

THE JUSTICE REFORM AS THE FOUNDATION OF ALBANIA'S EUROPEAN INTEGRATION: FROM CONSTITUTIONAL TRANSFORMATION TO INSTITUTIONAL CONSOLIDATION

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Abstract

The process of Albania's European integration has been and remains one of the country's main strategic objectives since the signing of the Stabilization and Association Agreement. Among the fundamental conditions set by the European Union (EU) for candidate countries are the strengthening of the rule of law and the guarantee of an independent judiciary. The Justice Reform, undertaken in 2016, represents the deepest intervention in the constitutional history of Albania, aiming to build new institutions, restore public trust, and fulfil the criteria of the Copenhagen Charter. This paper analyzes the constitutional and legal basis of the reform, the functioning of the new justice institutions, and their impact on aligning Albania with the European standards. It highlights how the reform has reshaped the judiciary's structure, enhanced accountability, and created mechanisms for transparency and professionalism. Despite significant achievements, the reform continues to face challenges related to institutional efficiency, political influence, and the full implementation of integrity mechanisms. Ultimately, the Justice Reform is not only an EU requirement but also an internal necessity for consolidating democracy and ensuring a functional, independent, and accountable justice system. For the Republic of Albania, this process remains inseparable from the broader effort to strengthen democratic governance, uphold the separation of powers, and advance towards full EU membership.

Key Words: *The Justice Reform, European Integration, The Rule of Law, European Union, The Republic of Albania, The Independence of the Judiciary*

Introduction

The justice reform in the Republic of Albania can be considered as the biggest reform in these 30 years of democracy that managed to design a completely new justice system with a direct impact on the rule of law. This reform was conceived and implemented not only to qualitatively improve the justice system, but above all, to respond to the concerns of the Albanian population, with the sole purpose of creating a justice system that will include professionals and meritocratic governance institutions that cannot be impacted by politics and corruption and which has to be accountable before the law. Therefore, the goal of this mission was to radically reform the justice system, in order to curb the phenomenon of corruption which had become not only a threat to justice, but at the same time a challenge throughout the times. It was the year of 2014, where the Republic of Albania embarked on the difficult path of reforming its justice system under the motto that described the entire process: "*If not today, when? If not us, who?*". From its beginning, the justice reform has been conceived primarily as a technical process in which the contribution of engaged experts, both domestic and foreign, was decisive. The process has been permanently monitored by the international technical experts of the European Union (EU) and of the United States (US), who have also advised full cooperation in this undertaking. As we are going to see, the entire reform described three phases:

1. Assessment of the situation in the justice system;

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2. Development of the strategy and definition of main objectives;
3. Preparation of the relevant constitutional and legal amendments.

With the analysis and assessment of the current state of the justice system, it was clearly shown that the justice reform had be profound and effective.

Starting from this aspect, the research paper will mainly be concentrated on the importance of the justice reform, taking into consideration the progress reports of the European Commission of EU. Furtherly, the paper will delve into constitutional and legal amendments, outlining the new institutions of the justice reform divided in two groups : the judicial institutions (the High Judicial Council, the High Prosecutorial Council, the High Inspectorate of Justice, The Judicial Appointments Council and The School of Magistrates) and the institutions on combating corruption and organized crime (The Special Prosecution against Corruption and Organized Crime, The National Investigation Bureau, The Special Courts for Corruption and Organized Crime and the Process on Re-Evaluation of Judges and Prosecutors named as the Vetting Process). The hypotheses that will follow the entire paper are:

- a) The importance of the justice reform in improving the efficiency of justice;
- b) The organization and functioning of the new justice reform institutions;
- c) The results that the justice reform institutions have provided in decreasing corruption and increasing the efficiency of justice.

