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(*) Corresponding author
Peer review method: Double-blind
Received: 30.08.2022
Accepted: 06.09.2022
Published: 10.12.2022
Original scientific article
DOI: <https://doi.org/10.47305/JLIA2283115h>

How to cite:

Hajdini, Bojana, and Gentjan Skara. 2022. "THE ROLE OF INFORMATION AND COMMUNICATION TECHNOLOGY IN FIGHTING CORRUPTION IN THE JUDICIARY SYSTEM: THE CASE OF 2016 JUDICIAL REFORM IN ALBANIA". *Journal of Liberty and International Affairs* 8 (3):115-34. <https://e-jlia.com/index.php/jlia/article/view/749>.



THE ROLE OF INFORMATION AND COMMUNICATION TECHNOLOGY IN FIGHTING CORRUPTION IN THE JUDICIARY SYSTEM: THE CASE OF 2016 JUDICIAL REFORM IN ALBANIA

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Abstract: Corruption in the judiciary system has been considered by Albanian citizens and international organizations as deeply corrupt. In 2016 Albanian Parliament, supported by the EU and USA, adopted a judiciary reform to increase transparency, accountability, impartiality and citizens' access to information. One way of preventing corruption and increasing citizens' access to justice is by using information technology. This paper analyses the role of information and communication technology in preventing corruption in the Albanian judiciary system. The main research question is how and to what extent digitizing the judiciary contributes to preventing corruption in the judiciary system. The paper argues that the use of ICT in the judiciary system has been limited due to several factors, such as lack of legislation on the use of ICT in the judiciary system, absence of a unified automated case management system, lack of appropriate education or training of judiciary staff to use ICT and lack of reinvestments on ICT equipment in courts. The 2016 judicial reform, for the first time, emphasized the importance of digitizing the judiciary system in Albania. The paper concludes that digitizing the judiciary will increase integrity and prevent corruption in the judicial system.

Keywords: Digitalization; Judicial Reform; Corruption; Integrity; Vetting

INTRODUCTION

Corruption has been listed as one of society's most disturbing problems that negatively affect economic growth and increase inequality (Lambsdorff 1999, 5). In Albania, citizens believe that corruption is a widespread phenomenon in all sectors. The poor performance of the country's economy and higher unemployment level should constitute one of the priorities that require immediate solutions (Euronews Albania 2021). According to the 2021 Corruption Perceptions Index published by Transparency International, Albania scored 35 out of 100 (TI 2021). While in 2015, Albania was ranked in 88th place out of 167 countries (TI 2015), six years later, it was ranked in 110th place out of 180 countries, at the same level as Bosnia and Herzegovina, Malawi, Mongolia and Thailand (TI 2021). Other countries of the region were ranked respectively: Kosovo (87th position), North Macedonia (87th position) and Serbia (96th

position). In the same vein, the 2021 Commission Progress Report noted that the impact of anti-corruption measures in particularly vulnerable areas remains limited (Commission 2021, 26).

The judicial system is one of the main areas reported by international organizations and citizens as problematic. According to the 4th GRECO Report on Albania, the judicial system has been characterized by: i) a low level of public trust; iii) a high corruption rate; iii) a weak position compared to executive and legislative branches; iv) a lack of control over the selection of High Court judges; v) the exclusive competence of the Minister of Justice to initiate disciplinary proceedings against first instance judges and judges of appeal courts; vi) the inactivity of the National Judicial Conference, which affects the selection negatively, career advancement, training, and disciplinary proceedings against judges (GRECO 2013, para. 4-5). Whereas different surveys conducted to prepare the analytical document for the judicial reform show that the following reasons mainly influence judicial processes: i) financial interests, ii) business connections; iii) personal connections of judges and prosecutors; and iv) political interests and pressures (GHLE 2015a, 38). For years, international experts and domestic organizations, including citizens' denunciations, have considered the judiciary a sector with a high level of corruption (GHLE 2015b, 10).

In the last 30 years, Albania's judiciary system has undergone profound changes but has failed to strengthen judicial integrity and gain public trust. While in 2016 Albanian Parliament adopted a judiciary reform with the final aim of restoring public trust, still, 6 years later, the judiciary system is considered by citizens as inefficient and corrupted. The latest Human Rights Report by the US Department of State acknowledges that corruption has prevented the judiciary from functioning independently and efficiently (US Department of State 2021).

Furthermore, the high level of corruption has been the main obstacle to Albania's accession to the EU. Since 2009, when Albania applied for EU membership, opening the accession talks has been conditioned with the fulfillment of some recommendations, where the center was judiciary reform (Commission 2010; Commission 2011; Commission 2012). During the period 2010-2014, various EC Progress Reports have considered corruption in the judicial system and political intervention in the promotion of judges, especially in the appointment of High Court and Constitutional Court justices, as a major concern (Commission 2011, 11-51; Commission 2014, 39-44; EASO 2016, 24). Also, other issues considered problematic were identified, such as i) managerial, financial, and administrative shortcomings in the judicial sector (Commission 2012, 13-14; Commission 2012, 48-49); ii) problems with the transparency and accountability of judges (Commission 2012, 13-14); iii) concern over their disciplinary proceeding, their transfer and process of evaluation (Commission 2014, 47-49); and iv) lack of integrity and accountability within the judiciary.

