

Improving judicial performance in Albania

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Abstract

Restoring public trust in the judicial system remains a major challenge for Albanian society. Statistical data show that justice systems are weaker in 2023 and that delays in the delivery of justice and issues in implementation are key factors. According to the latest World Rule of Law Index, Albania performs poorly, especially in the fight against corruption and the enforcement of the law. In this regard, further interventions are necessary to improve performance. Judicial efficiency, often measured by the length of the process, is closely related to access to judicial services and legal certainty of court decisions, thus increasing public trust. It ensures the enforcement of contracts as well, which are the basis of commercial transactions. In this way, the judiciary and the rule of law are the main priorities for improving the business environment.

Given the analysis and theoretical debate on models for increasing judicial efficiency, the current situation in the country - as evidenced by statistical data from local and international detailed reports - the comparison with Western Balkan and EU countries, the measures taken and policies proposed in these countries, and the aspiration to be part of the EU, increasing public trust in justice is the fundamental change for which measures should be taken.

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For these reasons, improving judicial performance, ensuring higher quality, faster, and cheaper justice, would contribute to restoring society's trust in justice, effectively guaranteeing fundamental rights and freedoms, as well as improving the business climate in the country.

Keywords: *judicial performance, justice system, accountability, transparency, public trust.*

Introduction

The European Network of Councils for the Judiciary (ENCJ) emphasizes that *high performance in the judiciary is directly linked to accountability* (OECD, 2023). This reflects a broader need for reform and improvements in the Albanian justice system, focusing on transparency and professionalism to rebuild confidence in legal institutions. Statistical data (World Justice Project – Rule of Law Index 2023) show that justice systems are weaker in 2023.

Approximately 1.5 billion people are unable to resolve their legal problems. Regarding civil justice, the index scores fell for 66% of countries, compared to 61% last year. Delays in delivering justice and issues in implementation are the main factors. Regarding criminal justice, index scores dropped for 56% of countries, compared to 55% last year. Similarly, data from the last 7 years (2016-2023) show that 7 out of 8 factors of the rule of law have declined in more countries than those that have improved. The categories showing the largest declines are related to: Government Powers Limitation (74%), Fundamental Rights (77%), and Criminal Justice (74%).

In the 2023 Global Rule of Law Index, Albania ranks poorly in comparison to other countries, positioned at 91st out of 142 states. The country performs particularly weakly in combating corruption, ranking 108th, and in law enforcement, where it is placed 112th. Civil justice ranks 102nd, while criminal justice stands at 91st. However, Albania performs better in areas such as order and security, ranking 53rd, and fundamental rights, ranking 68th. Regionally, Albania is one of nine countries experiencing a decline in the Rule of Law Index, surpassing only North Macedonia, Bosnia and Herzegovina, and Serbia. Conversely, Kosovo and Montenegro show improvements in their respective indices. These rankings highlight Albania's significant challenges, particularly in governance, legal transparency, and anti-corruption efforts.

An analysis of domestic and international reports on Albania reveals that despite the implementation of justice reform and some significant achievements in this regard, certain interventions are considered essential for a faster, less costly, and

higher-quality justice administration. To identify priority sectors for intervention, the theoretical debate on efficiency models in justice, the current situation in the country derived from detailed domestic and international statistical reports, comparisons with Western Balkan countries and EU countries, and the measures undertaken, and policies proposed in these countries were considered, along with the aspiration to join the EU. Restoring public trust in the justice system is a fundamental change for which measures must be taken. Proposed interventions and the careful allocation of funds must center around the citizen and aim to increase public trust in justice. Considering the difficulties encountered in improving the efficiency of the judiciary in Albania, the weakest points include the duration of court processes, the still-low number of judicial and support staff, low participation in training, and the use of technology.

Studies recommend *the need for changes towards a justice system centered on the needs of the citizen and modernized, which can be achieved through collaborative leadership, careful use of technology, and modernization of financing models* (PwC, April 27, 2022). The first involves cooperation between prosecutors, judges, lawyers, police, and parties involved in the process. The second emphasizes investment in the information technology (IT) system, to access information in real-time. The third relates to the fact that financing models in justice organizations are mainly based on the number of resolved cases, a model that does not stimulate innovation or collaboration. These models should focus on the citizen and increasing trust in the justice system (The new global imperative to modernize justice systems, PwC Global, 27 April 2022). Regarding the acceleration of procedures, studies have shown the strong potential of applying Operational Management (OM) methodologies in public policy settings in general and judicial environments in particular. The application of the Theory of Constraints (TOC) in the judicial system in Israel has yielded results in alleviating court workload (Azaria, Ronen, Shamin, 2023). According to the authors, the main premise of TOC is that only a small portion of the resources involved in a system process are responsible for inefficiency and delays. As a result, TOC offers a methodology to identify these constraining resources, improve their efficiency, and restructure the related process.

