



Research Article

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The journey of SPAK: A comprehensive analysis of its achievements and challenges

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Abstract

Corruption and organized crime have been two major challenges in Albania, which have slowed down the socio-economic development and the country's progress towards EU integration.

Corruption in Albania has been present in different areas, such as in public administration, law enforcement, judiciary. Public officials have been frequently criticized for abusing their positions for personal enrichment. In the meantime, ordinary citizens have often been held back by systemic barriers when pursuing justice, or in accessing benefits from the healthcare system, employment opportunities.

Albania also contends with organized crime. The geographic positioning makes Albania a strategic transit point for drug trafficking and other illegal activities, including human trafficking and arms smuggling. The weakness of Albania's judicial system is one of the critical factors facilitating corruption and organized crime. Because of this long-term reality, Albania began a judicial reform in 2014, with international support, mainly from EU and US. The Justice Reform began with the establishment of the Special Parliamentary Committee for the Reform on the Justice System on November 27, 2014. The justice reform began with the aim of completely changing the justice system, creating a more efficient system and restoring public trust. In this sense, main purpose of this manuscript is the analysis of Special Anti-Corruption and Organized Crime Structure (SPAK) and its achievements.

Keywords: SPAK, comprehensive analysis, achievements and challenges.

1. Introduction

The establishment of the Special Anti-Corruption and Organized Crime Structure (SPAK) symbolizes a very important moment of the last decade in Albania. It has undoubtedly demonstrated the will of Albania to be guided by European and international anti-corruption standards. Its creation is based on a set of constitutional amendments, as well as on the creation or amendment of specific pieces of legislation

that guarantee its ability to function and its independence. SPAK consists of two pillars: the Special Prosecution Office (SPO) and a Special Investigation Unit, which is also known as the National Bureau of Investigation (NBI).

2. Constitutional basis

The roots of SPAK run back to the judicial reforms, with deep amendments to the Albanian Constitution, amid growing awareness of systemic corruption and inefficiency in the judiciary. The constitutional amendments explicitly stipulated the establishment of specialized bodies for the fight of corruption and organized crime, including SPAK. Some constitutional amendments, related to the establishment of SPAK are those of point 4, of Article 148. It explicitly states: "The Special Prosecution Office and the Special Investigation Unit for the prosecution and investigation of criminal offences of corruption, organized crime and criminal matters under Article 135, paragraph 2, of the Constitution are independent from the General Prosecutor. The Special Investigation Unit is subordinate to the Special Prosecution Office" (AlbJuris, 2020).

Moreover, Article 148/dh of the Constitution of the Republic of Albania outlines provisions for the Special Prosecution Office and the Special Investigation Unit (Hasneziri, 2024). Regarding the Special Prosecution Office, the article defines its responsibilities, which include conducting criminal prosecutions and representing accusations before the special courts established under Article 135, paragraph 2, of the Constitution, as well as before the Supreme Court (AlbJuris, 2020). Additionally, point 2 of this Article specifies its composition, requiring a minimum of 10 (ten) prosecutors appointed by the High Prosecutorial Council for a non-renewable term of 9 (nine) years. Lastly, this article addresses the mandate of the prosecutors and the conditions under which they may be dismissed (Stasa, I. Dedej, A. 2023).

2.1. Special Prosecution Office (SPO)

Chapter III of the Law no. 95/2016 (amended) provides detailed provisions on the Special Prosecution Office. SPO is a specialized prosecutorial body in Albania. Referring to Point 1, Article 4 of the law, the Special Prosecution Office carries out criminal prosecution and represents the charge on behalf of the state before the Court of First Instance against Corruption and Organized Crime, the Court of Appeal against Corruption and Organized Crime, and the Supreme Court takes measures and supervises the execution of criminal decisions, as well as performs other duties assigned by law (Law No. 95/2016, amended, Article 4, Point 1).

The jurisdiction of SPAK is determined in Law no. 95/2016 (amended). Its main function is to initiate, lead, and supervise the prosecution of:

- High-Level Corruption - cases of high public servants, including ministers, members of parliament and senior judiciary officials;
- Organized Crime - investigations and prosecution of criminal organizations engaged in drug trafficking, human trafficking, money laundering and arms

trafficking.

