

## The impact of additions and legal amendments in the prevention of domestic violence criminal offenses in Albania

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### Abstract

This paper aims at making a fair assessment of the domestic violence offenses in the Albanian reality within the international context, and analyzing the efforts of the state and society in combating and preventing this phenomenon by examining them chiefly but not solely from a legal point of view.

Legal amendments have positive effects both in preventing criminality in general, and offenses against the family in particular, since they have an impact not only on the protection of the rights of children and women but also on raising the domestic violence victims' awareness to report these cases, for based on the 2016 Albanian prosecution statistics, it turns out that this type of offense has yet experienced an increasing trend. According to the studies conducted and the information administered, it is noted with concerns that some of the perpetrators of these criminal offenses have managed to escape imprisonment, not to mention the cases when they have not been denounced or even worse; investigations have started but the perpetrators have not been punished by the law enforcement authorities. It is therefore imperative for the institutions to identify such cases and to take appropriate measures in order not to have them occur in the future, as such phenomenon brings about the repetition of the domestic violence cycle or the creation of the wrong perception "of victims "failure to react and keeping their mouth shut" because this type of crime remains unpunished.

This paper is not just the theoretical assessment of the terms of domestic violence and penal policy regarding the additions and amendments on domestic violence legislation, but it is also an elaboration on the criminal policy effects of these legal amendments as well as the issues that emerged in the process of investigating concrete cases related to domestic violence. It will also analyze the advantages of criminal policy, the problems that necessitate resolution, the legal measures to be taken, and some recommendations in order to increase effectiveness in combating domestic violence.

**Keywords:** Criminal policy, violence, family, convention, prevention, reintegration.

### Introduction

In Albania, like in other countries, there is an unjustified increase in the criminal behavior that embeds in the use of violence in general, and in domestic violence in the family in particular, where according to statistics, perpetrators of these offenses are males <sup>1</sup> in 92% of cases.

Some authors rightly name this phenomenon a contemporary feature, pointing out that violence has involved many segments of human life in present society. It should be noted that the understanding of the crime of violence often does not fully

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<sup>1</sup> General Prosecution Office- Report on Crime Situation Year 2016.

comply with the typology and classifications of incriminations that are present in positive criminal codes in many contemporary states, because in those codes there is a classification and typology of crimes that is often based in another criterion rather than in violence, in the first place.<sup>2</sup>

The Albanian state has consistently adopted laws or has ratified a number of important international conventions regarding the protection of individual's life, the protection of any person from unlawful violence,<sup>3</sup> the definition of the concept of violence in general and domestic violence in particular.

The Constitution of the Republic of Albania specifically guarantees protection to marriage and family in its Article 53/2. The right to a special protection from the state includes children, young people, pregnant women and young mothers. Also every child enjoys the right to protection from violence, maltreatment, exploitation, in accordance with article 54 of the Constitution

In 2012, was ratified by Law No. 104/2012. the Council of Europe Convention "On Preventing and Combating Violence against Women and Domestic Violence", with the primary aim of protecting women from all forms of violence, prevention, prosecution and elimination of violence against women and *domestic violence*; drafting a comprehensive framework of policies and measures for the protection and assistance of all victims of violence against women and *domestic violence*; fostering international cooperation with a view to eliminating violence against women and *domestic violence* and providing support and assistance to law enforcement organizations and law enforcement agencies to effectively cooperate in adopting an integrated approach to eliminate violence against women and *domestic violence*. According to Article 3 of Law no. 104/2012, are provided the "Definitions" for the purpose of this Convention, and more specifically:

- "Violence against women" is understood as a violation of human rights and a form of discrimination against women and implies all acts of gender-based violence that lead or may lead to physical, sexual, psychological or economic harm or suffering for women, including threats to commit such acts, confinement or arbitrary deprivation of liberty, whether in public or private life;
- "Domestic Violence" means all acts of physical, sexual, psychological or economic violence occurring within the family or household, or between former spouses or partners, or between spouses or current partners, irrespective of whether the perpetrator that caused the offense shares or shared the same apartment with the victim ...

