



## Fight Corruption the EU Membership Requirement: The Case of Albania

*Alesia Balliu*

European University of Tirana, Albania

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### Abstract

Corruption is one of the most crucial challenges which emerges as a solid opponent to the universal rule of the law. This paper examines the issue of combating corruption in Albania and its significance in the context of the country's pursuit of EU membership. Drawing upon the political and juridical history of Albania, the study highlights the close link between political culture and combating corruption in Southeast Europe. It underscores the challenges faced by Albania in combating corruption due to its difficult political past and the shortcomings in the development and enforcement of the law. The implementation of the Justice Reform in Albania is recognized as a significant step toward combating corruption, but the process has encountered obstacles and delays. The paper emphasizes the importance of respecting the deadlines set for the reform and ensuring the functioning of the judicial system to safeguard citizens' rights. Recommendations are provided, including the need for a safety net to prevent critical vacancies in the judiciary, restraining the right to resign during vetting procedures, and ensuring adequate logistical support and independence for new judicial institutions. The study concludes by emphasizing the ongoing fight against combating corruption as an essential requirement for Albania's EU membership and the need for sustained efforts to address the shortcomings identified in the process.

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**Keyword:** Corruption, juridical system, policies, justice reform

## **1. Introduction**

Corruption is one of the most crucial challenges which emerges as a solid opponent to the universal rule of the law (Shleifer & Vishny, 1993). This challenge has been and remains evident throughout the globe, but is even more pronounced in Southeast Europe, destroying the authority of the justice system and the flow of public funds from productive use to the financing of criminal activities and thus creating significant obstacles to the economic and individual development of the general population (Jain, 2001).

Thus, essential elements such as the reforming of the justice system and returning assets from persons who are involved in corruption are essential to the development of the country and have become essential in countries where corruption has reached the highest levels of the governing and justice system, thus protecting the rule of law, citizens' rights and the development of the legitimate economy, while preventing that of criminal activities (Glynn, Amukele, & Vian, 2021). On the other hand, one of the most critical factors that have influenced the identification of the major problems of the countries of Southeast Europe, including Albania, is precisely the conditionality that emerged concerning this problem in terms of EU membership. In the context of Albania's aspirations to join the European Union, EU membership and the issue of corruption are inextricably linked. The EU's anti-corruption conditionality has played a vital role in identifying the fundamental issues confronting nations in Southeast Europe, including Albania. Candidate nations must complete particular requirements and reach specified benchmarks in several areas, including the fight against corruption, as part of the EU admission process. The EU has made it plain that combating corruption is a basic prerequisite for nations seeking membership (European Commission [EC], 2021). The EU membership conditionality has led Albania and other nations in the area to take corruption more seriously and enact measures to combat it. Albanian officials have prioritized measures to promote openness, accountability, and the rule of law in response to the EU's expectations and norms. Albania has strengthened its legislative framework, established anti-corruption structures, and increased law enforcement capacity to combat corruption. It has also adopted efforts to strengthen financial management and the integrity of public institutions, as well as to encourage openness in public procurement. The EU's conditionality has acted as a spur for Albania's anti-corruption efforts, as it realizes that combating corruption is critical not just for the country's EU membership aspirations, but also for its entire growth and well-being. Albania hopes to improve government, attract international investment, and maintain a level playing field for businesses by efficiently combating corruption (Transparency International, 2021).

The EU enlargement process, exclusively focused on the Western Balkans, has reignited a long-lost battle against corruption that had been

normalized for years. Corruption has permeated not only politics and state institutions but also society, as the courts themselves, entangled in corruption, have operated according to political and criminal agendas (Agbota, n.d.). Considering the Copenhagen Criteria, which is the document for setting the criteria for the enlargement of the union, two specific chapters aim to specify a set of fundamental criteria for the candidate countries, such as justice, the implementation of fundamental rights, public safety, as well as the active fight against corruption and organized crime (Sanxhaktari, 2014). In essence, the EU's approach to the Western Balkans itself is closely linked to the Union's expectations of justice reform. Unfortunately, however, the pervasive presence of corruption, including within critical institutions like the justice system, and the inadequate response to address it have hindered the progress of Albania's EU accession for many years. This issue is particularly concerning since the EU places great emphasis on upholding the rule of law as one of its core values. From 2015-2016, official reports published by EU institutions, as well as other independent analyses, often paid attention to the high presence of corruption in Albania, especially when it came to the justice system, thus making Albanian courts vulnerable to corruption, bribery, political intimidation and interference by organized crime (Tema, 2023). Although these reports were, in fact, familiar to the Albanians themselves, it was the first time that a genuine political initiative to fight corruption emerged. This process, which is of particular importance, started precisely in 2016 when the majority of the Albanian Parliament voted to launch the justice reformation, and since then, the EU has invested 81 million euros in Albanian reforms (Zaimi, 2018).