- Economic Crimes - acts that threaten Albania's economic stability and governance, like public fund embezzlement, tax evasion, and financial fraud.
- Cross-Border Criminal Activity - SPAK has been working with international law enforcement agencies to address criminal networks operating in multiple countries. SPAK has specifically established an office within the prosecution to handle international relations, focusing on maintaining connections with counterparts and facilitating the exchange of information. This initiative has led to the creation of a network of contacts involving experts from various countries, including liaison police officers and prosecution specialists with offices in Albania. Moreover, SPAK has signed several cooperation agreements with Italy, North Macedonia, Kosovo, and the Belgian Federal Prosecutor's Office. It has also established connections with Eurojust and maintains daily communication with the Europol representative in Albania (Global Initiative Against Transnational Organized Crime, 2021).

The prosecutors of the Special Prosecution Office are appointed based on merit by the High Prosecutorial Council (HPC), which is an independent body (Article 4 of Law no. 95/2016, amended). The selection criteria could favor integrity, professional qualifications, and independence to ensure that prosecutors face no political interference in performing their duties.

2.2. National Bureau of Investigation (NBI)

NBI is a similar structure to the U.S. Federal Bureau of Investigation (FBI). Article 5 of the Law no. 95/2016 (amended) introduces the National Bureau of Investigation (NBI). It defines NBI as a specialized structure responsible for investigating criminal offenses under the jurisdiction of the Special Prosecution (Law No. 95/2016, amended, Article 5). The NBI as SPAK's investigative body, is in charge of collecting evidence, surveillance, and do other investigative activities, guaranteeing law enforcement in conducting quality investigations in the field of criminal offenses against corruption and organized crime (Special Prosecution Against Corruption and Organized Crime [SPAK], 2020). NBI has sophisticated technological capabilities, allowing it to follow the trail of complex criminal organizations, identify money laundering operations and trace the movement of illicit funds.

Other provisions for the National Bureau of Investigation are made in Chapter V of Law No. 95/2016 (amended). Article 31 of the Law, specifies that the National Bureau of Investigation is a specialized structure of the Judicial Police, which only operates under the direction of the Special Prosecution Office.

NBO is comprised of elite investigators chosen through a demanding process. Candidates for employees at the National Bureau of Investigation, according to the law, must meet a series of professionalism criteria as well as meet security requirements. The employees, serve in this position for no less than 7 years. The members of the National Bureau of Investigation work in cooperation with prosecutors of the Special National Prosecution Office.

2.3 Conformance to international standards

The establishment of SPAK is in accordance with the international commitments of Albania and a number of important frameworks, such as the European Union Directives, in particular the ones about judicial independence, anti-corruption measures, and organized crime. Moreover, SPAK's structure mirrors the principles of United Nations Convention Against Corruption (UNCAC), incorporating the requirement of specialized institutions focused on efficiently preventing and fighting corruption. SPAK also adheres to the Council of Europe recommendations on effective measures against corruption as well as promotion of transparency in judicial systems. Lastly, considering the importance of GRECO Standards, Albania has strived for SPAK to be guided by these standards in its work.

3. SPAK's role in changing public trust and perceptions of the justice system

3.1 Restoring public trust through independence

SPAK's independence is one of its key victories. The creation of SPAK meant breaking away from previous practices where judicial and prosecutorial decisions had a political context. The independence of the institution is protected by tight vetting procedures for its personnel as well as constitutional safeguards that protect it from outside influence.

This objectivity has been crucial to rebuilding public trust in the justice system. SPAK has autonomy and is not under political caprice and can investigate against everyone, regardless of political affiliation or social status. This independence is necessary for the justice system's credibility with the public, especially in a country with a long history of political elites controlling the judiciary.

Nonetheless, independence does not suggest that SPAK should act without oversight or accountability. SPAK needs to be transparent and to be fulfilling its mandate efficiently, highlighting the need for oversight mechanisms. These mechanisms including independent audits and performance reviews ensure SPAK doesn't go above the law. Considering the opposite, a lack of accountability could risk transforming SPAK into an instrument of injustice, rather than its protector.

