

Data di pubblicazione: 10 luglio 2025

AIDA SARAÇI\* - BLENDI HIMÇI\*\* - MARSIDA SARAÇI\*\*\*

*The legal status of the surname: between Albanian tradition  
and European normative standards*

**ABSTRACT:** La regolamentazione giuridica del cognome, come componente essenziale dell'identità personale, solleva questioni normative, culturali e istituzionali complesse, in particolare nel contesto del diritto di famiglia albanese e del diritto internazionale dei diritti umani. Oltre alla sua funzione amministrativa, il cognome rappresenta un elemento fondamentale dell'identità giuridica e sociale dell'individuo, intrecciando l'eredità familiare con il diritto alla dignità e all'autoidentificazione. Nell'ordinamento giuridico europeo, il diritto al nome e al cognome è tutelato come parte

---

\* Head of the Research Center for Research and Development in Law and Economics, Faculty of Business and Law, University of Elbasan "Aleksandër Xhuvani" Email: aida.saraci@uniel.edu.al / aida.saraci@yahoo.com;

Tel: +355 69 9222295; ORCID ID: 0009-0007-5771-1486

\*\* Lecturer, Faculty of Economy, University of Elbasan "Aleksandër Xhuvani" Email: blendi.himci@uniel.edu.al

Tel: +355 69 6196311

\*\*\* University of Modena and Reggio Emilia; Email: marsida.saraci84@yahoo.com; Tel: +39 320 2177717

del diritto all'identità personale e alla vita privata, ai sensi dell'articolo 8 della Convenzione europea dei diritti dell'uomo (CEDU) e dell'articolo 7 della Carta dei diritti fondamentali dell'Unione europea. Questa protezione è strettamente legata al principio di uguaglianza di genere nella determinazione del cognome del figlio, come confermato dalla giurisprudenza della Corte europea dei diritti dell'uomo.

In Albania, sebbene il Codice della Famiglia del 2003 abbia riconosciuto la possibilità di un accordo tra i genitori nella scelta del cognome del figlio, in assenza di tale accordo vige ancora la regola automatica a favore della linea paterna. Questa disposizione riflette l'eredità patriarcale del diritto consuetudinario e il quadro normativo del periodo socialista, richiedendo una rivalutazione critica alla luce degli obblighi internazionali e del processo di integrazione europea.

The legal regulation of surnames as an essential component of personal identity raises complex normative, cultural, and institutional issues, particularly within the framework of Albanian family law and international human rights law. Beyond its administrative function, the surname constitutes a fundamental element of an individual's legal and social identity, intertwining family heritage with the right to dignity and self-identification. In the European legal order, the right to a name and surname is protected as part of the right to personal identity and private life, under Article 8 of the European Convention on Human Rights (ECHR) and Article 7 of the Charter of Fundamental Rights of the European Union. This protection

is closely connected to the principle of gender equality in determining a child's surname, as confirmed by the case law of the European Court of Human Rights.

In Albania, although the 2003 Family Code first recognised the possibility of parental agreement in determining a child's surname, the automatic rule in favour of the paternal line in the absence of such agreement remains in force. This legal provision reflects the patriarchal legacy of customary law and the regulatory framework of the socialist period, requiring a critical reassessment in light of international human rights obligations and European integration.

**PAROLE CHIAVE:** cognome; identità personale; diritto di famiglia; Albania; Corte EDU; uguaglianza di genere

**KEYWORDS:** surname; personal identity; family law; Albania; European Court of Human Rights; gender equality

**SUMMARY:** 1. Introduction. - 2. Literature Review. - 3. Methodology. - 4. The Historical Evolution of Surname Regulation in Albanian Law. - 5. The Legal Framework of Surname Regulation in Albania: issues and limitations. - 6. Normative Harmonisation in European Countries and Implications for Albania: an expanded interpretation. - 7. Conclusions. - 8. Recommendations.

## 1. Introduction

The legal framework governing surnames as a component of juridical personal identity represents a field where normative, social, and cultural dimensions intersect, particularly in light of the fundamental rights of the individual within a democratic legal order. Beyond its administrative and identificatory function, the surname is intrinsically linked to human dignity and the right to self-identification, reflecting the relationship between the individual and traditional family structures.

