

Judicial Independence in Albania: From Formal Reform to Structural Change under the EU's 'Fundamentals First'

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Executive Summary

- > Albania has undertaken one of the most ambitious judicial reforms in the Western Balkans, driven by the EU's 'Fundamentals First' approach, achieving substantial progress in formal institutional alignment.
- > Despite this progress, judicial independence remains constrained in practice, due to slow evaluation and appointment procedures, continued political pressure, and weak governance performance.
- > While the Special Structure against Corruption and Organized Crime (SPAK) has delivered results in high-level corruption cases, its limited size and scope mean that it has not structurally strengthened the broader prosecution system, which continues to face capacity and coordination challenges.
- > Judicial efficiency also remains a systemic weakness, with persistent backlog, staffing shortages, and an inefficient judicial map undermining access to justice and public trust.
- > Ensuring sustainable reform requires a shift from formal compliance to implementation and outcomes, with Albania strengthening institutional capacity and the EU adopting measurable and performance-based conditionality.

progress in all policy areas is now conditional upon credible advances in judicial independence, anti-corruption, and democratic governance.

Within this framework, judicial independence is no longer treated as a formal, box-ticking requirement, but as a structural condition underpinning the entire accession process. This shift reflects a broader recognition within the EU that legal reforms alone are insufficient if they do not translate into independent, efficient, and accountable judicial systems in practice. The challenge, therefore, is not only whether candidate countries adopt the required institutional frameworks, but whether these frameworks function effectively and withstand political pressure over time.

Albania represents a particularly significant test case for this approach. Following the landmark 2016 justice reform, the country embarked on one of the most ambitious judicial transformation processes in the Western Balkans, including comprehensive constitutional amendments, the creation of new judicial governance bodies, and an unprecedented vetting process for judges and prosecutors. By 2025, Albania had opened all six negotiating clusters, positioning itself among the most advanced candidates in the accession process.

Yet, this rapid formal progress raises a fundamental question: has the EU's 'Fundamentals First' approach produced genuine structural change in judicial independence, or has it primarily resulted in formal compliance with EU requirements? Despite extensive reforms, persistent concerns remain regarding the efficiency of judicial governance, the consistency of evaluation and appointment procedures, the resilience of institutions to political influence, and the overall functioning of the justice system.

This policy brief argues that while Albania has achieved substantial progress in building the formal architecture of judicial independence, the transformation remains incomplete at the level of implementation. A gap persists between institutional design and practical performance,

The credibility of the European Union's (EU) enlargement policy increasingly hinges on its ability to deliver meaningful and irreversible reforms regarding the rule of law. In response to past enlargement fatigue and concerns over backsliding in member states, the EU has recalibrated its approach through the revised enlargement methodology, placing the rule of law at the centre of accession negotiations. Under the 'Fundamentals First' principle,

reflecting broader limitations in both domestic reform capacity and the EU's current approach to conditionality.

To address this issue, the brief proceeds in three steps. First, it examines the main achievements and remaining weaknesses of Albania's judicial reform, focusing on governance, efficiency, and anti-corruption enforcement. Second, it analyses the extent to which these developments reflect the strengths and limitations of the EU's 'Fundamentals First' methodology. Finally, it proposes targeted policy recommendations for both Albania and the European Union, aimed at shifting the focus from formal compliance to measurable and sustainable outcomes.

Judicial Vetting, Institutional Capacity, and Access to Justice after Albania's 2016 Reform

This section first explains why Albania's 2016 justice reform was introduced, then analyses the vetting process as both an integrity-building mechanism and a source of institutional disruption, and finally examines its consequences for staffing, court efficiency, case backlogs, and access to justice. This order is important because the pre-reform legitimacy crisis explains the need for an exceptional intervention; the results of vetting explain the loss of judicial capacity; and the resulting delays and access problems form the evidentiary basis for the policy recommendations that follow.

The 2016 justice reform marked a turning point in Albania's institutional development, representing one of the most far-reaching attempts at judicial transformation in the Western Balkans. Through a comprehensive package of constitutional amendments and implementing legislation, the reform sought to address entrenched problems of corruption, political interference, and lack of public trust. Prior to the judicial reform, the public trust in the Albanian judiciary was notably low, at just 4% (ConstitutionNet/International IDEA 2016). Central to this effort was the establishment of new governance structures, including the High Judicial Council (HJC) and the High Prosecutorial Council (HPC), alongside the introduction of an unprecedented vetting process for judges and prosecutors.

