

**2016**  
**POLICY BRIEF**

**ONE SIZE DOES  
NOT FIT ALL**  
**ELECTORAL SYSTEMS AND  
GENDER QUOTA IN ALBANIA**

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## THE OPTIONS OF GENDER QUOTAS FOR THE ELECTORAL REFORM IN ALBANIA

While the Ad Hoc Parliamentary Committee for the Electoral Reform in Albania has started its work, there are two plausible scenarios when it comes to electoral systems: (1) preserving the status quo of Regional Proportional with closed Lists; or (2) moving to Regional Proportional with open Lists.

For the first scenario, the paper proposes the equalizing of candidate quota provisions (50%) and penalties for non compliance for both parliamentary and municipal elections.

For the second scenario, the paper proposes that in addition to the existing quota, Albania should implement a reserved seats quota of 30%.

A model that would be more effective in the long-term, regardless of the electoral system, is the application of *voluntary quotas* in parties' internal statutes.

## The 2016 Electoral Reform in Albania: the options for gender quotas

Different electoral systems present various challenges to women representation in elections, i.e. their ability to compete in elections and be elected. With the most recent attempt in Albania to start an electoral reform and potentially change the electoral system, a thorough understanding of electoral rules and the way they affect women representation is needed. While the current gender quotas enforcement took two election cycles to consolidate, a potential change in the electoral system will present new challenges. Moreover, previous reforms often neglected gender quotas: It took organizations dealing with gender issues much effort to have them adopted in Parliament.<sup>1</sup> Furthermore, even if the electoral system is not changed, the current gender quota provisions should be improved and consolidated. *This reform is an opportunity to make elections in Albania more gender-fair.*

Since 2008, Albania has applied a Regional Proportional with closed Lists (RPcL, or “closed lists” in the following) electoral system for the parliamentary elections and the municipal council elections. Only mayors are currently elected through a Majority Vote in Albania. Many parties' representatives and other stakeholders currently advocate for changes in the electoral system: some propose a Regional Proportional with open Lists (RPoL, or “open lists” in the following) system, others propose an electoral system that mixes regional and national election rules. So far, the real choice seems to be between a new open lists system and the status quo of closed lists.

This policy brief proposes and analyses the adequate gender quota mechanisms for both of these scenarios: (1) preserving the status quo of closed lists, or (2) moving to open lists. For the first scenario, the paper proposes the equalizing of candidate quota provisions and penalties for parliamentary and municipal elections, thus the stipulation in the Electoral Code of a 50% candidate quota and the enforcement of list refusal for non-compliance. For the second scenario, the paper proposes that in addition to the existing quota – which is not enough to guarantee women representation if open lists are applied – Albania should implement a reserved seats quota of 30%. Beyond these scenarios, a model that would be more effective in the long-term, regardless of the electoral system, is the application of voluntary quotas in parties' internal statutes. This, however, is not yet a practice in Albanian political parties' internal policies.

## Current reform dilemma: Substantial *versus* Cosmetic changes

In March 2016, the Ad Hoc Parliamentary Committee on Electoral Reform started its work, thus officially marking the beginning of an electoral reform in Albania. Its task is to amend the Electoral Code in accordance with the OSCE/ODIHR recommendations. Although the Committee was praised for starting its work well ahead of the next parliamentary elections of 2017,<sup>2</sup> being initially mandated to complete its work within a three months period,<sup>3</sup> it is not even close to a first draft reform and its mandate has been extended for an additional six months period.

The Committee's work has been so far in slow-motion, without a clear vision of the changes the reform is going to address. There is especially no agreement in principle whether major parliamentary parties are willing to push for *substantial changes* or merely want *cosmetic ones*. In the case of electoral reforms, a substantial change would be, for instance, a change in the electoral system, a change in the format and nature of the election administration bodies, or the introduction of voting and counting technologies in elections, if these are accompanied with significant changes in election management. A cosmetic change would be an improvement of the existing implementation rules, like adding penalties against electoral corruption, electoral fraud, respect for existing gender or minority quotas, or any revision of the electoral rules with an aim to improve implementation and guarantee fairness.

