

The compatibility of the law “On Social Security in the Republic of Albania” with the European Convention on Human Rights

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Abstract. This research examined the compatibility of Albanian social security legislation with both the Constitution of the Republic of Albania and the European Convention on Human Rights, focusing specifically on the legal issues that arose following the landmark “Dauti v. Albania” case. Using legal-normative analysis and comparative legal assessment, in this pivotal case, the European Court of Human Rights determined that Albania violated Article 6 of the Convention by denying effective judicial review of Medical Commission decisions on disability benefits. The study analyses Law No. 7703 “On Social Security in the Republic of Albania” and its amendments through Law No. 10447, which were implemented in response to the European Convention on Human Rights decision. Despite the Committee of Foreign Ministers of the Council of Europe issuing a report stating these amendments had addressed the Court’s findings, the research reveals that significant compatibility issues persist. The Administrative College of the High Court of Albania later determined that despite the legislative changes, the law’s incompatibility with Article 6 of the Convention continues, referring the matter to the Constitutional Court for an incidental review. This case ultimately resulted in a unifying decision of substantial importance in Albanian judicial practice, with the High Court affirming that access to courts for disabled persons must be guaranteed regardless of any legislative limitations. The research identified ongoing gaps in three categories: structural (imperfect appointment mechanisms for Appeals Commission members), procedural (inequality of arms and limited accessibility), and substantive (inconsistent standards for reviewing medical determinations). The study concluded that while formal amendments have been made, Albania must implement further reforms to ensure the practical effectiveness of judicial protection in social security cases, particularly for vulnerable groups such as persons with disabilities

Keywords: judicial review; administrative appeals; fair trial; medical commission; disability benefits

Introduction

Social security in Albania is an important component of the welfare state, aimed at protecting individuals from various life risks. The historical development of the social security system in Albania reflects the transition from a Soviet-style model to a system more aligned with the principles of a market economy, influenced by international standards and the process of joining the European Union. This transformation included legislative reforms and institutional restructuring. The reforms launched in the 1990s were due to the need to adapt to the conditions of the market economy, which indicates the awareness of the need for a new regulatory

framework. Given that Albania is a signatory to the European Convention on Human Rights (1950) (ECHR) and intends to join the EU, the harmonisation of its national legislation, including social security legislation, with European human rights standards is of particular importance. This coordination is important not only for the European integration process, but also for ensuring the fundamental rights of the country’s citizens. Analysis of scientific literature indicates growing researcher interest in the compatibility of Albanian legislation with European standards, though current research exhibits significant gaps in comprehensive analysis.

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Existing studies can be grouped into three main thematic areas: institutional framework challenges, financial sustainability issues, and procedural rights implementation.

Regarding institutional frameworks, T.N. Kortoci and S. Macukulli (2021) examined structural deficiencies in Albania's social security scheme, particularly highlighting the insufficient independence of the Appeals Commission. This institutional perspective was expanded by S. Guzina and E. Tiri (2023), who noted progress in regulatory framework reforms while identifying ineffective implementation of new norms. I. Konini *et al.* (2024) contributed to this area by examining fair trial principles in Albanian public security legislation that have potential application to social security systems. From the financial sustainability perspective, A. Mustafa and M. Gerovska-Mitev (2022) revealed insufficient funding for social programs in Albania compared to European indicators through comparative analysis of social protection expenditures across Western Balkan countries. This financial dimension is further contextualised by A. Pjetri (2024), whose analysis of inheritance law reforms in Albania demonstrates how economic constraints systematically affect legal implementation across multiple domains of social protection. O. Hoxhaj and B. Halilaj (2025) expand this perspective by examining how resource allocation challenges similarly affect digital governance frameworks designed to support social welfare administration, identifying substantial gaps between policy objectives and implementation capacity.

Concerning procedural rights implementation, I.K. Melo and N. Rusi (2024) established connections between property rights protection and social security by examining government policies within ECtHR practice contexts. E. Tiri and E. Aliaj (2024) examined harmonisation of legislation with European standards through the lens of EU integration processes. These procedural perspectives are enriched by G. Riza (2021), who documents similar patterns in Albania's implementation of European data protection standards, revealing how formal legislative compliance often precedes effective practical implementation. E. Leci (2023) provides additional evidence of this implementation gap in her comprehensive analysis of privacy rights compliance, demonstrating that Albanian authorities consistently struggle to translate adopted European legal frameworks into effective administrative practices – a pattern that parallels challenges in social security administration.

Despite existing contributions, significant research gaps remain in evaluating post-“Dauti v. Albania” (2009) legislative changes against ECHR (1950) standards. Current studies mainly focus on isolated aspects rather than offering a holistic analysis of Albania's compliance with international obligations. There is a notable lack of research on the practical implementation of these changes, especially regarding appeal mechanisms, judicial review effectiveness, and procedural guarantees. Additionally, the absence of comprehensive studies on the intersection of social security legislation and ECHR requirements, particularly concerning the right to a fair trial, further highlights the need for more thorough exploration in this field. The purpose of this research was to assess the compatibility between Albania's “On Social Security” (1993) law and European Convention on Human Rights (1950) standards, with particular focus on post-reform implementation gaps. To achieve this purpose, the following research tasks were addressed:

1) to conduct a comprehensive examination of the normative framework and methodological approaches for assessing the Albanian social security legislation's alignment with European standards;

2) to evaluate key jurisprudence of the European Court of Human Rights and identify structural, procedural, and substantive gaps in legislative compliance;

3) to develop evidence-based proposals for strengthening judicial and administrative oversight mechanisms in Albania's social security system.

