Organization and functioning of the justice system in Albania, 1925–1928

di Erind Merkuri

Abstract: *Organizzazione e funzionamento del sistema giudiziario in Albania, 1925-1928* – The Albanian Constitution of 1925 established, for the first time in the country's history, a comprehensive system of justice administration. This judicial system, however, has suffered serious problems of effectiveness throughout its duration.

Keywords: Albanian Constitution of 1925; System of administration of justice; Implementation of the rule of law; Inefficient application of legal provisions

1. Introduction

The year 2025 marks the centennial of a pivotal moment in the institutional development of the Albanian State: the proclamation of the First Republic on January 21, 1925. This historic milestone was swiftly followed by the adoption of the Fundamental Statute, which laid the groundwork for a constitutional order based on the separation of powers and the structuring of State authority into distinct branches. This anniversary provides a timely and valuable opportunity to critically examine the institutional trajectory of the Albanian State, with a particular focus on the justice system, widely recognized as a cornerstone of democratic governance and State legitimacy.

The choice to focus on the period 1925–1928 arises from a well-founded conviction that these years represent a foundational phase in Albania's legal and institutional transformation. It was during that time when the first comprehensive efforts were undertaken to construct an autonomous judicial system, formally independent from the legislative and executive branches and designed to operate on principles of professionalism, impartiality, and legal certainty. Crucially, this period also marked a clear departure from the Ottoman legal tradition and the gradual alignment of the Albanian justice with the Western European models, through the establishment of institutions dealing with ordinary, administrative, and specialized criminal justice.

This study seeks to analyze, as objectively as possible, the structure, competences, and the evolution of Albania's justice institutions during the early republican period. Particular emphasis is placed on the interplay between the formal principles enshrined in the 1925 Statute, such as the separation of powers and judicial independence, and their practical implementation in the organic legislation and judicial practice. The aim is to

DPCE online
ISSN: 2037-6677

discern whether these constitutional principles were substantively realized or remained primarily declarative.

Methodologically, this research adopts an analytical-normative approach, drawing on archival materials, legislation of that period, decree-laws, and statutory texts. The structure of the paper follows a thematic and chronological logic. It begins by exploring the constitutional framework established by the 1925 Statute and its implications for the organization of the justice system. It then examines the organic laws governing ordinary courts, the public prosecution service, and the legal status of judges and prosecutors. Subsequent sections analyze the operation of special, military, and political courts, before turning to the institutional framework of administrative justice.

This comprehensive approach aims to provide a nuanced and historically grounded narrative of the Albanian justice system during this formative period. Beyond offering an academic reconstruction, the study contributes to the broader historiography of the Albanian legislation and institutions, while also inviting contemporary reflection on the enduring challenges of judicial independence and the rule of law.

In the broader framework of Albania's State-building transition in the early 20th century, the political consequences of the events of 1924 and the proclamation of the Republic in 1925 stand out as pivotal turning points. To fully comprehend the context in which the Albanian Republic was declared on January 21, 1925, and subsequently institutionalized through the adoption of the Fundamental Statute, it is essential to revisit the foundational events of the preceding year.

The year 1924 was a watershed moment in Albanian political history, marked by a deep political and institutional crisis that ultimately led to the overthrow of the existing government and the brief ascendancy of Fan Noli's administration, historically remembered as the "June Democratic Government". This period was catalyzed by the assassination of the prominent reformist Avni Rustemi in April 1924, which sparked widespread public unrest. These events culminated in the opposition's entry into Tirana on June 10 and the exile of Ahmet Zogu.

Noli's government entered office with an ambitious agenda of economic, social, and institutional reforms. However, the administration quickly encountered insurmountable obstacles, chiefly a lack of time, inadequate international recognition, and the absence of a consolidated State apparatus. Consequently, its authority eroded rapidly, and on December 24, 1924, Ahmet Zogu staged a return to power through force.

Zogu's comeback did not represent a mere restoration of the previous political order, rather, it ushered in a fundamental transformation of the Albanian regime. On January 21, 1925, the republic was formally proclaimed, and Zogu assumed the office of the President of the Republic with significantly expanded powers, modeled less on a liberal parliamentary republic and more on an authoritarian presidential system.

The establishment of the Republic in 1925 was, in this sense, a political response to the prolonged institutional volatility that had plagued the country since its' independence in 1912. It aimed to construct a strong, centralized State, capable of ensuring order, continuity, and control. Symbolically and practically, the Republic marked a rupture with the liberal-

democratic aspirations embodied in Noli's short-lived government and laid the institutional foundation for the eventual consolidation of Zogu's personal power, culminating in the proclamation of the Kingdom of Albania in 1928.

In historical retrospect, the 1925 Republic emerged as a product of exceptional political turbulence, born out of the stark confrontation between liberal-modernizing and conservative-authoritarian currents. Though its Fundamental Statute formally codified the separation of powers and other principles associated with constitutional governance, the regime's real orientation leaned heavily toward centralized authority and executive dominance. It represented more a compromise aimed at restoring stability, rather than a genuine democratization of political life.

2. The system of common justice

The system of common justice in Albania during the period 1925–1928 was administered by courts of general jurisdiction. Its organizational structure, functional modalities, and the legal status of judges were initially codified in the country's fundamental law and subsequently supplemented by other legislative instruments. However, as it will be elaborated further, the common justice system remained, at the normative level, notably fragmented. It was governed by a hybrid legal framework that included both Albanian State laws and residual Ottoman legislation. Despite attempts to consolidate this framework through the adoption of a dedicated law on the judiciary, the effort proved short-lived, because the law was swiftly repealed, effectively reinstating the pre-1925 legal regime.

This section aims to provide a comprehensive overview of all constitutional and legal provisions that were in force during this period, with the objective of reconstructing the normative foundations that governed the administration of common justice in Albania at the time.

2.1 *Statutory Provisions on the Organization of Common Justice*

The 1925 Fundamental Statute laid the foundational basis for the organization and operation of the judiciary. Although the Statute did not contain an explicit clause affirming the separation and balance of powers, it treated the three branches of government distinctly within its initial provisions. Notably, Article 9 of the Statute stipulated that *"judicial power is exercised by the courts"* and that *"their decisions are rendered in the name of the Albanian Republic."* This formulation not only affirmed the existence of an autonomous judiciary, but also linked judicial decision-making directly to the exercise of State sovereignty, rather than to any individual authority or organ of political power. In this way, the Statute implicitly recognized the judiciary as a coequal branch of government, integral to the constitutional architecture of the newly proclaimed Republic.

In a more comprehensive manner, the judicial power was articulated in Chapter IV of the 1925 Fundamental Statute, which opened with the foundational principle of judicial independence. Article 98 provided that *"The courts are independent. In giving their judgments, they do not depend on any*

DPCE online
ISSN: 2037-6677

other authority than that of the law." The formulation of this provision made it clear that the independence of the judiciary was accompanied by an explicit prohibition against interference by other branches of government in judicial activity.

Article 99 reinforced another essential guarantee, particularly significant for litigants, by affirming the right to be tried exclusively by a legally competent court. It expressly prohibited the establishment of extraordinary tribunals, thereby aiming to preclude the creation of political courts. However, as it will be discussed below, this important safeguard was ultimately circumvented with the establishment of such courts in practice.

The principles of transparency and publicity of judicial proceedings were codified in Article 100, which stipulated that *"hearings before the courts shall be held in public,"* allowing exceptions only in cases where public order or morality might be jeopardized. This provision also stipulated that every judicial decision must be reasoned and grounded in specific legal norms, an early articulation of the requirement to provide reasoned judgments, which is now recognized as a core element of the right to a fair trial.

In the realm of procedural rights, Article 101 enshrined the right of every accused individual to a defense, including the guarantee of mandatory legal representation from the moment of indictment. This right was reinforced through the provision of *ex officio* defense counsel, thereby aligning the statute with the emerging principles of due process and equality of arms.

The organization of the judicial career and the status of judges and prosecutors were governed by Article 102, which sought to institutionalize a merit-based appointment process. Under this provision, a commission composed of senior members of the judiciary and the Ministry of Justice was tasked with the selection of candidates, while the formal act of appointment rested with the President of the Republic. This system was intended to strike a balance between technical expertise and the risk of political interference.

Judicial tenure was further protected under Article 103, which recognized the principle of irremovability of the judges and restricted dismissal to cases adjudicated by judicial decision. The same article forbade involuntary transfers and arbitrary retirement, and established a rigorous process for suspending or prosecuting judges, which required the involvement of the Court of Dictation (Court of Cassation).

Articles 104 and 105 codified prohibitions designed to safeguard the exclusivity of the judicial function. Judges were not to be placed at the disposal of the executive administration, nor could they occupy any other public office, whether remunerated or not. These provisions underscored the imperative of avoiding undue entanglement with the executive branch.

Additionally, Article 106 imposed a categorical prohibition on judges' involvement in political activity, with dismissal from office designated as the applicable sanction. This provision was a particularly robust mechanism for preserving judicial depoliticization and ensuring the political neutrality of the bench.

Nevertheless, Article 107 introduced a transitional clause, stipulating that a judge would only benefit from the statutory protections and legal guarantees after completing three years of service. This reflected a gradualist approach to the full implementation of judicial independence.