Although justice reform is what we can call the common element among the countries of the region, in terms of EU candidacy, the case of Albania deserves special attention, taking into account all the great efforts and achievements that have been made in such a short time. In a region that has prolonged this essential process of the fight against corruption for many years, starting from the highest spheres where it has reached, it can be seen that in the 2020 EU candidacy progress report, Albania has finally achieved a small victory for itself and the whole region, regarding corruption fighting made possible by the implementation of the justice reform. However, it is important to analyze the progress of this process and the concrete results of the legal reform both in the legislation and in the justice system as a whole, which can only be observed through a comparative review of the legislation and its changes over the years. Overall, the paper aims to shed light on the interconnectedness of corruption, EU membership aspirations, and the justice reform process in Albania. It seeks to provide an analysis of the challenges, efforts, and achievements in fighting corruption and promoting the rule of law,

while also considering the broader context of the region's battle against corruption.

### **1.1. Method of the study**

The author employs a qualitative research approach to examine the political and legal landscape in Albania and establish the relationship between the measures taken to fight against corruption and the achieved results. This approach involves the collection and analysis of non-numerical data, such as textual information, interviews, observations, and case studies. By utilizing these qualitative methods, the researcher gains a deeper understanding of the political and legal dynamics in Albania and the implications of the justice reform process. Through a comparative analysis of different approaches, policies, and strategies employed in the fight against corruption, the author identifies patterns, trends, and best practices that contribute to successful anti-corruption efforts. This comparative method allows for an assessment of the strengths and weaknesses of various approaches and highlights contextual factors that influence the effectiveness of anti-corruption measures. By examining multiple cases or contexts, the researcher identifies commonalities and differences, providing insights into the complex dynamics involved in combating corruption. The research methodology is qualitative in nature, focusing on the analysis of qualitative data sources rather than relying on statistical evidence or quantitative data. This paper draws upon historical and contextual knowledge, along with observations and analysis of the justice reform process, to develop a comprehensive understanding of the subject matter.

## **2. Overview of the war against corruption in the Balkan region**

Corruption remains a pervasive issue worldwide, with certain regions, such as Southeastern Europe, being particularly affected (Kirya, 2020). This region, which includes countries with histories of communist and dictatorial regimes, has undergone reforms like privatization and decentralization. However, these changes have often resulted in increased corruption and a lack of accountability in the public sector. The fight against corruption in the Balkan region is crucial for the long-term development and stability of these countries. This overview will provide insights into the challenges faced and efforts made to combat corruption in the Balkans.

Corruption is widely perceived to exist within various state institutions, including the justice system, throughout the Balkan region. The prevalence of corruption is seen as a significant factor contributing to the current problems faced by these countries. Reporting corruption is complicated due to convoluted legal procedures and a lack of trust in the system (Noutcheva & Aydın-Düzgit, 2020). However, the media plays a

crucial role in raising awareness and informing citizens about corruption-related issues. The European Union (EU) has set integration with the Western Balkan countries as a priority, motivating significant political changes in the region. Ratification of the Council of Europe Civil Law and Criminal Law Conventions on Corruption has taken place, and national-level anti-corruption programs and action plans have been established (Shashkova, 2018). Legislation has been adopted to strengthen the prevention and criminalization of corruption. Nevertheless, the implementation of practical and effective anti-corruption policies remains a challenge.

Croatia serves as a benchmark for other countries in the region due to its progress in combating corruption. Despite being labeled as one of the most corrupt countries before EU accession, Croatia has achieved satisfactory results. The fight against corruption has been ongoing since Croatia's independence in 1991 and intensified after the post-war period (Grmuša, 2010). Croatia's ability to handle high-profile corruption cases, leading to the indictment and sentencing of state officials, has been a significant factor in its success (Kirya, 2020). Other Western Balkan countries aspiring to join the EU can learn from Croatia's experience. In Kosovo, high-profile corruption cases involving politically influential figures often remain unresolved, with opposition party members facing legal action while ruling party figures often enjoy immunity. Northern Macedonia and Serbia have taken steps to adopt laws on conflict of interest and public procurement aligned with EU standards. Bosnia and Herzegovina has also passed a Conflict of Interest law to curb corruption (Azarenkova, Buriachenko, & Zhyber, 2020). However, corruption levels remain high in these countries, and the response from institutions has been insufficient.

