



INTERNATIONAL INSTITUTE FOR PRIVATE
COMMERCIAL AND COMPETITION LAW
(IIPCL - AUSTRIA)

Research Article

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Interference of the executive power in the judiciary in Albania

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DOI: <https://doi.org/10.2478/ajbals-2025-0023>

Abstract

This paper provides a comprehensive analysis of the interference of the executive power in the functioning of the judiciary in the Republic of Albania. It examines not only concrete instances of such interference—including those exerted through the media—but also their broader impact on the rule of law and the constitutional principle of separation of powers.

The study draws upon an in-depth examination of key decisions of the Constitutional Court and the Supreme Court of Albania, which have established essential standards for safeguarding judicial independence. Particular attention is devoted to the jurisprudence of the European Court of Human Rights (ECHR), whose case law has significantly shaped the modern understanding of judicial independence and the accountability of judges and prosecutors.

Through the analysis of specific cases, the paper identifies the most common forms of executive interference, including political pressure, influence over appointments, transfers, and dismissals of magistrates, as well as the repercussions these actions have on public perceptions of judicial independence, the effective functioning of judicial institutions, and overall trust in the justice system.

In conclusion, the paper proposes concrete measures to strengthen judicial independence, such as improving the legal framework, enhancing transparency in appointment processes and judicial self-governance, and reinforcing the institutional culture of separation of powers. In doing so, the study contributes to the academic and institutional discourse on maintaining the balance of powers in a democratic state and aligning the Albanian justice system with European standards of independence and impartiality.

Keywords: Executive power, judiciary, legal analysis, Albania.

1. Introduction

The separation and balance of powers constitutes one of the fundamental pillars of the constitutional order in the Republic of Albania. This principle is expressly enshrined in Article 7 of the Constitution, which states that “*the system of governance in the Republic of Albania is based on the separation and balance of the legislative, executive, and judicial powers.*” The purpose of this constitutional provision is to guarantee the independent

functioning of each branch of government and to prevent the concentration of state authority in a single institution or actor. Such separation serves as a cornerstone of the rule of law and as a vital safeguard for the protection of fundamental rights and freedoms.

In practice, however, the interference of the executive power in the work of the judiciary has been a persistent and well-documented phenomenon. These concerns have been repeatedly noted in the European Commission's progress reports on Albania's justice reform,¹ as well as in the opinions of the Venice Commission.² Interference has manifested in several forms, including political influence over the appointment and promotion of judges and prosecutors, intervention through executive administrative structures, and the exertion of indirect pressure in cases of significant public or political interest.

2. The Constitution and the principle of separation and Balance of Powers

Article 7 of the Constitution sanctions that *"The system of governance in the Republic of Albania is based on the separation and balance between legislative, executive and judicial powers"*. This article, although only one sentence, contains one of the fundamental principles of the rule of law, the separation and balance of powers, which aims to prevent the concentration of competences in a single hand and to guarantee mutual control between institutions. The principle of separation of powers derives from the classical doctrine of Montesquieu (1748), where it is emphasized that: *"Political freedom cannot exist if judicial power is not separated from legislative and executive power."* In the modern sense, this principle does not require absolute separation, but rather balance and mutual control (checks and balances), ensuring that no power exceeds constitutional limits. Despite its brevity, Article 7 has a normative and organizational role.³ It establishes the institutional framework of the state, delineating the functional competences of each branch of power, while at the same time guaranteeing their functional autonomy. Furthermore, it provides the legal foundation for constitutional review by the Constitutional Court. In its decisions, the Constitutional Court of Albania

¹ The 2024 Rule of Law Report highlights those concerns persist regarding attempts at interference and undue pressure on the judicial system by public officials and political actors. The report also identifies deficiencies in the appointment procedures for non-magistrate members of the High Judicial Council (HJC) and the High Prosecutorial Council (HPC), noting that the filling of vacant positions within these institutions continues to pose a significant challenge.