As for the institutional organization of the judiciary, Article 110 established that the establishment and regulation of courts could only be enacted by law, reinforcing the principle of legality in judicial institutional design.

In the domain of fundamental rights, Article 126 provided a constitutional guarantee of personal liberty, specifying that arrest, detention, or criminal prosecution could occur solely in accordance with the law. This provision laid the groundwork for the principle of legality in the exercise of coercive State powers.

Finally, Article 137 stipulated that the confiscation of private property by the State was permissible only in cases defined by law and pursuant to a judicial decision. This provision was significant in anchoring property rights within the framework of judicial oversight and due process.

2.2 *The Organization and Functioning of the Ordinary Judiciary According to the Decree-Law of May 2, 1925 "*On the Organization of Justice*" (The Ghost Law)*

In support of the constitutional framework established by the Fundamental Statute of 1925, the Albanian government enacted the Decree-Law of May 2, 1925, *"On the Organization of Justice,"* which represented the first comprehensive legislative effort to structure the judiciary in the newly proclaimed Republic. This legal instrument aimed to create a unified and tiered system of courts, and to codify the competences and hierarchy of judicial institutions throughout the country.

The decree provided for a three-tiered court structure, beginning with Courts of First Instance, to be established in every prefecture and sub-prefecture center (Articles 1 and 2). These courts were composed of a presiding judge, an assistant judge, and support personnel, including a secretary, court usher, and general service staff. Additionally, each court was assigned a judicial officer who carried out the dual functions of notary and bailiff, assisted by a dedicated secretary (Article 3). In cases where this officer was absent, the judge himself was authorized to perform these duties.

The Courts of First Instance were responsible for adjudicating all civil, commercial, and criminal cases in accordance with applicable laws. Furthermore, in sub-prefectural jurisdictions where no investigating judge was assigned to the Court of Appeals, the judge of the Court of First Instance also assumed the role of investigating magistrate (Article 10).

In an effort to streamline and economize the judicial process, the law introduced restrictions on appellate rights based on the monetary value of the claim, albeit through a somewhat complex mechanism. Judgments involving sums up to 50 gold francs were considered final and not subject to appeal. For claims ranging between 51 and 500 gold francs, litigants could bypass the Court of Appeals and appeal directly to the Court of Dictation (Court of Cassation), which reviewed the legality of the lower court's decision without reassessing factual determinations (Article 11). This process effectively reduced the workload of appellate courts while preserving limited appellate review for litigants.

DPCE online
ISSN: 2037-6677

For disputes exceeding 500 gold francs in value, appeals were permitted to the Court of Appeals, which thus served as the intermediate judicial authority in the three-tiered structure. These appellate courts were established in each prefectural center and consisted of a president, two associate judges, and a chief secretary who also served as an assistant to the judges. Additional administrative support was provided by clerks, ushers, and service personnel (Article 5). Alongside the judges, the Court of Appeals also included a prosecutorial office and an investigating magistrate, each supported by a dedicated secretary (Article 6). These courts reviewed civil and commercial appeals exceeding the 500-franc threshold and exercised jurisdiction over criminal matters within their territorial competence (Article 12). While civil and commercial decisions of the Court of Appeals could be appealed (dictated) to the Court of Dictation, such appeals were obligatory in criminal cases (Article 13).

At the apex of the judiciary stood the Court of Dictation, the supreme court of the country, divided into two branches: civil and criminal. Each branch was composed of a president, four associate judges, one assistant judge, a chief secretary, and an appropriate administrative staff, including clerks, ushers, and service personnel (Article 7). Each president presided over his respective chamber, but in plenary sessions, when both branches convened jointly, the President of the Civil Chamber presided (Article 9).

The Court of Dictation was supported by the Office of the Chief State Prosecutor, comprising the Chief Prosecutor, an Assistant Chief Prosecutor, a secretary, an archivist-protocol officer, and a servant (Article 8). This court acted as a second instance for decisions involving claims between 51 and 500 gold francs, as well as for all cases appealed (dictated) from the Courts of Appeals (Article 14).

2.2.1 *The Public Prosecution Service*

The Decree-Law of May 2, 1925, also codified the organization and functioning of the public prosecution, conceptualizing prosecutors as guardians of the public interest. Prosecutors were entrusted with overseeing the proper implementation of State laws and safeguarding public order and justice (Article 19). In criminal proceedings, their actions were to be conducted in strict accordance with the rules of criminal procedure (Article 20).

The prosecutorial system was organized under a centralized hierarchy. Lower-level prosecutors operated under the directives and instructions of their superiors, ensuring a uniform prosecutorial policy and coherence in legal interpretation. Prosecutors attached to appellate courts had jurisdictional authority over their respective districts and were vested with the power to inspect judicial and administrative offices, reporting regularly to the Minister of Justice (Articles 21–25).

Importantly, the role of prosecutors extended beyond the criminal domain. They were also authorized to intervene in civil proceedings under specific circumstances: when the State or its institutions were party to the litigation, in matters involving public guardianship by testamentary disposition, in actions brought against judges, in disputes over judicial

competence, and in proceedings concerning minors, legally incapacitated individuals, and missing persons (Article 26). In such cases, the presiding judge was obligated to notify the prosecutor of the matter, forwarding relevant documentation to allow the prosecutor to provide a written opinion on whether to intervene in the trial (Articles 27–29).

Furthermore, prosecutors bore responsibility for overseeing the execution of final judicial decisions within their territorial jurisdiction (Article 35). This supervisory function underscored their integral role in ensuring the enforcement of court judgments, thereby reinforcing the authority and efficacy of the judiciary.

2.2.2 *Status of Judges and Prosecutors*

The Decree-Law of May 2, 1925, also laid down a detailed framework for the qualifications, appointment procedures, and professional conduct of judges and prosecutors, reflecting an early effort to construct a professional and relatively autonomous judiciary, within a fragile State-building context.

To be eligible for appointment as a judge or prosecutor, candidates were required to meet a series of conditions: (a) Albanian citizenship; (b) a minimum age of 25 years; (c) literacy in the official Albanian language; and (d) a degree from a university-level law school or, alternatively, ten years of professional experience as a judge or practicing lawyer. In cases where the candidate did not possess a decade of legal experience, they were obligated to undergo a qualifying examination (Article 44). This requirement implicitly underscored the acute shortage of qualified legal professionals in Albania at the time. Furthermore, even law graduates were required to have completed at least two years of legal practice or judicial service, prior to appointment (Article 45).

Candidates emerging from the legal profession were to be evaluated based on seniority, personal conduct, and demonstrated legal competence. However, the law adopted a somewhat coercive tone by imposing sanctions on lawyers who declined judicial appointments, barring them from legal practice for a period ranging from six months, to two years (Article 47).

Additional eligibility criteria included the stipulations that a candidate (e) could not be a member of the clergy; (f) must possess good moral standing and not have a negative public reputation; (g) must not have been convicted of a crime or misdemeanor; (h) must not have declared bankruptcy or suffered the loss of political rights, irrespective of subsequent restoration; and (i) must not have been dismissed from a prior position on disciplinary grounds (Article 44).

When a vacancy occurred, appointment priority was given to those candidates who met the legal criteria and demonstrated the greatest seniority (Article 48). The law again took a punitive stance by declaring that refusal to accept promotion would be interpreted as a resignation, automatically triggering dismissal from office (Article 52).

Appointments were made through a structured process involving the Commission for the Appointment of Judicial Officials, whose decisions were submitted to the President of the Republic via the Minister of Justice (Article 49). The composition of this commission included the Minister of Justice,

DPCE online
ISSN: 2037-6677

the Presidents of the Civil and Criminal Chambers of the Court of Appeal, the Chief Prosecutor, and the Secretary General of the Ministry of Justice (Article 77).

Consistent with the Fundamental Statute, the law reaffirmed the principle of judicial tenure, providing that judges and prosecutors were irremovable from office, except in circumstances defined by law (Article 51). To further insulate the judiciary from political or financial influence, judges were prohibited from undertaking any other public or private duties, whether compensated or not, except for teaching assignments in higher education institutions, although Albania at the time lacked such institutions (Article 53). Judges were also barred from engaging in commercial enterprises or holding shares in companies (Article 54).

Transfers without consent were likewise forbidden, except in instances involving family relationships within the same court (up to the fourth degree of consanguinity), or where a disciplinary sanction necessitated relocation (Article 56).

The law also envisioned a system of professional evaluation. Based on judicial performance statistics, inspection reports, and other relevant assessments, the Minister of Justice could issue commendations to judges who were deemed to have carried out their duties in accordance with the law, noting such recognition in their official record (Article 57).

Promotion within the judiciary was contingent on a minimum of three years' service at a given level (Article 46), in accordance with the hierarchical structure established under Article 68 of the law.

Integral to the status and independence of judges and prosecutors under the 1925 Decree-Law was the recognition of their disciplinary responsibility. The law provided for the removal of judicial officials not only in cases involving criminal offenses committed in the exercise of their duties, but also for ordinary criminal acts (Article 51). This dual liability underscored the dual expectations of professional competence and personal integrity.

