



Kingdom of the Netherlands

# Performance Assessment of Special Courts and SPAK in the Fight Against Corruption and Organized Crime for the Year

# 2022





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## POLICY PAPER

# Performance Assessment of Special Courts and SPAK in the Fight Against Corruption and Organized Crime for the Year 2022

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### **Disclaimer**

The opinions, findings and recommendations expressed in this publication are those of the author and do not necessarily reflect the opinions or views of the Netherlands Embassy in Tirana.

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## Abbreviations

AASCA	Agency for Administration of Seized and Confiscated Assets
CEPEJ	European Commission for the Efficiency of Justice
CCJE	Consultative Council of European Judges
CSO	Civil Society Organizations
EU	European Union
EC	European Commission
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
GRECO	Council of Europe Group of State Against Corruption
HJC	High Judicial Council
HPC	High Prosecutorial Council
ICMS	Integrated Case Management System
ICCPR	International Covenant of Civil and Political Rights
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
NBI	National Bureau of Investigation
OFL	Operation "Power of Law"
RCC	Regional Cooperation Council
SCCOC	Special Court for Corruption and Organized Crime
SIENA	Secure Information Exchange Network Application
SPAK	Special Structure against Corruption and Organized Crime
UDHR	Universal Declaration of Human Rights

## Executive Summary

On March 25th, 2020, the Council of the European Union decided to open accession negotiations with Albania, stipulating that prior to the first Intergovernmental Conference, the country must ensure “the continued implementation of the judicial reform and finalise the establishment of the anti-corruption and organized crime specialised structures.”<sup>1</sup> The first Intergovernmental Conference with Albania took place on July 19th, 2022, followed immediately by the analytical examination of the EU acquis, known as the screening process<sup>2</sup>, which was finalized this year in November.<sup>3</sup>

The new enlargement methodology published in February 2020<sup>4</sup> emphasized that the rule of law, fundamental rights, the functioning of democratic institutions, public administration reform, and the economic criteria form the core of what is known as the “fundamentals” of the EU accession process<sup>5</sup>. “Fundamental issues” are to serve as “gatekeepers of progress” before considering other reforms<sup>6</sup>. In this aspect, the EU underscores that the entrenchment of the rule of law requires an independent, impartial, and accountable judicial system, which operates efficiently, with adequate resources, and free from interference.<sup>7</sup> The implementation and deepening of the judicial system reform in Albania is seen as a guarantee for respecting the principle of the rule of law, a fundamental characteristic of democratic countries. “The rule of law acts like a double-edged sword, ensuring the protection of rights on the one hand and enforcing accountability on the other.”<sup>8</sup>

On the other hand, the judicial system is not above the law since those who judge and those who are judged must be equally accountable. In a broad sense, the judicial system must be accountable to the society it serves.<sup>9</sup> On the one hand, society expects the

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<sup>1</sup> Council of the European Union, 7002/20, pp. 4. <https://data.consilium.europa.eu/doc/document/ST-7002-2020-INIT/en/pdf>

<sup>2</sup> European Commission, (2023), Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, pp. 4. [https://neighbourhood-enlargement.ec.europa.eu/2023-communication-eu-enlargement-policy\\_en](https://neighbourhood-enlargement.ec.europa.eu/2023-communication-eu-enlargement-policy_en)

<sup>3</sup> <https://www.kryeministria.al/procesi-screening/>

<sup>4</sup> [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_20\\_208](https://ec.europa.eu/commission/presscorner/detail/en/statement_20_208)

<sup>5</sup> European Commission, (2023), Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, pp. 8. [https://neighbourhood-enlargement.ec.europa.eu/2023-communication-eu-enlargement-policy\\_en](https://neighbourhood-enlargement.ec.europa.eu/2023-communication-eu-enlargement-policy_en)

<sup>6</sup> Sam van der Staak, (2023), A snapshot of democracy in the 2023 enlargement reports, <https://www.idea.int/news/snapshot-democracy-2023-enlargement-reports>

<sup>7</sup> European Commission, (2023), Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, pp. 8. [https://neighbourhood-enlargement.ec.europa.eu/2023-communication-eu-enlargement-policy\\_en](https://neighbourhood-enlargement.ec.europa.eu/2023-communication-eu-enlargement-policy_en)

<sup>8</sup> Roger K. Warren, The Importance of Judicial Independence and Accountability, <https://ncsc.contentdm.oclc.org/digital/collection/judicial/id/207/>

<sup>9</sup> Consultative Council of European Judges (CCJE), Opinion No. 18 (2015), The position of the judiciary and its relation with the other powers of state in a modern democracy.

judiciary to take action against judges involved in actions that violate these values. On the other hand, the judiciary is accountable to the society to ensure that all decisions are independent and impartial, based on integrity and uninfluenced by politics or other factors that may lead to corrupt decisions.

In this context, the courts must operate transparently, “giving reasons for decisions and procedures” to ensure accountability<sup>10</sup>. This form of accountability, defined as “explanatory accountability,”<sup>11</sup> has the public interest at its core and keeps the institutions of justice open to constructive criticism and continuous improvement efforts. Strengthening accountability mechanisms serves to enhance public trust in the judicial system.

Meanwhile, the new enlargement methodology recognizes the pivotal role that civil society plays in the EU accession process, where “fundamental issues” take precedence<sup>12</sup>. In this context, the role of civil society is crucial to ensure that the integration process into the EU is transparent, inclusive, and accountable. Civil society organizations act as critical observers, promoting human rights, democracy, and the rule of law while holding authorities accountable. Furthermore, civil society organizations can and should contribute to issues related specifically to corruption in the judicial system by “monitoring the incidence as well as potential indicators of corruption, such as delays in the publication of decisions and the quality of published decisions.”<sup>13</sup>

The systematic monitoring of the activities of specialized institutions against corruption and organized crime (SPAK and the Courts), concluding their fourth year of operation, serves not only to assess Albania's effectiveness in the fight against corruption and organized crime but also to evaluate the performance of these institutions, ensure transparency, and identify deficiencies and issues that need to be addressed.

In this context, as continually emphasized by the European Commission, “the establishment of a solid track-record of proactive investigations, prosecution, and final convictions in corruption and organized crime cases, particularly at high level, will remain one of the key indicators for progress in the European Union accession process.”<sup>14</sup>

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[https://wcd.coe.int/ViewDoc.jsp?Ref=CCJE\(2015\)4&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CCJE(2015)4&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864)

<sup>10</sup> Consultative Council of European Judges (CCJE), Opinion No. 24 (2021), Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems. <https://rm.coe.int/opinion-no-24-2021-of-the-ccje/1680a47604>

<sup>11</sup> Idem

<sup>12</sup> Commissioner Várhelyi's speech at the 580th Plenary Session of the EESC - Debate on the future of civil society in the enlargement process. [https://ec.europa.eu/commission/presscorner/detail/en/speech\\_23\\_3827](https://ec.europa.eu/commission/presscorner/detail/en/speech_23_3827)

<sup>13</sup> Transparency International, (2007), Enhancing Judicial Transparency, pp. 4. [https://images.transparencycdn.org/images/TI\\_Policy\\_Position\\_Judiciary\\_01.07.pdf](https://images.transparencycdn.org/images/TI_Policy_Position_Judiciary_01.07.pdf)

<sup>14</sup> European Commission, (2023), Screening Report Albania, pp 51. [https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania\\_en](https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania_en)



In this regard, for the third consecutive year, the Center for the Study of Democracy and Governance (CSDG) analyses and evaluates the performance of specialized institutions against corruption and organized crime.

The assessment of specialized institutions is based on measurable indicators in line with the features and issues of corruption and organized crime cases investigated and adjudicated by the Special Structure Against Corruption and Organized Crimes (SPAK) and Special Courts for Corruption and Organized Crime.

The indicators measure three main dimensions, namely: (i) productivity, (ii) efficiency, and (iii) relevance, upon which the effectiveness of the response to corruption and organized crime phenomena in Albania is assessed.

Due to the systematic update of information from the institutions under review and the timely and quality provision of information and data requested by the staff of the Special Court of First Instance and Appeal for Corruption and Organized Crime, the two previous reports (2020, 2021) conducted a quantitative and qualitative assessment of all three aforementioned dimensions. However, unlike the two previous reports, the preparation of this report has been hindered by the lack of data. On the official page of the Special Court of First Instance for Corruption and Organized Crime, in the information corner (completed cases/criminal files), the latest published decision is dated 27.07.2022, the decision for case number 100. Since this date, for a year and a half, there have been no published decisions on the official page of this court. On the other hand, the Special Court of Appeals for Corruption and Organized Crime has not published the annual report for 2022.

In addition to the data obtained from the official website of the SPAK and Special Courts, in the previous years, through the exercise of the right to information, CSDG has received and thoroughly analysed complete decisions as well. The Court has provided us with (i) copies of anonymized decisions of the Special Court for Corruption and Organized Crime for the year 2021 and (ii) statistical data on corruption and organized crime cases for the period January - December 2021.

Similarly, for this next assessment, through an official request, CSDG has requested the Special Court to provide the final decisions and statistical data on corruption and organized crime cases for the period July - December 2022, but the requested data has not been made available. In this context, the lack of data hinders the provision of a complete and clear assessment of the activity and performance of the structures focused on in the report, thus constituting a major limitation to this report.

Against this setting, in order to conduct the analysis, the data were harvested and cross-referenced by using the reports published on the official websites of the High Judicial Council (HJC) and the High Prosecutorial Council (HPC).

From the analysis and assessment, it is concluded that:

- Cases of investigations into corruption involving high state officials remain at low levels (18 criminal proceedings with 18 defendants during 2020-2022). Also, the conviction decisions for former high-ranking officials remain low (4 conviction decisions with 4 convicted individuals during the year 2022).
- The structure of specialized institutions has noticeable vacancies, and the high number and complexity of cases under consideration result in a decrease in productivity and efficiency, as well as delays in reasoning and publishing judicial decisions.
- The lack of transparency is concerning and is evident in the majority of the institutions under review. Some provide partial data disclosure, while others do not publish any information. Moreover, there is a lack of harmonization of data among different institutions in the judiciary system.
- The High Judicial Council has not taken measures to address transparency issues and systematically monitor the implementation of the legal and strategic framework for transparency.
- The High Inspectorate of Justice has not conducted thematic inspections related to the non-publication of decisions by specialized courts, nor has it taken any disciplinary or other measures against respective institutions for not publishing decisions according to the legislation and specified deadlines.
- The Ministry of Justice, as the institution responsible for implementing, monitoring, and evaluating the Cross-Sectoral Justice Strategy 2021-2025, has not taken any steps or measures to address the transparency decline in the last two years.
- Even the Parliament has not identified or raised the lack of transparency as a problem during the annual reporting of the High Prosecutorial Council, the High Judicial Council, and the High Inspector of Justice, indicating a lack of focus and attention to transparency.
- The Right to Information and Data Protection Commissioner has also not exercised the competencies for monitoring the implementation of transparency according to the requirements of the information rights legislation.<sup>15</sup>

The most problematic finding of this third report is the decline in the transparency level of specialized justice institutions and the lack of attention from other responsible institutions toward this trend. Meanwhile, an open and transparent judicial system is a precondition for establishing and maintaining public trust in the judiciary.<sup>16</sup>

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<sup>15</sup> Law No. 119/2014, On the right to information

<sup>16</sup> France, Guilherme. (2019), Transparency of court proceedings, Transparency International Anti-Corruption Helpdesk, pp.3 <https://knowledgehub.transparency.org/helpdesk/transparency-of-court-proceedings>

Furthermore, access to court information is essential to prevent corrupt practices.<sup>17</sup> This results in low public trust in judicial institutions. The low public trust in judicial institutions is also emphasized by international reports, highlighting that “public trust in judicial institutions is low, corruption in the judiciary remains a serious problem, and convictions of high-ranking judges for corruption and abuse of power are historically rare.”<sup>18</sup>

On the other hand, the increase in the transparency of the judicial system is also emphasized in the Cross-Sector Justice Strategy for 2021-2025, highlighting the objective of “strengthening transparency, efficiency of the judiciary, and access to justice in accordance with constitutional, legal requirements, and European standards.”<sup>19</sup> An indicator of achieving this goal is the “percentage of court cases for which basic information is available on the internet and updated,” and for this, the responsible institutions are determined to be HJC and the courts.<sup>20</sup>

Furthermore, the High Judicial Council, in decision no. 590, dated 26.11.2020, approving the “Strategic Communication Plan for the judicial system,” emphasizes the commitment to restore public trust in the judicial system as one of its main objectives<sup>21</sup> through providing information to the public. Meanwhile, the High Inspector of Justice in the “Strategic Plan and Action Plan for the High Inspector of Justice 2020-2022” notes the lack of transparency in the judicial system. During the risk assessment, HIJ has listed the public’s negative perception of the judiciary system, highlighting both weaknesses and threats.<sup>22</sup> Thus, HIJ observes that the judicial system lacks transparency, and this lack of transparency translates into lower public trust.

Even the Special Court of First Instance for Corruption and Organized Crime, which, as mentioned above, has not published all its decisions for the year 2022 on its official website, emphasizes in its annual report for the same year: “A judicial system based on the principles of independence, impartiality, professionalism, transparency, and equality of individuals before the law deserves the trust of the public!”<sup>23</sup> However, the increase in public trust remains an empty slogan since its decisions are not made known to the public, which is expected to trust.

Based on these findings and conclusions, the report recommends:

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<sup>17</sup> Faafeng, Jo et, al, (2013), Toward Justice, Analysis of the civil process in the courts of judicial districts, OSCE, pp.77.

<sup>18</sup> <https://freedomhouse.org/country/albania/freedom-world/2022>

<sup>19</sup> DCM, No. 823, dated 24.12.2021 “On the approval of the Cross-Sector Justice Strategy for 2021-2025 and its Action Plan”.

<sup>20</sup> Idem

<sup>21</sup> High Judicial Council, Decision No. 590, dated 26.11.2020, On the approval of “Strategic Communication Plan for the judicial system”.

<sup>22</sup> High Inspector of Justice, “Strategic Plan and Action Plan for the High Inspector of Justice 2020-2022”, pp. 12.

<sup>23</sup> Special Court of First Instance for Corruption and Organized Crime, Annual Report 2022, pp. 17.

- Regarding the issue related to deficiencies in the number of judges as defined by law, within the constraints created by this situation, measures should be examined and taken to address the productivity and efficiency in the performance of SPAK and Special Courts.
- Overall, the approach should be reconsidered, and measures should be taken to improve transparency and the access of citizens and civil society organizations to the decision-making of judicial institutions, as a key mechanism for promoting accountability and increasing trust in the judicial system.
- The High Judicial Council should take measures to address transparency issues and systematically monitor the implementation of the legal and strategic framework for transparency.
- The rigorous implementation of the transparency framework should also be a focal point of attention for the High Inspector of Justice to conduct thematic inspections regarding the reasons and responsibilities for non-publication of decisions by the courts. It should take respective measures to correct the consequences and create conditions to prevent the recurrence of the problem.
- The Ministry of Justice, to the extent allowed by its competencies and responsibilities, and within the framework of implementing the Cross-Sector Justice Strategy 2021-2025, should make efforts related to transparency.
- Address the issues related to information technology in the judicial system, which would alleviate the problem of anonymizing voluminous court decisions carried out manually by the Special Court of First Instance for Corruption and Organized Crime, thus reducing the time for the publication of judicial decisions. This applies to the extent that the issue is related to time and resources.
- The Right to Information and Data Protection Commissioner should pay special attention to the implementation of transparency in judicial institutions.

# I: Introduction

## 1.1 Context

Albania has proven to be one of the most challenging cases in the fight against corruption and organized crime, reforming public administration and the judiciary.<sup>24</sup> Corruption is pervasive, and the EU has repeatedly called for the rigorous implementation of anti-graft measures, particularly for corruption within the judiciary.<sup>25</sup> Furthermore, reforming the judicial system is key to any future EU membership.<sup>26</sup>

To address these challenges, on July 22, 2016, Albania adopted the new judicial reform, which required amending one-third of the Constitution.<sup>27</sup> These constitutional changes paved the way to establishing a procedure for re-evaluating judges and prosecutors in Albania, known as “vetting process” and setting up new specialized structures, including the Special Structure Against Corruption and Organized Crime (SPAK) and the National Bureau of Investigation (NBI), to address issues related to corruption and organized crime.<sup>28</sup>

In March 2020, the Council of the European Union decided to open accession negotiations with Albania.<sup>29</sup> Prior to the first Intergovernmental Conference, Albania should ensure the continued implementation of the judicial reform and finalize the establishment of the anti-corruption and organized crime specialised structures, and further intensifies the fight against corruption and organized crime.<sup>30</sup>

In assessing the situation, the European Commission's “Albania Screening Report 2023” highlighted that “Albania's legislative and institutional framework on anti-corruption is partially aligned with EU *acquis*, but corruption is prevalent, and overall, anti-corruption measures have a limited impact, particularly in vulnerable sectors.”<sup>31</sup> The same report

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<sup>24</sup> Hoxhaj, Andi, (2020), *The EU Anti-Corruption Report, A Reflexive Governance Approach*, Routledge, pp. 157.