The key challenge for SPAK is striking the right balance between maintaining its independence and being held accountable for its actions. No doubt this will go a long way toward building the public's confidence in SPAK and will encourage it to do its work as an efficient institution in the battle against corruption and organized crime.

3.2 High-Profile cases and accountability

Public has seen corruption within the state apparatus in Albania as widespread and systemic. Organized crime, on the other side, has been quite a challenge. However, SPAK has done well in prosecuting both corruption and organized crime.

SPAK has taken on cases related to high-ranking officials, including former presidents, prime ministers and ministers, for corruption and abuse of power. SPAK has also

investigated in targeting organized crime networks operating in drug trafficking, money laundering and human trafficking. It's with not doubt to say that these investigations mark a major change in the judicial landscape. This clearly shows the justice system becoming more open and responsive to society's demands for accountability.

4. Cases handled by SPAK

The Special Prosecution Office against Corruption and Organized Crime began its activity on December 19, 2019. Due to shortages in human resources, the year 2020 began with a considerable workload, with the Special Prosecution Office having 588 criminal proceedings under investigation, with 746 persons under investigation (Special Prosecution Office Against Corruption and Organized Crime, 2024). A similar trend results from the statistics of subsequent years. Most distinguished cases investigated by SPAK include:

4.1 The incinerators scandal (2020)

With the approval of Law No. 10 463 "On Integrated Waste Management" in 2011, Albania began its ambitious National Strategy for Waste Management, which is planned to span over the years 2010–2025. The objectives of Albania's waste management strategy are similar to those of the EU: waste reduction, resource recovery, recycling, and waste material reuse (Totoni, Vrugtman, & Angjeli, 2021). The projects for the construction of incinerators in Tirana, Fier and Elbasan, based on BIRN calculations of financial returns and treasury data, have cost Albanian taxpayers at least 150 million euros (Erebara, 2023).

In 2020, SPAK launched investigations after receiving reports about irregularities surrounding the construction and operation of waste incinerators in Albania. Among the allegations were the inflated costs and non-transparent tender processes. The project that aimed reforming waste management, unearthed instead endemic corruption, with senior government figures alleged to have conspired with private contractors. All business owners and officials have been accused and evidence of massive corruption and abuse of power has been presented in court. Some of them have been sentenced to years in prison. The examination process has also branched into financial audits and tracking down offshore accounts, which are believed to have been used to launder dirty money.

4.2 Sterilization equipment tender fraud (August 2023)

This case stemmed from a 100-million-euro contract in 2015 for the Sterilization of surgical equipments in public hospitals. It was a citizen's movement which filed the report to SPAK, raising suspicions that the officials involved in this contract signed by the ministry in 2015 had violated the equality of participants in tenders, abused their duties and committed passive corruption by using public power to private benefit, as well as bringing great financial damage to the state budget (Inoruka, 2023).

The accused include a former deputy health minister and a former health minister.

For this reason, SPAK has frozen their assets and is seeking financial audits. This case is of high public interest, as it might expose the fraudulent scheme and may prompt policy changes in health care procurement.

4.3 Charge of a former President and former Prime minister (October 2023)

This case could become a benchmark for how high political figures are prosecuted, molding public perception of whether SPAK is effective. This high-level politician is accused for abuse of power for the privatization of state land in Tirana, for private and family interests while he was a prime minister.

In September 2024, he was formally charged with passive corruption. He is suspected as part of an investigation into allegations of corruption during the privatization of the Partizani Sports Complex (Editorial Team of shqiptarja.com, 2024). The Partizani Sports Complex was the most important sports complex owned by the Ministry of Defense, which was developed and transformed into a tower complex. Specifically, it is a property of about 10,000 m², located in Tirana, which was then privatized for a value of 100,000 dollars, a value that was at the time very disproportional. This politician was also placed under house arrest in December of 2023 for violating police reporting conditions and it was only in November 2024 that his house arrest was lifted.

