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ALBANIA ON ITS CONSTITUTION OF THE REPUBLIC OF ALBANIA ADOPTED

ALBANIA POTENTIAL CANDIDATE COUNTRY

STABILISATION AND ASSOCIATION AGREEMENT NEGOTIATIONS STARTED

STABILISATION AND ASSOCIATION AGREEMENT SIGNED

APPLICATION FOR EUROPEAN UNION MEMBERSHIP
EUROPEAN PATH

- **2014**: Comprehensive Justice Reform launched
- **2016**: Constitutional amendments approved together with 8 Core Laws
- **2017**: Members of vetting institutions appointed
- **2018**: Additional reform laws adopted
- **2019**: High Judicial Council, High Prosecutorial Council established
- **2020**: High Justice Inspector established

**Candidate status with perspective of opening accession negotiations granted**
A comprehensive justice reform process started in October 2014 to address the shared perception that Albania lacked an independent, accountable and efficient justice system.

The ad hoc ‘Justice Reform Commission’ was appointed by the Assembly to lead the reform process. It was supported by:

- more than 30 highly qualified local and international experts
- over 100 technical experts specialized in specific fields
- international experts, including experts from EURALIUS (EU funded project), OPDAT (US Office of Overseas Prosecutorial Development Assistance and Training), Justice without delay (USAID-funded project), OSCE, and the Venice Commission (Council of Europe).

“THE JUDICIARY REFORM IS PROBABLY THE MOST AMBITIOUS AND MOST IMPORTANT REFORM THAT ALBANIA HAS SEEN DURING THE LAST 25 YEARS”

MEP Mr. Knut Fleckenstein
THE OPENING OF NEGOTIATIONS DEPENDS ON FURTHER CONCRETE AND SUSTAINABLE REFORMS IN ALBANIA

Press Release of the European External Action Service
OBJECTIVES

ANTI-CORRUPTION

- A comprehensive, transitional re-evaluation (vetting) process for all sitting judges and prosecutors, and others
- Specialized permanent structures combatting corruption, including a National Bureau of Investigation (NBI)
- Decentralization of prosecution offices to prevent top prosecutors from blocking sensitive investigations
- Lifting of immunity regarding criminal investigations against magistrates

ACCOUNTABILITY

- A modern disciplinary system for all magistrates, including members of governance institutions, based on best EU standards
- Breaking corporatist chains through heterogenous composition of the High Judicial Council and High Prosecutorial Council (magistrates, advocates, academics, civil society representatives)
- A single independent disciplinary body for all magistrates, the High Justice Inspector

ACCESS TO JUSTICE

- The Constitutional Court as an effective protector of the constitutional rights of individuals
- Introduction of a new legal aid system
SEPARATION OF POWERS & INDEPENDENCE

- Redesign of checks and balances to reduce the political influence in the justice system
- New election formula for the Constitutional Court judges
- Transfer of powers to the new self-governing institutions regarding appointment, transfer, promotion, evaluation and disciplinary measures of magistrates
- Transfer of disciplinary investigation and inspection powers from the Minister of Justice to the High Justice Inspector
- Disciplinary proceedings based on law in order to avoid politically driven dismissals

PROFESSIONALISM

- **Transparent and merit-based procedures** for the selection of candidates in high-level positions in the justice system
- **A well-defined career-development system** for the appointment, transfer and promotion of magistrates
- **Strengthened role of the School of Magistrates** to train magistrates, chancellors and others
- **Mandatory initial and continuous training**

EFFICIENCY

- The **High Court as a court of cassation** to examine only points of law
- **Improved efficiency tools** in the procedural codes
**JUSTICE REFORM KEY INSTITUTIONS**

**CONSTITUTIONAL COURT**

- **9 JUDGES**
  - Year mandate
  - Appointed by President
  - Appointed by Assembly
  - Appointed by High Court

**HIGH COURT**

- **HIGH JUDICIAL COUNCIL**
  - Proposes the candidate judge
- **PRESIDENT**
  - Appoints JUDGES
  - 9-year term
  - Non-renewable

**ETHICAL AND PROFESSIONAL PERFORMANCE EVALUATION RULES AND DISCIPLINARY LIABILITY**

**PROSECUTOR GENERAL**

- **HIGH PROSECUTORIAL COUNCIL**
  - Proposes 3 candidates
- **ASSEMBLY**
  - Appoints by 3/5 majority
- **PROSECUTOR GENERAL**
  - 7-year term
  - Non-renewable
self-governing institutions of the judiciary and prosecution

established in December 2018

**STRUCTURE**

11 members

6 magistrates  ✔  5 lay members

- **Strategic Planning Administration and Budget Committee**
- **Disciplinary Committee**
- **Ethical and Professional Performance Evaluation Committee**
- **Career Development Committee**

125 employees *including Council members*

65 employees *including Council members*

**MAIN COMPETENCIES**

- appointment, transfers promotion & evaluation of judges/prosecutors
- decisions on disciplinary measures, including dismissals
- approval of ethical rules and monitoring of their observance
- HJC directs and manages the administration of courts
A vertically integrated structure consisting of:

- **The Special Prosecution Office** *(established in December 2019)*
  - on combating organised crime and corruption, fully independent from the
  - General Prosecutor in the investigation process
  - *(10 or more prosecutors and a Chief Special Prosecutor)*

- **National Bureau of Investigation** *(to be established in 2020)*
  - a specialized section of the judicial police investigating criminal offences
  - under the jurisdiction of the Special Prosecution Office

- **Anti-Corruption and Organized Crime Courts** *(established in December 2019)* *(first instance and appeal)*
  - adjudicating cases investigated and indicted by the Special Prosecution Office

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**Internal anti-corruption measures:**

- Security conditions have to be met prior to appointment and promotion of judges, prosecutors, National Bureau of Investigation investigators and administrative staff of anti-corruption structures

- Monitoring officers will conduct the periodic monitoring of telecommunications of judges, prosecutors, investigators and their close family members of the anti-corruption structures

- The Councils screen the assets and background of candidate magistrates and magistrates prior to their promotion
Recruitment, initial and continuous training of candidate magistrates, state advocates, legal assistants, legal advisors and chancellors in courts and prosecution offices.

Publications and scientific research.

Pre-screens candidates for the vacant positions of Constitutional Court judges and High Justice Inspector.

Verifies legal conditions for appointment, assesses professional and moral criteria and ranks candidates according to professional merits.

Submits ranking lists to the appointing bodies (the President, Assembly and High Court), which must appoint from among first ranked candidates.

The School of Magistrates started functioning in October 1997.

Main tasks:

- Recruitment, initial and continuous training of candidate magistrates, state advocates, legal assistants, legal advisors and chancellors in courts and prosecution offices.
- Publication and scientific research.
“A COMPREHENSIVE REFORM OF THE ALBANIAN JUDICIAL SYSTEM. SUCH REFORM IS NEEDED URGENTLY, AND THE CRITICAL SITUATION IN THIS FIELD JUSTIFIES RADICAL SOLUTIONS”

Venice Commission, Interim Opinion

### Structure

- Independent Qualification Commission (IQC)
  - 5-year mandate

- Appeals Chamber (separate chamber of the Constitutional Court)
  - 9-year mandate

- Public Commissioners
  - empowered by the Constitution to appeal decisions of the IQC

- International Monitoring Operation (IMO); funded by the EU and US
  - monitors vetting activities

### Assessment Components

**ASSETS**
- wealth that cannot be explained legitimately

**BACKGROUND**
- inappropriate contacts with persons involved with organized crime

**PROFICIENCY**
- Insufficient professional qualification

### Results

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<thead>
<tr>
<th></th>
<th>Final Decision</th>
<th>No Final Decision</th>
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<tr>
<td>Dismissed</td>
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<td>Confirmed</td>
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<td>23</td>
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<tr>
<td>Terminated</td>
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Note: Status as of January 2020

More updated data may be accessed at www.kpk.al or www.kpa.al
Calls for appointments to High Court opened
5 regulatory acts adopted
Procedure on verification of Constitutional Court judge and High Justice Inspector candidates completed
Procedure on assessment, scoring and ranking of Constitutional Court judge and High Justice Inspector candidates completed

36 regulatory acts adopted
Calls for appointments to High Court opened
Strategic measures for handling transition in courts with decreasing number of judges

Delaying moments in implementation of the Justice Reform
Challenges to the reform laws before the Constitutional Court resulting in temporary suspension of the Vetting Law

Suspension of the work in Assembly due to boycott of the opposition for several months resulting in delays in the appointment of the members of the vetting institutions

Main Achievements
The reform package of 33 laws is completed
The High Judicial Council is established and operational.

The High Prosecutorial Council is established and operational.

- 7 regulatory acts adopted
- Procedure on verification, assessment, scoring and ranking of candidates for members of the Special Prosecution Office completed
- Procedure on verification assessment, scoring, and ranking of candidates for Prosecutor General finalised

The Justice Appointments Council is established and operational.

- 5 regulatory acts adopted
- Procedure on verification of Constitutional Court judge and High Justice Inspector candidates completed
- Procedure on assessment, scoring and ranking of Constitutional Court judge and High Justice Inspector candidates completed

Overall, the reform implementation has produced good results in terms of transparency and inclusiveness.
Completed | In Progress | Not Started

**Vetting**
- Vetting institutions established
- Vetting institutions operational
- Constitutional Court and High Court members vetted
- High Judicial and High Prosecutorial Council members vetted
- Justice Appointments Council members vetted
- Vetting completed

**Justice Appointments Council**
- Established
- Verification, assessment and ranking rules adopted
-内部规定被采纳
- Rapporteurs assigned and assessment procedure started
- Assessment and ranking phase completed

**High Judicial Council**
- Established
- Strategic planning adopted
- Professional evaluation started
- All members vetted
- High Court judges assessed and appointed
- Disciplinary procedures started