<sup>25</sup> Freedom House, *Freedom in the World 2022, Albania*, <https://freedomhouse.org/country/albania/freedom-world/2022>

<sup>26</sup> Hoxhaj, Andi, (2020), *The EU Anti-Corruption Report, A Reflexive Governance Approach*, Routledge, pp. 168.

<sup>27</sup> *Idem*, pp. 168.

<sup>28</sup> *Idem*, pp. 168.

<sup>29</sup> Council of the European Union, (25 March 2020) 7002/20, pp. 4.

<https://data.consilium.europa.eu/doc/document/ST-7002-2020-INIT/en/pdf>

<sup>30</sup> *Idem*, pp. 5.

<sup>31</sup> European Commission, (2023), *Screening Report Albania 2023*, pp 52. [https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania\\_en](https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania_en)

emphasizes that although some final convictions on corruption charges against high-ranking officials, so far, no conviction has been classified as a serious crime.<sup>32</sup>

Nevertheless, it is important to emphasize that the implementation of judicial reform remains a significant challenge. The vetting process for judges and prosecutors is slow.<sup>33</sup> Additionally, the establishment of new judicial institutions is progressing at a slow pace and has encountered unnecessary delays.<sup>34</sup> Problems exist in terms of citizens' access to justice and judicial efficiency.<sup>35</sup> In these regard, it is necessary to focus on addressing these challenges and improving the justice reform process to ensure a more efficient and transparent judicial system that meets the citizen's needs.

Albanian's criminal legislation is partially aligned with the EU *acquis*.<sup>36</sup> Furthermore, nine out of ten recommendations of the Council of Europe' Group of States Against Corruption (GRECO)<sup>37</sup> are implemented. Additionally, Albania's legal and institutional framework are generally fit to enable a solid track record in the fight against corruption<sup>38</sup>.

However, the country continues to be listed as one of the countries with the highest corruption levels in Europe, according to the Corruption Perceptions Index by Transparency International.<sup>39</sup> The European Commission states that "despite some progress, increased efforts and political commitment in the fight against corruption, it remains an area of serious concern, and increasing the number of final convictions of high-level officials remains an important priority to tackle the culture of impunity."<sup>40</sup>

The situation of corruption in Albania and the challenges to achieve an independent, accountable, accessible, transparent, and efficient judicial system<sup>41</sup>, require a continued effort from the responsible institutions. An impartial and transparent justice system is the cornerstone of a free and democratic society.

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<sup>32</sup> Idem, pp 51.

<sup>33</sup> Vrumo, Gjergji et al., (2021), Deconstructing State Capture in Albania, An examination of grand corruption cases and tailor-made laws from 2008 to 2020, Transparency International and Institute for Democracy and Mediation, pp. 8.

<sup>34</sup> Institute of Political Studies, (2018), Justice Reform: 2018, Balance, Problems, Challenges, pp. 4. <https://isp.com.al/wp-content/uploads/2019/01/REFORMA-NE-DREJTESI-ISP-RAPORT-2018.pdf>

<sup>35</sup> Vrumo, Gjergji et al., (2021), Deconstructing State Capture in Albania, An examination of grand corruption cases and tailor-made laws from 2008 to 2020, Transparency International and Institute for Democracy and Mediation, pp. 8.

<sup>36</sup> European Commission, (2023), Screening Report Albania 2023, pp 52. [https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania\\_en](https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania_en)

<sup>37</sup> Idem, pp. 14.

<sup>38</sup> Idem, pp 51

<sup>39</sup> Transparency International, Corruption Perception Index 2022, <https://www.transparency.org/en/cpi/2022/index/alb>

<sup>40</sup> European Commission, Albania 2022 Report, pp. 23. [https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en)

<sup>41</sup> DCM, No. 823, dated 24.12.2021 "On the approval of Cross-Cutting Justice Strategy 2021-2025 and its action plan".

## 1.2 Objective

The new enlargement methodology emphasizes that the effective fight against corruption will remain one of the key indicators for the country's progress in the EU accession process.<sup>42</sup> Therefore, the success in the fight against corruption and organized crime should be measurable and based on a consolidated data system.

In this context, to assess the effectiveness of measures in the fight against corruption and organized crime, it is necessary to establish a consolidated monitoring and analysis approach. By measuring and evaluating the achieved results against objectives, this approach can contribute to increasing support for the activities of specialized institutions and the overall progress of Albania's European integration process.

Therefore, the main purpose of this policy paper is to provide a comprehensive and objective assessment of the effectiveness of the fight against corruption and organized crime through systematic and continuous monitoring of the activities of specialized institutions, as one of the main priorities for strengthening the rule of law and the country's progress in the EU accession process.

At the same time, the document aims to contribute to enhancing the transparency of the special structures and identifying other crucial issues to improve criminal justice policies in the country.

In a more specific manner, this policy document aims to:

1. Encourage discussions on findings in the fight against corruption and organized crime and generate necessary recommendations.
2. Contribute to discussions regarding the approach and mechanisms for assessing the performance of special institutions against corruption and organized crime.
3. Stimulate discussions on the importance of transparency in the judicial system.
4. Encourage cooperation, interaction and involvement of institutions to enhance performance assessment.
5. Encourage the engagement of stakeholders to identify and address significant issues and challenges.

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<sup>42</sup> European Commission, (2020), Enhancing the accession process – A credible EU perspective for the Western Balkans. [https://neighbourhood-enlargement.ec.europa.eu/enhancing-accession-process-credible-eu-perspective-western-balkans\\_en](https://neighbourhood-enlargement.ec.europa.eu/enhancing-accession-process-credible-eu-perspective-western-balkans_en)

## 1.3 Methodology

This assessment report regarding the progress of the cases investigated by the Special Structure against Corruption and Organized Crime (SPAK) and those adjudicated by the Special Courts for Corruption and Organized Crime is the third consecutive report conducted by the Center for the Study of Democracy and Governance. In this context, the analysis for the year 2022 is based on the methodology outlined in the assessment report “Activity of the Special Prosecutor's Office and Special Courts for Corruption and Organized Crime for the year 2020,”<sup>43</sup> which was also followed for the drafting of the reports of the two previous years 2020 and 2021.

The methodology is based on a number of measurable indicators (see Table 1) designed to conduct the assessment in line with the features and issues of corruption and organized crime cases investigated by SPAK and adjudicated by the Special Courts for Corruption and Organized Crime (First Instance and Appeal).

The methodology is based on measuring three key dimensions, which include: (1) productivity, (2) efficiency, and (3) relevance, upon which the effectiveness of the response to corruption and organized crime phenomena in Albania is assessed.

1. The productivity dimension focuses on the assessment of the number of cases initiated annually and their current status.
2. The efficiency dimension focuses on the assessment of the duration of the proceedings and timeliness of judicial and prosecutorial action and the average duration of cases.
3. The relevance dimension focuses on the assessment of the cases according to their complexity and seriousness.

## 1.4 Data Collection and Limitations in Implementing the Methodology

Data collection was carried out through the collection of information and data published by the respective institutions: The Special Structure against Corruption and Organized Crime (SPAK) and the Special Courts for Corruption and Organized Crime (First Instance and Appeal).

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<sup>43</sup> Dyrmishi, A, Hallunaj, M, Assessment Report “Activity of the Special Prosecutor's Office and Special Courts for Corruption and Organized Crime for the year 2020”. Center for the Study of Democracy and Governance, February 2021: [http://csdgalbania.org/sq/ep-content/uploads/2021/03/Raport-Vleresimi\\_SPAK-Gjykatat-2020-FINAL-1.pdf](http://csdgalbania.org/sq/ep-content/uploads/2021/03/Raport-Vleresimi_SPAK-Gjykatat-2020-FINAL-1.pdf)

Also, this policy paper has referred secondary sources in order to supplement the information for the data cited here.

For the organization of the data obtained from official institutions through their official websites, a detailed database has been created with the aim of further assessing the progress of criminal cases related to corruption and organized crime. These cases have been analyzed based on both quantitative and qualitative analytical methods.

Based on this methodology, the steps followed include:

1. Collection of information/data regarding the progress of cases.
2. Analysis of data/cases in accordance with defined indicators.

During the compilation of this database, shortcomings related to the availability of published information or their updates were taken into account, despite minimizing these shortcomings by relying solely on official bodies or information made public by representatives of these institutions on various media platforms.

In this context, it should be emphasized that on the official website of the Special Court of First Instance for Corruption and Organized Crime, in the information corner (completed cases/criminal files), the latest published decision is dated 27.07.2022, decision for case number 100.<sup>44</sup> Since that date, there have been no published decisions on the official website of this court. On the other hand, the Special Court of Appeals for Corruption and Organized Crime has not published the annual report for the year 2022. Taking these factors into consideration, data has been cross-tabulated using the reports published on the official websites of the High Judicial Council (HJC), the High Prosecutorial Council (HPC), as well as the Statistical Yearbook published by the Ministry of Justice. The yearbook for 2022 is also missing.

As the third year of the publication of this report, the analysis, based on the above-mentioned methodology, has also focused on comparing with the two previous years and generating findings and recommendations based on these findings.

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<sup>44</sup>[https://www.gjp.gov.al/Kendi\\_informativ/Ceshtje\\_te\\_perfunduara/Dosje\\_penale/#/?NrPage=1&recPages=100&ftdb=01.01.2022&ftde=31.12.2022](https://www.gjp.gov.al/Kendi_informativ/Ceshtje_te_perfunduara/Dosje_penale/#/?NrPage=1&recPages=100&ftdb=01.01.2022&ftde=31.12.2022)

Type of criminal offenses	Productivity			Efficiency					Relevance	
	Number of cases			Duration of the judicial proceedings					The status of the indicted/accused person/s	Gravity of the consequences of the offence
Corruption cases	Registered cases	Ongoing cases	Completed cases	< 1 month	1-6 month	7-12 month	1-2 years	> 2 years	High state officials and local elected representatives	Economic value (loss) more than 1 million Euros
									Judges, prosecutors and other justice officials	Economic value (loss) between 400 thousand Euros and 1 million Euros
									Persons that exercise public functions	Economic value (loss) between 100 to 400 thousand Euros
Organized crime cases	Number of cases			Duration of the judicial proceedings					The seriousness of crime	Gravity of the consequences of the offence
									Principal criminal offenses	The value of the legal and/or illegal goods involved
	Registered cases	Ongoing cases	Completed cases	< 1 month	1-6 month	7-12 month	1-2 years	> 2 years	Number of persons involved <sup>45</sup>	The underlying criminal activity/is undertaken
									The geographical area of operation (transnational organized crime activity) <sup>46</sup>	The modus operandi of crime <sup>47</sup>

Table 1: Indicators used to assess criminal proceedings for corruption and organized crime cases.

<sup>45</sup> Number of the members of the group above 10, **High**; Number of the members of the group between 5-10, as **Medium**; Number of the members of the groups between 3-5, **Low**

<sup>46</sup> Activity included Albania and 1 other country; Activity included Albania and 2 other countries; Activity included Albania and more than 2 other countries

<sup>47</sup> Criminal organization is involved in more than one criminal offense

## II: Assessing the Progress in the Fulfillment of Priorities in the Fight Against Corruption and Organized Crime

### 2.1 Productivity

As highlighted in the methodology section, the productivity dimension focuses on evaluating the number of criminal proceedings on an annual basis and their current status.

Thus, in the Special Prosecutor's Office for the year 2022, a total of 712 criminal proceedings have been investigated, of which 257 criminal proceedings have been registered as new for the year 2022, and 455 criminal proceedings are backlog from the year 2021.<sup>48</sup> The average factual workload for the year 2022 turns out to be 42 criminal proceedings.<sup>49</sup>

Table 2 provides a summary of the number of criminal proceedings investigated by the Special Prosecutor's Office during the years 2020-2022. For the year 2022, there are a total of 3 criminal proceedings less than in 2021. Furthermore, during 2022, there is a total of 106 new proceedings less compared to 2021. Meanwhile, backlog has exponentially increased. As stressed in the annual report, "the considerable number of backlog cases remains problematic and should be addressed according to the priorities of criminal offenses with the aim of concluding them in a timely manner."<sup>50</sup>

Criminal proceedings	2020 <sup>51</sup>	2021	2022
New cases	384	363	257
Backlog	204	352	455
Total	588	715	712

Table 2: The number of criminal proceedings investigated by the Special Prosecutor's Office (2020-2022)

**Source:** The Special Structure Against Corruption and Organized Crime, Annual Report 2020, Annual Report 2021, Annual Report 2022

<sup>48</sup> Special Structure Against Corruption and Organized Crime, Annual Report 2022, pp 18  
<https://spak.gov.al/raporti-vjetor>

<sup>49</sup> High Prosecutorial Council, Annual Report 2022, pp. 53. <https://klp.al/wp-content/uploads/2023/05/Raporti-Vjetor-2022-2.docx>

<sup>50</sup> Special Structure Against Corruption and Organized Crime, Annual Report 2022, pp 6  
<https://spak.gov.al/raporti-vjetor>

<sup>51</sup> For the year 2020, in the Special Prosecutor's Office, 204 criminal proceedings were transferred from the former Prosecutor's Office at the First Instance Court for Serious Crimes, and 384 proceedings were registered by the Special Prosecutor's Office.

The number of individuals under investigation is presented in Table 3. For the year 2022, for 643 criminal proceedings, 602 individuals were under investigation,<sup>52</sup> 83 more individuals than in 2021.

	2020	2021	2022
The total number of criminal cases under investigation <sup>53</sup>	564	675	643
The number of individuals under investigation	746	519	602

**Table 3:** The number of individuals under investigation by the Special Prosecutor's Office (2020-2022)

**Source:** The Special Structure Against Corruption and Organized Crime, Annual Report 2020, Annual Report 2021, Annual Report 2022

Table 4 summarizes the indicators of progress in handling criminal proceedings. As noted, the number of criminal cases sent to trial remains low compared to the number of criminal cases under investigation. Thus, from 2020 to 2022, a total of 1882 criminal proceedings were recorded, of which only 175 (9.3%) were sent to trial. On the other hand, the number of criminal cases carried under investigation remains high. In 2022, there are only 2 cases less compared to 2021.

	2020	2021	2022
The total number of criminal proceedings under investigation	564	675	643
The number of proceedings sent to trial	70	48	57
The number of proceedings carried under investigation (backlog)	348	449	447

**Table 4:** Indicators of the progress in handling criminal proceedings (2020-2022)

**Source:** The Special Structure Against Corruption and Organized Crime, Annual Report 2020, Annual Report 2021, Annual Report 2022

<sup>52</sup> Special Structure Against Corruption and Organized Crime, Annual Report 2022, pp 18

<https://spak.gov.al/raporti-vjetor>

<sup>53</sup> The total number of criminal proceedings is calculated by subtracting the number of cases for the which the initiation of criminal proceedings has been dismissed, the number of cases transferred for jurisdiction to the District Prosecutors' Offices and the number of criminal proceedings for which the consolidation of cases has been decided.

Divided according to types of criminal offenses and the progress of handling criminal proceedings, the data are presented in figure 1. Clearly, the highest number of registered criminal proceedings consists of those related to corruption. As emphasized above, the number of cases sent for trial remains low. Thus, in 2022, 43 criminal proceedings for offenses related to corruption were sent for trial (10 more than in 2021), and 10 criminal proceedings for offenses related to organized crime (4 less than in 2021).