To address these issues in the judiciary system, as a result of USA pressure and the EU threat to withdraw Albania's candidate status, the opposition party - the Democratic Party of Albania - and the government led by the Socialist Party of Albania reached a mutual agreement on the approval of a package of judicial reforms. In 2014 the Albanian government started the process of a deep and comprehensive justice reform, which was approved in 2016 with the consent of all political parties. The new judicial reform was profound in terms that required a Constitutional amendment (around 1/3 of the Albanian Constitution was changed) and the

adoption of a special package of laws (27 laws), and dozens of other bylaws (Garunja 2022; GLPS 2017).

As judiciary reform is still ongoing, little attention has been given to the contribution of digitalization as a tool to increase judicial integrity in Albania. Nowadays, digitalization is no longer a privilege of industrialized countries. Information and Communication Technology (ICT) has been considered a powerful tool to leverage to improve the effectiveness of private and public organizations (Ciborra and Hanseth 1998; Cordella and Bonina 2012, Cordella and Tempini 2015). To increase public trust and avoid corruption, it is required to increase transparency, accountability and citizens' access to information. One way to increase citizens' access to justice is by using ICT. The judiciary is increasingly using various technologies, from the digitization of court filing and administrative systems to automation of decision-making in small claims litigation to machine learning software in criminal sentencing or artificial intelligence (Cui 2020; Zalnieriute 2021; Allsop 2019; Cabral *et al.* 2012; Ahmed *et al.* 2021; Marco 2021). Different jurisdictions have invested in different ICT infrastructures and applications such as i) case law; ii) digitizing case processing (case management and e-filing); iii) teleservices between courts and parties (remote access to courts via audio and video); iv) data analytics; and v) courts in blockchain technology, machine learning, artificial intelligence (Fabri 2021, 2; Velicogna 2007; Velicogna and Bogdani 2017; Commission 2020a; Commission 2020b; Commission 2020c; Commission 2022).

Furthermore, the Covid-19 pandemic accelerated the use of digital tools in all business areas, including the judiciary (Velicogna 2020). In this context, digitalization must be used to increase the judiciary's integrity and simultaneously prevent corruption in this sector.

Digitalization is also gaining momentum in developing countries such as Albania, where information technology is used in all public sectors, including the judiciary. This paper analyses the role of information and communication technology in preventing corruption in the Albanian judiciary system. The paper, first, deals with the phenomenon of corruption in Albania and the forms of its manifestation in the Albanian judicial system. Second, the paper analyses how ICT can increase integrity and prevent corruption in the judiciary.

UNDERSTANDING THE JUDICIAL CORRUPTION IN ALBANIA

According to a general definition, corruption is "the misuse of public office or entrusted power for private gain" (Gloppen 2013, 69). Corruption in the judiciary can be seen in a narrow and broad sense. From a narrow perspective, corruption is associated with the judge who gives an unfair decision in favor of the party who pays a sum of money (bribe). In her book, book 'Technology for Justice: How Information Technology can Support Judicial Reform', Reiling (2009) defines corruption in courts and judiciaries as "an improper use of judicial power for private gain, resulting in decisions that are not impartial" (p. 216). However, today judicial corruption has to be seen in a broader sense. Judicial corruption involves dishonest, fraudulent or unethical conduct by a judge to acquire personal benefit or benefit for third parties (CCEJ 2018, 2-3). In Gloppen's view (2013), judicial corruption includes "all forms of inappropriate influence that may damage the impartiality of justice and may involve any actor within the justice system, including lawyers and administrative support staff" (p. 69). Furthermore, judicial

corruption can be in a kind of sexual favors, offering “furtherance of political or professional ambitions” (Gloppen 2013, 69) or avoiding something undesired in the form of threats. For this reason, to prevent judicial corruption, judges’ integrity must be strengthened to increase the spirit of respect for the law and impartiality in decision-making from any political influence.

Albanian Criminal Code (ACC) contains two types of regimes concerning judicial corruption. Firstly, Albanian legislator has introduced two specific provisions concerning passive and active corruption of Albanian judges, prosecutors and other justice officials (Articles 319 and 319ç). Also, Albanian Criminal Code contains provisions regarding the passive and active corruption of international judges, arbitrators or other international officers (Articles 319/a; Article 319/b; Article 319/c; Article 319/d; Article 319/dh and Article 319/e).

Article 319 ACC foresees the active corruption of judges, prosecutors and other justice officials. This Article stipulates that:

Direct or indirect promising, proposal or offering of any irregular profit, for oneself or a third party, to a judge, prosecutor or any other employee of the judicial bodies to perform or omitting to perform an action relating to their duty, is punishable with a prison term of one to four years.

