



Lessons from Albania's Judicial Vetting for Transitional Societies

ACADEMIC
ARTICLES

BLERINA BULICA 



ABSTRACT

This paper examines Albania's judicial vetting (2016–2024) as an extraordinary accountability mechanism, analysing results from 805 vetted magistrates using operational judicial data. Despite achieving comprehensive personnel transformation (47% *magistrate removal norm*)¹ validated by European Court of Human Rights (ECtHR) in 98.9% of cases, three critical dynamics challenged Albanian vetting design: (1) institutional resistance through strategic utilization of legal mechanisms, including 113 resignations that maintain the eligibility of re-appointment after the 15-year ban expires in 2032; (2) operational trade-offs as personnel reduction has dropped judicial capacity to its lowest level by 54%; (3) sustainability gaps as vetting transitional frameworks lacked continuity provisions for the transfer of vetting standards into permanent accountability institutions (*HJC and HPC*) before vetting bodies mandate expiration in 2026. These dynamics led to the creation of an accountability gap, demonstrated by only a 1.1% conviction rate of vetted magistrates, time-barred cases, coordination failures, evidentiary gaps, resource constraints, and a decline in public trust. Despite structural limitations of vetting design that prioritize short-term transformation over sustainable judicial accountability, overall Albania's vetting has disrupted past entrenched impunity patterns. For transitional societies, the lesson for vetting design is to ensure institutionalized accountability mechanisms in permanent institutions by simultaneously preserving the judicial capacity.

CORRESPONDING AUTHOR:

Blerina Bulica

Ministry of Justice of
Republic of Albania, Albania
bulicablerina@gmail.com

KEYWORDS:

Transitional justice; judicial
accountability; judicial
operational capacity;
transitional vetting; judicial
independence; transparency;
public trust; judicial reforms;
transitional democracies

TO CITE THIS ARTICLE:

Blerina Bulica, 'Lessons from
Albania's Judicial Vetting for
Transitional Societies' (2026)
17(2) *International Journal
for Court Administration*
4. DOI: [https://doi.
org/10.36745/ijca.793](https://doi.org/10.36745/ijca.793)

This paper asks how Albania's judicial vetting (2016–2026) affected the operational capacity of its courts and what this experience teaches about the design of transitional accountability reforms. It presents a single argument that in societies emerging from long and sequential authoritarian rule, an extraordinary measure like vetting is necessary not primarily to punish corrupt individuals, but to dissipate entrenched informal patterns that judicial reform cannot reach, and that its deeper purpose is to give the judicial system a capacity to correct itself. Albania is an acute case. Its judicial institutions were formed over centuries of Ottoman patrimonialism, royal control, and communist subjugation, such an entrenched legacy layered during past authoritarian regimes that conventional reform between 1991 and 2015 could not succeed in disrupting. Vetting succeeded where those reform cycles failed precisely because it functioned beyond the ordinary, aiming at the re-institutionalisation of both: the permanent accountability institutional infrastructure and, at the same time, a temporary vetting mechanism designed to break the inherited logic of impunity.

The 2016 constitutional reform¹ thus began an unprecedented process: for the first time in decades, Albanian magistrates faced real, evidence-based consequences rather than the political calculation that had governed the system since the post-communist transition.² The data confirm a transformative reach as they resulted in the removal of 47% of magistrates among the 805 vetted subjects (268 *Independent Qualification Commission (IQC) dismissals*,³ 113 *resignations*⁴). This high norm of magistrates' departure from the judicial system, documented in sections 4 and 5, is recognised by the European Court of Human Rights as exceptional but proportionate. However, it affected the normal functioning of courts, reducing judicial capacity, and further consumed the justice budget in a system operating at 26.7 euros per capita, compared to the Western Balkans average of 45.2 euros.⁵ The paper argues that although the administrative purpose of vetting was to cleanse the judiciary of compromised judges, the prosecution and conviction of those judges remained minimal.⁶ Reading this fact against the main goal of the reform, which was primarily to break the impunity inherited from the injustice of the past, this gap is more of a clue to the true function of the vetting as an instrument of institutional self-correction rather than a mechanism aiming at retribution. The court resilience, the judicial operational costs, and the lack of continuity framework documented in this paper as unintended outcomes of the vetting are best understood when vetting is considered a tool for building a new culture of accountability.

1 Constitution of the Republic of Albania, amended by Law no. 76/2016, July 22, 2016, arts. 124–149, 179, app. arts. A, B, C, Ç, G, H, I, J; Vetting Act no. 84/2016.

2 Law no. 96/2016 'On the Transitional Re-evaluation of Judges and Prosecutors'. Vetted subjects include magistrates and assistant magistrates (judges, prosecutors, and legal advisors in the High Court and Constitutional Court), judicial assistants, and inspectors in the ILD.