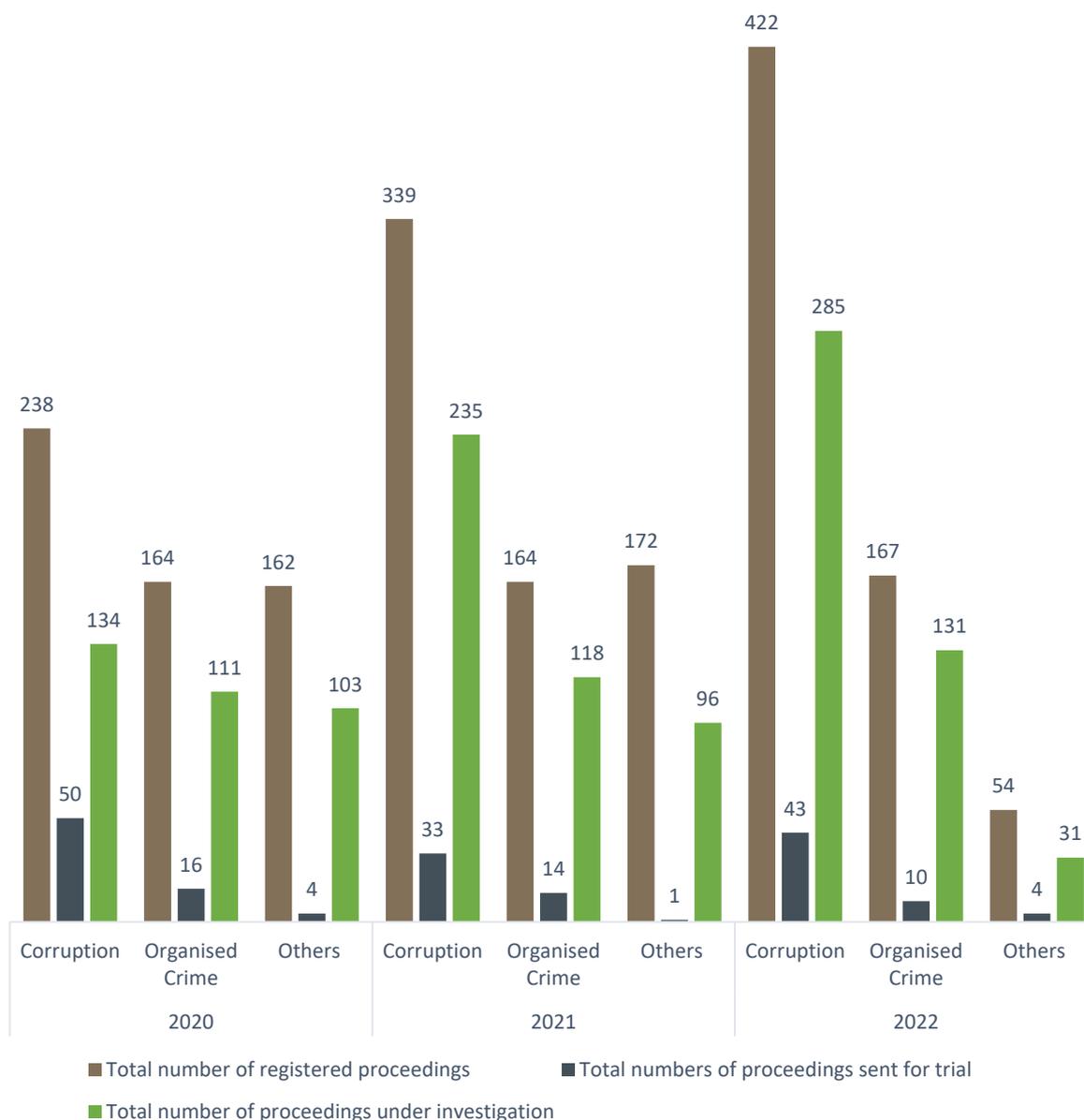


Figure 1: Progress of handling criminal proceedings according to groups of criminal offenses (2020-2022)

**Source:** The Special Structure Against Corruption and Organized Crime, Annual Report 2020, Annual Report 2021, Annual Report 2022

Meanwhile, the Special Court of First Instance for Corruption and Organized Crime annual report does not provide a clear breakdown of the number of cases adjudicated according to the groups of criminal offenses of corruption and organized crime. Furthermore, on the official website of the court, in the Informative Corner/Statistical Records section, where, as stated on the page, statistical records can be searched by category and their status in the trial process,<sup>54</sup> no publicly available data are found. In this context, in addition to the data attained from the Court's annual report, supplementary data was cross-tabulated from the HJC annual report. Also, only the annual reports for the year 2021,<sup>55</sup> and year 2022<sup>56</sup>, are publicly available on the website, but not for the year 2020.

Thus, in total for the year 2022, 139 cases were registered at the Special Court, of which 78 cases were concluded with a decision, and 61 cases are carried under investigation for 2023. One year earlier (in 2021), 149 cases were registered, of which 99 cases were concluded with a decision, and 50 cases were ongoing (backlog) for 2022. Hence, in 2022, a total of 10 cases less were registered than the previous year, and 38 less decisions were issued compared to the year 2021.

It should be emphasized that the criminal offense with the most cases adjudicated for both years is the one under articles 120/1; 120/2 "Libel; Libel publicly, to the detriment of several persons, or more than once" (see table 5). Specifically, in 2021, 24 cases were registered, 14 decisions were issued, and 10 others were ongoing (backlog). Similarly, in 2022, 24 cases were registered for the same criminal offense, 18 decisions were issued, and 16 cases were transferred to 2023.

The second offense that predominates for both years is the one under Article 259 of the Penal Code, "Passive corruption of persons exercising public functions." Thus, for the year 2021, 23 cases were registered, decisions were made for 19 cases, and 4 cases were ongoing (backlog). Meanwhile, for the year 2022, 13 cases were registered, decisions were made for 4 cases, and 9 cases were ongoing for 2023. Therefore, for the year 2022, there are 10 fewer cases related to passive corruption of persons exercising public functions, and 15 fewer decisions were made.

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<sup>54</sup> [https://www.gjp.gov.al/Kendi\\_informativ/Evidencat\\_statistikore/](https://www.gjp.gov.al/Kendi_informativ/Evidencat_statistikore/)

<sup>55</sup> Special Court of First Instance for Corruption and Organized Crime, Annual report 2021. [http://www.gjp.gov.al/rc/doc/Analiza\\_vjetore\\_2021\\_SCCOC\\_4774.pdf](http://www.gjp.gov.al/rc/doc/Analiza_vjetore_2021_SCCOC_4774.pdf)

<sup>56</sup> Special Court of First Instance for Corruption and Organized Crime, Annual report 2022. [http://www.gjp.gov.al/rc/doc/Analiza\\_Vjetore\\_e\\_punes\\_viti\\_2022\\_4814.pdf](http://www.gjp.gov.al/rc/doc/Analiza_Vjetore_e_punes_viti_2022_4814.pdf)

Article/ Name of the article	2021			2022		
	Registered cases	Completed	Ongoing	Registered cases	Completed	Ongoing
120/1; 120/2  Libel; Libel committed in public, to the detriment of several persons, or more than once	24	14	10	24	18	6
259  Passive corruption of persons exercising public functions	23	19	4	13	4	9

*Table 5: Criminal offenses with the highest number of cases adjudicated by the Special Court of First Instance for Corruption and Organized Crime*

Meanwhile, regarding the criminal offense under Article 244 of the Penal Code, “Active corruption of persons exercising public functions,” for the year 2021, 17 cases were registered, 16 decisions were made, and 1 case was ongoing (backlog). For the year 2022, only 4 cases were registered, which is 13 cases less related to the criminal offense of active corruption by persons exercising public functions. Meanwhile, a decision was made for only 1 case, and 3 others were ongoing (backlog). Annex 1 provides detailed data on the cases registered, adjudicated, and transferred for both years according to criminal offenses.

On the other hand, on the web page of the Special Court of Appeals for Corruption and Organized Crime, there is no published yearly report for 2022. Moreover, in the “Statistics” menu, data for the year 2022 cannot be generated. For this reason, the data are extracted from the HJC annual report.

Figure 2 summarizes the ongoing cases (backlog) in the Special Court of Appeals for Corruption and Organized Crime during 2020-2023, as well as the newly registered cases according to the types of criminal offenses. As observed, the highest number of registered cases in the court belongs to administrative criminal cases. Also noted is the “doubling of the number of registered crimes”<sup>57</sup> and the very small and unchanged number of anti-mafia cases. In total, during the year 2022, 314 new cases have been registered in this court, 53 fewer than in 2021. Meanwhile, it is worth noting that the number of ongoing cases (backlog) is respectively 24 cases in 2020 and 2022 and 23 cases in 2021. The High Judicial Council expresses that “these values indicate very good management of the judicial workload and a lack of real backlog, as the ongoing cases may be under consideration at the reporting time”.<sup>58</sup>

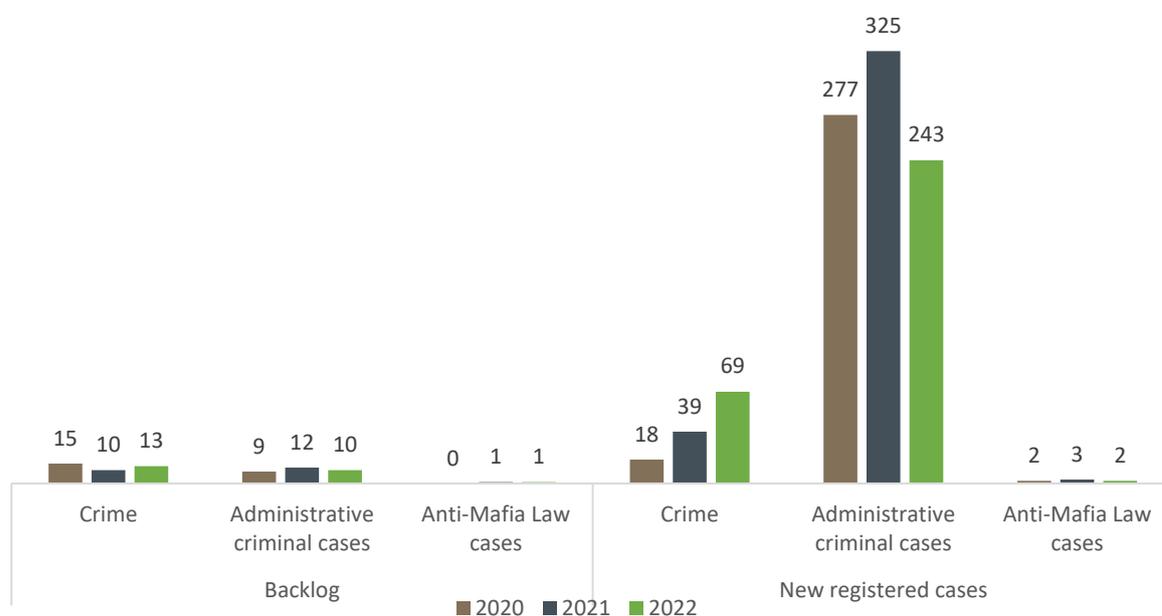


Figure 2: Backlog and the new registered cases in the Special Court of Appeals for Corruption and Organized Crime (2020-2022)

**Source:** The High Judicial Council, Report on the performance of the judicial system and the activity of the High Judicial Council for the year 2022.

<sup>57</sup> High Judicial Council, Report on the progress of the judicial system and the activities of the High Judicial Council for the year 2022, pp. 62. <https://klgj.al/2023/07/raporti-vjetor-klgj-2021-2/>

<sup>58</sup> Idem, pp. 62.

## 2.2 Efficiency

As highlighted in the methodology section, the efficiency dimension focuses on the assessment of the duration of the proceedings and timeliness of judicial and prosecutorial action and the average duration of cases.

### 2.2.1 The Right to Trial Within a Reasonable Time

The right to a trial within a reasonable time is essential for ensuring a fair judicial process.<sup>59</sup> This principle ensures the effective administration of the judicial system, enhances the efficiency of handling cases of corruption and organized crime, and contributes to increasing public trust in the judicial system. Article 42, paragraph 2, of the Constitution of the Republic of Albania states that everyone has the right to a fair and public trial within a reasonable time. This right is also protected by Article 6 of the European Convention on Human Rights (ECHR) and Article 14 of the International Covenant on Civil and Political Rights (ICCPR).<sup>60</sup>

The Constitutional Court, referring to the standards of the European Court of Human Rights (ECtHR), has determined the following criteria, which are taken into consideration to assess a reasonable timeframe: *(i) the complexity of the legal case; (ii) the conduct of the petitioner; (iii) the conduct of state authorities; and (iv) the risk that the extension of the trial period poses to the petitioner.*<sup>61</sup> For criminal cases, the Criminal Procedure Code of the Republic of Albania stipulates that courts must complete the judicial review in a single session, and if this is not possible, the court decides to continue the next working day. Only for special reasons determined by the court, the judicial review may be postponed for up to fifteen days. This is in line with the principle of “continuous trial,” which aims to present a complete and coherent presentation of the facts before the judicial body, facilitating the evaluation by the judicial body of the materials presented before it.<sup>62</sup>

Meanwhile, according to the European Commission report, in 2021 Albania had 307 full-time judge positions (10.8 per 100,000 inhabitants) and 300 full-time prosecutor positions (10.5 per 100,000 inhabitants). According to the European Commission for the Efficiency of Justice (CEPEJ), the European averages are 21 judges and 12 prosecutors per

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<sup>59</sup> Special Parliamentary Commission for the Judiciary System Reform, High-Level Expert Group, Analysis of the judicial system in Albania, 2015, pp. 86

[https://www.reformanedrejttesi.al/sites/default/files/dokumenti\\_shqip\\_0.pdf](https://www.reformanedrejttesi.al/sites/default/files/dokumenti_shqip_0.pdf)

<sup>60</sup> Special Parliamentary Commission for the Judiciary System Reform, High-Level Expert Group, Analysis of the judicial system in Albania, 2015, pp. 86.

[https://www.reformanedrejttesi.al/sites/default/files/dokumenti\\_shqip\\_0.pdf](https://www.reformanedrejttesi.al/sites/default/files/dokumenti_shqip_0.pdf)

<sup>61</sup> Idem, pp. 86.

<sup>62</sup> Idem, pp. 87.

100,000 inhabitants.<sup>63</sup> The number of judges and prosecutors per capita in the country, significantly lower than the European average, affects the time and quality of the conclusion of judicial processes. This results in (i) the backlog of cases, (ii) an increase in the workload for prosecutors and judges, (iii) the quality of judicial decisions, (iv) a decrease in the efficiency of the entire judicial system, and (v) a decline in public trust.

This is particularly evident in the case of specialized structures, which has recently established entities suffer from a lack of human resources. In this context, the recruitment and capacity building, including the prioritized recruitment of technical staff and necessary specialized and well-trained human resources, have been some of the recommendations of GRECO.<sup>64</sup>

The High Judicial Council, referring to the recommendation of the Resolution of the Parliament of Albanian, has continued to fill vacant positions in specialized structures. Thus, the Special Court of Appeal for Corruption and Organized Crime for the year 2022 has operated with only 7.91 effective judges out of 11 judges according to the decree, or about 72% of the envisaged staff.<sup>65</sup> Regarding the judicial administration, it had 22.92 effective staff members, out of the 31 envisaged in the structure, or about 74% of the envisaged staff.<sup>66</sup> The Special Court of First Instance for Corruption and Organized Crime operated with 7.5 effective judges out of 16 according to the decree, or 47% of the envisaged staff, and with 45.5 supporting staff out of 49 according to the structure, or 93%.<sup>67</sup>

In the meantime, SPAK operates with 17 prosecutors out of 20 approved by the High Prosecutorial Council (HPC), and it has completed the structure with 60 investigators of NBI.<sup>68</sup> From an organizational perspective, the SPAK structure is consolidating, although the organizational framework is not yet complete, and the recruitment of prosecutors and staff is still in process.

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<sup>63</sup> European Commission, (2022), Albania 2022 Report, pp. 22.

<sup>64</sup> GRECO, Fifth Evaluation Round “Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies”, pp. 52: <https://rm.coe.int/fifth-evaluation-round-preventingcorruption-and-promoting-integrity-i/1680a0923d>

<sup>65</sup> High Judicial Council, Report on the progress of the judicial system and the activities of the High Judicial Council for the year 2022, pp. 61. <https://klgj.al/2023/07/raporti-vjetor-klgj-2021-2/>

<sup>66</sup> High Judicial Council, Report on the progress of the judicial system and the activities of the High Judicial Council for the year 2022, pp. 63. <https://klgj.al/2023/07/raporti-vjetor-klgj-2021-2/>

<sup>67</sup> Idem, pp 65.

<sup>68</sup> Special Structure Against Corruption and Organized Crime, Annual Report 2022, pp 6 <https://spak.gov.al/raporti-vjetor>

## 2.2.2 The Duration of Cases for Corruption and Organized Crime

As emphasized above, on the official website of SCCOC, no information can be generated in the “case duration” menu, as also reflected in the court's 2022 annual report.<sup>69</sup> Meanwhile, it is possible to extract some data from the aforementioned report, but these are categorized as fundamental criminal cases, without providing a breakdown of the duration for cases of corruption and organized crime.