Materials and methods

The study of compatibility between Albania's social security law and the European Convention on Human Rights was based on analysis of key legislative documents, including Law No. 7703 “On Social Security in the Republic of Albania” (1993). Particular attention was given to Article 39/1 of Law No. 7703, which governs the appeals process for Medical Commission decisions on disability determinations, and Articles 35-38 concerning disability benefit qualification mechanisms. The analysis also focused on the structural provisions in Articles 71-73 regarding the composition and functioning of the Appeals Commission. These acts were examined for compliance with Article 6 of the European Convention on Human Rights (1950). The pivotal case of *Dauti v. Albania* (2009) established that Albanian legislation regarding appeals of Medical Commission decisions failed to meet standards for independent tribunals.

The international framework was examined through documents including the European Social Charter (1996), the European Commission (2024) working document, and materials from the United Nations Human Rights Council (2025). Contemporary social protection measures were analysed through National Social Protection Strategy (2024) and the Action Plan for its Implementation (2024) and the National Action Plan for Equality, Inclusion and Participation of Roma and Egyptians in Albania (2022). Actual jurisprudence was studied through the case of *Strazimiri v. Albania* (2020), while regional context was provided by the Western Balkan economies report (Ymeri, 2023). Additional legislative context was provided by Law No. 9136 “On the Collection of Mandatory Social and Health Insurance Contributions in the Republic of Albania” (2003) on mandatory social insurance contributions. The system functions through mandatory contributions from employers, employees, and self-employed individuals, administered by the Social Insurance Institute, an autonomous state entity that provides protection against various contingencies including temporary disability due to illness, maternity, old age, disability, survivorship, employment accidents, occupational diseases, and unemployment. Case of *Le Compte, Van Leuven and De Meyere v. Belgium* (1981) established fundamental principles regarding what constitutes a tribunal under Article 6 of ECHR, while case of *Bentham v. The Netherlands* (1985) defined criteria for determining a body's independence. Albanian courts have increasingly incorporated these standards, referencing case of *Ramos Nunes de Carvalho and Sá v. Portugal* (2018) and case of *Morice v. France* (2015). Case of *Strazimiri v. Albania* No. 34602/16 (2020) demonstrates ongoing challenges in social protection implementation.

The methodological basis of the study was the formal-legal method, which made it possible to analyse the content of the legislation on social security in the Republic of Albania

and its changes. A detailed analysis of the normative provisions on the procedures for appealing the decisions of the Medical Commission on the determination of working capacity was carried out, in particular in the aspect of ensuring the right to a fair trial under the ECHR (1950). For example, this method enabled systematic examination of amendments to Article 39/1 of Law of Albania No. 7703 (1993) following the Dauti case, tracing how legislative language evolved to accommodate judicial review requirements.

The comparative legal method was used to compare the Albanian social security system with European standards developed through the case law of the European Court of Human Rights (2025). This method involved systematic juxtaposition of Albanian legal provisions with ECHR principles across multiple dimensions including procedural guarantees, institutional independence, and accessibility criteria. The comparative analysis was conducted through a structured matrix approach that evaluated each element of the Albanian system against corresponding ECHR standards, utilising a three-tier assessment scale (full compliance, partial compliance, non-compliance) with specific indicators for each category. This made it possible to identify discrepancies between national legislation and international requirements, in particular regarding the independence of bodies that consider disputes in the field of social security.

The system-structural analysis provided an opportunity to investigate the institutional structure of the Albanian social security system, including key institutions. The functional relationships between these bodies and their compliance with the requirements of independence and impartiality established in key legal precedents were assessed. This approach revealed hierarchical dependence patterns between Medical Commissions and Appeals Commissions that compromised institutional independence required by ECHR standards. The method of analysing judicial practice was key to the study. The decision of the European Court of Human Rights (2025) regarding Albania and other countries was analysed. The analysis of these precedents has made it possible to identify the standards that apply to social security systems in the context of human rights, including requirements for the independence of tribunals, equality of parties and access to justice. This method was applied through chronological and thematic categorisation of case law, tracing the evolution of tribunal independence requirements from foundational cases.

Results and Discussion

Methodological and legislative framework analysis. The primary materials examined included Law of Albania No. 7703 (1993) and its significant amendments. The initial reform occurred through Law of Albania No. 10447 (2011), which fundamentally modified Article 39/1 by removing provisions declaring Appeals Commission decisions as “final” and explicitly granting claimants the right to challenge these decisions in administrative courts. Subsequent amendments in 2023 introduced further refinements, including enhanced procedural timelines for appeals processing and expanded documentation requirements for medical assessments (Law of Albania No. 64/2023, 2023). These normative legal acts were systematically analysed for their alignment with Article 6 of the European Convention on Human Rights (1950), which guarantees the right to a fair trial. The pivotal European Court of Human Rights judgment in case

of *Dauti v. Albania* (2009) provided an essential interpretative framework for understanding the specific compatibility issues within the Albanian social security appeals system.

Supporting documents examined included Albania’s “National Social Protection Strategy (2024-2030) and the Action Plan for its Implementation” (2024), the European Commission (2024), and assessments by the United Nations Human Rights Council (2025). These materials collectively provided a comprehensive basis for evaluating Albania’s legislative alignment with European human rights standards in social security administration.