Judicial Efficiency and Public Trust: doctrinal debate

The need for a more efficient judiciary—characterized by speed, cost-effectiveness, and quality—is evident worldwide. This section explores the concepts of judicial efficiency and public trust, drawing on the works of various authors, and offers a comprehensive understanding of these issues. Buscaglia and Dakolias (1999) investigate how public trust is affected by judicial reforms. They contend that

to restore public confidence in the judiciary, extensive reforms that enhance the caliber, efficiency, and speed of judicial proceedings are required. With this regard, accountability and transparency play a crucial role. Judicial effectiveness is also crucial for fostering social and economic stability in addition to making contract enforcement easier (Djankov et al., 2003). They argue that efficient legal systems promote economic growth by reducing transaction costs and creating an atmosphere more favorable to investment.

Judicial efficiency calls for procedural and structural interventions of the justice system. While procedural reforms frequently concentrate on streamlining legal procedures to cut down on costs and delays, structural reforms may involve strengthening the judicial institutions' independence and accountability. Procedural improvements have been shown to be crucial for enhancing public trust and judicial efficiency by Buscaglia and Dakolias (1999). Important steps in this direction include streamlining legal processes, cutting bureaucracy, and utilizing technology to enable quicker case handling (for example, putting online case tracking and electronic filing systems into place)

The relationship between government intervention and judicial independence is depth analyzed by Rose-Ackerman and Palifka (2016). They argue that excessive government interference can significantly impair the independence of the judiciary. They point out that individuals and companies are more likely to interact with the legal system and look to the courts to resolve their conflicts when they believe that the judiciary is unbiased and independent.

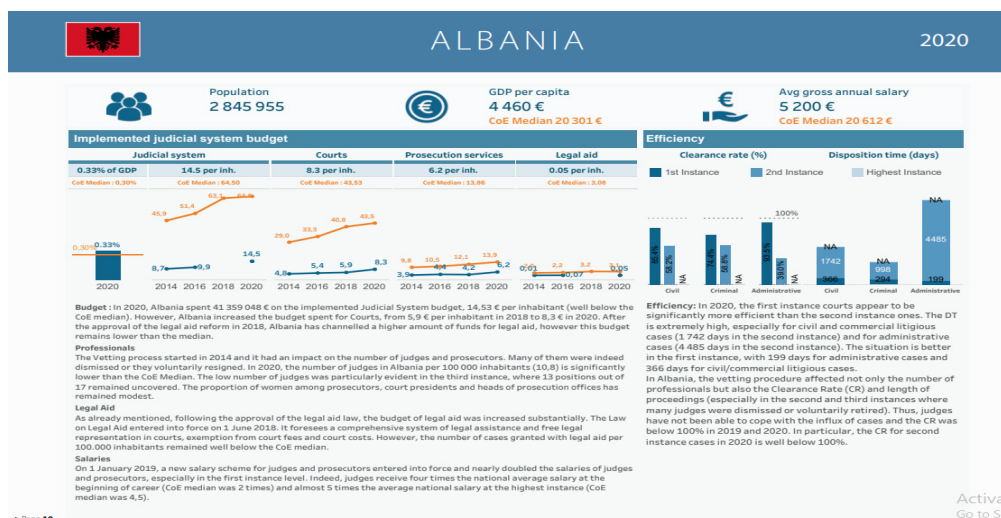
The effect of human rights abuses on judicial accountability is covered by Carothers (2006). He explains that injustices committed by judges frequently take the form of biased decisions, arbitrary detentions, and unjust trials, all of which damage the public's trust in the legal system. With this regard, a major issue continues to be property rights violations, which highlights the need for comprehensive reforms in property registration laws, particularly concerning the cadastre and transitional property processes.

A widespread issue that compromises the effectiveness of legal institutions is corruption. Kaufmann, Kraay, and Mastruzzi (2010) demonstrate how corruption weakens public confidence, impedes justice, and distorts legal procedures. They stress that bribery, favoritism, and the manipulation of court decisions are only a few examples of the many ways that corruption in the judiciary can appear. In addition, they emphasize how judicial corruption has wider social and economic ramifications. Corrupt legal systems discourage investment and economic activity because they are unable to uphold property rights and enforce contracts in an effective manner.

The efficiency of the Albanian justice system: current situation

The justice system in Albania faces significant challenges primarily due to corruption, human rights violations, and government interference. Restoring public trust in the administration of justice is a critical issue, not only in Albania, but worldwide.

TABLE 1 – Performance of the justice system in Albania for 2020



Source: The Evaluation Report of the European Commission for the Efficiency of Justice (CEPEJ) for Albania for the 2022 cycle, with data up to 2020. Part 2 Country Profile², p. 9.

The Evaluation Report of the European Commission for the Efficiency of Justice (CEPEJ) for Albania for the 2022 cycle, with data up to 2020, evidence the following data:

- Allocation of Funds (Budget)* – In 2020, Albania spent 41,359,048 euros on implementing the Budget of the Judicial System, which equates to 14.53 euros per capita (significantly below the Council of Europe's average of 64.5 euros). However, Albania increased its spending on Courts, from 5.9 euros

² Retrived from, https://www.coe.int/en/web/cepej/special-file-report-european-judicial-systems-cepej-evaluation-report-2022-evaluation-cycle-2020-data-?p_p_id=56_INSTANCE_Pec933yX8xS5&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_pos=1&p_p_col_count=2, accessed on 12.04.2024

per capita in 2018 to 8.3 euros in 2020. Following the adoption of the legal aid reform in 2018, Albania allocated a larger sum of funds for legal aid, although this budget remains below the CoE average. *The budget for justice institutions in Albania has doubled compared to 2016. In 2024, 26.2 billion leks are allocated for planned investments, with 632 million leks specifically for the rehabilitation of minors.* (Gjediku, 2023).