According to the report, 72% of cases (N=56) have lasted 0-6 months, 22% (N=17) have lasted 6-12 months, and 6% (N=5) have lasted over 1 year. Meanwhile, 67% of the case backlog consists of newly registered cases during 2022, of which 31% are cases registered in the second half of the year; 51 cases or 34% of the backlog have been pending judgment for more than a year, and only 1 case has been waiting for over 3 years.<sup>70</sup>

For the year 2021, 84% of the case backlog consists of newly registered cases during 2022, of which 50% are cases registered in the second half of the year; 62 cases, or 34% of the backlog, have been pending judgment for more than a year, and only 1 case has been waiting for over 2 years.<sup>71</sup>

## 2.2.3 Track Records and the Integrated Case Management System

The High Prosecutorial Council and the High Judicial Council are the main bodies responsible for managing the prosecutorial and judicial system,<sup>72</sup> playing a crucial role in overseeing the activities of the Special Prosecution and Courts Against Corruption and Organized Crime, which report on their activities.

The country has made progress in collecting statistical data on the judicial system and reporting on them.<sup>73</sup> Thus, at the Registry office in SPAK, a data register related to criminal proceedings has been established, from their initial registration to their referral to court, serving as a “track record” and an indicator of the prosecutors' work in prosecuting criminal cases.<sup>74</sup> Additionally, SCCOC periodically reports, every 6 months to

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<sup>69</sup> Special Court of First Instance for Corruption and Organized Crime, Annual report 2022, pp. 41.

<sup>70</sup> High Judicial Council, Report on the progress of the judicial system and the activities of the High Judicial Council for the year 2022, pp. 67. <https://klgj.al/2023/07/raporti-vjetor-klgj-2021-2/>

<sup>71</sup> High Judicial Council, Report on the progress of the judicial system and the activities of the High Judicial Council for the year 2021, pp. 51. <https://klgj.al/2022/04/raporti-vjetor-klgj-2021/>

<sup>72</sup> Law 95/2016 “On the organization and operation of institutions to fight corruption and organized crime”.

<sup>73</sup> European Commission, Albania Report 2021, pp. 22. [https://ec.europa.eu/neighbourhood-enlargement/albaniareport-2021\\_en](https://ec.europa.eu/neighbourhood-enlargement/albaniareport-2021_en)

<sup>74</sup> Special Structure Against Corruption and Organized Crime, Annual Report, pp 6 <https://spak.gov.al/raporti-vjetor>

the Ministry of Foreign Affairs, Track Records regarding Corruption and Organized Crime cases, explaining the progress of these cases at each stage of the trial.<sup>75</sup>

Nevertheless, further efforts are necessary to create a new integrated case management system and ensure its interoperability throughout the justice system in accordance with the methodology of the European Commission for the Efficiency of Justice (CEPEJ).<sup>76</sup> The integrated case management system would enhance the efficiency and transparency of the system. This is emphasized in the European Commission's report, stating, among other things, that “the establishment of a modern integrated case management system would improve the efficiency and transparency of the judicial system.”<sup>77</sup> This is a reiterated recommendation also found in the 2022 report.<sup>78</sup>

Furthermore, the European Commission's report for the year 2022 emphasizes the need for the establishment of a solid track-records of investigations, prosecutions, and adjudication of corruption cases, and the seizure and confiscation/recovery of criminal assets resulting from corruption-related offences.<sup>79</sup>

Additionally, there is a demand for improvement in the track records of investigations, criminal prosecutions, trials, and asset seizure and confiscation, especially at high levels, related to organized crime and money laundering.<sup>80</sup>

Other recommendations from the European Commission regarding the country's level of preparedness and progress in the fight against corruption and organized crime can be found in annex 3.

## 2.3 Relevance

As mentioned above in this report, the analysis is based on the data published on the official pages of the Special Prosecution and the Courts. For the year 2022, on the official page of the Special First Instance Court for Corruption and Organized Crime, in the “Information Corner” section (completed cases/criminal files), the latest published decision is dated July 27, 2022, decision for case number 100.<sup>81</sup> After that date, there are no published decisions on the court's official website. Moreover, as highlighted in the

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<sup>75</sup> Special First Instance Court for Corruption and Organized Crime, Annual Report 2022, pp. 47.

<sup>76</sup> European Commission, Albania Report 2021, pp. 22. [https://ec.europa.eu/neighbourhood-enlargement/albaniareport-2021\\_en](https://ec.europa.eu/neighbourhood-enlargement/albaniareport-2021_en)

<sup>77</sup> European Commission, Albania Report 2022, pp. 20. [https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en)

<sup>78</sup> Idem pp. 20.

<sup>79</sup> Idem, pp. 23.

<sup>80</sup> European Commission, (2023), Screening Report – Albania, 2023, pp 79. [https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania\\_en](https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania_en)

<sup>81</sup> [https://www.gjp.gov.al/Kendi\\_informativ/Ceshtje\\_te\\_perfunduara/Dosje\\_penale/#/?NrPage=1&recPages=100&ftdb=01.01.2022&ftde=31.12.2022](https://www.gjp.gov.al/Kendi_informativ/Ceshtje_te_perfunduara/Dosje_penale/#/?NrPage=1&recPages=100&ftdb=01.01.2022&ftde=31.12.2022)

annual report of the court, the system of information and data publication for the public in menus such as “case details,” “cases in trial,” “case duration,” “session information” is completely non-functional.<sup>82</sup>

However, on the official page of the Special Court of Appeals for Corruption and Organized Crime, some data can be generated in the “Statistics”<sup>83</sup> as well as in the “Criminal Cases”<sup>84</sup> sections. On the other hand, the Special Court of Appeals for Corruption and Organized Crime has not published an annual report for 2022.

In this context, this section, which assesses the relevance, in other words, the cases handled by specialized institutions in relation to their complexity and seriousness and which should be mainly based on the analysis of court decisions,<sup>85</sup> due to the circumstances explained above, will be limited only to the data published in the annual report of SPAK, SCCOC, and any data that can be accessed by the general public on the official websites of these specialized structures.

### 2.3.1 Criminal Proceedings and Punishments for Cases of High-level Corruption

“The Transparency International Corruption Perceptions Index for 2022 ranked Albania 101st out of 180 countries.<sup>86</sup> Despite an increase of one point compared to 2021, the country still ranks among the most corrupt in Europe.

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<sup>82</sup> Special Court of First Instance for Corruption and Organized Crime, (2023), Annual Report 2022, pp. 41.

<sup>83</sup> <https://www.gjkata.gov.al/gjkata-e-posacme-e-apelit-per-korrupsionin-dhe-krimin-e-organizuar/gjkata-e-posacme-e-apelit-per-korrupsionin-dhe-krimin-e-organizuar/statistika/c%3%ABshtjet-penale/>

<sup>84</sup> <https://www.gjkata.gov.al/gjkata-e-posacme-e-apelit-per-korrupsionin-dhe-krimin-e-organizuar/gjkata-e-posacme-e-apelit-per-korrupsionin-dhe-krimin-e-organizuar/c%3%ABshtjet-gjyq%3%ABsore/c%3%ABshtjet-penale/>

<sup>85</sup> Smejkalová, Terezie (2020), Importance of judicial decisions as perceived level of relevance, Utrecht Law Review.

<sup>86</sup> Transparency International, Corruption Perception Index 2022. <https://www.transparency.org/en/cpi/2022/index/alb>

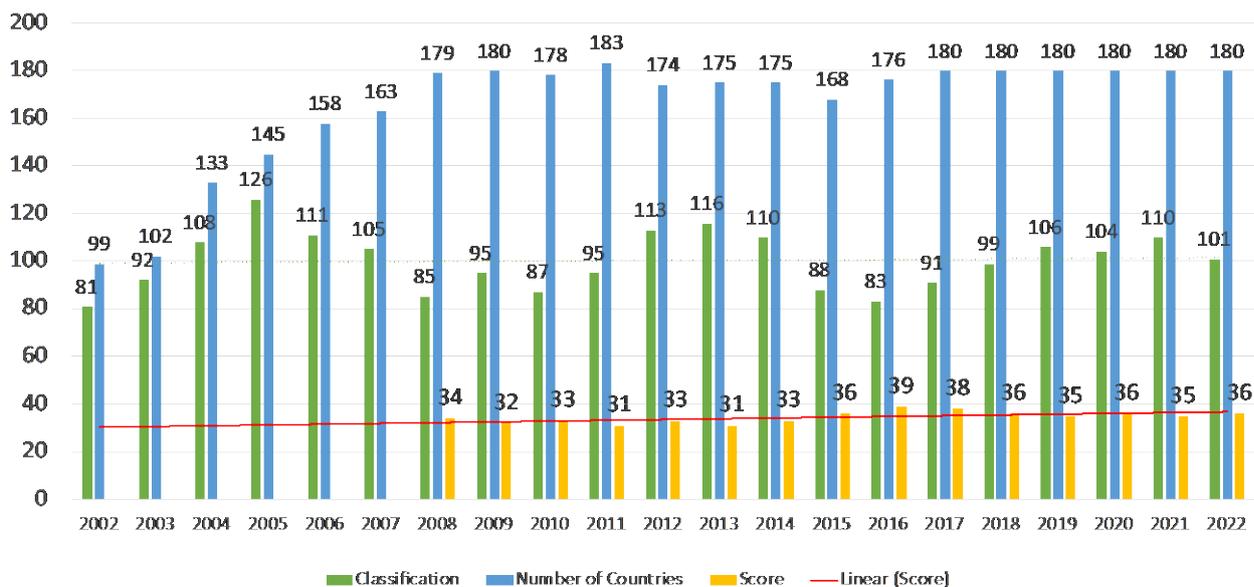


Figure 3: Corruption Perception Index

This high level of corruption is also reflected in public surveys. In 2022, the majority of surveyed Albanians (76.5%) saw petty corruption as widespread or very widespread, compared with 79.1% who held this opinion for grand or high-level corruption.<sup>87</sup> Meanwhile, 65.8% of Albanians lack confidence in the prosecution of high-level corruption cases, while 56.9% lack confidence in the effective prosecution of petty corruption.<sup>88</sup> In line with these findings, the European Commission's report for 2022 emphasizes that corruption is prevalent in many areas of public and business life, remaining a serious concern for the country.”<sup>89</sup>

According to data published by the Special Prosecution<sup>90</sup>, for the year 2022, this institution has sent to trial 43 criminal cases related to corruption offenses (see Figure 4) involving 208 defendants (see Figure 5).

<sup>87</sup> Institute for Democracy and Mediation, Opinion Poll 2022: Trust in Governance, 10<sup>th</sup> Edition. <https://idmalbania.org/publication-of-the-10th-edition-of-trust-in-governance-annual-public-opinion-poll-in-albania/>

<sup>88</sup> Idem, pp. 6.

<sup>89</sup> European Commission, Albania Report 2022. [https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en)

<sup>90</sup> Annual report 2020, Annual report 2021, Annual report 2022. <https://spak.gov.al/raporti-vjeter>

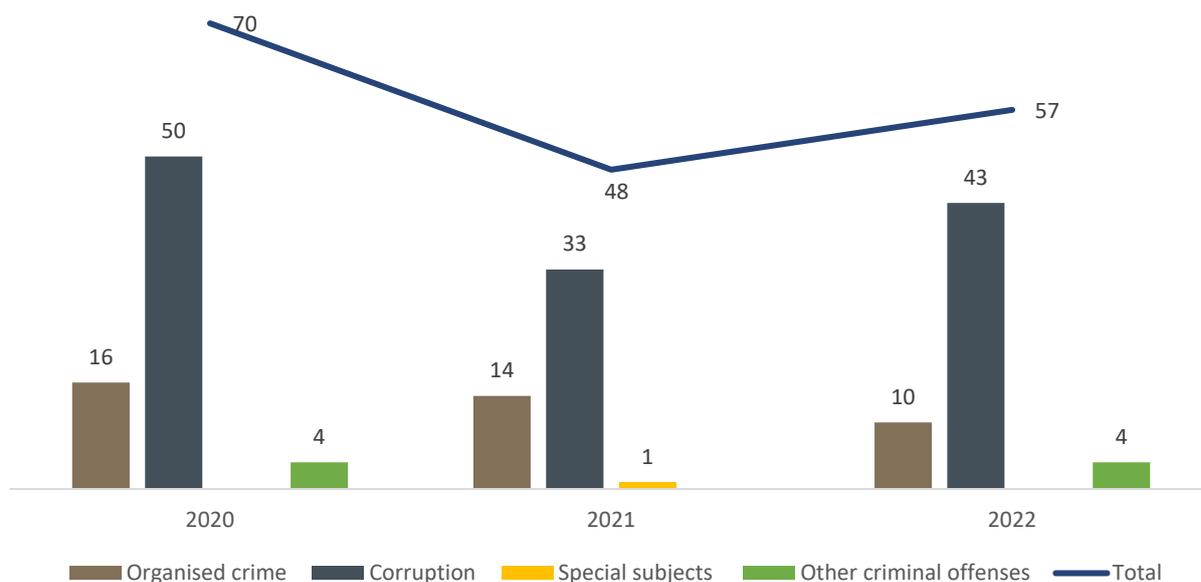


Figure 4: Number of cases sent to trial by SPAK (2020-2022)

Source: The Special Structure Against Corruption and Organized Crime, Annual Report 2020, Annual Report 2021, Annual Report 2022

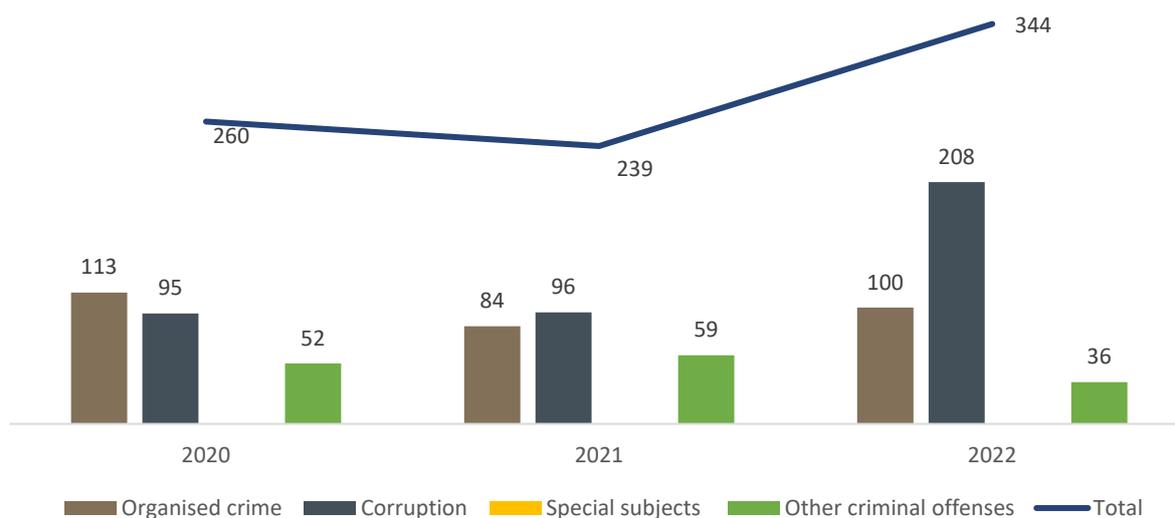


Figure 5: Number of defendants (2020-2022)

Source: The Special Structure Against Corruption and Organized Crime, Annual Report 2020, Annual Report 2021, Annual Report 2022

For criminal offences related to corruption, there is an increase of 30% in the number of cases and 117% in the number of defendants compared to 2021.<sup>91</sup> Meanwhile, for criminal offences related to corruption, during the year 2022, 30 requests for the dismissal of the case have been submitted involving 15 persons under investigation,<sup>92</sup> investigations for 5 criminal acts have been suspended<sup>93</sup> and 59 criminal proceedings involving 42 persons under investigation have been transferred to the District Prosecutor's Offices.<sup>94</sup>

In Appendix 2, detailed data is provided regarding the number of criminal proceedings for corruption-related cases and their resolution from 2020 to 2022. As can be observed, criminal offences such as abuse of duty, passive corruption of individuals exercising public functions, passive corruption of judges, prosecutors, and other justice officials, constitute the highest number of proceedings initiated by SPAK for criminal offences related to corruption. For the year 2022, there is an increase in proceedings for criminal offences related to the violation of equality of participants in public tenders and auctions.<sup>95</sup>

Thus, during 2021, 7 cases were sent to trial under Article 248 "Abuse of office," and 77 others were still under investigation. For the year 2022, there were 60 cases under investigation related to the abuse of office, 17 fewer cases. Meanwhile, concerning cases under Article 259 "Passive corruption of individuals exercising public functions," a total of 98 cases were registered for the year 2020, 83 for the year 2021, and 78 for the year 2022. As observed, there is a decrease of 20 cases from 2020 to 2022. Also, for the year 2022, a total of 92 cases were registered under Article 258 "Violation of equality of participants in public tenders or auctions," of which 6 were sent to trial, and 70 are under investigation.