Article 319/ç foresees the passive corruption of judges, prosecutors and other justice officials. It reads as follows:

Direct or indirect solicitation or reception of any irregular benefit or any such offer for oneself or a third person by a judge, prosecutor, or other employees of the judicial bodies, or acceptance of an offer or promise deriving from an irregular benefit by the judge, prosecutor or other officials of the judicial bodies for performing or omitting to perform an action relating to their duty or function is punishable with a prison term of three up to ten years.

It can be noticed that ACC follows a broad approach concerning judicial corruption without being limited to material benefits or narrowly personal benefits. Also, both provisions imply that any intervention in the form of “promising, proposing or giving an irregular benefit” made to the judge may come by any person and not necessarily by the parties in the process (Law 7895/1995 as amended, Articles 319 and 319/ç). Thus, when talking about the prevention of corruption in the Albanian judiciary, it will refer to the prevention of interventions by the parties in the process and other individuals working in the judiciary system or not.

To fight and prevent corruption, it is important to know the causes that have developed this phenomenon. Each society has its particularities. In the case of Albania, the causes of corruption have been influenced by: i) the historical context; ii) political developments; iii) the degree of economic and cultural development, iv) the degree of consolidation of the principles of the rule of law and iv) the quality of legislation and the level of its implementation. The remaining part of this section sheds light on the causes contributing to corruption in the Albanian judiciary.

Firstly, according to the Group of High-Level Experts, the system of salaries, remuneration and social and health care of judges, before the implementation of the 2016 judicial reform as one of the means to guarantee the independence and impartiality of their task

does not meet the necessity of adequate and duly financial treatment (GHLE 2015b, 75). For years, the budget dedicated to the judiciary system has been one of the lowest among the Council of Europe member states, while salaries have been among the lowest in Europe. According to the 2012 CEPEJ Evaluation Report, “the public budget allocated to courts and public prosecution in Albania is one of the lowest among the Council of Europe member states. Albanian courts and prosecution are allocated €6.1 per capita, whereas the Council of Europe median is €42 per capita” (quoted in Muižnieks 2014, 4-5). The Albanian judge, before the implementation of the 2016 judiciary reform, was paid a gross annual salary of €7350 at the beginning of their career and €14700 at the end of their career, whereas the Council of Europe median is €32704 and €57909 respectively (Muižnieks 2014, 6).

The primary goal of the 2016 judiciary reform was to fight corruption within the judiciary system and restore public trust in justice. To achieve this goal, one of the measures was increasing the budget dedicated to the judiciary system and the salary level. As of 2019, the salaries of judges and prosecutors were increased (more than double the existing ones), bringing them to an acceptable level compared to the importance of the work and the responsibility of the position as a judge/prosecutor (Law 96/2016 as amended, Article 12). While the salaries have been increased, still five years after the implementation of the reform, the budget dedicated to the judiciary is at the level of 89% of the budget requested by the High Judicial Council (HJC 2021, 100).

Secondly, the Albanian judiciary system lacked a transparent, merit-based appointment system and judges’ evaluation. The High Council of Justice (HCJ - Këshillii Lartëi Drejtësisë) was the main institution concerned with ensuring the integrity of the Albanian judiciary. The HCJ was tasked to make decisions concerning appointments, dismissal, transfer, evaluation and disciplinary liability of judges and chairpersons of the courts of the first instance and the courts of appeal and performs other duties determined by law.¹ It was composed of 15 members, respectively: the President of Albania as head of HCJ, the Ministry of Justice as deputy head of HCJ; the head of High Court; 3 members elected by Parliament and 9 members elected by the National Conference of Judiciary. For several years, HCJ failed to make the appointment, career promotion and transfer of judges and prosecution transparent. Such lack of transparency created a perception that the appointment, career promotion and transfer of judges and prosecution are not based on merit or a career system but on clientelism connections (GHLE 2015b, 59). Such political involvement in the judges’ appointments endangers the independence and effectiveness of the judiciary.

Thirdly, the presence of the Minister of Justice has raised concern about the possibility of Executive influence as regards “matters relating to the transfer and disciplinary measures taken in respect of judges at the first level, at the appeal stage and prosecutors” (Venice Commission 2007, para. 33-34). According to Law 8811/2001 (abrogated) and Law 8678/2001, only the Minister of Justice was responsible for initiating disciplinary proceedings against judges. Moreover, as a member of the HCJ, the Minister of Justice participated in disciplinary proceedings and proposed disciplinary sanctions. Still, he did not participate in the voting on a

¹Law 8811/2001, ‘For Organization and Functioning of High Council of Justice’ [2001] OJ 9 (abrogated).

disciplinary sanction.² Such power given to the Minister of Justice has created a perception, even within the judiciary, that the judiciary system was corrupted and depended on political influence. In a survey conducted in October 2012 with 58% of the total number of judges, “25% of them shared the opinion that the justice system is corrupt, and 58% believed the system was perceived as corrupt. 50% of judges thought the judicial system was not liberated from political influence” (GHLE 2015b, 10).