Specifically for judges, the law imposed additional ethical obligations beyond the performance of their formal duties. Judges were explicitly prohibited from any conduct that would constitute a violation of their responsibilities or the dignity of their office, whether during official hours or in their private lives (Article 59). Among the behaviors singled out as breaches of professional decorum were receiving personal acquaintances within the office (Article 62) and disclosing internal operations of the judicial office they managed (Article 66). While not exhaustive, these prohibitions reflected the legislator's emphasis on maintaining the impartiality and public trust in the judiciary, by delineating even minor infractions.

The disciplinary sanctions foreseen by the law were scaled according to the severity of the infraction. They included: (i) a written reprimand, (ii) a fine of up to two months' salary, (iii) demotion in rank, and (iv) permanent dismissal from office (Article 60). The law emphasized the principle of proportionality in the imposition of disciplinary measures, directing that the sanction be commensurate with the gravity of the misconduct (Article 61). Moreover, for those who were demoted, the law imposed an ancillary penalty: the forfeiture of reimbursement for travel expenses (Article 64).

A particularly notable provision introduced a quantitative performance metric as a ground for disciplinary action. If more than half of a judge's decisions were overturned by a higher court or found unenforceable, the Ministry of Justice was authorized to initiate disciplinary proceedings resulting in dismissal (Article 55). This provision reflected an embryonic form of performance-based accountability within the judiciary, albeit one susceptible to the risks of over-reliance on quantitative indicators, absent deeper qualitative assessments (Article 67).

Finally, an exceptional scenario under which a judge could be released from office was the structural reorganization or abolition of the court to which they were assigned (Article 55). This clause acknowledged institutional reforms as a legitimate, though non-disciplinary, ground for termination.

Nevertheless, the provisions outlined in the Decree-Law were not enacted through legislation passed by the Parliament of the time. Instead, they were issued under the authority of a governmental decree, a process permitted by Article 88 of the 1925 Fundamental Statute. This article stipulated that, «When the legislative bodies are in recess, the Government has the right to issue decree-laws; but these must be submitted to the legislative power at the beginning of the next session for consideration and approval. If they are not submitted or not approved, they are automatically considered rejected».

In accordance with this constitutional framework, the Decree-Law on the organization of the justice system should have been brought before Parliament for ratification. However, a different sequence of events unfolded. The Decree-Law generated considerable confusion and dysfunction within the judicial power. The Minister of Justice, recognizing its problematic implementation, sought to suspend its enforcement through an internal circular. This suspension was, however, rejected by the courts, which continued to apply existing legal norms.

In response to the institutional impasse, a group of deputies[1] introduced a bill in the Chamber of Deputies entitled «On the re-establishment of the previous organization of the courts». This legislative initiative sought to reinState the judicial framework that had been in force prior to the Decree-Law of May 2, 1925. The bill was swiftly approved by the Chamber of Deputies following the submission of a favorable report by the Justice Committee[2] and was ratified by the Senate two days later[3].

Consequently, the Decree-Law in question remained largely unimplemented and functioned more as an abortive legal experiment than as a binding reorganization of the justice system. In practice, the legal framework of 1923 and earlier continued to govern the judiciary throughout

[1] These deputies were Milto Tutulani, Rexhep Matja, Hasan Vrioni, Hamit Myftiu, Xhafer Ypi, Kasëm Radovicka, Qani Dëshnica, Hasan Biçaku, Hysni Toska, Veis Bamiha and Simon Gjini.

[2] Minutes of the parliamentary session of the Chamber of Deputies, dated June 13, 1925, published by the Assembly of Albania, in Parliamentary Discussions, No. 1 of 1925, Tiranë, 2015, 413, 415.

[3] Minutes of the Senate parliamentary session, dated June 15, 1925, published by the Assembly of Albania, in Parliamentary Discussions, No. 2 of 1925, Tiranë, 2015, 325.

DPCE online
ISSN: 2037-6677

this period, as will be further elaborated in the subsequent sections of this study.

2.3 *The Law of January 28, 1923* "On the organization of courts of justice"

The Law of January 28, 1923 on the Organization of Courts of Justice marked an initial step toward structuring the Albanian judiciary. However, in its nature, this law was incomplete and failed to comprehensively regulate the organization and functioning of the judiciary. Rather than establishing a unified system of justice, it codified a segmented structure, drawing from existing Ottoman and Austro-Hungarian legal influences while leaving several institutional ambiguities unresolved.

The law provided for a multi-tiered system of courts. At the lowest level stood the Courts of Peace, which were divided into three distinct categories: First, Second, and Third Degree. These were not differentiated by jurisdictional competence but rather by the number of staff and the administrative structure assigned to each category. For instance, First-Degree Peace Courts were to be established in Delvina, Përmet, and the Prefecture of Durrës. Second-Degree Courts were planned for locations including Krujë, Kavajë, Lushnjë, Fier, Tepelenë, Libohovë, Pogradec, Bilisht, and the Prefectures of Shkodër, Elbasan, Berat, Gjirokastër, and Korçë. Third-Degree Courts were to be established in sub-prefectural centers such as Peqin, Librazhd, Skrapar, Kolonjë, Mallakastër, Himarë, Lezhë, as well as in the Prefectures of Dibra and Kosovo (Article 1).

The structure of personnel varied according to the category. First- and Second-Degree Courts consisted of a judge, an assistant judge who also acted as chief secretary, a secretary, a copyist, a summons officer, and a servant. Third-Degree Courts, by contrast, operated with a reduced staff: a judge, a secretary, and a combined summons-servant. Notably, these categorizations did not alter the substantive jurisdiction of the courts; rather, they appeared to be primarily administrative and budgetary in nature, influencing salaries and resource allocation.

The jurisdiction of the Courts of Peace was governed by the 1917 Law on the Peace Courts, originally enacted during the Austro-Hungarian occupation of Albania. In civil matters, the competence of these courts was limited to claims not exceeding 75 gold napoleons (Article 6). Furthermore, decisions involving claims of less than 50 gold francs were deemed final and not subject to appeal (Article 9).

Above the Courts of Peace were the Primary Courts, which were composed of a president, two members, an assistant member, a chief secretary, three additional secretaries (one serving in an assistant capacity), two summons officers, and a servant (Article 3). Supporting legal officers included a prosecutor, an investigating judge, and a notary public, each assisted by a secretary (Article 4). These courts handled civil claims exceeding 75 gold napoleons and criminal cases occurring within their territorial jurisdiction (Article 8). While decisions in civil and commercial matters could be appealed through a process known as "dictation," the review of criminal cases by higher courts was mandatory (Article 9).

At the apex of the judicial hierarchy stood the Court of Dictation. According to the 1923 law, this court was composed of a chairman, four members, an assistant member, a chief secretary, three secretaries, and two servants. Additionally, the Chief Prosecutor's Office was established as an attached institution, consisting of a Chief Prosecutor, an Assistant Chief Prosecutor, and a secretary (Article 5). This court adjudicated appeals (dictations) from lower courts in accordance with the civil and criminal procedural codes in force (Article 10).

In order to minimize conflicts of interest and preserve judicial impartiality, the law expressly prohibited the appointment of judges, prosecutors, and administrative staff in their place of birth (Article 16).

Over time, the organization of these courts evolved. Modifications were introduced to the structure and composition of the courts, including the division of the Court of Dictation into separate civil and criminal branches and the temporary reassignment of judges across branches to meet operational needs.[4]

2.4 *Ottoman Legislation on the Status of Judges and Prosecutors*

With regard to essential aspects of the status of judges and prosecutors, such as appointment, promotion, transfer, inspection, and disciplinary liability, the Law of January 28, 1923, introduced a transitional legal framework that retained, in part, the influence of Ottoman legislation. Specifically, Article 16 of the law Stated: «The laws on the organization of the courts made since the day of the proclamation of Albanian independence, as well as the provisions of Ottoman laws that are in conflict with this law, remain without force».

This provision addressed two categories of normative instruments. The first referred to the legal acts adopted after the declaration of Albanian independence on November 28, 1912. These included, most notably, the judicial regulations of 1914,[5] 1919,[6] and 1921,[7] which dealt with the territorial organization of the courts and their institutional structuring. To

[4] Law of December 22, 1925 "*Appendix to the Law of Amendments to Paragraph 1 of Art. 5 of the Law of 26. VII. 25 of the Law on the Organization of the Courts of 28.I.23*; Law of December 23, 1925 "*On the Amendment of Articles I, and IV of the Law on the Organization of the Courts of 28.I.923*"; Decree of January 30, 1926 "*On amendments to the law on the organization of courts dated 28.I.923*"; Law of May 24, 1927 "*Appendix to article I, of the Law on the Organization of the Courts of Justice dated 28-I-1923, amended on 5-XII-1925*"

[5] The *Canon of the Courts of Justice of Albania*, dated June 4, 1914, decreed by Prince Wilhelm Wied, consisted of 33 articles and could be divided into two parts, where the first part (articles 1-10) dealt with the judicial organization and the powers of the courts, while the second part (articles 11-31) regulated criminal procedural norms.

[6] The law that was passed in 1919 by the Government of Durrës dealt with the organization of the courts but not with aspects of the status of judges and prosecutors.

[7] The Law of 1921, for its part, was conceived as an appendix to Ottoman law, where various regulations were made for the organization of courts and judicial offices, but this law also did not have any provisions for aspects of the status of judges and prosecutors.

