

Conclusions and recommendations on judiciary self-governance in Albania

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Judicial self-government can be reduced or abused by politics to the detriment of individual judges. The solution is not to modify the judicial council back and forth, because the history shows there is not a perfect formula. Rather than pumping taxpayers or donors' money to new reforms and institutions to pass through this democratic transition, we need to work more on the mental transition towards an independent, impartial and efficient judiciary, where the actors and institutions are more resilient towards inside or outside capture.

The history of establishing and transforming the judicial councils shows that first of all foundations of the judicial self-governance are political. The configurations of the judicial council and the judicial reform have happened on the verge of political changes, or after high profile scandals.¹ However, changing the councils' configuration and its competences and updating it based on the best European standards developed by the international/European rule of law industry, is a futile solution.

Based on the above some conclusions and recommendations would be:

- ▶ Euro model success depends on the respect of fundamental principles of rule of law, formal and informal practices and culture of independence.
- ▶ Formal and informal practices of appointment of members are both important aspects of input legitimacy.
- ▶ High politicization of the process of election/appointment of members of the HCJ affects their credibility and legitimacy. Political parties and the media should be careful in the way they address the candidates running for the HCJ office and the process of their appointment.
- ▶ The pre-election campaign of judges who run for the council should be ethical and transparent. It would be advisable to have written rules/manuals which regulate aspects of the election campaign, its financing, meetings in order to prevent undue influences and endorsements.

¹ Kosař, David. "Beyond Judicial Councils: Forms, Rationales and Impact of Judicial Self-Governance in Europe." *German Law Journal* 19, no. 7 (2018): 1567-1612. pg 1599

- ▶ There is a need to encourage the best members of the community of lawyers/judges to run for the HCJ and support should be given. Media and the civil society should create a positive environment, that detect fake news that besmirches the reputation of candidates and evolve constructive debates and monitoring reports on the candidates as well as the activity of the Judicial Council.
- ▶ The criteria for selection of lay members should aim for excellence, but also have into consideration the existing pool of experts and lawyers. Otherwise it could limit the competition and the input of candidates for the council.
- ▶ Throughput legitimacy, the quality of governance within the Council should gain more importance in the internal evaluations of the Council or its assessment in EU progress reports. Through put legitimacy affects the outcome and the impact of the Judicial Councils.
- ▶ We need to create of culture of reflection and learning within the judicial council, that enables it to improve itself and its internal process of decision-making. We need institution which embed knowledge and innovate, rather than abolish one judicial council and create a new one to solve the same problems.
- ▶ To improve the quality of good governance within the judicial council, the management and leadership of the Council, there is a need for training of managerial and soft skills for judges and other members of the Council and its administrative staff.
- ▶ The reputation and legitimacy of the Judicial Council will depend on the behavior of individual judges. Therefore, there is a need to focus also in the incentives and training programs to strengthen the individual independence and professional ethics of judges.
- ▶ There is a need to strengthen the communication capacities of the Judicial Council with the internal audience of judges/lawyers as well the external audience (general public) to break the assumptions of judicial corruption and create a new positive narrative around judicial legitimacy.