Fourthly, the professional evaluation of judges carried out by the HCJ has been criticized as not being based on objective criteria and merits. The HCJ had the authority to evaluate judges. While the HCJ has used several qualitative and quantitative criteria for the evaluation, it lacked a proper legal base where these criteria have been clarified (Muižnieks 2014, 8). Such evaluation was just a formality.

Fifthly, the judiciary system lacked efficiency and transparency in controlling and assessing judges’ assets. Since 2003, judges have been subject to the declaration of assets and private interests.³ However, the vetting process showed that the control system was ineffective, as 62% of vetted judges and prosecutors did not pass the wealth test, not justifying the declared assets with legal sources (Commission 2021b).

Sixthly, the Albanian judiciary system has suffered from a general efficiency. According to the Group of High-Level Experts, as of September 2014, 70% of complaints against judges with the HCJ concerned the length of court proceedings. Likewise, the number of complaints received by the Ombudsman against judges was relatively high. So far, nearly 50 cases against Albania have been deposited to the European Court for Human Rights related to the excessive length of judicial proceedings (GHLE 2015b, 103). Even after the 2016 judicial reform’s implementation, judicial efficiency remains the ‘Achille heel’. The workload of the judges and the backlog accumulated for years have undermined the principle of access to justice (HJC 2021, 75-94).⁴ As noted by the 2021 HJC Annual Report, the Courts of the First Instance, the general jurisdiction, has functioned with 70% of judges, while the Administrative Court of First Instance has functioned with 87.4% of judges. The absence of judges due to the vetting process has increased the backlog: 36.579 cases in the courts of the first instance, 6.278 cases in the Administrative Court of First Instance and 35.822 cases (HJC 2021, 79-89).

Eighthly, the judiciary system lacked physical infrastructure, and judges’ working conditions were uncomfortable. Due to the limited number of courtrooms, most of the court sessions were held in the judges’ offices. Until 2013, when the Code of Civil Procedure was amended, the court minutes’ were kept in writing by the secretaries (Law 122/2013), while the audio system was implemented relatively late and did not function simultaneously in all the courts of the country (GHLE 2015b, 77).

²Law 8811/2001, ‘For Organization and Functioning of High Council of Justice’ [2001] OJ 9 (abrogated); Law 8678/2001, “On the organisation and functioning of Ministry of Justice in the Republic of Albania” [2001] OJ 27 as last amended by Law 40/2017 [2017] OJ 85.

³Law 9049/2003 ‘On the declaration and audit of assets, financial obligations of elected persons and certain public officials’ as last amended by Law 45/2014 [2014] OJ 74.

⁴According to HJC (2021) Annual Report, a civil case is judged for an average of 119.7 days (Court of First Instance) and 1426 days (Court of Appeal). The criminal case is judged for an average of 68.1 days (Court of First Instance) and 361.4 days (Court of Appeal). In the High Court, the average of judged cases are as follows: 6134 days civil case; 1688 days criminal case and 3990 days for administrative cases.

The parties received information about the dates and times of the court sessions in the Court of Appeal and the High Court inside the court buildings. Meanwhile, although it was legally guaranteed that decisions should be announced publicly, difficulties in accessing reasoned decisions were encountered due to the workload of judges and difficulties in anonymizing personal data displayed in decisions. The lack of transparency caused by limited access to information about the judicial system facilitates corrupt behavior and is, therefore, often an important trigger for corruption (CCEJ 2018, 3).

Finally, although for years the judiciary has been seen as one of the sectors with high corruption, the number of judges convicted for corruption remains very low. One of the main reasons for such a lack of impunity is the immunity that judges enjoyed. This system of immunities prohibited prosecutors from investigating or prosecuting corruption allegations until they made a public request to the High Council of Justice (Muižnieks 2014, 6). Another reason is related to the general culture of impunity that has prevailed for a long time for corruption offenses.

JUDICIAL REFORM IN ALBANIA IN 2016

Political will and financial resources are needed to prevent corruption in the judicial system and establish an independent and impartial system. Successful models for fighting corruption in the judiciary come from countries where the judicial system is characterized by high integrity, accountability, transparency, independence and impartiality (Michel 2009, 4).

Since the fall of the communist regime, the judicial system has failed to gain the public's trust or meet international standards. Despite several legal initiatives to reform in compliance with international standards, the public and the judicial body have perceived the judicial system as deeply corrupt (IDRA 2016; GHLE 2015b, 10). In the 2015 EC Progress Report, the Commission noted the following obstacles in the judiciary system: i) the high level of corruption, ii) the lack of independence; iii) the lack of transparency; and iv) the excessive length of proceedings (Commission 2015, 13-15). According to the Commission, the state institutions dealing with corruption "remain vulnerable to political pressure and influence" (Commission 2013, 41). In this situation, with the pressure of international actors, the new government proclaimed the reform of the judicial system as a priority.

