



CHAPTER

23

JUDICIARY AND FUNDAMENTAL RIGHTS



Albania's Scorecard On Progress And Level Of Preparation Regarding EU Accession During 2022-2023

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December 2023, Tirana

Albania's Scorecard On Progress And Level Of Preparation Regarding EU Accession During 2022 – 2023

BASED ON THE ASSESSMENTS OF THE EUROPEAN COMMISSION 2022 AND 2023 COUNTRY REPORTS

Context

The European Commission (EC) monitors Albania's progress and level of preparation in meeting EU membership requirements on an annual basis. The country is working on the transposition of the Acquis according to the National Plan on European Integration (NPEI), which serves as a tool for fulfilling the obligations arising from the Stabilization and Association Agreement (SAA). The organization of the First Intergovernmental Conference on July 19, 2022 was considered a huge milestone for our country as it embodies the technical aspect of the EU integration process. The conference paved the way for the approval of the negotiation framework drawn up by the European Commission and starting of the work for the screening process.

This Scorecard on Albania's Progress and Level of Preparation towards EU membership takes as its starting point the situation described in the EC 2022 Country Report and reflects the development throughout the reporting period crystallized in the EC 2023 Country Report. It aims to display in a more simplified way 1) the Political Criteria 2) Chapter 23 (Judiciary and Fundamental Rights) and 3) Chapter 24 (Justice, Freedom and Security).

The Scorecard presents an assessment concerning the main fields of each chapter. The evaluation includes an elaboration on progress and preparation in each area, as well as a graded assessment (where 10 is the highest grade and 4 the lowest), taking into account the terminology used in each case in the European Commission Reports for progress and level of preparation.

Furthermore, it considers the frequency and the relevance of the issue (new legal initiatives or strategies are generally viewed as more important than routine trainings). Particular attention has been drawn to the evaluation of the implementation of the legislation as one of the most important problems that our country faces. The methodology applied by EMA constitutes a snapshot of several components that shape a subfield, field and then chapter.

TERMINOLOGY USED FOR PROGRESS:	GRADE
Backsliding	4
No progress	5
Limited Progress	6
Some progress	7
Good Progress	8-9
Very good progress	10

TERMINOLOGY USED FOR PREPARATION	GRADE
n/a	n/a
Early stage	5
Some level of preparation	6
Some level / moderately prepared	7
Moderately prepared	8
Good level of preparation	9
Well-advanced	10

How Should We Read This Scorecard?

Albania's Scorecard presents grades for each area analyzed by the European Commission for the preparation level and progress made regarding the European integration process for the reporting period covered by the reports of 2022 and 2023. The evaluation was carried out taking into account several criteria such as:

- Assessment of the fulfillment of requirements and obligations arising from the process concerning the legislation drafting framework;
- Reviewing whether the recommendations of the previous year were taken into consideration;

This document's main objective is to offer civil society actors, academics, governmental bodies, students, businesses and other interested citizens a clear and accurate reading, beyond the political debates, of Albania's progress in all areas that are part of the Criteria of Copenhagen for EU membership.

