

Difficulties in justification of legal norms as a feature of democratic transformations in Albania

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Abstract. The purpose of the study was to highlight the key aspects of the establishment of legal norms in the context of democratic transformations in Albania and their determining impact on the evolution of the state legal system. The paper, used historical, comparative, and system analysis methods, examined the historical context and specifics of the development of the legal field of Albania after the end of the communist period, analysed the correlation of traditional legal practices of the Albanian community with democratic norms, and identified current challenges of legal legitimation and law enforcement in the context of European integration processes. The results showed that, despite the adoption of substantial legislative acts and initiatives, the effective implementation of legal norms remains problematic. Deep-rooted traditional practices such as the customary law of Kanuni and Lekë Dukagjinit, corruption, political instability, and a lack of legal culture of the population prevent the effective implementation of democratic norms. The study identified a persistent gap between legislative reforms and their practical enforcement, demonstrating that formal legal adaptation does not always translate into effective governance. Additionally, the analysis highlighted the crucial role of judicial independence and anti-corruption measures in ensuring the sustainability of legal transformations. The findings suggested that while Albania has made significant progress in aligning its legal framework with European standards, systemic challenges continue to hinder the full integration of democratic principles into legal practice. The results highlighted that the difficulty of justifying legal norms in Albania is not only a legal problem but also a social and cultural one. This indicated the need for a comprehensive approach to reforming the legal system, considering the historical legacy, traditional values, and mentality of society. The findings of the study are important for the successful democratisation of Albania's legal system, as they point to the need to reconcile traditional and democratic norms, strengthen institutional capacity and increase citizens' confidence in the judicial system

Keywords: corruption; traditions; blood feud; judicial reform; European integration; legitimation

Introduction

The establishment of a democratic system in Albania after the fall of the communist regime in 1991 was accompanied by substantial difficulties in legitimising and implementing legal norms, which created substantial obstacles to the

country's European integration. This issue has become particularly pressing in light of the initiation of accession negotiations with the European Union (EU) in October 2024. Despite this progress, Albania has yet to fully meet several

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critical EU accession requirements, including the effective implementation of judicial reforms, the intensification of anti-corruption measures, and the resolution of bilateral disputes with neighbouring countries. These outstanding issues underscore the necessity for comprehensive legal and institutional reforms to align Albania's governance structures with EU standards. The lack of effective enforcement mechanisms and the low level of public confidence in state institutions pose substantial challenges to democratic consolidation (Anastasi, 2024). The need to address these challenges is growing in light of the EU's growing demands for the rule of law and the functioning of democratic institutions in candidate countries. The relevance of the study is also due to the need to develop effective mechanisms to bridge the gap between the formal consolidation of democratic norms and their practical implementation in Albanian society.

The analysis of the scientific literature shows that researchers pay considerable attention to various aspects of democratic transformation in Albania. The fundamental aspects of constitutional development were explored by A. Anastasi (2024), who focusing on the importance of supranational European identity. The author emphasises the need to strengthen the ways of protecting citizens' rights provided for in the Constitution of the Republic of Albania (2016), and concerns about too frequent amendments to it, which is often due to political opportunism. The researcher pays special attention to the analysis of the "integration clause" in the Constitution and its role in the formation of the country's supranational identity. M. Kamolli (2020) explored the problems of transitional justice and reparations, which is important for understanding the legal challenges of the transition period, namely the issue of compensation for damages to former political prisoners in post-communist Albania, focusing on the limited effectiveness of transitional justice measures through the politicisation of the process. The results of the study showed that not only cash payments are important for the recovery of former political prisoners but also the ability to work with archival documents, receive apologies, feel restored justice and expand their social and political rights.

An important contribution to the understanding of lustration problems was made by V. Ndrepepaj (2020), who conducted a detailed analysis of the lustration legislation of Albania, using a three-stage research method and a combination of classical methods of legal analysis, which directly concerns the problems of legal justification. The researcher identified the main reasons for the ineffectiveness of lustration laws related to both their development and implementation. The author's work contains important conclusions about the need to improve lustration mechanisms in the context of democratic transformation. He expanded this study and stressed the problems of implementing lustration and verification laws, which shows the difficulties of law enforcement by E. Reka (2020). The author focused on the examination of transitional justice and lustration processes in Albania, noting the lack of political consensus on the assessment of human rights violations during communism. The author emphasises that the lustration process was not transparent and was conducted by impartial institutions, which did not contribute to the restoration of public confidence in state institutions. The researcher also analyses the new law of 2015 containing lustration measures and its implementation.

A. Dedej (2023) considered the legal factors of civil society development, which is important for understanding

democratic transformation. The researcher conducted a comprehensive study of the historical and legal factors of the formation of civil society in Albania, emphasising the negative impact of the 45-year communist period. The author analyses the current legal framework for non-profit organisations and its compliance with international standards. The researcher pays special attention to the problem of distrust of public organisations, which has roots in the communist past. I. Stasa (2021; 2023) examines the relationship between transitional justice measures and strengthening the rule of law, highlighting the negative impact of "amnesia" about the totalitarian past on democratic processes. The author emphasises the importance of creating a "space" for working with the past and criticises the political elite for ignoring issues of transitional justice. The researcher also analyses the problem of using archival materials as a tool of political blackmail.

In turn, A. Balliu (2020) conducted a qualitative analysis of judicial reform in Albania as a fundamental element of the fight against corruption and the process of European integration. The researcher examines the EU's role in this process and evaluates the progress made before the accession negotiations begin. The author provides recommendations on further steps towards EU membership. G. Margariti (2022) focuses on the problems of democratic consolidation in Albania using the qualitative case study method. He analyses the role of political elites in the process of democratisation and identifies their authoritarian tendencies. The author predicts the possibility of a rollback to facade democracy or competitive authoritarianism due to the weak commitment of political elites to democratic values.