### **Albanian legislation and amendments or additions that have been incurred in relation to domestic violence**

A special section on "Criminal Offenses against the Family" (Section XIX) has been enacted in the Criminal Code, which was part of this code since its drafting, but

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<sup>2</sup> G. Kaiser, work. Quoted; pg.316-321; pg.390. (Criminology, Dr. Ragip Halili, Prishtina 2005, page. 173).

<sup>3</sup> Law No.8137, dated 31.7.1996, on the ratification of the European Convention for the Protection of Basic Human Rights and Freedoms, Law No. 9669, dated 18.12.2006 "On Measures Against Violence in Family Relations", as amended; Law no. 104/2012 On the ratification of the Council of Europe Convention "On Prevention and Fight against Violence against Women and Domestic Violence", etc.

these provisions did not enable an effective protection of family members<sup>4</sup> from domestic violence and its various forms, thus violating their rights to protection from violence. A more comprehensive protection against domestic violence and its special forms was reflected in the additions to the Criminal Code of 2012,<sup>5</sup> where special consideration is given to Article 130 /a of the domestic violence offense, which individualizes criminal acts of beatings, serious threats of murder or serious injury, intentional injury to a spouse, former spouse, cohabitant or former cohabitant, -in-laws-, relative or closer kinship with the offender.

In the amendments of 2012, a special place is also dedicated to guaranteeing the protection of minors from domestic violence. Thus, it obtains an essential value, the guaranteeing of the special protection of minors from physical or psychological abuse by parents, sister, brother, grandfather, grandmother, legal custodian or any other person mandated to take care of them<sup>6</sup> In addition, the additional punishments provided for in Article 30 of the Criminal Code add as a supplementary punishment, the parental responsibility loss if the person who exercises it, is punished as an offender or associate for a criminal offense against the child or as an accomplice with the child for committing a criminal offense In the first instance, here, it is worth mentioning the its consideration as a specific criminal offense "*Homicide caused because of family relations*".<sup>7</sup>

Because of the fact that domestic violence in our society has been and is still a disturbing problem, resolving it requires not only taking multi-faceted socio-economic, educational, cultural measures, but also the use of state coercion considering it as a specific criminal offense. Additions to this criminal offense in the Criminal Code will play a positive role in hitting this negative phenomenon, and at the same time will take action on preventing it. This provision is closely related to the Special Law on Domestic Violence No. 9669, dated 18.12.2006 "*On Measures against Violence in Family Relations*".<sup>8</sup>

In increasing domestic violence cases, where it is not excluded the fact that the persistent violence in Albanian families is caused due to various causes, the chief ones being conflicts for social reasons, unemployment or jealousy, it is noted that conflict within family members has degenerated even in homicide.

Based on the tools used by the perpetrators to carry out the criminal intent, mainly for *committing crimes against life*, it was qualified as an *-aggravating circumstance-* the unlicensed use of combat arms. The legal amendments that the Criminal Code underwent in its general section, in 2015, by law no. 135/2015 "*On some Additions and Amendments to Law No. 7895, dated 27.01.1995*" Criminal Code of the Republic of Albania ", as amended, and more specifically Article 55, paragraph 2 of the Criminal Code," *The added heavier punishment imposed*, consists of the total amount of punishments for each offense in the case of *a person who has committed an intentional crime against life, by unauthorized use of war weapons and ammunition, or offenses*

<sup>4</sup> And the people involved in this concept for the purpose of protection against domestic violence.

<sup>5</sup> By Law No. 23, dated 01.03.2012.

<sup>6</sup> Article 124/b of the Criminal Code.

<sup>7</sup> Excerpt from the work in the magistrate school, Tirana, July 2014.