In November 2014, the Assembly created the Special Justice Reform Commission, which analyzed Albania's judiciary system through a Group of High-Level Experts (GHLE 2015b). The Group of High-Level Experts, composed of well-known international and national experts, had the following tasks: i) to analyze the current situation of the judicial system to identify obstacles to be addressed; ii) to determine the objectives of the judiciary reform by drafting a strategic document; iii) to propose a legislative package to address the identified problems (GHLE 2015a; GHLE 2015b). In June 2015, the Group of High-Level Experts presented the analytical document. Structured in 10 chapters (GHLE 2015b),⁵ the analytical document identified the following

⁵ The analytical document was structured in 10 chapters. It was a comprehensive document that analysed the constitutional court (Chapter 3); judiciary system (Chapter 4); criminal justice system (Chapter 5); education legal system (Chapter 6); justice system for legal services (Chapter 7); anti corruption measures (Chapter 8); financing and infrastructure in judiciary (Chapter 9).

problems in the judiciary system: i) high level of corruption; ii) lack of independence and transparency; iii) lack of professionalism; iv) lack of efficiency; and v) lack of public trust in the judiciary system (GHLE 2015a, 10).

After 18 months of technical work and tense political negotiations, on 22 July 2016, Albania's Parliament adopted a long-awaited judicial reform. Considered one of the most radical changes in legislation in 30 years, the judicial reform aimed to address all the obstacles identified by analytical documents and international reports. The implementation of this judicial reform would fulfill the following objectives in the judicial system: i) increase access to justice through the reorganization of courts; ii) guarantee the independence and effectiveness of the High Court; iii) good governance of the judiciary in the function of its independence, accountability, efficiency and transparency; iv) consolidation of the guarantees of the status of the judge, responsibility and accountability in the exercise of the duty; v) guarantee of the transparency of the judicial power and the right to a fair trial; vi) increase the efficiency of judicial administration; vii) create a new relationship of Albanian judicial system with the European courts, and viii) increase the capacities for implementing court or arbitration decisions (GHLE 2015a, 10-19).

In this context, the first measure proposed to restore the public trust in the judiciary was the re-evaluation process of all judges, prosecutors, and their legal advisers (known as the vetting process). Two particular institutions were created for vetting: the Independent Qualification Commission and the Appeal Chamber.⁶ These two institutions were not part of the existing ordinary court system. They were entitled to vet the judges and prosecutors in three important aspects: i) the assets of judges and prosecutors, ii) the detection or identification of their links to organized crime, and iii) the evaluation of their work and professional skills (Law 84/2016, Art 4). The vetting process began operational in February 2019, with one and a half delay, due to the appointment procedure of the Independent Qualification Commission, the Appeal Chamber members and supporting staff. As of 2022, about 1/3 of the judges/prosecutors did not pass the vetting process. According to Article 197b point 8 of the Constitution of Albania as amended, the vetting process was supposed to start in 2017 and end in 2022 for the first instance (Independent Qualification Commission) and 2026 for the second instance (Appeal Chamber). Due to the failure to vet all judges/prosecutors within the stipulated date (end of 2022), its mandate was extended (Law 16/2022). As of 29 August 2022, 183 judges/prosecutors have been confirmed in office, and 220 judges/prosecutors have been dismissed. 79 judges/prosecutors voluntarily have resigned (Reporter.al 2022).

Furthermore, the 2016 judicial reform provided a deep legislative reform affecting the constitutional provisions and other laws concerning judicial governance, the status of judges, professional training, career advancement, accountability, and discipline.⁷ The amendment

⁶ Law 8417/1998 "The Constitution of the Republic of Albania" [1998] OJ 28 as last amended by Law 16/2022 OJ 37, Annex B; Law 84/2016: "On the transitional re-evaluation of judges and prosecutors in the Republic of Albania" [2016] OJ 180

⁷The 2016 Judicial reform abrogated and amended the following laws in force at that time: Law 8417/1998 'The Constitution of the Republic of Albania' [1998] OJ 28 as last amended by Law 16/2022 OJ 37 (The Constitution of Albania); Law 9049/2003, 'On the declaration and audit of assets, financial obligations of elected persons and certain public officials' [2003] OJ 31 as last amended by Law 105/2018; Law 8678/2001, "On the organisation and functioning of Ministry of Justice in the Republic of Albania" [2001] OJ 27 as last amended by Law 40/2017 [2017] OJ 85; Law

brought several novelties to the judiciary system. Firstly, the High Judicial Council (HJC) and High Prosecutorial Council (HPC) were established as two structures dealing with judges and prosecutors. The appointment of members and the composition of these bodies guarantees independence from political influence.⁸ Furthermore, the High Inspector of Justice (HIJ) was established with the sole responsibility: i) to verify claims against judges/prosecutors and ii) begin the disciplinary process against judges/prosecutors, HJC and HPC members and General Prosecutor (Law 115/2016 as amended, Article 194). Thus, in contrast to the previous system, with the judiciary reform, the disciplinary measures process is more independent (Law 96/2016 as amended).

Secondly, the 2016 judicial reform consolidated the status of the judges by adopting specific legislation. The Law 96/2016 as amended, for the first time, provided in more detail: i) the rights and obligations of the judges; ii) acceptance to the School of Magistrate and the procedure of appointment; iii) career development; iv) ethic and professional evaluation; and v) disciplinary responsibility.

