

RULE OF LAW CONDITIONALITY AND ITS DISCONTENTS: ASSESSING EU LEGAL REFORMS IN THE WESTERN BALKANS

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Abstract

This paper takes another look at how well the European Union's rule of law conditionality works in the Western Balkans' path toward membership. Though once a key driver of change, its impact has faded - mainly because rules are applied unevenly, politics often override principles, and trust in the process is shrinking. Looking closely at Albania, North Macedonia, and Montenegro reveals a pattern: laws may now match EU standards, yet actual implementation, judicial independence, and responsibility mechanisms still lag behind. Even after updating the strategy with new priorities like "fundamentals first," deep imbalances between the EU and aspiring countries persist. One consequence is that legal reforms frequently emphasize procedure over real transformation. What follows is an argument: credibility returns only when clear conditions are tied to tangible progress toward membership, when democratic milestones matter more than signatures on paper.

Keywords: Rule of Law, enlargement, conditionality, Western Balkans, legal reforms.

1. Introduction

Progress into the European Union depends heavily on how well countries uphold fair and consistent laws. Starting from the early 2000s, the EU began shaping reforms in the Western Balkans by linking membership to specific requirements. Success in joining relies directly on meeting standards set by EU. Judicial freedom, responsibility within legal systems, and efforts against corruption form key parts of those expectations. Meeting these conditions is seen less as optional, more as essential groundwork for integration. Because without trusted institutions, deeper ties cannot take root.¹

Still, the impact of conditionality has faded over time. Once aimed at deep democratic reform, it now feels more like a bureaucratic checklist, focused on appearances rather than real transformation. Though countries like Albania, North Macedonia, and Montenegro have made notable strides aligning legislation with EU standards, how those rules work in practice is often undermined by political influence, inconsistency, and fragile institutions.²

This study suggests the EU's enforcement of legal standards now lacks trust, mainly because political interests shape evaluation rules. One reason lies in uneven power dynamics - Brussels holds more influence than aspiring members, yet fails to offer meaningful incentives when rules are followed. Evidence from four nations in the Western Balkans indicates updated accession strategies since 2020 did little to spark real change. Rather than building independent institutions, governments perform adjustments just enough to pass reviews. The so-called "fundamentals first" model unintentionally supports surface-level actions. What appears as

¹ Schimmelfennig, F., & Sedelmeier, U. (2005/2017). *The Europeanization of Central and Eastern Europe*. Cornell University Press.

² Kmezić, M. (2018). *EU Rule of Law Promotion: Judiciary Reform in the Western Balkans*. Routledge.

progress often dissolves under closer inspection. Genuine reform remains rare where external pressure fades. Procedures get copied without deeper commitment taking root.³

2. Theoretical Framework: Conditionality, Europeanization, and Credibility

Using rewards and penalties to push countries toward meeting European Union norms has shaped enlargement efforts for years. Back then, big gains seen when countries joined in 2004 and 2007 raised hopes it could work just as well in the Western Balkans. Membership prospects, funding support, or easier travel access - these things, if believable, can push local leaders to make tough changes. Yet, without real follow-through, progress stalls; consequences must be clear and steady. Research by Dimitrova (2018), along with Bieber (2019), demonstrates that effectiveness depends on the consistent application of rules.⁴ Without firmness, promises lose weight. Uncertainty around rewards - alongside delays or signs of political tampering - weakens local motivation for change. Crises within the union, like Brexit and setbacks to democracy in Hungary and Poland, have chipped away at its standing; so too has waning enthusiasm for enlargement across member states, feeding a widespread feeling that joining will always be postponed.

Putting core issues ahead of everything else, a concept brought into play with the updated 2020 enlargement strategy, aimed at rebuilding trust by placing chapters 23 and 24 - rule of law - at the heart of negotiations⁵. Progress in courts, tackling corruption, and allowing media freedom needed to be visible prior to moving forward elsewhere. Yet reality shows that conditions too frequently turn into administrative routines: oversight relies heavily on procedural forms and updates on milestones. Real effects - like whether judges act freely or how well laws are applied - are rarely weighed in response.