The fight against corruption in the Balkan region is crucial for sustainable development, social stability, and EU integration. While progress has been made in some countries, corruption continues to pose significant challenges. Efforts to combat corruption must focus on strengthening accountability, promoting transparency, and ensuring the impartiality of justice systems. Balkan countries need to learn from successful cases like Croatia while addressing the specific challenges they face. Only through a sustained and comprehensive approach can the war against corruption in the Balkan region be won.

### **3. A Legal Framework for Combating Corruption in Albania: A Historical Perspective**

Albania has had a very difficult and diverse political and legal history, starting from a dictatorial past where the justice system was politically dependent and the issue of corruption was unknown and strictly banned by the regime. Then, with the advent of democracy in the country, the problems

encountered in adaptation, the deep legal shortcomings, and the mentality of participating in wrongdoings with the sole excuse of newfound freedom, corruption turned into a tradition that would be deeply rooted in the culture of the country for decades (Smith, 2011).

The Constitution of Albania, which was adopted in 1998, has undergone several fundamental changes over the years. However, all these changes have not had the positive impact they were expected to have on the organization and functioning of the government and justice system (Rothstein & Teorell, 2008). It is therefore essential that the changes, specifically the constitutional ones, be practical, strategic, and sustainable, creating a coherent legal system that responds to the country's legal tradition, needs, level of development, and the need to enable the development of an economically and socially sustainable future. One of the main problems identified with the Constitution has been the absence of a guarantee for an independent and accountable judicial system (Korany, 2014). Consequently, in 2016, constitutional amendments were adopted to initiate a comprehensive reform to enhance the integrity, organization, governance, and oversight of the justice system.

Albania's judicial system is a civil legal system created relying heavily on French and Italian legislation. After all the above changes, the present Constitution itself was created with the help and guidance of the EU, thus aligning all legislation with the European legislation to comply with the European Convention on Human Rights (Graham, 2020) and the Charter of Fundamental Rights of the European Union (Dorssemont et al., 2019). Despite the great importance of justice reform, we must recognize that the prevention and fight against corruption is not an exclusive task of the system and the judiciary but also relies heavily on the design of adequate policies and the efficiency of state bodies and institutions (Cavatorto & La Spina, 2020).

The anti-corruption legislation is provided for in the Criminal Code of the Republic of Albania, based on some main articles such as 244 (Criminal Code of the Republic of Albania, Article 244) which defines the measures taken against active corruption of persons exercising public functions, an article amended twice respectively in 2004 and 2013. Subsequently, Article 245 (Criminal Code of the Republic of Albania, Article 245) which sets out the measures taken against the active corruption of senior state officials or local elected officials, was also amended in 2004 and 2013. Article 245/1 (Criminal Code of the Republic of Albania, Article 245/1) of the Criminal Code which defines the exercise of influence as illegal to persons exercising public or bribery functions, there have been changes in 2012 and 2013. However, we can say with full conviction that over the years this legislation has not been effective, not only due to its drafting itself, but mostly due to the lack of

implementation in a politically dependent justice system, but also on organized crime (Stevens, 2009).

In the framework of anti-corruption measures, the approach of Albanian legislation to international standards is one of the essential aspects. The increase in commitments at the international level has led to legal reform in the field of criminal legislation to crack down on corruption in all its forms. Of particular importance are the recent additions and changes to the Criminal Code. The wording for corruption is already based mainly on international legal acts. Provisions have been improved in terms of their content and detail, and sentencing measures have been tightened. The system of criminal sanctions has been adopted, which in addition to the sentence of deprivation of liberty, also provides for a fine. Also, to fight corruption, the circle of provisions has been expanded by the economic, political, and social reality, which criminalizes new forms of manifestation of corrupt practices.