In continental legal doctrine, the surname is conceived as part of civil personality and of rights connected to individual dignity. L. Mengoni emphasises the role of the surname in structuring legal relationships between the individual and the state<sup>1</sup>, while G. Alpa considers it an integral part of personality rights and legal subjectivity<sup>2</sup>.

In Albania, the legacy of customary law and later the socialist legal system consolidated a model in which a child's surname is automatically determined according to the paternal line. This approach has limited parents' capacity for equal choice and has reinforced a patriarchal logic in the regulation of civil status<sup>3</sup>.

Recent developments in the case law of the European Court of Human Rights have led to a reconceptualisation of the surname as part of personal

---

<sup>1</sup> Mengoni, L. (1996). *Diritto civile. Introduzione. Le persone e la famiglia*. Milano: Giuffrè.

<sup>2</sup> Alpa, G. (2003). *Le persone e la famiglia*. Torino: UTET.

<sup>3</sup> Muçi, S. (2012). *E drejta familjare*. Tiranë: Botimet EMAL.

identity protected by Article 8 of the ECHR. In *Burghartz v. Switzerland*, the Court included the surname within the scope of private life<sup>4</sup>, while in *Cusan and Fazzo v. Italy* it held that automatic preference for the paternal surname in the absence of parental agreement constitutes gender-based discrimination<sup>5</sup>.

In this context, the study seeks to examine whether the current Albanian model complies with European standards for the protection of personal identity and gender equality. The underlying hypothesis is that, despite the improvements introduced by the Family Code, further reforms are necessary to ensure alignment with international standards and to affirm the right to a surname as a core element of personality rights.

## 2. Literature review

The debate on the legal regulation of surnames as a component of personal identity integrates doctrinal reflection, jurisprudential developments, and the evolution of national and international norms. This multidimensional perspective is essential in understanding how the surname functions not merely as an administrative identifier but as an inseparable part of personality rights and human dignity.

---

<sup>4</sup> ECHR, *Burghartz v. Switzerland*, Application no. 16213/90, Judgment of 22 February 1994.

<sup>5</sup> ECHR, *Cusan and Fazzo v. Italy*, Application no. 77/07, Judgment of 7 January 2014.

In continental legal theory, the surname is understood as an integral aspect of civil personality. L. Mengoni argues that it embodies the relationship between the legal subject and the legal order, acting as both a juridical marker and a social signifier of individual status<sup>6</sup>. Similarly, G. Alpa frames the surname as a legal entitlement rooted in personality rights and intrinsic to the expression of individual dignity<sup>7</sup>.

In the Albanian context, the normative framework governing surnames has evolved slowly. Initially influenced by customary law and later by the socialist legal tradition, the Albanian legal system institutionalised a patriarchal model of surname inheritance based on paternal lineage. Although the Family Code of 2003 introduced the possibility for parents to agree on the child's surname<sup>8</sup>, the default rule in the absence of agreement continues to prioritise the paternal surname. The Civil Code and the Law on Civil Status similarly regulate the surname primarily from an administrative perspective<sup>9</sup>, without fully embedding it within the legal discourse on individual identity rights.

This legislative framework has been critically addressed in Albanian legal scholarship. S. Muçi highlights that, despite efforts to modernise family law, patriarchal influences remain deeply embedded, limiting substantive equality between parents<sup>10</sup>. Sh. Çela calls for a reconceptualisation of the

---

<sup>6</sup> Mengoni, L. (1996). *Diritto civile. Introduzione. Le persone e la famiglia*. Milano: Giuffrè

<sup>7</sup> Alpa, G. (2003). *Le persone e la famiglia*. Torino: UTET.

<sup>8</sup> Family Code of the Republic of Albania, Law No. 9062, dated 8 May 2003, Article 50.

<sup>9</sup> Civil Code of the Republic of Albania, Article 23; Law No. 10129, dated 11 May 2009, "On Civil Status."

<sup>10</sup> Muçi, S. (2012). *E drejta familjare*. Tirana: Botimet EMAL.

legal criteria for changing names and surnames to better reflect a dynamic and rights-based understanding of personal identity<sup>11</sup>.