A. Pirdeni (2020) examined the relationship between the implementation of the rule of law principles and the progress of internal reforms, focusing on judicial reform. The study identifies differences in the dynamics of reform and provides a comparative analysis of transformations in Albania and other countries in the region. The scientist notes the importance of systematic assessment of compliance with the criteria of the rule of law. J. Myftari (2024) focused on the specifics of democratic consolidation and the influence of political elites on this process. The paper explores how legal materialism affected the formation of the Albanian state during the communist period and its echo in modern legal development. The researcher justifies the need for comprehensive consideration of formal and material aspects of legal regulation. The need to develop an effective legal system that meets the needs of Albanian society is emphasised. V. Laska (2023) focused on the activities of political parties in the process of constitutional development of Albania after 1991. The study substantiates the key importance of political forces as a link between the state and society in the process of democratic transformation.

The purpose of the study was to identify and systematise key problems in the field of justifying legal norms in the context of democratic transformations in Albania to assess their impact on the effectiveness of the country's legal system. The following tasks were: analyse the specific features of interaction between traditional legal customs of Albanian society and new democratic legal norms, identify key contradictions and conflicts in the process of their legitimisation; describe current problems in the field of legal justification and law enforcement in Albania, in particular, in the context of European integration and bring national legislation in line with EU standards.

Materials and methods

The study was based on several conceptual and theoretical approaches, which were determined by the purpose of analysing the features of legal transformations in Albania in the context of democratic transformations. The basis was the theory of the rule of law and its principles, in particular, the concept of legitimation of legal norms, revealing their ability to be perceived and recognised in society as the basis for democratic development. Theories about the interaction of traditional customary norms with modern democratic principles in societies that were in transition were also studied. Based on the theoretical framework, the paper also used the concept of legal integration in the context of European integration aspirations, based on the recommendations of the Accession Criteria (Copenhagen Criteria) (1993), reflecting the compliance of the legal system with democratic standards.

The research methodology included a combination of a historical method for examining the transformation processes of the legal system after the fall of the communist regime, a comparative method for comparing Albanian legal norms with European standards, and a synergistic analysis that allowed investigating the interaction between traditional and modern law in Albania. The historical method allowed describing in detail the main stages of legal reforms, outlining the evolution of legislative initiatives and institutional changes in Albania from 1990 to 2024. The comparative method was used to analyse the historical experience of integrating traditional law into the official legal system using the example of English case law, which has been successfully transformed into the official system of judicial precedents since the Middle Ages, and Albanian customary law (Kanuni), as well as identify specific contradictions between traditional legal norms of Albania and modern democratic norms of the EU. The method of system analysis was used to assess the structural interaction of internal and external factors affecting the effectiveness of legal reforms in the context of European integration.

In respect of the sources used, the main source framework included normative legal acts, in particular, the Constitution of the Republic of Albania (1998), Law of Albania No. 7491 “On Main Constitutional Provisions” (1991), No. 9877 “On the Organization of the Judicial Power” (2008), as well as the constitutional amendments introduced in Law of Albania No. 76/2016 “On Some Additions and Amendments to Law of Albania No. 8417 “Constitution of the Republic of Albania”, as Amended” (2016) and Law of Albania No. 115/2016 “On the Justice System Oversight Bodies” (2016). International instruments such as the Stabilization and Association Agreement No. 87 Between the European Communities and their Member States, and the Republic of Albania (2006), Final Opinion of Venice Commission No. 824/2015 “On the Revised Draft Constitutional Amendments on the Judiciary of Albania” (2015) and other recommendations of European institutions forming the legal basis for integration processes were examined. The analysis of the information also included statistics from the rule of law indices and corruption ratings from Transparency International and the World Justice Project (2023), which were used to assess the effectiveness of legal changes. Press releases, analytical reports, in particular, from the Ministry of Justice of the Republic of Albania (2011) and civil society organisations, have become additional sources covering the state of law enforcement. The validity of the proposed structure is confirmed by its

compliance with the European Council in Copenhagen “Conclusions of the Presidency” (1993) for assessing the progress of candidate countries. On the basis of this, a diagram was created on the problems of legal justification in the context of European integration. The final stage was the synthesis of the obtained data to form recommendations for improving the legal system of Albania based on international experience and European requirements.

Results

Historical background and features of the formation of the legal system of Albania after the fall of the communist regime. After the fall of the communist regime in Albania in 1990, the country faced the difficult task of creating a new legal system that would comply with the principles of democracy, the rule of law, and the protection of human rights. The communist period was marked by centralised power, where the Albanian Labour Party had a monopoly role in public administration, which was enshrined Constitution of the Socialist People’s Republic of Albania (1976). This Constitution did not provide for the distribution of power and independence of the judicial system, which led to systematic violations of citizens’ rights and freedoms. In particular, Article 3 of the Constitution proclaimed that the Albanian Labour Party was the only governing force of the state and society, which effectively legalised the one-party system and the suppression of political pluralism.

The process of dismantling the communist legal system began with the approval of the Law of Albania No. 7491 “On Main Constitutional Provisions” (1991). This law established the basis for the transition period, recognising for the first time the principles of multiparty model, private property, and a market economy. Article 2 of this law enshrined the principle of popular sovereignty in the Republic of Albania, and Article 3 defined the division of state power into three branches – legislative, executive, and judicial. However, despite these innovations, the old management structures and mechanisms remained in practice, which complicated the process of reforming and justifying new legal norms.

The formation of the new legal system took place in several stages, each of which was characterised by its own characteristics and challenges. The first stage (1991-1998) was aimed at creating the main institutions of democracy and adopting a new Constitution. The adoption of the Constitution of the Republic of Albania (1998) played a decisive role in the development of Albania as a state governed by the rule of law. The Basic Law approved the fundamental principles: the rule of law, the separation of powers, and the independence of the judiciary. In particular, Article 7 stipulates that “state governance is based on a system of distribution and balancing of the legislative, executive, and judicial branches of government”. The second section of the document establishes the fundamental rights and freedoms of citizens, including the right to life, freedom of expression, and fair trial. Therewith, a textual analysis of the 1998 Constitution reveals some gaps. Although the document proclaims the autonomy of the judiciary, specific mechanisms for its implementation are not sufficiently spelt out. Thus, Article 136 defines the procedure for appointing judges by the president of the Republic on the recommendation of the High Council of Justice (Këshilli i Lartë i Drejtësisë), but does not contain detailed qualification requirements and procedures, which creates risks of political pressure on the judicial

system. An additional disadvantage is the lack of clear wording regarding the disciplinary responsibility of judges, which can contribute to corruption and official abuse.