Thirdly, the 2016 judicial reform established separate structures to investigate and deal specifically with corruption and organized crime. These specific structures are as follows: i) Special Structure Against Corruption and Organised Crime (SPAK); ii) National Bureau of Investigation and iii) Court of First Instance and Second Instance for Organised Crime and Corruption (Law 95/2016 as amended).

Fourthly, as of 2018, the budget for the judiciary sector has been increased. Before the 2016 Judiciary Reform, the expenditures for the judiciary sector were significantly below the average of the European countries, respectively 0.27% of the GDP. During 2019 and 2020, the budget for the judiciary sector has been increased to an average of 0.35% of GDP. The budget allocated for 2021-2023 is foreseen to exceed 0.4% of GDP. While such an increase is significant, Albania remains far from the average expenditure on the judiciary in EU countries with 0.69% (ISPL 2022).

DIGITIZATION OF THE JUDICIARY AND THE PREVENTION OF CORRUPTION

The interface between law and technology is a growing sphere. Nowadays, information and communication technology is being used in every sector. It has profoundly changed the way humanity interacts and communicates. Also, ICT has increased accuracy and made information easily accessible. Governments are investing in ICTs to modernize various sectors, including the judicial system. Introducing and using ICT is believed to radically change the administration of justice systems and deliver justice more effectively and quickly at a lower cost to all European citizens (ENCJ 2016). Researchers suggest that the use of ICT can be used in the judiciary system to enhance efficiency, access, timeliness, transparency and accountability and to guarantee citizens' rights for equal access to justice (Velicogna 2007; Fabri 1998; Reiling 2009,

9877/2008 'For Organisation of Judicial branch in the republic of Albania' [2008] (abrogated); Law 49/2012, 'For Organisation and Functioning of Administrative Court and adjudication of administrative disputes' [2012] OJ 49 (abrogated); Law 8811/2001, 'For Organization and Functioning of High Council of Justice' [2001] OJ 9 (abrogated); Law 9367/2005, 'On the prevention of conflicts of interest in the exercise of public functions' [2005] OJ 31 as last amended by Law 44/2014; Law 8136/1996, 'For School of Magistrate' [1996] OJ 21 (abrogated).

⁸ For more details on the appointment procedure see Parts 2 and 3 of Chapter 1 Law 115/2016 as amended.

257-279; Hodson 2019; Reynders 2021; Cui 2020; Shahshahani 2018). According to Reiling (2009, 48), the IT for courts can be distinguished into technology for: i) the courtroom (equipment to support judicial process inside the courtroom); ii) the back office (equipment or applications to support the processes that are related to case administration, document production and court management); and iii) external communication (equipment or applications to support communication with parties and the general public outside the courts).

While technology has been met with resistance (Kehl *et al.* 2017), it has directly impacted the judges and court staff, the management systems, court administration, human resources and online libraries. In 2011, the CCJE welcomed the use of ICT to improve the administration of justice, access to justice, case management and the evaluation of the justice system. The CCJE emphasized that “technology must be suitable for the judicial process and all aspects of a judge’s work. Judges should not be subject, for reasons solely of efficiency, to the imperatives of technology and those who control it. Technology also needs to be adapted to the type and complexity of cases” (CCJE 2011, para. 34).

In the case of Albania, the judiciary has used ICT for an extended period. In 2016, CEPEJ published a thematic report on the use of information technology in the judicial systems of the Council of Europe’s Member states. According to this report, based on 2014 data, the use of technology in the Albanian judiciary was in the early stages. The legal framework concerning the use of technology in courts was rated 1 out of 10 points, governance of IT strategy 2.7 out of 10 points, and the level of IT equipment in court 3 out of 10 points (CEPEJ 2016, 85). Most of the IT equipment were computers, case management systems (ICMIS, Ark-IT, CICMIS), audio recording and software programs to manage case courts.

The analytical document acknowledged that Albanian judicial authorities were unprepared to use the ICT system (Bühler and Johnsen 2015, 11). A partial measure was taken, and the lack of training did not deliver the expected results of ICT to fight corruption. The budget allocated for digitization was the lowest among the Council of Europe members (Ministry of Justice 2015, 75).

The 2016 judicial reform recognized the use of ICT in the judicial system to increase the efficiency of the judiciary. The Strategic Document of Judiciary Reform emphasized the need to modernize the system by implementing new technologies and digitizing several processes related to the courts’ daily activity. Special attention was put on the digitalization of the following activities: i) the deployment of ICT in every office and every investigation and trial process; ii) the establishment of online communication of the institutions of the system; iii) strengthening the data protection system; iv) creating a unique national archive of judicial decisions; v) creating a unified national statistical register with system data (GHLE 2015b, 50).