Both options are still on the table as major parties ask for a *consensus oriented* reform. Nevertheless, they are not on the same page when it comes to major issues. The largest opposition party, the Democratic Party, has advocated for the use of technology in voting and counting as a measure to increase trust and transparency in elections. The co-governing Socialist Movement for Integration (LSI) was the first to propose a change in the electoral system from closed lists to open lists. A coalition of smaller parties has lobbied for changes in the electoral system as well. The only stance that unites all sides is that the work of the Ad Hoc Committee on Electoral Reform should be guided by the recommendations of the OSCE/ODIHR final reports on the 2013 parliamentary elections and the 2015 municipal elections.<sup>4</sup> These reports are careful on making suggestions about major political decisions, like changes in the electoral system, but rather focus on managerial improvement to ensure free and fair elections within the existing framework.

As a change in the electoral system from closed to open lists is a potential option of the current reform, the current gender quota system becomes obsolete. This is because the number of women

## SUBSTANTIAL VS COSMETIC CHANGES

The Committee's work has been so far in slow-motion, without a clear vision of the changes the reform is going to address, and especially without an agreement on principle if major parliamentary parties are willing to push for **substantial or cosmetic changes.**

## TAILORING GENDER QUOTAS TO ELECTORAL SYSTEMS

With closed lists, parties can be required by law to both include a specific share of women on the voting lists and also to place women candidates on equally winning positions as men, thus applying highly controllable gender quota turnouts.

Moving from closed lists to open lists requires adequate modification of quota types in order to guarantee the continuation of the established gender representation standard from the previously applied system.

and the order of candidates on the list do not directly affect the order of election to office, as voters can choose candidates throughout the list. As a result, while the frequency and placement of women candidates to top list position could indirectly encourage voters to indicate their names, this does not necessarily affect the election of women. Thus, a proper modification of the quota system is to be ensured. Even if lists are not opened, the Electoral Code is still in need of adaptation and further legal provisions to ensure gender equality in elections in Albania. Despite current candidate quota provisions, the share of women in Parliament is still below 30%, which goes against the Law on Gender Equality in Society that stipulates for at least 30% of each gender in each public institution.<sup>5</sup> Consequently, the paper analyses both scenarios – change and status quo preservation – and proposes specific recommendations for each case.

### **Tailoring gender quotas to electoral systems**

Proportional systems are so far considered – in practice and literature<sup>6</sup> – the best electoral systems to ensure gender quotas' effective usage. With closed lists, parties can be required by law to both include a specific share of women in the voting lists and also to place women candidates in equally winning positions as men, thus applying highly controllable gender quotas turnouts. Nevertheless, moving from closed lists to open lists is not a straightforward process. While this change would be positive in expanding citizens' possibility to choose their representatives while ending the parties' monopoly on the matter, ensuring gender quotas becomes a more elaborated process. Moving from closed lists to open lists requires adequate modification of quota types in order to guarantee the continuation of at least the established gender representation standard from the previously applied system. In simple words, women representation in elected offices in Albania should not drop because of a change in the electoral system. Thus, this section proposes the necessary mechanisms and legal measures that should be adopted in both case scenarios to ensure adequate gender quotas and gender representation in elections.

#### *The status quo scenario – closed lists*

Currently, Albania is applying a closed lists electoral system for the parliamentary elections and the municipal council elections. With closed candidates' lists allowing political parties to decide both the names and order of candidates in the list, candidate gender quotas are easy to be formally applied and checked. Initially, the Electoral Code stipulated that at least 30% of the list and one of the first three names on the list should belong to each gender. Prior to the 2015 local (i.e. municipal council) elections, following advocacy from local civil society and international actors, the Electoral Code was amended, now asking for one in every two consecutive names in the municipal councils' candidate lists to

belong to the same gender, thus stipulating a 50% quota. At the same time, it introduced the refusal of the parties' lists in case of non-compliance with gender quotas and placement rule. These changes became necessary, as it was obvious that 30% gender quota for candidates did not guarantee the same turnout of elected women neither in Parliament nor in municipal councils. This amendment received praise from the European Commission's 2015 Progress Report for Albania for being in line with the recommendations by the Venice Commission and OSCE/ODIHR.<sup>7</sup> Unfortunately, the amendment took a minimalist approach and changed the quota rule only for municipal elections.