The second stage (1998-2016) was marked by a course of rapprochement with European institutions and bringing domestic legislation in line with EU standards. The signing of the Stabilization and Association Agreement No. 87 between the European Communities and their Member States, and the Republic of Albania (2006) imposed an obligation on Albania to implement comprehensive transformations in the areas of judicial proceedings, anti-corruption, and human rights. To this end, a number of regulations were introduced to update the judicial system, in particular, Law of Albania No. 9877 “On the Organization of the Judicial Power” (2008). The document provided for structural changes in the judicial system, updating the procedure for appointing judges and expanding the powers of the High Council of Justice. However, the implementation of these innovations was not effective enough due to the preservation of previous schemes of political intervention and corruption practices.

The third stage (2016-2024) began with the adoption of a large-scale judicial reform known as “Paketë e Reformës në Drejtësi”. This reform was initiated under pressure from the international community, in particular, the EU and the United States, which demanded real steps in the fight against corruption and strengthening the rule of law. One of the key elements of the reform was the creation of an Independent Qualification Committee (Komisioni i Pavarur i Kualifikimit), which is responsible for re-evaluating (vetting) judges

and prosecutors based on the criteria of professional competence, moral integrity, and legality of the origin of property. The legal assessment of this reform shows its compliance with international standards and recommendations of the Venice Commission of the Council of Europe. For example, in Final Opinion of Venice Commission No. 824/2015 “On the Revised Draft Constitutional Amendments on the Judiciary of Albania” (2015), the Venice Commission supported constitutional changes aimed at strengthening the independence of the judiciary and combating corruption.

The process of justifying legal norms in Albania was influenced by both internal and external factors. Internal factors were the historical legacy of the totalitarian regime, the lack of a legal culture, and deep-rooted corruption. External factors were the requirements and recommendations of international organisations, in particular, the EU, the Council of Europe, and the OSCE (Organisation for Security and Co-Operation in Europe). Political instability and polarisation of political forces have led to inconsistency in the legislative process and resistance to reform on the part of interest groups. For example, opposition parties often blocked the adoption of important legislative acts, which made it difficult to implement reforms and increased citizens’ distrust of state institutions.

For a deeper understanding of the complexity and versatility of the transformation process of Albania’s legal system, a table is proposed that contains data on the country’s international indices and ratings in the field of the rule of law and corruption (Table 1).

Table 1. Albania’s position in international rule of law and corruption rankings (2000-2023)

Year	Rule of law index*	Transparency International Rating**
2000	N/A	81/90
2005	N/A	126/159
2010	0.44	87/178
2015	0.52	88/168
2020	0.50	104/180
2023	0.48	98/180

Note: *the rule of law index according to the World Justice Project (0 points is the lowest, 1 is the highest); **place in the Transparency International ranking of 180 countries (the higher the place, the higher the level of corruption)

Source: compiled by the authors based on World Justice Project (2020; 2023), Trading Economics (2024), M.D. Agrast *et al.* (2010), J.C. Botero and A. Ponce (2015)

The presented statistical indicators reveal the practical dimension of the problem of justifying legal norms in the process of democratic transformation of Albania, demonstrating a clear relationship between the quality of law-making and the effectiveness of reforms. Fluctuations in the rule of Law Index and positions in the corruption rating reflect a fundamental problem – the gap between the formal implementation of legal norms and their real legitimisation in society. The first period of democratic transformation was characterised by the lack of a systematic approach to law-making, which is reflected in the critically low indicators of the early 2000s. The mid-2000s show the deepest crisis in the process of legal transformation, which coincides with a period of political instability and lack of consensus on the direction of reforms. The gradual improvement of indicators in 2010-2015 indicates the first successful attempts to systematically substantiate legal norms, which coincides with the period of active European integration and adaptation of legislation to EU standards. However, the further deterioration of the rule

of Law Index demonstrates that even the presence of external support and guidelines does not guarantee the success of reforms without proper internal justification for legal changes.

Especially substantial is the period after the judicial reform of 2016 (Law of Albania No. 76/2016, 2016), when, despite large-scale legislative changes, statistical indicators do not show substantial improvement, which indicates the persistence of systemic problems in the process of justifying and implementing legal norms. The analysis of the dynamics of indicators also identifies a direct link between the level of corruption and the effectiveness of legal reforms – the periods of the lowest indicators in the Transparency International rating coincide with the stages of the greatest difficulties in the process of justifying and implementing new legal norms (Trading Economics, 2024). This confirms the thesis about the need for an integrated approach to legal reform, where the fight against corruption should be an integral part of the process of justifying legal changes (World Justice Project, 2020). International ratings also reflect the complexity

of the process of transforming the legal consciousness of society, which must not only adopt new legal norms but also integrate them into its daily practice. The lack of stable progress in indicators indicates the need to rethink approaches to substantiating legal norms: from formal law-making to a comprehensive process that considers the specific features of the transition period, the need to develop legal institutions and overcome the legacy of the authoritarian past. Statistics also indicate the cyclical nature of problems in the process of legal transformation, when periods of progress are replaced by regression, which may be due to insufficient attention to long-term planning and justification of legal changes, and the impact of political instability on the process of reforming the legal system.

An assessment of the effectiveness of the reform of the Albanian legal system shows that, despite substantial progress in the legislative support of democratic principles, the practical implementation of legal norms faces serious challenges. Corruption remains one of the main problems that undermines citizens' confidence in state institutions and the judicial system (Lazaj *et al.*, 2024). The insufficient level of legal culture and education among the population complicates the process of democratisation and the formation of civil society. Political instability and polarisation negatively affect the effectiveness of reforms, lead to inconsistencies in the implementation of legislative initiatives, and hinder long-term planning. The transformation of Albania's legal system after the fall of the communist regime is a complex and multifaceted process, accompanied by numerous difficulties in justifying legal norms. The historical legacy of the totalitarian regime, the lack of traditions of the rule of law, corruption, and political instability are the main factors influencing this process. Despite the adoption of important legislative acts and initiatives, their effective implementation remains problematic.

