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From institutional architecture to stress-test: How EU progress reports frame judicial independence in Albania (2020–2024)

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Abstract

Judicial independence has become a central benchmark within the European Union's rule-of-law and enlargement framework, particularly for candidate countries in the Western Balkans. Albania represents a distinctive case, as its 2016 constitutional reform introduced one of the most comprehensive judicial vetting processes in Europe. This reform re-established core governance institutions while simultaneously testing their resilience under conditions of significant capacity strain. The aim of this study is to examine how the European Commission evaluated judicial independence in Albania between 2020 and 2024 and to interpret these evaluations within broader comparative and theoretical contexts.

The study employs a qualitative content analysis of the European Commission's annual *Albania Reports* (2020–2024), identifying key thematic clusters within the rule-of-law chapters and tracing the evolution of evaluative language related to independence, accountability, and institutional functionality. The findings reveal a largely stable narrative: although Albania's institutional design is consistently assessed as aligned with European standards, judicial independence remains functionally fragile. This fragility is primarily attributed to vetting-related personnel depletion, delayed judicial appointments, and resource-driven inefficiencies.

In contrast to the politically motivated patterns of interference observed in Poland and Hungary, Albania's vulnerabilities stem from systemic strain and limited administrative capacity rather than overt political capture. Situating these findings within contemporary scholarship on EU conditionality and judicial governance, the analysis argues that judicial independence can be consolidated only through predictable career management, sustainable budgeting, and the depoliticized functioning of judicial councils. The study concludes that Albania's principal challenge lies not in achieving legal conformity but in translating its reform architecture into durable institutional practice, thereby embedding judicial independence as a routine

operational norm rather than an externally monitored aspiration.

Keywords: judicial independence; Albania; EU enlargement; rule of law; Chapter 23; European Commission reports; vetting; conditionality; Western Balkans.

1. Introduction

Judicial independence has become one of the most determinative “gatekeeping” standards in the European Union’s constitutional and enlargement practice. It operates simultaneously as an internal constitutional requirement of the EU legal order and as an external condition for accession. The underlying premise is that the EU legal system depends on national courts to apply and enforce EU law; for that system to function coherently, individuals must be able to rely on effective judicial protection before independent and impartial tribunals. In primary EU law, this linkage is articulated through the Union’s foundational values, including the rule of law (Treaty on European Union [TEU], 2012, art. 2), and through the obligation imposed on Member States to provide remedies sufficient to ensure effective legal protection in fields covered by EU law (TEU, 2012, art. 19(1)). At the level of fundamental rights, this architecture is reinforced by the Charter of Fundamental Rights of the European Union, which guarantees the right to an effective remedy and to a fair trial before an independent and impartial tribunal established by law (Charter of Fundamental Rights of the European Union, 2012, art. 47). Within enlargement policy, the same logic is translated into conditionality: since the Copenhagen criteria, the existence of “stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities” has been treated as a precondition for accession negotiations and, in practice, for the credibility of the entire accession trajectory (European Council, 1993).

Within this framework, judicial independence is not treated as a purely formal attribute expressed in constitutional text. Rather, it is assessed as an operational standard that can be evaluated through institutional design, procedural safeguards, and observable system performance. The EU’s own legal interpretation has reinforced this operational approach. A central development has been the Court of Justice of the European Union’s insistence that judicial independence is structurally connected to effective judicial protection and is therefore subject to EU scrutiny when national measures affect bodies that may apply EU law (Court of Justice of the European Union, 2018). In parallel, standards developed within the Council of Europe—particularly those defining independence in terms of both institutional separation and individual security of tenure—have functioned as interpretive and normative reference points in European assessments of domestic judicial systems (Consultative Council of European Judges, 2001; Council of Europe, 2010). This convergence is particularly significant for enlargement states, as it shapes what is considered compliance: independence becomes measurable not only through appointment and disciplinary arrangements, but also through resources, workloads, delays, and a judiciary’s capacity to withstand political pressure.

Albania provides a concentrated case for examining how this operational standard is applied under enlargement monitoring. Following the justice reform process initiated in 2016, Albania has undergone a far-reaching institutional reconfiguration aimed at strengthening judicial and prosecutorial self-governance, reinforcing integrity controls, and establishing specialized anti-corruption structures. However, the practical test of judicial independence has extended beyond institutional creation. Between 2020 and 2024, the European Commission's annual country progress reports have consistently assessed Albania's judiciary through a composite lens encompassing the integrity and accountability effects of transitional vetting, the functionality and staffing of higher courts, the performance and autonomy of governance bodies, the credibility of disciplinary mechanisms, and system-wide efficiency indicators affecting access to justice. These reports thus function as more than descriptive documents. They operate as a continuous evaluative narrative that translates EU standards into a calibrated assessment vocabulary—frequently distinguishing between formal alignment and effective implementation—while simultaneously generating political signals capable of influencing negotiation dynamics and perceptions of reform irreversibility.