Literature Review

The concept of justice is very crucial and starting from there, we can understand and realize the importance of justice reforms. Once, Martin Luther King said, “*a justice denied anywhere is a threat to justice everywhere*”. By capturing the essence of this quote, we can emphasize its impact in the society. According to John Rawls (1971), justice is the first and most significant virtue of social institutions, where each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override it. In his further opinion, he mentions that truth and justice are uncompromising, so there must be laws and institutions that shall produce justice, and if the contrary happens, than these laws or institutions either shall be abolished or reformed. Taking into consideration the statement of Rawls, we can address the fact that the Republic of Albania needed more than ever a strong justice reform to move forward in order to be part of the European Union (EU) family, but most importantly, to increase the level of public trust that back then was lower that could be expected.

Up until 2014, according to the European Commission (2014), allegations for a high level of corruption within the justice system remained a serious concern. The biggest problem back then was on the lack of measures towards integrating the Supreme Court into the judicial system. According to the European Commission (2014), the status of the Supreme Court and the process of appointing its members remained a concern due to the high degree of politicization, taking the fact that the relevant constitutional provisions for it were not amended. In addition, the independence and impartiality of the Supreme Court in its activities was not fully guaranteed. In July of 2014, the Constitutional Court repealed some of the former Law on the High Court, while it called on provision for stricter criteria regarding the selection pf judges, as well as aimed at increasing the court’s professionalism (European Commission, 2014). Referring to this aspect and despite all the efforts made until that time for the reformation of the system, still the mechanisms that were supposed to guarantee the independence and impartiality of judges failed completely. Not only for the public opinion, but also for the political opinion, it was crystal clear that the time had arrived to build a new justice system that would inspire trust and hope, despite the governance, economic, or even corruption problems.

In 2014, the Parliament issued a Decision No.96/2014 “*On the establishment of the ad hoc parliamentary commission on the justice system reform*” where this commission would perform

its constitutional role and contribute on strengthening the justice system reform, by exercising its legislative function. On 21st July 2016, the Ad Hoc Commission approved the final draft of the Law “On some addenda and amendments to Law No. 8417, dated on 21.10.1998 “the Constitution of the Republic of Albania””, submitted it for review in the Parliament’s plenary session and with 140 votes in favor, the law was adopted, leading to major constitutional amendments. Another important step was the drafting of the legal basis for the governing bodies of the justice system (Carkaxhiu, 2020). The entire process of adopting the reform was falling under “*the European Model*”, which according to the prominent Professor of Constitutional Law Aurela Anastasi (2021), this goes for the countries that are undergoing the European integration.

As we mentioned above, the drafting of the legal basis for the governing bodies of the justice system was another important step when it came to the adoption of the justice reform. An important law that has clearly defined the principles and rules regarding the organization and functioning of the new justice bodies is the Law No.115/2016 “*For the Governing Bodies of the Justice System*”, which states that the justice system in the Republic of Albania is governed based on the principles of independence, accountability, transparency and efficiency (Article 2 of the Law No.115/2016 “*For the Governing Bodies of the Justice System*”). These governing bodies based on this law are:

- a) The High Judicial Council (HJC),
- b) The High Prosecutorial Council (HPC),
- c) The High Inspectorate of Justice (HIJ),
- d) The Judicial Appointments Council (JAC),
- e) The School of Magistrates.

The High Judicial Council (HJC), according to Article 147 of the Constitution, ensures the independence, accountability and functioning of the judiciary in the Republic of Albania. It is a collegial body that consists of eleven members, six of whom are elected by judges of all levels of the judiciary and five members are elected by the Assembly, which comes from among non-judicial jurists (Article 147, Paragraph 2 of the Constitution of the Republic of Albania). The second body is the High Prosecutorial Council (HPC), which according to Article 149 of the Constitution of the Republic of Albania, it guarantees the independence, accountability, discipline, status and career of the prosecutors of the Republic of Albania. Just like the HJC, it is a collegial body consisted of 11 members, six of whom are elected by prosecutors on all levels of the prosecution and five members are elected by the Assembly from among non-prosecutor jurists. Some of its functions are:

- A) It appoints, evaluates, promotes and transfer prosecutors of all levels;
- B) It decides on disciplinary measures against prosecutors of all levels;
- C) It proposes candidates for the General Attorney to the Assembly, in accordance with the law;
- D) It approves the rules on the ethics of prosecutors and supervises its implementation (Këshilli i Lartë i Prokurorisë, N.D).

