



## Research Article

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# The Impact of the European Union on the Endorsement of the Justice Reform in Albania

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## Abstract

*European integration has been the primary goal of Albanian foreign policy since the collapse of the communist regime, regardless of the ruling political party. The political elite and the Albanian people embrace and support the integration process. Also, the European Union has grown as a transformative power in Albania, fostering democracy, influencing structural reforms, and impacting the rule of law through the promise of future accession. However, the enlargement process has been slow due to internal and external factors. The article analyzes the EU as a transformative power and the use of Conditionality in Albania as an essential diffusion channel of the EU's values and norms, using the adoption of justice reform as a key study. The article's objective is to examine how the EU perspective membership has influenced the endorsement of justice reform in Albania. The paper argues that the EU approach has succeeded in fostering compliance with formal accession criteria but has yet to implement the justice reform due to internal factors and a not linear enlargement perspective. Progress Reports, literature, surveys, and media articles will be analyzed to fulfill the paper's objective.*

**Keywords:** transformative power, Conditionality, justice reform, integration process, rule of law

## 1. Introduction

Following the 2003 Thessaloniki Summit, where the European perspective of the Western Balkans was formally declared, the discourse surrounding the European Union's strategy and role in the region continued to expand. The principal strategy of the European Union in the Western Balkans is the enlargement strategy, which relies on the Conditionality to fulfill the Copenhagen criteria. A dedicated enlargement policy, such as the Stabilization and Association Process (SAP), which was initiated to obtain EU membership, and the support and dedication of European states towards the WB European perspective constituted the fundamental elements of the process. The EU promotes civil, political, human rights, peace, liberty, and the rule of law and, in Manners's words, is a promoter of these core norms embodied in the EU treaties (Manners 2002, 241). So, as Manners asserted, the European Union's capacity to impact the behavior of other countries by disseminating its ideals, principles, and norms, part of the *acquis communautaire*, establishes it as a "distinct actor in world

politics" (Manners 2002, 235). The EU used the same model as in the previous enlargement round in the Western Balkans to promote and enhance democracy, the rule of law, and the protection of human rights and to influence the implementation of essential reforms. However, the EU's transformative influence in the Western Balkans varies from that of Central and Eastern Europe and between states of the region for internal and external reasons.

The paper argues that the EU in Albania is a transformative power that diffuses normative values and enhances the rule of law, using the adoption of justice reform as a key study. Also, the paper examines the conditions that can affect the EU's role as a transformative power in Albania, considering the gap between the adoption and the implementation of justice reform.

## 2. Literature Review

The doctrine concurs that the extent of the EU's influence in potential candidate countries and neighboring countries defines it as a transformative power. Normative power can delineate the EU's position internationally and in its dealings with other countries, but the EU can be a transformative power only in potential candidate countries (Dimitrova and Chulitskaya, 2016; Börzel and Lebanidze, 2016; Sydoruk, Pavliuk, and Tymeichuk, 2022).

Juncos argues that the normative impact of the EU on the Western Balkans is closely linked to the process of enlargement, and these two factors are inseparable; utilizing the enlargement process, the EU can foster and exert influence over the acceptance of normative values (Juncos 2011, 83).

So, the enlargement strategy is the primary tool and conduit for the EU's transformative power.

Vachudova argues that the EU possesses two distinct forms of influence to shape the acceptance of core norms and the transformation of potential member states, namely "active leverage" and "passive leverage" (Vachudova 2005, 65). Passive leverage, as per her theory, refers to the overall advantage gained from being a member of the EU, whereas active leverage relates to the credible membership perspective. The future membership of the candidate countries directly affects the influence of the EU, the acceptance of EU norms, and the adoption and implementation of radical reforms. The concept developed for Eastern European countries applies to the Balkan countries.