Interaction of traditional legal customs and new democratic norms. Albania's traditional legal system has deep historical roots and is based on customary law known as Kanuni and Lekë Dukagjinit. Kanuni (1989) is a collection of customary rules and regulations that govern various aspects of Albanian society, including family relations, property, marriage, inheritance, and conflict resolution. It has been formed over the centuries and reflects the social structure, moral values, and traditions of the Albanian people. During periods of lack of a strong central government or during foreign rule, Kanuni served as the main source of law for many Albanians, especially in the mountainous regions in the north of the country, where the influence of state institutions was limited. One of the key features of Kanuni is the institute of blood feuds, known as "gjakmarrja". This practice implies the right and duty of the family of the victim of murder or grievous insult to retaliate against the perpetrator or their family. A blood feud is considered a means of restoring honour and justice, and a mechanism for deterring future offences. However, it leads to cycles of violence and prolonged intergenerational conflicts, which negatively affect the security, stability, and social development of society. In addition, Kanuni regulates property issues where preference is given to men and women are often excluded from the process of inheritance and ownership of property. Family relations are dominated by patriarchal norms, where the role of women is limited, and marriage agreements can be concluded without her consent.

With the establishment of a democratic system and the adoption of the Constitution of the Republic of Albania (1998), the state undertook to implement the principles of the rule of law, the protection of human rights and democratic freedoms. The Constitution declared Albania a state governed by the rule of law, where all citizens are equal before the law, and human rights and freedoms are inviolable. In particular, Article 21 guarantees the right of everyone to life, Article 18 establishes equality before the law and prohibits discrimination, and Article 54 protects the rights of children and the family. Accordingly, practices such as blood feuds, gender discrimination, and forced marriage are incompatible with constitutional principles and are officially prohibited. The contradictions between the traditional customary law of Kanuni and the new democratic legal norms are manifested in conflicts between customary practices and state legislation. Despite the official prohibition of blood feuds and other customary practices, they continue to exist in some regions, which undermines the authority of the state justice system and creates parallel legal systems. This leads to legal uncertainty, complicates the rule of law, and violates human rights. The lack of an effective state presence in remote regions, low levels of trust in the courts and police, corruption and bureaucracy contribute to the fact that the population continues to rely on conventional conflict resolution mechanisms.

Albania's public authorities are trying to implement mechanisms for adapting legal norms aimed at integrating traditional practices into the modern legal system or gradually replacing them (Xhafka *et al.*, 2024). One of these mechanisms is the development and implementation of legal education programmes aimed at raising public awareness of state laws, rights and obligations of citizens. The Ministry of Justice of the Republic of Albania (2011) has initiated National information campaigns aimed at clarifying the negative consequences of blood feuds and the importance of applying to state courts for conflict resolution. These campaigns include the dissemination of information materials, seminars, and meetings with communities and the involvement of the media and social networks to convey important information to the general public. In addition, reconciliation commissions (Komisionet E Pajtimimit) were established, which work at the local level and consist of respected and respected members of the community – elders, religious leaders, educators, and other influential people. These Commissions Act as mediators in conflicts between families, trying to achieve a peaceful resolution of disputes and prevent the escalation of violence. They cooperate with government agencies, police, and judicial institutions, which helps establish trust between the population and the authorities, as well as promotes the implementation of state laws at the local level. Reconciliation commissions are an example of combining traditional practices with modern legal norms, which can be effective in the process of legal integration.

In the sphere of family relations, the state has adopted Family Code of Albania (2003), which establishes equal rights for men and women, freedom to choose a partner, prohibits forced marriage, and protects the rights of children. In practice, however, violations of these rights continue to occur, especially in rural areas, where traditional norms have a strong impact. The state implements measures to raise public awareness, supports the activities of non-governmental organisations working in the field of protecting the rights

of women and children, and implements educational programmes in schools and communities to overcome these problems. In turn, in the area of property and inheritance, traditional Kanuni norms provide for male inheritance and collective family property, which leads to discrimination against women and conflicts over land rights. Democratic legal norms enshrined in Civil Code of the Republic of Albania (1994), establish individual ownership and equality in inheritance regardless of gender. Judicial reform is being implemented, a single land cadastre is being created to ensure transparency and legal certainty of property rights, mediation mechanisms are being introduced to resolve land disputes, and legal education of the population is being conducted to solve problems in this area.

Comparing the situation in Albania with the judicial system of England, where judicial precedent is the basis of the legal system, one can find both similarities and differences. In England, case law (common law) is formed on the basis of the judgments of higher courts, which become binding on lower courts when considering similar cases (Judicature Act of Supreme Court, 1873; Judicature Act of Supreme Court, 1875).

This ensures consistency, predictability, and stability of legal regulation, as courts adhere to established legal principles and apply them to new situations. Judicial precedent in England is an officially recognised part of the legal system, integrated into the state structure and supported by law.

In Albania, the traditional customary norms of Kanuni play a similar role in regulating public relations, especially in areas where the state legal system is not effective or accessible. However, these rules are not integrated into the official legal system and often contradict it. The lack of mechanisms to recognise and adapt useful aspects of customary law to modern legal norms limits the possibilities of legal integration and creates tension between the state and local communities. Table 2 shows that effective transformation of the legal system in Albania requires an integrated approach that considers cultural characteristics and actively involves local communities in the reform process. Only under such conditions can sustainable changes be achieved and a democratic state governed by the rule of law be built, where the rights and freedoms of every citizen will be protected, and legislation will meet the needs and values of society.