The third institution, the High Inspectorate of Justice (HIJ), is the institution responsible for verifying complaints, investigating violations that were found by its own initiative, commencing disciplinary proceedings against judges and prosecutors of all levels, members of the High Judicial Council, members of the High Prosecutorial Council and Attorney General, as well as conducting everyday institutional inspections (Inspektori i Lartë i Drejtësisë, N.D). The fourth institution, the Judicial Appointments Council (JAC), composed of nine members selected by lot from among judges and prosecutors, whom no disciplinary measure has been imposed, have the duty to verify the legal conditions and assess the professional and moral criteria of candidates for High Inspector of Justice, and the candidates for members of the

Constitutional Court. This Council reviews and ranks candidates according to professional merit. (Gjykata e Lartë e Republikës së Shqipërisë, n.d.).

The last but not the least is the School of Magistrates of the Republic of Albania, a public budgetary institution, enjoying the quality of a legal person. This institution enjoys administrative, academic and financial autonomy for the realization of the goals and tasks set out in the Law No.115/2016 “*For the Governing Bodies of the Justice System*”. The establishment of the School of Magistrates of the Republic of Albania was an important event that came as a result of the close cooperation of the Albanian state with the Council of Europe and the European Commission, changing the essence of the recruitment of judges and prosecutors. Based on the aforementioned law, the School of Magistrates of the Republic of Albania carries out its activity in the following areas:

- a) Recruitment and initial training of candidates for magistrates in the positions of the State Attorney’s Office, legal assistants and chancellors in courts and prosecutor’s offices;
- b) Continuation of professional training for acting magistrates, acting state attorneys, legal assistants and chancellors in courts and prosecutor’s offices, as well as other legal professions;
- c) Conducting publications and scientific research (Shkolla e Magjistraturës, N.D).

Apart from the basic institutions of justice, there is a second group of institutions that were adopted with the purpose of fighting corruption and organized crime. Their organization and activities are regulated under the Law No. 95/2016 dated 6.10.2016 “*On the Organization and Functioning of Institutions for Combating Corruption and Organized Crime*”. The first institution that takes part in this group is the Special Prosecution against Corruption and Organized Crime (SPAK), which is guided under certain principles regulated on the aforementioned law such as the principles of legality, objectivity and impartiality (Article 13 of the law no.95/2016 dated 6.10.2016 “*On the Organization and Functioning of Institutions for Combating Corruption and Organized Crime*”). The main functions of SPAK are to carry out criminal prosecution and representing the accusation on behalf of the state before the Special Courts, take measures and supervises the execution of criminal decisions and perform other duties assigned by law (SPAK, N.D).

The second important institution is the National Investigation Bureau (BKH), the main functions of which are to conduct qualitative investigations in the field of criminal offenses against corruption and organized crime, under the leadership of the Prosecutors of SPAK, with the main aim of preventing, detecting and combating corruption and organized crime (SPAK, N.D). The Special Courts are the third important institutions that tries criminal offenses of corruption and organized crime, as well as criminal charges against officials here to mention: the President of the Republic, the President of the Assembly, the Prime Minister, members of the Council of Ministers, judges of the Constitutional Court and the High Court, the Attorney General, the High Inspector of Justice, the Mayor, a deputy, a deputy minister, a member of the High Judicial Council and the High Prosecutorial Council (Gjykata e Posacme e Shkalles se Pare per Korrupsionin dhe Krimin e Organizuar, N.D).

