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Research Article

The Role of the Court in the Bankruptcy Process: A Statistical and Comparative Case Study

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Abstract

This paper explores whether the court-centric model established by Albania's Bankruptcy Law No. 110/2016 attains the expected efficiency, transparency, and creditor protection gains. This research develops the constitutionally imposed role of the courts in initiating, conducting, and completing bankruptcy processes, which is based on policy papers, parliamentary reports, and doctrinal analysis of the bankruptcy law. Utilizing a synthetic, yet real-world consistent dataset of completed cases in Albania and an EU benchmark group, it investigates the impact of court involvement on bankruptcy duration and outcome. Accordingly, this study uses descriptive statistics, two-way ANOVA, chi-square tests, and binary logistic regression to evaluate the interaction effects of country and judicial engagement in terms of case duration and reorganization outcome. It appears from the results that Albanian proceedings are far lengthier than EU cases at each point of the involvement scale, whereas in both systems, high court engagement is consistently associated with reduced duration. Outcome analysis reveals that Albania remains primarily liquidator, while the EU benchmark reaches a considerably higher proportion of reorganizations. The statistical models result in high explanatory power (above 0.82 for R^2 and Nagelkerke R^2) to support the view that the institutional environment and the level of judicial oversight are crucial determinants of efficiency and rescue outcome. The results depict a gap between the formal goals of the 2016 reform and its actual performance, where improvement in judicial capacity, case management, and implementation practices is required for Albania's court-cantered insolvency structure to reach its full potential.

Keywords: Bankruptcy Law; Court Role; Judicial Oversight; Insolvency Proceedings; Albania Case Study; Creditors' Rights; Reorganization; Liquidation; European Union Comparison; Logistic Regression; ANOVA Two-Way; Chi-Square Test.

INTRODUCTION

The modern legal system is organically structured and prepared to face the collective interests violated as a result of the corporate crisis: from a centuries-old tradition it

recognizes a special bankruptcy procedure that is today regulated by a special law in many legislations.

Law No. 110/2016 "On Bankruptcy" was adopted as a result of extensive consultations involving policy-making, governance, international and domestic expertise, legal practitioners, business and banks, tax authorities and interest groups, as a need dictated not only by the application of existing legislation with reservations but above all to support the economy and investments through an efficient and contemporary legal structure in dealing with potential economic crises [1].

The economic role of the bankruptcy legal framework is particularly important in situations of high private sector debt overhang, affecting the supply and distribution of credit, as well as the supply of production factors [2-7].

The bankruptcy legal framework has particular importance and significant effects on a country's economy as it ensures and shapes the incentives of private traders regarding:

- alleviating uncertainty related to legal and procedural delays by contributing to transparent and speedy bankruptcy procedures;
- ex-ante, i.e. when debt is incurred, insolvency frameworks affect the incentives of borrowers to take on debt, and the incentives of lenders to extend credit. By providing effective protection for lenders in the event of default, a good legal framework helps to maintain incentives to provide credit and acts to discourage responsible borrowing.
- ex post, as debt becomes difficult to repay, bankruptcy frameworks affect borrowers' incentives to create significant value to repay outstanding debts.
- Bankruptcy legislation also affects creditors' incentives to screen borrowers and monitor their ability to repay obligations;
- Bankruptcy frameworks are important because they allow bankrupt debtors to have a fresh start and to engage in new projects and activities after bankruptcy.

The practical application of bankruptcy law, as for any legal structure, constitutes the true test of its clarity, practicality and effectiveness. Due to its complexity, the large number of legal disciplines with which it is related, but also due to the essential differences with the usual legal means of fulfilling obligations, the understanding and proper application of bankruptcy law constitutes a process that is both natural and challenging for the entities that have an interest in its application [8-10].

The role of the court in implementing this legislation is complex and dynamic, and fulfilling this role requires, in addition to clear legal concepts and correct interpretations, speed, flexibility, effective, contemporary decision-making, and advanced legal thinking.

An effective justice system is key to improving the implementation framework. This includes several aspects such as the independence and transparency of the judiciary; the training of judges and practitioners; the creation of specialized judicial bodies; and, where appropriate, the encouragement of alternative legal dispute resolution procedures.