Table 2. Difficulties in justifying legal norms during the democratic transformation in Albania

Area of legal regulation	The traditional justification of legal norms	Democratic justification of legal norms	Difficulties in justification	Coping mechanisms
Conflict resolution	Blood feud (gjakmarrja) as a means of restoring honour and social balance according to the Kanuni; provides deterrence of offences for fear of revenge	The right to life and a fair trial (Constitution of the Republic of Albania, Article 21); the rule of law and the state's monopoly on the use of force	A deep-rooted tradition perceived as a moral duty; distrust of a corrupt and inefficient judicial system	Judicial reform to increase confidence; legal education of the population; reconciliation commissions; international support for the consolidation of justice
Family relations	Patriarchal norms, where the authority of the husband is unconditional; marriage agreements without the consent of the woman; women as guardians of the honour of the family	Equality of rights of men and women (Constitution of the Republic of Albania, Article 18); freedom to choose a partner; protection of children's rights	A contradiction between traditional gender roles and modern principles of equality; the resistance from conservative communities	Educational programmes to change stereotypes; legislative measures to protect women's rights; support for NGOs and international organisations; involvement of local leaders in promoting gender equality
Property and inheritance	Inheritance only through the male line; collective family property as a means of preserving generic property; women are excluded from the right to inheritance	Individual property rights; equality in inheritance regardless of gender (Civil Code of the Republic of Albania, 1994)	Conflict between collective and individual values; discrimination against women; lack of legal certainty due to unregistered property rights	Land reform for registration of property rights; legal assistance and advice; programmes to raise legal awareness; mediation in land disputes
Social justice and equality	Social structure according to the Kanuni, where status is determined by gender and traditions; limited social mobility	The principle of equality of all citizens before the law (Constitution of the Republic of Albania, Article 18); opportunities for social mobility through education and work	Resistance to changes in social hierarchy; unequal access to resources and services; regional imbalances	State regional development programmes; investment in infrastructure and education; fight against corruption; promotion of equal access to opportunities
Justice and law enforcement agencies	Traditional dispute resolution mechanisms involving elders; distrust of state institutions	Independent judicial system; professional law enforcement agencies; compliance with international human rights standards	Corruption and inefficiency of courts; insufficient funding; influence of local elites on justice	Judicial reform; training and salaries of judges and police officers; international technical assistance; monitoring and accountability

Source: compiled by the authors based on Civil Code of the Republic of Albania (1994), Constitution of the Republic of Albania (1998), Family Code of Albania (2003), Albania 2023 Human Rights Report (2023)

Table 2 shows how, in various areas of legal regulation, the traditional legal norms of Kanuni conflict with the democratic legal norms enshrined in the official legislation of Albania. The main problem areas, such as conflict resolution, family relations, property, and inheritance, are illustrated, showing characteristic traditional practices, relevant democratic norms, existing conflicts, and mechanisms used to resolve them. This helps to understand the complexity of the legal integration process and the need for an integrated approach to overcome the contradictions between customary and positive law.

Overcoming the contradictions between established traditional norms and the principles of democratic law requires the formation of balanced approaches, considering the cultural specifics and interests of local communities. It seems appropriate to introduce a mechanism for implementing those elements of customary law that are consistent with fundamental human rights and the rule of law in the national legal system. This approach can ensure the perception of legal innovations by the population and strengthen the authority of state bodies. Expanding the participation of territorial communities in the rule-making process and law enforcement is of paramount importance (Mazur & Flogaitis, 2023). Organising public consultations on legislative initiatives, ensuring public discussion, and considering the positions of local authorities and specialists will have a positive impact on the quality of legal transformations and their public approval. The formation of an appropriate level of legal awareness through education, especially among the younger generation, creates prerequisites for rethinking traditional practices that do not correspond to democratic values (Shahini, 2024).

Cooperation with international partners is a determining factor in legal integration. The Stabilization and Association Agreement No. 87 between the European Communities and their Member States, and the Republic of Albania (2006) outlines ways to implement pan-European standards in the areas of judicial proceedings, human rights protection, and the rule of law. Cooperation with the EU and other international institutions opens up opportunities for obtaining expert support, sharing practical experience, and attracting resources for the development of state institutions and the public sector. It is observed that the alignment of traditional legal practices with modern democratic norms in Albania requires a systematic and comprehensive examination of numerous aspects. The effectiveness of legal harmonisation is determined by the state's ability to align the regulatory framework with the local context while maintaining the basic principles of human rights protection and legality. Strengthening judicial institutions, combating corruption, and ensuring the openness and responsibility of government structures remain priority tasks. Substantial components of successful legal transformation are the development of public initiatives, legal education, and active involvement of local communities. Such an integrated approach creates the basis for the formation of a state governed by the rule of law, which guarantees the protection of citizens' rights and reflects public needs and values.

Characteristics of modern problems of legal justification in the context of European integration. On the path of European integration aspirations, Albania faces a number of difficulties in providing legal support and bringing its domestic legislation in line with EU standards. European integration progress involves a thorough examination of the

legal requirements of the Union, research of ways to bring legislative systems closer together, clarifying law enforcement problems, and monitoring the implementation of European standards. It is worth emphasising that the EU defines specific conditions for potential member states that cover a wide range of issues of governance and organisation of public life. The basic requirements include the development of sustainable democratic institutions, the establishment of the rule of law, respect for human rights, and ensuring the rights of minorities, which was enshrined in the decisions of the Accession Criteria (Copenhagen Criteria) (1993).

The European Commission Reports on Albania (2020-2024) provide a detailed overview of Albania's progress in the context of its European integration, highlighting the challenges it faces in reforming its legal system. These reports specifically address the difficulties in justifying and implementing legal norms, which is crucial for Albania's democratic transformation. In the European Commission Report on Albania (2020), some progress in judicial reforms are acknowledged, particularly with the legislative changes initiated in 2016. However, it pointed out that these reforms had not been effectively implemented. The report underscored that despite substantial changes in the legal framework, there remained significant challenges in ensuring the independence of the judiciary and the proper functioning of legal norms. The influence of political power on the judicial system persisted, which obstructed the full application of democratic norms and hindered Albania's ability to build a functional legal system. The issue of legal norm justification was evident in this context, as reforms were often seen as superficial and not fully integrated into the country's legal practices.