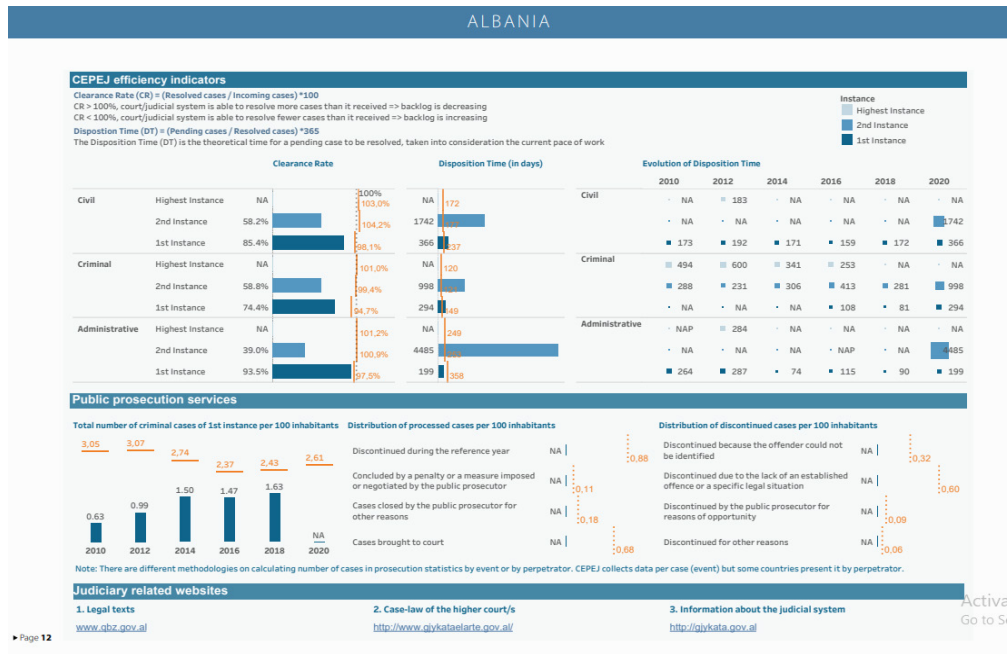
- b) *Number of Professionals* – The “vetting process”, which began in 2014, had an impact on the number of judges and prosecutors. Many were dismissed or resigned. In 2020, the number of judges in Albania per 100,000 inhabitants (10.8) was significantly lower than the CoE average. The low number of judges was particularly evident in the third tier, where out of 17 positions, 13 were vacant. The percentage of women among prosecutors, court presidents, and heads of prosecution offices has remained modest.
- c) *Legal Aid* – With the approval of the law on legal aid, which came into force on June 1, 2018, the budget for legal aid significantly increased. It provides a comprehensive system of legal assistance and representation in courts, as well as exemption from court fees and costs. However, the number of cases covered by legal aid per 100,000 inhabitants remains significantly lower than the CoE average.
- d) *Salaries* – On January 1, 2019, a new scheme for judges and prosecutors came into effect, which almost doubled their salaries, especially those at the first instance level. In fact, judges receive four times the national average salary at the start of their careers (the CoE average is double) and almost five times the national average salary at the highest instance (the CoE average is 4.5).
- e) *Judicial efficiency* – According to the 2020 report, first-instance courts were much more efficient than second-instance courts. In Albania, the “vetting process” impacted not only the number of professionals but also the dismissal rate and the duration of procedures (especially in the second and third instances, where many judges were dismissed or resigned).

CEPEJ Report for Albania: Indicators of the judicial efficiency in Albania (dismissal rate and decision time) compared to the European average

With regards to the *indicators of the efficiency of the judiciary in Albania for the year 2020 (dismissal rate and decision time) compared to the European average*, the Evaluation Report of the European Commission for the Efficiency of Justice (CEPEJ) for Albania for the 2022 cycle, evidences the *Clearance Rate (CR)*, which indicates the number of resolved cases in relation to the number of incoming cases. If $CR > 100\%$, the judicial system can resolve more cases than it receives, and the

backlog is decreasing. If CR < 100%, the judicial system can resolve fewer cases than it receives, and the backlog is increasing.

TABLE 2 - Indicators of judicial efficiency in Albania for 2020 (clearance rate and disposition time) compared to the European average



Source: The Evaluation Report of the European Commission for the Efficiency of Justice (CEPEJ) for Albania for the 2022 cycle, with data up to 2020. Part 2 Country Profile, p. 10.

In Albania, the “vetting process” affected not only the number of professionals but also the clearance rate and the duration of procedures (especially in the second and third instances, where many judges were dismissed or resigned). For this reason, judges found it difficult to manage the case load, and CR was below 100 in both 2019 and 2020. Specifically, the CR for second-instance cases in 2020 was significantly below 100%.