Thus, new provisions are included in the Criminal Code related to the active and passive corruption of senior state officials or local elected officials, as well as the active and passive corruption of judges, prosecutors, and other officials of the judiciary. The inclusion of criminal liability for individuals who promise or ensure the exercise of illegal influence in the decision-making of public officials is a significant development in the fight against corruption. This provision holds accountable those who engage in activities that seek to exert undue influence on public officials, even if the actual bribe or advantage has not been given or received. Furthermore, the extension of criminal liability to legal persons, such as corporations or organizations, is another important aspect. This means that not only individuals but also legal entities can be held accountable for their involvement in corrupt practices. By imposing criminal liability on legal persons, the legal framework recognizes that corruption is not only an individual act but can also involve organized and systemic misconduct within organizations. The inclusion of these provisions in the Criminal Code demonstrates a positive step toward tackling corruption and promoting transparency and accountability. It recognizes the need to address both the supply and demand sides of corruption by targeting not only those who offer or receive bribes but also those who engage in promising or ensuring illegal influence.

### **3.1. Challenges and Prospects in Implementing Justice Reform and Combating Corruption in Albania**

In Albania, the criminal provisions related to corruption offenses can be found in the Criminal Code:

Active Corruption: Prohibits individuals from offering, giving, or promising any undue advantage to public officials or judicial officers in exchange for them abusing their official position or influence.

**Passive Corruption:** Prohibits public officials or judicial officers from soliciting, accepting, or receiving any undue advantage in exchange for performing or refraining from performing an official act.

**Bribery:** Criminalizes the act of offering, giving, receiving, or soliciting a bribe in connection with the duties of a public official or judicial officer.

A novelty in the Criminal Code is the provision of criminal liability not only for persons who give and receive bribes but also for that category that promises or ensures the exercise of illegal influence in the decision-making of public officials (Szakonyi, 2021). In terms of criminal liability, it extends not only to natural persons but also to legal persons (HOXHA, n.d.). So, from the point of view of a theoretical-legal analysis, the situation looks positive (Buçaj, 2017).

The justice reform is the most significant reform of the last decade and one of the most crucial transition reforms in Albania (Maliqi, 2016). Its object is not only the judiciary and the legal system but also indirectly the level of good governance and the standards of functioning democracy in the country. After the promulgation phase of the justice reform, the process of practical implementation of the reform remains a crucial challenge. Referring to the country's political and state traditions, the difference between well-written laws and their poor implementation in practice has been decisive for the low level of implementation. Nevertheless, there is a broad public consensus within the country that through the success of this reform, significant steps forward can be made toward the rule of law, a functioning democracy, and European integration. Consequently, public expectations are much higher than the actual developments towards it, public support continues to be much greater than the potential of the new system itself to justify it. There is a widespread perception in the public that political elites have created privileged legal positions for themselves, a double standard about ordinary citizens, and that the link between corrupt political elites and corrupt elites in the judiciary and the Prosecution, remains the main obstacle to the implementation of justice reform and the rule of law in Albania (Olken, 2009).

The whole product of the justice reform, that is, the new legislation and the new elections at different levels and bodies, actually passes through the parliament's vote, that is, through the political will. If this goodwill remains positive, the chances for reform and concrete results are relatively high; if it remains fragile, the chances are minimized, and the consequences of political conflict or consensus negotiations are many times greater in the institutions of justice than in the political system itself (Holmberg & Rothstein, 2011). The main political parties, including the three main parties in government and in opposition, have voted by consensus on the 2016 constitutional changes and some of the fundamental laws of the justice reform package. The political



agreement between the majority and the opposition in May 2017 included the consensus of the two parties for the voting of the vetting bodies and other processes of justice reform. However, both in the period after the 2016 constitutional changes and after the May 2017 consensus, the parliamentary majority and minority have returned to political conflict, and as a result, several legal acts related to the completion or implementation of justice reform have been voted on by the majority system, without political consensus.