Furthermore, the 2016 judiciary reform introduced a legal framework concerning the use of ICT in the judiciary. As amended, Article 147a of the Albanian Constitution foresees establishing an ICT structure near the courts. Article 94 of Law 115/2016 tasked the High Judicial Council to adopt standard rules for the efficiency of justice, *inter alia*, a guideline on using information technology and taking evidence in courts. The first step to digitizing the judiciary system was establishing the Information Technology Center (QTI). The QTI is the regulatory and standard-setting body in the field of information technology for the entire justice system (DCM 972/2020). Both High Judicial Council and the QTI shall be responsible for the following:

- a) developing or participating in the information technology electronic system for use in the Office of the High Inspector of Justice for the management, coordination, monitoring and supervision of the use of information technology and defining the applicable electronic case management system.
- b) establishing rules for the creation, operation, interoperability and security of the electronic case management system and the protection of personal data saved and used by the system;
- c) maintaining the information technology electronic system of cases following the rules laid down in letter 'b', of this article;
- ç) updating the system periodically to ensure the implementation of functional requirements of inspection and other bodies within the justice system, as well as to reflect amendments to procedural laws;
- d) making sure that the information technology electronic data management system generates statistical information necessary for the work of the Inspector and other bodies.
- dh) ensuring the accuracy and security of data and personal data protection;
- e) setting rules for the mandatory use of the electronic case management system by courts, the unification of data entry and data accuracy (Law 115/2016 as amended, Article 216).

While the 2016 judicial reform addressed the significant concerns that already existed, using ICT in the judiciary is considered a tool to increase judicial integrity in different aspects. Firstly, appointing judges based on meritocracy is essential for independence and judicial integrity. For this reason, the explicit criteria for appointment to office and transparency of the procedure for the appointment, promotion or transfer of judges guarantee that professional and independent persons will be in the position of judges. Judges' selection, promotion, tenure and transfer are based on transparent procedures. The respective laws and bylaws are easily accessible on the HJC website (HJC 2022a). The HJC plenary meetings can be accessed online by interested persons through the Zoom platform. Furthermore, the audio recording and minutes of the meeting are published on the official HJC website, easily accessed by interested parties (HJC 2022b).

Secondly, using technology in the case assignment affects the impartiality of the judge and the prevention of corruption. According to Law 98/2016, as amended, the assignment of cases is done by an electronic lottery based on the principles of transparency and objectivity (Art 25). Using the electronic case allocation, judges are selected randomly, avoiding a possible conflict of interest or political influence. The High Judicial Council is responsible for determining more detailed rules on the program and procedures for assigning cases. In contrast, the High Inspector of Justice shall conduct regular inspections on the case assignment and check the electronic system reports at least once yearly (Law 98/2016 as amended, Article 25).

Thirdly, the automation of the case management system in the courts is seen as an effective tool in ensuring judicial independence, impartiality, higher accountability, transparency and time management (Michel 2009, 10). Also, the electronic case management system provides further oversight by identifying irregularities during the process (Jennett 2014).

Since 2002, the automated case management system has enabled Albanian courts to properly manage cases with internet access for all judges and provided online access to leading court rulings, primarily the decisions of the High Court. However, it has never been fully functional and is not used by all the courts across Albania (ALTRI 2014; HJC 2020, 41). The ICMIS missed main functionalities related to case registration, case assignment to the judges by an electronic lottery and publication of the decision. Due to these missing functionalities in the ICMIS, Albanian courts have performed double work, keeping the record in writing (HJC 2020, 41). Currently, after the HJC enabled 84 strategic changes in the case management system, the use of ICMIS has been simplified, enabling the users with '1-click' to generate information about the court file, the minutes of the hearings, the list of plans and all case decisions (HJC 2021, 109). Interested parties can obtain services or specific documentation (court decisions, copies of court files and documentation from the court archive) by filling out the online application form. The requested document can be withdrawn, within 48 hours, near court reception (HJC 2021, 111).

According to Article 216 of Law 115/2016 as amended, the HJC has decided to create a new automated case management system (CMS) as a responsible institution for automation. CMS will be a management system of data and documents for all courts in Albania and will facilitate updating the case management system with advanced computer programs (HJC 2021, 114). According to HJC, the CMS is expected to increase, in addition to efficiency, the accountability and involvement of court users by: i) providing one-stop access to court decisions, ii) enabling electronic filing; iii) electronic payment; iv) electronic notifications; v) access to digital files; as well as vi) the development of the use of electronic files (e-filing system) by all actors of the justice system (such as prosecutors' offices, bailiffs, lawyers) (HJC 2021, 114).

Fourthly, generating reliable statistics and making them available is important to assess the judiciary's efficiency and to measure judges' workload and performance. By producing accurate statistics about the system of performance, it can evaluate the causes of the delay and analyze whether the pattern of excessive delays has a corruption cause (Michel 2009, 11). On 11 February 2021, HJC adopted a guideline for maintaining and producing statistical data for monitoring the courts' productivity and efficiency (HJC 2022c; HJC 2021, 113).