Grabe (Grabe 2006, 200) acknowledges the significant capacity of the EU to drive substantial changes in possible candidate countries, providing models, financial resources, and guidance. Grabbe asserts that the EU plays a significant role as a "transformative power" by influencing candidate countries to promote good governance, democracy, and the rule of law (Grabbe 2006, 205). Other scholars characterize the function of the EU as a "transformative power" due to the significant transformation that the EU has delivered in the Western Balkans across numerous areas of influence during the accession process (Dimitrova and Chulitskaya 2016, 9). Beshku characterizes the EU as a "reformative power" in Albania, highlighting its role in implementing significant reforms (Beshku and Mullisi 2020, 49).

The impact of the EU as a transformative power in the Western Balkans is not unanimous in doctrine, especially in the last years. Noutcheva presented a distinct perspective on the EU's transformative power and the internal factors that can limit the EU's regional influence. According to her theory, the EU's ability to bring significant change to the Western Balkan countries is limited. This limitation is primarily due to domestic factors and the political elite's persuasion to formally accept the conditions for enlargement, which weakens the EU's transformative power (Noutcheva 2007, 1066).

In addition, external factors in the Western Balkans may contribute to a diminished recognition of the EU's transformative influence. The political leadership in countries like Serbia perceives the EU as an option among many regarding foreign policy (Dimitrova 2016, 7). Nechev explains that the EU has lost part of its transformative power in the region due to a "non-clear enlargement perspective" and sees the solution in a "broad societal mobilization" around the enlargement process (Nechev 2016, 14). Dzankic agrees that in the last ten years, the EU's transformative power has been limited (Dzankic et al., 2022). Kacarska argues that the EU has been more of a geopolitical actor than a

transformative power in the region due to the lack of commitment of the region's political elite (Kacarska et al., 2022).

Kmezic argues that the EU's transformative power in the region nowadays is "too weak to impact democratic and economic challenges positively," particularly in Serbia, where the EU integration is supported only rhetorically. (Kmezic 2020, 54). In the same opinion, Bieber, "the transformative power is missing in the region," and the EU is not endorsing the rule of law or democracy in the region (Bieber, 2023.) Keil goes further and identifies the limits of the EU's transformative power in the region to the loss of the "role model" of the EU (Keil, 2023)

Specifically on the EU rule of law promotion, there is not a proliferate literature on the impact of the EU on democracy and human rights; Kmezic is one of the authors who sustain that the EU's role in this field is limited due to "legacies of the past" and the "self-preserving interest" of the political elite in the region (Kmezic 2019, 108).

Regarding the justice reform in Albania and the role of the EU, the literature is more concentrated on the technical side of the reform like Hajdini, which illustrates the role of technology against corruption in the justice system (Hajdini et al., 2021, 115-128). Anastasi refers to the reform in the framework of the EU integration principally to the technical assistance provided by the EU experts to the reform and the mechanisms that strengthen the justice system's independence (Anastasi 2023, 1-22).

### 3. Research Objectives and Methodology

The primary aim of this study is to assess the impact of the European Union's transformative power in Albania and its capacity to effect change, using justice reform as a specific case study. By employing a problem-oriented empirical methodology, the article will evaluate the pragmatic features of law enforcement rules, identify deficiencies between the adoption and execution of the reform, and emphasize the political and societal conditions in which these dynamics function.

The methodology employed to achieve these goals consists of a review of the principal authors and relevant literature, with primary sources such as the European Commission's Progress Reports being particularly consulted and a quantitative research method using sample surveys with closed answers. A survey among the youth with 200 participants was conducted to understand the perception of justice reform, especially among 20-25-year-olds, who are usually underrepresented in other surveys.

The survey was conducted from September to October 2023, and 200 people (20-30 years old) responded to the questionnaire. The questionnaire was distributed to the students, who circulated it among friends and in their cities.

Furthermore, the paper incorporates press articles, interviews with key stakeholders engaged in the justice reform process, and the responses of political actors.

The paper analyzes Balkan Barometer data on public support for the integration process to examine the extent to which Albanian society supports the integration process.