4.4 Arrest of the general director of Albania's Road Authority (March 2024)

The general director of Albania's Road Authority was placed under investigation after whistle-blowers demanded he be charged with accepting bribes in return for awarding public contracts. He was arrested for accepting around 2 million euros in bribes. During his time as head of the Albanian Road Authority, he awarded 6 tenders to his partner's company. This company transferred the money through transactions to another company, which the general director of the Albanian Road Authority indirectly owned and controlled. SPAK has tracked the funds to real estate investments made via this company.

The evidence consists primarily of financial records and contractor testimony. The case rates towards a trial that could impose severe penalties. It can also lead to stricter enforcement of regulations and the oversight of public infrastructure projects.

4.5 Operation against Organized Crime Network (August 2024)

SPAK carried out this operation with Europol, as well as French, Belgian and Dutch authorities. Investigations were focused on an organized crime gang, which were mainly part of a family coming from a certain area in Albania, involved in contract killings, drug trafficking and money laundering through cryptocurrency. The investigation also revealed how the leader of this organized crime group and his associates ordered the murder of several members of other Albanian criminal groups by contracting killers (BalkanWeb, 2024).

The police have arrested 15 (fifteen) members of the gang. SPAK's coordination with international agencies reflects its growing capacity to combat transnational crime. This

includes intercepted communications and records of cryptocurrency transactions.

4.6 Arrest of an ex-President (October 2024)

A former President came under investigation after his asset declarations were found to contain financial inconsistencies. SPAK found evidence of money laundering, passive corruption, and concealment of assets. His arrest is also a test case, considering his status as a former President. His political party has asserted that the charges are politically motivated. SPAK has also provided significant evidence, including bank accounts and unregistered properties.

When this case will end, it will either reinforce SPAK's independence, or stoke accusations of political partiality, based on the quality of the evidence and the judiciary in question.

5. SPAK's operational challenges: political interference, resource constraints, public engagement and transparency

SPAK's day-to-day operations, regardless of its achievements, have been the subject of criticism from the general public, and both civil society and international organizations regarding its independence, transparency and effectiveness. Since the very beginning, SPAK has had some operational challenges that have jeopardized its competence to act properly. There are some important factors that have hindered its ability to work as an independent and efficient institution, such as political interference, resource constraints, public engagement and transparency.

5.1 Ensuring independence from political interference

Political interference might be the most critical challenge that SPAK is facing. SPAK has been established as an independent body, yet, as part of the judiciary in Albania, it works in a highly politicized environment, where power structures in politics have historically impacted the judiciary. In a country with a fragile rule of law and a history of judicial corruption, the independence of SPAK is under constant pressure from political forces that even try to interfere in investigations and prosecutions. Albania's politics can be highly polarized, and some observers fear that political elites, especially those in power, can pressure SPAK not to prosecute individuals or cases that would endanger their political or economic interests. Political parties may also try to delegitimize SPAK by accusing it of being politicized or an instrument of political control. It's clear that SPAK's exposure to this reality might compromise its authority and independence.

The problem of political interference is worsened by the appointment process of the prosecutors in SPAK, who are nominated by the High Council of Prosecution, an institution that in itself is often considered vulnerable to political interference. Some reforms can include strengthening constitutional and legal protections for SPAK staff, creating a public and contesting process of selection in key positions, and guaranteeing the independence of its funding mechanisms to better protect SPAK

from political interferences.

However, the success of structures such as SPAK is highly dependent on the political will and support of the government. As experience has shown, in countries where political leaders have a genuine commitment to tackle corruption, these institutions are more able to flourish. Same way, SPAK's political backing must continue to strengthen and political leaders must publicly renew their commitment to SPAK's independence and ensure that the institution has the tools it needs to do its job.

6. Adequate resources and capacity building

A second important challenge is that though SPAK is responsible for some of the country's most complicated cases, it has limited staff and is underfunded. The limited human resources on one side, and the high number of cases, on the other, is leading to delays in investigations and prosecutions. Civil society organizations in Albania argue about the limited number of convictions and the slow pace of some high-profile corruption cases. Despite having filed complaints against high-level officials and businessmen, some of which are already looked in this paper, many civil society organizations believe that SPAK has failed to deliver concrete results. The lack of funds is particularly evident in cases requiring technologically complex investigations. In an era of digital crime, including cybercrime and money laundering, these resource shortages are especially problematic. SPAK has failed to secure such cutting-edge technology that is needed to gather and analyze evidence from digital platforms and financial institutions. Therefore, SPAK must seek to formalize cooperation with partners under agreements with the respective institutions such as EU, U.S. Department of Justice, and other international anti-corruption institutions. This partnership may involve technical training, the financing of advanced investigative tools, and the exchange of best practices.