The last but not the least is the process for re-evaluation of judges and prosecutors, baptized as the Vetting process. According to Maxhuni and Cucchi (2017), the Vetting process has been a viable institutional mechanism, serving to transitional democracies with the purpose on assessing judges and prosecutors if they are suitable for public employment. This process in general concentrates on the areas of public sector that tend to be more vulnerable to violation of human rights here to mention: police, prison services, the army and the most important sector, the judiciary (Maxhuni and Cucchi, 2017). In the Republic of Albania, the Vetting process was regulated by the Constitution and the Law 84/2016 “*On the transitional re-evaluation of judges and prosecutors in the Republic of Albania*”, which materialized as well the opinions of the

Venice Commission, made during its drafting and approval phase. The re-evaluation process functioned based on two directions: first, it allowed the judicial system to be cleaned up from the corruptive contingent, and second, it staffed the system with professionals armored with integrity, creating so the basis for restoring public trust toward the justice system (Skendaj, Hajdini and Marku, 2022).

The procedure how the Vetting process was conducted was regulated under the abovementioned law. The objectives of the Law 84/2016 “*On the transitional re-evaluation of judges and prosecutors in the Republic of Albania*” were formalized in its article 2 that foresaw four important goals: first, to define the principles that guide the re-evaluation process for all judges and prosecutors, second, to establish the methodology, procedures and standards of re-evaluation, third to stipulate the organization and functioning of the re-evaluation institutions and fourth to clarify the role of the International Monitoring Operation (IMO), and other state bodies in the re-evaluation process. The entire re-evaluation process was carried out based on three criteria:

- a) Asset assessment;
- b) Background check;
- c) Professional skills assessment.

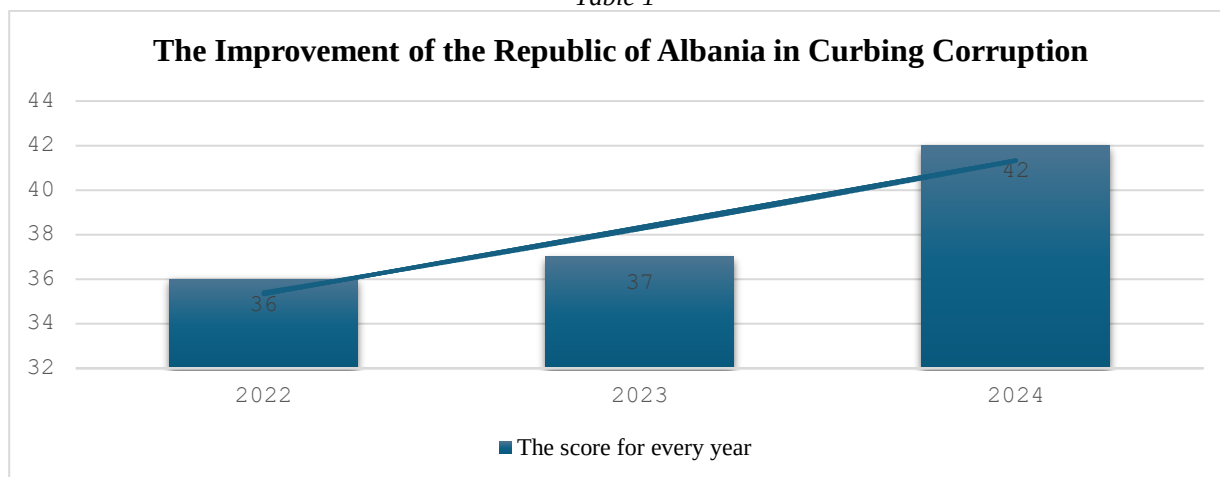
The institutions that decide on the final assessment of the subjects of re-evaluation are: The Independent Qualification Commission (KPK) and The Special Appellate Chamber (SAC). Such decision is based on one or several criteria (Article 4, the Law 84/2016 “*On the transitional re-evaluation of judges and prosecutors in the Republic of Albania*”).

After almost ten years, the re-evaluation process is coming to an end, with the Independent Qualification Commission (IQC) officially ending its nearly seven-year mandate in December 2024, with only eight hundred and five (805) magistrates having passed the Vetting scanner, out of which only two hundred and sixty-eight (268) that did not pass the process. As for the Special Appellate Chamber, we can say that it will continue its activity until June 2026, time when this institution's mandate ends. The Chamber will have to review nearly forty-two (42) appeals from magistrates who opposed the decisions of KPK (Albanian Times, 2024).