This article examines the European Commission's progress reports on Albania from 2020 to 2024 as a structured source for understanding how the EU evaluates and narrates judicial independence in a candidate country following major constitutional and institutional reform. The core analytical premise is that progress reports constitute a form of recurring assessment situated between law and policy. Although they are not legally binding, they rely on relatively stable evaluation templates and repeatable criteria, and they play a meaningful role in shaping conditionality decisions and reform priorities. The research aim is to identify how the Commission frames judicial independence across these five reporting cycles, to trace year-to-year changes in the Commission's diagnosis, and to determine whether the trajectory described reflects linear improvement, stagnation, or partial consolidation accompanied by persistent structural risks.

Accordingly, the article addresses two closely connected research questions. First, how does the Commission operationalize judicial independence in its Albania reporting between 2020 and 2024—specifically, which dimensions (institutional, procedural, resource-based, and performance-based) dominate the assessment, and how the balance among these dimensions evolves over time? Second, which recurring constraints are treated as most relevant to judicial independence in the Commission's narrative, particularly the interaction between integrity-driven reforms and functional capacity (including vacancies, backlogs, delays, and financing), as well as the extent to which political pressure is framed in terms of direct interference, delegitimizing rhetoric, or institutional bottlenecks. By addressing these questions through systematic year-to-year comparison, the article contributes a focused account of how EU conditionality conceptualizes judicial independence in practice and how that conception is shaped by the EU's rule-of-law framework and broader European standards.

2. Methods

This study employed qualitative content analysis to examine the European Commission's annual *Albania Reports* from 2020 to 2024, tracing how judicial independence is operationalised and evaluated over time. Each report was treated as a structured policy text, and relevant passages from the judiciary and rule-of-law sections were systematically coded using a mixed deductive–inductive framework grounded in established qualitative methodology (Hsieh & Shannon, 2005; Krippendorff, 2018). Deductive coding categories reflected core EU rule-of-law dimensions, including structural, functional, and external safeguards of judicial independence, while inductive subcodes captured Albania-specific developments such as the effects of judicial vetting, capacity constraints, and institutional functionality. A year-to-year comparative matrix was subsequently constructed to identify patterns of continuity and change in evaluative language and assessment benchmarks across reporting cycles. All data were drawn from publicly available European Union documents, ensuring transparency and replicability of the analysis.

3. Results

Across the five annual reports, the European Commission's assessment of judicial independence in Albania remains broadly stable in its headline framing, while the internal emphasis gradually shifts from institutional set-up toward functional performance. In 2020, the Commission's narrative treats judicial independence primarily as a consolidation task. The legal and constitutional redesign is acknowledged, and analytical attention focuses on the operationalisation of the new governance bodies (the High Judicial Council [KLGJ] and the High Prosecutorial Council [KLP]), the continuation of the vetting process, and the early functioning of the specialized anti-corruption architecture, including the Special Anti-Corruption Structure (SPAK) and the special courts. At the same time, the report introduces a core tension that persists throughout the period: vetting is framed as integrity-enhancing, yet it simultaneously produces capacity shocks that translate into systemic delays—particularly in the High Court and the Constitutional Court—with direct implications for effective judicial protection and public confidence (European Commission, 2020). In 2021, the Commission's assessment becomes more explicitly stress-test oriented. The report highlights the scale and intensity of the vetting process, including the completion of several hundred cases by spring 2021, and directly links these developments to functional strain in the system, reduced numbers of judges, rising backlogs, and extended adjudication timelines at appellate and higher-instance levels. Judicial independence is thus evaluated not only in terms of insulation from political interference, but also in terms of the system's capacity to remain operational under the reform's own internal disruption. The 2021 report also identifies independence-related risks through institutional performance concerns, particularly regarding transparency and robustness in career management and evaluation, without alleging

overt or documentable case-level political instructions. In addition, the Commission situates its assessment within Strasbourg jurisprudence validating the vetting model under European Convention standards, reinforcing the view that the reform's legitimacy depends on procedural guarantees as much as on substantive outcomes (European Commission, 2021).

By 2022, the Commission's framing shifts toward an explicit distinction between *de jure* alignment and *de facto* independence. While the constitutional and legal framework is treated as broadly aligned with European standards, the report's analytical centre of gravity moves toward practical independence. Political rhetoric targeting judges and prosecutors, particularly within specialised structures, is presented as a risk to perceived independence; persistent vacancies and the High Court's structural backlog are treated as rule-of-law vulnerabilities rather than mere efficiency problems; and resource constraints are identified as channels through which functional dependence may emerge. A notable institutional signal in the 2022 report is the suggestion that perceived pressure among judicial professionals may coexist with a low number of formally recorded interference cases, pointing to weaknesses in internal reporting and protection mechanisms. As a result, judicial independence is evaluated through a composite lens encompassing safeguards, workload realities, and the credibility of governance bodies to apply merit-based standards in appointments and disciplinary proceedings (European Commission, 2022).