SCORECARD FOR CHAPTER 23: JUDICIARY AND FUNDAMENTAL RIGHTS

CHAPTER 23	EC REPORT 2022	EC REPORT 2023	CHANGE
<p>Functioning of the Judiciary</p>	<p>Preparation – Grade: 8</p> <p>Albania is moderately prepared on the functioning of the judiciary. The new cross-sector justice strategy and its action plan for 2021-2025 have been adopted by the Council of Ministers and need to be implemented effectively. Further improvement of coordination between the justice institutions remains necessary. Continued implementation of judicial reform further reduced political influence throughout the appointment process, thus ensuring a merit-based career system. The SoM needs to intensify its efforts to strengthen its academic staff and to ensure competitive and transparent recruitment procedures. The Specialised Structure for Anti-Corruption and Organised Crime (SPAK), comprising the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI), continued its operations. The length of proceedings, the low clearance rate and the high number of unresolved cases continue to affect the efficiency of the judicial system. Appeal courts continue to have a high number of inherited cases and are affected by the high number of judicial vacancies. The courts with the highest backlog are the High Court, the Tirana District Court and the Administrative Court of Appeal. The new judicial map is adopted as per the legal requirements, following a consultation process and the support from international experts, including through EU funding.</p>	<p>Preparation – Grade: 8</p> <p>Albania is moderately prepared on the functioning of the judiciary. The Ministry of Justice reports regularly on the implementation of the 2021-2025 cross-sector justice strategy and its action plan. All judicial institutions, have developed plans to align their activities with the cross-sector strategy. Albania needs to ensure effective cooperation between justice institutions. The SoM needs to intensify its efforts to improve the quality of academic staff and to ensure a competitive and transparent recruitment process. The overall quality of the initial and continuous training at the School of Magistrates (SoM) requires further improvement. SPAK, comprising the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI), continued to be fully operational. The quality of final court decisions need to be further improved. The efficiency of the judicial system and access to justice continued to be affected by the length of proceedings, the increased workload and the large backlog of cases, which remains significant. Attempts to stabilise the backlog have not yet produced results. The courts with the largest backlog are the High Court, the Appeal Court and the Administrative Court of Appeal. It is necessary to improve citizens' awareness of alternative dispute resolution. Implementation of the new judicial map has started.</p>	<p>0</p>
<p>Functioning of the Judiciary</p>	<p>Progress – Grade: 7</p> <p>Good progress was made, with the continued implementation of justice reform. Comprehensive justice reform continued, resulting in good progress overall. The comprehensive transitional re-evaluation (vetting) of all judges and prosecutors continued to advance at a steady pace. The judiciary self-governing institutions have continued to fully exercise their functions. Concerns continued to be raised about alleged attempts to interfere and exert pressure on the judicial system. The rollout of a modern Integrated Case Management System has been pending for many years and is necessary to improve the efficiency and transparency of the justice system. The High Justice Inspector (HJI) continued to be fully operational. Court infrastructure remains poor. A solid implementation plan for the new judicial map will be needed.</p>	<p>Progress – Grade: 8</p> <p>Good progress was made during the reporting period, with the continued implementation of the justice reform. The vetting process for judges and prosecutors has advanced with overall good results. The SPAK achieved further results, and conducted investigations in several high-level cases, which include the involvement of two former ministers. However, concerns continued to be raised about alleged attempts to interfere with and exert pressure on the judicial system. Progress was made in addressing judicial vacancies through the appointment of a significant number – 40 – of new magistrates. A new Chief Special Prosecutor was elected in December 2022 after a sound process. The roll-out of a modern integrated case management system has been long pending, and it remains necessary to improve the efficiency and transparency of the justice system. However, progress was made with the establishment of the interoperability working group in June 2023 and the adoption of the interoperability framework setting the basis for the roll-out of the system. The High Justice Inspector (HJI) continued to be operational, initiating and conducting disciplinary investigations against magistrates. A robust implementation plan for the new judicial map is still missing and needs to be urgently put in place.</p>	<p>+1</p>

Fight against
corruption

Preparation – Grade: 7

Albania has **some level of preparation** in the fight against corruption. **Efforts continued** on improving the track record of investigations, prosecutions and convictions in the fight against corruption. The vetting of members of the judiciary **continued to have a positive impact** on the fight against corruption. The 12 subordinate institutions and agencies of the Ministry of Justice **have finalised** the process of integrity risk assessment and have approved their integrity plans. Overall, the implementation of the Inter-Sectoral Strategy against corruption **is still on track**.