² The European Commission notes that the appointment procedure for judges to the Constitutional Court has been significantly hindered by the high number of vacancies, resulting in periods during which the Court was either dysfunctional or unable to adjudicate on key constitutional matters. The report further criticizes the lack of institutional dialogue between the President of the Republic and the Parliament, a factor that has led to delays and procedural deadlocks in the appointment process. Such situations, where institutional cooperation is replaced by political confrontation, are assessed as a form of political interference, as they prevent independent institutions from functioning effectively and according to their constitutional mandates. The Commission also expresses concern regarding the imposition of excessively short deadlines for the submission of documentation by candidates during the vetting process. These restrictive timelines risk penalizing judges or candidates who require additional time to obtain necessary documents from abroad, thereby creating artificial barriers to participation and potentially undermining the fairness and inclusiveness of the process.

³ Constitutional Court of the Republic of Albania, decision no. 46, dated 27.07.2015.

has interpreted Article 7 as “a general clause of constitutional control”, ensuring respect for the functional autonomy of each power.

In decision no. 46, dated 27.07.2015, the Constitutional Court emphasized that: “The separation of powers is not an end in itself, but a mechanism that guarantees the exercise of power in a democratic manner, avoiding any form of abuse by state organs.”

2.1 The Legal Dimension of Article 7: Functional Separation, Institutional Independence and Mutual Control

From a legal standpoint, Article 7 of the Constitution requires compliance with three interrelated dimensions of the separation of powers:

- Functional separation — Each branch of power exercises its core constitutional function: the Parliament performs the legislative function; the Council of Ministers carries out the executive function; and the Courts and the Prosecution Service exercises judicial functions.
- Institutional independence — Each branch operates through autonomous institutions, endowed with their own internal organization and procedures, ensuring that decision-making remains free from interference by the other powers.
- Mutual control (checks and balances) — The branches exercise reciprocal oversight to prevent the domination of one over the others. Examples include parliamentary oversight of the executive, constitutional review of legislation, and judicial control over administrative acts) (Dworkin, 1986).

In the Albanian system, the balance between powers has often been tested due to the influence of the executive on the processes of appointment of judges and prosecutors, the use of budget instruments as a means of influence, as well as political or media pressure. The Constitutional Court, in decision no. 29, dated 06.07.2017, emphasized that: “The separation and balance of powers is a prerequisite for the existence of the rule of law and cannot be compromised by the need for administrative efficiency of the executive.”⁴

The Albanian Constitution does not treat the separation of powers as rigid separation, but as cooperative relationship. Powers intertwine in some fields, but this must occur within the framework of competences clearly defined by law and under the control of the Constitutional Court. Article 7 of the Constitution is a provision with fundamental and not merely declarative value. It functions as a substantive norm that guides the entire Albanian institutional system and serves as a basis for the control of constitutionality of acts that violate the independence of one power. In light of recent developments, the genuine respect for Article 7 of the Constitution depends on the existence of effective control mechanisms, institutional transparency, and the political accountability of the government to refrain from exerting undue influence on the judiciary. These elements are essential to uphold the principle of separation of powers, which remains a cornerstone for democratic stability and Albania’s European integration process.

Furthermore, Article 145, paragraph 1 of the Constitution explicitly stipulates that “Judges are independent and subject only to the Constitution and the law,” thereby guaranteeing judicial independence and prohibiting any form of unlawful interference.

⁴ Constitutional Court of the Republic of Albania, decision no. 29, dated 06.07.2017.

Complementing this, Article 147 establishes the High Judicial Council (HJC) as an independent constitutional body responsible for ensuring the independence, accountability, and proper functioning of the judicial system. A parallel role is conferred upon the High Prosecutorial Council (HPC) by Article 149 of the Constitution. In this constitutional framework, Law No. 96/2016, "On the Status of Judges and Prosecutors," and Law No. 115/2016, "On the Governing Bodies of the Justice System," introduce specific mechanisms designed to limit political interference and strengthen judicial self-governance, thereby reinforcing the autonomy of the justice system.

Inappropriate interferences from the executive power violate not only the constitutional principle of separation of powers, but also the fundamental right of the individual to due process of law, guaranteed by Article 42 of the Constitution of the Republic of Albania and Article 6 of the European Convention on Human Rights (ECHR). In the jurisprudence of the European Court of Human Rights, particularly in cases such as *Campbell and Fell v. United Kingdom* and *Findlay v. United Kingdom*, it has been emphasized that the independence and impartiality of the court constitute necessary conditions for a fair trial and for maintaining public confidence in the administration of justice. In this context, maintaining the independence of the judicial power is not only an internal constitutional obligation, but also an international obligation of the Albanian state within the framework of obligations arising from membership in the Council of Europe and from the process of integration into the European Union, where the rule of law and separation of powers constitute fundamental criteria for membership.

