ruling prompted education reforms in the Czech Republic, although implementation challenges remain<sup>39</sup>.

### 3.2. X and Others v. Albania

In **X and Others v. Albania** (2021)<sup>40</sup>, the ECtHR addressed the disproportionate concentration of Roma and Egyptian students in one elementary school in Korça. The Court held that Albania violated Article 1 of Protocol No. 12 (general prohibition of discrimination) by failing to implement effective desegregation measures, despite recommendations from national institutions<sup>41</sup>. The judgment reaffirmed states' positive obligation to ensure inclusive education and to actively prevent systemic segregation. Albania's case highlights the broader issue of weak enforcement mechanisms, which create significant gaps between formal commitments under international treaties—such as the ICCPR and the Framework Convention for the Protection of National Minorities (FCNM)—and their practical application.

### 3.3. Broader Jurisprudential Developments

The challenges faced by Albania and the Czech Republic reflect wider patterns across Council of Europe member states. Since **Kokkinakis v. Greece** (1993), where the ECtHR found a violation of Article 9 (freedom of religion), the Court has progressively developed a body of jurisprudence addressing the rights of minorities and vulnerable groups.<sup>42</sup> Key cases have shaped standards on the recognition of religious groups (*Canea Catholic Church v. Greece 1997*<sup>43</sup>; *Genov v. Bulgaria*, 2013<sup>44</sup>), property restitution (*Lupeni Greek Catholic Parish v. Romania*, 2016<sup>45</sup>), access to education (*Mansur Yalcin v. Turkey*,

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37 European Court of Human Rights. (2007). *D.H. and Others v. the Czech Republic* (Application no. 57325/00). Judgment of 13 November 2007.

38 Brems, 2008.

39 Amnesty International, 2015.

40 European Court of Human Rights, 2021. *X and Others v. Albania* (Application no. 73548/17). Judgment of 31 May 2021.

41 European Court of Human Rights, 2021.

42 European Court of Human Rights (ECtHR), 1993. *Kokkinakis v. Greece* (Application no. 14307/88).

43 European Court of Human Rights (ECtHR), 1997. *Canea Catholic Church v. Greece* (Application no. 25528/94).

44 European Court of Human Rights (ECtHR), 2013. *Genov v. Bulgaria* (Application no. 40524/08).

45 European Court of Human Rights (ECtHR), 2016. *Lupeni Greek Catholic Parish v. Romania* (Application no. 76943/11).

2014<sup>46</sup>), and registration of religious groups (*Krupko and Others v. Russia*, 2014<sup>47</sup>). The Court has also grappled with the tension between secularism and religious identity, as seen in cases upholding restrictions (*Şahin v. Turkey*, 2005<sup>48</sup>; *S.A.S. v. France*, 2014<sup>49</sup>) and others affirming protection of individual religious expression (*Lautsi v. Italy*, 2011<sup>50</sup>; *Eweida v. UK*, 2013<sup>51</sup>). This evolving jurisprudence demonstrates the Court's contextual approach, balancing national traditions with the overarching principle of non-discrimination.

### 3.4. Synthesis

The examined case law illustrates that, despite comprehensive legal frameworks, minority rights—particularly in education—remain susceptible to systemic violations. The ECtHR plays an indispensable role in providing redress where national systems fall short, thereby setting important precedents for minority protection. However, persistent barriers such as limited access to justice, financial constraints, and weak enforcement mechanisms continue to hinder the full realization of minority rights in Europe<sup>52</sup>. The Court's jurisprudence thus underscores both the progress achieved and the ongoing need for stronger domestic mechanisms to ensure genuine equality.