At the international level, the European Court of Human Rights (ECtHR) has played a decisive role in defining the surname as an element of personal identity protected under Article 8 of the European Convention on Human Rights. In *Burghartz v. Switzerland*<sup>12</sup>, the Court acknowledged the surname as part of private life, while in *Cusan and Fazço v. Italy*<sup>13</sup>, it found that automatic preference for the paternal surname in the absence of parental agreement constituted gender-based discrimination under Article 14 taken in conjunction with Article 8 of the Convention.

These judgments have been widely discussed in European legal literature. E. Triggiani considers the Strasbourg Court's approach as a progressive extension of personal identity protection within the framework of constitutional and EU law<sup>14</sup>. F. Seatzu similarly emphasises the evolving role of the ECtHR in transforming name law into a vehicle for affirming gender equality and respect for individual identity across domestic systems<sup>15</sup>.

Taken together, the doctrinal analyses and supranational jurisprudence outlined above provide a comprehensive framework for assessing the compliance of the Albanian legal system with the contemporary European standards of personal identity protection.

---

<sup>11</sup> Çela, Sh. (2010). *E drejta civile: Pjesa e përgjithshme*. Tirana: Shtypshkronja "Emal."

<sup>12</sup> ECtHR, *Burghartz v. Switzerland*, App. No. 16213/90, Judgment of 22 February 1994.

<sup>13</sup> ECtHR, *Cusan and Fazço v. Italy*, App. No. 77/07, Judgment of 7 January 2014.

<sup>14</sup> Triggiani, E. (2015). "L'identità personale tra diritto interno e diritto dell'Unione Europea," *Diritti Umani e Diritto Internazionale*, 9(1).

<sup>15</sup> Seatzu, F. (2010). "Il diritto al nome tra ordinamenti nazionali e ordinamento europeo," *Il Diritto dell'Unione Europea*, 3.

### 3. Methodology

This study is based on a legal-analytical approach of a comparative nature, oriented towards assessing the compatibility of the Albanian legal framework with European standards for the protection of human rights, with a particular focus on the right to personal identity and gender equality in the regulation of surnames. The chosen approach allows for the analysis of interactions between domestic and international legal norms, through the interpretation of sources of positive law and relevant jurisprudence. Data were gathered through a careful and systematic review of normative documents and legal doctrine. These include, primarily, the applicable Albanian legislation such as the Constitution of the Republic of Albania, the Family Code<sup>16</sup>, the Civil Code<sup>17</sup>, and the Law on Civil Status<sup>18</sup>. Secondly, the study analysed relevant international instruments, particularly the European Convention on Human Rights<sup>19</sup> and the Charter of Fundamental Rights of the European Union<sup>20</sup>.

A central component of the methodology is the examination of the case law of the European Court of Human Rights, especially through the judgments in *Burghartz v. Switzerland*<sup>21</sup> and *Cusan and Fazço v. Italy*<sup>22</sup>, which serve

---

<sup>16</sup> Family Code of the Republic of Albania, Law No. 9062, 8 May 2003, Article 50.

<sup>17</sup> Civil Code of the Republic of Albania, Article 23.

<sup>18</sup> Law No. 10129, 11 May 2009, “On Civil Status”, Article 43.

<sup>19</sup> European Convention on Human Rights, Article 8.

<sup>20</sup> Charter of Fundamental Rights of the European Union, Article 7.

<sup>21</sup> ECtHR, *Burghartz v. Switzerland*, Application No. 16213/90, Judgment of 22 February 1994.

<sup>22</sup> ECtHR, *Cusan and Fazço v. Italy*, Application No. 77/07, Judgment of 7 January 2014.



as consolidated standards for the determination of surnames in line with the principle of gender equality and the protection of private life. In addition, selected academic literature has offered a meaningful theoretical contribution. Authors such as L. Mengoni<sup>23</sup> and G. Alpa<sup>24</sup> from Italian legal doctrine, as well as S. Muçi<sup>25</sup> and Sh. Çela<sup>26</sup> from Albanian doctrine, address the surname as a fundamental component of juridical identity and personality rights, emphasising its link with human dignity and individual autonomy.