However, interferences do not always occur directly, they can occur:

- Through executive-controlled legislation, where laws directly affecting judicial procedures are adopted without meaningful institutional consultation or impact assessment;
- Through public statements by high-ranking executive officials that seek to exert pressure or influence on ongoing judicial proceedings or judicial discretion;
- Through non-implementation or delayed enforcement of final judicial decisions by executive authorities, undermining the authority and effectiveness of the judiciary.

The executive power has several legal functions related to administration and supervision of the judiciary, but they must not violate functional independence and legal decision-making of judges. The law and the Constitutional Court define three main areas of lawful interference: administrative, budgetary and political.

With regard to administrative control, the executive branch may undertake administrative actions related to the operation and functioning of the courts, but it cannot interfere with or decide upon judicial matters. Legal and institutional examples of such administrative control are found in Law No. 96/2016, which stipulates that the Ministry of Justice is responsible for managing the infrastructure, administrative personnel, and equipment of the courts. At the same time, the High Judicial Council (HJC) holds exclusive competence over the internal organization of the courts and the assignment and appointment of judges, while the Ministry provides operational and logistical support. Nevertheless, this cooperation between the executive and the judiciary is subject to strict constitutional and legal boundaries, which must not be

violated, such as:

- The executive cannot issue orders or instructions to judges regarding specific judicial cases or decisions;
- The executive may not interfere in processes of selection, promotion, or disciplinary action against judges, except in cases expressly provided by law — for instance, in matters referred by the High Inspector of Justice in accordance with disciplinary procedures.

Administrative control is legitimate insofar as it serves to guarantee the technical and operational functioning of the courts. However, any attempt to use administrative oversight as a means to influence judicial decisions or appointments constitutes a violation of the Constitution and undermines the principle of judicial independence.

With respect to budgetary control, the executive branch is responsible for the preparation and administration of the judiciary's budget,⁵ but this competence must never be used as a tool of pressure or retaliation against judges or judicial institutions. The executive cannot reduce or withhold funds with the intent to punish individual judges or specific courts, nor may it condition financial allocations in a way that could affect judicial decision-making. Although the budget is a legitimate instrument of executive governance, any interference based on political motives or financial coercion is unlawful under the jurisprudence of the Constitutional Court and contrary to the standards of the Venice Commission.⁶

Regarding political control, it is recognized that the executive may play a political and policymaking role in shaping the overall framework of the judiciary, particularly through its relations with the legislature — for example, by proposing laws aimed at reforming the organization or procedures of the courts. Nevertheless, such involvement must not extend to individual judicial cases or decisions. Political pressure on judges or public statements intended to influence judicial proceedings are strictly prohibited. Moreover, public communication by political actors must not be used as a means of intimidation or as an attempt to undermine judicial authority.

Political control has the most sensitive limits, because any abusive use can turn into a serious threat to judicial independence and is often subject to review by the Constitutional Court and ECHR⁷. Interferences that exceed these boundaries constitute a violation of the independence of the judiciary and of the principle of separation and balance of powers.

3. Forms and Mechanisms of Executive Interference in the Judiciary

The executive power performs several legally recognized functions related to the administration and supervision of the judiciary. However, these functions must never undermine the functional independence of the courts or interfere with the judicial

⁵ Budget Law and Law no. 96/2016: Ministry of Finance and Ministry of Justice determine funds for courts and staff salaries. HJC proposes financial needs and monitors use of funds.

⁶ Venice Commission, CDL-AD (2016)009, Opinion on justice reform in Albania.

⁷ ECHR, *Baka v. Hungary*, 2016; *Kövesi v. Romania*, 2020.

decision-making of judges. Both the law and the Constitutional Court have identified three main areas in which executive involvement is considered lawful: administrative, budgetary, and political control.

Within the framework of administrative control, the executive may perform administrative actions related to the functioning of courts but not decide on judicial decisions. Legal and institutional examples of this control provide Law no. 96/2016, where it is stipulated that the Ministry of Justice is responsible for managing the infrastructure, administrative staff and equipment of courts. At the same time, the High Judicial Council (HJC) exercises exclusive competence over the internal organization of the courts, including the appointment, transfer, and evaluation of judges, while the Ministry provides operational and logistical support to ensure the system's functionality. However, there are some legal limits which must not be violated including:

- The executive cannot order judges on concrete judicial decisions;
- It cannot interfere in processes of selection, promotion or discipline, except in cases specified by law (e.g., reports of the High Inspector of Justice for disciplinary measures);

Administrative control is lawful to guarantee the technical functioning of courts, but any attempt to use this control to influence decisions or appointments will be a constitutional violation.