In addition to the political consensus, the implementation of the justice reform also requires the sustainable implementation of the administrative and procedural elements of the reform. The process of re-evaluating judges and prosecutors has not yet been closed and has created differences in attitudes regarding evaluation deadlines and the responsibility of institutions. The process of budgeting and creating administrative structures for the new reform bodies, especially those of vetting, was accompanied by public debates and drastic cuts by the political decision-making body. Just as the delay in decision-making between June and October 2017 was avoidable, the new decision-making still leaves open debates and may have an impact on the expected effectiveness of the work of the new evaluation and vetting institutions. Political decision-making was a critical warning signal for the parallel agendas that politics and the judiciary have on the progress of justice reform. The phenomenon of attitudes with double public standards towards judges and prosecutors, especially from political actors, continues to be a concern and an obstacle. In Albania, there are procedural laws and mechanisms in place to address the prosecution and adjudication of corruption cases. The Albanian Criminal Procedure Code and related legislation provide guidelines and procedures for investigating, prosecuting, and adjudicating criminal offenses, including corruption offenses. However, it is important to acknowledge that the unique approach toward the crime of corruption in Albania can be influenced by political decision-making and the dynamics between politics and the judiciary. The phenomenon of attitudes with double public standards towards judges and prosecutors, particularly from political actors, has been a concern and an obstacle in ensuring fair and impartial prosecution and adjudication of corruption cases. Political interference or the perception of it can undermine the independence and integrity of the judiciary, leading to challenges in effectively prosecuting and adjudicating corruption offenses. It is crucial to address these concerns and maintain a system that upholds the rule of law, ensures the independence of the judiciary, and prevents any undue political influence in the prosecution and adjudication processes. Efforts to combat corruption and enhance the integrity of the justice system in Albania should focus on strengthening the independence of the judiciary, ensuring the impartiality of judges and prosecutors, and safeguarding them from political interference. This can be achieved through

legal reforms, transparent appointment and promotion processes, training programs, and effective mechanisms for disciplinary measures in cases of misconduct (Code of Criminal Procedure of the Republic of Albania, 2017). Another influential element is the parallel continuation of the reform process, and periodic appeals addressed to the Constitutional Court by interest groups or factors with political support Law no.8577, dated 10 February of 2000. Appealing to the Constitutional Court is a constitutional process and right, but treating justice reform as a procedural law is not necessary for political and institutional actors in their commitment to justice reform. The solution is not to call for a halt to complaints but to expand the consultative base at the decision-making stage and increase public transparency at each stage of the process.

### **3.2. Implementing legal reforms as part of anti-corruption efforts is a prerequisite for achieving EU membership.**

The reformation process, first launched in October 2014, went through three main phases, acknowledging *analysis*, *strategy*, and *drafting*. It was finalized by the Constitutional amendments and the core laws that were voted on by the majority of the parliament in 2016. It was one of the first times in modern Albanian politics that the government and the opposition worked together and reached a consensus (Yumpu.com, n.d.).

The reform aims to establish accountability, combat corruption, enhance access to justice, ensure the separation of powers and the independence of the judiciary, promote professionalism, and improve efficiency. To reach these ambitious goals, it emphasizes the role of the following key institutions:

**Constitutional Court:** This court has jurisdiction over cases involving constitutional law issues. It serves as the final authority in interpreting the Constitution and resolving disputes related to constitutional matters.

**High Court:** As a court of cassation, the High Court handles appeals in various legal areas, except for constitutional and administrative law. It plays a crucial role in ensuring the consistency and correctness of lower court decisions.

**Prosecutor General:** The Prosecutor General represents the government in criminal cases against individuals who have violated the law. They initiate and oversee criminal prosecutions, working to uphold justice and hold offenders accountable.

**High Judicial and High Prosecutorial Councils:** These self-governing bodies are responsible for the appointment, transfer, evaluation, and dismissal of judges and prosecutors. They play a vital role in ensuring the independence, integrity, and professionalism of the judiciary and prosecution system.

**Special Anti-Corruption Structures:** These specialized organs focus on combating organized crime and corruption. They include the Special Prosecution Office, the National Bureau of Investigation, and the anti-corruption and organized crime courts. These structures are dedicated to investigating and prosecuting cases related to corruption and organized crime.

**Justice Appointments Council:** This council aims to depoliticize and reduce discretionary powers in the appointment process. It assists appointing bodies by pre-screening candidates and creating ranking lists based on legal criteria for appointments. The goal is to ensure a fair and transparent selection process for judges and prosecutors.

**School of Magistrates:** This institution is responsible for the recruitment, initial training, and ongoing education of law graduates who aspire to become magistrates, state advocates, legal assistants, legal advisors, and chancellors. It plays a critical role in shaping the knowledge and skills of future legal professionals.