Methodology

The methodology used in this research paper is a quantitative research analysis combined with a legal doctrinal review of constitutional amendments. As a primary driver and an independent variable in this study, we consider the Justice Reform and its legislative framework, namely the adoption and implementation of the laws that established the new institutions of justice, which we mentioned altogether above. On the other side, as a respond to the efforts of the reform, we are concentrated in two areas that form the dependent variables and those are: the systemic integrity by taking into account the statistical data derived mostly from international institutions and the institutional efficiency that is measured by the performance of the new institutions of justice. When we speak about the systemic integrity, the first reliable source is Transparency International, a global movement formed under one vision: to conceptualize a world in which government, business, civil society and the daily lives of people are free of corruption. All the data collected by Transparency International is based on the UN practice. Comparing the previous reports of Transparency International from 2022 until 2024, we can conclude that the corruption rate has been decreased, where in 2022 the Republic of Albania had a score of 36, continuing with the score of 37 in 2023, and ending with the score of 42 in 2024, ranking the country as 80th in the global ranking scale when it comes to corruption perception index (Transparency International, 2024). In order to have a clear tabloid, let us have a look at the chart below.

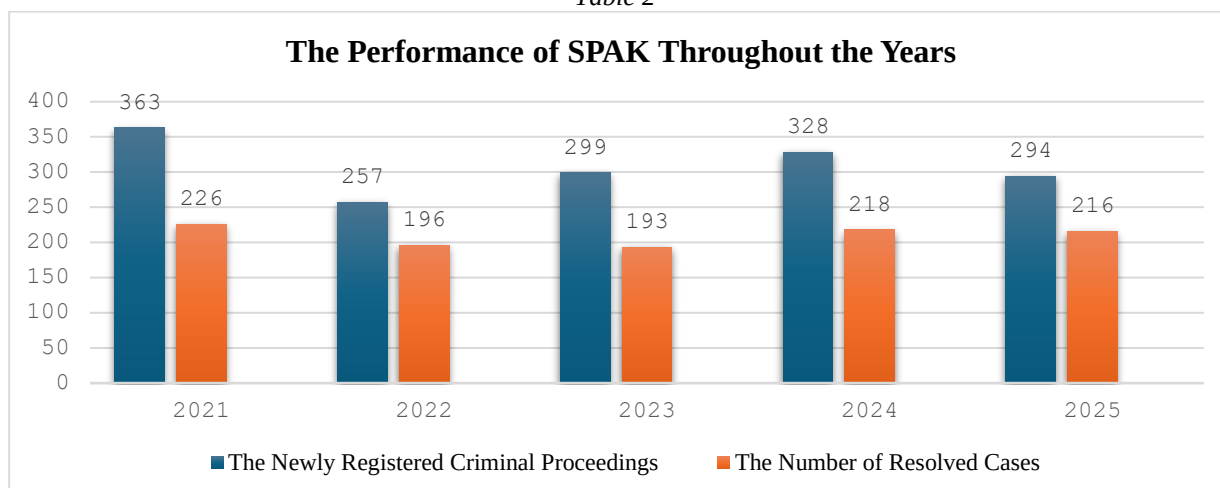
Table 1



Source: Transparency International, 2024

As we see the chart, we can state that the corruption rate has been slightly decreased, providing credits for the country in this matter since the adoption of the Justice Reform. As for the second variable that has to do with the institutional efficiency, the progress reports of the European Commission can be mainly referred as reliable resources. According to the current report of the Commission for 2025, the specialized organs against corruption and organized crime have further consolidated its positive results when it comes to the investigation, prosecution and convictions regarding the high-level corruption cases. Only for 2024, the Special Court for Corruption and Organized Crime (First Instance Court) convicted 93 persons in cases of corruption. The Special Prosecution against Corruption and Organized Crime (SPAK) has also conducted a very good performance, where according to the latest report of the Special Prosecution for 2025, the effectivity on the investigation remains stable and satisfactory (SPAK, 2025). The table below will show you a clear tabloid regarding the performance of SPAK throughout the years, taking into consideration the number of the registered criminal proceedings and the number of resolved cases.