The Albanian social security system has undergone significant evolution since the post-communist transition, with Law of Albania No. 7703 (1993) establishing the foundational framework. This legislation, structured across nine sections, established a comprehensive social insurance system operating on a pay-as-you-go principle, providing protection against various contingencies including temporary disability due to illness, maternity, old age, disability, survivorship, employment accidents, occupational diseases, and unemployment. The system functions through mandatory contributions from employers, employees, and self-employed individuals, administered by the Social Insurance Institute, an autonomous state entity. Law of Albania No. 9136 (2003) provides the procedural framework for collecting these contributions, which fund the various benefit schemes. The system also includes provisions for voluntary social insurance, allowing individuals who are no longer mandatorily insured to continue their coverage.

A critical aspect of the legislation for this analysis concerns the procedural mechanisms for appealing decisions related to disability benefits. Prior to the 2011 amendments, Article 39/1 of Law of Albania No. 7703 (1993) established that decisions of the Medical Commission for Assignment of Work Ability Superior (MCAWA Superior) were final and could only be appealed to an Appeals Commission, with no provision for judicial review. Following the ECtHR’s judgment in *Dauti v. Albania* (2009), Law of Albania No. 10447 (2011) amended the original legislation to permit judicial review of these decisions, representing a significant alignment with ECHR Article 6 requirements.

The Albanian system’s structure reveals a bifurcated approach to social protection: contributory social insurance administered by the Social Insurance Institute and non-contributory social assistance managed by local authorities. This division creates potential gaps in coverage, particularly for marginalised groups and those in the informal economy. International assessments, including the Regional Cooperation Council’s review (Ymeri, 2023), have identified structural weaknesses including low unemployment benefit coverage, inadequate benefit levels, and limited child benefit provisions. While the ECHR (1950) does not explicitly guarantee a right to social security, several provisions have been interpreted by the ECtHR as applicable to social security systems. This interpretative framework has evolved through extensive case law, establishing clear standards that national social security legislation must meet to ensure compatibility with the Convention. Article 6 of the Convention, guaranteeing the right to a fair trial, has particular relevance for the procedural aspects of social security systems. The Court has consistently held that social security disputes fall within the scope of “civil rights and obligations” under Article 6(1), entitling claimants to have their cases heard by an “independent and

impartial tribunal established by law". The ECtHR's interpretation requires that administrative decisions affecting social security entitlements must be subject to judicial review by a body with "full jurisdiction" to examine both questions of fact and law. This standard was central to the Court's finding in *Dauti v. Albania* (2009) that the lack of judicial review for MCAWA Superior decisions violated Article 6.

Article 1 of Protocol No. 1 to the ECHR (1950), protecting the right to property, has been interpreted to encompass social security entitlements where these constitute a property interest. The Court has established that contributory benefits create a property interest, while non-contributory benefits may also fall within this protection if they constitute an enforceable right under domestic law. This provision requires that any interference with established social security entitlements must be lawful, pursue a legitimate aim, and maintain a fair balance between the general interest and protection of individual rights.

Article 14 of the ECHR (1950), prohibiting discrimination, applies in conjunction with other Convention rights and requires that social security systems operate without unjustified discrimination. The Court has applied this provision to cases involving differential treatment in access to or levels of social security benefits based on protected characteristics. The standards developed through ECtHR jurisprudence in case of *Le Compte, Van Leuven and De Meyere v. Belgium* (1981), case of *Bentham v. The Netherlands* (1985), and more recently Case of *Ramos Nunes de Carvalho and Sá v. Portugal* (2018) establish clear requirements for social security systems. These requirements include accessibility, whereby individuals must have effective access to judicial review of administrative decisions; independence, meaning tribunals deciding social security disputes must be

independent from the executive; fairness, requiring procedures to provide equality of arms and adequate opportunity to present one's case; and reasonableness, stipulating that any limitations on social security entitlements must be proportionate and justified.

Case law assessment and compatibility analysis. Following the *Dauti* case, Albania undertook a series of legislative and judicial reforms to address identified incompatibilities with ECHR (1950) standards. To provide a comprehensive overview of Albania's legislative response to ECtHR requirements, Table 1 presents the chronological evolution of social security legislation and related judicial decisions. This timeline illustrates the gradual alignment of Albanian law with European human rights standards, highlighting both progress achieved and persistent challenges in the reform process. The legislative trajectory follows a pattern of incremental reform prompted by external judicial assessment. While the 2011 amendments addressed the fundamental issue identified in the *Dauti* case by removing the "finality" provision, structural deficiencies concerning the appointment and independence of Appeals Commission members remained unaddressed. The judicial interpretation through the 2021 Unifying Decision helped clarify standards of review, but subsequent amendments in 2023 continued to focus on procedural refinements rather than fundamental structural reforms. This evolutionary pattern reveals a tendency toward achieving formal rather than substantive compliance with European standards. The reforms addressed the explicit requirements identified by the ECtHR while leaving underlying structural problems largely intact, creating a system that permits judicial review in principle but may still present practical barriers to effective protection of social security rights.