The reform modified the functioning of each key institution to ensure the independence and integrity of its members. One of the essential procedures introduced by the reform was the one on the re-evaluation of judges and prosecutors (Yumpu.com, n.d.), known as the vetting law. The purpose of this procedure, as stated in Article 4 of the law, is to evaluate high judiciary officials based on three main criteria: asset, background, and proficiency assessment.

Another significant change worth mentioning is the appointment of high officials. Before the reform, the election of high officials of the judiciary power and that of the general prosecutor was highly politicized. The reform changed that by enabling independent institutions, such as the High Judicial and Prosecutorial Councils and the Justice Appointments Councils, to take charge of appointments. The Albanian laws related to the mentioned reforms, as well as the official report (Hahn, 2014) from the EU-funded project on consolidating the justice system in Albania, suggest that they have addressed and resolved all the problematic aspects of the judiciary. These efforts aim to provide suitable solutions to the issues that were previously present.

It is important to acknowledge that the situation in Albania regarding the fight against corruption is not as ideal as portrayed in the previous description. Several factors need to be considered to provide a more realistic perspective. These factors help to contextualize the challenges and complexities involved in combating corruption. Albanian judges, lawyers, academics, and even high-ranking politicians claim in their official statements that the reform has been yet another failure because it paralyzed the country's highest courts; while punishing some forms of abuse of power, it opened the door for others to enter the system (Mazelliu & Mitllari, 2022). On the other hand, the European Commission states in its 2020 Country report on Albania

that "good progress was made through continued implementation of the justice reform and that Albania has some level of preparation on the functioning of the judiciary." (Hahn, 2014). Careful navigation through the dispositions of the reform and the consequences it had on the ground will help bring some nuance to an issue that is often presented as binary (Howard, 2019).

The outcome of the vetting procedure in Albania's judiciary has been a subject of criticism and concern. The vetting process, aimed at ensuring the integrity and competence of judges, resulted in numerous vacancies across various levels of the judiciary. This situation had a significant impact on the functioning of the country's highest courts and tribunals, causing considerable delays and paralysis in their operations (Koleka, 2020). For instance, out of the nine judges of the Constitutional Court, only one judge passed the vetting evaluation. As a result, the Constitutional Court was left without a fully functioning composition for more than two years. The Constitutional Court plays a crucial role in safeguarding the constitutionality of government actions and protecting citizens' constitutionally guaranteed rights. However, due to the lack of a complete and operational Constitutional Court, Albanian citizens faced difficulties in challenging the constitutionality of government acts that potentially violated their rights. This issue became particularly evident in cases like the demolition of the National Theatre, which generated significant public controversy. The absence of a fully functional Constitutional Court limited citizens' ability to oppose such actions on the grounds of constitutionality and seek legal remedies for potential violations of their rights (Koleka, 2020). Critics, including judges, lawyers, academics, and high-ranking politicians, have raised concerns about the reform's effectiveness, arguing that it has not achieved its intended goals. They assert that while the reform aimed to address some forms of abuse of power, it inadvertently created new challenges and opportunities for abuse within the judicial system. These criticisms highlight the need for a comprehensive evaluation of the reform process and its impact on the functionality and effectiveness of Albania's judiciary. Addressing the concerns raised by various stakeholders is crucial for building a judiciary that upholds the rule of law, ensures the protection of citizens' rights, and maintains public trust in the justice system. The constitutionality of the governmental decision that ordered the demolition of the National Theatre has been contested, but since the Court could not render a decision due to the vacancies, the government went forward with its decision unopposed. On the other hand, the manifestations that followed the demolition were oppressed by the police. Several activists were arrested and detained, and some of them claimed to have been victims of disproportionate violence by the forces of order. Victims of these reprisals claimed that their freedom of speech had been severely violated, but they had no effective recourse since the Constitutional Court was not functional at the time. This is

a clear example of how the non-existence of the Constitutional Court enabled arbitrary governance due to the absence of functional checks and balances (Mills, 2019).

The situation slightly changed in the first half of 2020, when three new members were appointed to the Constitutional Court, giving it the necessary quorum to decide on the admissibility of the cases. The appointments are ongoing since the Court still does not meet the necessary quorum to examine questions in plenary sessions.

Out of 17 judges, only four remained in office in the High Court as a result of the vetting procedures and several resignations. Since it did not meet the quorum to adjudicate on cases, the High Court did not work from June 2018 up until March 2020. Consequently, back in 2018, it had a backlog of 23,900 cases (Xhepa, 2018) that were waiting to be examined. Nevertheless, on 11 March 2020, three members were appointed for a 9-year non-renewable term at the High Court, giving it the necessary quorum to adjudicate on cases (unece.org, n.d.).

