



CHAPTER

# 23

---

JUDICIARY  
AND

FUNDAMENTAL RIGHTS

# Albania's Scorecard On Progress And Level Of Preparation Regarding EU Accession During 2021

This study was conducted by the European Movement in Albania (EMA) in the framework of the project "National Resource Centre for Civil Society in Albania", with the financial support of the European Union through the Delegation of the European Union in Albania. The information and views expressed in this document are those of the author and do not necessarily reflect the official opinion of the European Union.

The National Resource Centre for Civil Society in Albania (NRC) is an initiative of Partners Albania, implemented in partnership with the Albanian Center for Population and Development (ACPD) and the European Movement in Albania (EMA).

October 2022, Tirana



# Albania's Scorecard On Progress And Level Of Preparation Regarding EU Accession During 2021

*BASED ON THE ASSESSMENTS OF THE EUROPEAN COMMISSION 2021 AND 2022 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 Plan (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 the work has started for the opening of the chapters of the First Cluster, also known as "Fundamentals".

This Scorecard on Albania's Progress and Level of Preparation towards EU membership takes as its starting point the situation described in the EC 2021 Country Report and reflects the development throughout the year crystallized in the EC 2022 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 during 2021 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 year of 2020 and 2021. 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;
- Assessment of the progress made within the year based on the findings of the annual report;
- 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 Judiciary and fundamental rights		EC Country Report 2021	EC Country Report 2022	
Functioning of the judiciary	Preparation – Grade: 8	<p>The cross-sector justice Strategy and its Action Plan 2021–2025 <b>need to be adopted</b> timely.</p> <p>Coordination mechanisms across the justice institutions, communication and transparency <b>should be further enhanced</b>. Constitutional and legal changes have reduced political influence during the appointment process, ensuring a merit-based career system. <b>Further efforts are needed</b> from the SoM to reinforce 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), are operational – a condition for the first IGC, which <b>continues</b> to be fulfilled.</p>	<p>Preparation – Grade: 8</p> <p>The new cross-sector justice strategy and its action plan for 2021–2025 <b>have been adopted</b> by the Council of Ministers and need to be implemented effectively. Further improvement of coordination between the justice institutions <b>remains necessary</b>. Continued implementation of judicial reform further reduced political influence throughout the appointment process, thus ensuring a merit-based career system. The SoM <b>needs to intensify its efforts</b> 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), <b>continued</b> its operations.</p>	0
	Progress – Grade: 7	<p>Albania <b>has continued</b> to implement the comprehensive justice reform, resulting in good progress. The comprehensive transitional re-evaluation of all judges and prosecutors (vetting) <b>advanced steadily</b> and delivered tangible results. The institutions for the self-governance of the judiciary, continued to be <b>fully functional</b>. Attempted internal and external interference with the judicial system continues to remain an <b>issue of concern</b>. Decisive and swift steps need to be taken towards the rollout of a new integrated case management system, to increase the efficiency and transparency of the justice system. The High Justice Inspector (HJI) has been <b>fully performing</b> its functions. Court infrastructure <b>remains poor</b>.</p>	<p>Progress – Grade: 7</p> <p>Comprehensive justice reform <b>continued</b>, resulting in good progress overall. The comprehensive transitional re-evaluation (vetting) of all judges and prosecutors <b>continued</b> to advance at a steady pace. The judiciary self-governing institutions have continued to fully exercise their functions. <b>Concerns continued</b> to be raised about alleged attempts to interfere and exert pressure on the judicial system. The rollout of a modern Integrated Case Management System <b>has been pending</b> for many years and is necessary to improve the efficiency and transparency of the justice system. The High Justice Inspector (HJI) <b>continued to be fully operational</b>. Court infrastructure <b>remains poor</b>.</p>	0

Chapter 23 Judiciary and fundamental rights			
EC Country Report 2021		EC Country Report 2022	
	A new judicial map <b>must be urgently adopted</b> and implemented to re-distribute judges and resources within the judicial system.	A solid implementation plan for the new judicial map <b>will be needed</b>	0
Fight against corruption	<p><b>Preparation – Grade: 8</b></p> <p><b>Further efforts were made</b> as regards the track record of investigations, prosecutions and convictions in the fight against corruption. The vetting of members of the judiciary <b>continued to have a positive impact</b> on the fight against corruption. Integrity-related secondary legislation is in place but an overall integrity risk-management system <b>has yet to be established</b>. The implementation of the Inter-sectorial Strategy against Corruption is overall on track, although <b>weaknesses remain</b>.</p>	<p><b>Preparation – Grade: 8</b></p> <p><b>Efforts continued</b> on improving the track record of investigations, prosecutions and convictions in the fight against corruption. The vetting of members of the judiciary <b>continued to have a positive impact</b> 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 <b>have approved</b> their integrity plans. Overall, the implementation of the Inter-Sectorial Strategy against corruption <b>is still on track</b>.</p>	0
	<p><b>Progress – Grade: 7</b></p> <p>Sustained efforts <b>are needed</b> to tackle the culture of impunity within the higher levels of the State. Implementation of the Law on whistle-blowing and whistle-blower protection <b>continued</b>. The impact of anti-corruption measures in particularly vulnerable areas (customs, tax administration, education, health, public procurement, PPP contracts etc.) <b>remains limited</b>. Incidents, which occurred during the election campaign, in particular related to vote-buying, have shown that there is a need of transparent political party finances.</p>	<p><b>Progress – Grade: 7</b></p> <p>Continued <b>efforts are needed</b> to tackle the culture of impunity for high-level state officials. The law on whistle-blowing and whistle-blower protection <b>continued to be implemented</b>. Anti-corruption measures continue to have <b>a limited impact</b> 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.</p>	0