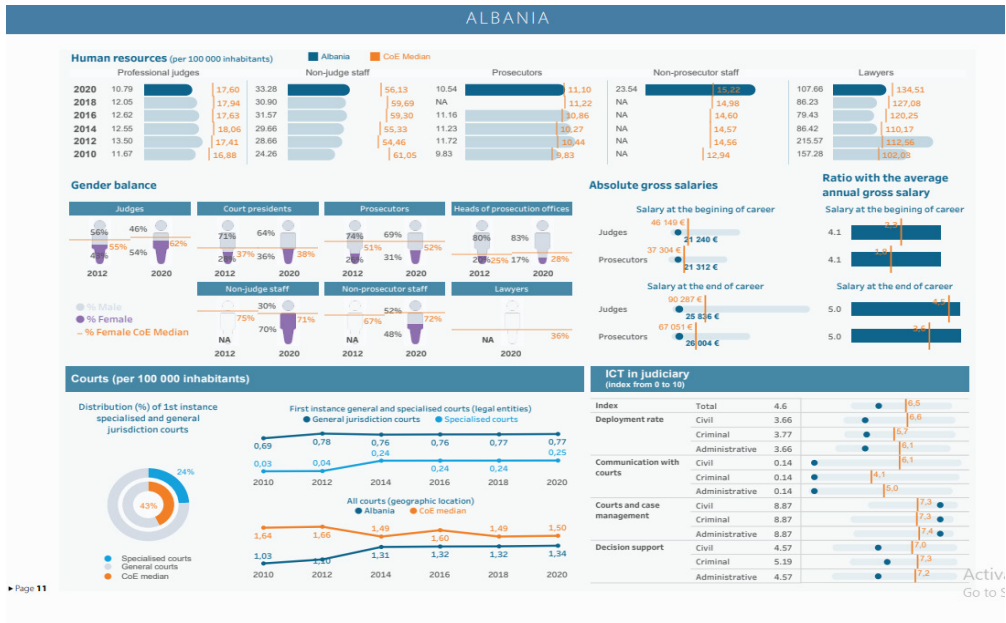
The clearance rate was significantly lower for second-instance cases compared to the European average (CoE), especially for administrative cases. In the first instance, for civil cases – 85.4%, compared to the European average (CoE) of 98.1%; for criminal cases – 74.4%, compared to the CoE average of 99.4%; for administrative cases – 93.5%, compared to the CoE average of 97.5%. In the second instance, for civil cases – 58.2%, compared to the CoE average of 104.2%; for criminal cases – 58.8%, compared to the CoE average of 99.4%; for administrative cases – 39%, compared to the CoE average of 100.9%. *Decision Time* was extremely

high, especially for cases reviewed in the second instance. In the first instance, or civil cases – 366 days, while the CoE average is 237 days; for criminal cases – 294 days.

Distribution of Human Resources and General and Specialized Courts per 100,000 Inhabitants in Albania for 2020

With regards to the *distribution of Human Resources and General and Specialized Courts per 100,000 Inhabitants in Albania for 2020*, the Evaluation Report of the European Commission for the Efficiency of Justice (CEPEJ) for Albania for the 2022 cycle, show a low number of human resources in the judicial system in the country compared to the CoE average.

TABLE 3 - The distribution of human resources and general and specialized courts per 100,000 inhabitants in Albania for the year 2020



Source: The Evaluation Report of the European Commission for the Efficiency of Justice (CEPEJ) for Albania for the 2022 cycle, with data up to 2020. Part 2 Country Profile, p. 11.

The most critical situation is regarding the *number of judges*—10.79 judges in the country, compared to the CoE average of 17.6—and their support staff, 33.28 instead of 59.69 as per the CoE average. In the specific: 10.79 judges in the country, compared to 17.6 of the CoE average; 33.28 non-judge staff in courts in the country, compared to 59.69 of the CoE average; 10.54 prosecutors in the country, compared

to 11.11 of the CoE; 23.54 non-prosecutor staff in the prosecution offices in the country, compared to 15.22 of the CoE average of; 107.66 lawyers in the country, compared 134.51 of the CoE average.

Gross annual salaries at the beginning and end of the careers of judges and prosecutors depend on the fact that they're at the beginning or at the end of their career. At the beginning of the career, the annual salary of Albanian Judges is €21,420 compared to €46,149 of the CoE average; for Albanian Prosecutors, €21,312 compared to €37,304 of the CoE average. At the end of the career, the annual salary for Albanian Judges is: €25,386 compared to €90,287 of the CoE average; for Albanian Prosecutors: €26,004 compared to €67,051 of the CoE average.

The distribution of general and specialized courts per 100,000 inhabitants in the country is 24%, compared to the CoE average of 43%. The Information and Communication Technology (ICT) system in courts also shows a low level of use, especially in communication. Specifically:

Information and Communication Technology (Index from 0 to 10): The level of distribution in the country is almost half of the CoE average. For civil courts, 3.66, while the CoE average is 6.6; for criminal courts 3.77 while the CoE average is 5.7; for administrative courts, 3.66, while the CoE average is 6.1.