Table 1. Evolution of Albanian social security legislation in response to ECtHR decisions

Period	Legislative Act	Key Provisions	Compliance with ECtHR Standards
1993	Law of Albania No. 7703 (1993)	Establishment of a comprehensive social insurance system; decisions of the Medical Commission for Assignment of Work Ability Superior (MCAWA Superior) were final; appeals possible only to the Appeals Commission	Non-compliance with Article 6(1) ECHR (1950) – lack of judicial review of administrative decisions
2009	Case of <i>Dauti v. Albania</i> (2009)	ECtHR found a violation of Article 6 ECHR due to the absence of judicial review of Medical Commission decisions	Establishment of standards for Albania's social security system
2011	Law of Albania No. 10447 (amendments to Law No. 7703 (1993))	Elimination of the "finality" provision for Appeals Commission decisions; granting the right to judicial review; establishing access to administrative courts	Partial compliance with Article 6(1) ECHR (1950) – ensuring the right to judicial review, but preservation of structural independence issues
2021	Unifying Decision of the Constitutional Court of the Republic of Albania No. 113 (2021)	Establishment of principles regarding the scope of judicial review; defining the balance between respect for medical expertise and effective judicial protection	Improved compliance through judicial interpretation of ECHR (1950) requirements
2023	Law of Albania No. 64 (2023)	Refinement of procedural timelines for appeals; expansion of documentation requirements for medical assessments	Further alignment with procedural aspects of Article 6, but preservation of structural deficiencies

Source: compiled by the authors

This observation aligns with findings from international monitoring bodies that consistently note progress in legislative alignment while highlighting implementation challenges. The European Commission's assessments acknowledge Albania's efforts to reform its social protection frameworks but identify continuing concerns regarding accessibility for vulnerable groups (European Commission, 2024). Similarly,

the Regional Cooperation Council's review positions Albania's reforms within a regional context, recognising progress while noting the need for further development in coverage and adequacy (Ymeri, 2023).

The case of *Dauti v. Albania* (2009) represents a watershed moment in the alignment of Albanian social security legislation with European human rights standards. The case

concerned Mr. Ramiz Dauti, who had been diagnosed with physical incapacity for work caused by an accident during working and sought disability benefits. After the MCAWA classified him with Group II disability, he later appealed when his condition worsened. The MCAWA Superior reclassified him with a less severe Group III disability, reducing his benefits. Crucially, under the then-applicable Article 39/1 of Law of Albania No. 7703 (1993), this decision could only be appealed to an Appeals Commission whose decisions were deemed “final” with no provision for judicial review.

The European Court of Human Rights found that this arrangement violated Article 6(1) of the ECHR (1950), which guarantees the right to a fair trial before an independent and impartial tribunal. The Court’s analysis centered on two critical aspects: first, whether social security disputes fall within the ambit of “civil rights and obligations”, and second, whether the Appeals Commission constituted an “independent and impartial tribunal established by law”. On the first point, the Court confirmed its established practice, according to which disputes concerning social benefits fall under Article 6(1) of the ECHR. In the case of *Dauti v. Albania* (2009), it was noted: “The Court recalls that according to its practice, processes regarding social benefits belong to the civil sphere of application of Article 6”. This provision is important as it establishes that procedural guarantees should apply to all social security disputes in Albania. Case of *Schuler-Zgraggen v. Switzerland* (1993) and Case of *Mennitto v. Italy* No. 33804/96 (2000) clearly defined that dispute about social benefits are considered “civil” in the sense of Article 6(1) of ECHR, as they concern individual rights arising from legislative norms, not discretionary social payments. In the case of Grand Chamber Decision as to the Admissibility Nos. 65731/01 and 65900/01 (2005), the Court further clarified that contribution-based payments (such as pensions or disability benefits) definitely belong to “civil rights”, while non-contributory payments may require individual assessment. For Albania, the decision in the *Dauti* case is of fundamental importance as it confirms that all social security disputes – whether pensions, health insurance, or disability benefits – must meet the requirements for procedural fairness, including access to an independent tribunal.

On the second point, the Court conducted a detailed analysis of the Appeals Commission structure, finding that it does not meet the independence requirements under Article 6(1) of the ECHR. The Court noted that the Appeals Commission was subordinate to the Medical Commission whose decisions it reviewed, its members were appointed by administrative bodies, and there were no guarantees of protection from external pressure. Drawing on principles established in case of *Le Compte, Van Leuven and De Meyere v. Belgium* (1981), the Court emphasised that tribunals must be independent of both the executive power and the parties to the case. In particular, the following key deficiencies were identified: Institutional subordination: The Appeals Commission was structurally subordinate to the Medical Commission whose decisions it reviewed, creating a conflict of interest (Judgment European Court of Human Rights in the Case No. 22107/93, 1995). Commission members were appointed by administrative bodies without guarantees of protection from political influence (Judgment European Court of Human Rights in the Case No. 7819/77, 1982). The legislation contained no provisions protecting commission members from arbitrary dismissal or external pressure

(Judgment European Court of Human Rights in the Case No. 6878/75, 1981). The Court emphasised that a tribunal should be free from hierarchical or institutional connections with bodies whose activities it controls (Judgment European Court of Human Rights in the Case No. 22237/93, 1996). These requirements are also confirmed by international standards, particularly the UN “Basic Principles on the Independence of the Judiciary” (1985) and C102 – Social Security (Minimum Standards) Convention (1952) (Article 70), which provide that appeals in social security require independent judicial or quasi-judicial review. In the *Dauti* case, the dependence of the Appeals Commission on the Medical Commission violated the principle that “no one can be a judge in their own case” from Judgment European Court of Human Rights in the Case No. 8692/79 (1982).