Parties' compliance with the candidate gender quota in 2015, differently from 2013 parliamentary elections, arguably shows the real effect of list refusal in parties' compliance patterns. In 2015, parties respected both quota and list placement rules, while in 2013 they respected quota, but women were often placed at the bottom of the list, in unwinnable positions.

*Legal provisions and election results<sup>8</sup>*

	<b>2013 Parliamentary Elections</b>	<b>2015 Municipal Elections<sup>9</sup></b>
<b>Candidate gender quota provision</b>	30%	50%
<b>Rule on list placement</b>	Yes	Yes
<b>In case of non-compliance with quota</b>	Fines	Rejection of candidates' list
<b>Female candidates</b>	40%	50%
<b>Females elected</b>	18%	35%

If there is no change of the electoral system, *the current gender quotas and penalties on non-compliance should be equalized for parliamentary and municipal elections.* There is no logical or legal argument why these provisions should be different in favouring women candidates in local elections while keeping current lower quotas and only fines for non-compliance in parliamentary elections. During the 2013 parliamentary elections, when only financial penalties were in place for non-compliance on candidate gender quotas, the three major parties did not respect quotas in some districts and even refused to modify lists.<sup>10</sup> The 2015 local elections presented a full compliance rate as candidate lists would not be accepted by the Central Election Commission if gender quota was not respected. Thus, the Electoral Code should apply the 50% gender quota, the ranking rule and the list refusal penalty to each election without discrimination on the type.

## TAILORING GENDER QUOTAS TO ELECTORAL SYSTEMS

### Closed lists – the status quo scenario

If there will be no change of the electoral system, the current gender quota and penalties on non-compliance should be equalized for parliamentary and municipal elections. Thus, the Electoral Code should apply the 50% gender quota, the ranking rule and the list refusal penalty to each election without discrimination on the type.



## TAILORING GENDER QUOTAS TO ELECTORAL SYSTEMS

### Open lists – the change scenario

If lists are opened, in addition to candidate gender quotas, Albania should also apply an elected gender quota (known as reserved seats), which means that at least a fixed percentage of seats should be filled by the least represented gender. The so called ‘best unelected system’ is a suitable option.

As the Law on Gender Equality in Society asks for at least 30% of each gender in each public institution, a 30% elected gender quota should be the minimal target.

### *The change scenario – open lists*

If major political parties and the Ad Hoc Committee on the Electoral Reform agree on changing the electoral system from closed lists to open lists, a new gender quota system should be used as a result, or the current one should be adapted accordingly. For open lists, the effectiveness of legislative quotas diminishes as no matter the number of women in the list and their position, if voters are biased towards male candidates, they will be inclined to vote for male candidates on the lists, despite ranking. In fact, according to the Venice Commission’s report on the effect of electoral systems on women representation, “open lists may work to the advantage of well-known male candidates [... and] there is an inherent danger that the introduction of open lists may result in the election of fewer women.” This was the case in Bosnia and Herzegovina, when the gender quota stayed the same, but the number of women elected in 2002 with open lists saw a dramatic reduction compared to 1998 when closed lists were applied. So, which type of gender quotas should be applied with open lists in order to guarantee that women representation in election at least does not drop?

If lists are opened, in addition to *candidate gender quotas*, Albania should also apply an ***elected gender quota*** (known as reserved seats), which means that at least a fixed percentage of seats should be filled by the least represented gender. Reserved seats are used in 24 countries,<sup>11</sup> with Kosovo being the closest case to Albania.