Scholars now often call this pattern “paper compliance” where laws match EU standards but lack real commitment or ability to enforce them.⁶ Because of this, changes driven by the EU may appear on the surface only, especially where unofficial influence dominates and courts serve narrow interests. While rules get rewritten, actual practice lags behind - revealing how deeply politics resists reform despite policy efforts labeled “fundamentals first.” Despite alignment on paper, governance in the Western Balkans remains shaped more by established power structures than new legal frameworks.

3. Methodology

This work uses a method that contrasts cases, zeroing in on Albania, North Macedonia, and Montenegro to spot recurring signs of superficial adherence within the area. Comparison among these states helps clarify if stalled reforms stem from unique national conditions rather than broader weaknesses tied to how the EU applies pressure. Looking at every instance, the method applies a layered approach meant to separate real changes in institutions from mere technical fixes.

Starting off differently each time, legal transposition reflects how closely national legislation matches EU standards. Alignment emerges when local rules mirror community-wide requirements. Matching these norms often signals progress toward broader integration goals. Conformity appears through careful review of statutes against established criteria. Differences fade as countries adjust their frameworks accordingly. Progress shows up clearly in revised policy texts. What matters most is consistency across systems.

³ Richter, S., & Wunsch, N. (2019). "Money, power, glory: the linkages between EU conditionality and state capture in the Western Balkans." *Journal of European Public Policy*

⁴ Dimitrova, A. (2018). *Learning the wrong lessons from success? Why European Union conditionality can make institutions, but cannot inspire citizens*. Leiden University.

⁵ European Commission (2020). "Enhancing the accession process - A credible EU perspective for the Western Balkans."

⁶ Dimitrova, A. L. (2018). *Learning the wrong lessons from success? Why European Union conditionality can make institutions, but cannot inspire citizens*. Leiden University. <https://scholarlypublications.universiteitleiden.nl/handle/1887/64209>

What happens after rules exist matters just as much as their creation. Effectiveness shows up not in documents, but through real-world outcomes. Independent bodies must operate without pressure from powerful interests. How consistently decisions align with legal standards reveals institutional strength. Practice often diverges from written statutes. Observing actions, rather than relying on texts, uncovers true compliance levels.

Perceived strength of EU influence depends on whether states see clear benefits tied to their adherence. When enlargement weariness appears, or when individual states block progress, internal drive often shifts. Rewards once expected now feel uncertain, altering political calculations. Motivation dips as promises lose immediacy. What seemed like guaranteed outcomes becomes harder to trust. Influence fades where results seem out of reach.

Though focused on recent developments, the research combines numerical findings with descriptive insights gathered between 2023 and 2024. Instead of relying on single metrics, it draws upon European Union monitoring publications to follow official milestones, alongside assessments issued by bodies like the Council of Europe and GRECO, offering views into court system reliability⁷. Evidence also emerges from concrete outcomes - conviction rates in prominent corruption cases, paired with measures of citizen confidence in institutions⁸. Because priorities shifted after 2020, analysts used the updated enlargement framework to examine if core principles truly corrected imbalances with aspiring members - or simply introduced more administrative steps under a different name.

4. Comparative Case Studies

Albania: Progress on Paper, Persistent Impunity

Front-runner status frequently given to Albania when discussing court system changes. Starting in 2016, its full review of judges and public prosecutors drew attention as a determined move against misconduct. Despite skepticism, more than fifty percent of legal officers underwent evaluation by 2024. Notable removals followed - each seen by many as proof of real progress. Still, outcomes varied across different levels of the justice structure.

Still, according to the European Commission's 2024 report, Albania's courts continue facing issues tied to political influence, with the High Judicial Council lacking real autonomy⁹. Though attempts exist, probing top-level graft hardly ever leads to results; securing a conviction happens almost never. Despite showing resolve, SPAK - Albania's anti-corruption body - operates under tight budgets while fending off pressures from powerful figures.

Still, efforts to align institutions with European norms have failed to win public faith. Time after time, opinion polls reveal shrinking belief in judicial systems, hinting that changes seen as foreign-driven feel disconnected from local realities. Because the EU focuses heavily on measurable outputs such as case volumes or new statutes, a pattern emerges - governments meet targets without altering deeper practices.

Albania shows how reform efforts can advance laws and systems, yet fail to bring accountability. Though changes appear on paper, real consequences still vanish into silence.