Also, regarding the criminal offense under Article 319/ç "Passive corruption of judges, prosecutors, and other officials of justice institutions," there is a decrease of 23 cases from the year 2020 to the year 2022. Thus, in the year 2020, a total of 67 cases were registered, and in the year 2022, 44 cases related to Article 319/ç of the Penal Code were recorded.

Meanwhile, from the cases sent for trial during the period 2020-2022, the Special Prosecutor's Office has sent to the court, with a request for trial, a total of **only 18**

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<sup>91</sup> Special Structure Against Corruption and Organized Crime, Annual report, pp 19

<https://spak.gov.al/raporti-vjetor>

<sup>92</sup> Idem, pp 12.

<sup>93</sup> Idem, pp 12.

<sup>94</sup> Idem, pp 12.

<sup>95</sup> Accordingly, related to the criminal offense of "Violation of the equality of participants in public tenders and auctions", 6 cases have been sent to trial, meanwhile 70 other cases are still under investigation. For more see: Special Structure Against Corruption and Organized Crime, Annual, pp 63

<https://spak.gov.al/raporti-vjetor>

**criminal** proceedings against former high-level officials, involving **only 19 defendants** as follows:

- 8 criminal proceedings involving 8 defendants (former Judge)
- 3 criminal proceedings involving 3 defendants (former Prosecutor)
- 1 criminal proceeding involving 2 defendants (former Deputy)
- 1 criminal proceeding involving 1 defendant (former Deputy Minister)
- 1 criminal proceeding involving 1 defendant (member of the Independent Qualification Commission)
- 4 criminal proceedings involving 4 defendants (former Mayor)<sup>96</sup>

As highlighted by the investigative network BIRN: “The Special Prosecutor's Office has been conducting investigations for years without concrete results, for cases of corruption involving high-level state officials where suspicions arise of abuses with hundreds of millions of euros from public funds.”<sup>97</sup>

On the other hand, during the year 2022, the Special Court of First Instance for Corruption and Organized Crime issued only **4 conviction decisions** involving 4 individuals convicted as former high-level officials<sup>98</sup>, and returned for asset investigation for 7 former judges of the High Court and Constitutional Court to SPAK.<sup>99</sup> The discrepancy between the number of cases investigated and the number of convictions is also highlighted in the European Commission's “Albania Screening 2023” Report.<sup>100</sup>

Thus, for the year 2022, the Special Court for Corruption and Organized Crime (SCCOC) has issued two guilty verdicts under Article 319/ç “Passive corruption of judges, prosecutors, and other officials of the judiciary” and 2 guilty verdicts under Article 319 “Active corruption of judges, prosecutors, and other officials of the judiciary.”<sup>101</sup> Additionally, the court has issued 9 guilty verdicts under Article 245/1/2 “Illegal influence on persons exercising public functions,” 9 guilty verdicts under Article 248

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<sup>96</sup> Special Structure Against Corruption and Organized Crime, Annual report 2022, pp 8.

<https://spak.gov.al/raporti-vjetor>

<sup>97</sup> Hoxhaj, Edmond (2023), SPAK sets records in delaying high-level corruption investigations, BIRN

<https://www.reporter.al/2023/03/06/spak-shenon-rekorde-ne-zvarritjen-e-hetimeve-te-korrupsionit-ne-nivel-te-larte/>

<sup>98</sup> Idem, pp. 9.

<sup>99</sup> Hoxhaj, Edmond (2022), Incomplete investigations: The court returns to SPAK for asset investigation 7 former judges, BIRN: <https://ëëë.reporter.al/2022/07/07/hetime-te-paplota-gjykata-rikthen-ne-spak-hetimin-pasuror-per-7-ish-gjyqtare/>

<sup>100</sup> European Commission, (2023), Screening report – Albania 2023, pp 51. [https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania\\_en](https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania_en)

<sup>101</sup> Special Court of First Instance for Corruption and Organized Crime, (2023), Annual report 2022, pp. 57.

“Abuse of office,” 3 guilty verdicts under Article 258 “Violation of equality of participants in tenders or public auctions,” and 3 guilty verdicts under Article 259 “Passive corruption of persons exercising public functions.”<sup>102</sup>

It's worth noting that this court has carried over for the year 2023, among other things, 9 cases under Article 259 “Passive corruption of persons exercising public functions,” 3 cases under Article 244 “Active corruption of persons exercising public functions,” and 5 cases under Article 258 “Violation of equality of participants in tenders or public auctions.”<sup>103</sup>

Despite the significant mismatch between the cases investigated and the convictions, the decisions have yielded results in assessing the country's efforts in the fight against corruption. According to the Freedom House report Nations in Transit, “the corruption rating improved from 2.75 to 3.00 due to a number of high-profile indictments and convictions of former officials by the Special Structure Against Corruption and Organized Crime (SPAK), as well as its proactive role in promoting the fight against corruption and organized crime.”<sup>104</sup>

### 2.3.2 The Seizure and Confiscation of Criminal Assets Resulting from Corruption Related Offences

The European Commission's report “Albania Screening 2023” emphasizes the need for the implementation of anti-mafia laws for preventive assets seizure and confiscation, aiming to freeze assets related to criminal activities and promote their social re-use.<sup>105</sup> Although the Progress Report 2022 acknowledges good progress in the seizure and confiscation of assets related to corruption, it recommends further progress in establishing track records related to the investigation, prosecution, and trial of corruption cases, as well as the seizure/confiscation of assets stemming from corruption and organized crime.<sup>106</sup>

During the year 2021, assets stemming from corruption with a value of million EUR<sup>107</sup> were seized. In the first half of 2022, assets worth 37 million were seized, but only a few of them were confiscated.<sup>108</sup>

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<sup>102</sup> Idem, pp. 59-60.

<sup>103</sup> Idem, pp. 57-58.

<sup>104</sup> <https://freedomhouse.org/country/albania/nations-transit/2023>

<sup>105</sup> European Commission, (2023), Screening Report – Albania 2023, pp 74. [https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania\\_en](https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania_en)

<sup>106</sup> European Commission, Albania Report 2022: [https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/albania-report-2022_en)

<sup>107</sup> Idem, pp. 24.

<sup>108</sup> Idem



During the reporting to the Law Commission in the Parliament, the head of SPAK emphasized that “Regarding the value of seized and confiscated assets, we have very positive indicators. The value may be at least around 100 million Euros. What makes me feel better is the diversification of the types of assets seized, including bank accounts, cash, immovable properties, businesses in tourism, etc. This amount is higher than 100 million Euros”.<sup>109</sup>

Meanwhile, the Agency for the Administration of Seized and Confiscated Assets (AASCA) has not published the official activity report for the year 2022 on its website, as it did for the year 2021. Furthermore, the comprehensive table of seized, revoked, and confiscated assets has not been consistently updated to reflect the data for the years 2021 and 2022.

In the absence of clear and updated data, a more in-depth analysis of the performance regarding the seizure and confiscation of assets related to corruption and organized crime becomes impossible..

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<sup>109</sup> Over 100 million Euros asset seized by SPAK: <https://tvklan.al/mbi-100-milione-euro-pasuri-te-sekuestruara-nga-spak/>

### III: Transparency

According to public opinion surveys, in 2022, 25.9% of surveyed citizens affirm that anti-corruption courts are dedicated to the fight against corruption, and a higher percentage, 38.4%, believe that SPAK is serious in the fight against corruption.<sup>110</sup> Questioned about the absolute contribution of SPAK in the fight against corruption, the results show that the majority of respondents, namely 69.5% of them, consider SPAK's contribution to be very important or important, while only 8% find it unimportant or very unimportant.<sup>111</sup>

On the other hand, public trust, in general, remains low. After political parties and parliament, the prosecution (35.2%) and the courts (36.2%) are the least trusted institutions for the year 2022<sup>112</sup>. Although public trust in the courts has increased by eight percentage points compared to 2021 (28%), they still rank as the least trusted institutions.<sup>113</sup> Meanwhile, SPAK has a higher level of trust among citizens (50%), compared to the reported trust levels for the prosecution (35.2%) and the courts (36.2%).<sup>114</sup>

The lack of public trust in the justice institutions is also highlighted in the Freedom House report “Freedom in the World 2022,” where it is emphasized that “public trust in the judicial institutions is low. Corruption in the judiciary remains a serious problem, and convictions of high-ranking judges for corruption and abuse of power are historically rare.”<sup>115</sup>

In addition to the punishment of judges for corruption and abuse of power, one way to increase public trust in the justice system is transparency. According to the doctrine, “broad access to judicial decisions provides the public with the opportunity to closely monitor the work of the judiciary, thereby strengthening transparency and accountability of the judiciary.”<sup>116</sup>

As emphasized by the European Network of Councils for the Judiciary (ENCJ 2018), “an open and transparent justice system is a prerequisite for building and maintaining public

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<sup>110</sup> Center for the Study of Democracy and Governance, Albania Security Barometer, National survey 2022. pp. 55. <https://csdgalbania.org/albanian-security-barometer-2022/>

<sup>111</sup> Idem, pp. 61-62.

<sup>112</sup> Institute for Democracy and Mediation, Opinion Poll 2022: Trust in Governance, 10<sup>th</sup> Edition. <https://idmalbania.org/publication-of-the-10th-edition-of-trust-in-governance-annual-public-opinion-poll-in-albania/>

<sup>113</sup> Idem

<sup>114</sup> Idem

<sup>115</sup> <https://freedomhouse.org/country/albania/freedom-world/2022>

<sup>116</sup> Faafeng, Jo et, al, (2013), Toward justice, Analysis of the civil process in the courts of judicial districts, OSCE, pp. 80.

trust in justice, which is a cornerstone of the legitimacy of the judiciary”.<sup>117</sup> Furthermore, “access to information from the courts and court administrations is essential to prevent corrupt practices and ensure the right to a fair trial by protecting the parties involved from the administration of justice in secret without public oversight”.<sup>118</sup>

The results of citizen opinion polls regarding corruption and the justice system in Albania highlight an important inconsistency. On one hand, the perceived levels of corruption are high, but at the same time, the new justice structures, especially SPAK, are positively assessed by a significant portion of citizens for their contribution to the fight against corruption. On the other hand, the justice institutions themselves are not entirely transparent in their activities to address concerns about the perception of corruption and to deepen citizens' trust in the judiciary.

A fundamental characteristic of a functional judicial system is the public's trust in justice and the quality of justice administered by the system. In other words, for a court to be effective in delivering justice, the public must have confidence in the court's ability to do so.<sup>119</sup> Furthermore, since public perception is crucial for the effective functioning of the judicial system, it is of great importance to take their opinions on the courts into consideration.<sup>120</sup>

In this section, the importance and role played by the transparency of judicial institutions in strengthening public trust and enhancing accountability of the judicial system are analyzed.<sup>121</sup> Below, the report argues that transparency provides citizens and civil society organizations with the opportunity to directly monitor the work of the judicial system. Furthermore, judicial transparency contributes to increasing public trust in the justice institutions and aids in the overall fight against corruption, creating an effective mechanism for accountability and responsibility.

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<sup>117</sup> France, Guilherme. (2019), Transparency of court proceedings, Transparency International, pp.3 <https://knowledgehub.transparency.org/helpdesk/transparency-of-court-proceedings>

<sup>118</sup> Faafeng, Jo et, al, (2013), Toward justice, Analysis of the civil process in the courts of judicial districts, OSCE, Pp.77.

<sup>119</sup> United Nations Office on Drugs and Crime, (2011) Resource Guide on Strengthening Judicial Integrity and Capacity, pp. 97.

<sup>120</sup> Idem

<sup>121</sup> In a monitoring conducted in 2018, based on the current legislation, BIRN identified 36 indicators of the overall level of transparency divided into six main categories: 1. Access to courts; 2. Cases and court decisions; 3. Information for the public; 4. Internal organization; 5. Financial transparency; 6. Right to information. (Balkan Investigative Reporting Network, (2018), Monitoring the level of transparency of the courts in Albania, Tirana, pp. 8-11). Meanwhile, considering the methodology of this report, the focus is solely on the publication of court decisions and the free access of the public to them.

### 3.1 The Legal Framework Supporting the Availability of Judicial Decisions to the Public

Transparency in the judiciary is a fundamental principle based on a set of international legal norms as well as domestic legal frameworks. Transparency is grounded in two essential principles: the right to information and the right to a fair judicial process. Internationally, the Universal Declaration of Human Rights (UDHR) or the International Covenant on Civil and Political Rights (ICCPR) establishes standards for implementing transparency in the administration of justice. Meanwhile, the Constitution and the law on the right to information specify the obligations and specific requirements for ensuring transparency in the judicial system. This legal foundation helps ensure compliance with the fundamental principles and values of justice, allowing public access to the judicial process and enhancing its oversight. The text box below reflects a series of international legal norms that support the availability of judicial decisions..<sup>122</sup>

#### Article 10 of the UDHR

"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

#### Article 14 paragraph 1 of ICCPR

"[...] In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing [...]"

#### Article 6 paragraph 1 i ECtHR

"In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law. The judgment shall be pronounced publicly. [...]"

Article 47 paragraph 2 The Charter of Fundamental Rights of the European Union

On the other hand, the Constitution of the Republic of Albania, in Article 146, paragraph 2, sanctions that "court decisions are announced publicly in every case." The Constitution has provided an absolute reservation according to which, even if the judicial review, session, or parts of it are conducted behind closed doors, the respective decision of the

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<sup>122</sup> From: Faafeng, Jo et, al, (2013), Toward justice, Analysis of the civil process in the courts of judicial districts, OSCE, pp.78.

court must always be announced publicly.<sup>123</sup> The criterion for the public announcement of decisions is considered fulfilled when the full text of the decision, deposited in the court's secretariat, is available to anyone (Decision No. 26, dated 13.06.2011, of the Constitutional Court).<sup>124</sup>

Furthermore, transparency is also ensured through Law No. 119/2014 “On the Right to Information,” in Article 2, paragraph 1 of which it is defined that a “public authority” is any administrative body provided for by law for administrative procedures, legislative and judicial bodies, and those of the prosecution at every level, local government units at all levels, state organs, and public entities created by the Constitution or by law. Meanwhile, in Paragraph 2, it is defined that “public information” is any recorded information in any form and format, during the exercise of public functions, regardless of whether it is compiled by the public authority or not.”

Similarly, Law No. 98/2016 “On the Organization of the Judiciary in the Republic of Albania,” Article 46 “Relations with the Public,” Paragraph 1/d, provides that public relations services are responsible for informing the public and the media about the activities of the judiciary, as well as specific judicial matters, in accordance with the rules approved by the High Judicial Council, with the aim of publishing all judicial decisions in accordance with the law.

Furthermore, the Criminal Procedure Code specifies in Article 382 the procedures and deadlines related to the drafting of the judicial decision. According to this article, after the decision is made, its reasoning is based on the evidence and criminal law, and it is signed by all members of the judicial body. When the decision is pronounced summarily, it is fully reasoned within 30 days from its announcement. This period may be extended for another 30-day period if the case has been adjudicated in the Special Court for Corruption and Organized Crime (paragraph 2). When the convicted person is under personal security measures, according to Articles 237 and 238 of this Code, the decision is reasoned within 15 days from the date of pronouncement or within 30 days when adjudicated by the Special Court against Corruption and Organized Crime (paragraph 3). The specified deadline for justifying the written decision, as mentioned above, may be extended in exceptional cases for justified reasons. In such cases, the president of the court is notified.