3 Appeal remedies: the Special Appeals Chamber (SAC) and the European Court of Human Rights (ECtHR).

4 268 dismissals + 105 resignations based on Law 84/2016, Art.56 + 8 resignations based on Constitution Annex, Art. G.

5 High Judicial Council, Annual Report 2024, 34.

6 Blerina Bulica, Policy Paper, 'The Vetting Process and Its Aftermath Towards an Independent, Professional, and Accountable Judiciary in Albania' (Albanian Helsinki Committee, February 2025), 25–30.

The study contributes to the court administration scholarship by reading vetting through its operational effects: impact on the court workload, vacancies, and budget, and linking that literature to the transitional justice scholarship⁷ through three lenses that together hold the argument.⁸ Path dependency theory as a mechanism of institutional persistence⁹ explains why conventional reforms between 1991 and 2015 remained structurally vulnerable,¹⁰ making it a much-needed measure.¹¹ Cultural institutionalism through the logic of appropriateness¹² explains how those entrenched informal legacies inherited from the past generated the resistance examined in sections 5.2 and 6, and why dismantling them, rather than simply sanctioning the vetted subject, is the most difficult and important task.¹³ And a lens of institutionalization and politics¹⁴ explains why the rule transfer through¹⁵ Constitution's transitional provisions, leaving the HJC and HPC without a framework after 2026, jeopardize the self-corrective capacity that the reform was intended to instil. With the mandate of the Special Appeals Chamber having ended in April 2026,¹⁶ Albania now faces the choice that this argument conveys: institutionalize vetting standards within its permanent bodies, or let inherited impunity patterns return.¹⁷ The analysis uses a mixed-methods design, combining quantitative indicators of court performance for 2014–2024 (*clearance rates, timing, vacancies and caseload per judge, from HJC, MoJ, IQC and SAC data*) with qualitative analysis of vetting decisions and secondary studies.

7 CEELI Institute, *Guidelines on Judicial Vetting* (Prague: CEELI Institute, 2024); CEELI Institute, *Guidelines on Alternatives to Extraordinary Judicial Vetting* (Prague: CEELI Institute, 2025).

8 C. Guarnieri and P. Pederzoli, *Judicial System: Administration and Justice Policy* (Publisher, 2020), 13–15; M. Cappelletti, *The Judicial Process in a Comparative Perspective* (Publisher, 1989), 417.

9 Pierson, Paul “Increasing Returns, Path Dependence, and the Study of Politics”, *American Political Science Review*, 94, no.2, (2000): 251–267.

10 Börzel, T. (2010), *European Governance: Negotiation and Competition in the Shadow of Hierarchy*. *JCMS: Journal of Common Market Studies*, 48: 191–219.

11 Martin Mendelski, *The EU's Rule of Law Promotion in Central and Eastern Europe: Where and Why Does It Fail, and What Can Be Done About It?* *Global Rule of Law Exchange Practice Notes* (London: Bingham Centre for the Rule of Law, 2016); Carlo Guarnieri, ‘*Judicial Independence in Europe: Threat or Resource for Democracy?*’ *Representation* 49, no. 3 (2013): 347–359; Martin Krygier and Adam Czarnota, ‘*After Post-communism: The Next Phase,*’ *Annual Review of Law and Social Science* 2 (2006): 299–340.

12 March, G., James and Olsen P., Johan “Rediscovering Institutions: The Organisational Bases of Politics”, (New York Free Press, 1989).

13 Jeffrey L. Pressman and Aaron Wildavsky, *Implementation: How Great Expectations in Washington Are Dashed in Oakland* (Berkeley: University of California Press, 1973), 304; Laurence J. O'Toole Jr., ‘*Research on Policy Implementation: Assessment and Prospects,*’ *Journal of Public Administration Research and Theory* 10, no. 2 (2000): 263–288.

14 Antoaneta L. Dimitrova, ‘*The New Member States of the EU in the Aftermath of Enlargement: Do New European Rules Remain Empty Shells?*’ *Journal of European Public Policy* 17, no. 1 (2010): 137–148.

15 Schimmelfenning, Frank and Sedelmeier Ulrich, “Governance by Conditionality: EU Rule Transfer to the candidate countries of Central and Eastern Europe”, *Journal of European Public Policy*, 11, no.4, (2004): 661–679.

16 Constitution of the Republic of Albania, art. 179/b, as amended by Law no.16/2022 changing the IQC mandate on 31.12.204; *Law no. 84/2016*, arts. 56, 70; Venice Commission, CDL-AD (2016)009.

17 R. G. Teitel, *Transitional Justice* (Oxford University Press, 2000); L. Stan, ed., *Transitional Justice in Eastern Europe and the Former Soviet Union* (Publisher, 2009).