Communication with courts in the country is critical compared to the CoE average: For civil courts, 0.14, while the CoE average is 6.1 (around 43 times smaller); for criminal courts, 0.14, while the CoE average is 4.1 (around 23 times smaller); for administrative courts, 0.14, while the CoE average is 5 (around 36 times smaller).

Court case management is lower than the CoE average: for civil courts 8.87, while the CoE average is 7.3; for criminal courts 8.87, while the CoE average is 7.3; for administrative courts 8.87, while the CoE average is 7.4. *Decision-making support* is significantly lower than the CoE average: for civil courts 4.57, while the CoE average is 7.0; for criminal courts 5.19, while the CoE average is 7.3; for administrative courts 4.57, while the CoE average is 7.2.

Court functioning during the period 2022–2023

With regard to the High Judicial Council (HJC) analysis, most courts operated with a reduced capacity of judges, below 70% (25 out of 38 courts), while at the national level, only 56% of the judges' positions were effectively filled during 2022 (Gjykatat në 2022, çështjet e reja ranë me 12%, por ngarkesa e punës mbetet ende e lartë, 03.05.2023)³.

³ According to this analysis: "The workload in the courts was handled by only 228 judges, or 8.2 judges per 100,000 inhabitants. This ratio is less than 40% of the European standard (22.2 judges per 100,000 inhabitants). The courts have tried to maintain the pace of case resolution, with the national average clearance rate increasing to 104% (compared to the average rate of 68% in 2021) to keep the case backlog under control. However, these efforts have not yielded results, as there is a 31% increase in cases awaiting judgment nationwide. In absolute terms, the approved budget for 2022 is approximately

According to the analysis of the 2023 Annual Report of the High Court (Deklaratë për Median e Kryetarit të Gjykatës së Lartë, Z. Sokol Sadushi, 29 Dhjetor 2023), highlights that “the High Court has exceeded the international standard of case clearance for more than two years, achieving a case clearance rate of approximately 425% in 2023”⁴. In terms of improving procedural quality, the High Court notes that there is a reduction in the submission of new appeals that are clearly unfounded, as in 2023, 42% of appeals in the administrative field were assessed as clearly unfounded⁵. The report on the performance of the Prosecution Service in Albania and the evaluation of key mechanisms for an efficient and effective system (Center for the Study of Democracy and Governance, 2023: 44) highlights, among its main findings, that, as a result of the transitional re-evaluation process, temporary and permanent vacancies in the prosecution service continued into 2022, reaching 42%⁶.

The HJC report on the state of the judiciary and the activity of the HJC for 2023 (Raport mbi gjendjen e sistemit gjyqësor dhe veprimtarinë e Këshillit të Lartë Gjyqësor për vitin 2023) highlights that: “The case clearance rate for the Court of Appeal of General Jurisdiction is not satisfactory”⁷. According to the 2023 European Commission Report for Albania, by October 6, 2023, 57% of “vetting” files resulted in dismissals, resignations, or the end of mandates. The report highlights the need to take measures against: impunity, especially criminal prosecution against judges and prosecutors whose “vetting processes” revealed criminal elements; long case durations and workload; insufficient human resources (with only 40 new magistrates appointed in October 2023); the high number of unresolved cases, particularly in civil and administrative appeals courts.

€11.2 per inhabitant, while the average in European countries is €45.8 per inhabitant. The average case resolution per judge nationwide in 2022 was around 561 cases per judge, marking an increase of 25 cases (536 in 2021) compared to the previous year”.

⁴ According to this data: “Within just three years of recovery, 24,688 decisions have surpassed the backlog, which has significantly reduced to 24,120 cases. For 2023, 7,848 judicial decisions were issued, four times more than the average output per judge, of which 2,931 belong to the Administrative Chamber, 2,689 to the Civil Chamber, and 2,228 to the Criminal Chamber. Each judge has managed a workload of about 440 decisions per year—a record number. Attention has also increased towards decision-making quality, with more decisions issued for unification, development, and change of judicial practice. During 2023, procedures began for 13 unification decisions (4 from the Criminal Chamber, 2 from the Civil Chamber, and 7 from the Administrative Chamber)”.

⁵ There were 468 requests were submitted for the withdrawal of appeals, of which 384 came from public institutions and 84 from individuals, divided as follows: 261 in the administrative field, 177 in civil and 30 in criminal.

⁶ According to this report, “In 2022, 34% of prosecutors did not participate in any training sessions organized by the School of Magistrates. (...) A total of 21,865 criminal proceedings were carried over, representing a 20.19% increase compared to the cases carried over in 2021”.

⁷ According to this data, “It is observed that, “compared to the previous year, there has been a decrease in the clearance rate. The data show that the clearance rate for civil cases has decreased by 38% and for criminal cases by 12.1%. The Administrative Court of Appeal has achieved higher clearance rates. The indicator for this court in 2023 is 43%”.