The vetting process addressed a real legitimacy crisis in Albania's judiciary by screening judges and prosecutors for assets, integrity, professional competence and possible links to organised crime. Its main success was exposing how deeply corruption and weak accountability had penetrated the system: around 56% (462 out of 802 vetted magistrates) were dismissed, resigned, or otherwise left office, confirming that public distrust in the judiciary had been well-founded (U4 Anti-Corruption Resource Centre 2025). At the same time, the process created a severe staffing crisis because judges were removed faster than new magistrates could be trained and appointed. Albania was left with roughly 9.8 judges per

100,000 inhabitants, about half the European average, and several courts operated far below required capacity (European Commission 2025). This shortage paralysed key institutions. Albania's Constitutional Court and Supreme Court were left without effective quorums for nearly two years, while some appellate courts were reduced to only a fraction of their required judges; for example, Tirana's Appeal Court operated with just 6 judges instead of 31 for a certain period (European Commission 2023). To cope with the shortage, Albania reorganised and consolidated its court system through a new judicial map, reducing the number of courts. While intended as a management response, this increased the burden on citizens and raised concerns about access to justice. A second major consequence was a dramatic growth in case backlogs. The Supreme Court of Albania accumulated well over 35,000 pending files, and appellate courts also faced tens of thousands of unresolved cases (Euronews Albania 2020).

The overall lesson is that the vetting process succeeded in cleansing and re-legitimising parts of the judiciary, but it was not matched by adequate replacement capacity or transition planning. As a result, Albania gained integrity but lost short-term functionality, producing long delays, overburdened courts, and possible human-rights liabilities tied to the right to a hearing within a reasonable time.

Institutional Transformation and the Limits of Formal Compliance

At the formal level, Albania has made substantial progress in aligning its judicial framework with European standards. The creation of judicial self-governance bodies has reduced direct political control over appointments and disciplinary procedures, while the vetting process has significantly increased accountability by removing a considerable number of magistrates who failed to meet integrity and professional standards.

The European Commission has consistently recognised these developments as key achievements, noting that the vetting process has strengthened judicial accountability and contributed to restoring public confidence in the justice system. In this sense, Albania demonstrates the effectiveness of EU conditionality in driving institutional change. However, these achievements also reveal an important limitation: formal compliance does not automatically translate into effective institutional performance. Albania's reform decoupled *accountability* from *capacity*, proving that a judiciary can be perfectly compliant with external standards on paper while being operationally paralyzed in practice.

Formal compliance demanded the immediate exclusion of any magistrate failing the stringent vetting criteria. However, institutional functioning requires a critical mass of personnel

to legally operate. Because compliance was prioritized blindly, the Constitutional Court was stripped down to just two active judges, and the Supreme Court was completely emptied of its members. The institutions became ‘clean’ but entirely dysfunctional, leaving the country without a high-level judiciary capable of resolving constitutional gridlocks for nearly two years. The compliance framework assumed a frictionless replacement pipeline. Institutional functioning collapsed because the exit rate vastly outpaced the entry rate. This mismatch proves that compliance mechanisms can hollow out state capacity faster than training institutions can supply qualified, vetted replacements. In addition, from a compliance standpoint, the vetting successfully signalled a zero-tolerance policy for corruption. From a functional standpoint, it systematically violated the citizens’ right to a fair trial within a reasonable time (Article 6 of ECHR). With depleted benches, average civil case resolution times plummeted from 250 days to over 1200 days (Urías 2025). This operational failure has triggered explicit warnings from the European Court of Human Rights (ECtHR) regarding systemic delays, turning a reform meant to uphold human rights into a mechanism actively delaying them.

To fix the collapse in the judiciary while maintaining the *formal* standards of the vetting, Albania implemented a centralized new Judicial Map, shutting down 20 regional and appellate courts to pool the remaining ‘compliant’ judges together into a few centralized hubs. This move highlights the ultimate failure of prioritizing formal compliance over operational reality: to keep the centralized system functioning on paper, the country was forced to externalize the physical, financial, and logistical costs of the reform onto its own citizens, who now face severe geographic barriers just to physically reach a courtroom. Albania’s experience serves as a warning for rule of law interventions in other countries: “By treating the vetting process as a standard administrative checklist, the reform ignored the fundamental nature of the mechanism” (Urías 2025). As the Venice Commission highlighted, a sweeping re-evaluation is a *sui generis* instrument born out of ‘extraordinary measures’ meant exclusively to combat an existential, very-high level of institutional corruption. It was never designed to run as a parallel, permanent operational structure. Yet, by treating it as a permanent benchmark, the country allowed an exceptional purification tool to break the regular functioning of the court.