Preparation – Grade: 7

Albania has **some level of preparation** in the fight against corruption. Albania **is party** to all international anti-corruption conventions, including the United Nations Convention against Corruption. The vetting of judges and prosecutors **continues to bring results** in the fight against corruption within the judiciary. Albanian institutions **need to ensure** systematic judicial follow-up on vetting cases where criminal offences have been indicated. Prosecution services **are encouraged** to proactively **initiate** criminal proceedings against judges and prosecutors whose vetting process revealed **criminal elements**. Corruption **remains prevalent** in the health and property sectors and within the police. Internal checks and inspection mechanisms in the public administration **remain weak** and **ineffective**. The central ministries, all agencies of the Ministry of Justice, and 22 additional municipalities **adopted** integrity risk assessment and integrity plans. Their effective implementation **is yet to be ensured**. The implementation of the inter-sectoral strategy against corruption **is overall on track**, although **important weaknesses remain**. A new strategy for 2023-2030 **is in preparation**.

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Fight against
corruption

Progress – Grade: 7

Despite **some progress**, increased efforts and political commitment in fighting corruption, it remains an **area of serious concern**. Continued efforts **are needed** to tackle the culture of impunity for high-level state officials. Anti-corruption measures **continue to have a limited impact** in particularly vulnerable areas (roads, cadastre, property, customs, tax administration, education, health, public procurement, PPP contracts, etc.). Incidents, related to **vote-buying practices** in April 2021 elections, confirmed the **need for more transparent** political party finances in line with international and European standards.

Progress – Grade: 7

Despite **some progress** and **continued efforts** in fighting corruption, including a number of high-level convictions and financial investigations at high level it remains an area of **serious concern**. The 2022 recommendations were **only partially implemented**, thus they remain valid. In March 2023, GRECO concluded that Albania **implemented or dealt satisfactorily** with only 5 of the 24 recommendations. Anti-corruption measures **continue to have a limited impact**, notably in the most affected areas such as infrastructure, property rights, customs, tax, education, health, public procurement and government contracts. **Some progress** was made in awareness-raising and efforts in this area need to be sustained.

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Fundamental
Rights

Preparation – Grade: 7

The Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Convention on Economic, Social and Cultural Rights **have not yet been signed**. The Ombudsman (People’s Advocate) **continued** to promote and enforce human rights. However, **poor material conditions** remain, as well as structural deficiencies in detention facilities. Legislation on protection of personal data **still needs to be further aligned** with the EU General Data Protection Regulation (GDPR) and the related “law enforcement” directive. Laws to protect adolescents from child marriage **are ineffective** or applied inconsistently. After the personal data leak that emerged during the 2021 general elections, **a new serious and massive breach** of personal data occurred in December 2021, when a database containing personal data of more than 600 000 employees in the private and public sector was leaked.

Preparation – Grade: 7

Albania **has not signed** the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Convention on Economic, Social and Cultural Rights. On the promotion and enforcement of human rights, the Ombudsperson (People’s Advocate) **continued to exercise** their mandate **satisfactorily**. On the prevention of torture and ill-treatment, the medical and custodial staff in prison hospitals are **generally satisfactory**. However, **poor material conditions** still prevail, as well as structural deficiencies. Legislation on the protection of personal data **needs to be urgently aligned** with the EU General Data Protection Regulation (GDPR) and the EU law enforcement Directive. Albania **should take urgent measures** to prevent the recurrence of massive breaches of personal data and improve their handling. The persistence of child marriage **remains a matter of concern**. However, since 2021 the government has prioritised **addressing child marriage** in its budgeted national policy framework.

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Fundamental
Rights

Progress – Grade: 7

Overall, Albania **continues to comply** with international human rights instruments and most international conventions have been ratified. Albania **continues to ensure good cooperation** with the European Court of Human Rights. On the right to life, **limited progress** was made in investigating cases and strengthen the institutional and legislative framework on missing persons since the communist era. The medical and custodial staff **were assessed to be generally satisfactory** and **no allegations of illtreatment** of patients by staff were reported. The prison system and detention centres remain **an issue of concern**. The use of alternatives to custody **continued to grow**. The probation service **remains fully operational** in the whole country. Overall, freedom of thought, conscience and religion **was generally upheld**. The restitution of properties belonging to religious groups and taken by the state during communism remains **an unresolved issue**. **Additional human and financial resources will need** to be allocated to the Office of the Information and Data Protection Commissioner (IDP) for the effective performance.