In April 2024, the CEPEJ Working Group on Judicial Time Management discussed tasks related to: tools for assessing cases; measuring system workload; reducing wait times in judicial systems; potential effects of Artificial Intelligence (AI) on court efficiency; tools for work-life balance in the judiciary. The Intersectoral Justice Strategy 2021-2025 highlights the following objectives: professional functioning of governance institutions of the justice system; ensuring independence, efficiency, and accountability; strengthening transparency, competence, access, and efficiency in the judiciary; coordinated and effective management of the justice system across institutions and sectors.

The 2023 report of the Albanian Helsinki Committee on the effects implementation of the justice reform on the New Judicial Map in Albania (Albanian Helsinki Committee, 2023: 16) criticized not only the procedural aspects of the lack of broad consultation during the drafting of the New Judicial Map but also the efficiency of this reform. According to this report: “If we compare the data on efficiency during 2022 against that of 2023, which marks the beginning of the effects of the new judicial map, we observe a further decrease in the efficiency of the new courts, even though the proposal to abolish the courts aimed for the opposite”⁸.

Comparative Studies in the EU on Judicial Efficiency for the Period 2010-2018

Comparative studies in the EU for the period 2010-2018 (Kapopoulos & Rizos, 2023) have shown that, the operational inefficiency of judicial systems endangers economic growth by weakening their ability to enforce private contracts and effectively guarantee property rights. According to this report, the failure to protect property rights: a) jeopardizes savings and investments through weak protection of their profits; b) creates obstacles to attracting foreign investments; c) leads to productivity and capital losses; d) worsens the business climate and eliminates necessary funds used for financing investment plans. On the other hand, poor enforcement of private contracts: a) increases transaction costs; b) creates a lack of incentives for private agents to participate in financial transactions; c) presents barriers to the expansion of firms’ size; and d) raises liquidity barriers, limiting credit supply and increasing interest rates.

⁸ According to the data available to AHC, “for the period from February to September 2023, the only General Jurisdiction Appeal Court in Tirana reviewed 1,712 fewer cases compared to the same period the previous year, from the six appellate courts that have now been abolished. We also note a lower judicial efficiency in the First Instance Courts of General Jurisdiction, which after the merger, adjudicated 4,260 fewer cases or around 85% of the number of cases reviewed during the same period before the merger. Finally, the Administrative Courts of First Instance resolved only 75% of cases, or 451 fewer cases compared to the same period from July to September 2022”.

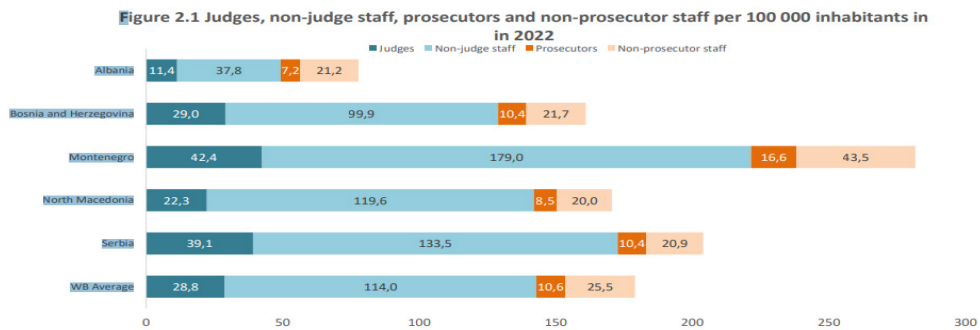
The 2017 European Commission report summarized the challenges many European countries face in efficiently administering justice, addressing specific recommendations for Croatia, Cyprus, Italy, Portugal, and Slovakia (European Commission, 2018). According to this report, among the good practices for improving judicial efficiency were the creation of a communication center for the distribution of judicial documents in Slovenia, the creation of a portal for open access to court decisions at all levels in Romania, and the creation of an electronic services portal for courts in Latvia, with a simple user interface for submitting online applications, completing forms online, tracking cases, receiving notifications, and checking the availability of lawyers and prosecutors.

Issuing timely decisions is essential for businesses, investors, and consumers. The quality of the judicial system is also a key determinant of a country’s economic performance. This includes: a modern case management system (information technology – IT); raining of judges and staff; monitoring and evaluation of court activity; use of surveys on the satisfaction level of services provided; financing and human resource capacities.

Comparative Data for Western Balkan Countries (2022)

Comparative studies by CEPEJ on the results of judicial reform efforts in Western Balkan countries (CEPEJ – HFIII, 2023) show that:

TABLE 4 – Judges, non-judge staff, prosecutors and non – prosecutor staff per 100000 inhabitants in 2022



Source: European Commission for the Efficiency of Justice – CEPEJ – HFIII (2023): Towards a better evaluation of the results of judicial reform efforts in the Western Balkans – phase II “Dashboard Western Balkans II”, Data collection 2022, CEPEJ(2023)3REV1, Strasbourg, 21/07/2023⁹, p. 86.

⁹ Retrieved from <https://rm.coe.int/20230721-wb-dashboard-deliverable-1/1680ad53aa>, accessed on 06.04.2024.