Regarding budgetary control, the executive prepares and administers the judiciary's budget, but this must not be a means of pressure on judges' decisions or actions.⁸ It cannot reduce the fund with the purpose of punishing judges or particular courts, and financing cannot be conditioned to influence judicial decisions. The budget is a necessary instrument of the executive for the functioning of the state, but interferences with political motives or financial pressure are unlawful, according to the Constitutional Court and standards of the Venice Commission.⁹

Regarding political control, it is evident that the executive may have a political role in the functioning of the judiciary, as part of mutual relations with the legislature, but cannot influence legal decisions (e.g., the Prime Minister and the Ministry of Justice may propose laws that reform the structure or judicial procedures). In this control, political pressure on individual judicial decisions is not allowed. Also, public communication cannot be used to threaten judges or to influence judicial proceedings. Political interferences must be lawful, transparent and within the competences defined by law and the Constitution.

Political control has the most sensitive limits, because any abusive use can turn into a serious threat to judicial independence and is often subject to review by the Constitutional Court and ECHR.¹⁰ Interferences that go beyond these limits are considered violation of judicial independence and violation of the principle of balance of powers. An effective mechanism of control and transparency is necessary to preserve the integrity of the judiciary in a democratic state.

⁸ Budget Law and Law no. 96/2016: Ministry of Finance and Ministry of Justice determine funds for courts and staff salaries. HJC proposes financial needs and monitors use of funds.

⁹ Venice Commission, CDL-AD (2016)009, Opinion on justice reform in Albania.

¹⁰ ECHR, *Baka v. Hungary*, 2016; *Kövesi v. Romania*, 2020.

3.1. Interferences through Appointments and Dismissals of Judges

The justice reform in Albania (laws no. 84/2016, no. 96/2016, no. 115/2016) aimed to guarantee judicial independence and to limit political influence on appointments and dismissals of judges. After the reform, the High Judicial Council (HJC) has a central role in judicial self-governance, while the President and the Council of Ministers have roles legally defined, which must be within constitutional limits.

a) Appointments of judges

- HJC selects candidates for judges at all levels of courts, after a legally regulated procedure, taking into account merit, integrity and professional experience (Law no. 84/2016, 96/2016).
- The President of the Republic decrees the appointments of judges after proposals from the HJC. This decree is not merely formal; it has a limited controlling role, but cannot block without reason a legally selected candidate.
- The Council of Ministers/Prime Minister has no direct role in the appointment of judges, but can indirectly influence through legislative proposals or political statements.

b) Dismissals or Disciplinary Measures

- HJC and HIJ have exclusive competence to review disciplinary measures against judges and to propose dismissals.
- The President and the executive have no right to dismiss judges; any attempt to force the HJC to dismiss judges for political motives is a violation of the Constitution and the principle of judicial independence.

The Constitutional Court in decision no. 46/2015 emphasized: *“Delay in decreeing judges by the President, without legal reason, violates the normal functioning of the judiciary and breaches the principle of separation of powers.”* This decision, although early in time, established the standard that any unjustified delay is considered unlawful interference by the executive.

Meanwhile, refusals to decree candidates selected by the HJC must be legally reasoned (lack of constitutionality, integrity problems, or documentation deficiencies). Decision no. 1/2025 of the Constitutional Court underlines that *any refusal based on political or arbitrary motive is unlawful and violates judicial independence.*

Recently, an increased political influence on the judiciary has been observed. Public statements by the executive, often regarding certain candidates or certain judicial decisions, can create direct or perceived pressure on judges. The Constitutional Court in its decisions has emphasized that political influence is unacceptable and any such interference violates the principle of separation and balance of powers (Article 7 of the Constitution).

The role of HJC/HPC is decisive to protect judicial independence and to avoid interferences by the executive. Meanwhile, the President has a controlling role, but his limits are clear: he cannot refuse candidates without legal or constitutional basis. The Council of Ministers / executive has no direct role in appointments/dismissals, but can indirectly influence through:

- legislative proposals;
- public communication and political statements;
- budget administration (which can create financial pressure).