Kosovo, for example, uses a national proportional system with open lists and it applies both candidate and elected gender quota of 30%. For the candidate quota, similar to parliamentary elections in Albania, at least 30% of candidates on the list should belong to each gender with one in three names being of different gender. In addition, for the reserved seats, “if, after the allocation of seats [...] the candidates of minority gender within a Political Entity have not been allocated at least 30% of the total seats for that Political Entity, the last elected candidate of the majority gender will be replaced by the next eligible candidate of the opposite gender on the reordered candidate list until the total number of seats allocated to the minority gender is at least 30%”.<sup>12</sup> Although not defined as such in Kosovo, this could be classified as a ‘best unelected system’, which means that women who got most votes, but nevertheless did not manage to get to the 120 eligible places of the Parliament in Kosovo, replace the last men on the eligibility list until at least 30% of the parliament is composed of women. Kosovo has been successfully applying such system throughout its existence as a state and guaranteeing at least 30% of women in each legislature.

How would this system work in the case of Albania? The only difference with Kosovo, in case open lists are applied, is that Albania uses a regional proportional rather than a national proportional system. As a result, the most voted eligible candidates

for the 140 seats in Parliament should be ranked on a final single list according to the percentage of district votes they got in their respective districts. Then, the last candidates from the most represented gender should be replaced by the next highest ranking candidates of the least represented gender on the list until 30% of parliament seats are filled. In order for the system to be “fair” in terms of district representation, it could be stipulated that the least voted eligible men candidates on the final ranking be replaced by the most voted women candidates of the same districts. In this way, women MPs elected through the quota would still have a legitimate representation of a certain district. A similar logic would work in the case of municipal elections for each district.

As the Law on Gender Equality in Society asks for at least 30% of each gender in each public institution, a 30% elected gender quota should be the minimal target for Albania if lists are opened. Currently, Albania has 29 women in Parliament,<sup>13</sup> out of 140 MPs, thus 13 women short of the minimal target stipulated by this law. If 30% reserved seats quota was to be applied, at least *42 seats would be filled by women*.

### **Voluntary within-party quotas as a long-term good practice**

Women representation is often overshadowed in societies that are still not well-familiarized with women in leading positions. Currently, political parties in Albania have a minimalist approach towards fulfilling the strict necessary candidate gender quotas and as showed in 2013 elections, they may not comply even when faced with financial penalties. Moreover, legislative candidate or reserved seats gender quotas are often perceived by parties and citizens alike as a favour or space granted to women by men and not as a way to ensure equal chances for everyone.

There is a general agreement among practitioners and scholars alike, especially in European countries, that a *long-term good practice* would be *voluntary party quotas*.<sup>14</sup> These could be stipulated in party statutes or used as internally agreed practices, while parties do not need national legislative measures to ensure them. Nordic countries and Germany are frontrunners in this regard with voluntary party gender quotas being implemented since 1970s ranging between 25 and 50%.<sup>15</sup>

Although such a proactive approach on the side of political parties in Albania looks like a long shot, the socialization of parties with such internal provisions is necessary. Statutory gender quotas would provide for an important socialization process and for the empowerment of women within political parties as equal members. This would gradually change the perception that women are instrumentalized to fill up candidates’ list to avoid penalties or used in PR campaigns to promote the “emancipation” profile of political parties.

## WHICH QUOTAS COULD “FIT-ALL”?

### Voluntary within-party quotas as a long-term good practice

These could be stipulated in party statutes or used as internally agreed practices, while parties do not need national legislative measures to ensure them.

## Recommendations

To the political parties and the Ad Hoc Parliamentary Committee on Electoral Reform in Albania:

An essential guideline to gender quotas' design and implementation.

### *Scenario 1: The electoral system does not change (closed lists)*

- 1) The current gender quota and penalties on non-compliance should be equalized for parliamentary and municipal elections, thus applying the *50% candidate gender quota*, the *ranking rule* and the *list refusal penalty* to each election without discrimination on the type.