The European Commission Report on Albania (2021) continued to highlight persistent challenges related to the implementation of legal reforms and the fight against corruption. Despite the establishment of new anti-corruption bodies and the adoption of key legislative measures, such as Law of Albania No. 06/1-011 "On Prevention of Conflict of Interest in Discharge of a Public Function" (2018) and Law of Albania No. 115/2016 "On the Justice System Oversight Bodies" (2016), the report pointed out inefficiencies in their application. This inefficiency was attributed to the lack of sufficient resources, political interference, and institutional resistance to change. The persistent corruption, particularly in the judiciary, remained a substantial barrier to the effective implementation of legal norms, leaving them poorly justified and inadequately enforced. Furthermore, amendments introduced by Law of Albania No. 76/2016 (2016), which modified Constitution of the Republic of Albania (1998), aimed at reinforcing judicial independence, faced difficulties in full enforcement due to structural weaknesses and resistance within state institutions. The Family Code of Albania (2003) and Law of Albania No. 9877 "On the Organization of the Judicial Power" (2008), which regulate legal procedures and the structure of the judiciary, also required further harmonization with EU standards to ensure greater transparency and accountability. Albania's ongoing difficulty in justifying legal changes in this context stemmed from a deep-rooted political culture that had not fully embraced democratic principles, further complicating the process of law enforcement and the integration of legal norms into practical governance.

In the European Commission Report on Albania (2022), the progress made by Albania in harmonizing its legal

system with the European Union's *acquis communautaire* is acknowledged. However, it highlighted significant challenges in the full implementation of these norms. The report focused on the need for Albania to complete its judicial reform, particularly the vetting process for judges and prosecutors, which had been delayed. This delay resulted in a shortage of qualified legal professionals and contributed to the persistence of systemic issues within the judicial system. Furthermore, the report pointed out that the lack of judicial independence remained a key issue, which affected the justification of legal reforms. The difficulties in applying legal norms in practice were not just a matter of legislative adoption but were deeply rooted in the challenges of transforming a legal culture that had been shaped by authoritarianism.

In European Commission Report on Albania (2023), it is noted Albania's improved regional cooperation and relations with its neighbors. However, the challenges related to legal reform persisted. The Commission stressed the need for further strengthening the rule of law, particularly in the context of human rights and the protection of vulnerable groups. Legal norm justification continued to be a challenge, as the country struggled to fully align its legal practices with European standards. The issue of legal norm integration was particularly problematic, as Albania's legal framework often clashed with traditional practices and customary law, which had not been sufficiently addressed in previous reforms. The Commission emphasized the need for a comprehensive approach to legal reform that not only focused on legislative changes but also on cultural and institutional shifts.

The European Commission Report on Albania (2024), which came after the initiation of EU accession talks, provided a comprehensive overview of the progress Albania had made. While it acknowledged the adoption of essential legislation, it also pointed out that the implementation of legal reforms remained slow and inconsistent. The Commission emphasized the need for Albania to overcome the persistent issues of political interference and corruption, which were significant barriers to the full justification of legal norms. These issues reflected the challenges faced by the country in transitioning from a totalitarian past to a democratic system, where legal norms had to be justified not only by legislation but also by societal acceptance and institutional capacity. The report indicated that while Albania had made strides in aligning its laws with EU standards, the real test lay in ensuring that these norms were fully integrated into daily practice, a process that continued to be hindered by the lack of judicial independence and widespread corruption.

Overall, the European Commission Report on Albania (2020-2024) reveal that Albania has made significant strides in adopting new legal norms and aligning its legal system with European standards. However, the challenges in justifying and implementing these norms persist due to the legacy of authoritarianism, political interference, corruption, and institutional resistance to change. These issues are at the core of Albania's democratic transformation, as the country works to overcome the difficulties of integrating traditional legal practices with modern democratic norms. The reports underscore that for Albania to successfully complete its European integration process, it must address these systemic challenges, ensuring that legal norms are not only adopted but also fully justified, implemented, and integrated into the fabric of Albanian society.

In the context of the development of the legal system, special attention is paid to the independence of the judiciary, the effectiveness of justice, the fight against corruption and organised crime, and the protection of fundamental rights and freedoms of citizens. The European Union requires candidate countries to implement deep reforms aimed at ensuring that these areas meet European standards, which is a prerequisite for joining the Union (Kostiushko, 2024). Albania has made substantial progress in this direction, actively working to harmonise its national legislation with EU law. An important step was the signing of the Stabilization and Association Agreement No. 87 between the European Communities and their Member States, and the Republic of Albania (2006), which became the legal basis for relations between Albania and the EU and obliged the country to adapt its legislation to European norms. Within the framework of the agreement, Albania has made comprehensive commitments to reform the judiciary, intensify the fight against corruption, and strengthen the rule of law, including the introduction of specific monitoring and reporting mechanisms.

A particularly important step in the reform process was the adoption of amendments to the Constitution of the Republic of Albania (2016), which were aimed at strengthening the independence of the judiciary and introducing new mechanisms for managing the justice system. As a result of these changes, such important institutions as the Supreme Judicial Council (Këshilli i Lartë Gjqësor) and the Supreme Prosecutorial Council (Këshilli i Lartë I Prokurorisë) were created, responsible for the appointment, evaluation, and disciplinary supervision of judges and prosecutors, under Law No. 115/2016 "On the Justice System Oversight Bodies" (2016). These bodies were given broad powers to ensure the transparency and effectiveness of the judicial system, including the right to conduct regular assessments of the work of judges and prosecutors, consider complaints about their actions, and decide on their professional responsibility. In addition, an innovative process of re-evaluation of judges and prosecutors (vetting) was introduced, conducted by The Independent Qualification Committee (Komisioni i Pavarur i Kualifikimit), established on the basis of Constitutional Law No. 76/2016 "On Some Additions and Amendments to Law of Albania No. 8417 "Constitution of the Republic of Albania", As Amended" (2016). This process involves a comprehensive review of the professional competence, moral integrity, and legality of the origin of the property of judges and prosecutors to clear the judicial system of corruption and increase citizens' confidence in justice.

In the context of Albania's European integration aspirations, improving the effectiveness of the legal system and overcoming existing obstacles requires focusing on priority reform vectors. The defining task is to strengthen the capacity of judicial institutions through proper financial support, updating the technical infrastructure, and improving the recruitment mechanisms for courts and the prosecutor's office. This includes the large-scale introduction of modern information technologies to optimise judicial processes, and the development of electronic document management and case management systems, which can substantially increase the efficiency of judicial bodies and ensure better provision of services to citizens. Therewith, it is necessary to strengthen the fight against corruption by developing and implementing comprehensive anti-corruption programmes, establishing stricter responsibility for corruption offences,

and ensuring the real independence of anti-corruption bodies. In this context, an important step was the adoption of Law No. 06/l-011 “On Prevention of Conflict of Interest in Discharge of a Public Function” (2018), but its effectiveness largely depends on consistent implementation and systematic monitoring of compliance with established requirements.