Insolvency legislation is not unified throughout the European Union and consequently the definition of insolvency is not homogeneous in all countries under EU jurisdiction. Since legal regimes are different, the legal structures of insolvency are also different in EU member states, despite the obligations to implement its directives in this area.

In the conditions where Albania has signed the Stabilization and Association Agreement and aspires to join the European Union, the existence of such a relationship between domestic law and the EU legal structure in the field of bankruptcy, highlights the importance of the proper interpretation and implementation of the provisions of the Albanian bankruptcy law for the creation of a stable, coherent legal and judicial practice in line with the same standards as that of other EU countries [2].

Therefore, I appreciate the finding that: "However, the procedures for legislative reform are long, slow and cannot keep up with the pace required by the legal issues and problems of a constantly changing world. In this regard, judges play an increasingly prominent role. Thus, clauses or general conditions that require in-depth legal research and discussions in order to reach the right answer are certainly part of the profession.

The judge has the responsibility to find the right (just) answer, a solution in an effort to fulfil the citizen's right to justice in the constantly evolving social conditions of the time.

In these circumstances, judicial restraint, which was once appreciated as a noble gesture of a civil law judge in respecting the law, cannot serve as a model. On the other hand, the creation of appropriate standards of implementation within the framework of an evolving law has become more than ever the true hallmark of the autonomy and professional independence of judges.

Related Work

The modern Albanian bankruptcy framework is the product of a deliberate reform effort aimed at addressing the shortcomings of the pre-2016 regime and aligning the domestic law with international benchmarks. The report on bankruptcy, issued by the Ministry of Justice, represents the main policy document explaining the reasons underlying the new law [11]. It identifies structural problems such as fragmentized rules, lengthy proceedings, limited restructuring, and uncertainty on the powers of the courts and administrators. The Relation places bankruptcy reform as vital to enhancing the economic environment, encouraging the formalization of distressed companies, and restoring creditor trust [11]. The Report on the New Bankruptcy Law, passed by Parliament, states that the 2016 law is not just a technical legislation, but part of a larger economic program to attract investment and achieve sustained growth through a modern and foreseeable bankruptcy law [12-18]. Both agreements contemplate a strong coordinating role for the courts and point out that judicial practice is expected to offer transparency, speed, and fairness.

The main normative act is the Bankruptcy Law No. 110/2016, which sets up a coherent framework for initiating, managing, and closing insolvency proceedings [1, 19]. Several provisions are of particular relevance to the allocation of judicial authority. Article 20

regulates the initiation of the procedure, the assessment of insolvency, and the grounds for rejecting or staying applications [1, 13, 14]. This provision stands out because it provides that the court has the power to determine access to collective relief and, more broadly, at what point individual enforcement is replaced by a collective procedure under judicial administration. Article 11 defines jurisdiction and competence by linking the competent court to the debtor's centre of principal interests or registered seat, thereby specifying the territorial scope of judicial administration in bankruptcy cases [1, 15]. Article 16, combined with Article 517 of the Code of Civil proceeding, governs the relationship between bankruptcy and enforcement, detailing the stay of individual enforcement and the treatment of secured creditors once a collective proceeding has commenced [1, 16, 17]. Through these provisions, the laws install a court-cantered approach through which judges authorize bankruptcy filings, monitor stays of enforcement, supervise administrators, and finally confirm or reject plans and liquidations [1, 13, 15, 17-19].

Doctrinal guidance as to the meaning and practical application of this regime is provided by Cuming's "Manual for Bankruptcy Law", produced under a USAID initiative [18]. Cuming offers a detailed explication of the 2016 law, explaining its terminology, architecture, and main procedures, such as the status of the bankruptcy estate, the appointment and role of administrators, reorganization plan voting rules, and claim ranking [18]. The manual frequently invokes international soft law texts and comparative practice to illustrate ambiguous terms, explicitly describing the Albanian regime as a hybrid combining features of both creditor-friendly and rescue-friendly models. However, like the policy documents, this doctrinal scholarship is largely descriptive and prescriptive: it describes how courts are supposed to behave under the statute, but it does not provide an empirical assessment of the extent to which judicial action actually influences the outcome of cases.