The analysis was conducted using the dogmatic interpretation of the relevant provisions of positive law, in relation to international standards and comparative law, with the aim of evaluating the conformity of Albanian norms with the practices of ECHR member states. Strasbourg case law was used as a reference point to identify the obligations imposed on national legislation regarding the effective protection of the right to identity and gender equality. The choice of this methodology is motivated by the interdisciplinary nature of the issue, which intersects the legal, institutional, and cultural dimensions of surname regulation, a field where traditional heritage confronts the modern obligations of international human rights law. This methodology allows for the identification of normative gaps, institutional challenges, and potentials for further harmonisation of

---

<sup>23</sup> Mengoni, L. (1996). *Diritto civile. Introduzione. Le persone e la famiglia*. Milan: Giuffrè.

<sup>24</sup> Alpa, G. (2003). *Le persone e la famiglia*. Turin: UTET.

<sup>25</sup> Muçi, S. (2012). *E drejta familjare*. Tirana: Botimet EMAL.

<sup>26</sup> Çela, Sh. (2010). *E drejta civile: Pjesa e përgjithshme*. Tirana: Emal.

Albanian family law with contemporary developments in European human rights law.

#### **4. The historical evolution of surname regulation in Albanian law**

The development of surname regulation in the Albanian legal system reflects a continuous interplay between customary, normative, and institutional elements that have shaped both the substance and function of this right. In traditional Albanian customary law, the surname was intrinsically linked to patriarchal family structures, serving as a symbol of tribal affiliation and patrilineal continuity, whereby the surname was exclusively transmitted through the male line. This logic, which excluded maternal transmission, was later formalised in the statutory legislation of both the monarchical and socialist periods, establishing the paternal line as a mandatory legal norm for determining a child's surname.

The 1929 Albanian Civil Code, drafted under the influence of the 1865 Italian Civil Code (*Codice Civile*), clearly codified this logic: Article 30 stipulated that the child would inherit the father's surname, without offering any alternative for parental agreement or for adopting the mother's surname<sup>27</sup>. This provision reflected not only the patriarchal structure of the family but also a rigid legal framework that prioritised paternal authority

---

<sup>27</sup> Albanian Civil Code of 1929, Article 30. For a comparative analysis with the Italian model it was based on, see G. Alpa, *Le persone e la famiglia*, Torino: UTET, 2003.

in defining the child's legal identity. This approach continued during the socialist regime, where relevant legislation, particularly Law no. 344 of 31 October 1952 "On the organisation of civil status", maintained the automatic inheritance of the father's surname, without providing any legal mechanism for including the mother's surname or allowing for parental discretion<sup>28</sup>. The surname was conceptualised as a uniform element of the civil registry, not only for individual identification but also as a symbolic expression of the individual's connection to the state, in accordance with the ideological vision of the family as the basic unit of socialist society<sup>29</sup>. In this context, the surname had both a legal and ideological function, reinforcing institutional control over personal autonomy and naming conventions.

Following the democratic transition in the early 1990s, the first efforts were made to modernise the family legal framework, culminating in the adoption of the 2003 Family Code (Law no. 9062/2003), which, for the first time, recognised the possibility of a parental agreement on the child's surname<sup>30</sup>. However, in the absence of such an agreement, the law still defaults to the paternal surname, thereby maintaining the patriarchal logic at the structural core of the system<sup>31</sup>.

---

<sup>28</sup> Law no. 344/1952 "On the organisation of civil status", article on birth registration.

<sup>29</sup> For a broader analysis of the ideological role of the civil registry under socialist legal culture and its link to family identity, see S. Muçi, *E Drejta Familjare* (Family Law), Tirana: EMAL, 2012, pp. 55–58.

<sup>30</sup> Family Code of the Republic of Albania, Law no. 9062, dated 8 May 2003, Article 50.

<sup>31</sup> Sh. Çela, *E Drejta Civile – Pjesa e Përgjithshme* (Civil Law – General Part), Tirana: EMAL, 2010, pp. 110–112.

This historical evolution clearly illustrates the persistent tension between preserving traditional frameworks and the imperative to align with contemporary international standards on personality rights and gender equality in the civil naming system. Despite the formal progress achieved in 2003, the Albanian legal framework remains incomplete and inconsistent with international obligations. The automatic rule in favour of the father's surname reflects both the customary patriarchal heritage and the legal continuity of the socialist period<sup>32</sup>.