Appointments, Evaluations, and Institutional Performance

A central challenge in Albania’s judicial reform lies in the functioning of governance mechanisms, particularly in the areas of appointments, evaluations, and career management. Although the High Judicial Council and the High Prosecutorial Council were created to safeguard independence and merit-

based decision-making, their performance has remained uneven.

The European Commission (2025) has repeatedly identified inefficiencies in appointment, promotion, and evaluation procedures. Delays in performance assessments and in filling vacancies have weakened the operation of merit-based systems, generating uncertainty and reducing institutional predictability. At the same time, inconsistencies in evaluation standards and reporting practices have raised concerns about transparency and accountability. These weaknesses are not merely technical. They have direct consequences for judicial independence, as slow and opaque procedures create opportunities for informal influence and undermine the system’s credibility. In this sense, independence is not only based on formal guarantees but also on how institutions function in practice. Moreover, the absence of uniform integrity standards, particularly for non-magistrate members of judicial councils, creates further vulnerabilities and risks undermining the reform’s core objective of building a transparent, accountable system free from undue influence. Some of the Commission’s (European Commission 2025) recommendations are:

- Introduce fixed statutory deadlines for appointments, promotions, and performance evaluations, with narrowly defined exceptions and written justification for any delay.
- Require the HJC and HPC to use clear, published criteria for selection, promotion, and evaluation, including objective indicators of professional competence, ethics, efficiency, and case management.
- Establish standardised evaluation templates and reporting methodology to ensure consistency across comparable cases and reduce discretionary variation.
- Publish regular public progress reports on vacancies, pending evaluations, completed appointments, average processing times, and reasons for delays.
- Create a digital case-tracking and vacancy-monitoring system so that the status of procedures can be followed internally and, where appropriate, publicly.
- Require reasoned written decisions in appointments and evaluations, explaining how each candidate or magistrate met or failed to meet the applicable criteria.
- Strengthen transparency safeguards by publishing shortlists, procedural timelines, and final outcomes, while protecting sensitive personal data.

- Introduce uniform integrity and conflict-of-interest standards for all council members, including non-magistrate members, with disclosure obligations.
- Provide for independent review or appeal mechanisms where evaluation or appointment decisions are challenged on procedural or substantive grounds.
- Link institutional accountability to performance by requiring the councils to submit annual reports to parliament and the public on whether legal deadlines and reform benchmarks have been met.

Judicial Efficiency and System Capacity

Judicial efficiency remains one of the most visible indicators of the gap between formal reform and practical outcomes. Despite progress in institutional restructuring, the Albanian judiciary continues to face significant challenges related to case backlog, delays in proceedings, and uneven performance across courts. The European Commission (2025) has identified backlog reduction and efficiency as key priorities, noting that delays persist particularly at higher court levels.

These shortcomings should be addressed through a clearer sequence of institutional measures. First, staffing shortages must be reduced by accelerating recruitment, filling long-standing vacancies, and strengthening administrative support for judges, including legal assistants and court clerks. Second, digitalisation should be completed through fully operational electronic case-management systems, e-filing, interoperable databases, and digital tools that allow more effective monitoring of case progress. Third, these technological reforms should be accompanied by stronger case-management practices, including prioritisation rules for older cases, standard timeframes for procedural steps, and regular publication of court-level performance indicators on clearance rates, disposition times, and backlog reduction. Furthermore, the judicial map reform should be designed not only to improve administrative efficiency, but also to enhance access to justice in practical terms. This means that any reorganisation of courts should take into account geographic distance, transport barriers, cost for court users, and the needs of vulnerable groups, while also considering complementary solutions such as circuit hearings, remote access tools, and decentralised service points. Without these safeguards, territorial consolidation risks reducing rather than improving effective access to justice.

All these challenges highlight a critical point: judicial independence cannot be assessed in isolation from judicial performance. A system that is formally independent but unable to deliver timely and effective justice risks losing public trust and legitimacy.

Anti-Corruption Enforcement and the Role of SPAK

The establishment of the Special Anti-Corruption Structure (SPAK) represents one of the most significant achievements of Albania's reform process. SPAK has developed a growing track record in investigating high-level corruption cases, including those involving senior political figures. This has contributed to strengthening the credibility of the justice system and demonstrating that accountability mechanisms can function in practice when institutions are equipped with a clear mandate, specialised expertise, and stronger safeguards against interference. At the same time, SPAK's success should not be treated as evidence of system-wide judicial resilience. Its effectiveness is rooted precisely in its exceptional character: it is a specialised body with a narrow jurisdiction, concentrated resources, and a protected institutional design.