<sup>8</sup> Prof. Ismet Elezi "*Commentary on Additions and Amendments to the Criminal Code*"), Publishing house "ERIK", Tirana 2012, page 12-14. Article 88 of the Criminal Code.

of terrorist purpose, passive corruption or criminal offenses *against minors*". We note the fact that as far as the offenses of domestic violence are concerned, it is not only that it has been foreseen but it was legally punishable in the Code of King Zog Kodin e Zogut,<sup>9</sup> (Chapter VI, Abuse of Means of Improvement or of Discipline and Maltreatment in the family or in relation to the children, Articles 434-435). More concretely:

**Article 434.**

Whoever, except in the cases referred to in the article, performs maltreatment (mauvais traitements) against a family member or a minor under the age of twelve; is punished by heavy imprisonment up to thirty years.

If maltreatment is executed against a postnatal or a prenatal child, or against mother or father –in-law, or their parents or against the son or daughter-in-law, the punishment is imprisonment of one to five years.

If maltreatment is executed against the husband, prosecution is not proceeded except with the pursue and request of the inflicted and harmed party, and if he is under the age of twenty, the pursuits are dealt with and for the search of the persons who would have the power of paternity or tutorship, if not married

**Article 435.**

In the cases referred to in the above articles, the court may decide that the punishment will have an effect on the parent's loss of any right, on the basis of power of authority, of the person and of assets of the postnatal, on whom the harm was caused, whereas for the tutor, the exclusion from the tutorial and whatever else the tutorial title holds.

### Scope of domestic violence problems

Like in other countries, domestic violence continues to be a serious problem in Albanian society with an increasing number of reported cases and victims. Most victims, girls and women, belong to the most disadvantaged social classes; they have a low standard of education and come from the rural areas. However, domestic violence is not limited to these social groups, but belongs to the whole society, regardless of the level of education or economic status. In analyzing reported cases, a repeating factor has emerged; that of a family member who wants to exercise his absolute power over others. This usually involves a husband's behavior toward his wife or even the behavior of parents towards their children.<sup>10</sup>

In Albania, domestic violence is a problem that negatively affects women and children, as well as families and communities. However, Albanians tend to consider domestic violence as a private, family affair, and as a normal part of marital and family life. Since domestic violence often occurs behind closed doors and is not discussed, accepted or handled openly in Albanian society, victims generally suffer in silence. Domestic violence emerged as troublesome problem in Albania in the 1990s, when the country was experiencing major political and social changes. Although domestic violence had existed long before this transition period, domestic violence cases experienced a

<sup>9</sup> Criminal Code drafted by the Government of King Zog, which entered into force on 1 January 1928.

<sup>10</sup> Domestic violence in Albania. UNDP. Published on January 20, 2012.

significant increase in the 1990s, when families were experiencing a lot of stress and pressure as a result of transition.

Domestic violence against women is not a new phenomenon in Albania; it has deep roots in patriarchal traditions and customs (e.g., roles and solid gender identities, patriarchal authority, respect for the code of honor and shame, and control of several generations within the family) that for a long time have given shape to the Albanian society. Forty years of the Communist regime in Albania (1946-1991) did not completely eradicate these deep-rooted patriarchal attitudes, including those related to the Code [the Kanun] of Lek Dukagjini, which was used in several areas of Albania. In fact, men and women in some areas of Albania still refer to the [Kanun] to explain the attitudes and views on gender roles and patriarchal authority, including the husband's right to "punish" the woman who is considered his property.<sup>11</sup>

### What is the family?

Based on present Albanian language dictionary, family means: a small unit of social life organization, consisting of a husband, wife, children or other close people who live and reside together. It is the entirety of people who derive from a common ancestor, people who have had or continue to have, generations after generations, blood or kinship ties between them.<sup>12</sup>

A denomination of family is given in Article 16 (3) of the Declaration of Human Rights that: The family is a natural and essential unit of society and enjoys the right to protection from society and the state. There are many definitions for the family from both sociologists and anthropologists from different countries. According to anthropologist George Murdock, the family is "a social group characterized by practical thinking, economic cooperation and reproduction. It includes adults in any sex (female & male, male & male, female & female etc) where both must maintain a socially-accepted relationship and one or more children, either their own or adopted by adults who co-live sexually." The United States General Registration Office has defined the family as "two or more persons connected by birth, marriage, or adoption who live together".