Most of the judges and prosecutors who underwent the vetting evaluation were dismissed based on the criteria of unjustified assets (unece.org, n.d.). The Constitution of the Republic of Albania and the vetting law clearly state that the three criteria need to be examined for a final decision to be rendered. The vetting bodies have considered in several cases that when the assessed cannot justify their assets, that alone would suffice for dismissal, and therefore, they did not examine the two remaining criteria of proficiency and background. This choice can be justified by the wish to move forward more rapidly since there have already been numerous delays regarding the reform, but it does have an impact on the overall transparency, clarity, and thoroughness of the proceedings. It would help raise the public's trust in the judiciary if the vetting bodies were to issue a complete evaluation of each subject based on the three criteria set out by the law. Again, the goal is not just cleansing the system but doing so according to the European standards of transparency and rigor.

As previously mentioned, the European Union has played a vital role in drafting, financing, and implementing the judiciary reform. To better understand the role that the European Union played in judiciary reform, it would be interesting to closely examine the International Monitoring Operation (IMO), a project led by the European Commission, which was created to monitor and oversee the vetting process. This operation has no executive power, but it can nonetheless play an essential role by filing findings and opinions on numerous issues relating to the re-evaluation process. Moreover, the IMO contributes to the background assessment and has the power to recommend the Public Commissioners to lead appeals against the first-instance vetting body (IQC) decisions. To illustrate the real power this

operation exercises, the IMO has issued 12 recommendations for appeal, and all 12 were followed by the vetting institutions.

Back in 2014, the European Council granted Albania the status of a candidate country for EU Membership. At the time, many were those who thought that a successful judiciary reform was the final stone to lay to finalize the accession process. How do the recent findings on the outcome of the reform affect Albania's accession to the European Union? Four years after the adoption of the reform of the judiciary, the European Union opened accession negotiations with Albania in March 2020. In an official statement, the President of the European Commission considered that "North Macedonia and Albania did what was asked of them, and they have continued making progress in the reform needed." (European Commission, n.d.). While recognizing the importance of this step in Albania's European Path, it would be hazardous to conclude, based on a general political statement only, that the judiciary reform has been successful.

Facing this analysis and with the data obtained from the corruption measurement index year after year, it is seen that only after 2016 the high numbers of corruption cases made public increase (Transparency International [TI], 2022). This does not mean that the level and cases of corruption increased during this period, but that the reforming of the justice system, the fight against corruption at the highest levels, and the legislation are in line with that of the EU.

## **4. Conclusions and recommendations**

### **4.1. Conclusion**

The fight against corruption in Albania and the wider Southeast European region is of great importance due to the strong link between political culture and corruption. Albania, like other countries in the Western Balkans, has faced historical challenges that have deeply influenced the development of its legal system and the prevalence of corruption.

The Justice Reform in Albania has been a significant step towards addressing corruption, bringing about substantial changes in various aspects of the justice system. It has also resulted in the removal of corrupt public officials and improved public perception.

However, the reform's implementation has faced challenges, including issues with deploying responsible bodies and a lack of consistent efforts from the executive and legislative branches.

In conclusion, sustained and committed efforts from all branches of government are necessary to overcome these challenges and ensure the successful implementation of anti-corruption measures, leading to lasting change.

#### 4.2. Recommendations

Based on the analysis, the following recommendations are provided to address the shortcomings in Justice Reform in Albania:

- Ensure timely implementation: Respect reform deadlines to prevent critical vacancies in the Supreme Court and safeguard citizens' right to a fair trial. Consider establishing a safety net or contingency plan to address potential vacancies during the reform process.
- Restrict the right to resign: Enforce legal limitations on judges' and prosecutors' ability to resign before or during the vetting procedure. This will discourage the misuse of resignation and promote accountability within the system.
- Regulate logistical aspects: Explicitly regulate the budget, working spaces, and staff allocation for newly established institutions under the reform. This should reflect the desired independence of these institutions and protect them from external political interference, resulting in improved quality and transparency of proceedings.

By implementing these recommendations, Justice Reform in Albania can overcome its shortcomings, ensuring effective and efficient progress in combating corruption and strengthening the rule of law.

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