Special attention should be paid to improving the effectiveness of law enforcement by improving case review procedures, optimising the timing of court proceedings, and ensuring strict enforcement of court decisions. Achieving these goals is possible through systematic professional development and advanced training of judges, prosecutors, and lawyers, as well as the introduction of modern mechanisms for monitoring and objectively evaluating their work. An important aspect is to ensure maximum transparency of judicial processes and increase citizens’ access to information about the activities of courts, which will help to increase confidence in the judicial system and strengthen the rule of law. An equally important area is the development of legal culture and the activation of public participation in the processes of legal reform, which provides for the implementation of large-scale programmes of legal education for various segments of the population, especially young people, information campaigns on the rights and obligations of citizens, and the active involvement of civil society organisations in the process of reforming the legal system. In this context, the state can support non-governmental organisations and public initiatives aimed at raising legal awareness and forming an active civic position. Strengthening international cooperation, in particular, with the European Union and leading international organisations, is also a critical factor for success. This involves making better use of available technical and financial assistance to implement reforms, actively assessing and adapting other countries’ best practices, and ensuring regular and objective monitoring of progress made. An important role in this process is played by various financial assistance agreements and support programmes, such as the Regulation of the European Commission No. 718/2007 (2007), which provides the necessary resources and expert support for reforms.

Discussion

The examination of Albania’s legal transformation after the fall of the communist regime and its integration efforts within the European community reveals a wide range of challenges and achievements in the field of legal reform. An important aspect of this analysis is the interaction between traditional legal customs, such as Kanuni, and modern norms of the democratic rule of law. G. Berman and A. Fox (2023) emphasise the gradual nature of legal reform, emphasising that rapid and radical changes can destroy existing institutional foundations and lead to a loss of trust on the part of citizens. The study shows that Albania has repeatedly faced similar consequences: rapid reforms, often implemented without proper training, have caused distrust among the population, especially in remote areas where the impact of customary law remains substantial. In this context, it is evident that maintaining confidence in the legal system is possible only if there are smooth and consistent changes. B. Hajdini and G. Skara (2022) analyse the effectiveness of anti-corruption bodies established after the 2016 reform and find that such structures still do not show substantial success due to their continued political influence and limited

institutional capacity. In particular, the lack of resources and qualified personnel complicates the work of judicial institutions, which is fully consistent with the findings of the study, which emphasises that even the best anti-corruption initiatives remain declarative without real support. These problems are compounded by additional challenges, in particular, the influence of local political elites, who continue to use the judicial system to their advantage.

The study focuses on the role of Kanuni customary law, which remains influential in some regions of Albania. W. Shankley *et al.* (2024) point out that the country’s legal system cannot ignore the influence of traditional legal mechanisms. They argue that adapting these mechanisms to modern norms, in particular, human rights principles, can contribute to social stability. The current study supports this thesis: the activities of reconciliation commissions in the north of the country illustrate how integrating elements of Kanuni with official justice helps reduce the level of violence and improves the availability of legal protection. A. Aliu and B. Arifi (2021) add that successful implementation of these traditional approaches is possible only with the active involvement of communities since local leaders and authorities play a key role in ensuring social harmony. The study shows that only a combination of traditional and modern legal practices can ensure the effective functioning of the legal system.

In the context of European integration, K.L. Scheppele *et al.* (2021) examine the impact of EU requirements on the reform of Albania’s judicial system, noting that international pressure, on the one hand, encourages change, and on the other, creates substantial challenges, especially in the field of adaptation to European standards. The analysis confirms this conclusion, showing that reforms in Albania are often implemented under pressure from European organisations but remain incomplete without considering local legal and cultural characteristics. A. Anastasi (2021) explores the role of the international community in democratisation, emphasising that effective assistance should consider not only external standards but also the country’s internal legal culture. The study also shows that external influence can be a double-edged sword: although it promotes progress, without proper cultural adaptation, it risks remaining superficial and ineffective.

An important component of anti-corruption reforms is a change in institutional culture (Oliinychuk *et al.*, 2023). P. Zawadzki (2020) emphasised that legislative changes alone will not ensure success without a deep restructuring of ethical standards among judges and employees of the judicial system. The analysis confirms that even after numerous legislative reforms in the fight against corruption, courts remain vulnerable to corruption influences, and these shortcomings are systemic in nature. P.M.E. Sá *et al.* (2021) focus on the recertification of judges, noting that this procedure improves professional ethics and improves the quality of Justice. The study confirms the positive impact of re-certification but also identifies the need for continuous monitoring and independent evaluation of the results of this initiative. The analysis also points to the potential of e-justice to reduce corruption and stresses the need for substantial investment in technical infrastructure and staff training. R.K. Ahmed *et al.* (2021) add that information technologies not only contribute to modernisation but also allow for transparency in judicial procedures, which is crucial for ensuring the effectiveness of the judicial system. Investments in this sector could be a significant complement and provide transparency and lay the

foundation for a number of other investments in Albania's infrastructure projects by the Netherlands, Switzerland, Canada, Italy, Turkey and Austria (Shahini & Shahini, 2024).

E. Dini (2021) examines the protection of women's rights and establishes that gender discrimination remains a serious problem, especially in matters of property and inheritance, despite the existence of progressive legislation. The study confirms these findings, noting that gender inequality has deep roots in traditional social structures that are slow to adapt to modern requirements. E. Zhllima *et al.* (2022) investigate the impact of gender norms in rural areas, emphasising that cultural biases substantially complicate the implementation of women's rights in practice. The study shows that only a comprehensive approach that includes legal education and the involvement of local leaders can make a difference. The impact of public institutions on legal reform was analysed by M.A. Nugmanovna (2022), which emphasises the importance of the participation of non-governmental organisations in ensuring transparency of reforms. The analysis shows that civil society plays a critical role in shaping the legal culture and ensuring monitoring of the judicial system. B. Bino *et al.* (2020) expand on this subject, stating that public organisations contribute to ensuring accountability of the authorities, and this should be considered when implementing reforms. The analysis confirms that public institutions are becoming an important tool for supporting democratic changes in the country.