As far as our country is concerned, the concept of family is also mentioned in the [Kanun] of Lekë Dukagjini,<sup>13</sup> according to which in the second chapter "Family composition", the Family conceived in itself, is introduced by the below quoted definition:

&.18. The family is a group of human beings who live under the same roof, whose aim is to increase their number by means of marriage for their establishment and the evolution of their state, and for the development of their reason and intellect.

&.19. Family members: The family comprises the household members; once it is enlarged, the people of the house are divided into brotherhoods [vllazni], brotherhoods into kinship groups [gjini], kinship groups into clans [fis], clans into banners [flamur],

<sup>11</sup> Domestic Violence in Albania, National Population Survey 2013, pg. 9-10.

<sup>12</sup> <http://www.shkenca.org/content/vieë/142/27/>.

<sup>13</sup> Shtjefën Gjeçovi O.F.M, "The Code (Kanuni) of Lekë Dukagjinit", Publishing house "Kuvendi", Printed "GEER", August 2001, Page 7, Second chapter, The Construction of the family, article 9.

and all together constitute one widespread family called a nation, which has one homeland, common blood, a common language, and common customs.

### **Measures that were taken and should continue to be taken to prevent domestic violence**

“The law enforcement institutions, should taken organizational measures to intensify the fight against domestic violence, and implement the Constitution of the Republic of Albania, the European Convention on Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Code of Criminal Procedure, Criminal Code, Family Code, Law No.9669, dated 18.12.2006 “On Measures Against Violence in Family Relations”, as amended and Law No.104 / 2012 which was ratified and the Council of Europe Convention “ On preventing and combating violence against women and domestic violence.

The entire Albanian legal system is based on constitutional arrangements and principles, and therefore any law, by-law, court decision, action or omission of individuals and bodies must respect and protect the fundamental human rights and freedoms, which are inseparable, inalienable and inviolable and remain the basis of all the juridical order.

International agreements ratified by the Republic of Albania oblige law enforcement authorities not to allow and punish anyone who commits violent acts, having the legal duty to take reasonable steps to stop human rights violations and to use all the means available to carry out serious investigations of violations committed within their jurisdiction, identify the perpetrators and impose appropriate punishment.

Based on the above, besides other institutions, it is compulsory for prosecutors in the courts of judicial districts to proceed as follows:

- To request the Court to issue protection orders in all cases when they are informed about the domestic violence exert in accordance with Article 13 of Law No. 9669, dated 18.12.2006 “On Measures Against Violence in Family Relations”, as amended;
- Provide effective support to the police forces in all cases where the latter, in accordance with Article 8 of Law No. 9669, dated 18.12.2006 “On Measures Against Violence in Family Relations”, principally, initiate investigations, as amended;
- Particularly, not to neglect criminal reports coming from victims of domestic violence or other sources related to cases of domestic violence;
- To demonstrate special attention when investigating cases of domestic violence and especially during the investigation and adjudication of criminal offenses such as beatings or injuries that are a consequence of domestic violence, which, due to the low risk, are not prosecuted with proper severity and generate more serious consequences;
- To carefully address the victims of this violence by protecting their dignity and physical and moral integrity and giving them information on the criminal and civil legislation that protects them;
- To strengthen criminal policy against abusers, urging for punishing procedures at the maximum limits set by the Criminal Code for the criminal offense for which

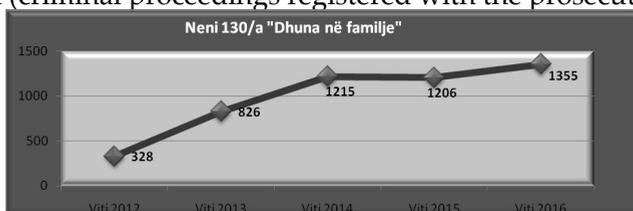
they are prosecuted;