This normative rigidity not only perpetuates structural gender inequality but also raises serious concerns in relation to Article 8 of the European Convention on Human Rights (ECHR), which protects the right to private and family life and encompasses the right to personal identity<sup>33</sup>. Although Albania has ratified the ECHR and has granted it constitutional priority over domestic legislation,<sup>34</sup> the lack of further legislative reform reveals a continuing disconnect between formal commitments and actual implementation. This discrepancy is particularly critical given Albania's status as a candidate country for accession to the European Union, where harmonisation with the Charter of Fundamental Rights of the EU and established ECtHR case law is not merely aspirational but required<sup>35</sup>. A comprehensive reform of surname legislation is thus necessary to eliminate

---

<sup>32</sup> Family Code of the Republic of Albania, Law No. 9062, dated 8 May 2003, Article 49.

<sup>33</sup> European Court of Human Rights. (n.d.). *Relevant case law on Article 8 of the ECHR: Right to respect for private and family life*. Retrieved from <https://hudoc.echr.coe.int>

<sup>34</sup> Constitution of the Republic of Albania. (1998). Article 122.

<sup>35</sup> Charter of Fundamental Rights of the European Union, Articles 7 and 21 and ECtHR, *Cusan and Fazço v. Italy*, no. 77/07, Judgment of 7 January 2014; *Losonci Rose and Rose v. Switzerland*, no. 664/06, Judgment of 9 November 2010.

gender-based presumptions and to ensure that Albanian family law complies fully with contemporary European human rights standards.

### **5. The legal framework of surname regulation in Albania: issues and limitations**

The legal regulation of surnames in the Albanian legal system is primarily grounded in the provisions of the Family Code (Law No. 9062, dated 8.5.2003), which represents a key step toward the modernization of family law following the democratic changes of the early 1990s. Article 52 of this Code recognizes, for the first time, the possibility for parents, by mutual agreement, to determine the surname of their child. However, in the absence of such agreement, the legal solution remains one-sided: the father's surname is automatically assigned to the minor<sup>36</sup>.

This normative structure, which privileges the paternal line in cases of parental disagreement, reflects the persistence of a traditional paradigm in which family naming is understood as a symbol of symbolic and legal continuity. This view derives from the Albanian customary law tradition, where the surname represented the continuity of the male lineage and the patriarchal authority of the household<sup>37</sup>. Although the Family Code intro-

---

<sup>36</sup> Family Code of the Republic of Albania, Law No. 9062, dated 8.5.2003, Article 52.

<sup>37</sup> Muçi, S. (2012). Family Law. Tirana: EMAL Publishing, 122.

duces a space for interparental negotiation, the absence of a neutral mechanism in case of disagreement renders this autonomy limited and largely symbolic.

Alongside the Family Code, the Civil Status Law (Law No. 10129, dated 11.5.2009) through Article 45, and the Civil Code, through Article 23, regulate the registration of names and surnames but fail to provide gender equality standards or direct guarantees for the right to change a surname<sup>38</sup>. These norms treat names as administrative attributes, without explicitly integrating them into the framework of personality rights and private life. Although Article 146 of the Civil Status Law provides the right to request a change of name or surname for justified reasons (such as social integration or the best interests of the child), Albanian judicial practice has remained highly conservative. Cases such as the Supreme Court's Decision No. 00-2014-1138 and relevant proceedings before the Tirana Administrative Court (2020) reveal a tendency to reject requests for surname change in the absence of exceptionally special circumstances<sup>39</sup>. These rulings stand in stark contrast to European practices, where the surname is recognized as an essential element of the right to personal identity.

In this regard, comparison with standards set by the European Court of Human Rights (ECtHR) is necessary. In cases such as *Burghartz v. Switzerland* and *Losonci Rose v. Switzerland*, the ECtHR affirmed that the

---

<sup>38</sup> Civil Code of the Republic of Albania, Article 23; Law No. 10129/2009, Articles 45 and 146.