For this reason, anti-corruption success within SPAK does not yet amount to broader institutional resilience. A resilient justice system must be able to detect, investigate, prosecute, adjudicate, and enforce accountability consistently across the ordinary system, not only within one specialised enclave. This requires functioning coordination between police, prosecutors, courts, and supervisory bodies; predictable case referrals; sufficient staffing and administrative support; and procedures capable of producing timely and reliable outcomes in both high-profile and routine cases. Where these conditions are weak, the success of a specialised institution remains isolated rather than systemic. In Albania, this is precisely the concern. While SPAK can deliver results within its limited mandate, the wider prosecution and judicial system continues to face problems of capacity, coordination, and uneven performance. The consequence is a dual-speed model of justice in which one protected institution performs relatively well, while ordinary structures remain less able to translate anti-corruption commitments into day-to-day practice. This imbalance matters because judicial resilience is tested not by exceptional performance in a small number of strategically important cases, but by the ability of the system as a whole to uphold legality, accountability, and public trust on a regular and sustainable basis. The long-term challenge, therefore, is not only to preserve SPAK's effectiveness, but to diffuse its standards of professionalism, independence, and operational discipline throughout the broader justice sector.

Political Pressure and the Resilience of Judicial Institutions

Despite the introduction of formal safeguards, political pressure on the judiciary remains a persistent concern. Public statements by political actors, attempts to influence judicial decisions, and broader political dynamics continue to affect the functioning of judicial institutions, particularly in sensitive cases. At the same time, there are signs of increasing institutional resilience. Judicial bodies have become more

vocal in defending their independence, and there is a growing awareness of the importance of maintaining autonomy from political influence. However, this resilience remains fragile and uneven. The persistence of political pressure underscores the importance of informal norms and institutional culture in shaping judicial independence. Formal rules alone are insufficient if they are not supported by a broader commitment to the separation of powers and respect for judicial autonomy.

Albania in the Context of EU Conditionality

Albania's reform trajectory reflects both the strengths and limitations of the EU's 'Fundamentals First' approach. On the one hand, EU conditionality has been highly effective in driving legislative and institutional reforms. The rapid opening of all negotiating clusters by 2025 demonstrates the political momentum generated by this approach. On the other hand, the Albanian case highlights the risk of equating formal progress with substantive transformation. Current EU benchmarks still place greater emphasis on the adoption of laws and the establishment of institutions than on their actual functioning in practice. This creates a gap between measured progress and real progress.

To make conditionality more credible and operational, the EU should complement formal benchmarks with a limited set of outcome indicators that capture whether institutions are delivering results. These indicators should remain manageable in number, but sufficiently specific to measure institutional performance over time. For example, the EU could require year-on-year backlog reduction targets of at least 10-15% at higher court levels; vacancy rates in courts and prosecution offices to fall below 10%; judicial appointments to be completed within six months from the opening of a vacancy; and overdue performance evaluations to be reduced to zero, or at minimum completed within twelve months of their scheduled date. Additional indicators could include quarterly publication of case-processing data, annual improvement in disposition times, and measurable enforcement outcomes in corruption and organised crime cases, such as the share of indictments resulting in final judgments or confiscation orders. Such indicators should be monitored against clear baselines and reviewed over several reporting cycles, rather than treated as one-off benchmarks.

A more outcome-oriented approach would allow EU conditionality to focus not only on whether institutions exist, but on whether they function effectively, predictably, and in a way that improves access to justice and public trust.

Synthesis: from Formal Reform to Structural Change

Taken together, the evidence suggests that Albania has succeeded in constructing the formal architecture of judicial

independence but has not yet fully converted that architecture into structural change. Persistent weaknesses in governance, uneven institutional performance, capacity shortages, and continuing vulnerability to political and informal influence all indicate that reforms remain incomplete. The central challenge is therefore no longer the adoption of new institutions as such, but the transition from formal compliance to effective implementation.

The next phase of reform should focus less on institutional design in the abstract and more on whether institutions function in a predictable, accountable, and sustainable manner in practice. This means prioritising the everyday conditions that make judicial independence meaningful: timely appointments, credible evaluations, reduced backlog, adequate staffing, effective coordination, transparent reporting, and equal standards of integrity across the system. In this sense, the success of Albania's judicial reform will not be measured only by the institutions it has created, but by whether those institutions can consistently deliver independent, efficient, and trustworthy justice over time. The real test of the next phase is therefore functionality, accountability, and sustainability, not institutional design alone.