Referring to the Regulation on the Relationship of the Court with the Public, approved by the order of the Minister of Justice no. 6777/5, dated September 30, 2010, “On the

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<sup>123</sup> Skrame, Olti, “Public communication with justice and closed institutions. Investigative secrecy and the liability arising from it.” pp.10

[https://admin.magjistratura.edu.al/uploads/Materiali\\_trajnimi\\_i\\_dates\\_14\\_06\\_23\\_Olti\\_Skrame\\_3\\_a7a1551964.d](https://admin.magjistratura.edu.al/uploads/Materiali_trajnimi_i_dates_14_06_23_Olti_Skrame_3_a7a1551964.d)

<sup>124</sup> Idem

approval of the Regulation,” it is determined that decisions of courts at all levels fall into the category of information that can be accessed without restriction. Thus, in section 4.1, it is specified that on the official website of each court, “All final decisions taken by the court must be published, specifying whether it has taken a final form or not.”<sup>125</sup>

In this way, the publication of court decisions allows the public, the press, civil society organizations, and researchers to examine the actions of the courts. Public scrutiny of court decisions through their publication regulates the application of the law and makes court decisions more consistent, thereby enhancing the quality of judgments.<sup>126</sup> In this context, the transparency of the judiciary “increases efficiency and effectiveness and promotes trust in the justice system as well as in the administration of justice.”<sup>127</sup>

### 3.2 The Importance of Transparency in Judicial Processes

The transparency of judicial processes and free public access are key factors that directly impact the promotion of accountability and the increase of trust in the judicial system. Through transparency, the judicial system becomes open to the public, allowing citizens to better understand its functioning and the procedures it follows, thereby increasing public knowledge about the judicial system. This in-depth understanding is crucial for addressing issues when they arise, as the public can become a powerful ally in uncovering violations within the justice system and reporting them. At the same time, transparency reduces the likelihood of corrupt practices,<sup>128</sup> since judicial processes are open for public scrutiny and assessment by citizens and civil society organizations, corrupt practices are more easily disclosed and reported. Thus, transparency and free public access contribute to strengthening the judicial system and delivering justice with greater integrity and accountability.

Furthermore, “the transparency of the judicial system enhances its efficiency and effectiveness, encouraging judges to act justly, impartially, and independently”.<sup>129</sup> On the other hand, one of the ways to ensure consistency in judicial practice is through the online publication of court decisions.<sup>130</sup>

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<sup>125</sup> Order of the Minister of Justice, No.6777/5, dated September 30, 2010 for the approval of the Regulation “On the relationship of the court with the public”, title III, section 4.1, letter e.

[https://www.gjp.gov.al/Programi\\_i\\_Transparences/Rregullore/RREGULLORE\\_P\\_R\\_MARR\\_DH\\_NIENEGJY\\_KAT\\_S\\_ME\\_PUBLIKUN.html](https://www.gjp.gov.al/Programi_i_Transparences/Rregullore/RREGULLORE_P_R_MARR_DH_NIENEGJY_KAT_S_ME_PUBLIKUN.html)

<sup>126</sup> United Nations Office on Drugs and Crime, (2011) Resource Guide on Strengthening Judicial Integrity and Capacity, pp. 89.

<sup>127</sup> France, Guilherme. (2019), Transparency of court proceedings, Transparency International, pp.1

<https://knowledgehub.transparency.org/helpdesk/transparency-of-court-proceedings>

<sup>128</sup> Transparency International (2007), Enhancing Judicial Transparency, pp. 1.

[https://images.transparencycdn.org/images/TI\\_Policy\\_Position\\_Judiciary\\_01.07.pdf](https://images.transparencycdn.org/images/TI_Policy_Position_Judiciary_01.07.pdf)

<sup>129</sup> France, Guilherme. (2019), Transparency of court proceedings, Transparency International, pp.1.

<https://knowledgehub.transparency.org/helpdesk/transparency-of-court-proceedings>

<sup>130</sup> Council of Europe, Foster Transparency of Judicial Decisions and Enhancing the National Implementation of the ECHR (TJENI), <https://www.coe.int/en/web/national-implementation/tjeni>

The analytical report on the justice system in Albania recognizes transparency as an important dimension of the judicial system, emphasizing that “the publicity of judicial activities, public access to justice, and the openness of this activity to society through public communication are among the substantial elements for a transparent judicial system.”<sup>131</sup> Furthermore, the transparency of judicial institutions is a characteristic of democratic regimes<sup>132</sup> and can contribute to increasing the independence of the judicial system.<sup>133</sup>

Also, as emphasized above, access to information produced by the courts serves to increase citizens' trust in the justice institutions.<sup>134</sup> Not only that, but “public access to judicial decisions provides the public with the opportunity to closely monitor the work of the judiciary, strengthening the mechanisms of accountability and responsibility of the judiciary.”<sup>135</sup>

In this context, the full publication of judicial decisions plays a dual role. On the one hand, awareness and legal education of the population are achieved through obtaining knowledge of judicial decisions. “If individuals have information about the activities of the courts, knowing how the law is interpreted and applied by them, then they have the opportunity to apply it in practice.”<sup>136</sup> On the other hand, transparent court decisions provide the public with a comprehensive understanding of the reasoning behind judicial decisions, which can help identify possible irregularities and serve as a barrier against biased or arbitrary decisions. When judges know that their decisions will be scrutinized by the public, they are more likely to make impartial and well-reasoned decisions.

The transparency of the judicial system is also emphasized in the Cross-Sector Justice Strategy 2021-2025, where it is highlighted that the vision of the strategy is “An independent, accountable, accessible, transparent, and efficient justice system that upholds human rights and serves society according to European standards”.<sup>137</sup> Furthermore, it is emphasized that this vision will be fulfilled, among other things, through “strengthening transparency, the efficiency of the judiciary, and access to justice in accordance with constitutional requirements, legal provisions, and European

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<sup>131</sup> Special Parliamentary Commission for the Judiciary System Reform, High-Level Expert Group, Analysis of the judicial system in Albania, Tirana 2015, pp. 77.

<sup>132</sup> *Idem*

<sup>133</sup> Balkan Investigative Reporting Network, Monitoring the level of transparency of the courts in Albania, Tirana 2018, pp. 7.

<sup>134</sup> *Idem*

<sup>135</sup> Special Parliamentary Commission for the Judiciary System Reform, High-Level Expert Group, Analysis of the judicial system in Albania, Tirana 2015, pp. 79.

<sup>136</sup> Skrame, Olti, “Public communication with justice and closed institutions. Investigative secrecy and the liability arising from it.” pp.10

[https://admin.magjistratura.edu.al/uploads/Materiali\\_trajnimi\\_i\\_dates\\_14\\_06\\_23\\_Olti\\_Skrame\\_3\\_a7a1551964.d oc](https://admin.magjistratura.edu.al/uploads/Materiali_trajnimi_i_dates_14_06_23_Olti_Skrame_3_a7a1551964.d oc)

<sup>137</sup> DCM, No. 823, dated 24.12.2021 “On the approval of Cross-Sector Justice Strategy 2021-2025 and its action plan”.

standards”.<sup>138</sup> An indicator of the achievement of the above goal is the “% of judicial cases for which basic information is available on the internet and updated,” and the responsible institutions for this have been identified as the HJC and the courts.<sup>139</sup>

Meanwhile, the justice institutions themselves recognize the importance of transparency and the role it plays in public trust. Thus, in decision no. 590, dated 26.11.2020, approving the “Strategic Communication Plan for the Judicial System,” the High Judicial Council emphasizes that “the High Judicial Council is committed to restoring public trust in the judicial system as one of its main objectives.” It further highlights that “the mission of the HJC is to build, lead, and govern a high-performance judicial system that seeks excellence and deserves public trust”.<sup>140</sup> Even on the official website of the HJC, it is highlighted that “the Council emphasizes providing information to the public, and for this reason, it is working with international partners to develop a judicial portal as part of a long-term strategy aimed at increasing transparency and accountability of the judiciary to citizens. Furthermore, it is emphasized that “our [HJC] goal is to increase public trust in the judicial system through new communication avenues and tools”.<sup>141</sup> However, such a portal has not yet become functional, and specialized courts do not publish their decisions. Furthermore, there is no evidence of the establishment of mechanisms to verify whether decisions are published or not, how they are published, and how quickly they are published.

Meanwhile, in the “Strategic Plan and Action Plan for the Office of the High Inspector of Justice 2020-2022,” in the second chapter, the risk assessment section, the negative perception of the public towards the justice system is listed simultaneously as both weaknesses and threats.<sup>142</sup> Thus, HIJ observes that the justice system lacks transparency, and this lack of transparency translates into lower trust from the public.

The Court of First Instance for Corruption and Organized Crime itself, which, as emphasized above, has not published on its official website all the decisions made for the year 2022, highlights in its annual report for the same year: “A judicial system that operates on the basis of the principles of independence, impartiality, professionalism, transparency, and equality of individuals before the law deserves the public's trust!”<sup>143</sup>

In this way, the court, by not generally publicizing its decisions for the year 2022, has neglected the principles it highlighted in its annual report. In the annual analysis of its work under the title “Key Message” (section 4.1), this court emphasizes that a judicial system based on the principles of professionalism and transparency deserves the public's

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<sup>138</sup> Idem

<sup>139</sup> Idem

<sup>140</sup> High Judicial Council, Decision no. 590, dated 26.11.2020, On the approval of “Strategic Communication Plan for the Judicial System”.

<sup>141</sup> <https://klgj.al/>

<sup>142</sup> High Inspector of Justice, “Strategic Plan of the High Inspector of Justice 2020-2022”, pp. 12.

<sup>143</sup> Special Court of First Instance for Corruption and Organized Crime, Annual report 2022, pp. 17.

trust. However, increasing public trust remains an empty slogan as its decisions are not made known to the public, which is expected to trust the institution. By not publicizing its decisions, the opposite effect occurs as the court deepens the sense of distrust in the judicial system.

### 3.3 Access to Court Decisions and Protection of Personal Data

As emphasized above, in the Cross-Sector Justice Strategy 2021-2025, one of the indicators for enhancing transparency is the “% of legal cases for which basic information is available on the internet and updated”.<sup>144</sup> However, the publication of court decisions on the internet highlights another fundamental issue, that of the protection of personal data.

Although the Constitution has stipulated that court decisions “shall be declared publicly in every case” (Article 146, paragraph 2), laws and sub-legal acts have introduced issues regarding restricting access to court decisions and limiting their content through the so-called “anonymization” process.<sup>145</sup> Thus, according to Article 6, paragraph 1, of Law No. 33/2022, dated 31.03.2022, “On open data and the reuse of public sector information,” “anonymization” is the process “of altering documents so that the document is not linked to an identified or identifiable individual, or the process of making personal data anonymous so that the data subject is no longer identifiable.” This law, according to its Articles 1, 2, 3, and 4, is inherently applicable to judicial documents, such as court decisions or transcripts of court sessions or actions. Therefore, in practice, the anonymization of court decisions is claimed to be based on law.<sup>146</sup>

Meanwhile, according to the directive of the Minister of Justice, No. 4059/2, dated 07.06.2016, “On the anonymization of personal data in court decisions published on the electronic portal of the courts,” it is emphasized that court decisions of the first instance and appeals, before being placed on the electronic portal of decisions, must be anonymized by removing certain data specified in the directive.<sup>147</sup>

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<sup>144</sup> DCM, No. 823, dated 24.12.2021 “On the approval of Cross-Sector Justice Strategy 2021-2025 and its action plan”. [https://www.drejtesia.gov.al/wp-content/uploads/2022/01/VKM-Nr.823-dat%C3%AB-24.12.2021-e-bashkuar\\_compressed.pdf](https://www.drejtesia.gov.al/wp-content/uploads/2022/01/VKM-Nr.823-dat%C3%AB-24.12.2021-e-bashkuar_compressed.pdf)

<sup>145</sup> Skrame, Olti, “Public communication with justice and closed institutions. Investigative secrecy and the liability arising from it.” pp.10  
[https://admin.magjistratura.edu.al/uploads/Materiali\\_trajnimi\\_i\\_dates\\_14\\_06\\_23\\_Olti\\_Skrame\\_3\\_a7a1551964.doc](https://admin.magjistratura.edu.al/uploads/Materiali_trajnimi_i_dates_14_06_23_Olti_Skrame_3_a7a1551964.doc)

<sup>146</sup> Idem

<sup>147</sup> According to the directive, court decisions must be anonymized by removing: I) the general details of the litigants, third parties, witnesses, and experts called in the trial; II) other data that infringes upon the privacy of the litigants in the trial, such as addresses, vehicle license plates, phone numbers, as well as “any other element that identifies the data subject”; III) the general details of partners or shareholders, the percentages of shares or quotas they own, bank account numbers, monetary amounts, and trade secrets; IV) data related to third parties, “from which the identity of minors can be revealed, even

On the other hand, according to Directive No. 15, dated 23.12.2011, "On the processing and publication of personal data in the judicial system," by the Commissioner for the Right to Information and Protection of Personal Data, in Chapter IV "Publication of Personal Data," point 4 emphasizes that responsible persons, during the publication of criminal decisions on the official website, are obligated to apply rules for privacy protection. Furthermore, access to the complete decision published on the official website is allowed only for individuals with a legitimate interest (point 8), and a physical copy of the court decision is provided only to interested persons with a legitimate interest in the judicial matter (point 9).

As a result, "the two aforementioned sub-legal acts pose constitutional issues"<sup>148</sup> to which a series of technical problems are added that have consequences regarding the anonymization of court decisions and, consequently, are likely to cause delays in the publication of court decisions on the internet.

Currently, court decisions are entered into the ICMIS system in the respective section. The system is maintained and administered by the High Judicial Council, together with the court portal (gjykata.gov.al). Anonymization is performed automatically by the system. As soon as the decision is entered into the ICMIS system, the data that needs to be anonymized is identified and anonymized automatically. This way, on the court portal, the decision is displayed in an anonymized form.<sup>149</sup> A challenge encountered in the automatic anonymization of data by the system is that it identifies personal data, such as the name of a litigant, but within the decision, the litigant's name may change due to declension or cases. In this case, the system finds it difficult to identify and anonymize this data, resulting in it not being anonymized properly.<sup>150</sup>

Furthermore, regarding the extent of anonymization, despite the measures taken by the High Judicial Council, there are cases where the decision made public in the media by the court is "opposed" by them, claiming that it is anonymized to such an extent that it cannot be deciphered and cannot be used for media purposes. No law or sub-legal act clearly and explicitly defines which specific elements should be anonymized and to what extent.<sup>151</sup> Moreover, there is no explicit provision determining which person is responsible for deciding on the extent of anonymization. This decision-making is considered not to be left solely under the responsibility of the coordinator of the public authority (court), but

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indirectly, in cases where the latter is a party to the trial"; as well as V) "any other information that undermines the dignity and private life of the parties or other persons related to the judicial matter."

<sup>148</sup> Skrame, Olti, "Public communication with justice and closed institutions. Investigative secrecy and the liability arising from it", pp.12

[https://admin.magjistratura.edu.al/uploads/Materiali\\_trajnimi\\_i\\_dates\\_14\\_06\\_23\\_Olti\\_Skrame\\_3\\_a7a1551964.doc](https://admin.magjistratura.edu.al/uploads/Materiali_trajnimi_i_dates_14_06_23_Olti_Skrame_3_a7a1551964.doc)

<sup>149</sup> Idem, pp 12.

<sup>150</sup> Idem, pp. 12.

<sup>151</sup> Idem, pp. 12.

the media judge should have a determining role in deciding the extent of anonymization.<sup>152</sup>

In the annual analysis of the SCCOC work for the year 2022, the issue of anonymizing voluminous court decisions manually is highlighted as a problem. The court emphasizes the necessity of replacing the manual process of anonymizing voluminous court decisions,<sup>153</sup> through collaboration with the High Judicial Council and the use of other efficient methods with technological means, as well as the development of the ARK IT program, to enable the anonymization of court decisions issued by the SCCOC.<sup>154</sup>

### 3.4 Lack of Digitalization

The use of information technology is considered one of the key elements to improve the administration of justice.<sup>155</sup> According to Opinion No. 14 (2011) of the Consultative Council of European Judges (CCJE), “information technology should be a tool to improve the administration of justice, facilitate users' access to the courts, and strengthen the guarantees provided in Article 6 of the ECHR: access to justice, impartiality, independence of judges, justice, and the reasonable duration of judgments.”<sup>156</sup> The proper use of information technology “is a fundamental element in the functioning of judicial systems and can contribute to the increase of transparency, efficiency, accessibility, and quality of provided services.”<sup>157</sup> According to the data from the CEPEJ, Albania remains one of the countries with the lowest budget allocated for information technology in the judiciary.<sup>158</sup> For the year 2022, only 0.8% of the judiciary's budget was spent on computerization,<sup>159</sup> marking a decline compared to the previous year when the budget spent on this item was 1.6%.<sup>160</sup> Respectively, for the year 2022, Albania spent 25,708,104 Euros on the judiciary, out of which 216,391 Euros from the budget were allocated for computerization (investments in computerization and maintenance of IT equipment for

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<sup>152</sup> Idem, pp. 12.