North Macedonia: Credibility Crisis and Reform Fatigue

Beyond the 2018 Prespa Agreement lies North Macedonia's shift into EU talks, after settling a decades-old naming dispute with Greece. Seen as an example of change nearby, it passed key rules against corruption - not stopping there - overhauled how judges are picked while expanding the role of parliament.

⁷ Freedom House, "Nations in Transit", available at: <https://freedomhouse.org/report/nations-transit>

⁸ Transparency International, "Corruption Perceptions Index (CPI)", available at: https://www.transparency.org/en/cpi/2025?gad_source=1&gad_campaignid=23552156524&gbraid=0AAAAADud0D-rLtMeGchXKWcy9KcBnRB0D&gclid=Cj0KCQjw-pHPBhCdARIsAHXYWP_465SgAExrPcK331YseeNIO1zN2iYe-V6IetNbOOvbm9VznOyT7OIaArDaEALw_wcB

⁹ European Commission (2024). "2024 Communication on EU Enlargement Policy."

Still, even with such steps taken, movement on joining the Union has slowed - tied up by unresolved tensions with Bulgaria alongside mixed signals from European leaders. That inconsistency has weakened trust in the EU's leverage: reforms may be passed into law, though sharp divisions within politics and weak follow-through remain unchanged.

Still, judicial bodies like the Judicial Council and the State Commission for Prevention of Corruption face risks from political interference. According to GRECO's 2023 assessment¹⁰, political figures continue shaping disciplinary actions involving judges. Notwithstanding legal frameworks, enforcement of anti-corruption measures lacks uniformity across regions. High-profile corruption trials frequently conclude without convictions - or stall indefinitely - undermining public trust. When judicial efficiency is undermined by long court delays and high backlogs, public confidence in the judicial process erodes. This makes citizens perceive the reforms as foreign-driven and disconnected from their local reality, ultimately weakening the transformative power of the EU integration process.¹¹

Despite acknowledging advances in lawmaking consistency, the 2024 European Commission document points to weak outcomes in court autonomy and tackling criminal networks¹². Praise from Brussels often contrasts sharply with local conditions, draining energy from ongoing changes. When promises of membership lack real incentives, disappointment grows - North Macedonia's path reveals how pressure alone fails to spark meaningful shift.

Montenegro: Advancing in Negotiations Without Closure

Starting in 2012, Montenegro began EU talks, moving ahead of other Western Balkans by tentatively wrapping up three additional negotiation areas¹³. Progress unfolded mainly where Chapter 23 - covering courts and basic rights - and Chapter 24 on justice, freedom, security were concerned, meeting many set conditions. Still, momentum has slowed down sharply in recent years.

Throughout 2022–2023, the Constitutional Court often lacked enough members to function, slowing legal processes across Europe. Though officials promise changes regularly, follow-through remains uneven. Despite declarations, political influence still shapes who joins the courts. Progress stalls where enforcement should take hold.

Fatigue shows up clearly in Montenegro - progress keeps coming, yet without any promise of membership, enthusiasm at home begins to fade. Although reforms continue on paper, those in charge recognize the European Union hesitates to grow, so they adjust: outward signs remain, but behind closed doors old habits hold firm.

5. Discussion: The Erosion of Transformative Power

Talk about how the EU's ability to drive change shows something clear: when rule of law evaluations get tangled in politics, the strength of conditional rewards fades. Because of one-on-one conflicts, uneven attention, and splits within the EU itself, countries hoping to join now see the path forward as shaky and shaped more by power moves than standards. Take North Macedonia - its talks were stalled over issues having nothing to do with legal improvements, sending a message across the Balkans that doing the technical work right still might not open doors. That feeling grows stronger given an odd imbalance: while the EU holds strong sway, its real effect shrinks because those seeking membership need it far more than it needs any

¹⁰ Fifth Evaluation Round Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies Second Compliance Report North Macedonia, 18 October 2023.

¹¹ Richter, S., & Wunsch, N. (2019). Money, power, glory: the linkages between EU conditionality and state capture in the Western Balkans. *Journal of European Public Policy*, 27(1), 41-62. <https://doi.org/10.1080/13501763.2019.1578815>

¹² European Commission (2024). "2024 Communication on EU Enlargement Policy."