Policy Implications and Recommendations

Albania's judicial reform has reached a decisive second phase. The first phase was primarily concerned with institutional design: constitutional change, the creation of new governance bodies, and the vetting of judges and prosecutors. That phase was necessary and, in many respects, transformative. However, the evidence examined in this brief shows that formal institutional redesign has not by itself produced a fully functional, resilient, and trusted justice system. The core policy implication is therefore clear: the next phase of reform must focus less on creating additional structures and more on improving the performance, accountability, and sustainability of the institutions that already exist.

This requires a shift from formal compliance to operational delivery. Judicial independence in Albania will ultimately be judged not only by the existence of constitutional safeguards or specialised institutions, but by whether courts and prosecution offices are able to function predictably, transparently, and efficiently in everyday practice. That means reducing backlog, filling vacancies, accelerating appointments and evaluations, improving coordination across the justice chain, and ensuring that anti-corruption enforcement is not confined to one specialised body alone. In parallel, the EU should recalibrate its conditionality framework so that progress is assessed not only through legislative alignment, but also through a small set of measurable performance outcomes.

Priority Recommendations for Albania

- **Restore system capacity through targeted recruitment.** Albania should substantially increase intake at the School of Magistrates and align recruitment planning with projected system needs. The current admission of 17 candidates for 2026-2027 (10 for judges' profile and 7 for the profile of prosecutor) is not sufficient to address the structural staffing deficit created by the vetting process. A multi-year recruitment plan should be adopted to reduce vacancies, rebuild court capacity, and prevent further delays in proceedings.
- **Make appointments and evaluations rules-based and time-bound.** The High Judicial Council and the High Prosecutorial Council should operate under fixed deadlines for appointments, promotions, and evaluations, with written justification required for any delay. Procedures should rely on standardised criteria, reasoned decisions, and public reporting on pending vacancies, completed evaluations, and average processing times.
- **Reduce backlog through sequencing, not isolated measures.** Backlog reduction should follow a coherent order of action: first, increase staffing and administrative support; second, complete digitalisation of case-management systems and e-filing; third, strengthen case-management rules through prioritisation of older cases, standard procedural timelines, and regular court-level performance reporting.
- **Reform the judicial map with access to justice as a primary criterion.** Any further territorial reorganisation of courts should be based not only on administrative efficiency, but also on workload, geographic accessibility, transport barriers, and user cost. Measures such as circuit hearings, remote access tools, and decentralised service points should accompany judicial map reform in order to prevent efficiency gains from coming at the expense of access to justice.
- **Broaden anti-corruption resilience beyond SPAK.** SPAK's performance should be treated as a benchmark, not as a substitute for system-wide reform. Albania should strengthen ordinary prosecution offices, improve referral mechanisms, enhance coordination between prosecutors, police, and courts, and expand administrative and investigative capacity across the wider system so that anti-corruption enforcement becomes regular rather than exceptional.

Recommendations for the European Union

- **Move from formal benchmarks to performance-based conditionality.** The EU should complement institutional and legislative benchmarks with a limited set of outcome indicators that measure how the justice system performs in practice. These should include annual backlog reduction, case duration, staffing and vacancy rates, timeliness of appointments, completion of overdue evaluations, and enforcement outcomes in corruption cases.
- **Use small, concrete indicators rather than broad abstract benchmarks.** A more operational approach could include targets such as 10-15% annual backlog reduction at higher court levels, vacancy rates below 10%, appointments completed within six months, and performance evaluations completed within twelve months of their scheduled date. These indicators should be monitored against clear baselines over multiple reporting cycles.
- **Reward functionality, not only formal alignment.** EU reporting and negotiation assessments should give greater weight to whether institutions operate effectively, predictably, and transparently. This would strengthen the credibility of the "Fundamentals First" approach and reduce the risk that candidate states prioritise visible institutional design over sustainable implementation.

Conclusion

Albania has already shown that far-reaching judicial reform is politically possible. The more difficult task now is to ensure that reform becomes durable in practice. The next stage should therefore be defined not by the creation of additional bodies, but by the consolidation of functionality, accountability, and sustainability across the justice system as a whole. If Albania succeeds in making this transition, it will offer a stronger model of rule of law reform for the Western Balkans. If it does not, the reform risks remaining institutionally ambitious but operationally incomplete.

Further Reading

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