<sup>39</sup> Supreme Court Decision No. 00-2014-1138; Tirana Administrative Court, case concerning surname change, 2020.

surname forms part of private life and that differential treatment based on gender, lacking objective justification, is contrary to Articles 8 and 14 of the European Convention on Human Rights (ECHR)<sup>40</sup>. In Albania, the lack of a mechanism that ensures gender equality in the naming process can no longer be justified by traditional administrative logic, and calls for reform in line with these evolving standards.

In conclusion, the Albanian normative framework on surnames remains deeply rooted in patriarchal logic, despite partial reform efforts. To ensure the effective protection of the rights to identity, dignity, and equality, it is essential to reconceptualize the surname as a subjective right, offering real alternatives, neutral mechanisms, and a harmonized interpretation with the European human rights framework.

## **6. Normative harmonization in European countries and implications for Albania: an expanded interpretation**

Over recent decades, several member states of the European Convention on Human Rights (ECHR) have undertaken significant reforms concerning surname regulations. This is largely in response to jurisprudence from the European Court of Human Rights (ECtHR), which has clarified the

---

<sup>40</sup> *Burghartz v. Switzerland*, Application no. 16213/90, ECtHR, Judgment of 22 February 1994; *Losonci Rose v. Switzerland*, Application no. 664/06, ECtHR, Judgment of 9 November 2010.

need to eliminate gender-based discrimination institutionalised in national laws governing family identity and civil registration.

The *Cusan and Fazzo v. Italy* case<sup>41</sup> represents a paradigmatic turning point. The ECtHR found that Italian provisions automatically assigning the father's surname in the absence of parental agreement violated Article 14 in conjunction with Article 8 of the Convention. This finding did more than condemn discrimination, it spurred legislative change. The Italian Constitutional Court's decision no. 286/2016<sup>42</sup> established a new legal framework allowing parents to choose their child's surname equally, removing the presumption favouring paternal lineage.

Similar moves occurred in France through Law No. 2002-304, enacted in 2005. This law granted parents the right to select their child's surname, including hyphenated surnames from both father and mother<sup>43</sup>. In case of disagreement, neutral solutions, such as alphabetical ordering or referral to a judge, are in place to avoid favouring one parent over the other, thus upholding family autonomy without bias.

In Germany, surname rights were redefined in line with constitutional provisions. Section 1617 of the German Civil Code (BGB) allows parents with joint parental responsibility to decide their child's surname, with automatic

---

<sup>41</sup> *Cusan and Fazzo v. Italy*, Application no. 77/07, ECtHR, Judgment of 7 January 2014.

<sup>42</sup> *Corte Costituzionale*, Sentenza no. 286/2016.

<sup>43</sup> *Loi n° 2002-304 du 4 mars 2002* regarding family names.



assignment applying only in absence of mutual agreement<sup>44</sup>.<sup>4</sup> This framework ensures equitable treatment of both parents in determining the child's identity.

By contrast, Albania continues to apply an inherited model where, in the absence of parental consensus, the child automatically receives the father's surname. Domestic case law, such as Supreme Court decision no. 00-2014-1138<sup>45</sup>, reinforces this traditional approach, failing to account for the emotional and identity ties between child and custodial parent, even when paternal involvement is absent.

The ECtHR, in *Burghartz v. Switzerland*, clarified that the right to a name and surname constitutes a core element of private life protected under Article 8 and cannot be arbitrarily limited on gender grounds<sup>46</sup>. In *Losonci Rose v. Switzerland*, the Court emphasised that even with parental agreement, states cannot impose traditional surname systems that conflict with family autonomy<sup>47</sup>.

These judgments underscore that safeguarding personal identity and ensuring gender equality in name regulations is not merely symbolic. For Albania, an EU accession candidate, this presents an opportunity and obligation to reform family law. Doing so would mean transitioning from a

---

<sup>44</sup> *Bürgerliches Gesetzbuch (BGB)*, §1617.

<sup>45</sup> Supreme Court of Albania, Decision no. 00-2014-1138.

<sup>46</sup> *Burghartz v. Switzerland*, Application no. 16213/90, ECtHR, Judgment of 22 February 1994.