Additionally, the paper utilizes significant surveys conducted in 2016 and in 2022—one by the Institute for Development, Research and Alternatives, an Albania-based non-profit, non-governmental, and non-partisan think tank, the online survey administered by the Justice Reform Commission—to examine the reaction of Albanian society to the implementation of the justice reform.; and also the survey conducted in 2022 from Data Centrum. The evidence-based analysis collects data on the rule of law in Albania from the World Justice Project between 2016 and 2023 using secondary data from a single reputable source.

#### 4. The Transformative Role of the EU in Albania: The Implementation of the Justice Reform – Discussions and Analysis

Authors who perceive the EU as a transformative power examine the strategies adopted by the EU to spread norms and ideas, resulting in changes in society and transformation (Borzel and Risse 2009,10).

One of these approaches is Conditionality, through which the EU tries to promote these values and ensure compliance with the integration criteria. The rule of law is a formal accession criterion for all countries aspiring to join the EU, a value promoted internationally, and one of the foundational principles of all EU treaties (Pech, 2016,7).

The central argument relates to assessing the efficacy of the Conditionality, which can be evaluated by the adoption and implementation of EU-promoted reforms (Dimitrova 2016, 9).

Scholars (Juncos 2011, 87; Dimitrova, 2016; Tocci 2008, 6) have concluded that the efficiency of EU enlargement conditionality is contingent on the EU credibility of the promise of accession.

The EU policy to foster the rule of law in Albania relies on Conditionality, technical and financial aid, and mediating political compromises. Regarding the internal factors, the enhancement of the rule of law is contingent upon societal support for the integration process and justice, the political elite's willingness to embrace the EU's transformative power and a credible membership perspective.

As discussed by Dimitrova, societal acceptance has evolved into an essential factor that impacts the efficacy of the Conditionality and shapes the EU's identity as a transformative power (Dimitrova 2016, 7).

Albania has the region's highest rate of integration support and high societal furtherance of the EU role in the country. Public opinion sees integration as a sign of political stability, economic progress, and social equality (Balkan Public Barometer, 2023).

Balkan Public Barometer in 2023, a survey conducted among private citizens and businesses in the region commissioned by the Regional Council, finds that the support for EU membership is very high in Albania compared to other countries.

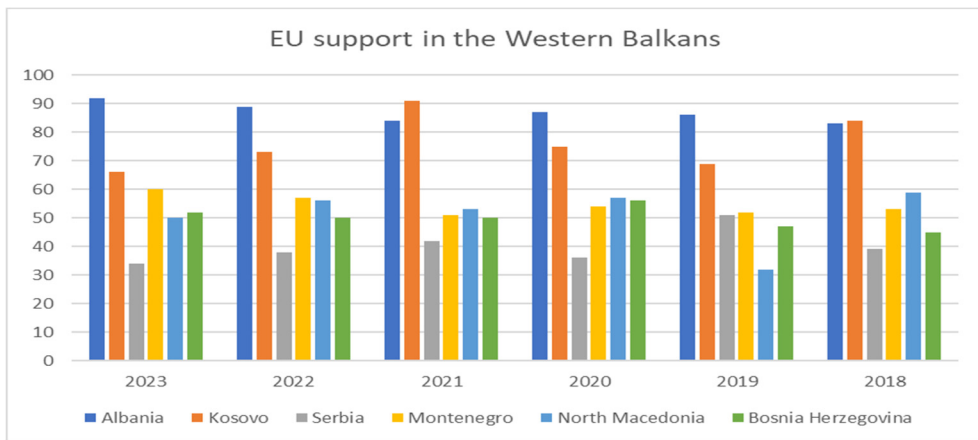


Figure 1.