The Constitutional Court decisions no. 46/2015 and no. 1/2025 cited above emphasize that delays, arbitrary refusals and political influences are violations of the principle of judicial independence and violate the separation and balance of powers.

The justice reform has created a legal and institutional framework to limit interferences by the executive. Appointments and dismissals are part of the regular functioning of the judiciary, but any delay, refusal or political influence that violates the law is unlawful and unacceptable. The Constitutional Court has a supervisory and corrective role, guaranteeing that the executive respects procedures and judicial independence.

3.2. Interferences through Budget and Comments of the European Commission on Lack of Funds or Budgetary Delays

The executive power has legal responsibility for administration and financing of the judiciary, but these competences must be exercised within the limits of law and must not violate functional independence and decision-making of judges. In practice, interferences through budget delays or administrative control can affect the effectiveness of the judiciary and the perception of its independence. Reports of the European Commission on the progress of justice reform have emphasized several continuing problems related to lack of funds. The European Commission report (EC Progress Report 2022) points out that some courts and prosecution offices function with insufficient funds, which affects the efficiency and capacity of the judiciary. Also, delays have been evident in budget disbursement by the executive, which has brought:

- delays in salaries of judges and staff;
- delays in infrastructural and technological investments;
- obstacles in the normal functioning of courts and meeting legal deadlines.

The European Commission has emphasized that budget delays or limitations must not be exploited as a political tool to exercise pressure on judges or judicial decisions. The report has recommended improvement of budget planning, transparency and financial autonomy of the judiciary.¹¹

Therefore, as we have emphasized above, budgetary and administrative interferences are a natural part of state functioning, but abuse of these instruments violates judicial independence and can be considered a constitutional violation. The justice reform has aimed to limit these influences by giving HJC competence for budget planning and control, while the executive performs the supporting role. Budgetary delays and lack of funds are considered by the European Commission as a continuing problem, which requires solutions to preserve the integrity and effective functioning of the judiciary.

3.3. Interferences through Inspective and Disciplinary Competences

After the justice reform, the High Inspector of Justice (HIJ) was created to monitor the integrity, professionalism and ethical conduct of judges and prosecutors. HIJ is

¹¹ European Commission, *Albania 2022 Report -- Progress on Justice Reform*, Brussels, 2022.

an independent institution, but in practice, there have been cases where the executive has attempted to influence inspective activity, using it as an instrument of pressure on the judiciary. Based on the legislation in force, HIJ has the right to conduct periodic inspections of judges and prosecutors; Disciplinary investigations on violations of ethics and professional principles; Reports to HJC/HPC for taking disciplinary measures, including the proposal for dismissal. But despite these legal rights, HIJ cannot act in a manner that influences individual legal decisions and serves as an instrument of political or executive pressure on judges. Also, it cannot exceed the competences given to it by Law no. 115/2016, which essentially also defines the lawful limits of HIJ. However, the executive can indirectly influence HIJ's activity through political or public statements that suggest pressure on disciplinary investigations; Legislative proposals that change HIJ's competences, and budget control that can affect HIJ's operational capacity. In some cases, HIJ has been used as an instrument of pressure on judges, by initiating unreasonable disciplinary procedures or by delaying investigations for political reasons.¹² These cases show that, although HIJ has the authority to initiate disciplinary investigations against judges, HJC has the role of final decision-maker. In some cases, HIJ's requests have been refused by HJC, assessing that the violations did not justify the proposed disciplinary measures. This situation raises questions about the balance of executive power and judicial independence, considering that HIJ is an independent institution, but its actions can be influenced by external pressures. Another case which has raised concerns about the possibility of using HIJ as an instrument of political pressure against magistrates is the case of a prosecutor at the General Prosecutor's Office who became the subject of criticism from the country's Prime Minister for not initiating criminal proceedings against a suspected building without permit. The Prime Minister accused her of disregarding the law and connections with individuals "protected from the arm of the law." In his response, the former Minister of Justice requested the initiation of a disciplinary investigation against the prosecutor in question, characterizing her decision-making as a violation of the principles of legality and as a dangerous precedent for tolerating illegality. However, the High Inspectorate of Justice (HIJ) after reviewing the complaint of the former Minister of Justice decided not to initiate a disciplinary investigation against the prosecutor. In this case, HIJ emphasized that it had not found legal or factual elements that would create a reasonable suspicion for initiating disciplinary proceedings. According to HIJ, the prosecutor's decision was based on one of the cases provided in Article 290