Progress – Grade: 7.5

Overall, Albania **continues to be party to most** international human rights instruments. Albania continues to **ensure good cooperation** with the European Court of Human Rights (ECtHR). On the right to life, **limited progress** was made in investigating cases and strengthening the institutional and legislative framework on persons missing since the communist era. **No systemic illtreatment** in prisons or by the police has been reported, by the People’s Advocate. The prison system and detention centres **remain a serious issue of concern**. Patients with medical conditions from the Kruja and Zaharia detention facilities were transferred to the Lezha prison, **implementing** the 2021 recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the judgments of the ECHR. **Progress** was made on the use of alternatives to detention and, in particular, the **probation service**. Overall, freedom of thought, conscience and religion **was generally upheld**. The restitution of properties belonging to religious groups that were expropriated during the communist era remains **an unresolved issue**.

+0.5

Freedom of
Expression

Preparation – Grade: 6

The country **has some level of preparation / is moderately prepared** in the area of freedom of expression. The independence of media and the quality of journalism **remain hampered** by the intersection of business and political interests. Disinformation campaigns **are recurrent** especially in online media. **It is essential** that any possible change to the media law **should be in line** with the Venice Commission Opinion and submitted to **proper consultation** with media organisations. The development of a Strategy on better internet for kids aimed, among others, detecting and retorting child sexual abuse material online **should be considered**. The state **generally refrains** from filtering and blocking online content. Albania **still needs to introduce legislation** to strengthen transparency in public advertising. Digital media **are still under strong influence** by political actors, businesses and by third parties in terms of funding and content. Freedom of artistic expression **is broadly guaranteed**. Better enforcement and greater awareness raising **are needed to eliminate** hate speech, particularly in rural and remote areas.

Preparation – Grade: 6.5

Albania **is in between some and moderate level of preparation** in the area of freedom of expression. The constitutional right to freedom of expression **continued to be generally upheld**. **It is essential** that any change to the legal framework **be in line** with European standards, and is subject to **extensive consultations** with media organisations and civil society. The provisions of the Criminal Code on insult and defamation **need to be repealed** or fully aligned with European standards. Limited job security and poor working conditions **pose serious risks** of self-censorship. Albania **is a signatory** to the Declaration for the Future of the Internet of April 2022. The national strategy for cybersecurity and its 2020-2025 action plan **have been adopted**. The strategy includes a chapter **on the protection of children online** as a priority for the country. The state **generally refrains** from filtering and blocking online content. Digital media **continue to be strongly influenced** by political actors, businesses and by third parties in terms of funding and content. Large information technology platforms **remain unregulated and unregistered** in Albania. Freedom of artistic expression **is broadly guaranteed**. Laws on hate speech **are in line** with international standards. Better enforcement and greater awareness raising **are needed to eliminate** hate speech, particularly in rural and remote areas.

+0.5

Freedom of
Expression

Progress – Grade: 5

No progress was made over the reporting period. Political actors **continued to voice anti-media** sentiments and use denigrating language against journalists, on a number of occasions. The atmosphere of verbal attacks, smear campaigns and acts of intimidations against journalists **has not improved**. Albania **has signed up** to the Declaration for the Future of Internet of 28 April 2022. Market and audience concentration and lack of transparency of media funding continue to **remain issues of concern** as regards media freedom in the country.

Progress – Grade: 5.5

Limited progress was made, in particular through the **amendment of the Law on audiovisual media, to align** with the 2018 EU Directive on audiovisual media services. The atmosphere of verbal and physical attacks, smear campaigns and intimidation lawsuits against journalists **has not improved**. The anti-defamation legal package **was removed** from Parliament's agenda in November 2022. The Audiovisual Media Authority **adopted** a revised Audiovisual Broadcasting Code. High-profile business groups **further increased** their economic penetration in the media market. Market and audience concentration and lack of transparency of media funding continue to **remain issues of concern** as regards media freedom in the country.