2. WHY WAS AN EXTRAORDINARY VETTING NECESSARY: THE IMPACT OF HISTORICAL LEGACIES

The Venice Commission deemed the vetting essential because, from 1991 to 2016, the judiciary had proven unable to correct itself through standard measures. This can only be explained through an analysis of dependence on institutional pathways resulting from a history of authoritarian regimes, which entrenched informal practices within the judiciary and created resistance to necessary reforms. Such an understanding is essential as it is directly related to the examination of the impact of the judicial administration in Section 6, where these path dependencies contribute significantly to both the institutional resistance against vetting and the subsequent judicial operational crisis. Albania's judicial institutions evolved under three successive authoritarian regimes from 1479 to 1991:¹⁸ during the Ottoman patrimonial rule (1479–1912),¹⁹ family clans cultivated informal *clientelistic* systems that prioritized loyalty to the executive power rather than respect for the law. Under the Constitutional Monarchy (1912–1939), despite formal protection for judicial independence in Articles 118–119 of the Basic Statute of King Zog I, it was the Crown that decided on the dismissal of judges.²⁰ Further, communist totalitarianism (1944–1991) culminated in the total loss of the independence of the judiciary, turning the Court of Cassation into a tool of political oppression, with judges appointed by the National Anti-Fascist Liberation Council. During this period, the Constitution of 1976 subordinated the judiciary to the People's Assembly and the Party of Labor, where the investigative unit *Sigurimi* took over the judicial power, eliminating the institutions of justice (the *Ministry of Justice*, the *prosecution*, and the *profession of lawyers*).²¹ These legacies proved to be extremely resistant to the reforms attempted during the years 1991–2015.²² The constitutional monarchy pattern of political capture of the judiciary, expressed in the Assembly's power to elect and remove judges and prosecutors, continued to exist after the fall of communism. Although the Constitutional Act of 1991 affirmed the independence of the judiciary, it left the judicial career exposed to uncertainty and political interference.²³ This constitutional act maintained the pattern of giving the People's Assembly the election and dismissal of High Court and Constitutional Court judges. In addition, the scope of the Assembly's power extended to constitutional interpretation, which left the Constitutional Court dysfunctional until 1998 because its members were elected through a rotation system that allowed ruling parties to replace independent judges with loyalists.²⁴ The analyses of 91 Constitutional Court

18 Stavro Skendi et al., *Albania* (New York: Frederick A. Praeger, 1957), 5–10; E. Biberaj, *Albania in Transition* (2019).

19 Owen Pearson, *Albania and King Zog: Independence, Republic and Monarchy, 1908–1939* (I. B. Tauris, 2004), 23–67; Bernd J. Fischer, *King Zog and the Struggle for Stability in Albania* (East European Monographs, 1984), 1–34.

20 High Court of Albania, *History of the High Court*, Tirana, 2023; Aurela Anastasi, *Political Institutions and Constitutional Law in Albania (1912–1939)*, (Luarasi University Press, 2003).

21 Constitution of the People's Socialist Republic of Albania (1976), arts. 39, 53; Law no. 4147, September 16, 1966; Law no. 4405, June 24, 1968.

22 Fabian Schmidt, 'From Authoritarianism to Sultanistic Pluralism: The Evolution of Albania's Post-Communist Political System,' in *The Politics of Post-Communism*, ed. Constantine Danopoulos and Daniel Messas (Praeger, 1997), 88–113.

23 Law no. 7491, 29 April 1991, 'On the main constitutional provisions'.

24 Forty to sixty percent of the Constitutional Court's judges had early mandates, serving only three to six years; The remaining members served full twelve-year terms.

decisions (1994–2015) identified a government win rate of 68%,²⁵ which is evidence of political submission and selective independence. Second, the institutions responsible for judicial accountability, namely the Parliamentary Committee, the Assembly, and the President of the Republic, lacked the structural capacity to ensure procedural fairness.²⁶ When the Constitutional Court declared their decisions unconstitutional, it could only return the case to the People’s Assembly, the very body that had committed the violation. This period is marked by the dismissal from the Assembly of the President of the High Court in 1995²⁷ and of two former general prosecutors in 2002 and 2008.²⁸ The 1998 Constitution corrected some of these flaws. Still, the basic pattern of legislative and executive intervention continued, and the Assembly retained its power to elect high-ranking judges despite formal guarantees of mandate and salary protection in line with Venice Commission standards.²⁹ Moreover, the inclusion of executive branch representatives in the High Council of Justice (HCJ) compromised the independence of judicial disciplinary inspections.³⁰ These patterns explain why reforms implemented between 1999 and 2015 encountered political influences, a lack of transparency, shortages in professional capacity, and widespread corruption. Public trust in the judicial system³¹ was clearly lacking,³² and courts faced significant delays despite a high filling norm of judicial posts³³ and balanced clearance rates “1.01”.³⁴ Statistics also revealed that the justice system’s inability to provide accountable courts was due to ingrained institutional culture rather than judicial capacity.³⁵ It was for these reasons that Albania necessitated extraordinary measures beyond standard management reforms to restore judicial integrity, leading to the creation of a transitional vetting mechanism discussed in the following section.