¹² In 2025, the High Inspectorate of Justice (HIJ) initiated 12 disciplinary investigations against 13 subjects, including judges, prosecutors and a Council member. Of these, 11 magistrates were sent for disciplinary proceedings, while for two others the investigation was closed. In 7 cases, HIJ requested the disciplinary measure "Dismissal from office", while the High Judicial Council (HJC) accepted the request in 5 cases, dismissing the respective magistrates. Another case resulted in "suspension from office for 6 months", while another is pending decision by the Independent Appeals Commission (IAC). In 4 cases, HIJ requested the disciplinary measure "Public warning", but HJC accepted it only in one case, refusing the other requests. In another case, HIJ requested the disciplinary measure "Dismissal from office" for judge A. LL., for non-compliance with procedural deadlines and failure to set civil cases in motion. HJC partially accepted HIJ's request, imposing the measure "Suspension from office for 6 months".

of the Code of Criminal Procedure, as well as on her discretionary position to decide on initiating or not initiating criminal proceedings. In this case, it can be argued that such interferences can violate judicial independence and create an atmosphere of fear and self-censorship among prosecutors and judges. Therefore, the importance of maintaining the independence of magistrates and avoiding external interferences in their decision-making must be emphasized. This case is an example of the complex intertwining of executive and judicial power in Albania, and shows how possible interferences of the executive in disciplinary processes can affect the independence and integrity of the justice system.

In decision no. 10(G)/2023 of the Constitutional Court of Albania, dated March 7, 2023, an issue has been addressed that concerns the limitation of the competences of the High Inspectorate of Justice (HIJ) from interferences of the executive, violating judicial independence. The Constitutional Court has reviewed the request and has found that some interferences of the executive in HIJ's activity exceed legal and constitutional competences, violating judicial independence. In the reasoning of the decision, the Constitutional Court has emphasized that interferences of the executive in HIJ's activity must be in accordance with the competences defined by the Constitution and laws in force. Any action that exceeds these competences and affects judicial independence is incompatible with constitutional principles. In this case, the interferences of the executive are considered as incompatible with the Constitution, violating the independence of HIJ and, consequently, of the judiciary in general. This decision emphasizes the importance of respecting the separation of powers and the independence of justice institutions, ensuring that interferences of the executive are limited and in accordance with the Constitution and laws in force.

- *Practical examples:*
 - Cases of initiating disciplinary investigations against judges who have made decisions unpleasant to the government;
 - Attempts to change disciplinary procedures with the aim of influencing HIJ's decisions;
 - Public communication that aims to stigmatize judges under disciplinary investigation, to create political pressure.

4. Analysis of Constitutional Jurisprudence

In the analysis of separation of powers and limitations of executive power competences over the judicial system, two important decisions of the Constitutional Court of Albania, no. 172/2024 and no. 85/2024, offer a clear picture of constitutional standards that protect judicial independence. This decision examines the limitations of executive power in relation to judicial enforcement acts. The Constitutional Court has emphasized that interferences of the executive in enforcement processes, including those related to execution of court decisions, must be limited and in accordance with the principles of separation of powers and judicial independence. Any action that exceeds these limitations and affects judicial independence is incompatible with the Constitution.

In the decision no. 85/2024 -- Legal Acts affecting the organization of the Judiciary, the Constitutional Court examines legal acts that affect the organization and functioning of the judiciary. It has emphasized that any legal act that violates judicial independence, including those related to appointments, dismissals and discipline of judges, must be in accordance with the Constitution and international standards. Interferences that exceed the competences defined by the Constitution and laws in force are incompatible with the principles of separation of powers and judicial independence.

Both decisions emphasize the importance of respecting the separation of powers and judicial independence as fundamental constitutional principles. They define the standards that limit interferences of executive power in the fields of judicial enforcement and organization of the judiciary, ensuring that these interferences are limited and in accordance with the Constitution and laws in force.