Fifthly, the lack of transparency concerning the information relating to the judicial system triggers corruption behavior (CCEJ 2018, 3). As noted by CCEJ, "a (traditionally) high degree of transparency and integrity presents the best safeguard against corruption" (CCEJ 2018, 3). In this context, the transparency of judicial processes plays a vital role in reducing corrupt behavior. In the framework of increasing transparency and accountability, the following measures have been digitized:

- the use of courtrooms through 'Calendar Management System PAKS+', which addresses the problem of holding court sessions in judges' offices, which caused a lack of transparency and accountability (HJC 2022c, 24);
- the equipment of the courtrooms with the audio system which records the sessions and through the 'Backup Chain' application enables the transfer of the audio recordings from the servers of the courts to the central server at the Albanian National Agency of ICT (HJC 2022c, 24);
- the 'Kioska' electronic system, which enables electronic display in the court lobby of the calendar of sessions, as well as the details on cases (HJC 2022c, 24); and

- the access to the file information and anonymized court decisions by the parties through the secure identification method (HJC 2021, 111).

Finally, considering that one of the goals of 2016 judiciary reform was to increase the quality of service in the courts and regain the public's trust, Article 94 (5) of Law 115/2016 as amended, stipulated the development of surveys on the assessment of court services by court users. These surveys will be conducted through an online questionnaire that measures the satisfaction of court users (HJC 2021, 113). Despite fulfilling a legal obligation, the questionnaires are important for the judicial system to understand the quality of services provided to citizens and legal professionals.

CONCLUSION

According to various surveys, the perception of corruption in Albania is very high. The judiciary system has been one of the most affected sectors for years. As noted by (CCJE 2018, para. 18), the effective prevention of corruption in the judicial system depends, firstly, on the political will and, secondly, on the institutional, infrastructural and other organizational safeguards for an independent, transparent, and impartial judiciary. In July 2016 Albanian Parliament, supported by the EU and USA, unanimously adopted a judicial reform with a twofold purpose: i) to 'clean' the system from corrupted judges/prosecutors, as well as ii) to increase the court efficiency, independence, impartiality and integrity of the judiciary. From the institutional perspective, the judicial reform in 2016 introduced a new judicial governance system for appointing, promoting, and evaluating judges and disciplinary measures. Also, it established separate structures to investigate and deal specifically with corruption and organized crime. On the other hand, the budget for the judiciary system was increased, and infrastructure improved.

Still, 6 years later, the judiciary system is considered by citizens as corrupted. It is essential to gain public trust in the impartiality of the judiciary, using mechanisms that promote transparency, accountability and public involvement in judicial-related activities and procedures. To increase public trust and avoid corruption, it is required to increase transparency, accountability and citizens' access to information. One way of increasing citizens' access to justice is by using information technology.

ICT in the judicial system is considered indispensable to the internal organization of judicial systems and the efficient delivery of judicial services. The experience of developed countries has shown that digitalization of the court system has i) made information and documents accessible online to interested parties; ii) analyzed judges' workload and causes of delays; iii) introduced consistency and reliable data and statistics, and iv) facilitated the communication and collaboration between different parties.

While developed countries are introducing Artificial Intelligence or e-courts for small claims, the use of ICT in Albania is still limited. The digitalization of several judicial processes or the use of automated case management since 2002 (Ark-IT or CCMIS) has not produced the desired results due to several factors such as lack of legislation on the use of ICT in the judiciary system, absence of unified automated case management system; lack of appropriate education or training of judiciary staff to use ICT and lack of reinvestments on ICT equipment in courts.

The judicial reform in 2016 regulated the use of ICT in the judiciary system for the first time. It introduced legal measures concerning the use of ICT in the judiciary system, which complies with the recommendations of Greco, CEPEJ, and the Council of Europe regarding the prevention of corruption and countries characterized by a judicial system with integrity, low level of corruption and high trust of citizens in the judicial system. Furthermore, it tasked HJC as a responsible institution with QTI to draft guidelines and strategies for digitalizing the judiciary system. At present, the application of ICT in the court system of Albania is limited, mainly reflected in the following three aspects: i) allocation of court cases through the 'Kioska' application; ii) use of an automated case management system; and iii) several features to increase access to justice and improve quality of the courts. E-filing and entire electronic case processing by interested parties (judges, prosecutors, police and lawyers) are the challenges to digitizing court access. Introducing these ICT measures will increase integrity and prevent corruption in the judicial system.

COMPLIANCE WITH ETHICAL STANDARDS

Acknowledgments:

The authors would like to acknowledge that an initial draft of this article has been presented at the International Conference on 'The Role of Technology in Preventing and Combating Organized Crime, Financial Crimes and Corruption' organized by OSCE Presence in Albania, Faculty of Law (University of Tirana) and Centro di Ricerca e Cooperazione con l'Eurasia, il Mediterraneo e l'Africa Sub-sahariana (Sapienza University di Roma) 21 June 2022.

Funding:

Not applicable.

Statement of Human Rights:

This article does not contain any studies with human participants performed by any authors.

Statement on the Welfare of Animals:

This article does not contain any studies with animals performed by any authors.

Informed Consent:

Not applicable.

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