3. THE JUDICIAL VETTING AS AN EXTRAORDINARY TRANSITIONAL MECHANISM

The 2016 constitutional reform restructured judicial accountability along two pathways, ordinary and temporary mechanisms. The permanent architecture consisted of the High Judicial Council (HJC), the High Prosecutorial Council (HPC), which focuses on the professional evaluation framework that governs the career of magistrates, and an independent High Justice Inspectorate (HJI), which investigates

25 Constitutional Court, *Collection of Decisions*, 1992–2015.

26 Constitution of the Republic of Albania, Articles 149, 42.

27 Constitutional Court, Decision no. V-76/2002, 25 April 2002.

28 Constitutional Court, Decision no. V-21/2008, October 1, 2008.

29 Venice Commission, CDL-AD (2015)045; CDL-AD (2016)0; Constitutional Court, Decision no. V-21/2008, October 1, 2008.

30 The Ministry of Justice and the President of the Republic.

31 Albanian Institute for International Studies, *Albania in the Next Ten Years: Politics, Economics, Society, Perceptions* (Tirana, 2012); SELDI, *Corruption Monitoring System: Albania*, report, 2012–2013.

32 Open Society Foundation, *Annual Monitoring Report of Albania’s Progress in the Stabilisation and Association Process* (Tirana, 2010).

33 99 percent, comprising 398 judges out of the 408 official positions.

34 Ministry of Justice, *Annual Statistics, 2014–2024*; High Judicial Council, *Annual Reports, 2018–2024*; CEPEJ-STAT database.

35 European Commission, *Albania Progress Reports, 2024*, 5; Freedom House, *Nations in Transit: Albania, 2005–2013*.

and starts the disciplinary procedures before the HJC and the HPC, which then decide based on a fair trial process.³⁶ The reformed institutional arrangements removed the direct executive interference from the discipline, expanded sanctions, and established uniform standards across jurisdictions.³⁷ At the same time, legal remedies for public participation allowed citizens to appeal directly to the HJI or the courts within mandated deadlines and to report assessments to the IQC and the SAC.³⁸ The Venice Commission insisted that extraordinary vetting remains temporary and transitions to the permanent, ordinary accountability institutions (*HJC and HPC*) rather than turning itself into a permanent institution. In its Interim Opinion,³⁹ it cautioned that an extended mandate of the IQC would risk turning vetting into a permanent setting *de facto* parallel to the ordinary mechanisms, such as the HJC or HPC. In its Final Opinion, the Venice Commission explicitly underlined that vetting structures should transition to the ordinary accountability frameworks.⁴⁰ The CEELI guidelines set the same standard by design for vetting, by fostering integrated timelines, exit strategies, and the transition to regular institutions.⁴¹ Albania agreed only partially by building the permanent infrastructure, but did not carry the extraordinary standards into it, such as the reversed burden of proof and the lowered evidentiary threshold that defined the vetting procedures.⁴² Distinctive features, International Monitoring Operation (IMO) international oversight,⁴³ High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest (HIDAACI) asset verification,⁴⁴ and Directorate for Classification of Information for Security (DCIS) security checks anchored the vetting process but were not carried into the permanent rules. These standards call for attention in future accountability rules,⁴⁵ as the transition of vetting is completed institutionally, but not substantively, leaving open how the integrity gains secured through vetting are to be maintained after the mandate expiration.⁴⁶ The contrast with Serbia (2009–2015) is instructive: in Serbia, all judges reapplied before the High Judicial Council under a process criticized for protectionist measures and political capture, producing mass dismissals and a wave of appeals to the Constitutional Court that reinstated most of those who were removed.⁴⁷ Albania's model was built to avoid that outcome through stronger procedural protections, at the cost of the greatest operational disruption of the courts, which is examined in Section 5.

36 Constitution of the Republic of Albania, as amended, Arts. 147/a, 149/a; Law no. 115/2016, Art. 61(a), (b); Law no. 96/2016, Art. 37; Law no. 96/2016, Arts. 71–78.

37 Constitution Act, Art. 147/a, point 1/b.

38 Vetting Act, Art.53.

39 Venice Commission, CDL-AD (2015)045, 102.

40 Venice Commission, CDL-AD (2016)009, 54, 56.

41 CEELI, *Guidelines on Alternatives*, 13 (recs. 9, 12).

42 Constitution of the Republic of Albania, app. arts. D, DH, Ē.

43 Vetting Act no. 84/2016, arts. 2, 5, 7, 17, 25, 33, 41, 45, 49, 50, 55, 65; Constitution of the Republic of Albania, Art. 179/b, para. 3, and Annex B.