DPCE online
ISSN: 2037-6677

the extent that these laws had remained in force up to that point, Article 16 expressly rendered them legally void.

The second category involved the legacy of Ottoman legal norms that had continued to govern aspects of Albania's judicial system even after independence. Rather than a wholesale repeal, the law opted for a selective abrogation: only those provisions of Ottoman law that were inconsistent with the new 1923 law were annulled. Consequently, the repeal was partial and conditional, allowing a considerable portion of Ottoman legal norms to persist in force, particularly in areas not yet regulated by Albanian legislation.

For this reason, when examining the legal status of judges and prosecutors during the early years of the Albanian State, it is essential to consider the portions of Ottoman legislation that had not yet been explicitly repealed. To identify the relevant legal norms within this residual Ottoman framework, Albanian authorities and scholars frequently referred to the comprehensive compilation prepared by the British diplomat George Young (1872–1952), titled *Corpus de droit ottoman: Recueil des codes, lois, règlements, ordonnances et actes les plus importants du droit intérieur, et d'études sur le droit coutumier de l'Empire ottoman*[8]. This seven-volume collection served as a principal reference for Ottoman statutory law, including its application in former imperial territories such as Albania.

Within this compendium, particular attention was given to the Law on the *"Nizamiye"* Courts, dated 27 Jumada al-Thani 1296 (27 June 1879), which was foundational to the structure of Ottoman civil justice and remained partially in force in Albania well after independence. According to this law, several substantive and formal requirements were established for judicial appointments. Among these were the possession of good moral character, a minimum age of 25 years, the absence of criminal or disciplinary convictions, and demonstrable professional experience or the successful completion of an examination administered by the Appointment Commission of the Ministry of Justice (Article 43).

The criteria became progressively more demanding for higher judicial appointments, requiring, for example, that candidates for appellate or cassation courts meet elevated age thresholds (30 or 40 years, depending on the position) and possess substantial judicial experience at lower levels (Article 44). The law also permitted prosecutorial officials to be appointed to judicial positions, thereby institutionalizing a degree of mobility and functional interchangeability within the legal profession (Article 45).

Responsibility for appointments resided with a centralized Appointments Commission, composed of the Minister of Justice, the Undersecretary of the Ministry, and senior representatives from the Court of Cassation and the Court of Appeal (Article 46). Formal appointments were made by imperial decree, based on the recommendations of the Minister of Justice (Article 47).

[8] K. Jançe, I. Nano, *Jurisprudence of the Council of State on Ottoman legislation*, published in the proceedings of the National Scientific Conference, "Council of State for the development of law in Albania (1929-1944)", under the supervision of A. Anastasi and E. Merkuri, organized on 22.11.2022, by the Faculty of Law of the University of Tiranë, Tiranë, 2024, 194-195.

The principle of judicial immovability was explicitly guaranteed in Article 48, which Stated that judges appointed in accordance with legal procedures could not be transferred or reassigned without their prior consent. Transfers within the same rank of the judiciary were permitted only upon the judge's agreement. For auxiliary personnel, such as substitute judges or court secretaries, the law provided a mechanism for dismissal in cases of misconduct or incompetence, initiated by the relevant court and finalized through a decision of the Ministry of Justice.

Moreover, provisions for disciplinary and criminal accountability were embedded in the law. Jurisdiction over criminal proceedings involving judges of the first instance and appellate courts was assigned to higher courts, namely, the courts of appeal and the court of cassation, who also held the authority to suspend judges during the course of investigations (Articles 52–53). These provisions reflect an early institutional effort to develop an internal framework for the oversight and accountability of the judiciary, consistent with the hierarchical structure of the court system.

With regard to career progression and promotion within the judiciary, the *"Nizamiye"* Courts Law of 1879 provided a comprehensive framework for hierarchical classification and institutional advancement. The law delineated a clear ranking system, beginning with the First President of the Court of Cassation and extending down to judges of the first instance and substitute magistrates (Articles 54–55). This hierarchical organization was further stratified through the classification of courts into central and provincial categories, each associated with distinct levels of remuneration and jurisdictional authority.

Importantly, judicial rank was attached to the function rather than the individual. This principle, embedded in Article 55, promoted professional equality and institutional meritocracy, while simultaneously precluding the retention of rank in the event of dismissal or removal from office. As for the public prosecution service, the law conceptualized it as a distinct institutional entity, subordinate to the Ministry of Justice, tasked primarily with maintaining public order (Articles 56–57). Prosecutors were appointed and dismissed by Imperial Decree and were required to satisfy the same eligibility criteria as judges (Article 57). Despite their administrative subordination, prosecutors enjoyed broad procedural powers in both civil and criminal cases, including the authority to intervene in legal proceedings and to file appeals or requests for cassation in defense of public interest (Articles 65–72). Structurally, the prosecution operated under a strict hierarchical model, headed by the Prosecutor General, with vertical reporting lines among subordinate officials (Article 60).

Crucially, the *"Nizamiye"* Law also introduced a formal framework for the inspection of judges and prosecutors and for the exercise of disciplinary oversight. This early supervisory infrastructure constituted a significant development in the evolution of judicial accountability in the Ottoman legal system and, by extension, in early Republican Albania, where portions of this legislation remained in force.

The legislation envisaged the creation of a Justice Inspectorate under the direct authority of the Minister of Justice, with extensive supervisory competence over the courts within its jurisdiction. Inspectors of justice were appointed by decree of the Head of State, upon the recommendation of the

DPCE online
ISSN: 2037-6677

Minister of Justice. Each inspector was assigned to a specific province and was expected to possess high-level expertise in both substantive and procedural civil and criminal law, along with unquestionable moral character and professional integrity.

The role of the inspector extended beyond formal compliance and was inherently operational. Inspectors were obligated to conduct regular evaluations of all courts within their territorial scope, assessing the performance of judges, adherence to procedural timelines, accuracy in the communication of judicial acts, the number of pending cases, and the overall functioning of court secretariats. The inspector's review also extended to the financial management of court activities, including the collection and proper registration of judicial fees in accordance with applicable legal standards.

Additionally, inspectors had full access to all judicial documentation, case files, registries, and procedural acts, and were tasked with monitoring the conduct and effectiveness of court personnel, including clerks, bailiffs, and their deputies. A central focus of this inspection regime was the enforcement of the principle of procedural equality, whereby judges were explicitly prohibited from demonstrating any form of preference toward the parties in a trial.

In the realm of criminal justice, inspectors were charged with verifying adherence to investigative protocols and procedural safeguards, including the prompt drafting of procedural minutes, the legality of interrogations, and the timely execution of judicial orders. In the event of procedural irregularities or violations, inspectors were mandated to report directly to the Minister of Justice.

Perhaps most significantly, inspectors were empowered to protect judicial independence from administrative interference. The law explicitly tasked them with identifying and addressing any undue pressure from civil authorities, ranging from improper attempts to influence case outcomes, arbitrary arrests, and coercive demands for guarantees or decisions. In such cases, inspectors were required to intervene with local administrative officials to halt such practices and to immediately notify the Minister of Justice if the interference persisted.

Despite their broad powers, judicial inspectors were not authorized to intervene directly in judicial proceedings or influence the decision-making process. Their role was strictly observational and investigative. Inspectors were, however, empowered to conduct inspections of detention facilities, assessing the legality of detentions, adherence to pretrial detention periods, conditions of detainee treatment, and compliance with hygiene standards.

The law explicitly prohibited inspectors from accepting complaints or appeals as procedural challenges to judicial decisions. Nevertheless, if such complaints concerned decisions rendered by courts of first instance, inspectors were obligated to transmit them to the governor or financial administrator, who in turn forwarded them to the competent Court of Appeal. In cases involving appellate court decisions, the inspector was required to submit the matter to the Ministry of Justice, which would then refer it to the Court of Cassation.

Inspectors enjoyed unfettered access to judicial records and could request certified copies of documents from court presidents. Every three months, they were required to submit comprehensive reports to the Minister

of Justice, detailing the inspections conducted, observations made, proposed corrective measures, and any impediments encountered in the implementation of legal norms.

The legislation held judges disciplinarily accountable for conduct or actions deemed incompatible with judicial office. Depending on the severity of the infraction, disciplinary measures ranged from a warning or reprimand to suspension from office, with the suspension carrying a simultaneous interruption of salary (Article 49). The law granted disciplinary bodies discretion both to assess whether a judge had engaged in inappropriate conduct and to determine the appropriate sanction proportionate to the gravity of the offense.

Dismissal from office constituted the most severe disciplinary sanction and was applicable in cases where a judge had been convicted of a criminal offense or sentenced to correctional measures or administrative imprisonment by police authorities (Article 49).

Additionally, the law stipulated that if a judge was absent three times within a one-month period without valid justification or official leave, such behavior would be interpreted as tacit resignation, necessitating replacement (Article 50). Although the provision was framed as constructive resignation, it bore significant resemblance to disciplinary dismissal in both form and effect.