The EU and the U.S. have expressed both support for and concern on SPAK's performance, as it is not ensuring accountability of the highest level of political power. The EU has repeatedly said that Albania fell short of meeting requirements on anti-corruption reforms. Moreover, EU, in its annual progress reports on Albania's accession process, has emphasized the slow pace of SPAK in addressing high-level cases. On the other side, both U.S. administrations have been strong supporters of SPAK, financially and politically, although they have raised the alarm about sluggish investigative progress and the need for more aggressive judicial reform. U.S. officials have frequently emphasized the need to tackle the backlog of cases and to guarantee that SPAK is not politically used. The U.S., in particular, has pointed out that SPAK must properly tackle corruption in public procurement, which is still among the most serious sources of corrupt practices in Albania. Therefore, investing in professional training and partnerships with international organizations that provide technical expertise will further enhance SPAK's capacity to investigate. Moreover, it's important that SPAK creates a culture of learning at every level, to prepare its employees to respond to changing modes of criminality.

7. Public engagement and transparency

When it comes to SPAK, the expectations of people and civil society for engagement and transparency are quite high. Nevertheless, the transparency and public communication of SPAK has been broadly criticized. SPAK should do more to reach out to citizens and assure that its activities will be performed in an open and impartial way. SPAK needs to be transparent and publish regular updates on its cases and investigations. Media should be allowed to be informed about the progress of cases, and should serve as a communication bridge between public and SPAK. Another thing that can help by raising awareness and increasing public participation include public outreach initiatives, for instance community meetings or open educational programs about anti-corruption laws. The critique of civil society groups goes even further. Their concern is related to the fact that the focus is put on the high-profile cases of political elites while cases of lower-level corruption or issues impacting citizens throughout the day chase less of their focus. This obsession with elite corruption risks separation of ordinary citizens, who often experience and suffer more from corruption in public services and local government. As for them, the impression that SPAK is focusing mostly on political elite's while being lax on everyday corruption might also damage public trust in the judiciary even further. For all of the above, the slow pace of investigations, delays in bringing cases to trial, and a lack of transparency are regarded as undermining public faith in SPAK's ability to address the longstanding culture of corruption in the country.

8. Similar institutions to SPAK in other countries

Corruption and organized crime are not the only issues in Albania. Many other European countries have faced similar challenges, leading to the establishment of specialized bodies dedicated to combating corruption and organized crime. These institutions have also dealt with complicated investigations, involving high-profile officials. These establishments demonstrate that many European nations recognize the importance of specialized bodies to deal with corruption and organized crime effectively. While their achievements depend on many factors, they provide valuable lessons for Albania and other countries working to reinforce the rule of law. Founded in 2014, the National Financial Prosecutor's Office (PNF) in France investigates and prosecutes complicated financial crimes, along with corruption, tax fraud, and money laundering. PNF has treated vast cases related to political corruption and corporate malfeasance. Among its largest achievements is the investigation and prosecution of the Airbus corruption case. Airbus had reached a similar settlement in 2020, over corruption and bribery allegations spanning multiple countries, with fines amounting to 3.6 billion euros. The settlement, which was part of an organized effort alongside French, British and American authorities, was the largest foreign bribery resolution worldwide until that point (U.S. Department of Justice, 2020).

Another example is the National Anti-Mafia and Counter-Terrorism Directorate in Italy (Direzione Nazionale Antimafia e Antiterrorismo – DNA). Italy has a long history of fighting organized crime through specialized institutions. The DNA coordinates investigations against mafia organizations which includes the “Cosa Nostra”, “Ndrangheta”, and “Camorra”. Additionally, Italy has anti-corruption bodies like the National Anti-Corruption Authority (ANAC), which is focused in monitoring public procurement and preventing corruption.