44 See note 6 above.

45 See note 35 above.

46 By October 2024, ICQ had only 7 pending cases, while SAC still had 123 pending cases, which were concluded in April 2026.

47 See International Commission of Jurists, *Serbia's Judges and Prosecutors: The Long Road to Independent Self-Governance* (Geneva: ICJ, 2016), p. 4; CEELI Institute, *Guidelines* (2024), Chapter 1.

4. VETTING TRANSFORMATIVE OUTCOMES

Vetting produced a high turnover norm given that out of a total of 805 magistrates vetted between February 2018 and November 2024, 381 magistrates left the bench, “47 percent”,⁴⁸ leaving only 373 magistrates confirmed in office.⁴⁹ Compared to approximately 1 percent of judges who failed the 1999 judicial exam, the contrast illustrates how previous accountability mechanisms had effectively granted impunity to corrupt judges. The process first reached the senior judges: in 2018–2019, it removed eight of the nine members of the Constitutional Court and produced seven dismissals and five resignations among nineteen High Court judges.⁵⁰

Notwithstanding the number of dismissals, the vetting has been endorsed by external validation. The European Commission noted its transformative impact on the independence and accountability of the judiciary,⁵¹ and the European Court of Human Rights upheld the legitimacy of the vetting scheme in *Xhoxhaj v. Albania* (2021), finding the legally established vetting bodies independent, impartial and procedurally fair, and dismissals of vetted subjects to be proportionate in light of systemic corruption.⁵² The Court thus treated *irremovability* as qualified rather than absolute, in line with the CEELI Guidelines’ conditional endorsement of vetting that justifies proportional measures for the eradication of judicial corruption.

The appeal norm data reinforces that legitimacy. Out of the 268 dismissals, the ECtHR communicated only eighteen vetting-related applications to the government, 6.7 percent, indicating few challenges to the Special Appeal Chamber’s (SAC) decisions. As of 2025, the Court had found a Convention violation in just three cases.⁵³ That is, 16.7 percent of the communicated cases, but only 1.1 percent of all vetting dismissals. Each of the three judgements addressed a specific implementation deficiency rather than questioning the legitimacy of the vetting scheme itself. *Besnik Cani* concerned a case when an appeal-chamber member was appointed in 2017 despite a dismissal for document forgery in 1997, which compromised the integrity of SAC, the body in charge of assessing magistrates’ integrity.⁵⁴ *Sevdari* exposed legal uncertainty in Article 61(3) of the Vetting Act, which left undefined when an asset disclosure was “insufficient” to warrant dismissal, leading the chamber to scrutinize the income of the applicant’s husband from fifteen to twenty years before the marriage.⁵⁵ That holding sits uneasily with ECtHR findings in *Thanza v. Albania* (2021), where the Court found no violation under the same Article 61(3), an inconsistency worth noting.⁵⁶

48 See note 1 above; Vetting Act no. 84/2016, arts. 30–33, 40–44, 45–62.

49 Independent Qualification Commission, *Statistical Report 2017–2024*, 67–70; High Judicial Council, *Annual Reports, 2018–2024*; Ministry of Justice, *Annual Statistics, 2014–2023*.

50 Freedom House, *Nations in Transit 2020: Albania* (2020).

51 European Commission, *Albania 2024 Report*, SWD (2024) final (Brussels: European Commission, 2024).

52 ECtHR, *Xhoxhaj v. Albania*, no. 15227/19, judgment of May 31, 2021, paras. 270–314.

53 ECtHR, *Besnik Cani v. Albania*, no. 37474/20, judgment of November 4, 2022; *Sevdari v. Albania*, no. 20419/20, judgment of May 13, 2022; *Thanza v. Albania*, no. 33281/19, judgment of October 7, 2021.

54 ECtHR, *Besnik Cani v. Albania*, no. 37474/20.

55 ECtHR, *Sevdari v. Albania*, no. 20419/20; Vetting Act no. 84/2016, art. 61(3).

56 ECtHR, *Thanza v. Albania*, no. 33281/19.

Taken together, the results confirm that Albania's vetting met its central aim of removing compromised magistrates, with procedural legitimacy affirmed at both the domestic and international levels.