- Establish a separate register for recording all information related to criminal proceedings registered as a result of domestic violence.
- The Prosecution, when aware that a restraint protection order, issued pursuant to Law No. 9669, dated 18.12.2006 "On Measures against Domestic Violence" as amended, by a court decision, has been violated, must record the criminal offense provided for in Article 320 of the Code Criminal Code, in the register of criminal offenses and to carry out the appropriate investigative actions.
- If during the investigation or trial of the criminal offense provided for in Article 320 of the Criminal Code, the perpetrator continues to violate the Defense Order, the prosecutor requests the court to impose personal security measures against him.<sup>14</sup>

### The criminal offense of domestic violence for year 2016

The specific weight that this criminal offense occupies in the criminal offense group "Offenses against children, marriage and family" - is 92.9% for 2016, while in 2015 it was 90%. So there is an increase of this indicator from each year passing.

The progress of this criminal offense for the years 2012-2016 is presented in the following graph (criminal proceedings registered with the prosecution body.



From the statistical data there is an increasing trend of 12.4% of the recorded criminal proceedings for the criminal offense provided by Article 130/a of the Criminal Code "Domestic Violence" in 2016 compared to 2015.

Regarding the geographic distribution of this work in 2016, the data by prosecution of statistical data, the largest number of registered cases of domestic violence is in Tirana's prosecutor's office of first instance, accounting for 34% of the total number of proceedings in the country.

In accordance with the largest number of registered proceedings prosecutor's offices are ranked as follows: Fier and Elbasan PO of first instance that have registered 8% of the proceedings, the PO of first-instance in Berat and Durrës that have registered about 6% of the total number of proceedings at country wide level; Vlora, Korça and Shkodra, which have registered about 5% of the total number of domestic prosecutions, Lushnja, Kavaja, Lezha and Pogradec prosecution offices, which have registered about 3% of the total number of Proceedings at national level. Other prosecutions offices have recorded a number of prosecutions that make up less than 3% of the country-wide proceedings for the criminal offense provided by Article 130

<sup>14</sup> Instruction of the General Prosecutor's Office of the Republic of Albania, with protocol no.4498, dated 09.12.2010, on the implementation of law no 9669 .Dated 18.12.2006 "On Measures against Violence in Family Relations".

/ a “Domestic Violence”, where the lowest number for 2016 results in prosecution offices of the first instance of Tropoja and Përmet.

### Court case

On 03.10.2015, the injured citizen SH.P, filed a criminal charge with the judicial police in Vlora, against his nephew E.P, who had physically abused him. The Prosecutor's Office of the judicial district of Vlora has registered the referral material no.847 / 2015 and by the decision of 26.10.2015, based on Article 290 point (e) and article 291 of the Criminal Procedure Code, concluded that the criminal proceeding for this denunciation should not start and the decision concerning him was non-initiation of criminal proceeding, on the grounds that:

- Full evidence has been gathered that confirms that in the concrete case there is a criminal offense of “Other Intentional Damages” provided for in Article 90, first paragraph of the Criminal Code, but prosecution cannot continue because this criminal offense is the competence of the court and not of the prosecutor's office.
- The criminal offense “Other Intentional Damages”, provided for in Article 90 of the Criminal Code, is prosecuted at the request of the injured-the direct complainant to the court, therefore regarding the injuries suffered by the citizen Sh. P. during his quarrel with the citizen EP is to refer the case to the Court of Judicial District Vlora, with the quality of the injured complainant.
- In this way the prosecution cannot initiate criminal prosecution and prove whether or not the criminal offense of “Other Intentional Damages” has been consumed, provided for in Article 90, first paragraph of the Criminal Code in charge of citizen EP, because this capacity belongs only to the Court.
- As a conclusion, based on the legal analysis of the facts and the drawn conclusions, citizen SH.P has the right, under Article 59 of the Code of Criminal Procedure, to file a claim with the Vlora Judicial District Court and participate directly in trial as a party to substantiate the indictment and seek compensation for the damage.
- Against this decision has been filed an appeal by the complainant and was requested the prosecution of. Citizen E.P for the criminal offense of “Domestic Violence” provided by Article 130 /a, of the Criminal Code and not for the criminal offense of “Other Intentional Damages”, provided by Article 90 of the Criminal Code.
- The position held by the General Prosecutor's Office in cases of Domestic Violence (before the amendments took place in the constitution of the Republic of Albania, by law no.76 / 2016 and law no.97 / 2016).