- The average number of judges in Albania is 11.4, while the average for Western Balkan countries is 28.8; the average number of non-judicial staff in Albania is 114, compared to the average for Western Balkan countries of 37.8.
- The Case Management System (CMS) index in Albania is the lowest in the region at 6, while the average for Western Balkan countries is 10.1.
- Free legal aid in Albania is 36.7 euros, while the average for Western Balkan countries is 152.5 euros.
- The number of trainings in Albania is 78, while the average for Western Balkan countries is 188; the number of judges participating in training in Albania is almost half of the average for Western Balkan countries, 881 compared to 1,676; online training participation in the e-learning platform was absent from Albania, while the highest number for Western Balkan countries was for participants (judges and prosecutors) from Bosnia and Herzegovina.

In the criminal sphere, OSCE in the “Report on Monitoring Judicial Processes in the Western Balkans” for the review period, June 2021 - March 2024, identified the following challenges: efficiency, effectiveness, and capacity in handling serious and complex Organized Crime (OC) cases; independence and impartiality of judicial officials and institutions regarding the interests of both public and private actors; irregular practices regarding transparency and access to information on cases of public interest; inefficiency, among other reasons due to poor case management and a lack of procedural discipline; adequate quality in trial demands and decisions; asset confiscation, which is underutilized; plea bargains are often not used strategically and rarely ensure the confiscation of illegal gains.

Judicial Efficiency Indicators in Albania for 2022 (case discharge rate and resolution time) in relation to Western Balkan countries – Judicial Staff

With regards to the Judicial Efficiency Indicators in Albania for 2022 (case discharge rate and resolution time) in relation to Western Balkan countries – Judicial Staff, the Evaluation Report of the European Commission for the Efficiency of Justice (CEPEJ) for Albania for the 2022 cycle, evidences that, compared to other Western Balkan countries, for 2022, Albania ranks last and has a significantly lower number of both judges and non-judicial staff.

The Italian model has been chosen as a comparative model for Albania for two reasons: first, due to the similarity between legal systems, as both are part of the Civil Law system (in drafting legal codes, Italy has often been used as a model); second, because at the European level, the Italian justice system functions much

more slowly compared to other member states regarding procedural time, as evidenced by the latest report from the European Commission for the Efficiency of Justice (CEPEJ).

For this reason, measures have been proposed to make the judicial system more efficient by reducing the duration of court proceedings and bringing Italy closer to the EU average (Italia Domani - Piano Nazionale di Ripresa e Resilienza. The reform of the Courts). A more effective and efficient justice system, apart from being fairer, cannot be achieved only through reforms in judicial procedures. For this purpose, indispensable and complementary interventions are required at the organizational level, in the non-procedural dimension, and in the legal process dimension. The Italian strategy for increasing efficiency in civil justice includes (Italia Domani - Piano Nazionale di Ripresa e Resilienza. The reform of the Courts): reducing workload; simplifying existing procedures; increasing the productivity of offices; using alternative dispute resolution tools, primarily arbitration and mediation; simplifying the appeal process by strengthening the admissibility filter, increasing cases where a single judge is competent to decide, and ensuring the effective application of mandatory procedural deadlines; temporary employment to ensure a reduction in workload.

The strategy for increasing efficiency in criminal justice focuses on: reducing the time of criminal procedures; simplifying existing procedures; increasing the productivity of offices; expanding the use of digital technology; predicting short deadlines for preliminary hearings; revising the notification system. Among the features of the Italian system are the competencies of the “Justice of the Peace”, which could serve as a model for reducing workload and handling cases in a shorter time in Albania (Occhipinti, 2020).

Use of Mediation as an Alternative Dispute Resolution Mean

Mediation, as an instrument of Alternative Dispute Resolution (ADR), is recommended by academics and international experts as an important tool for the effective resolution of disputes. In recent years, there has been a global push for the use of ADR, especially mediation in family matters. The benefits and usefulness of mediation as a dispute resolution mechanism compared to the judiciary have been widely discussed by scholars (Higgs Howarth & Caruana, 2017). A recent study concluded that the goals of Directive 2008/52/EC on mediation in civil and commercial matters were achieved only in countries that introduced mandatory mediation (Korsakoviene et al., 2023). According to this analysis, 74% of EU countries have implemented various theoretical frameworks for mandatory family mediation (such as discretionary, quasi-mandatory, contractual, and mandatory).

In developing and consolidating democracies – such as those in the Western Balkans, where the judiciary faces efficiency challenges – the use of ADR (including family mediation) is even more important, reducing the backlog of cases in courts. Encouraging judges to promote mediation is one of the European ADR strategies (European Parliament, Report “Quantifying the cost of not using mediation – a data analysis” 2011).

Although some pro-mediation regulations have been proposed and adopted at both the EU and national levels, the use of mediation and ADR is still far below its full potential (De Palo and Canessa, 2016). EU Member States have been required through the 2008 EU Directive “On Mediation in Civil and Commercial Matters” to engage and achieve a “balanced number of relationships” between civil judiciary and mediation. According to CEPEJ Reports of 2018, “Recommendations and Guidelines for Family Mediation have had a significant to very significant impact in their respective countries” (European Commission for the Efficiency of Justice, Working Group on Mediation – CEPEJ-GT-MED, 2018). Recently, CEPEJ adopted “Guidelines for Online Alternative Dispute Resolution” (December 4-5, 2023), specifying that “mediation has become increasingly important to the point that, in some jurisdictions, participation in an initial mediation session is a prerequisite to filing a court case, according to so-called opt-out mediation.” The Court of Justice of the European Union (CJEU) has specified that “the imposition of mandatory mediation as a prerequisite to accessing judicial proceedings is not excluded by the EU legal framework for ADR” (Case C-75/16). This is conditional upon the fact that access to the judicial system is not hindered.