In 2002, in Romania it was established the National Anticorruption Directorate (DNA), one of the most outstanding anti-corruption establishments in Europe. DNA's focus has been the investigation and prosecution of high-level corruption, where government officials or business leaders could be involved. One of the most high-profile legal cases was that of Liviu Dragnea. Liviu Dragnea was the leader of Romania's Social Democrats and was sentenced and jailed after years of corruption accusations. The sentencing of Dragnea follows major pressure from the EU, which threatened to strip Romania of many of the privileges of being an EU country, and deny its access to the Schengen visa-free travel zone (Trilling, 2019). Despite this, the DNA has been a successful establishment which has enhanced Romania's anti-corruption efforts.

Another similar structure was created in Bulgaria in 2018, in order to tackle corruption amongst excessive-ranking officers and confiscate assets acquired through unlawful methods. This structure was named the Commission for Counteracting Corruption and Confiscation of Illegally Acquired Property (KPKONPI). While its establishment marked a development, the commission has confronted criticism for perceived inefficiencies and political interference. This has also been the case for Hungary, with the Central Investigation Office of the Public Prosecution Service. The other examples from the Balkans, include the Special Prosecutor's Office for Organized Crime established in Serbia and the Office for the Suppression of Corruption and Organized Crime (USKOK) in Croatia. The focus for both institutions is mainly on prosecuting organized crime companies/leaders and high-ranking officers.

9. Conclusion

Albania has been reforming its justice system, especially its judiciary, including intense focus on the issues of corruption and organized crime, that have long plagued the country. Arguably, the most powerful tool in this endeavor is the creation of the Special Anti-Corruption and Organized Crime Structure (SPAK). SPAK is introduced by Law no. 95/2016 (amended), with the responsibility on tackling some of Albania's most significant challenges to its legal and political institutions. The significance of SPAK's mandate, restoring public confidence in the judiciary, and improving the accountability of courts, cannot be overstated, given that the country is a candidate for EU membership. SPAK's institutional independence is an important distinguishing feature, and essential for the operation of this body free from political influence. The High Prosecutorial Council (HPC), responsible for appointing SPAK prosecutors,

safeguards this independence. Their prosecutors, appointed for nine-years, non-renewable terms, are politically independent, able to act without political pressure. Moreover, the Law no. 95/2016 (amended) "On the Organization and Functioning of Institutions for Combating Corruption and Organized Crime" ensures that SPAK operates independently, free from interference by the general Prosecutor's Office or others in the government.

SPAK's mandate is wide-ranging, including corruption and organized crime involving senior officials, judges and prosecutors. The creation of SPAK is a big step in combating political corruption, particularly the one that comes from high-level figures. This is important because it shows that Albania is committed to reform its judiciary according to EU's anti-corruption benchmarks. The role of SPAK however is not without challenges in the performance of its functions. Perhaps the most serious challenge is the lack of adequate resources especially in complex technological investigations. The lack of funding makes it impossible for SPAK to deploy advanced investigative tools and recruit highly specialized personnel. Furthermore, SPAK functions under a difficult political and social environment and people are skeptic towards the notion of the independence and the well-functioning of judiciary.

The success of SPAK in fighting corruption and organized crime is highly important not just for the internal governance of the country but also for the country's aspiration to become an EU member. In this regard, the EU has established demands for the candidate countries on judicial reforms, transparency and anti-corruption standards. These criteria, and especially the EU's emphasis on the rule of law, highlight the critical need for an independent and effective anti-corruption body, such as SPAK. Judicial reforms in Albania have long been emphasized by the EU, which has called upon the country to streamline the judicial infrastructure, while addressing corruption across the judiciary and public administration. Therefore, this will serve as a test for not just the commitment to reform among Albania's political class, but also the country's overall commitment to European values and standards in the eyes of the EU. If SPAK does not prove effectiveness and independence, not only will it have the clear implication of negatively affecting Albania's EU accession path, but it will also damage the credibility of the EU's strategy on enlargement in the Western Balkans. By contrast, although a successful SPAK that brings high-profile criminals to justice will boost the credibility of the EU as defender of the rule of law and justice on the ground, a dysfunctional SPAK will do the opposite.

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