The immediate implication of this judgment was the need for Albania to amend its legislative framework to provide for judicial review of social security decisions. This represented a fundamental shift in approach, challenging the administrative finality that had previously characterised the social security appeals system. The Court’s decision effectively established that administrative expertise in specialised fields like disability assessment cannot override the requirement for independent judicial oversight of administrative decisions affecting individual rights. The culmination of this judicial evolution is found in a Unifying Decision of the Administrative College of the High Court, which established binding precedent on the scope of judicial review in disability benefit cases. The Court affirmed that while judges are not medical specialists and should respect the technical expertise of medical commissions, they must nonetheless conduct a comprehensive review of both procedural and substantive aspects of these decisions. This approach reflects the careful balance articulated by the ECtHR between respecting specialised administrative expertise and ensuring effective judicial protection. This evolutionary trajectory in Albanian jurisprudence demonstrates a progressive integration of ECHR standards into domestic judicial reasoning. From initial recognition of the right to judicial review to sophisticated elaboration of the scope and standards of that review, Albanian courts have increasingly embraced the substantive dimensions of the right to a fair trial in the social security context. This development represents a significant advancement in the protection of social rights through procedural guarantees.

Despite the significant progress represented by the 2011 amendments and subsequent judicial interpretation, systematic analysis reveals several persistent compatibility gaps between Albanian social security legislation and ECHR (1950) standards. These gaps can be categorised as structural, procedural, and substantive. This case illustrates how procedural formalities continue to undermine effective access to justice despite legislative reforms. Similarly, in case *Kraja v. Appeals Commission* No. 653 (2020), the Administrative Court of Durrës documented substantial delays in the adjudication of disability appeals, with the court noting that the average waiting period of 14 months for appeals processing effectively denied timely access to benefits for vulnerable applicants. The court specifically referenced the ECHR principle that “justice delayed is justice denied” and concluded that while formal appeal mechanisms existed, their practical implementation failed to meet the standards of accessibility required under Article 6 of the ECHR. These cases demonstrate that despite structural changes to permit judicial

review, both procedural obstacles (refusal to consider relevant evidence) and practical barriers (excessive delays) continue to impede effective access to justice for persons with disabilities. This pattern of post-reform jurisprudence indicates that legislative amendments have achieved formal rather than substantive compliance with ECHR standards, leaving significant gaps particularly affecting vulnerable populations.

Structurally, the most significant gap prior to the 2011 reforms was the absence of judicial review for decisions of the MCAWA Superior, identified by the ECtHR in the *Dauti* case. Law No. 10447 (2011) addressed this fundamental incompatibility by amending Article 39/1 to permit judicial review. However, the amended provision initially retained ambiguous language regarding the “final” nature of administrative decisions, creating interpretative uncertainty that required subsequent clarification by the Constitutional Court. A persistent structural issue concerns the composition and appointment mechanism of the Appeals Commission. While the ECtHR in the case of *Dauti v. Albania* (2009) identified concerns about the Commission’s independence, the 2011 reforms did not substantially alter its composition or appointment process. This arrangement continues to fall short of the standards articulated in case of *Bentham v. The Netherlands* (1985), which emphasises the importance of appointment procedures that safeguard independence from executive influence.

Procedurally, significant improvements have been achieved through the establishment of judicial review, but questions remain regarding the equality of arms and accessibility of the appeals process. The administrative appeals system continues to require exhaustion before judicial review can be sought, potentially creating barriers for vulnerable

applicants. These persistent procedural challenges reflect broader patterns in Albania’s legal harmonisation efforts. R. Kau and J. Gjika (2022) identify similar gaps between Albanian procedural frameworks and European requirements in their analysis of civil procedure, particularly noting how formal adoption of European standards often precedes effective procedural implementation. In their other reveals that even when Albanian courts formally acknowledge European procedural standards, practical application frequently remains inconsistent, creating legal uncertainty for vulnerable parties – a pattern that parallels experience in social security appeals (Gjika & Kau, 2024). This evidence suggests that procedural barriers in social security cases represent a systemic feature of Albania’s legal development rather than isolated deficiencies.

Substantively, the most significant remaining gap concerns the standard of review applied by courts when examining medical determinations. In practice, courts often demonstrate deference to medical expertise (Kimatova *et al.*, 2025). This tension between respect for specialised knowledge and effective judicial protection remains inadequately resolved in the legislative framework, leaving courts to navigate this balance through case-by-case determination (Dostanova *et al.*, 2024). The systematic assessment of compatibility between Albanian social security legislation and European Convention on Human Rights standards reveals several persistent gaps despite significant reform efforts. Table 2 presents the key areas where legislative alignment remains incomplete, providing a structured overview of violations identified in ECtHR jurisprudence, reforms implemented to address these deficiencies, and remaining concerns that require further attention.

Table 2. Compatibility gaps and legislative reforms in Albanian social security system

Compatibility Gap	ECHR Standard Violated	Legislative/Judicial Reform	Remaining Concerns
Lack of judicial review for MCAWA Superior decisions	Article 6(1) – Right to tribunal	Law of Albania No. 10447 (2011) amended Article 39/1 to permit judicial review	Initial ambiguity regarding the “final” nature of administrative decisions
Independence concerns with Appeals Commission	Article 6(1) – Independent tribunal	Limited structural reform of Appeals Commission appointment process	Continued ministerial appointment of Commission members raises independence questions
Unclear scope of judicial review	Article 6(1) – Full jurisdiction	Unifying Decision of the Constitutional Court of the Republic of Albania of Albania No. 113 (2021) established scope of review principles	Practical implementation challenges regarding technical medical assessments
Accessibility barriers to judicial review	Article 6(1) – Access to court	Procedural law provisions for legal aid	Practical barriers including costs, complexity, and delays
Inadequate protection of legitimate expectations	Article 1, Protocol 1 – Property rights	Limited comprehensive reform addressing continuity of benefits during appeals	Uncertainty during appeals process potentially affecting livelihood