After reviewing the allegations raised in the claim filed by the claimant, as well as the reasoning of the decision dated 26.10.2015 “On not initiating criminal proceedings no. 847/2015”, the Prosecution of the Judicial District of Vlora has come to the conclusion that the request submitted for the abrogation of the above decision for non-initiation of the criminal proceeding is based on law and as such should be accepted for the following reasons;

The decision not to initiate criminal proceedings by the Judicial District Prosecutor's Office of Vlora has been carried out without carrying out a fair legal assessment /

qualification of the fact that was criminalized by the injured party, citizen SH.P, and more specifically:

- From the survey of the materials referred to, as well as the legal assessment of the fact, it turns out that the fact constitutes a criminal offense and specifically that of "*Domestic Violence*" provided by Article 130 / a first paragraph of the Criminal Code, and not that of The offense of "*Other Intentional Damage*" provided for in Article 90 of the Criminal Code;

- Regarding the legal qualification provided for in Article 90 of the Criminal Code, which has been filed by the prosecutor at the Prosecutor's Office of the Vlora District Court, charged with investigating this criminal proceeding is invalid, since the lawmaker since 2012 has added among others in the Criminal Code another provision aimed at achieving more effective protection of family members,<sup>15</sup> especially for cases of *violence*, maltreatment, insult, defamation, etc. (as we are in the case here), due to the fact that the previous provisions did not guarantee the protection of these persons from *domestic violence* and the forms of its realization, by openly violating their rights to protection from violence, gender equality, etc.

- The necessity of special provisions for a fuller protection against domestic violence and its forms was achieved precisely with the additions and changes made to the Criminal Code, according to which the is added a specific a provision 130 / a, Domestic Violence ,<sup>16</sup> a provision which specifies the criminal offenses of beating, serious threat to murder or serious injury, intentional injury to a spouse, former spouse, cohabitant or former cohabitant, relative,- in laws or *closer kinship* to the offender.<sup>17</sup>

- Penal-legal prevention is manifested through amendments and additions to the Criminal Code concerning domestic violence. In this context, the criminal policy for the prevention of domestic violence requires in the first instance the criminalization of forms of violence; anticipating them as crimes in the Criminal Code.

- Also, in the amendments and additions that the Criminal Code underwent progressively in relation to domestic violence, in addition to the provision of new criminal offenses (criminalization), there is a noticeable increase severity of criminal punishment (*penalization*). Thus, if we refer to the new provisions, we note that they only prescribe prison sentences, or high penalty margins.<sup>18</sup>

- Concerning the concrete case that occurred on 03.10.2015 in the town of Orikum, while scrutinizing the available recorded and administered acts, there are reasonable grounds to suspect that there has been a physical conflict between the citizens EP and SHP, as a consequence of which the latter has suffered physical damage, damage as proven by the physical examination made by the judicial police on the day of the event, as well as by the forensic expert act;

<sup>15</sup> And the people involved in this concept for the purpose of being protected against domestic violence.

<sup>16</sup> (Added by Law No.23 / 2012, dated 1.3.2012, Article 17) (amended: Last paragraph of the article by law 144/2013, date 2.5.2013, article 33).

<sup>17</sup> That is the reason and the changes and additions realized in the period 2012-2014. It is Reflected the criminal policy set forth in the Istanbul Convention on Prevention and Punishment "Fighting Violence against Women and Domestic Violence".

<sup>18</sup> In all the criminal offences is foreseen Punishment by imprisonment.