5. ANALYSIS OF THE THREE DYNAMICS OF JUDICIAL VETTING

From the empirical analysis of Albania's vetting results, three dynamics of transitional justice reform in post-authoritarian contexts emerge: First, the positive transformation power of judicial vetting conflicts with the functionality of the court. Second, comprehensive accountability causes *institutional resistance*, as vetting subjects use formal procedures to minimize personal costs (*appealing IQC decisions, strategic resignations, non-reporting of colleagues for prosecution*). Thirdly, the expiration of the vetting framework by 2026 without its full integration into the ordinary judicial accountability framework reveals the ongoing challenge of transforming extraordinary measures into institutional culture.

INDICATOR	PRE-VETTING (2014–2017)	VETTING PERIOD (2018–2024)	CHANGE
Avg. approved judges	372	333.7	–10.3%
Avg. vacancies	33	74.2	+124.8%
Avg. pending cases	39,339	109,073	+177.2%
Avg. clearance rate	0.97	0.95	–2.1%
Avg. Disposition Time (Days)	129.7	167.6	+29.2%
Avg. workload per judge	427.7	898.6	+110.1%
Judges per 100k population	13.25	10.5	–20.8%
Pending Cases (2024)	40,932	127,687	+212.0%

Table 1 Impact on Judicial Capacity: Pre-Vetting vs. Vetting Period.

Source: Annual Reports of HJC 2018–2024; Annual Statistics of the Ministry of Justice, 2014–2023.

5.1. THE OPERATIONAL CRISIS

From a court administration perspective, the most immediate measurable consequence of vetting was on the judicial capacity, as the reduction of court personnel created a real crisis in court functioning. The number of active judges fell from the pre-vetting period average of 372 (2014–2017) to 333.7 during vetting (2018–2024), with only 257 judges effectively in office in 2024, representing a 39% reduction in judicial operational capacity.⁵⁷ This situation led to an increase in the number of vacancies from an average of 33 positions (2014–2017) to 74.2 positions (2018–2024).⁵⁸ Similarly, the vacancies for the administrative staff grew from 21 minimum pre-vetting levels to an average of 84.7 positions during the vetting years.⁵⁹ The main courts operated at critical levels: in the Tirana District Court, handling the country's largest workload, the number of judges fell 35% (75 to 48.7), backlogs

57 Against the official number of judges, 408.

58 See Table 3 in the Appendix.

59 Idem.

quadrupled to 13,570 cases, and the remaining judges faced a caseload of 966 cases per judge (up to 245%).⁶⁰

The Tirana Court of Appeals, which merged 6 appeal courts as of 2022 due to the new judicial map, had a decrease of 38.5%⁶¹ in judges (42.3 to 26), compared to the period before and after reform. Therefore, it faced 6 times higher backlogs (4569 combined average of 6 former appeal courts to 36,535, the average of one appeal court), nearly triple caseloads (896.2 to 1,924), and a clearance rate decline in civil cases from 74% to 53.1%. This situation indicated that this court was processing barely half of incoming cases, which explains the 5.5-year waiting times for the settlement of disputes for citizens (see *Table 4 in the appendix*).⁶² Vetting-related costs also placed considerable strain on the judicial budget (2018–2024),⁶³ as suspended magistrates continued to receive 75% of their salary,⁶⁴ waiting for final vetting decisions and the processing of appeal processes, which often require two to three years (see *Table 6 in the Appendix*). Despite tripled caseloads, courts held clearance rates near pre-vetting levels through emergency measures, indicating notable resilience from courts. However, the vetting mechanism poses a risk to court capacity, necessitating a sustainable design that balances transformative outcomes of accountability measures with optimal judicial capacity.

5.2. THE CULTURE OF INSTITUTIONAL RESISTANCE

Albania’s past institutional legacies, where informal loyalty networks often superseded formal procedures, appear to have influenced resistance dynamics during the implementation of vetting, reflecting collegial solidarity.

First pattern displayed as systematic resistance of vetted subjects through a high norm of appeals of IQC dismissal decisions before SAC.⁶⁵ Second pattern relates to strategic resignations, as the vetting’s legal architecture provided escape mechanisms to be exploited by vetted subjects to minimize personal costs while preserving future career options. While dismissed magistrates face lifetime bans from judicial/prosecutorial positions, in contrast, the 105 magistrates who resigned under Article 56 of the vetting act after 15-year bans retain eligibility to return if they meet re-appointment requirements (see *Table 1 in the Appendix*).

Second, the low rate of disciplinary proceedings for judicial misconduct by the HJI and HJC was revealed in 2023, when the HJI received 2,340 complaints but investigated only 18 cases “0.7%”, from which it proposed initiation of proceedings before the HJC in only 6 cases “0.2%”, and the latter imposed zero sanctions.⁶⁶ Whether this 0.7% investigation norm reflects resistance to accountability, procedural jurisdictional constraint, resource limitations, or just collegial solidarity requires further study.