Source: compiled by the authors

The reforms implemented following the Case of *Dauti v. Albania* (2009) judgment have addressed the most fundamental compatibility issue by establishing judicial review of administrative decisions. However, significant concerns persist regarding the structural independence of review bodies, practical accessibility of appeal mechanisms, and the substantive protection of property rights during appeal processes. These findings align with observations made by I.I.K. Melo and N. Rusi (2024) regarding the challenges in

implementing ECtHR jurisprudence in domestic legal frameworks. M. Leskoviku and K. Kaçupi (2023) further highlight this pattern in their analysis of Albania’s journey toward EU integration, noting that the country consistently struggles with practical implementation of formally adopted European standards across multiple sectors. This systematic gap between legislative adoption and effective implementation is similarly documented by M. Bregu (2023), who examines how despite the EU’s normative influence driving

formal human rights protections, institutional transformation lags behind. The identified gaps suggest that while formal legislative compliance has improved significantly, practical implementation requires further structural and procedural reforms to fully align with ECHR standards established in cases such as *case of Benthem v. The Netherlands* (1985) and *case of Ramos Nunes de Carvalho and Sá v. Portugal* (2018). B. Hajdini and G. Skara (2022) provide additional evidence of this implementation gap in their analysis of how ECHR standards are unevenly applied in Albanian administrative contexts, despite formal recognition in legislation. E. Xhuvani and N. Mecalla (2023) reinforce this conclusion through their case study of Albania’s EU harmonisation process, which identifies a persistent pattern of adopting European legal frameworks without fully implementing the corresponding procedural guarantees. These persistent implementation gaps demonstrate that Albania’s social security system remains in a transitional state of compliance – having achieved important formal legislative alignment while still requiring substantial institutional reforms to ensure the practical effectiveness of human rights protections for vulnerable citizens.

Findings and recommendations for enhancing compliance. The analysis of Albanian social security legislation reveals a mixed landscape of compliance with European Convention on Human Rights standards. Following the landmark case of *Dauti v. Albania* (2009) and subsequent reforms, significant progress has been achieved in aligning the legal framework with Article 6 requirements, though several areas of concern persist. However, compliance assessment must extend beyond formal legislative provisions to examine practical implementation. In this regard, several concerns emerge. First, the reformed system continues to maintain a sequential appeal process requiring exhaustion of administrative remedies before accessing judicial review. While this structure is not inherently incompatible with ECHR standards, it creates potential barriers for vulnerable applicants, particularly those with limited resources or urgent needs. The European Commission notes persistent practical obstacles to accessing justice, especially for economically disadvantaged groups (European Commission, 2024). This suggests that formal compliance has not fully translated to effective access to justice.

Through comprehensive examination of the normative framework as outlined in the first research task, the independence of the administrative appeals structure also remains questionable. Despite the 2011 reforms (Law of Albania No. 10447, 2011), the Appeals Commission continues to operate under ministerial authority, with members appointed through administrative processes that may not sufficiently insulate them from executive influence. This arrangement falls short of the independence standards articulated in cases such as *case of Benthem v. The Netherlands* (1985) and *case of Morice v. France* (2015), which emphasise structural independence as essential to impartial adjudication.

In accordance with the second research task of evaluating key jurisprudence and identifying gaps in compliance, a significant area of partial compliance concerns the standard of review applied in social security cases. While Albanian courts now formally recognise their obligation to conduct comprehensive review of both procedural and substantive aspects of administrative decisions, in practice judicial deference to medical expertise often results in limited scrutiny

of the substantive determinations affecting benefit entitlements. This tension between respecting specialised expertise and ensuring effective judicial control remains inadequately resolved, creating potential compatibility issues with the “full jurisdiction” requirement under Article 6 of the European Convention on Human Rights (1950).

The current compliance status might best be characterised as formal alignment with fundamental ECHR requirements but with remaining shortcomings in practical implementation and structural independence. This assessment aligns with the broader observation in the Council of Europe’s review of Albania’s social protection framework regarding progress in legislative alignment but persistent gaps in implementation and accessibility (Council of Europe Portal, n.d.). International monitoring bodies have provided valuable external assessment of Albania’s reforms in the social security domain, offering perspectives that help contextualise national efforts within broader European standards. These assessments reveal a nuanced view of Albania’s progress in aligning its social security system with human rights requirements.

The European Commission’s assessments provide a broader context for understanding Albania’s reform trajectory. The Commission acknowledges progress in aligning social protection frameworks with European standards but identifies continuing challenges regarding uneven implementation and concerns about vulnerable groups’ access to benefits and services (European Commission, 2024). This assessment suggests that formal legislative compliance has not yet translated into consistently effective protection of social rights. The United Nations Human Rights Council’s Universal Periodic Review outcomes for Albania note progress in developing legal frameworks for social protection while recommending strengthened implementation mechanisms and enhanced accessibility for marginalised communities (UPR Outcomes for Albania, 2025). This assessment reinforces the pattern observed across international bodies: recognition of legislative progress coupled with concerns about practical implementation.

The Regional Cooperation Council’s performance review of Western Balkan economies provides a comparative regional perspective, positioning Albania’s social security reforms within broader European social rights standards. This assessment identifies Albania’s social security system as evolving toward European standards but requiring further development in coverage, adequacy, and non-discrimination (Ymeri, 2023). The identification of these specific weaknesses aligns with potential ECHR compatibility concerns regarding effective protection of social rights and non-discrimination. Collectively, these international assessments reflect a consensus that Albania has made significant progress in the formal alignment of its social security legislation with European standards following the *Dauti* judgment (2009), but that substantial work remains to ensure effective implementation, particularly regarding accessibility for vulnerable groups and the practical functioning of appeal mechanisms. This external perspective reinforces the finding that compliance remains partial and those further reforms are needed to fully align Albanian practice with ECHR (1950) requirements.