The provision concerning unauthorized judicial absences was also applied in practice by Albania's judicial authorities, although it was not interpreted as amounting to de facto resignation. A notable case involved the Disciplinary Chamber of the Court of Dictation (Court of Cassation), which adjudicated proceedings against a peace judge from Fier, Mr. J. S. According to Order No. 2115/I, dated December 13, 1924, and Communiqué No. 13 of the same date issued by the Ministry of Justice, the Chief Prosecutor's Office referred the matter to the Court of Dictation, asserting that Judge J. S. had left his post without authorization or prior notice to the Ministry. The judge had cited illness as his reason for traveling to Elbasan to retrieve his children.

The facts were registered under entry no. 1 of the special disciplinary register and evaluated pursuant to Article 5 of the Law of August 22, 1922, regarding amendments to Chapter IV of the Procedural Code. The case documentation, corroborated by telegrams from the Prosecutor's Offices in Berat and Elbasan, confirmed that Judge J. S. had departed from his duty station without formal leave. As such, this act was considered a disciplinary violation under Article 50 of the Court Organization Law, and proceedings were requested to establish the need for a disciplinary trial.

Upon review of the full case file and correspondence, the Court concluded that the judge had been absent from duty for eight days, based on a medical certificate issued by a physician in Fier. While the illness itself was substantiated, the unauthorized absence, undertaken without official leave from the Ministry, was deemed a breach of disciplinary duty. Consequently, pursuant to Article 50 of the Law "*On the organization of the courts*" the

DPCE online
ISSN: 2037-6677

Disciplinary Chamber imposed the sanction of deducting the judge's salary corresponding to the eight days of absence.[9]

An examination of the practical implementation of judicial discipline during this period reveals instances in which the formal provisions of the law were bypassed altogether. A particularly illustrative case occurred in 1925, involving the wholesale dismissal of the entire Dictation Court, not for disciplinary infractions as outlined in the Statute or the relevant organic law, but rather for administrative and structural reasons. The Minister of Justice at the time, Petro Poga, issued a directive ordering the dissolution of the Court's single chamber, citing its reorganization into two distinct branches: civil and criminal. In the letter, the Minister Stated, «... the annulment of the Dictation Court and its formation into branches (civil and criminal) [necessitates that] you are dismissed for administrative reasons»[10].

Another case, reflecting continued application of provisions from Ottoman-era legislation still in force in Albania following its declaration of independence, involved performance-based dismissal criteria. Specifically, when more than half of a court's decisions, whether at the first instance or appellate level, were overturned or modified by higher courts within a given year, the President of the Court of Dictation (Court of Cassation) was required to notify the Ministry of Justice and request reorganization of the court. This process could lead to the dismissal of the judges involved, subject to ministerial authorization.[11]

Archival sources document a relevant example from 1927, when the Ministry of Justice issued a request to the Chief Prosecutor's Office at the Dictation Court to provide a list of courts in which over 50 percent of judgments, civil or criminal, had been overturned in the preceding year. The Ministry cited Article 42 of the Ottoman law on judicial organization (document no. 304) and instructed that the opinions of the court presidents be submitted regarding necessary disciplinary actions.[12]

The response included two statistical tables, one for courts of first instance and one for courts of peace, offering valuable insight into the judiciary's performance during the period. In courts of first instance, of 274 reviewed decisions, 135 were upheld while 139 were overturned, yielding a 49.3% confirmation rate. This figure suggests a moderate level of consistency and legal coherence at this level of adjudication.

In contrast, the performance of courts of peace was notably weaker. Of 405 decisions reviewed, only 166 were confirmed while 239 were

[9] Decision No. 1, dated 11.04.1925, of the Investigative Body of the Court of Dictation, taken from *Decisions of the Supreme Court – 110 years of judicial experience*, publication of the Supreme Court, Tiranë, 2023, 58.

[10] A. Anastasi, *The Court of Dictation in Reflections on Constitutional Control*, published in the proceedings of the National Conference, on the topic "Judicial Practice of the Supreme Court, from National Identity to Universal Values", organized on 10.5.2023, on the occasion of the 110th anniversary of the establishment of the Supreme Court, Tiranë, 2023, 56. In this case, the author refers to the letter of the Minister of Justice dated 14.9.1925.

[11] Addition of the Ottoman Law, dated 29 Sha'ban 1304 (17 May 1888).

[12] AQSH, F.156, year 1926, D.742, date 01.02.1927, fl.1. Letter no.146, date 26.1.1927 of the Minister of Justice, addressed to the Chief Prosecutor's Office of the Dictation Court.

overturned, resulting in a substantially lower confirmation rate of 40.9%. This statistic reflected the limited legal capacity and interpretative consistency of these lower-level courts, highlighting systemic deficiencies in legal training and adjudicative rigor at the foundational tier of the judiciary.

In aggregate, across both judicial tiers, a total of 679 decisions were reviewed, of which only 301, or 44.3%, were upheld by the higher courts, while 378 were overturned. This indicator reveals a dual reality: on one hand, it reflects a nascent effort to establish a functioning system of justice; on the other, it underscores the professional and institutional shortcomings that permeated the judicial framework of the time.

The relatively low confirmation rate across both levels of adjudication points to several systemic challenges, including inadequate professional training among judges, inconsistencies in legal interpretation, and potential ambiguities within the substantive and procedural legal norms in force.

Taken as a whole, the statistical data portray a justice system in the early stages of institutional formation, one characterized by fragility and in urgent need of structural consolidation. They highlight the pressing necessity for the professional development of magistrates and the establishment of a coherent and stable jurisprudence across all levels of the judiciary.

2.5 *Family and Religious Justice*

As previously noted, matters pertaining to family law fell outside the jurisdiction of the ordinary courts during this period. This arrangement was closely linked to the enduring legacy of Ottoman legal tradition in Albania. In the domain of civil law, Albania primarily applied the Ottoman Civil Code, known as the *Mecelle* (*Mexheleja*), which represented an ambitious codification of *Hanafi* Islamic jurisprudence by Ottoman legal scholars. However, the *Mecelle* did not encompass the entirety of civil law; crucially, it excluded family law, which continued to be governed by religious legal systems.

While the Ottoman Empire attempted to extend the codification of family law through reforms introduced in 1917, these amendments never took effect in Albania due to the country's declaration of independence in 1912. As a result, the *Mecelle*, in the form it existed at the time of independence, became Albania's de facto civil code, irrespective of its foreign origin, while subsequent Ottoman reforms held no normative value within the Albanian legal order. Any legislative developments adopted by the post-1912 Ottoman administration were treated as the enactments of a foreign sovereign and therefore not binding in Albania.

Reflecting both this historical inheritance and the provisions of Ottoman judicial legislation discussed earlier, Albania maintained the jurisdiction of religious courts for family-related matters, respecting the autonomy of each recognized religious community. The Law of January 28, 1923, "*On the organization of courts of justice*", explicitly affirmed in Article 13 that religious courts were competent to adjudicate matters such as marriage formation, divorce, the obligation to provide maintenance, and the return of

DPCE online
ISSN: 2037-6677

dowries. Judgments issued by these courts were subject to execution by State bailiff offices.

Similarly, the Decree-Law of May 2, 1925, "*On the organization of justice*", though never fully implemented, reaffirmed in Article 17 the competence of religious courts to adjudicate marital matters, including dissolution and alimony obligations. Article 18 reiterated that their decisions would be enforced by the bailiff's office. Notably, however, Article 75 of the same law subjected these religious courts to the supervisory authority of the Ministry of Justice in matters of judicial administration, thereby creating a formal interface between ecclesiastical jurisdiction and the State justice system.

2.6 *The Law of May 9, 1928* "On the annual recess of the courts of justice"

The final legislative intervention in the domain of Albania's justice system during the republican period occurred in 1928, which also marked the last year of validity for the 1925 Fundamental Statute and the republican form of governance. Despite its proximity to the constitutional transition of 1928, this law remains within the temporal and institutional framework under examination and therefore merits consideration.

The Parliament of the time adopted the Law of May 9, 1928, titled *"On the annual recess of the courts of justice,"* which introduced a systematic regulatory framework governing the annual judicial recess. Specifically, it suspended the adjudication and examination of civil, commercial, and criminal cases from July 16 to September 1 of each year (Article 1). This suspension applied uniformly to all levels of the judiciary and was intended to provide an institutional pause across the court system.

Nevertheless, the law provided for essential exceptions to this general rule. It preserved the competence of peace courts and courts of first instance to adjudicate cases deemed urgent, whether by their legal nature or classification (Article 2). To facilitate this function, peace courts were required to remain active for two working days per week, while first-instance courts were obliged to dedicate one working day per week to such matters. Moreover, for situations involving seizure, arrest, preventive measures, investigative objections, or any case involving potential irreparable harm due to delay, the law mandated immediate judicial action, even outside of the designated weekly schedule (Article 3).

To ensure continuity in adjudication, Article 4 authorized the temporary assignment of peace court judges to serve as members of first-instance panels during the recess period. This provision maintained internal coherence with both the 1923 "*Law on the Organization of the Judiciary and the law governing the legal profession*".

A procedural safeguard was included in Article 5, which prohibited the adjudication of cases in the absence of the parties unless the trial was expressly requested by the interested party and the case was formally deemed urgent by the court. Such a classification had to be recorded in a decision communicated to the parties in advance.