### *Scenario 2: The electoral system changes to open lists*

- 1) If lists are opened, in addition to candidate gender quotas, Albania should also apply an *elected gender quota (reserved seats)*, which means that at least a fixed percentage of seats should be filled by the least represented gender;
- 2) As the Law on Gender Equality in Society asks for at least 30% of each gender in each public institution, *a 30% elected gender quota should be the minimal target*.
- 3) The way this new quota could be implemented is through the *'best unelected system'*.

### *Cross-scenario long-term good practice: Voluntary party quotas*

- 1) Political parties in Albania should start a more proactive approach towards women representation in elections and *introduce voluntary quotas in their internal statutes* for each kind of election, as well as for party structures.



## Endnotes and Sources

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<sup>1</sup> This is a consistent pattern of neglect of issues regarding gender provisions from political parties and the Parliament. Intensive advocacy was needed both in 2012 and in April 2015 for the existing quota provisions to be adopted.

<sup>2</sup> The fact that the Ad Hoc Parliamentary Committee for the Electoral Reform started its work more than 12 months before the next election has been emphasized especially because amendments to the Electoral Code have been generally passed in Parliament a few months before each elections, following intensive advocacy from civil society organizations.

<sup>3</sup> Assembly of Albania, 21.12.2015, *Decision “For the creation of the Ad Hoc Parliamentary Committee for the Electoral Reform”*, Nr. 110/2015. The mandate of the Ad Hoc Committee was further extended until November 2017.

<sup>4</sup> Assembly of Albania, meeting note for the Ad Hoc Parliamentary Committee for the Electoral Reform, <https://www.parlament.al/ad-hoc-committee-on-electoral-reform-convenes/?lang=en>.

<sup>5</sup> Law on Gender Equality in Society, Article 15, point a.

<sup>6</sup> For a comparative view on the effects of different electoral systems on women representation see Venice Commission, 2009, *Report on the Impact of Electoral Systems on Women’s Representation in Politics*, pp. 8-9. [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)029-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)029-e).

<sup>7</sup> European Commission, *2015 Progress Report for Albania*, Political Criteria, p. 6.

<sup>8</sup> Central Election Commission, Gender provisions for 2013 and 2015 elections. <http://www.cec.org.al/sq-al/Zgjedhjet/Barazia-Gjinore/Kuota-dhe-Pjesmarria>.

<sup>9</sup> Only municipal councilors are elected through proportional vote, while mayors are chosen through majority vote.

<sup>10</sup> Fines for major political parties varied from around 28.700 Euro to 43.100, but no data on payment has been yet released from CEC. For details see, Coalition for Free and Fair Elections, Final Report, 2013 Parliamentary Elections, p. 11. [http://www.kzln.org.al/images/Documents/CFFE\\_Final%20Report\\_%20Eng\\_July18\\_Final.pdf](http://www.kzln.org.al/images/Documents/CFFE_Final%20Report_%20Eng_July18_Final.pdf).

<sup>11</sup> For a map of quota systems see <http://www.quotaproject.org/>.

<sup>12</sup> The Law on General Elections in the Republic of Kosovo, Article 111, point 6.

<sup>13</sup> 25 women were elected in 2013. The number of women MPs increased by 4 due to the replacement of men MPs that became ministers or resigned with women MPs.

<sup>14</sup> For a more detailed analysis of voluntary quotas in the framework of long-term solutions refer to Arqimandriti, M & M. Llubani (2015), *Albanian Women Participation in Politics and Decision-Making*, Gender Alliance for Development Centre. Available at:

[http://www.swedenabroad.com/ImageVaultFiles/id\\_38954/cf\\_347/Women\\_in\\_Politics.PDF](http://www.swedenabroad.com/ImageVaultFiles/id_38954/cf_347/Women_in_Politics.PDF).

<sup>15</sup> European Parliament, Directorate General for Internal Policies, 2013, *Electoral Gender Quota Systems and their Implementation in Europe*, p. 18. Available:

[http://www.europarl.europa.eu/RegData/etudes/note/join/2013/493011/IPOL-FEMM\\_NT\(2013\)493011\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2013/493011/IPOL-FEMM_NT(2013)493011_EN.pdf).

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