Addressing the third research task of developing evidence-based proposals for strengthening oversight mechanisms, the following recommendations aim to enhance the alignment of Albanian social security legislation with European Convention on Human Rights (1950) standards. First,

to address structural gaps identified throughout this study, the current structure of the Appeals Commission continues to raise concerns regarding independence from executive influence. Legislative reform should establish an independent appeals tribunal with members appointed through a transparent, merit-based process involving judicial oversight (Khazhanets, 2024). This reformed body should operate with functional independence from ministerial authorities, with secure tenure for members and clear rules against conflicts of interest. Such reforms would address the structural independence concerns identified in case of *Dauti v. Albania* (2009) and align more fully with the standards articulated in cases such as case of *Morice v. France* (2015).

Second, to strengthen procedural guarantees in line with ECHR requirements, while judicial review now provides a crucial safeguard, the administrative phase of appeals remains the primary forum for most claimants. Legislative amendments should strengthen procedural guarantees at this stage, including explicit provisions for legal representation, access to relevant medical evidence, opportunities to present expert opinions, and reasoned decisions. These reforms would enhance compliance with the “equality of arms” principle under Article 6 of the European Convention on Human Rights (1950) and potentially reduce the need for judicial proceedings by resolving more cases fairly at the administrative level. Third, to address substantive compliance issues identified in the research, legislative provisions should explicitly clarify the scope of judicial review in social security cases, particularly regarding medical determinations. The legislation should establish that while courts should respect specialised expertise, they must conduct independent assessment of whether administrative decisions are substantiated by evidence and reasoned in a manner that satisfies legal requirements (Cherevko, 2025). This would address the tension between deference to expertise and effective judicial control, enhancing compliance with the “full jurisdiction” requirement under Article 6 of the European Convention on Human Rights (1950). Fourth, to improve practical accessibility as highlighted in our analysis of implementation gaps, legislative reforms should address practical barriers to accessing review mechanisms, including provisions for expedited procedures in urgent cases, reduced formal requirements for vulnerable applicants, and expanded legal aid specifically targeted at social security disputes. Article 6 of the European Convention on Human Rights (1950) not only requires the existence of judicial review but effective access to it, and these reforms would enhance practical compliance with this requirement. Fifth, to safeguard property rights during appeal processes, to address potential violations of Article 1 of Protocol No. 1 (protection of property) of the ECHR (1950), legislation should provide for continuity of benefits during appeal processes in cases where termination or reduction would create significant hardship. This would protect the legitimate expectations of beneficiaries while their claims are under review. Finally, to ensure ongoing assessment of progress toward full compliance, legislative provisions should establish systematic monitoring of appeal outcomes, processing times, and accessibility indicators, with regular reporting requirements to parliament (Vozniuk & Hryha, 2024). This data-driven approach would facilitate evidence-based assessment of the effectiveness of the appeal system and identification of areas requiring further reform. Such monitoring would also facilitate compliance with

reporting obligations to international bodies including the Council of Europe Portal (n.d.).

To enhance compliance with Article 14 of the of the ECHR (1950) in conjunction with other Convention rights, explicit non-discrimination provisions should be incorporated into social security legislation, with particular attention to potentially vulnerable groups. The need for such provisions is evidenced by significant documented disparities affecting multiple vulnerable populations in Albania. According to the UN Committee on Economic, Social and Cultural Rights, only 23% of Roma families in Albania receive social assistance despite eligibility, with discriminatory administrative practices identified as a key barrier (UN Committee on Economic..., 2024). The Council of Europe Commissioner for Human Rights has reported that 68% of Roma and Egyptian applicants face exclusion from benefits due to language barriers or documentation issues, demonstrating persistent implementation gaps affecting these communities (National Action Plan..., 2022; Commissioner for Human Rights, 2023).

For persons with disabilities, the 2023 Country Reports on Human Rights Practices documents that approximately 40% of disability claims are rejected due to procedurally inaccessible application mechanisms (U.S. Department of State, 2022; 2024), while the European Disability Forum ranked Albania lowest among Western Balkan countries for disability inclusion in social protection systems (Suárez, 2024). Gender disparities are similarly pronounced, with UN Women (n.d.) revealing that women constitute 72% of denied unemployment claims, often linked to gender-biased assessment criteria.

To address these documented disparities, legislation should establish comprehensive monitoring mechanisms, including mandatory annual disparity audits and positive action clauses modelled after successful implementations in neighbouring countries. The World Bank has specifically recommended such reforms for Albania, noting that targeted non-discrimination provisions represent a critical opportunity for advancing social protection effectiveness (Advancing social protection..., 2023). These provisions should address both direct and indirect discrimination and establish effective mechanisms to identify and address disparities in access or outcomes across all vulnerable groups, consistent with standards established in cases such as case of *Caruso v. Italy* (2022).

Addressing these implementation gaps requires a comprehensive approach to building institutional capacity. I. Broerse (2024), M. Kapo and S. Ibrahimı (2025) emphasise the critical role of legal education in systematically integrating European human rights standards into Albanian legal practice, arguing that effective implementation requires not only legislative changes but also cultural transformation within administrative and judicial bodies. This perspective underscores that comprehensive training programs for all personnel involved in social security administration and appeals represent an essential component of effective reform, as sustainable implementation depends on developing institutional knowledge and commitment to rights-based approaches.