As for the Court of Dictation (Court of Cassation), Article 6 placed it on recess for the entirety of the holiday period, with a notable exception: the President of the Court retained the discretion to order the examination of cases via an ordinance communicated to the Ministry of Justice, should urgent circumstances arise.

To ensure administrative preparedness, Article 7 required each court president to prepare a duty schedule prior to the holiday period, determining the rotation of judges responsible for urgent matters. The Ministry of Justice retained supervisory authority and could revise the schedule in the event of complaints or operational concerns.

Finally, the law entered into force immediately upon publication in the Official Gazette (Article 8), and its implementation was entrusted to the Ministry of Justice (Article 9). As evidenced by its content, the law served both a functional and institutional role, ensuring rest for judicial personnel without compromising access to justice in matters of urgency. It represents a normative step toward the professionalization and procedural regularity of Albania's judicial system during the late republican era.

3. Special Criminal Justice for High Officials

The 1925 Fundamental Statute of Albania provided for the establishment of a specialized judicial body known as the *"High Court of the State,"* which was entrusted with exceptional and highly sensitive functions. This body emerged within the institutional architecture of a regime seeking to consolidate centralized authority, while simultaneously striving to preserve the republican form and the formal separation of powers.

Crucially, the High Court of the State was not conceived as a permanent institution in either procedural or organizational terms. Rather, it functioned as an ad hoc jurisdiction, convened only under specific legal circumstances. These included charges of high treason, offenses against State security, or instances where the Chamber of Deputies voted to indict ministers for crimes committed in the exercise of their official duties (Article 57).

Its formation was contingent upon a decree issued by the President of the Republic, following a vote in the Chamber of Deputies supporting the indictment (Article 57). In this way, the High Court was characterized by its exceptional nature, operating as an extraordinary tribunal with origins grounded in the State's fundamental law. This procedural design lent the institution a degree of formal constitutional legitimacy, despite its deviation from ordinary judicial mechanisms.

The composition of the court reflected a deliberate hybridization of political and judicial elements. It was comprised of five senators and two presidents from the Court of Dictation (Court of Cassation), as stipulated in Article 57. While senators normally exercised legislative functions, upon appointment to the High Court, they temporarily suspended their political roles and assumed judicial status. This transformation represented an institutional compromise intended to reconcile the requirements of political oversight with the imperatives of judicial impartiality.

DPCE online
ISSN: 2037-6677

A further distinctive feature was the structure of the prosecution. Here, the law again departed from conventional forms by providing that the prosecutorial function would be carried out by a Parliamentary Commission composed of four deputies, supported by the Chief Prosecutor of the Court of Dictation (Article 57). This dual structure illustrated a balancing effort between democratic accountability, through the representation of the legislative body, and legal professionalism, ensured by the participation of the prosecutorial authority.

The High Court of the State held jurisdiction over two principal domains. First, it exercised exclusive competence over members of parliament, in cases of political crimes or offenses, with trials permitted only upon prior authorization of the Chamber of Deputies, regardless of whether Parliament was in session (Article 26). Second, it possessed special jurisdiction over members of the executive branch, particularly ministers, who could be indicted by a resolution of the Chamber and referred to this body for trial (Article 45). In this way, the High Court operated as a political tribunal for the adjudication of criminal liability on the part of the highest State officials.

In sum, the High Court of the State represented an extraordinary juridical-political mechanism designed to ensure institutional balance within the presidential structure of the Albanian Republic. It did not perform ordinary judicial functions but was activated in constitutionally significant contexts, serving as a mechanism for the criminal oversight of senior political figures. Its creation, composition, and jurisdictional scope illustrated an early attempt to construct a constitutional framework for the prosecution of high-level political actors, notably deputies and ministers, without undermining the integrity of the broader judiciary.

4. Military Justice

In addressing criminal responsibility within the armed forces, particularly those implicated in the May–June 1924 uprising, the republican regime of Albania conceived a centralized mechanism through the establishment of a specialized court. This was formally realized by the enactment of the Decree-Law on the Formation of the Military Court in Shkodra, dated February 17, 1925. The decree marked one of the most overt exercises of extraordinary justice by the nascent republican regime, which, in the early stages of consolidating power, sought to impose full control over public order and dismantle potential threats embedded within the political and military structures of northern Albania.

The Military Court of Shkodra was born out of internal political tensions and functioned as an exceptional judicial instrument endowed with expansive jurisdiction. Its establishment was not grounded in a general legislative framework but rather on a discretionary government decision that invoked necessity, thereby underscoring its temporary nature while simultaneously granting it sweeping authority. The court's judicial panel was a hybrid in structure, consisting of three military officers, two civilian members, and a civilian prosecutor (Article 1), a configuration presumably

intended to reinforce procedural legitimacy through the inclusion of both military and civil elements.

The court was entrusted with investigating and adjudicating all offenses and misdemeanors associated with the disruption of internal peace, irrespective of the rank or social status of the accused. Its scope included, in particular, military officers who had taken up arms against the legal government, and individuals accused of committing or attempting murder against State officials (Article 3). This design was aimed squarely at repressing any form of armed insubordination or administrative defiance against the authority of the new republican regime.

Beyond its adjudicative functions, the court was vested with quasi-administrative powers, including the ability to detain individuals deemed suspicious, even in the absence of formal criminal proceedings, and to ban the publication of newspapers considered disruptive to public order (Article 4). These powers underscored the court's hybrid nature, straddling the functions of judiciary, executive, and political policing.

Moreover, in cases deemed to be of State interest, the court could assume jurisdiction over ordinary criminal offenses (Article 5). The law expanded its authority to include *"pre-prepared"* political cases (Article 6). The court also exercised jurisdiction over all *"secret societies"* (Article 7), a designation which, in the political context of the time, effectively conflated political opposition with subversion.

Critically, decisions rendered by the Military Court were final and not subject to appeal (Article 8), thereby eliminating any procedural safeguards and rendering the court a blunt instrument of repression. While the law nominally invoked the existing legal order and the Military Criminal Code as the basis of its proceedings, the substantive effect was to blend civil and military justice into a consolidated apparatus of State enforcement.

The Military Court of Shkodra exemplified the model of extraordinary justice deployed by authoritarian regimes during transitional periods of consolidation. It operated not merely as a judicial organ but as a multi-functional mechanism tasked with neutralizing dissent, enforcing political conformity, and cementing new hierarchies of State authority. Its ad hoc creation, sweeping jurisdiction, hybrid composition, and absence of appellate review positioned it squarely within the typology of political courts characteristic of early republican authoritarianism. Despite its broad mandate, however, the court seemingly failed to meet the regime's expectations, prompting the establishment of additional institutions of political justice to further entrench control.

5. Political Justice

Although the 1925 Fundamental Statute originally prohibited the establishment of extraordinary tribunals, a constitutional amendment at the end of that year permitted the creation of a temporary court dedicated to so-called *"political offences."*[13] Leveraging this provision, Parliament enacted on December 23, 1925 the Law *"On the political offenses"*.

[13] A. Anastasi, *History of constitutional law in Albania, 1912-1939*, Tiranë, 2018.

DPCE online
ISSN: 2037-6677

This law was not part of the ordinary criminal code but constituted a special repressive framework combining judicial and executive powers. Its primary aim was to suppress political dissent and ideological opposition to the established State. Article 1 broadly criminalized propaganda against the republican system, the Statute, the President, Albanian sovereignty, or national identity. Even conflating religion with nationalist politics or inciting sectarian tensions was covered.

Sentencing was severe: political propaganda carried one month to fifteen years imprisonment (Article 2). More serious transgressions, such as collaborating with foreign entities to destabilize the State or participating in secret anti-State groups, could lead to 15 to 101 years' imprisonment, or even the death penalty (Articles 3–4). Aiding conspirators warranted up to 20 years (Article 5). Moreover, citizens were legally obligated to report such activities, with failure to do so punished by up to three years imprisonment (Article 6). False accusations of political crimes were also penalized (Article 7).

The law also controlled the material means of propaganda and unrest. It banned the importation of weapons and restricted distribution of subversive publications (Articles 8–9). Criminal proceedings were expedited and centralized: local police or gendarmerie initiated investigations and referred them directly to regional prefects or sub-prefects. These officials could detain suspects for up to 15 days before referring the case to the Political Court's prosecutor's office (Article 10). A January 30, 1926 decree-law further centralized control by routing cases through the Ministry of Internal Affairs, a structure confirmed in October 1926 legislation.

Trials were conducted by a special court in the capital, composed of a presiding judge, two civilian judges, and two officers appointed by the Ministries of Justice and Internal Affairs (Article 11). Jurisdictional conflicts between ordinary and political courts were resolved jointly by the Ministries of Justice and Internal Affairs (Decree-Law, Article 4).

A December 11, 1926 the law permitted the Political Court to convene anywhere in Albania, reflecting its mobile and extraordinary nature, with travel and per diem allowances for its personnel (Articles 1–2). On April 21, 1927, Article 12 of the original statute was amended: except in capital cases, decisions required both court finding and confirmation by the Ministry of Internal Affairs or, upon objection, the Council of Ministers. This underscored the court's executive dependency and political control (Amendment Article 1).

Those convicted, or fugitives abroad, faced full confiscation of property, which remained non-recoverable even after presidential pardon (Articles 13–14). The law nominally preserved procedural rights through Articles 100 and 101 of the Fundamental Statute, namely, public trials and the right to defense (Article 15).