- Also, according to the record of the injured party SHP dated 03.10.2015, it turns out by proven evidence that between him and the denounced E.P citizen, there is a specific close relationship of kinship, according to which the predicate is the uncle of the accused

- Referring to the meaning of the implementation of Article 130 /a of the Criminal Code, it provides for the existence of a criminal offense, where between its subjects (the injured party Sh and the investigated E), there is a close family relationship, because of the predicament of the offender "The *kinship close to the offender*. More concretely, Article 16 of the Code of Criminal Procedure (for non-compliances due to kinship grounds), as well as Article 10 of the Family Code (for the purpose of marriage prohibition), in the sense of the relationship between subjects such as The "closest kin" have given the same definition, including among others the *grandchildren, brothers' children*

- To determine a rapport on the grounds of kinship relations under Article 130 / a of the Criminal Code, reference should be based precisely on the relationship between the offender / the one under investigation and the criminal offence reporter / the damaged part because of the offence. This means that it is sufficient for at least one of the subjects / parties in the proceeding to have one of the links of the "close relative" or "close relationship of the type –in-law" to the other party, and automatically, the relationship between them is included in this category.

- From the acts administered in the file it results that in the present case because of the family relationship that exists between the parties in this proceeding (the injured and the investigated) because of the "close kinship" as a result of the family report that exists between (I.e. uncle and nephew), since the suspect, the injured party (SH.P), is the brother of HP (the father of the suspect). Precisely such a close gender relationship of these citizens, as envisaged by the provision of Article 130 / a of the Criminal Code, as well as the provision of Article 16 of the Code of Criminal Procedure,<sup>19</sup> we conclude that the type of connection *between them*, namely the person under investigation and the injured, should be termed "the nearest kin".

- In accordance with the provisions of the Criminal Procedure Code (Articles 158<sup>20</sup> and 16), in a right way judicial proceedings have continued with regard to cases of incompatibility from the obligation to prove or incompatibility *due to family ties*, according to which all persons that are placed between them, grandchildren, brothers' children, etc., are guaranteed by the court and the right not to testify.

- As explained above, it was concluded that the person EP under investigation and the injured party Sh.P. are among them the closest kin, precisely because of this circumstance the criminal offense that occurred on 03.10.2015 in the city of Orikum-Vlorë, should qualify as "Domestic Violence", as envisaged by Article 130 / a of the

<sup>19</sup> Article 158 Code of Criminal Procedure – Non Compliance with family gender or in-law due to family relationships,

In the same proceeding, persons who *are between them* or the trial participants, spouses, close relatives (*prenatal, postnatal, brothers, sisters, grandchildren, mothers, grandchildren, children of the brothers and sisters*) cannot participate as judges Sisters, etc.).

<sup>20</sup> Article 158 of the Code of Criminal Procedure - They are not obliged to testify:

a) the spouse or close relative of the defendant, according to the provisions of Article 16, unless they have denounced or complained or when they or a relative are harmed by the criminal offense ...

Criminal Code. Consequently, the investigation of the criminal proceeding in custody of the investigator E.P is a competence of the Prosecutor's Office of the judicial district of Vlora.

- In order to fully clarify the circumstances of the fact, it is necessary and an obligation to abolish the above decision of the Vlora judicial district prosecutor's office, for non-initiation of the criminal proceeding, as a groundless decision in the circumstances of the accused, In violation of criminal procedure law, respectively articles 290, point 1, letters "ç" and "e" and 287 of the Code of Criminal Procedure, as well as criminal material law, article 130 / of Criminal Code. -

### Recommendations

At the end of this paper it is worth mentioning that for Albania it is essential to strengthen the prevention of crime in general and that in the family in particular. The amendment of the provisions of the Criminal Code makes effective, the fight of the justice bodies to prevent and punish the perpetrators of these criminal offenses.

To ensure the effectiveness of amendments and supplements to criminal legislation is required real time information exchange in between law enforcement agencies, strengthening of inter-institutional cooperation and combination of legal measures with other social measures. The legal framework has a continuing need for a change in accordance with international acts including any kind of offense committed on behalf of the so-called "honor".<sup>21</sup>

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<sup>21</sup> Works from the School of Magistrates, Tirana, July 2014.

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