60 See *Table 5 in the Appendix*.

61 Out of the average official number of judges, 75, during 2014–2018.

62 Bulica, Blerina. Study Report on Monitoring the Impact of the New Judicial Map on Five Courts during 2020–2024. Tirana: Albanian Helsinki Committee, 2026, 45.

63 High Judicial Council, Annual Reports, 2018–2024.

64 Vetting Act, art. 58.

65 See *Table 1 in the Appendix*.

66 High Inspectorate of Justice, Annual Reports, 2023–2024.

Third, vetting and auxiliary bodies like HIDAACI demonstrated similar reluctance to report colleagues' misconduct, despite the obligations under the CPC, Article 281, requiring immediate indictment to prosecution offices of cases linked with the vetted subjects. Findings indicate that until 2022, out of 21 investigations, IQC reported only 4 cases, SAC reported zero cases, while HIDAACI started reporting only in 2024, with about 9 cases.⁶⁷

Fourth, legislative inaction due to the expiration of the statute of limitations for the most common corruption offence committed by vetting subjects⁶⁸ allowed 102 dismissal decisions (38% of 268 total dismissals)⁶⁹ to become time-barred by January 2022, representing resistance that preserved the impunity of magistrates. Legislative initiatives could have prevented the statute's expiration through: *extended periods of restriction, suspended statutes during vetting procedures, mandatory fast-track investigation protocols, clarified exclusive SPAK (Special Anti-Corruption and Organised Crime Structure) jurisdiction, or retroactive extensions for cases time-barred during 2017–2019.*

Fifth, there was a criminal prosecution shortfall resulting from 268 dismissed vetted subjects, where only five reached trials (1,9%),⁷⁰ yielding only 3 convictions, which diminishes the vetting deterrent effect. The 78% norm for closing criminal prosecution proceedings of vetted cases due to a lack of evidence⁷¹ suggests either legitimate evidentiary insufficiency or institutional reluctance of prosecution offices to prosecute peer colleagues.⁷² This critical gap was also affected by jurisdictional ambiguities between the General Prosecution Offices (GPO)⁷³ and Special Anti-Corruption and Organised Crime Structure (SPAK),⁷⁴ where the latter is mandated to investigate high-level corruption and organised crime,⁷⁵ holding competence only for high-ranking magistrates. This division caused uncertainty in the reporting of indictments as SPAK transferred the cases to the general prosecutions, which closed them due to insufficient evidence. As a result, SPAK focused more on active corruption rather than already vetted magistrates.

Sixth, discrepancies between the evidentiary criminal standard and vetting investigation standards, as the latter applied administrative law (*prevalence of evidence; burdens of proof on vetting subjects regarding the legitimacy of assets*),⁷⁶ while criminal prosecution protocol requires "beyond a reasonable doubt" proof of

67 See note 12 above, 26–31.

68 [Law No. 7895](#), dated 27 January 1995, Criminal Code, Arts. 66, 257/a.

69 See note 12 above.

70 Ministry of Justice, Annual statistics, 2014–2023.

71 See note 12 above.

72 Independent Qualification Commission, Statistical Report (December 2022).

73 Criminal Code of the Republic of Albania, arts. 143/a(6) ('Concealment of Property'), 180 ('Concealment of Incomes'), 181 ('Failure to Pay Taxes and Tariffs'), and 181/a ('Failure of the Tax Authorities to Perform Duties').

74 Constitution of the Republic of Albania, arts. 148, 148/dh, para. 1; [Law no. 95/2016](#), arts. 2, 4, 8.

75 Criminal Procedure Code of the Republic of Albania, art. 75/a (listing, inter alia, the offenses under arts. 244, 244/a, 245, 245/1, 257–260, 312, and 319).

76 Vetting Act no. 84/2016, arts. 45–61, 52.

criminal intent, with prosecutors bearing the burden. Consequently, those IQC asset investigations that lacked elements of criminal conviction hindered 78% of vetting prosecutions.⁷⁷