## CONCLUSIONS

This paper examined the UN, EU, and Albanian legal frameworks for the protection of minority rights, focusing on the extent to which Albania's framework aligns with international standards and the gaps between law and practice. While Albania has advanced significantly—particularly through the Law No. 96/2017 on the Protection of National Minorities—implementation gaps remain evident in education, language rights, political participation, data collection, and access to justice. Marginalized groups such as Roma, Egyptians, and unrecognized minorities continue to face systemic barriers, often seeking remedies before the ECtHR, where Albania has been found in violation of its obligations. Bridging these gaps requires not only legislative reform but also political will, institutional strengthening, and community engagement, in line with UN and Council of Europe recommendations. Similar shortcomings are observed across EU and UN member states, as reflected in ECtHR jurisprudence, confirming that legal recognition alone does not guarantee effective protection.

This research contributes to understanding the strengths and weaknesses of Albania's legal framework, highlighting areas where greater alignment with UN standards and EU directives is needed. Such reforms are critical not only for minority protection but also for advancing Albania's EU accession process, particularly under Chapter 23 of the acquis.

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46 European Court of Human Rights (ECtHR), 2014. *Mansur Yalcin v. Turkey* (Application no. 21163/11).

47 European Court of Human Rights (ECtHR), 2016. *Krupko and Others v. Russia* (Application no. 26587/07).

48 European Court of Human Rights (ECtHR), 2005. *Şahin v. Turkey* (Application no. 44774/98).

49 European Court of Human Rights (ECtHR), 2014. *S.A.S. v. France* (Application no. 43835/11).

50 European Court of Human Rights (ECtHR), 2011. *Lautsi v. Italy* (Application no. 30814/06).

51 European Court of Human Rights (ECtHR), 2013. *Eweida v. United Kingdom* (Application nos. 48420/10, 59842/10, 51671/10, 36516/10).

52 Henrard, 2010.

The study is limited by scarce data on Albanian court rulings concerning minority rights; however, the ECtHR case law analyzed provides valuable insight into practical enforcement challenges. Future research should expand this analysis, examining in detail the interplay between Albanian courts, the ECtHR, and EU law. In conclusion, while Albania has taken important steps toward harmonization with UN and EU standards, ensuring the effective protection of minorities requires sustained efforts to translate legal commitments into practical guarantees of justice and equality.



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## **ZAŠTITA PRAVA MANJINA U ALBANIJI: KOMPARATIVNA ANALIZA PRAVNOG OKVIRA UJEDINJENIH NACIJA I EVROPSKE UNIJE**

### **Apstrakt:**

Zaštita prava manjina je neophodna za unapređenje jednakosti, socijalne integracije i mira u različitim društvima. Albanija, koju karakteriše etnička i kulturna raznolikost, uspostavila je specifičan pravni okvir usmeren na zaštitu prava manjina. Međutim, uprkos ovim zakonskim odredbama, ostaju značajni izazovi u njihovoj efikasnoj primeni. Ovaj rad se bavi pitanjem u kojoj meri je pravni okvir Albanije za zaštitu prava manjina usklađen sa međunarodnim standardima, posebno standardima Ujedinjenih nacija (UN) i Evropske unije (EU), i koje praznine postoje između zakonodavstva i prakse. Istraživanje koristi mešoviti metodološki pristup, kombinujući doktrinarnu pravnu analizu, uporednu analizu i studiju slučaja. Fokusira se na dva glavna cilja: prvo, identifikovanje zakona Albanije o pravima manjina i njihove stvarne primene; drugo, poređenje pravne zaštite u Albaniji sa međunarodnim instrumentima kao što su Međunarodna konvencija o ukidanju svih oblika rasne diskriminacije, deklaracija UN i Povelja EU o osnovnim pravima. Kroz uporednu analizu, rad procenjuje koherentnost između nacionalnih zakona i međunarodnih normi, ističući praktične izazove, kao i relevantne presude Evropskog suda za ljudska prava. Konačno, istraživanje ima za cilj da pruži praktične preporuke usmerene na premošćavanje jaza između pravnih okvira i prakse, čime se poboljšava zaštita prava manjina u Albaniji kroz bolje usklađivanje sa međunarodnim standardima i efikasniju implementaciju politika.

**Ključne reči:** *Prava manjina; Albanija; Ujedinjene nacije; Pravni okvir; Evropska unija*

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