The Albanian social security system has undergone significant reforms, particularly following the *Dauti v. Albania* (2009) case. These reforms aimed to align the system with the European Convention on Human Rights (1950), especially ensuring the right to judicial review of decisions concerning disability benefits. However, while legislative changes have been made, several gaps remain in the

system’s structural, procedural, and substantive aspects. Issues such as the independence of the Appeals Commission and the accessibility of the appeals process for vulnerable populations continue to impede the system’s full compliance with ECHR standards. Despite improvements in procedural timelines and documentation requirements, practical barriers still hinder effective access to justice for many claimants. Therefore, further reforms are necessary to not only improve formal compliance but also address these persistent practical challenges, ensuring that Albania’s social security system provides effective protection of social rights in accordance with European standards.

Conclusions

This study examined the compatibility of Albania’s social security legislation with the European Convention on Human Rights, particularly focusing on post-reform implementation gaps. The research aimed to assess how well Albania’s legislative amendments, specifically following the landmark *Dauti v. Albania* case, align with the ECHR’s standards, especially regarding judicial review of disability benefit decisions. The study successfully identified the key areas where reforms had been made and areas where significant gaps remain.

The research involved a comprehensive analysis of Albanian social security law, including Law No. 7703 and its amendments, in relation to ECHR principles, especially Article 6, which guarantees the right to a fair trial. The study also reviewed relevant case law, such as *Dauti v. Albania* and *Strazimiri v. Albania*, to identify compatibility issues in Albania’s legal framework. It was found that while judicial review of social security decisions was introduced after the 2011 amendments, structural issues, such as the independence of the Appeals Commission and the accessibility of the appeals process, still persist. The analysis of these gaps revealed that while some progress has been made, procedural barriers and a lack of substantial reform in key areas continue to affect the system’s compliance with European standards.

The results of the study showed that despite legal amendments, Albania’s social security system remains in a transitional state. Structural deficiencies, such as the ongoing ministerial appointment of Appeals Commission members, and procedural challenges, including unequal access to

appeals for vulnerable groups, undermine the full realisation of the right to judicial review. The analysis also revealed that while Albania has made significant strides in formal compliance with ECHR requirements, the practical implementation of these changes has been slow, often leaving vulnerable populations without effective protection. These findings allow us to conclude that Albania must continue its legislative reforms to ensure that social security decisions are not only legally reviewed but that such reviews are accessible, impartial, and independent.

Summarising the results obtained, it can be noted that Albania’s alignment with ECHR standards has improved in some respects, particularly in terms of judicial review, but the system still faces significant challenges in achieving full compliance. The research emphasises the importance of continuing reforms in the areas of structural independence, procedural accessibility, and substantive protection for individuals, especially vulnerable groups. Conceptually, the study indicates that Albania’s progress has been more formal than substantive, suggesting that further legislative and institutional changes are required to ensure effective protection of citizens’ rights in social security matters.

For further research, a deeper examination of the practical application of judicial review in social security cases is needed, especially regarding the independence of tribunals and accessibility for marginalised groups. Additionally, a comparative analysis of the implementation of ECHR standards in other Western Balkan countries could provide valuable insights into the broader regional challenges and solutions. Despite the limitations of this study, including the reliance on secondary data and the absence of primary empirical evidence from post-reform cases, it highlights important areas that require further scholarly attention and reform.

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Сумісність закону «Про соціальне забезпечення в Республіці Албанія» з Європейською конвенцією прав людини

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Анотація. У цьому дослідженні розглянуто сумісність албанського законодавства про соціальне забезпечення як з Конституцією Республіки Албанія, так і з Європейською конвенцією з прав людини, зосереджуючись, зокрема, на правових питаннях, що виникли після знакової справи «Дауті проти Албанії». Використовуючи нормативно-правовий аналіз та порівняльно-правову оцінку, у цій ключовій справі Європейський суд з прав людини визначив, що Албанія порушила статтю 6 Конвенції, відмовивши в ефективному судовому перегляді рішень Медичної комісії щодо допомоги по інвалідності. У дослідженні проаналізовано Закон № 7703 «Про соціальне забезпечення в Республіці Албанія» та його зміни, внесені Законом № 10447, які були впроваджені у відповідь на рішення Європейської конвенції з прав людини. Незважаючи на те, що Комітет міністрів закордонних справ Ради Європи опублікував звіт, у якому зазначалося, що ці зміни врахували висновки Суду, дослідження показало, що значні проблеми сумісності зберігаються. Адміністративна колегія Високого суду Албанії пізніше визначила, що, незважаючи на законодавчі зміни, несумісність закону зі статтею 6 Конвенції продовжується, і передала це питання до Конституційного Суду для перегляду. Ця справа зрештою призвела до об'єднуючого рішення, яке мало суттєве значення в албанській судовій практиці, а Високий суд підтвердив, що доступ до судів для осіб з інвалідністю має бути гарантований незалежно від будь-яких законодавчих обмежень. Дослідження виявило постійні прогалини у трьох категоріях: структурні (недосконалі механізми призначення членів Апеляційної комісії), процедурні (рівність сторін та обмежена доступність) та матеріальні (невідповідні стандарти перегляду медичних висновків). Дослідження робить висновок, що, хоча формальні зміни були внесені, Албанія повинна запровадити подальші реформи для забезпечення практичної ефективності судового захисту у справах соціального забезпечення, особливо для вразливих груп, таких як особи з інвалідністю

Ключові слова: судовий перегляд; адміністративні апеляції; справедливий суд; медична комісія; виплати по інвалідності