Although originally limited to five years, successive laws repeatedly extended the Political Court's lifespan until the fall of the Zog regime, and even reconstituted under the Italian-German occupations as the *"Court for the Protection of the Homeland."*

In sum, the legal framework for political crimes between 1925 and 1927 established an extraordinary judicial-executive apparatus designed to safeguard the emergent republic by criminalizing political opposition. It was characterized

by temporary, mobile jurisdiction, summary procedures, and executive oversight, reflecting a deliberate institutionalization of political justice under authoritarian control.

6. Administrative Justice

As previously noted, the declaration of Albanian independence on November 28, 1912, did not result in an immediate break with Ottoman law. In fact, the structure of administrative justice in the Ottoman Empire, modeled on the French system, continued to exert institutional influence in Albania. Under this model, administrative disputes were adjudicated by a hierarchy of administrative councils established at various levels of local governance. At the apex stood the Ottoman Council of State, which was divided into five sections, with the Judicial Section holding jurisdiction over several core administrative matters.

Specifically, the Judicial Section of the Council of State was empowered to: adjudicate conflicts between judicial and administrative authorities; resolve disputes between individuals and the administrative apparatus; examine the disciplinary responsibility of civil servants; and review appeals of decisions rendered by Prefectural Councils [14].

Although the Ottoman Council of State ceased exercising its jurisdiction in Albania following the declaration of independence, the functioning of administrative justice through local prefectural and sub-prefectural councils continued uninterrupted. This continuity is evidenced by institutional correspondence and administrative practices during the post-independence period, suggesting that the Ottoman legal-administrative infrastructure, particularly at the local level, remained operative well into the early years of the Albanian State [15].

During the period under examination (1925–1928), two principal legislative instruments regulated administrative justice in Albania. The first of these was the Law of March 5, 1922, titled *Law on the Civil Administration of the State*. This law was a foundational pillar in structuring local governance in post-independence Albania and reflected efforts to institutionalize a system of administrative councils that would coordinate both executive and supervisory functions at the subnational level.

---

[14] K. Floqi, *Administration or the Right to Rule – General Part*, Vlorë, 1923, 179.

[15] AQSH, File no. II-64, dated 25.01.1921-29.01.1921, "*Exposition of the Council of Justice on the review and giving of an opinion on the regulation submitted by the Ministry of Justice "On administrative councils"*"; AQSH, File no. II-65, dated 25.06.1921, "*Correspondence of the Ministry of Justice with the Ministry of Internal Affairs on the legality of the decisions of the administrative councils*"; AQSH, File no. II-193, dated 15.01.1924-17.01.1926, "*Correspondence of the Ministry of Justice with the prosecutors' offices of the courts of first instance and the Prime Minister's Office, on the legality and appeal of the decisions of the administrative councils*"; AQSH, File no. II-224, date 15.01.1925-30.08.1925, "*Correspondence of the Ministry of Justice with the Presidency of the Council of Ministers, on the competences of the administrative councils and the legality of their decisions*"; AQSH, File no. II-470, date 16.04.1931-29.04.1931, "*Correspondence of the Ministry of Justice with the Ministry of Internal Affairs, on providing explanations about the competences of the administrative councils*".

DPCE online
ISSN: 2037-6677

Under the provisions of this law, administrative councils were established at both the Prefecture and Sub-Prefecture levels and functioned as collegial bodies with advisory and decision-making authority in matters relating to public works, fiscal management, and local development planning. They played a key role in translating central policies into actionable local decisions, thereby reinforcing the State's administrative reach into the periphery.

The composition of these councils was deliberately inter-institutional. At the Prefecture level, the council was chaired by the Prefect and included the Prefectural Secretary, the Director of Finance, the highest-ranking civil servants in the fields of education, agriculture, and public works, the local Prosecutor (or in his absence, the senior-most judicial officer), and the Commander of the Gendarmerie. In Sub-Prefectures, the composition mirrored that of the Prefectural councils, depending on the availability of these officials in the locality (Article 37). Technical experts could be invited to offer advisory opinions on matters within their purview but did not possess voting rights.

In terms of competencies, the administrative councils exercised broad jurisdiction over the management of public property and State finances. They were authorized to approve contracts, set the terms of public auctions for the lease or sale of State-owned lands and forests, supervise the administration of movable and immovable State assets, and adjudicate issues related to local economic and social projects (Article 38). In cases involving development proposals from education, trade, industry, or public works committees, the councils also served as the institutional decision-making authority, sending two of their members to participate in the evaluation process (Article 39).

Decisions of the councils were made by majority vote, with tie-breaks resolved in favor of the position supported by the Prefect or Sub-Prefect (Articles 40–41). Importantly, all members bore personal legal responsibility for the decisions adopted. Once rendered, the council's decisions had immediate executive force and were enforceable either by the relevant administrative units or by the parties concerned.

To ensure compliance, the law also codified sanctions for failure to execute council decisions. Noncompliance was punishable by a monetary fine ranging from 20 to 100 gold francs, and in the event of non-payment, by administrative arrest for up to 48 hours. Crucially, such penalties could be imposed without judicial oversight, on the sole authorization of the Prefect or Sub-Prefect (Article 43).

These institutional arrangements, while still embryonic, reflected a broader ambition to promote transparent, decentralized governance and to embed legal norms at the local administrative level. The administrative councils thus embodied an early attempt at implementing the principle of the rule of law in Albania's territorial governance and contributed significantly to the formation of a structured, accountable civil administration during the critical years of State consolidation.

This law remained in effect until the close of the period under study, when, in 1928, the Albanian Parliament adopted the Law of May 23, 1928, titled *Law on the Civil Administration of the Albanian Republic*. This legislative act marked a significant advancement in the institutional development of local governance, maintaining the status of administrative councils as collegial advisory and decision-making bodies, while for the first time formally endowing them with quasi-judicial powers of an administrative nature.

Structurally, the 1928 law reaffirmed the establishment of administrative councils at both the Prefecture and Sub-Prefecture levels. Prefectural councils were composed of high-ranking local officials, namely the director of finance, the chief secretary of the prefecture, the senior officials responsible for education, agriculture, and public works, the commander of the gendarmerie, and four members elected by local constituencies. Sub-prefectural councils mirrored this structure, albeit more modestly, including only two elected members (Article 47). The elected representatives were chosen through voting by village elders and municipal councils (Articles 49–51), and final appointments were made by central authorities (either the Ministry of Internal Affairs or the Prefect), selected from a pre-established list of candidates (Article 55).

The functional responsibilities of these councils remained centered on managing public assets and resolving issues pertaining to local governance, including the oversight of public auctions, administration of State revenues and properties, and protection of the State's fiscal and proprietary interests at the territorial level (Article 57). In this sense, the 1928 law preserved institutional continuity with the 1922 framework, maintaining the councils' administrative and fiscal oversight roles.

What distinguished the 1928 law, however, was its most consequential innovation: the formal attribution of judicial-administrative powers to administrative councils. Specifically, the law empowered these bodies to adjudicate appeals filed against decisions issued by municipal authorities (Article 58) and sub-prefectural councils (Article 59), thereby transforming them into administrative appellate forums within the structure of local government. Although not courts in the classical sense, administrative councils now functioned as de facto quasi-judicial entities capable of resolving disputes arising from local administrative acts.

Moreover, the law granted these councils the authority to impose fines and punitive sanctions on individuals who obstructed or defied their decisions, or those issued by superior administrative authorities. The prescribed fines ranged from 30 to 100 gold francs and could be supplemented by imprisonment for up to five days in cases of non-payment. This custodial penalty was calculated proportionally, one day of detention for every 10 gold francs unpaid, and was enforceable solely by an order issued by the competent Prefect or Sub-Prefect. In instances of recidivism, the law provided for a doubling of both the fine and the corresponding term of imprisonment (Article 63).

While the existence of such punitive authority had been nominally recognized in the 1922 legislation, the 1928 law institutionalized and articulated, for the first time, a coherent framework for local-level *administrative jurisdiction*, wherein administrative councils assumed a hybrid role combining executive oversight and dispute resolution.

In this regard, the 1928 law represented not merely a reinforcement but a conceptual expansion of the administrative councils' function, embedding within them elements of adjudicative authority and signaling a decisive shift toward a more modern administrative State. It thus contributed to the formal division of powers and the evolution of a governance model aligned with contemporary European standards of legal and institutional development.

With respect to the judicial nature of administrative councils, the subsequent jurisprudence of the Albanian Council of State, particularly in

DPCE online
ISSN: 2037-6677

reference to the Law of 1928, affirmed their role as entities vested with quasi-judicial authority. Specifically, later, the Council of State acknowledged that *"...decisions issued by municipal councils or administrative councils with an administrative judicial character..."*[16] constituted acts of a juridical nature. This judicial recognition implicitly validated the role of both prefectural and sub-prefectural administrative councils as adjudicative bodies within the framework of administrative justice.