**High Prosecutorial Council**
- Established
- Strategic planning adopted
- Professional evaluation started
- All members vetted
- Special Prosecution Office members assessed and appointed
- Disciplinary procedures started

**School of Magistrates**
- Recruitment and initial training of candidate magistrates
- Continuous training of magistrates
- Recruitment and initial training of candidates for legal assistants and legal advisors
- Recruitment and initial training of candidates for state advocates and candidate chancellors
- Continuous training of legal assistants and legal advisors, state advocates and chancellors
- Cooperation with Ministry of Justice, High Judicial and High Prosecutorial Council on training of judicial administration employees

Note: Status as of February 2020
More updated data may be accessed at www.kpk.al or www.kpa.al
Special Prosecution Office

Constitutional Court
- Judges appointed by the relevant appointing body
- Constitutional Court operational with 6 members
- Constitutional Court fully composed

Judge candidates verified by the Independent Qualification Committee or the Justice Appointments Council

The Justice Appointments Council assesses, scores, and ranks judge candidates

High Judicial Council launches separate calls for applications for non-judge and judge candidates

Non-judge candidates assessed, scored, and ranked by the High Judicial Council

Judges appointed by the President

Constitutional Court operational with 3 members
- Constitutional Court fully composed
- Constitutional Court becomes operational
- High Court becomes operational

Judge candidates assessed, scored, and ranked by Justice Appointments Council

Judge candidates scored and ranked (promotion procedure)

Inspectors of Office of High Justice Inspector recruited

Office of High Justice Inspector becomes operational

Justice Appointments Council verifies judge candidates

Office of High Justice Inspector becomes operational
- High Court becomes operational
- High Court becomes operational

Judge candidates verified by the Independent Qualification Committee or the Justice Appointments Council

Candidates verified by Independent Qualification Commission or High Judicial Council

Judge candidates assessed, scored, and ranked by Justice Appointments Council

Special Prosecution Office established

Special Prosecution Office members verified, assessed and appointed

Special Prosecution Office becomes fully operational after training of its members

Special Prosecution Office verifies, assesses and appoints members of the National Bureau of Investigation

Inspectors of Office appointed
- High Justice Inspector appointed
- Office of High Justice Inspector becomes operational

Candidates verified by Justice Appointments Council

Ranking Lists with five candidates sent to the Assembly

Inspectors of Office of High Justice Inspector recruited
- Office of High Justice Inspector becomes operational
- Office of High Justice Inspector becomes operational
- Office of High Justice Inspector becomes operational

High Justice Inspector appointed
- High Justice Inspector appointed
- High Justice Inspector appointed
- High Justice Inspector appointed

Special Prosecution Office assigned
- Special Anti-Corruption Courts become operational
- Special Anti-Corruption Courts become operational
- Special Anti-Corruption Courts become operational

High Court becomes operational
- High Court becomes operational
- High Court becomes operational
- High Court becomes operational

Special Anti-Corruption Structure

High Court
- High Court becomes operational
- High Court becomes operational
- High Court becomes operational
- High Court becomes operational

Constitutional Court
INTERACTION BETWEEN INSTITUTIONS FOR ESTABLISHMENT OF JUSTICE SYSTEM GOVERNING INSTITUTIONS

**President**
- Selects by lot

**Justice Appointments Council**
- 9 members *
- Preselects and ranks candidates

**Constitutional Court**
- 9 members **
- Launches call for application, preselects and ranks candidates

**High Justice Inspector**
- 11 members **
- Elects HJI by 3/5 majority or if no majority automatically the candidate first ranked by JAC

**General Assembly of Judges**
- Gathered ad hoc by HC Chair
- Elects 6 magistrate members
- Elects 3 members of CC out of first 3 ranked by JAC

**General Assembly of Prosecutors**
- Gathered ad hoc by General Prosecutor
- Elects 6 magistrate members
- Elects 5 Lay Members

**High Judicial Council**
- 11 members **
- Elects 3 members of CC out of first 3 ranked by JAC
- Takes decision on the number of trainee magistrates per year

**High Prosecutorial Council**
- 11 members **
- Elects 5 lay members
**High Court**
19 members **

**Courts**

**Spak Courts**

**School of Magistrates**

**Prosecution Offices**

**Special Prosecution Office**

**General Prosecutor**

- appoints GP by 3/5 out of proposal of HPC
- appoints, transfers, promotes, evaluates and disciplines prosecutors
- launches call for application
- proposes candidate GP
- administration oversight
- policy guidance

**Justice Appointment Council (JAC)**

- can operate while vetting of its members is ongoing
- launches call for application

- JAC could operate while vetting of its members is ongoing
- Need to be vetted before operation

**Legend**

- President
- Parliament
- Governance Institutions
- Courts
- Prosecution

- JAC: Justice Appointment Council
- CC: Constitutional Court
- HJI: High Justice Inspector
- HC: High Court
- HPC: High Prosecutorial Council
- SPAK Courts: Special Anti-Corruption Courts

- * JAC could operate while vetting of its members is ongoing
- ** Need to be vetted before operation