¹³ European Commission (2012). "Enlargement Strategy and Main Challenges 2012-2013."

single newcomer. Over time, what was meant to be a tool for deep reform feels increasingly like filling out forms without purpose, losing the spirit of shared growth along the way. One major flaw stands out: real incentives for following rules simply do not exist. With full membership now seeming far off, leaders gain little by pushing tough changes at home. Instead, they imitate reform - making shifts that look good to EU officials but leave core power structures untouched. Over time, demands tied to judicial integrity lost their force, becoming less about change and more about appearances. In the Western Balkans, it shows clearly - when entry hopes fade, pressure alone fails to drive lasting transformation.

Conclusion

One sign stands clear: in Albania, North Macedonia, and Montenegro, the impact of the EU's rule of law demands is fading. Though laws now mirror EU standards through broad adoption of community rules, real application still lags far behind. Despite progress on paper, courts and agencies lack true autonomy. Instead of fixing root problems, attention stays fixed on paperwork checks and administrative oversight. This method ticks boxes yet misses deeper change. Democratic ideals do not take hold when reforms stop at appearances. Change may stall unless new direction emerges. Laws arrive - values often stay absent. For the Western Balkans to move toward lasting democracy, the EU should rethink how it sets conditions. Stability in the region depends less on rigid rules, instead thriving through adaptable engagement. Progress often follows where expectations are clear yet flexible. Real change tends to emerge not from pressure alone, but when support aligns with local realities. A revised approach might prioritize consistency over speed. What matters most shows up not in timelines, rather in sustained institutional growth. Trust builds slowly - through actions more than declarations. Future success likely rests on balance: firm principles paired with practical cooperation

Policy Recommendations

Starting fresh might work better if trust grows step by step. Meeting reform targets could open doors to certain EU initiatives, not everything at once. Progress might bring more financial support over time, tied directly to verified changes on the ground. Being allowed to observe meetings in European bodies may follow concrete steps forward. Gains like these show commitment pays off long before final approval arrives.

Applying legal norms uniformly helps maintain balance - treatment should match for current members just as it does for those seeking entry. When expectations shift depending on status, trust erodes. Fairness gains strength when procedures hold steady regardless of a country's position. Uneven enforcement quietly weakens credibility others expect from the union.

Shifting attention toward results rather than procedures could redefine oversight. Instead of relying on rigid compliance forms, the European Commission might adopt metrics tied to real impact. Measurable gains in court processing speed offer one example. Public confidence surveys provide another angle. Conviction rates for serious corruption cases add further clarity. These indicators emphasize function over form¹⁴. Progress becomes visible through outcomes like faster trials. Trust grows when people perceive fairness. Effectiveness shows in how often powerful figures face legal consequences. Monitoring evolves by tracking what actually changes.

¹⁴ World Justice Project, "Rule of Law Index", available at: https://worldjusticeproject.org/rule-of-law-index/global/2025?gad_source=1&gad_campaignid=23125098231&gbraid=0AAAAA-TYemsFx5ILeHhfX20IAOzSNJxT&gclid=Cj0KCQjw-pHPBhCdARIsAHXYWP_VI-VndKqY3p0MEpdzqfC7ICChZjq5QGtBnM1CL3vnBc2N-4uSbrcaAs3cEALw_wcB

Domestic strength grows when local voices lead. Instead of relying on state-to-state influence, the European Union should back grassroots groups - activists, scholars, lawyers - who root legal integrity into national systems. Power shifts occur not through external demands but by supporting internal champions. Real change emerges where communities shape their own governance standards. Lasting reform comes from inside, not imposed from above.

Pivoting away from politics lets progress move forward even when governments disagree; take North Macedonia, where reforms stalled not due to internal failure but external standoffs. Progress often halts not from lack of effort, yet entanglement in diplomatic quarrels beyond a states control. When one country ties aid to unresolved spats, those trying to improve systems lose momentum despite good faith work. Reforms need breathing room - shielded from tensions that have little to do with actual governance upgrades.

What really matters is whether the EU can spark real change, not just copy laws. To regain trust, the approach must move beyond checking boxes. A deeper involvement is needed - one that treats legal reforms as part of broader political struggles. This shift would influence how democracy evolves across the Western Balkans. The stakes are tied directly to how seriously politics is taken.

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