5.3. LACK OF LONG-TERM SUSTAINABLE ACCOUNTABILITY

Despite the comprehensive regulation of Albania's extraordinary vetting process (2016–2026), the design reveals critical limitations. The transitory legislation provided finite mandates for vetting bodies (*IQC terminated in December 2024, SAC expires in April 2026*) but did not succeed in creating continuity protocols for permanent institutions (*HJC and HPC*) taking over the vetting responsibilities.⁷⁸ This legislation vacuum contradicts Venice Commission (VC) opinion, which explicitly recommended that “the Draft Amendments should make it clear that once a sitting judge passes through the vetting, his/her accountability would be further regulated by the ordinary rules”.⁷⁹ The Albanian Constitution, Article 179/b.8, only addresses the transfer of pending re-evaluation cases without specifying procedural standards, assessment criteria, or quality standards. The Vetting Act, Article 70, simply provides that vetting institutions will cease operations without provisions on exceeding accountability standards to permanent institutions. This creates critical gaps regarding: (1) evaluation standards for 105 resigned vetted subjects seeking reappointment in 2032 after their 15-year ban expires; (2) pre-appointment verification protocols for post-2026 candidates; (3) periodic procedures for integrity evaluation; and (4) annual proficiency/security/asset audits. The European Commission confirms these concerns, finding that permanent institutions already implement lower standards than vetting bodies (2026), with HJC and HIDAACI needing to upgrade protocols for asset and background checks to match vetting standards, and HJI lacking inspection capacity.⁸⁰ Furthermore, the vetting standards need reconsideration due to the displayed implementation gaps through systematic coordination difficulties among court councils, prosecution offices, and auxiliary vetting bodies.⁸¹ This legislative gap regarding continuity of vetting standards creates a government vacuum, which risks turning the judicial accountability system post-vetting into the pre-reform impunity patterns.

6. CONCLUSIONS

Considered together, the three interrelated dynamics in Albania's vetting design reveal a structural tension. The sustainability gap necessitated institutional resilience to surpass the repercussions of cooperation difficulties among institutions involved.

⁷⁷ See note 12 above.

⁷⁸ Constitution of the Republic of Albania, art. 179/b, paras. 8–9; Vetting Act no. 84/2016, arts. 5, 7; Venice Commission, CDL-PI (2022)051, Compilation of Venice Commission Opinions and Reports Concerning Vetting of Judges and Prosecutors (December 19, 2022).

⁷⁹ Venice Commission, CDL-AD (2015)045, Albania, Interim Opinion on the Draft Constitutional Amendments of the Judiciary, para. 102; CDL-PI (2022)051, Compilation of Venice Commission Opinions and Reports Concerning Vetting of Judges and Prosecutors (December 19, 2022), sec. V.

⁸⁰ See note 42 above.

⁸¹ See note 23 above.

In contrast, the operational crisis emphasizes the importance of court functionality, which requires balancing judicial capacity alongside judicial accountability measures. The operational effects of extraordinary accountability mechanisms cannot be treated as subsidiary costs; they should instead be managed proactively as critical aspects of reform design. Key lessons emerge for transitional societies:

- Comprehensive accountability requires managing the trade-off between integrity and court functionality: personnel transformation should be phased and paired with personnel projections from the start of reform design, and not improvised during judicial crises.
- Anticipating institutional resistance necessitates strategic measures, including sanctions for non-cooperation and rewards for reporting, and continuous monitoring of accountability bodies through performance metrics.
- Establishing clear procedures should invoke criminal investigations with defined jurisdiction and dedicated resources to mitigate evidentiary insufficiency.
- Procedural legitimacy depends on domestic institutional capacity, support in legislative reform and institutional culture, and not just external technical support alone.
- Transitional planning to ensure the continuity of vetting standards through permanent institutions requires frameworks for accountability, such as integrity commissions and periodic vetting checks, to be operational before December 2026.

Albania's vetting has achieved notable outcomes; therefore, simultaneous reform and capacity planning are imperative to avoid compromising court functionality. For Ukraine, Moldova, and the Western Balkans, the core lessons are to design vetting systems that not only seek transformative changes but also safeguard judicial capacity and prevent impunity through a phased approach, continuity provisions for an accountability framework, and parallel support in judicial infrastructure.

ADDITIONAL FILE

The additional file for this article can be found as follows:

- **Appendix.** The appendix Tables 1–6 contain data on court efficiency indicators for 2014–2024 processed by author own contribution. DOI: <https://doi.org/10.36745/ijca.793.s1>

FUNDING INFORMATION

The author received no specific funding for this work. The research was conducted while the author was affiliated with Council of Europe Office in Tirana as Expert. The views expressed in the article are author's own personal views.

COMPETING INTERESTS

The views expressed in the article are the author's own personal views. The author has no competing interests to declare.

AUTHOR INFORMATION

The research was conducted while the author was affiliated with Council of Europe Office in Tirana as an expert. The current affiliation of the author is the Ministry of Justice of Republic of Albania.

Bulica
International Journal
for Court Administration
DOI: 10.36745/ijca.793

13

AUTHOR AFFILIATIONS

Blerina Bulica  orcid.org/0009-0002-1088-4527

Rule of Law Expert, Council of Europe Office in Tirana, Albania; Ministry of Justice of Republic of Albania, Albania

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Bulica
*International Journal
 for Court Administration*
 DOI: 10.36745/ijca.793

TO CITE THIS ARTICLE:

Blerina Bulica, 'Lessons from Albania's Judicial Vetting for Transitional Societies' (2026) 17(2) *International Journal for Court Administration* 4. DOI: <https://doi.org/10.36745/ijca.793>

Published: 28 July 2026

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