+0.5

Gender
equality/
non
discrimination

Preparation – Grade: 6

Provisions on referral mechanisms between different levels of care, training for healthcare providers, youth friendly services, and outreach to vulnerable groups **remain unaddressed** in the law on reproductive health. The legal framework governing the rights of the child **is in place** and **some progress** was made in institutional capacity-building for its effective implementation. **More robust efforts** are needed to address discrimination and violence against persons with disabilities, to improve overall accessibility, promote employment, and to collect statistical data on their situation. On citizenship rights, a provision of the Law on Citizenship adopted in July 2020 **may still lead** to the establishment of an investors' citizenship scheme. Such a scheme would **pose risks** as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime, and **would be incompatible with the EU acquis**.

Preparation – Grade: 6

Provisions on referral mechanisms between different levels of care, training for healthcare providers, youth friendly services, and outreach to vulnerable groups **have not been addressed** in the Law on reproductive health. The 2021-2030 national strategy on gender equality and its action plan **are more affirmative** in addressing the rights of all women and men. However, implementation **needs to be stepped up**. Women living in rural and remote areas, Roma and Egyptian women and LGBTIQ **face limited access** to primary health care, and to sexual and reproductive healthcare services. Social services **continue to be donor-driven** and often delivered by civil society organisations active in the field. A dedicated state budget and other resources **are still needed**. The legal and policy framework on the rights of the child **increasingly reflects international standards and EU requirements**. The 2021-2026 national agenda on the rights of the child (NARC) set out the strategic framework, in line with the national and international commitments. In 2022, the Commissioner for Protection from Discrimination (CPD) **continued to handle a stable number of cases**, mostly in the areas of employment and services. The 12th Tirana Pride **took place peacefully** on 20 May 2023. However, public awareness and acceptance of LGBTIQ persons **remain low**, particularly in rural areas. In March 2023, the **government announced the suspension** of initiatives related to the establishment of the investors' citizenship scheme. Albania **should refrain** from developing such a scheme which would **pose risks** as regards security, money laundering, tax evasion, terrorist financing, infiltration by organised crime, and **would be incompatible with the EU acquis**.

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Gender
equality/
non
discrimination

Progress – Grade: 6

On gender-based violence, the current legal framework **is not fully aligned** with key international standards, including the Istanbul Convention, and **lacks a focus** on the reintegration of, and access to services for, victims and survivors of violence. **No progress** was made on the rights of persons with disabilities. Albania's framework legislation on the rights of persons with disabilities **remains only partially** in compliance with the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and gaps **must to be addressed**. In Albanian society, discrimination against lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons **is still very prevalent**. However, to date, the implementing legislation on the crucial issues of free self-identification of national minorities and the use of languages **remains to be adopted**. On non-discrimination, the legal and policy framework **is generally aligned** with EU standards.

Progress – Grade: 6

On gender-based violence, the national legal framework **needs to be further harmonised** with the provisions of the International Labour Organization Convention on Violence and Harassment in the World of Work, ratified in February 2022. The current legal framework **is not fully aligned** with international standards, including the Istanbul Convention, and **lacks focus** on the reintegration of, and access to services for, victims and survivors of violence. **Some progress** was made on the rights of persons with disabilities. Albania's framework legislation on the rights of persons with disabilities **remains only partially** in compliance with the UN Convention on the Rights of Persons with Disabilities and gaps **must be addressed**. Albania **needs to ratify** the Optional Protocol to the Convention. The application of gender-responsive budgeting **has continued to improve**. Discrimination against LGBTIQ persons **is still very prevalent** in Albanian society, especially as regards access to healthcare, education, justice, employment and housing. **Limited progress** was made on the social inclusion of the Roma and Egyptian minorities. On citizenship rights, there **were no new developments**.

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