Table 2



Sources: The Special Prosecution Against Corruption and Organized Crime (SPAK)

As we refer to the table, we can state that only for 2025 there are 294 registered criminal proceedings which is lesser comparing to the year of 2024 with only 328, and of course what is noted is the rapport between the registered criminal proceedings and the number of resolved

cases that is positively increased from 66.46% in 2024 to 73.13% in 2025 (SPAK, 2025). In addition, according to the EU Commission (2025), the accountability of the judiciary is overall satisfactory, due to the comprehensive transitional re-evaluation (vetting) of all judges and prosecutors.

Another body, the High Judicial Council (HJC), has also performed in a satisfactory manner, where we can encounter the adoption of by-laws that enhanced its procedures and standards applicable to the HJC members and judges in general. Also, the HJC has proceeded with the new appointments of magistrates, contributing in the reduction of vacancies at the first instance level of courts due to the Vetting process (European Western Balkans, 2025). Regarding the limitations, the study is limited only towards the activity of the newly established bodies of the justice system, as well as their overall impact in increasing the public trust. By paying attention on the legal and institutional framework, it surpasses the political rhetoric and evaluates the consolidation of the rule of law through the results that the new institutions have produced from the beginning of their establishment until now.

Conclusions

The justice reform is considered as the largest reform in these 30 years of democracy, which managed to design a completely new justice system with a direct impact on the rule of law. The first step was the drafting of a new legal basis for the governing bodies of the justice system, which made a fundamental change in the system. Therefore on 21st July 2016, the Ad Hoc Parliamentary Commission approved the final draft of the Law “*On some addenda and amendments to Law No. 8417, dated on 21.10.1998 “the Constitution of the Republic of Albania”*”, submitted it for review in the Parliament’s plenary session and with 140 votes in favor, the law was adopted which lead to major constitutional amendments and adoption of various legal acts. When it came to the governing bodies of the justice system, apart from the basic institutions of justice, a second group of institutions were adopted with the purpose of fighting corruption and organized crime. Their organization and activities are regulated under the Law No. 95/2016 dated 6.10.2016 “*On the Organization and Functioning of Institutions for Combating Corruption and Organized Crime*”.

As we already mentioned in the above sections, the justice reform was mainly prepared by the national and international legal experts and monitored by the most important actors that have contributed in strengthening the democracy in the Republic of Albania such as the European Union (EU) and the United States (US). Therefore, the Justice Reform can be perceived as a reform attentive toward independence and impartiality of the justice system in general and its officials in particular, here to mention the judges and prosecutors. To achieve this important goal, the establishment of a temporary legal process such as the Vetting was necessary, alongside with the other basic and anti-corruption institutions including the Special Prosecution against Corruption and Organized Crime (SPAK), National Investigation Bureau (BKH) and the Special Court Against Corruption and Organized Crime, that effectively transformed the principle of “*equality before the law*” from an objective of legislative nature to a predictable institutional reality, the results of which are obvious nowadays with a high number of prosecuted and adjudicated cases.

Ten years have passed since the adoption of the Justice reform, and with that we can state that despite challenges, it increased the efficiency in justice and lowered the corruption level, which is referred as well in the international reports. Even though the corruption rate was lowered, again the country faces challenges in regard of the delays of court decisions that came due to removal of a high number of judges. Despite that, we can conclude that the justice reform in the Republic of Albania was necessary and we are hopeful that one day we will have a justice system without dark spots, uncompromised by politics and with full of dignity and values that

this important power has in the country's progress towards its successful completion. We believe that the justice reform in the Republic of Albania is a good example for the other countries in the Western Balkans to follow. Of course, the challenges remain regarding institutional capacity and political interferences, but yet this reform will always be considered as one of the most important reforms of the century for the Republic of Albania.

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