Source: Regional Cooperation Council <https://www.rcc.int/balkanbarometer/>

The increased rate of 92% in 2023 can be attributed to Albania's growing importance on the EU map (e.g., hosting the Berlin Process Summit in Tirana) and the lesser rate of 83% is also an elevated percentage. (Regional Council, 2023). The effectiveness of the Conditionality in Albania regarding the

adoption of justice reform, the object of the article, is related to a pro-EU identity (Kmezic et al. 2019, 200). Furthermore, substantial backing for the integration process considers the Commission's participation in internal political matters, such as adopting appropriate and necessary justice reform (Strelkov 2016, 506).

As part of the prerequisites for EU candidate status in 2010, the European Commission mandated the adoption and execution of a comprehensive justice reform strategy; the enhancement of the rule of law was intricately linked to the existence of an impartial and functional judiciary system (European Commission Progress Report 2010, 94).

Candidate status was granted to Albania by the EU in 2014, with the commencement of accession negotiations dependent upon the implementation of judicial reform. On November 27, 2014, the Assembly of the Republic of Albania established the Special Parliamentary Commission for Reform in the Justice System, marking the beginning of justice reform (*Strategjia e Reformes ne Sistemin e Drejtësisë*, 2015).

Adopting a new judicial reform strategy was pointed out in the Progress Report following granting candidate status as a critical prerequisite for advancing the integration process and meeting the primary objective outlined in Chapter 23 (Judiciary and Fundamental Rights) (European Commission 2015, 12). A significant intervention by the European Union and the American ambassador was required in 2016 to ratify the reform, which a lack of consensus between the opposition and the majority had delayed.

The EU and European politicians exerted constant pressure regarding the adoption of the reform, like the chairman of the Committee for European Affairs in the Bundestag, who declared that "candidate status would be jeopardized" if the Parliament did not adopt the reform, thereby signaling a setback in the integration process. (ResPublica, 2016), On the same line, the Minister of Foreign Affairs of Germany, "Without the judicial reform, Albania's integration process to the European Union cannot gain new momentum." (Albanian Embassy in the Kingdom of Saudi Arabia, press report, 2016)

The former EU representative, Ramona Vlahutin (2014-2018), considered the reform an "in or out" for the Albanian European integration process (Top-Channel interview, 2015).

In this case, the EU exercised its transformative power by Conditionality the justice reform was a prerequisite for the integration process, and the EU supported it with financial aid and expertise totaling 55 million euros (2016-2021) and 34 million euros (2019-2021) (EU for Justice Reform, 2019) and political aid.

The justice reform legislative package, which amended the constitution and twenty-five laws, was adopted by the Parliament in 2016 (*Komisioni i Posaçëm Parlamentar në Sistemin e Drejtësisë*, 2016).

Compared to other Western Balkan countries like Serbia and Montenegro, Albania completed the constitutional process of reforming the judiciary before the opening of the negotiations due to pressure from the EU. The amendments proposed the creation of new institutions to oversee the judiciary, combat corruption and organized crime, and a unique system for evaluating judges and prosecutors (Hackaj 2020, 19). The reform involved numerous domestic and international experts, consultations with civil society members, professors, judges, legal institutions, the opposition, and European representatives.

In addition to being a prerequisite for the beginning of accession negotiations, the reform was essential for combating organized crime, increasing corruption, and widespread corruption within the justice system. Public opinion was also overwhelmingly in favor of adopting a justice reform.

In 2016, a public survey was undertaken by the Institute for Development and Research Alternatives (IDRA) to collect data regarding citizens' perceptions and endorsement of judicial system reform (IDRA, 2016). From the survey, 64% of respondents "fully support" and 27% "somewhat support" the need for judicial reform. A significant correlation was observed between the degree of information and the level of support (more informed citizens showed greater support). Moreover, it was critical that the backing for this reform transcended partisan boundaries, encompassing all

primary political affiliations (left, center, and right) (IDRA, 2016). In a survey conducted online by the Commission of the Reform regarding whether the reform will guarantee a better administration of justice and more professional judges, around 72% of 2396 adult participants responded Yes (Reforma ne Drejtesi, 2016). The social acceptance of the EU intervention and the goodwill of the political elite were congruent internal factors in this specific case. They led to the success of the EU intervention. In this case, the EU acted as a transformative power because the domestic actors were convinced of the legitimacy and appropriateness of EU demands. Referring to the "rule adoption spiral," the rule transfer phase is complete; the main problem remains the implementation of the reform (Kmezic 2016, 335) and the factors that influence it. These factors are the lack of political will to cut ties with the judiciary and the credibility of the enlargement perspective.