In 2023, the Commission continues to acknowledge progress, but the overall diagnostic pattern remains largely unchanged. The reform architecture is described as functioning, vetting continues to generate integrity-related outcomes, and the High Court reduces its backlog while remaining burdened by historically accumulated cases. Greater analytical weight is placed on system-wide functionality, including court map reorganization, transitional frictions in workload allocation, and the dependence of sustainable judicial independence on adequate staffing, financing, and digital case-management capacity. Importantly, the 2023 report sustains the Commission's caution against a "two-speed" justice narrative: while the achievements of specialised anti-corruption bodies are recognised, they are not treated as substitutes for the ordinary courts' capacity to deliver timely justice. Disciplinary governance, including the activity of the High Inspector of Justice (ILD) and subsequent council decisions, is explicitly framed as independence-relevant, requiring consistency and transparency to avoid both impunity and a chilling effect on judicial decision-making (European Commission, 2023).

In 2024, the Commission's assessment reads as a mid-cycle balance sheet, with the primary risk relocating from formal institutional design to the durability of day-to-day judicial independence. The report reiterates findings of "some progress" while treating the irreversibility of the 2016 reform settlement as a practical benchmark. The continued existence of institutions is no longer sufficient; political actors are expected to respect the constitutional constraints they created, particularly in relation to higher-court appointments and the operation of anti-blocking mechanisms. Vetting is described as approaching completion at first instance, a development interpreted

simultaneously as confirmation of past structural corruption and as a continuing driver of capacity gaps. Accordingly, the Commission's diagnosis of judicial independence remains anchored in three recurring clusters: appointments (including timeliness and avoidance of parliamentary obstruction as a form of leverage), resources (budgetary stability and the limits of project-based donor support for core judicial funding), and accountability (disciplinary action that is reasoned, consistent, and non-selective so as neither to undermine independence nor to shield misconduct). While SPAK's outputs are highlighted as indicators of equality before the law, the Commission cautions that these achievements do not resolve the backlog and service-delivery deficits of the ordinary courts, where judicial independence is most tangible for citizens (European Commission, 2024).

Taken together, the progress reports reveal a consistent results pattern. The Commission's evaluative focus evolves from an emphasis on institutional installation (2020–2021) to an assessment of operational performance under sustained strain (2022–2024), while the underlying diagnostic structure remains stable. Judicial independence is repeatedly conceptualised as a compound of (a) institutional self-governance insulated from political leverage, (b) functional capacity to deliver timely justice despite vetting-driven personnel depletion, and (c) credible accountability mechanisms that do not become instruments of pressure. The principal change across the five reporting cycles lies not in the categories of concern, but in the Commission's increasing insistence that independence must be demonstrated through measurable functionality—such as backlog reduction, staffing levels, stable funding, transparent appointments, and disciplined integrity systems—rather than inferred from legal alignment alone (European Commission, 2020, 2021, 2022, 2023, 2024).

4. Discussion

The trajectory of judicial independence in Albania, as assessed by the European Commission, reflects an operationalised understanding of independence as a composite of formal guarantees and sustained functional capacity. This approach aligns with an increasingly prominent strand of EU rule-of-law scholarship, which argues that judicial independence cannot be evaluated solely through constitutional or legal design but must also be assessed in light of effective institutional behaviour, resilience to political influence, and the consistency of adjudicative outcomes (Kochenov, 2017). This dual focus mirrors broader academic concerns regarding the enforcement of EU values, where the limits of formal alignment have become a central analytical and policy challenge (Kochenov, 2017).

Comparatively, the experiences of Poland and Hungary underscore the risks that arise when judicial independence is eroded through incremental institutional redesign. Pech and Scheppele's concept of "rule-of-law backsliding" captures how Member States can undermine judicial safeguards through ostensibly lawful mechanisms—such as altering appointment procedures, restructuring disciplinary regimes, and reducing judicial autonomy—while maintaining the appearance of constitutional compliance

(Pech & Scheppele, 2017). The case of Poland's Supreme Court Disciplinary Chamber illustrates this dynamic: the body was widely criticised and ultimately sanctioned by EU institutions for diminishing practical judicial independence by exposing judges to politically influenced disciplinary control (BBC News, 2019; Kochenov & Pech, 2016). In contrast, Albania's reform trajectory, centred on large-scale vetting, does not exhibit the same capture logic. Instead, it produces a distinct risk pattern in which integrity-enhancing measures generate capacity depletion, systemic delays, and potential indirect pressures on judicial autonomy.