<sup>47</sup> *Losonci Rose and Rose v. Switzerland*, Application no. 664/06, ECtHR, Judgment of 9 November 2010.

rigid, patriarchal model to a more flexible system that recognises personal identity as a fundamental right rather than a bureaucratic formality.

## 7. Conclusions

The analysis presented in this study highlights a marked discrepancy between the traditional logic that has historically guided the regulation of surnames in Albanian law and the imperative for alignment with the fundamental principles of European human rights law. Although the enactment of the Family Code in 2003 represented a significant step toward the modernization of family law, particularly with regard to the naming of children, the current legal framework continues to uphold a unilateral solution that favors the paternal line in the absence of mutual parental agreement. This normative stance reflects a legal approach still shaped by patriarchal legacy, in which the surname is treated more as an administrative attribute than as an integral component of personal identity and gender equality.

Within this context, Albanian legal practices, both at the legislative and judicial levels, remain distant from the established standards of the European Court of Human Rights (ECtHR). Landmark decisions such as *Cusan and Façço v. Italy*, *Burghartz v. Switzerland*, and *Losonci Rose v. Switzerland* have unequivocally affirmed that a surname constitutes an essential part of private life, and that any legal treatment producing gender-based distinctions

without objective and reasonable justification violates the principles of substantive equality and the right to personal identity. In contrast, Albanian provisions, including Article 52 of the Family Code, Article 23 of the Civil Code, and relevant articles of the Law on Civil Status, fail to establish equal, inclusive, and effective mechanisms for determining a child's surname, particularly in cases where no parental consensus exists.

Furthermore, judicial interpretation in Albania does not yet reflect a clear orientation toward ensuring gender equality or safeguarding the right to personal identity. As evidenced by decisions of the High Court and other regular courts, requests for surname changes tend to be denied in the absence of extraordinary circumstances, effectively depriving this right of its emotional, social, and identity-bearing dimensions as widely recognized in international doctrine and case law.

As a result, a reconceptualization of the Albanian legal framework concerning surnames emerges as a necessary step not only for ensuring compliance with obligations arising from the European Convention on Human Rights (ECHR) but also for building a legal system that substantively upholds the principles of gender equality, the right to personal identity, and human dignity. Such reform should include: the explicit recognition of the surname as part of the rights of personality; the establishment of a neutral and impartial mechanism in cases of lack of parental agreement; and the strengthening of professional and institutional awareness regarding the significance of this right within the architecture of fundamental rights.

In this reform path, the Constitutional Court of Albania can and should play a pivotal role by developing progressive case law that situates the right to a name and surname within the framework of human rights protected both by the national Constitution and the international instruments ratified by Albania. Such an approach would contribute to consolidating a democratic and inclusive legal culture, one that places the individual and their rights at the core of the legal and institutional order.

In light of the in-depth analysis developed throughout this study, which has highlighted not only the shortcomings of the current Albanian legal framework regulating surnames but also the structural inequalities and the influence of the patriarchal paradigm inherited from customary tradition and the socialist period, the harmonisation of this regulation with contemporary European human rights standards requires a comprehensive, structured, and multidimensional approach. This approach cannot be confined to fragmented or merely normative adjustments; rather, it must extend across all layers of the Albanian legal and institutional system, encompassing the improvement of substantive legal provisions, the strengthening of constitutional guarantees, the alignment of administrative practice with international standards, and the enhancement of both professional and public awareness of the right to a surname as an integral component of the right to personal identity and private life.

In this context, it is essential that the regulation of surnames no longer relies on the presumption of paternal lineage superiority or the symbolic order of family continuity through the father's surname, but instead be

reformulated based on real gender equality, respect for the equal and free will of both parents, and affirmation of the child's dignity as a rights-bearing subject. International case law, such as the judgments in *Burghartz v. Switzerland* and *Cusan and Fazzio v. Italy*, has established clear standards prohibiting any form of gender-based discrimination in the determination of surnames and has affirmed that a surname must not be treated as a merely administrative matter, but as a fundamental right deserving specific protection. These standards, consolidated in both legal scholarship and the legal practice of member states of the European Convention on Human Rights (ECHR), should serve as a basis for a comprehensive reform of the Albanian approach to surname regulation, including, among other things, the revision of the Family Code, Civil Code, and Law on Civil Status, as well as the reinforcement of judicial practice through progressive and Convention-compliant interpretation aligned with the jurisprudence of the European Court of Human Rights.