The enlargement process stalled from 2018 to 2021. In 2018, the Commission gave the green light for opening the accession negotiations, providing a credible enlargement input to the integration process, but the Council did not open the negotiations and emphasized the need for additional efforts in essential areas, such as judicial reform (Council of the European Union, 2018)

The government did not welcome the decision, and PM Rama expressed that the lack of starting negotiations impacted the EU's credibility in Albania and the region (A2 CNN, 2019).

The stall also impacted the reform implementation; enlargement incentives were necessary to finalize the reform while implementing the justice reform, which was crucial for advancing the integration path.

Despite the EU's persistent pressure on political entities to continue implementing the reform and provide evidence of tangible results, the reform has failed to advance as expected.

If we refer to the World Justice Index from 2015 to 2023, there has been minimal improvement regarding the judiciary system in Albania. The WJP index on the overall index score of the rule of law from 2015 to 2023 considers seven indicators related to the constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil and criminal justice. The score of Albania in the last five years is almost the same without significant improvements despite the thorough justice reform.

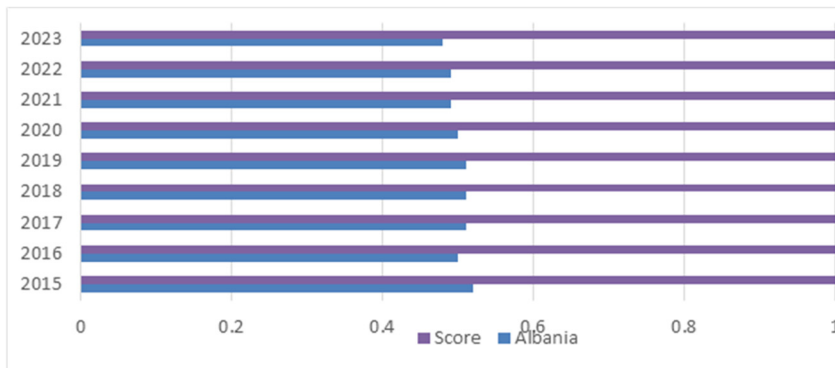
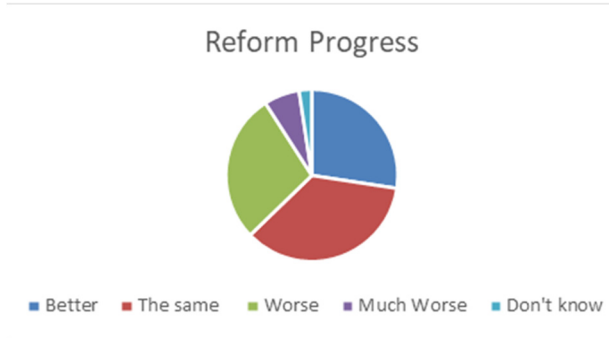


Figure 2.

Source: <https://worldjusticeproject.org/rule-of-law-index/country/2023/Albania/>

The Data Centrum Research Institute conducted a nationwide survey in 2022 involving 1,000 citizens and a champion representative to assess the development of Justice Reform. The results are exciting and provide a comprehensive summary of how the Albanian people perceive the progress of the reform. In a champion of 1000 interviewers, 35.4% responded that the justice in Albania is the same as before the reform, 27.3% think that the justice system is improved, and 28.1% consider the justice system better after that before the reform (fig.1).