S. Shala and D. Leka (2022) emphasise the importance of legal education, noting that young people should understand their rights and obligations from an early age. The conducted study confirms that legal culture is the foundation of a democratic society and underlines the need to integrate modern educational methods into the system of training lawyers. E. Dhembo *et al.* (2019) point out the need to adapt legal education to modern challenges, which is confirmed by the identified need to train specialists who can meet European standards. M. Bakiasi (2021) explores EU technical assistance programmes, accentuating the importance of adapting such initiatives to local needs. The analysis confirms that international assistance has a substantial impact on the development of the judicial system but requires close coordination with national institutions. S. Ndrejoni (2023) explores the impact of international donors on Albania's judicial system and suggests ways to improve the effectiveness of these programmes. The study shows that international cooperation is a critical factor in the reform of the judicial system, but its effectiveness depends on the extent to which these programmes take into account the specifics of local legal culture and challenges. Summarising all the results, the transformation of Albania's legal system requires an integrated approach that combines legal education, cultural adaptation, public engagement, and effective international support. Therewith, challenges remain that require further research, including integrating traditional law with modern law, strengthening institutional capacity and ensuring equal access to justice for all citizens.

Thus, the legal transformation of Albania after the fall of the communist regime is a multifaceted process that faces numerous challenges, such as the preservation of traditional legal norms, the need for cultural adaptation of European standards, corruption in the judicial system, gender inequality, and weak institutional capacity. The study confirms that the success of reforms depends on a combination of gradu-

al legal changes with the involvement of communities, the integration of customary practices into modern justice, the use of digital technologies for transparency, and the active participation of civil society. Support from the EU and international donors is important but only if local conditions and the specific features of the legal culture are considered. Legal education, institutional change, and a systematic approach to combating corruption remain key elements, which should ensure the long-term stability and development of the rule of law.

Conclusions

In the course of the study, the historical background and features of the formation of the legal system after the fall of the communist regime were considered, the main stages of its transformation and factors that influenced the process of law-making were identified. The analysis of the specifics of the interaction between the traditional legal customs of Albanian society and the new democratic legal norms revealed key contradictions and conflicts in the process of their legitimisation. Current problems in the field of legal justification and law enforcement were described, especially in the context of European integration and bringing national legislation in line with EU standards. The results of the study showed that, despite the adoption of important legislative acts and initiatives, the effective implementation of legal norms remains problematic due to the preservation of deep-rooted traditional practices, corruption, political instability, and insufficient legal culture among the population.

The results obtained confirm the multi-level legal transformation in Albania, demonstrating that the challenges of legitimising legal norms go beyond the purely legal plane and cover the socio-cultural dimension. The value of the obtained conclusions lies in identifying the need for systematic reform of the legal field, considering historical experience, established traditions and features of public consciousness. The study showed that successful democratisation of the legal system is possible only if the contradictions between customary law and democratic norms are overcome, the institutional capacity of state bodies is strengthened, and citizens' confidence in the judicial system is increased. This is important for other post-communist countries that face similar challenges in the process of democratic transformation, as it emphasises the need to take cultural and social characteristics into account when implementing legal reforms.

A limitation of the study was the lack of access to certain statistics and the limited number of cases analysed, which could provide a more accurate picture of the situation. The difficulty of obtaining reliable information on informal practices and Customs limits the ability to fully analyse the impact of traditional law on the modern legal system. Despite these limitations, the study provides a valuable contribution to understanding the processes of legal transformation and indicates the need for further research on this subject.

Promising areas for further investigation are the formation of practical mechanisms for implementing traditional legal instruments in the modern legal space of Albania, an in-depth examination of the effectiveness of the implemented transformations and their role in the formation of legal awareness of society. Research on mechanisms for increasing public confidence in state institutions and the judicial system, as well as studying the role of civil society in the process of democratic transformation, also requires atten-

tion. Further attention of researchers should be focused on finding ways to overcome obstacles in the process of legal integration and ensure the sustainable development of the legal system in the context of globalisation and European integration.

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Conflict of interest

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Труднощі обґрунтування правових норм як ознака демократичних перетворень в Албанії

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Анотація. Мета дослідження полягала у висвітленні ключових аспектів встановлення правових норм у контексті демократичних перетворень в Албанії та їх визначального впливу на еволюцію правової системи держави. У роботі за допомогою методів історичного, порівняльного та системного аналізу розглядалися історичний контекст і специфіка розвитку правового поля Албанії після закінчення комуністичного періоду, було проаналізовано співвідношення традиційних правових практик албанської громади з демократичними нормами, а також визначено актуальні виклики правової легітимації та правозастосування в контексті євроінтеграційних процесів. Результати засвідчили, що, незважаючи на ухвалення суттєвих законодавчих актів та ініціатив, ефективна реалізація правових норм залишається проблематичною. Глибоко вкорінені традиційні практики, такі як звичаєве право Канун Лека Дукаджині, корупція, політична нестабільність та відсутність правової культури населення перешкоджають ефективному впровадженню демократичних норм. Дослідження визначило постійний розрив між законодавчими реформами та їх практичним застосуванням, демонструючи, що формальна юридична адаптація не завжди перетворюється на ефективне управління. Крім того, аналіз підкреслив вирішальну роль незалежності судової влади та антикорупційних заходів у забезпеченні сталості правових перетворень. Отримані дані засвідчили про те, що хоча Албанія досягла значного прогресу в узгодженні своєї правової бази з європейськими стандартами, системні проблеми продовжують перешкоджати повній інтеграції демократичних принципів у правову практику. Результати дослідження підкреслили, що складність обґрунтування правових норм в Албанії є не лише юридичною проблемою, а й соціальною та культурною. Це свідчить про необхідність комплексного підходу до реформування правової системи з урахуванням історичної спадщини, традиційних цінностей, менталітету суспільства. Результати дослідження мають значення для успішної демократизації правової системи Албанії, оскільки вони вказують на необхідність узгодження традиційних і демократичних норм, зміцнення інституційної спроможності та підвищення довіри громадян до судової системи

Ключові слова: корупція; традиції; кровна помста; судова реформа; євроінтеграція; легітимація