Such harmonisation represents not only an international obligation of Albania stemming from its membership in the Council of Europe and its accession process to the European Union, but also a necessary step toward building a democratic legal order that places at its core the values of equality, dignity, and the right to freely and equally determine the elements constituting personal identity.

## 8. Recommendations

In light of the analysis developed in this study, a set of legislative and institutional measures is recommended to ensure alignment between the Albanian legal framework and European human rights standards concerning the regulation of surnames:

1. Reform the default rule on surname attribution

The current automatic assignment of the father's surname in cases of parental disagreement should be replaced with a gender-neutral solution, such as the joint attribution of both surnames in alphabetical order, or another objective and impartial criterion that eliminates gender-based bias.

2. Incorporate the best interests of the child as a guiding principle

All decisions regarding surname attribution, particularly in cases of parental conflict, should be guided by the best interests of the child, in accordance with Article 8 of the European Convention on Human Rights and the relevant jurisprudence of the European Court of Human Rights.

3. Adopt clear and uniform administrative procedures

A standardised and transparent procedure should be introduced for surname changes and disputes, with comprehensive administrative guidelines applicable across all civil status offices. This would reduce arbitrariness and enhance legal certainty.

4. Enhance access to legal remedies

Individuals who seek to challenge discriminatory or outdated surname

practices should have access to effective judicial or administrative remedies, supported by simplified procedures and legal aid where appropriate.

5. Promote public awareness of naming rights

Awareness-raising initiatives and digital tools (e.g., through the e-Albania platform) should be used to inform citizens about their rights and legal options regarding surname choice and modification, in a manner that promotes gender equality and inclusiveness.

6. Ensure periodic review and compliance with international standards

The Ministry of Justice should conduct regular reviews of surname-related legislation and administrative practice, in consultation with independent legal experts and human rights institutions, to ensure compliance with evolving European standards on personal identity, equality, and private life.

## References

Albanian Civil Code of 1929, Article 30.

Bürgerliches Gesetzbuch (BGB), §1617.

Charter of Fundamental Rights of the European Union, Articles 7 and 21.

Civil Code of the Republic of Albania, Article 23.

Constitution of the Republic of Albania, 1998, Article 122.

Corte Costituzionale, Sentenza No. 286/2016.

ECtHR, *Burghartz v. Switzerland*, App. No. 16213/90, Judgment of 22 February 1994.

ECtHR, *Cusan and Fazzo v. Italy*, App. No. 77/07, Judgment of 7 January 2014.

ECtHR, *Losonci Rose and Rose v. Switzerland*, App. No. 664/06, Judgment of 9 November 2010.

E. Triggiani, *L'identità personale tra diritto interno e diritto dell'Unione Europea*, in *Diritti Umani e Diritto Internazionale*, 9(1), 2015.

European Convention on Human Rights, Article 8.

European Court of Human Rights, Relevant case law on Article 8 of the ECHR: Right to respect for private and family life, in <https://hudoc.echr.coe.int>.

Family Code of the Republic of Albania, Law No. 9062, dated 8 May 2003, Articles 49, 50, 52.

F. Seatzu, *Il diritto al nome tra ordinamenti nazionali e ordinamento europeo*, in *Il Diritto dell'Unione Europea*, 3, 2010.

G. Alpa, *Le persone e la famiglia*, Torino, UTET, 2003.

Law No. 10129, 11 May 2009, "On Civil Status", Articles 43, 45, 146.

Law No. 344 of 31 October 1952, "On the organisation of civil status".

L. Mengoni, *Diritto civile. Introduzione. Le persone e la famiglia*, Milano, Giuffrè, 1996.

Loi n° 2002-304 du 4 mars 2002 relative au nom de famille.

S. Muçi, *E drejta familjare*, Tiranë, Botimet EMAL, 2012.

Sh. Çela, *E drejta civile: Pjesa e përgjithshme*, Tiranë, Emal, 2010.



Supreme Court of Albania, Decision No. 00-2014-1138.

Tirana Administrative Court, Case concerning surname change, 2020.