**Figure 3:** How does the justice system work compared to 5 years ago? (MRB and Data Centrum survey)

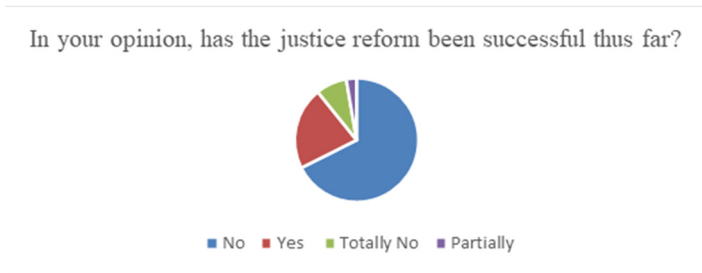
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The result of the answer confirms the World Justice Index that in the perception of the Albanian people, the justice system hasn't improved due to the reform. To understand the perception of the youth on justice reform, a group often underrepresented in the current surveys, a questionnaire was distributed among young people between 20-25 years old. Two hundred people responded to the eight questionnaire questions, including independent variables such as gender, education, and urban or rural status.

**Table 1.** Characteristics of the respondents

<b>Gender</b>	Male – 38.9%
	Female – 61.1%
<b>Education</b>	Secondary education – 38.2%
	Bachelor and Ma Degree – 63.8%

From the survey, 97.3 % of the respondents think that justice reform is necessary, confirming their support. Two important questions were the implementation of the justice reform and the reasons for its failure or success.



**Figure 4:**

Most respondents think that the justice reform has not been effective till now and the implementation is the main problem, so we have a justice reform, but young people don't believe in

justice and the success of the reform.

The primary factors contributing to the unfavorable perception are political intervention (58.1%), inadequate human resources (25.7%), and external intervention in reform approval (6.5%), collectively accounting for the three (9.6). Political intervention is also one of the main reasons for the ineffectiveness of the EU rule of law conditionality.

The primary objective of the reform was to establish an accountability mechanism for judges and prosecutors through the vetting process. While considered essential and appreciated by the public, this method was insufficient as removing corrupt judges and prosecutors did not guarantee filling vacancies within the legal system (Hackaj 2020, 6).

Furthermore, the vetting process significantly impacted the operation of the Constitutional Court. By 2019, just one out of the original nine judges remained in office, leading to the Court losing its quorum (European Commission 2019, 9). The appointment of new judges resulted in an institutional crisis between the Parliament and the President, which risked impacting the enlargement process. The Court gained its functionality under EU pressure in 2020. The functioning of the Constitutional Court was part of the conditions to be met before the first intergovernmental conference, and the political compromise resulted from this condition.

The first intergovernmental conference date was decided in 2021 and was held in 2022, giving positive momentum to the integration process as a credible enlargement signal.

The last two years have seen a slight improvement in the implementation of the justice reform but also a renovated European commitment to Albania. As per the 2022-2023 Progress Report, the efficiency of the judicial system is hindered by prolonged proceedings primarily due to insufficient human resources resulting from the vetting process. However, the Commission acknowledges significant advancements in implementing justice reform (European Commission, 2022, 17 European Commission 2023, 20).

The Albanian justice reform highlights the challenges of fulfilling the rule of law criteria and implementing structural reforms.

Furthermore, it delineates how an accurate enlargement perspective impacts the adoption and execution of critical reforms, as their advancement is contingent upon supporting the mechanisms furnished by the enlargement.

## 5. Discussion on Future Prospects

One of the most significant steps toward the integration process has been the justice reform, revised several times during these eight years. The EU still provides financial and human resources to help implement the reform and promote improving Albania's legal system.

The last progress report finds Albania moderately prepared to align with the EU acquis in the judiciary and fundamental rights area (Albania Report 2023, 17). The EU Commission acknowledged the Albanian government's efforts and progress in reform implementation. However, numerous obstacles must be overcome to ensure the reform's effectiveness. The length of proceedings and the overloaded cases impact the judicial system's efficiency and access to justice.