The post-accession experiences of Romania and Bulgaria offer a further comparative lens. The continuation of the Cooperation and Verification Mechanism (CVM) after accession reflected the EU's assessment that initial reforms had not yet produced self-sustaining rule-of-law performance (European Commission, 2023). The eventual closure of the CVM, following measurable improvements, suggests that continuous, indicator-based evaluation can support the consolidation of durable judicial independence. For Albania, which remains in the pre-accession phase, this experience implies that independence is unlikely to result from formal institutional redesign alone. Instead, governance stability, predictable career progression, and depoliticised budgetary authority emerge as critical conditions for translating reform into lasting practice.

The EU's internal rule-of-law crisis further reinforces the analytical framework applied to the Albanian case. Comparative research demonstrates that even consolidated democracies face significant pressures on judicial independence when political majorities exploit legal tools to recalibrate institutional balances (Kochenov & Pech, 2016; Pech & Scheppele, 2017). These cases also highlight the structural limitations of the EU's enforcement architecture. While instruments such as Article 7 TEU and the Commission's Rule of Law Framework are legally robust, they remain politically constrained, complicating their deterrent effect and limiting their straightforward transposition to candidate states (European Parliament Research Service, 2016).

Beyond the EU, Turkey's recent experience with constitutional backsliding and judicial independence erosion illustrates the fragility of judicial autonomy under sustained executive pressure. Empirical studies demonstrate that constitutional restructuring and populist legal strategies can significantly weaken judicial independence, producing observable effects on case outcomes and public trust (Garoupa & Spruk, 2024). Although Turkey's EU accession process has stalled, this comparative example reinforces a central insight also reflected in the Commission's Albania reports: structural safeguards alone are insufficient if judicial capacity is depleted, adjudication timeliness deteriorates, or political rhetoric undermines institutional legitimacy.

Taken together, the Albanian case illustrates a convergent theme in contemporary rule-of-law scholarship: judicial independence must be understood as a condition requiring both robust *de jure* safeguards and demonstrable *de facto* practice. Formal constitutional reform, such as that undertaken in Albania, must be accompanied by sustained operational capacity—including reliable appointment pipelines, stable

funding, and transparent, proportionate disciplinary processes—if independence is to become a lived institutional reality rather than a formal declaration. This conclusion aligns with broader academic insights that judicial independence is simultaneously a legal requirement and a political equilibrium, shaped by external leverage, domestic practice, and institutional culture.

5. Conclusion

The five-year assessment period demonstrates that judicial independence in Albania remains a dynamic and unfinished reform domain. The European Commission's evaluations indicate a gradual consolidation of the institutional framework established by the 2016 constitutional amendments, alongside persistent fragility in operational capacity, resource stability, and insulation from political influence. In effect, Albania's justice system has largely completed its architectural redesign but continues to operate under strain generated by vetting-related personnel depletion, inconsistent appointment processes, and systemic case backlogs. In this context, judicial independence is less threatened by overt political interference than by structural fragility that constrains the judiciary's ability to function effectively and autonomously.

Comparative evidence from post-accession contexts reinforces the significance of this type of fragility. The experiences of Romania and Bulgaria under the Cooperation and Verification Mechanism illustrate that external monitoring can support gradual improvement, but that durable judicial independence ultimately depends on the internalisation of professional norms and the consolidation of effective self-governing discipline. Conversely, the cases of Poland and Hungary demonstrate how rule-of-law regression can occur even within EU membership once judicial safeguards are politically re-engineered. Taken together, these contrasts suggest that Albania's most decisive test lies not in the formal completion of the vetting process, but in the construction of self-sustaining institutions capable of withstanding political and administrative cycles.

From a policy perspective, the Albanian case exemplifies the EU's shift toward a performance-based and credibility-driven enlargement conditionality model. Judicial independence is assessed less through legislative alignment and more through measurable indicators such as appointment timeliness, backlog reduction, transparent disciplinary practice, and predictable funding. This approach reflects the broader evolution of EU rule-of-law governance, which increasingly treats independence as both a normative principle and an operational benchmark. For Albania, this implies that sustained progress depends on embedding independence within routine judicial management rather than relying on prolonged external supervision or reform exceptionalism.

Overall, Albania's judicial reform has generated tangible structural gains but remains vulnerable to the long-term effects of institutional depletion and uneven functionality. The country's experience underscores that judicial independence cannot be "installed"

through constitutional amendment alone; it must be continuously produced through competent administration, transparent self-governance, and consistent accountability. The trajectory observed between 2020 and 2024 thus places Albania at a critical juncture: whether the reform transitions from externally monitored reconstruction to internally sustained autonomy will determine its capacity to deliver the effective, impartial, and credible judiciary that EU accession presupposes.

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