<sup>153</sup> Special Court of First Instance Against Corruption and Organized Crime, Annual report 2022, pp. 69.

<sup>154</sup> Idem pp. 42.

<sup>155</sup> For more see: Council of Europe, Recommendation (2003) 14 of the Committee of Ministers to the Members States on the Interoperability of Information System in the Justice Sector

<sup>156</sup> Consultative Council of European Judges, Opinion No. 14 (2011), “Justice and information technologies (IT)”. <https://rm.coe.int/168074816b>

<sup>157</sup> Council of Europe, (2022), European judicial system CEPEJ Evaluation Report, Evaluation cycle 2022 (2020 data), pp. 111

<sup>158</sup> Idem, pp. 113

<sup>159</sup> European Commission for the Efficiency of Justice (CEPEJ) (2023), HFIII: Towards a better evaluation of the results of judicial reforms in the Western Balkans – “Dashboard Western Balkans”, Data collection: 2022, Part 2 (A) – Beneficiary profile - Albania, pp. 5

<sup>160</sup> European Commission for the Efficiency of Justice (CEPEJ) (2022), HFIII: Towards a better evaluation of the results of judicial reforms in the Western Balkans – “Dashboard Western Balkans”, Data collection: 2021, Part 2 (A) – Beneficiary profile - Albania, pp. 5

the judiciary).<sup>161</sup> While for the year 2021, Albania spent 22,803,909 Euros on the judiciary, out of which 353,544 Euros from the budget were allocated for computerization (investments in computerization and maintenance of IT equipment for the judiciary).<sup>162</sup>

Meanwhile, according to an assessment by the Regional Cooperation Council (RCC) regarding the state of digitization of justice in the Western Balkans, Albania has encountered issues with the use of two parallel Case Management Systems (CMS), namely ARK/IT and ICMIS. Despite the strategic decision of the High Judicial Council to replace them with a new CMS system that includes e-communication, there has been no progress yet.<sup>163</sup> Furthermore, Albanian courts lack access to tools that would enable secure exchange of digital data among them. As a result, the exchange of documentation between authorities is only achieved through the transfer of physical files.<sup>164</sup>

Limited spending on computerization, both for investments in computerization and maintenance of IT equipment for the judiciary, can result in a restricted performance of the system, causing delays in the anonymization and subsequent publication of court decisions.

Meanwhile, the HJC has approved the strategic plan for 2022-2024, where “the lack of useful information technology systems in the courts” is highlighted<sup>165</sup> it identifies as a weakness in the judicial system and has outlined the steps that will be taken to achieve the objectives, including addressing the problem of “outdated and non-functional information technology systems.”<sup>166</sup> In this regard, the maintenance and development of a unified electronic case management system are aimed at, as well as the full functioning of the IT Center in the justice system,<sup>167</sup> which will establish standards and policies for the effective operation of information processing technology and data systems (hardware and software) for the justice system.<sup>168</sup>

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<sup>161</sup> European Commission for the Efficiency of Justice (CEPEJ) (2023), HFIII: Towards a better evaluation of the results of judicial reforms in the Western Balkans – “Dashboard Western Balkans”, Data collection: 2022, Part 2 (A) – Beneficiary profile - Albania, pp. 5

<sup>162</sup> European Commission for the Efficiency of Justice (CEPEJ) (2022), HFIII: Towards a better evaluation of the results of judicial reforms in the Western Balkans – “Dashboard Western Balkans”, Data collection: 2021, Part 2 (A) – Beneficiary profile - Albania, pp. 5

<sup>163</sup> Regional Cooperation Council, (2022), Mapping the State of Play of Digitalisation of Justice in the Western Balkans, pp.33. <https://www.rcc.int/pubs/135/mapping-the-state-of-play-of-digitalisation-of-justice-in-the-western-balkans>

<sup>164</sup> Idem, pp. 14-15.

<sup>165</sup> High Judicial Council, Strategic plan of the High Judicial Council for the judicial system in the Republic of Albania 2022-2024, pp. 10. [https://klgj.al/wp-content/uploads/2022/05/Plani-Strategjik-Final\\_2022-2024.pdf](https://klgj.al/wp-content/uploads/2022/05/Plani-Strategjik-Final_2022-2024.pdf)

<sup>166</sup> Idem, pp. 12.

<sup>167</sup> Idem, pp. 14.

<sup>168</sup> Regional Cooperation Council, (2022), Mapping the State of Play of Digitalisation of Justice in the Western Balkans, Pp.33. <https://www.rcc.int/pubs/135/mapping-the-state-of-play-of-digitalisation-of-justice-in-the-western-balkans>

Addressing issues related to IT in the judicial system will alleviate the problem of manually anonymizing voluminous court decisions by the Supreme Court, thus reducing the time for the publication of court decisions.

### 3.5 The Workload of Judges

During the year 2020, the Special Court of First Instance Against Corruption and Organized Crime operated with 11 judges out of 16, which is the minimum number required by law.<sup>169</sup> Meanwhile, for the same year, the Special Court of Appeals for Corruption and Organized Crime operated with 6 judges out of 11, which is the allowed minimum number.<sup>170</sup> During the year 2021, the Special Court of First Instance Against Corruption and Organized Crime operated with 45% of its judge positions filled, effectively having 7.16 judges in duty.<sup>171</sup> Meanwhile, the Special Court of Appeals for Corruption and Organized Crime experienced a “decrease in the effective number of judges from 5.4 to 4.58, operating with 42% of its judge positions.”<sup>172</sup> For the year 2022, the Special Court of First Instance Against Corruption and Organized Crime operated with 47% of its judge positions filled, effectively having 7.5 judges in duty.<sup>173</sup> Meanwhile, the Special Court of Appeals for Corruption and Organized Crime operated with 7.91 judges effectively in duty, functioning with 72% of its judge positions filled.<sup>174</sup>

On the other hand, in 2022, the Special Court of First Instance Against Corruption and Organized Crime registered 2059 new cases, or 144 fewer cases compared to 2021.<sup>175</sup> According to HJC report, the increase in the effective number of judges for this year also resulted in a decrease in the average workload per judge by 31 cases.<sup>176</sup> However, this has not led to an increase in the number of cases whose final decisions have been published on the court's website.

Vacancies and the high number and complexity of cases have caused understandable delays in the process of justifying court decisions by this court. In a statement to the media, the High Inspector of Justice stated that although delays in delivering reasoned decisions constitute a possible disciplinary violation, for such violations to be considered as such, there must be a lack of care and responsiveness, negligence, or a lack of

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<sup>169</sup> High Judicial Council, Report on the progress of the judicial system and the activity of the High Judicial Council for 2020, pp. 62. <https://klgj.al/2021/06/raporti-vjetor-klgj-2020/>

<sup>170</sup> Idem

<sup>171</sup> High Judicial Council, Report on the progress of the judicial system and the activity of the High Judicial Council for 2021, pp. 42. <https://klgj.al/2022/04/raporti-vjetor-klgj-2021/>

<sup>172</sup> High Judicial Council, Report on the progress of the judicial system and the activity of the High Judicial Council for 2021, pp. 47-48. <https://klgj.al/2022/04/raporti-vjetor-klgj-2021/>

<sup>173</sup> High Judicial Council, Report on the progress of the judicial system and the activity of the High Judicial Council for 2022, pp. 65. <https://klgj.al/2023/07/raporti-vjetor-klgj-2021-2/>

<sup>174</sup> Idem, pp. 61.

<sup>175</sup> Idem, pp. 69.

<sup>176</sup> Idem

professional ability, ones that exceed the “reasonable limit.”<sup>177</sup> Furthermore, it is emphasized that to reach a conclusion “whether actions/inactions by magistrates may constitute disciplinary violations, case by case analysis should be conducted.”<sup>178</sup>

Meanwhile, the High Inspectorate of Justice has not yet conducted a “case-by-case” inspection regarding delays in the procedure of pronouncing and publishing court decisions for specialized courts for the year 2022.

### 3.6 Thematic Inspection on Non-Publication of Decisions

The Constitution in Article 147/d stipulates that: “The High Inspector of Justice is responsible for verifying complaints, initiating investigations into violations, and initiating disciplinary proceedings against judges and prosecutors at all levels, members of the High Judicial Council, members of the High Prosecutorial Council, and the Prosecutor General, according to the procedure established by law.”

In support of Article 194, paragraph 4 of Law No. 115/2016 “On the governance institutions of the justice system,” as amended, the High Inspector of Justice is the responsible body for conducting institutional and thematic inspections on every aspect of the work of courts, judicial administration, prosecutor's offices, and prosecutorial administration. The High Inspector of Justice may initiate investigations not only based on complaints but also proactively. Furthermore, in the “Strategic Plan and Action Plan for the Office of the High Inspector of Justice 2020-2022,” it is stated: “Increasing transparency and consolidating public trust in the justice system will be achieved through increased professionalism and fulfillment of duties through inspections of courts/prosecutor's offices, as well as creating opportunities for the public to familiarize themselves with the legal framework.”<sup>179</sup>

Earlier, one of the findings of the assessment report by the group of high-level experts on the justice system in Albania in 2015 was that “decisions are rendered without justification, only the dispositive of the decision is published, and procedural deadlines for pronouncement are not met.”<sup>180</sup> Although 8 years have passed since this report, the situation remains the same. Decisions are not pronounced in a timely manner, and those that are published on the official website of the courts are, at best, only the dispositive.

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<sup>177</sup> <https://ild.al/sq/2023/10/06/perfundon-inspektimi-tematik-ne-dy-gjykata-te-tiranes-per-proceduren-e-shpalljes-dhe-arsyetimit-te-vendimeve-gjyqesore/>

<sup>178</sup> Idem

<sup>179</sup> High Inspector of Justice, “Strategic Plan and Action Plan for the Office of the High Inspector of Justice 2020-2022, pp. 13.

<sup>180</sup> Special Parliamentary Commission for the Judiciary System Reform, High-Level Expert Group, Analysis of the judicial system in Albania, 2015, pp. 80.  
[https://www.reformanedrejtisi.al/sites/default/files/dokumenti\\_shqip\\_0.pdf](https://www.reformanedrejtisi.al/sites/default/files/dokumenti_shqip_0.pdf)

In the report “On the work of the office of the High Inspector of Justice” for the period January 1, 2022, to December 31, 2022, it is reported that a disciplinary investigation has begun under Law No. 96/2016, Article 102, paragraph 1, letter e, for “repeated and unjustified delays and dragging of procedural actions and issuance of acts during the exercise of the magistrate's function”<sup>181</sup> without specifying the number of magistrates investigated for this point and the status of the investigation. During this period, HIJ conducted two thematic inspections, neither of which was related to the non-publication of decisions on the courts' websites.

Meanwhile, in October 2023, HIJ completed a thematic inspection in two courts in Tirana,<sup>182</sup> “On the procedure for pronouncing and justifying court decisions.” The reason for conducting the inspection, according to the HIJ inspection report, is the “high number of appeals submitted to the office of the High Inspector of Justice in which claims were raised about delays in clarifying court decisions beyond legal deadlines.”<sup>183</sup> The report emphasizes that to conclude whether a magistrate has taken actions or inactions constituting disciplinary violations, it must first be considered that the courts operate with reduced capacity, and the workload for judges is higher than the European norm.<sup>184</sup>

As mentioned above, HIJ has not conducted any thematic inspections regarding delays in justifying court decisions by SCCOC for the year 2022. Although both of the above arguments from HIJ apply to specialized courts as well, delays beyond the “reasonable time” in publishing final decisions are a sufficient indicator to initiate procedures to verify the issue or even initiate disciplinary investigations for the responsible individuals.

### 3.7 The Responsible Institutions for Monitoring Transparency

As mentioned above, the lack of transparency is evident in the majority of the institutions reviewed in this report. Some of them partially disclose data, while others do not publish any information. However, none of the institutions responsible for governing the justice system has raised the issue of non-publication of data, nor has taken measures to correct and prevent its recurrence.

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<sup>181</sup> Law No. 96/2016 “On the status of judges and prosecutors in the Republic of Albania”.

<sup>182</sup> HIJ inspected the Court of First Instance of General Jurisdiction Tirana (Civil Chamber) and the Administrative Court of First Instance Tirana, for the period September 1 to December 31, 2022.

<sup>183</sup> Office of High Inspector of Justice, 29.09.2023, Inspection report, “On the procedure of announcing and justifying the judicial decisions of the Court of First Instance of General Jurisdiction Tirana (Civil Chamber) and the Administrative Court of First Instance Tirana”, pp.3.

<https://ild.al/sq/2023/10/06/perfundon-inspektimi-tematik-ne-dy-gjykata-te-tiranes-per-proceduren-e-shpalljes-dhe-arsyetimit-te-vendimeve-gjyqesore/>

<sup>184</sup> Office of High Inspector of Justice, 29.09.2023, Inspection report, “On the procedure of announcing and justifying the judicial decisions of the Court of First Instance of General Jurisdiction Tirana (Civil Chamber) and the Administrative Court of First Instance Tirana”, pp.9.

<https://ild.al/sq/2023/10/06/perfundon-inspektimi-tematik-ne-dy-gjykata-te-tiranes-per-proceduren-e-shpalljes-dhe-arsyetimit-te-vendimeve-gjyqesore/>

In the Cross-Sector Justice Strategy 2021-2025, one of the performance indicators measuring the strengthening of transparency is the “% of judicial cases for which basic information is available on the internet and updated.”<sup>185</sup> In the 2022 strategy monitoring report, it is emphasized that “for 100% of judicial cases, basic information is available online, updated, and accessible on the virtual platform ([www.gjykata.gov.al](http://www.gjykata.gov.al)).”<sup>186</sup> In this way, the target is considered fully achieved.<sup>187</sup> However, when entering the above platform under the menu “Albanian Courts/Special Court of First Instance for Corruption and Organized Crime,” no information is found in any of the sections.

Meanwhile, the High Judicial Council in the annual report for 2022 does not identify the non-publication of decisions by Specialized Courts as a concern. As a result, HIJ has not taken measures to address transparency issues and systematically monitor the implementation of the legal and strategic framework for transparency.

On the other hand, as mentioned above, the High Inspector of Justice has not conducted thematic inspections regarding the non-publication of decisions by specialized courts, nor has it taken any disciplinary or other measures against respective institutions for non-publication of decisions according to the legislation and specified deadlines.

During the annual reporting of the HPC, HJC, and HIJ in the Parliament, the term “transparency” was mentioned only three times. Parliamentary members have been concerned about the non-publication of HJC minutes when it comes to promoting members of the Supreme Court<sup>188</sup>, prosecutors, or other promotions in the justice system<sup>189</sup>. Moreover, general terms such as “efficiency, accountability, transparency with the public” have been used, but the Parliament has not identified or raised the lack of transparency as a problem during the annual reporting of HPC, HJC, and HIJ, indicating a lack of focus and attention to transparency.

On the other hand, the Commissioner for the Right to Information and Protection of Personal Data, who measures the index of proactive transparency of central dependent institutions, monitors HIJ and SPAK but not specialized courts. Furthermore, none of the indicators in focus for monitoring addresses the publication or non-publication of court decisions. In this context, this institution has not focused on monitoring the effective implementation of transparency in justice institutions.<sup>190</sup>

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<sup>185</sup> DCM, No. 823, dated 24.12.2021 “On the approval of Cross-Sector Justice Strategy 2021-2025 and its action plan”. [https://www.drejtesia.gov.al/wp-content/uploads/2022/01/VKM-Nr.823-dat%C3%AB-24.12.2021-e-bashkuar\\_compressed.pdf](https://www.drejtesia.gov.al/wp-content/uploads/2022/01/VKM-Nr.823-dat%C3%AB-24.12.2021-e-bashkuar_compressed.pdf)

<sup>186</sup> Ministry of Justice, Cross-Sector Justice Strategy 2021-2025, Monitoring report 2022, pp 58, <https://www.drejtesia.gov.al/wp-content/uploads/2023/05/Raporti-i-Monitorimit-2022.pdf>

<sup>187</sup> Idem

<sup>188</sup> Assembly, Legislature X – Monday’s session. July3, 2023, Tirana, Minutes, pp. 17

<sup>189</sup> Idem

<sup>190</sup> Law no. 119/2014, “On the right to information”

## IV: Conclusions and Recommendations

The fight against corruption and organized crime is simultaneously one of the challenges and one of the key priorities for Albania in the process of integration into the European Union. The annual monitoring of the Special Courts and SPAK's performance in the fight against corruption and organized crime aims to provide a comprehensive assessment of the effectiveness of the efforts against corruption and organized crime, as one of the main priorities for the country's preparation and progress in the European Union.