Although the Law of 1922 did not explicitly designate a highest administrative authority in the absence of a formal Council of State, in practice the Council of Ministers assumed this role. The Law of 1928 formally codified this practice through Article 59, which provided that *"Decisions of the Sub-Prefecture Councils are appealed to the Prefecture Council within five days from their communication and acquire final form, while decisions of the Prefecture, until the Council of State is constituted, are appealed to the Council of Ministers within five days of their communication and take final form."* This provision established a temporary but functional appellate mechanism, wherein the Council of Ministers operated as the de facto supreme administrative jurisdiction.

Evidence from both legal texts and jurisprudential interpretation confirms that, from 1912 until the official establishment of the Council of State in 1929, the Council of Ministers functioned as the final arbiter in administrative disputes. This was reinforced later by a ruling of the Council of State itself, which in adjudicating a procedural question, held: *"The General Assembly ascertained that the decision rendered by the Council of Ministers in the form of an appeal was dated 23 March 1929, i.e., prior to the creation of the Council of State. Since, according to the law in force at the time, decisions of the Council of Ministers were not subject to cassation and as the law on the organization of the Council of State entered into force on 11 April 1929, it cannot have retroactive effect. Therefore, the request for cassation was denied."*[17]

In the broader context of State institutional consolidation in Albania after 1926, a significant role in the development of administrative justice was played by the Legislative Drafting Commission. Initially created as an advisory organ within the Ministry of Justice, its principal mission was the drafting of modern legal codes to replace inherited Ottoman legislation, drawing upon contemporary Western legal models. However, its mandate gradually expanded to encompass the examination of appeals and complaints against administrative decisions, particularly those issued by local administrative councils.

The Commission further collaborated with the Council of Ministers, providing legal opinions on contested administrative matters with the aim of ensuring consistent interpretation and application of legal norms across public administration. As previously noted, in the absence of a specialized administrative court, the Council of Ministers functioned as the highest authority for adjudicating appeals against local administrative bodies, especially the decisions of Prefectural and Sub-Prefectural Administrative Councils. In fulfilling this role, the Council of Ministers relied on the Legislative Commission for authoritative legal analysis and normative guidance.

[16] Decision no. 541, dated 23.12.1932 of the General Meeting of the State Council.
[17] Decision no. 66, dated 9.8.1929 of the General Meeting of the State Council.

The Commission thereby emerged as an informal yet doctrinally influential body, shaping a jurisprudence of administrative law. Through its advisory activity, it laid the groundwork for a nascent system of administrative adjudication, articulating principles of legality, procedural fairness, and institutional competence, and helping to standardize State administrative practice during the formative years of the Albanian Republic.

One of the most legally delicate areas in which the Legislative Commission articulated a clear position was that of the invalidity of administrative acts. In a notable case concerning a dispute over pasture possession between the hamlet of Labovo and a private individual, the Commission affirmed that, although the law conferred finality upon decisions of the Administrative Councils concerning property possession, such definitive legal effect was conditioned upon the decision being issued by a competent authority and in accordance with the applicable legal procedures. In the absence of these prerequisites, the decision was to be deemed absolutely null and void. This reasoning introduced an important doctrinal distinction between *"finality"* as a procedural status and *"invalidity"* as a substantive legal defect, thus affirming the principle of institutional competence as a fundamental requirement for the validity of administrative acts.

The Commission also played a critical interpretive role in the field of administrative contracts. Although various forms of public contracts, such as adjudications, concessions, and public procurements, were already recognized in Albanian administrative practice at the time, the Commission upheld the principle that the resolution of such contracts, in the event of a dispute, could not be effected by administrative bodies themselves but had to fall under the jurisdiction of the courts. In a well-documented case concerning the administration of the dajlans (fish traps), the Commission found that the administrative council of the Shkodra Prefecture had exceeded its authority by unilaterally terminating a synallagmatic contract. The Commission grounded its opinion in both general principles of contract law and the specific text of the contract and its regulatory framework, thereby establishing a normative standard: contractual termination required judicial oversight, not unilateral administrative action. [18]

The Commission also provided guidance in more technical areas of administrative procedure, such as the legal treatment of bid guarantees in procurement procedures. In a particular case where the procurement process had been annulled due to the non-conformity of the object offered, the Commission clarified that the bid guarantee could not be retained by the State treasury in circumstances where no contract had been concluded and the procurement terms were later altered by the public authority. This interpretation reinforced the principles of legal certainty and the protection of legitimate expectations of private actors engaged in administrative procedures, even prior to the formalization of contractual obligations.[19]

[18] AQSH, F.155, V.1928, D. V-534, "*Opinion of the Legislative Commission at the Ministry of Justice on the termination or not of the contracts between the contractors of Dajlan of Shkodra and the execution of the court decision by the Bailiff's Office*".
[19] AQSH, F.155, V.1928, D. V-152, "*Request and correspondence of the Ministry of Justice with the Law Preparatory Commission on providing a legal opinion on the implementation of contracts*".

DPCE online
ISSN: 2037-6677

The quasi-judicial competence exercised by the Council of Ministers in such cases came to an end in 1929 with the establishment of the Council of State, a new institutional body grounded in a distinct constitutional and legal framework. The foundation and jurisdiction of the Council of State, while significant in the evolution of Albania's administrative justice system, fall beyond the temporal and thematic scope of this present study.

7. Conclusions

This study of the organization and functioning of the Albanian justice system during the period 1925–1928 has shed light on a critical, yet often overlooked, phase in the institutional history of Albania, one marked by the transition to a presidential republican regime and by efforts to reshape justice to suit the demands of a consolidating State and the imperatives of strong central authority.

A key observation emerging from this analysis is the notable failure to enact a coherent and unified legislative framework governing the justice system following the adoption of the 1925 Fundamental Statute. Although a legal instrument, the Decree-Law of 2 May 1925 *"On the organization of justice"*, was introduced with the intention of establishing a systematic foundation for judicial organization and function, this initiative remained short-lived. The decree-law was ultimately sidelined, and in the absence of a subsequent comprehensive law, a fragmented body of legislation, some of it inherited from the Ottoman period, continued to govern the justice system.

This fragmentation became manifest in several overlapping domains, thereby undermining both the structural coherence and normative consistency of the judicial system. In the realm of ordinary justice, the court system continued to be governed by the 1923 law, which had undergone periodic amendments but was never fully replaced. Meanwhile, jurisdiction over family law remained within the exclusive domain of religious communities and was never transferred to the ordinary judiciary. This resulted in a form of legal dualism, particularly in matters relating to marriage, inheritance, and familial relations, where elements of canon law, Islamic law (sharia), and civil law coexisted in parallel.

Furthermore, during this period, several extraordinary judicial structures were established with exceptional powers, further contributing to the erosion of institutional and legal cohesion within the justice system. The Military Court, initially formed to address military-related offenses, was soon endowed with broad jurisdiction to adjudicate not only military matters but also political crimes and ordinary criminal offenses. Similarly, the Court for Political Offenses, established by a special law, assumed jurisdiction over offenses tied to regime opposition and public security violations, operating under expedited procedures and minimal procedural guarantees. These developments deepened the fragmentation of the justice system and increased its vulnerability to executive interference.

In this context, the regulatory framework governing the status of magistrates, including provisions on disciplinary powers, appointments, and dismissals, remained dispersed across multiple laws, many of which dated back to the Ottoman period and lacked coherence or clarity. This legal disarray made

it impossible to construct a consistent and reliable framework for judicial independence, undermining efforts to separate powers and protect the autonomy of the judiciary.

This institutional fragmentation and legal discontinuity mirrored the broader uncertainties of a nascent State in the process of consolidation. It also revealed the absence of a clear and unified vision for the establishment of the rule of law, essential to guaranteeing both judicial independence and systemic legitimacy. Consequently, the justice system evolved in a piecemeal and unstable manner, compromising its credibility and effectiveness.

The failure to enact a comprehensive and unified legal framework left Albania's judiciary between 1925 and 1928 institutionally fragile and ill-equipped to serve as a reliable guarantor of justice and individual rights. Statistically, the period was marked by a relatively high rate of overturned decisions in both courts of first instance and courts of peace by higher judicial bodies, a trend indicative not only of gaps in legal training but also of an appellate oversight mechanism that functioned more actively at the highest levels.

Administrative justice, until 1928, was exercised primarily by local administrative councils and ultimately by the Council of Ministers, effectively placing this dimension of justice under executive control. While the laws of 1922 and 1928 introduced quasi-judicial functions for administrative councils, they lacked the institutional autonomy characteristic of modern administrative courts.

Despite the attempt in this study to provide a comprehensive overview of Albania's justice system during this transitional period, limitations in format, scope, and the availability of historical documentation render the analysis necessarily incomplete. Therefore, there remains a pressing need for further research and publication on the legal history of this era. A comparative analysis with similar models in neighboring States during the same historical period could yield particularly fruitful insights.

In conclusion, the justice system in Albania from 1925 to 1928 was emblematic of a State striving to establish functioning institutions amid the absence of a longstanding national legal tradition. Although constructed under an authoritarian regime, efforts were nonetheless made to build a system of legal rationality and institutional legitimacy. A century later, revisiting these historical experiences is not only a scholarly imperative but a practical necessity for grounding future legal and institutional reforms on more stable and coherent foundations.

Erind Merkuri
Faculty of Law
University of Tirana
erind.merkuri@fdut.edu

DPCE online
ISSN: 2037-6677