

## INDIPENDENCE AND IMPARTIALITY IN THE ALBANIAN JUDICIARY SYSTEM

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### **Abstract**

Article 42 of the Constitution of the Republic of Albania and Article 6 of the European Convention on Human Rights have enshrined the right for a fair trial, part of which is the independence and impartiality of the judiciary. Judicial independence is a pre-requisite to the maintenance of the rule of law and the fundamental guarantee of a fair trial. A judge must decide cases impartially on the basis of law and evidence. He must do so without pressure, fear of interference from external influence, for example from the executive, but also against influences from within the judiciary. But recently, some judges use the judicial system as a profitable business, by buying and selling justice. They therefore have the potential to disrupt the entire judicial system for corrupt purposes. The public has no confidence that the judiciary upholds principles like independence and impartiality and it perceives the judiciary as one of the most corrupt institutions in the country. The judiciary has been called “the weakest link in Albania’s fragile system of separation of powers”, and it remains politicized and clientelistic, behaving like an untouchable corporation. European Commission has identified the corruption in the judiciary as the number one obstacle in the progress of Albania towards the European Union. Without a judicial reform, the process of membership will be blocked. In this framework, the government is implementing a judicial reform to guarantee the independence, impartiality and efficiency of the judiciary. Independence and impartiality will be the aim of this paper focusing on the standards set by the judicial jurisprudence, especially by the Albanian Constitutional Court jurisprudence and European Court of Human Rights decisions. Emphasis will be placed on the role of the judicial reform in improving concepts like independence and impartiality. A transparent and careful evaluation of judges can be a small but decisive step, towards these principles. Conclusions will be drawn and suggestions will be given in order to improve the public perception of the judiciary and thereby increasing the trust of Albanian citizens in their judicial system.

**Keywords:** *independent court, impartial court, fair trial, judicial reform, European Court on Human Rights, court decisions.*