Similar to the two previous reports, the assessment is based on a number of measurable indicators in line with the features and issues related to corruption and organized crime investigated and adjudicated by SPAK and Special Courts for Corruption and Organized Crime. The indicators measure the three main dimensions: (i) productivity, (ii) efficiency, and (iii) relevance, on the basis of which the effectiveness of the response to phenomena of corruption and organized crime in Albania is assessed.

In this context, the report notes the following:

- Cases of investigations into corruption involving high state officials remain at low levels (18 criminal proceedings with 18 defendants during 2020-2022). Also, the conviction decisions for former high-ranking officials remain low (4 conviction decisions with 4 convicted individuals during the year 2022).
- The structure of specialized institutions has noticeable vacancies, and the high number and complexity of cases under consideration result in a decrease in productivity and efficiency, as well as delays in reasoning and publishing judicial decisions.
- Lack of transparency is concerning and evident in the majority of institutions under review. There are deficiencies related to the lack of information, data published on the official websites of the institutions under review, or issues with updating the information. Specifically, the list of cases in trial, as well as those completed by the Special Court of First Instance for Corruption and Organized Crime in 2022, has been updated until July 2022, while there is no information on cases for the subsequent period until the end of 2022. Furthermore, on the official website of the Special Court of First Instance for Corruption and Organized Crime, only annual analyses for 2021 and 2022 are published, but not for 2020. On the other hand, the Special Court of Appeal for Corruption and Organized Crime has not published an annual analysis of its work for 2022. Additionally, the Agency for the Administration of Seized and Confiscated Assets (AASCA) has not published a report for 2022, nor has it updated the comprehensive tables of seized assets for 2021 and 2022. Moreover, there is a lack of harmonization of data among various institutions within the justice system.

- The High Judicial Council has not taken measures to address transparency issues and systematically monitor the implementation of the legal and strategic framework for transparency.
- The High Inspectorate of Justice has not conducted thematic inspections related to the non-publication of decisions by specialized courts, nor has it taken any disciplinary or other measures against respective institutions for not publishing decisions according to the legislation and specified deadlines.
- The Ministry of Justice, as the institution responsible for implementing, monitoring, and evaluating the Cross-Sectoral Justice Strategy 2021-2025, has not taken any steps or measures to address the transparency decline in the last two years.
- Even the Parliament has not identified or raised the lack of transparency as a problem during the annual reporting of the High Prosecutorial Council, the High Judicial Council, and the High Inspector of Justice, indicating a lack of focus and attention to transparency.
- The Right to Information and Data Protection Commissioner has also not exercised the competencies for monitoring the implementation of transparency according to the requirements of the information rights legislation.

Based on these findings, the report recommends:

- Regarding the issue related to deficiencies in the number of judges as defined by law, within the constraints created by this situation, measures should be examined and taken to address the productivity and efficiency in the performance of SPAK and Special Courts.
- Increased efforts should be made for the creation and early functionalization of the data management system to ensure its interaction throughout the justice system according to the CEPEJ methodology, which would enhance the efficiency and transparency of the system.
- The respective authorities must address the problem of harmonizing data between justice institutions to ensure that information is consistent and usable for monitoring corruption and the activities of justice institutions.
- Overall, the approach should be reconsidered, and measures should be taken to improve transparency and the access of citizens and civil society organizations to the decision-making of judicial institutions, as a key mechanism for promoting accountability and increasing trust in the judicial system.

- The High Judicial Council should take measures to address transparency issues and systematically monitor the implementation of the legal and strategic framework for transparency.
- The rigorous implementation of the transparency framework should also be a focal point of attention for the High Inspector of Justice to conduct thematic inspections regarding the reasons and responsibilities for non-publication of decisions by the courts. It should take respective measures to correct the consequences and create conditions to prevent the recurrence of the problem.
- The Ministry of Justice, to the extent allowed by its competencies and responsibilities, and within the framework of implementing the Cross-Sector Justice Strategy 2021-2025, should make efforts related to transparency.
- The Right to Information and Data Protection Commissioner should pay special attention to the implementation of transparency in judicial institutions.
- Address the issues related to information technology in the judicial system, which would alleviate the problem of anonymizing voluminous court decisions carried out manually by the Special Court of First Instance for Corruption and Organized Crime, thus reducing the time for the publication of judicial decisions. This applies to the extent that the issue is related to time and resources.
- The Special Court for Corruption and Organized Crime (First Instance and Appeals), should consider the possibility of prioritizing the publication of decisions related to high-profile corruption cases to increase public trust.
- The Agency for the Administration of Seized and Confiscated Assets (AAPSK) should update and publish its activity reports and comprehensive tables of seized and confiscated assets as soon as possible. This action would allow better tracking of progress and contribute to improving transparency and public accountability on this important issue. Additionally, the approach for developing an effective monitoring and reporting system in this area should be reviewed to ensure that anti-mafia legislation for preventive seizure and confiscation is efficiently applied, and criminal assets are reused to benefit society.
- Considering public expectations and the objective challenges of institutions, awareness campaigns should be undertaken to raise public awareness and participation in addressing problems where the public can contribute.

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## Annex

### Annex 1: Number of cases registered, number of completed cases, and number of ongoing cases by the Special Court of First Instance for Corruption and Organized Crime

Article/ Name of the article	2021			2022		
	Registered cases	Completed	Ongoing for 2022	Registered cases	Completed	Ongoing for 2023
<b>78/a; 78/2; 333/a</b> Murder due to blood feud; Pre-meditated murder, Murder committed for interests or revenge	6	1	5	11	3	8
<b>79/a; 79/dh; 333/a</b> Murder of public officials; Murder in other qualifying circumstances - against two or more persons	4	1	3	4	1	3
<b>109/3; 333/a</b> Kidnapping or holding a person hostage under the age of fourteen, preceded or accompanied with physical or psychic tortures, when it is committed against several persons or more than once	1	0	1	1	1	-
<b>134/3; 139; 140; 333/a</b> Theft; Robbery; Armed robbery	6	3	3	4	2	2
<b>186/2; 186/1; 189/2; 190, 312, 333/a</b> Use of falsified documents; Falsification of Documents; Use of falsified identity documents, passports or visas	3	2	1	5	4	1
<b>244</b> Active corruption of persons exercising public functions	17	16	1	4	1	3

<b>245/1/2</b> Exercising unlawful influence on public officials	10	9	1	10	9	1
<b>248</b> Abuse of office	6	6	0	9	9	
<b>258</b> Breaching the equality of participants in public bids or auctions	6	2	4	10	5	5
<b>259</b> Passive corruption by persons that exercise public functions	23	19	4	13	4	9
<b>283/a/2; 333/a</b> Trafficking of narcotics, in complicity, or more than once	7	4	3	16	12	4
<b>283/a/1; 333</b> Trafficking of narcotics	14	10	4	-	-	-
<b>283</b> Production and sale of narcotics	1	1	-	-	-	-
<b>284/1; 333/a</b> Cultivation of narcotic plants	2	1	1	3	-	3
<b>287/a</b> Opening of the anonymous accounts	1	1	0	2	-	2
<b>298/1; 333/a</b> Assistance for illegal crossing of borders. Sheltering, accompanying, putting at the disposition or use of means with the purpose of assisting in the illegal crossing of the borders	1	0	1	5	2	3
<b>289/3; 289/2</b> Assistance for illegal crossing of borders in collaboration or more than once or has brought serious consequences, Assistance for illegal crossing of borders given for purposes of profit	5	3	2	-	-	-

<b>319/ç</b> Active corruption of judges, prosecutors and other justice officials	2	1	1	2	2	-
<b>319</b> Active corruption of judges, prosecutors and other justice officials	1	0	1	3	2	1
<b>333/a/1</b> The establishment, the organization or the leading of a structured criminal group	2	1	1	1	-	1
<b>119/1</b> Insulting	2	1	1	2	-	2
<b>120/1; 120/2</b> Libel, Libel committed in public, to the detriment of several persons, or more than once	24	14	10	24	18	6
<b>257/a/2</b> Refusal for declaration, non-declaration, concealment or false declaration of assets, private interests of elected persons and public employees,	1	1	0	4	-	4
<b>328/1</b> Offering or giving money or material goods, making promises	3	1	2	5	2	3
<b>230</b> Acts of terrorist intention	1	1	0	1	1	-
<b>Total</b>	149	99	50	139	78	61

**Source:** Special Court of First Instance for Corruption and Organized Crime, Annual Work Analysis 2021, Annual Work Analysis 2022.

## Annex 2: Number of criminal proceedings related to criminal offenses of corruption

Criminal offense	2020						2021						2022					
	Trial	Dismissed	Suspended	Transferred	Under investigation	Total	Trial	Dismissed	Suspended	Transferred	Under investigation	Total	Trial	Dismissed	Suspended	Transferred	Under investigation	Total
<b>Article 244</b> Active corruption of persons exercising public functions	25		1	1	3	30	4		3	1	4	12				1	1	2
<b>Article 244/1</b> Active corruption of persons exercising public functions									1	1		2						
<b>Article 244/2</b> Active Corruption of Foreign Public Official													2				1	3
<b>Article 245</b> Active corruption of the high state officials and local elected representatives					1	1											3	3
<b>Article 245/1</b> Exercising unlawful influence on public officials				3	12	15	2	1		4	13	20	1			3	16	20

<b>Article 245/1/1</b> Exercising unlawful influence on public officials	1					1												
<b>Article 245/1/2</b> Exercising unlawful influence on public officials	6		2			8	4				2	6	7	2			1	10
<b>Article 245/1/4</b> Exercising unlawful influence on public officials																	4	4
<b>Article 248</b> Abuse of office							7	3		3	77	90	1	3		22	60	86
<b>Article 257/a</b> Refusal for declaration, non-declaration, concealment or false declaration of assets, private interests of elected persons and public employees, or of any other person that is legally binding for the declaration.														1		4	5	10
<b>Article 257/a</b> Refusal for declaration, non-declaration, concealment or false declaration of assets, private interests of elected persons and public employees, or of any other person that is legally binding for the declaration.													6	1			4	11

<b>Article 258</b> Breaching the equality of participants in public bids or auctions													6	5		11	70	92
<b>Article 258/1</b> Breaching the equality of participants in public bids or auctions						1					1							
<b>Article 258/2</b> Breaching the equality of participants in public bids or auctions										1	1						3	3
<b>Article 259</b> Passive corruption by persons that exercise public functions	16	8		14	60	98	6	3	3	11	60	83	5	4	1	9	59	78
<b>Article 259/1</b> Passive corruption by persons that exercise public functions							4			3		7	2					2
<b>Article 259/2</b> Passive corruption by persons that exercise public functions											3	3	5		1	3	5	14
<b>Article 260</b> Passive corruption by high state officials or local elected officials				3	9	12				4	7	11	2	1		1	4	8
<b>Article 312</b> Active corruption of the witness, expert or interpreter				1		1		1				1	1				1	2

<b>Article 319</b> Active corruption of judges, prosecutors and other justice officials		1			4	5				1	9	10					7	7
<b>Article 319/ç</b> Passive corruption of the judges, prosecutors and other justice officials	2	13	1	6	45	67	3	8	1	3	38	53	2	10		3	29	44
<b>Article 328</b> Active corruption in elections							2	7		7	19	35	3	3	3	2	11	22
<b>Article 328/b</b> Passive corruption in elections								1	1			2					1	1
<b>Total proceedings for criminal offenses related to corruption</b>	50	22	4	28	134	238	33	24	9	38	235	339	43	30	5	59	285	422

**Source:** The Special Structure against Corruption and Organized Crime. Annual report 2020, Annual report 2021, Annual report 2022

### Annex 3: Recommendations of EU Commission regarding the level of preparation and progress of the country in the fight against corruption and organised crime (2020-2022)

Year	Preparation	Progress	Corruption/ Recommendations for the coming year	Preparation	Progress	Organised crime/ Recommendations for the coming year
2022 <sup>191</sup>	Some level of preparation	Some progress	<ul style="list-style-type: none"> <li>further progress towards establishing a solid track-record of investigations, prosecution, and adjudication of corruption cases, and seizure and confiscation/recovery of criminal assets resulting from corruption-related offences;</li> <li>ensure that the Specialised Structure for Anti-Corruption and Organised Crime (SPAK) further addresses high-level corruption, enhances its staff and resources, as well as its coordination with law</li> </ul>	Some level of preparation	Some progress	<ul style="list-style-type: none"> <li>Keep strengthening the fight against organised crime, including through cooperation with EU Member States, as well as EU agencies, including Europol and Eurojust and increase the proactive use of Europol’s Secure Information Exchange Network Application (SIENA) for the exchange of information and its practical extension to additional law enforcement agencies;</li> <li>establish without delay an asset recovery office in line with the EU acquis that is in charge of the identification and tracing of criminal assets, as foreseen by national legislation;</li> </ul>

<sup>191</sup> European Commission, (2022), Albania 2022 Report, pp. 22, 38.

		<p>enforcement, prosecutorial and judicial entities in charge of corruption prevention;</p> <ul style="list-style-type: none"> <li>ensure that criminal proceedings are consistently and systematically initiated against judges and prosecutors accused of criminal conduct during the re-evaluation process;</li> <li>effectively address the recommendations of the Council of Europe's Group of States against Corruption (GRECO) and timely implement the related action plan; adopt integrity/prevention of corruption plans within all line ministries and State authorities.</li> </ul>			<ul style="list-style-type: none"> <li>ensure that the Special Prosecution Office and National Bureau of Investigation continue to increased operational access to all relevant databases.</li> </ul>
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2021 <sup>192</sup>	Some level of preparation	Some progress	<ul style="list-style-type: none"> <li>● continue to strengthen the fight against corruption; further progress towards establishing a solid track record of investigations, prosecution, and adjudication of corruption cases, seizure and confiscation/recovery of criminal assets resulting from corruption-related offences;</li> <li>● ensure that the Special structure for Anti-Corruption and Organised Crime (SPAK), i.e. the Special Prosecutor's Office (SPO) and the National Bureau of Investigation (NBI), as well as the SPAK Courts, effectively address high-level corruption; ensure adequate resources, skills and cooperation between these new structures and other prosecutorial and judicial entities;</li> </ul>	Some level of preparation	Good progress	<ul style="list-style-type: none"> <li>● keep strengthening the fight against organised crime, including through cooperation with EU Member States, as well as EU Agencies, including Europol and Eurojust; the number of Albanian law enforcement agencies that have access to SIENA should be further expanded;</li> <li>● establish without delay or designate an asset recovery office/agency in line with the EU acquis that is in charge of the identification and tracing of criminal assets, as foreseen by national legislation;</li> <li>● strengthen effective law-enforcement response on cybercrime to increase detection, investigation and prosecution.</li> </ul>
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<sup>192</sup> European Commission, (2021), Albania 2021 Report, pp. 23, 36.

			<ul style="list-style-type: none"> <li>● ensure that criminal proceedings are consistently and systematically initiated against judges and prosecutors accused of criminal conduct during the re-evaluation process;</li> <li>● effectively address the recommendations of GRECO and implement the related action plan within the given timeframe.</li> </ul>			
2020 <sup>193</sup>	Some level of preparation	Good progress	<ul style="list-style-type: none"> <li>● keep strengthening the fight against corruption; further progress towards establishing a solid track record of corruption cases, seizure and confiscation/recovery of criminal assets resulting from corruption-related offences; further increase the use of financial investigations;</li> </ul>	Some level of preparation	Good progress	<ul style="list-style-type: none"> <li>● keep strengthening the fight against organised crime, including through cooperation with EU Member States, as well as Europol;</li> <li>● adopt a new strategy and action plan on drugs, fill-in the legislative gap on drug precursors, and intensify the fight against drug trafficking;</li> </ul>

<sup>193</sup> European Commission, (2020), Albanian 2020 Report, pp. 23-24, 38-39.

		<ul style="list-style-type: none"> <li>ensure that recently established specialised anti-corruption bodies of the Special Anti-Corruption and Organised Crime Structure (SPAK), i.e. the Special Prosecutor's Office (SPO) and the National Bureau of Investigation (NBI), as well as the Anti-Corruption and Organised Crime courts are operational and effectively address high-level corruption; ensure adequate resources and cooperation between these new structures and with other prosecution and judicial entities;</li> <li>continue to improve access to national electronic registries for law enforcement authorities.</li> </ul>			<ul style="list-style-type: none"> <li>adopt a cybercrime strategy and establish a more effective law-enforcement response focusing on the detection, traceability and prosecution of cyber criminals and address the growing phenomenon of pedo-pornography online.</li> </ul>
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