5. International and Comparative Perspective

The Venice Commission has established clear standards for judicial independence, which relate to:

- Appointments and dismissals of judges must not be influenced by the executive or political organs; any disciplinary mechanism must be independent;
- Securing status and salary: Magistrates must be protected from financial or administrative pressures;
- Disciplinary investigations must be based on law and transparent procedures, not tools of political pressure.
- Legal changes must not violate the independence of judges or shorten their mandates without justified legal reasons.

In Albanian cases, these standards are directly related to the functioning of HIJ, HJC and HPC, where in some cases the use of disciplinary investigations as an instrument of pressure has been evident.

5.1 Assessments of the European Commission - Report 2024 for Albania (Chapter 23)

The 2024 report of the European Commission has found that judicial independence has improved after the justice reform, but there still exist risks of political interference. Also, delays and political influences have been found: In some cases, actions of HIJ or the executive have been interpreted as pressure on judges and prosecutors. New constitutional institutions (HJC/HPC) have made progress, but challenges remain in implementing decisions and protecting judges from external pressures. This report documents phenomena similar to the case of prosecutors and judges whose decision-making has been commented on by the country's Prime Minister, where political interferences can affect magistrates' decision-making, despite the formal independence of HIJ.

5.2 ECHR Jurisprudence

In the case *Baka v. Hungary* (2016), Judge Baka was dismissed from office after legal

changes created by the government, violating judicial independence. In this case, ECHR concluded that the dismissal was unlawful; executive interference in judicial personnel matters violated judicial independence and violated Article 6 of the ECHR. In the other case *Kövesi v. Romania* (2020), the Prosecutor Laura Kövesi was dismissed from office for political reasons, using disciplinary mechanisms. Also, in this case the ECHR decided for a clear violation of independence; political decision and disciplinary procedures were not separated from executive influence.

The Venice Commission and ECHR offer clear standards for protecting judicial independence and limiting political interferences. Meanwhile, the European Commission Report 2024 shows that Albania has progressed, but risks for executive interference through HIJ or administrative delays remain.

6. Challenges and Recommendations for Strengthening Judicial Independence

The main challenge to judicial independence in Albania lies in the overlapping competences between the executive branch and the new constitutional institutions—namely, the High Judicial Council (HJC), the High Prosecutorial Council (HPC), and the High Inspector of Justice (HIJ)—as well as in the potential political influence over disciplinary proceedings and the appointment or promotion of judges and prosecutors. To enhance the independence and integrity of the judicial system, it is recommended to strengthen the financial and administrative autonomy of the judiciary, ensuring that adequate resources are allocated and managed independently of the Ministry of Justice. Furthermore, a clearer delineation of competences between the Ministry of Justice and the HJC/HIJ is necessary to prevent political interference in judicial decision-making and administrative processes. Transparency in the appointment, promotion, and inspection procedures remains a fundamental prerequisite for safeguarding the credibility and integrity of the justice system. In parallel, the implementation of European Union standards and Venice Commission recommendations should serve as a guiding framework for both the reform and day-to-day functioning of the judiciary, ensuring full respect for the separation of powers and the protection of individual rights. Collectively, these measures would contribute to building a more independent and accountable judiciary, shielded from political pressures and worthy of public confidence in a democratic state governed by the rule of law

7. Conclusion

The analysis indicates that interference by the executive branch in the judicial system of Albania continues to persist. Nevertheless, the establishment and functioning of constitutional and international mechanisms—including the High Judicial Council (HJC), the High Prosecutorial Council (HPC), the High Inspector of Justice (HIJ), the jurisprudence of the Constitutional Court, and the standards of the Venice Commission—have progressively contributed to strengthening judicial independence and consolidating institutional integrity. Ensuring the genuine respect for the separation of powers—in

particular, the government's refraining from public statements that could undermine judicial decision-making—remains essential not only for the effective functioning of the justice system, but also as a core criterion for European integration and the advancement of the rule of law.

To further deepen this analysis, it is recommended to undertake empirical research on the forms and frequency of executive interference, as well as on the perceptions of judges and prosecutors, which could provide valuable data for policymakers and inform the next phase of justice reform. Moreover, capacity-building and training activities should be organized for judges, prosecutors, and public officials on European standards concerning the separation of powers and judicial independence. Finally, the promotion of transparency and public monitoring of political interference—through the media, academic institutions, and civil society organizations—is indispensable for strengthening public trust and consolidating a democratic and independent judiciary.

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