Studies on family mediation in Albania (Albanian Institute for Legal and Territorial Studies – A.L.T.R.I., 2020) concluded, among other things, that judges in most cases do not refer to mediation; the professional level of mediators is considered insufficient; specialization of mediators by areas of law is necessary, and exemptions from fees for groups in need are required. Albania is one of the few countries (11 out of 35) that does not provide legal aid for mediation services (European Commission for the Efficiency of Justice, 2022:36).

Conclusions and Recommendations

From the above, it is observed that there is a general decline in the level of trust in the administration of justice, not only for Albania but globally. The challenges for our country are even greater due to the specific situation related to the justice system reform and the “vetting process”, essential in the fight against corruption and law enforcement. Comparative studies in the EU for the period 2010-2018 have shown that the operational inefficiency of judicial systems threatens economic growth,

weakening their ability to enforce private contracts and effectively guarantee property rights. These, in turn, risk savings and foreign investment attraction, loss of productivity, and capital.

Regarding the situation in the country, the 2020 statistical data reported an alarming situation concerning trial delays in the Courts of Appeal: civil cases – 1742 days, about 10 times higher than the CoE average of 177 days; criminal cases – 998 days, about 8 times higher than the CoE average of 121 days; administrative cases – 4485 days, 17.7 times higher than the CoE average of 253 days. The 2023 report by the National Resource Centre for Civil Society in Albania concluded that the issues in the justice system still relate to the quality of final court decisions; the length of procedures, the increased workload, and the high number of pending cases, which remains significant (The courts with the most pending cases are the Supreme Court, the Court of Appeal, and the Administrative Court of Appeal); citizens' awareness of ADR; the assessment of the impact of the new judicial map (Lamçe, 2022: 37-38) on the efficiency of the judiciary.

Similarly, international reports (European Commission, 2023: 19) highlight problems related to integrated case management, poor court performance, the need for enhancing the quality and regulation of judicial acts, measures for addressing limited public access, allocation of sufficient resources, ensuring transparency, and effective communication with the public; the need for strengthening capacities, independence, and efficiency of independent self-governing judicial bodies.

Given the analysis and theoretical debate on models for increasing efficiency in justice, the current situation in the country as evidenced by statistical data from local and international detailed reports, comparisons with Western Balkan and EU countries, the measures taken and policies proposed in these countries, and the aspiration to be part of the EU, it appears that increasing public trust in justice is the fundamental change for which measures should be taken. Proposed interventions and the careful allocation of funds should center on the citizen and aim to increase public trust in justice.

Considering the difficulties encountered in improving the judiciary's efficiency in Albania, it is evident that the weakest points are the duration of processes, the still-low number of judicial and auxiliary staff, the still-low level of transparency, the limited use of mediation procedures, the still-low participation of judges/prosecutors in training, and the limited use of technology. To reduce the time to resolution, it is necessary to take measures such as increasing the number of human resources (judges and auxiliary staff), using alternative dispute resolution mechanisms (the Italian case is indicative of the impact of mediation on reducing court workloads), and incentivizing their use through interventions in the normative framework for speeding up civil and criminal procedures. Based on the above, interventions are proposed through:

- Filling the number of judges, prosecutors, advisors, and assistants in the courts, including temporary staff hiring in the courts (e.g., the Italian model); coordinated planning of the number of judges/prosecutors in coordination with the School of Magistrates and avoiding delays in appointments by the High Judicial Council (HJC)/High Prosecutorial Council (HPC) due to double “vetting process”; in this regard, it is recommended that the “vetting process” for magistrates be conducted only once (upon entry), after which they should be subject to declaration in the ILDKPI (currently the “vetting process” for magistrates is carried out twice, causing delays in their appointment).
- The use of alternative dispute resolution mechanisms (mediation/arbitration); it is recommended that mediation for certain cases be mandatory and provided free of charge (example: Montenegro). In fact, recent studies show that the goals of Directive 2008/52/EC “On Mediation in Civil and Commercial Matters” were fulfilled only in countries that introduced mandatory mediation and that in some jurisdictions, participation in an initial mediation session is a prerequisite to filing a case in court, according to the so-called opt-out mediation.
- Treating certain low-value civil cases and low-risk criminal cases in expedited procedures. For example, for civil cases with claims below the value of 3,000,000 lekë and for criminal misdemeanors, the Italian model of the “Giudice di Pace” could be followed.
- Improving technology and information systems by creating an automated data system related to judicial cases; this would, among other things, improve communication with the courts, the level of which is currently quite critical in Albania compared to the CoE average.
- Increasing transparency through access to information, such as effective public consultation of laws, public reporting by judges, and taking measures.

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