Chapter 23 Judiciary and fundamental rights			
EC Country Report 2021		EC Country Report 2022	
Fundamental rights	<p><b>Preparation – Grade: 7</b></p> <p>The signature of 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 <b>is pending since 2019</b>. The Ombudsman significantly increased the number of cases handled ex-officio, and an increased number of recommendations were addressed to central and local governments to take concrete measures to respect fundamental rights and freedoms. Following the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommendations, <b>further improvements are needed</b> in the functioning of detention facilities. On the protection of personal data, <b>efforts are ongoing</b> to align the personal data protection legislation with the General Data Protection Regulation 2016/679 and the Police Directive 2016/680. The practice of child marriage is still present in Albania, particularly in the Roma, Egyptian and rural communities.</p>	<p><b>Preparation – Grade: 7</b></p> <p>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 <b>have not yet been signed</b>. The Ombudsman (People's Advocate) <b>continued to promote</b> and enforce human rights. However, poor material conditions remain, as well as <b>structural deficiencies</b> in detention facilities. Legislation on protection of personal data <b>still needs to be further aligned</b> with the EU General Data Protection Regulation (GDPR) and the related "law enforcement" directive. Laws to protect adolescents from child marriage are <b>ineffective</b> or applied inconsistently.</p>	0
	<p><b>Progress – Grade: 7</b></p> <p>Albania <b>complies</b> overall with international human rights instruments and has ratified most international conventions. Albania <b>continues to ensure</b> good cooperation with the European Court of Human Rights. During the reporting period, the Prosecutor's offices <b>failed to conduct</b> any 'ex officio' investigation on missing persons cases during the communist era. Additional staff needs to be allocated to the Commissioner for Dain order for it to fulfil the increased duties. Freedom of thought, conscience and religion <b>was generally upheld</b>.</p>	<p><b>Progress – Grade: 7</b></p> <p>Overall, Albania continues to comply with international human rights instruments and most international conventions <b>have been ratified</b>. Albania <b>continues</b> to ensure good cooperation with the European Court of Human Rights. On the right to life, <b>limited progress</b> was made in investigating cases and strengthen the institutional and legislative framework on missing persons since the communist era. 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. Overall, freedom of thought, conscience and religion <b>was generally upheld</b>.</p>	0

Chapter 23 Judiciary and fundamental rights			
EC Country Report 2021		EC Country Report 2022	
Freedom of expression	<p><b>Preparation – Grade: 6</b></p> <p>Albania <b>still needs to</b> introduce legislation to strengthen transparency in public advertising.</p> <p>Media freedom organisations reports indicate that political actors increasingly use social media networks to communicate with voters, while restricting access to reporters and bypassing critical media – reducing the role of public watchdogs holding power accountable.</p> <p>Better enforcement and greater awareness raising <b>are needed</b> to eliminate hate speech, particularly in rural and remote areas.</p>	<p><b>Preparation – Grade: 6</b></p> <p>Albania <b>still needs to</b> 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. Better enforcement and greater awareness raising <b>are needed</b> to eliminate hate speech, particularly in rural and remote areas.</p>	0
	<p><b>Progress – Grade: 5</b></p> <p>Serious concern persists among media freedom organisations over political pressure, use of intimidating language, threats and violence against journalists. The strong influence of politics and business over the media <b>remains a key source of concern</b> for freedom of expression in the country.</p>	<p><b>Progress – Grade: 5</b></p> <p>Political actors <b>continued</b> to voice anti-media sentiments and use denigrating language against journalists, on a number of occasions.</p> <p>The atmosphere of verbal attacks, smear campaigns and acts of intimidations against journalists <b>has not improved</b>. Market and audience concentration and lack of transparency of media funding continue to <b>remain issues of concern</b> as regards media freedom in the country.</p>	0
Gender equality/ non discrimination	<p><b>Preparation – Grade: 6</b></p> <p>The Law on Reproductive Health <b>still lacks to foresee</b> referral mechanisms between different levels of care. Albania has advanced in setting up a legal framework governing the rights of the child. The lack of implementation and means of appropriate redress for rights violations remain of concerns. <b>Further efforts are needed</b>, to address violence against persons with disabilities 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.</p>	<p><b>Preparation – Grade: 6</b></p> <p>Provisions on referral mechanisms between different levels of care, training for healthcare providers, youth friendly services, and outreach to vulnerable groups <b>remain unaddressed</b> 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 <b>efforts are needed</b> to address discrimination and violence against persons with disabilities, to improve overall accessibility, promote employment, and to collect statistical data on their situation.</p>	0



Chapter 23 Judiciary and fundamental rights			
EC Country Report 2021		EC Country Report 2022	
	Such schemes pose risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime and <b>are incompatible with the EU acquis.</b>	Such schemes pose risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime and are <b>incompatible with the EU acquis.</b>	0
	<p><b>Progress – Grade: 6</b></p> <p>On non-discrimination, the legal and policy framework is <b>generally aligned</b> with EU standards and was further improved with amendments to the Law on protection against discrimination. In 2020, <b>efforts were made</b> to increase public funding for victims of domestic violence. Albania's framework legislation on the rights of persons with disabilities is partially compliant with the UN Convention on the Rights of Persons with Disabilities. Discrimination against lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons <b>remains pervasive</b> and dominant in the Albanian society. The remaining implementing legislation, including on self-identification and use of minority languages <b>has yet to be adopted.</b></p>	<p><b>Progress – Grade: 6</b></p> <p>On non-discrimination, the legal and policy framework <b>is generally aligned</b> with EU standards. 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 <b>partially in compliance</b> 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 <b>remains to be adopted.</b></p>	0