One of the main features of justice reform is the vetting process, which aims to re-evaluate the moral and professional integrity of judges and prosecutors. The Independent Qualification Commission (IQC) undertook the process guided by the International Monitoring Operation, which consisted of judges and prosecutors chosen by EU member states and aimed to ensure the integrity of the justice operators and rebuild the public trust in the justice system. Due to the IQC decisions, 253 judges and prosecutors have been dismissed from office, and 330 have been confirmed (Independent Qualification Commission, 2024). The numbers indicate the corruption in the justice system but also suggest that the process is more complex than envisaged. The human resource gap impacted access to the legal system and people's expectations and trust in the reform. The discussion led to the lack of analysis and a long-term plan on the effects of the vetting process and the recruitment of new judges and prosecutors, which needed to be envisaged by the draft reform. This process has been extended



until the end of 2024, and the central point that will be evaluated in the future is the process's success. After eight years of reform approval, the obstacle is related to the design phase, which needed to assess the country's ability to generate new qualified members to join the justice system. The positive note is the recruitment of new magistrates to address judicial vacancies in October 2023, which was noted as progress by the European Commission (Albania Report 2023, 17). Future evaluations and analyses need to focus on the effectiveness and duration of the vetting process; this will impact citizens' trust in the justice system, the accessibility of justice, and the length of the processes.

Another point to consider and evaluate regarding prospects is the public's reaction to the reform. Citizens have developed a sense of doubt regarding the reform's outcomes due to long-term skepticism regarding the justice system's impartiality and fairness before the reform. Consequently, future justice reform efforts must concentrate on the good governance aspect of the new institutions, as it is time for them to affirm their legitimacy and value.

Finally, the reform was only possible due to political will, which was essential to approve and now implement the reform. However, an independent justice system is also essential; in the future, political forces will have to refrain from interfering with the justice system.

## 6. Conclusions

Conditionality and a credible membership perspective constitute the essence of EU policy in Albania, which seeks to encourage the fulfillment of enlargement criteria, particularly the rule of law. To summarize the preliminary theoretical landscape, however, the EU's function as a transformative power is contingent not only on the candidate states' commitment to enlargement but also on societal acceptability and the goodwill of the political elite. Combining these three elements is necessary to guarantee the effective implementation of the structural reforms. Failure to incorporate even one of these components may result in the adoption of structural reform without its timely and effective implementation.

One notable aspect of internal factors that influence the transformative role in Albania is the substantial societal backing for the integration process, which effectively facilitates the assimilation of EU conditions. Regarding the political elite, it is accurate to say that the European Union (EU) is the sole option for Albania in its foreign policy, the only alternative to other actors in the Western Balkans.

To promote the rule of law in Albania, the EU used political dialogue with expertise, financial assistance, and Conditionality as instruments to disclose its transformative power. The EU influenced the political dialogue and compromise between the political actors, the government, the Parliament, the opposition, and the President.

It can be hypothesized that the political elite and public opinion internalized EU standards and regarded them as legitimate in the case of the justice reform adoption.

Albania concluded the reorganization of the judiciary and amendments to the constitution before the commencement of accession negotiations, demonstrating the EU's transformative power in this case.

Indeed, the main issue remains the implementation of the reform. Conditionality can ensure the adoption but not the implementation of the reform if there is a lack of political support and institutional efforts. It can be hypothesized that relying solely on public opinion support and applying Conditionality to ensure the reform's successful implementation is insufficient.

It is evident that the rule of law in Albania has slightly improved due to the justice reform; till now, the short-term effects of the reform are not in line with the provisions, but we need more data to evaluate the long-term impact. The public opinion also thinks that the justice reform hasn't improved the justice system and that the reform hasn't brought the expected results till now. This is evident due to different surveys conducted and the main concern remains the correlation between politics and the justice system.

There are some obstacles, but the reform is a significant progress towards the integration process. It is the first reform of such depth and scope and a test case for the EU. The success of the reform will be a test case for the EU's transformative power in the region and the suitability of the EU instruments to endeavor structural reforms.

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