Albanian materials stress legislative design and doctrinal interpretation, while international scholarship on bankruptcy, restructuring, and distressed investment offers a complementary perspective by looking at how legal principles translate into economic incentives and market behaviour. The seminal work by Gilson and Altman on corporate restructuring provides case studies on bankruptcies, buyouts, and divestitures that illustrate how linking legal frameworks and judicial decisions with financial structures either preserves or destroys business value [20]. Their studies bring out that the procedural design, including the role of the court in approving asset sales, conducting auctions, and resolving conflicts between different classes of claimants, has an important impact on recovery rates and the division of value among creditors, old shareholders, and other claimants [20]. Though emanating from large, developed capital markets, the mechanisms of information asymmetry, bargaining power, and timing of intervention are relevant to assess whether the current Albanian court practices Favor efficient reorganization or are biased towards liquidation. From the investor's perspective, there is a broad literature analysing bankruptcy law's impact on strategy in distressed debt markets. Branch and Ray provide one of the most comprehensive bankruptcy investment handbooks, explaining

how legal process, priority rule, and judicial discretion impact valuations of distressed equities and expected recovery for different classes of creditors [16]. For example, their results show that the more predictable and efficient the court-directed process, the lower the discount rate and vice versa [16]. Gatto's Credit Investor's Handbook also provides one of the most comprehensive analyses of leveraged loans, high-yield bonds, and distressed debt, invariably indicating the role of jurisdiction-specific bankruptcy regimes, including judicial approaches to reorganization and cram-down, in credit analysis and portfolio construction. Works such as these collectively reinforce the fact that the way in which courts operate during insolvency is not simply a matter of legal structure but, indeed, an important determinant of credit costs and availability in the real economy. On the other hand, practitioner-oriented literature focuses on the perspective of debtors and small enterprises. O'Neill's guide, New Bankruptcy: Is It Suitable for You? Discusses the US environment in which individual debtors and small enterprises navigate bankruptcy procedures, evaluate the trade-off between liquidation and restructuring, and interact with courts and trustees [14]. Although the procedure itself differs from the Albanian regime, O'Neill's work emphasizes general issues such as procedural accessibility, information requirements, and the need for clear court support for non-professional users of the system [14]. This raises a question about whether the institutional structure created by the 2016 law has been complemented by sufficient court practice and guidance to make the proceedings understandable and accessible to local debtors, especially SMEs. Current literature reveals a significant gap that this research aims to fill. Albanian policy documents and doctrinal analyses extensively outline the goals and structure of the 2016 Bankruptcy Law, focusing on the central role that courts have to play in guiding the processes [1, 11–13, 15, 17–19]. International restructuring and distressed investing studies show that judicial behaviour in insolvency significantly influences outcomes in terms of the preservation of value and credit markets [16, 20, 21], while debtor-cantered handbooks underline the need for the design of procedures to achieve access and policies of second chance [14]. The empirical evidence regarding the impact of varying court involvement-as represented by the frequency of hearings, ex officio actions, and control measures-on case duration and the likelihood of successful reorganization in Albania is scarce. By modelling these links and setting our results against the national doctrinal framework and international economic studies, our research hopes to go beyond the mere descriptive analysis of statutory provisions and offer a data-driven assessment of whether the court-cantered approach of the 2016 law lives up to its promises of efficiency, transparency, and enhanced creditor protection.

Table 1 synthesizes the main findings of empirical research into the links between insolvency regimes, judicial efficiency, and economic outcomes. The papers listed span a wide range of jurisdictions-from global cross-country samples to single-country studies in Brazil, Italy, the United States, and EU Member States-and methods, including cross-country regressions, firm-level panel models, court-level congestion analyses, and multilevel models. Taken together, this body of work shows that the design and practice of insolvency law, especially how courts enforce rights and manage procedures, have

measurable effects on credit terms, recovery rates, corporate investment, and entrepreneurship.

Table 1. Key empirical studies on judicial role in insolvency and related outcomes

No.	Authors	Country / Sample	Data & Period	Method	Main Finding (very brief)
1	[22]	88 countries (global)	Standardized insolvency case study; mid-2000s	Cross-country comparative analysis	Debt enforcement efficiency (time, cost, recovery, legal quality) strongly linked to legal origin, income and depth of credit markets.
2	[23]	Brazil	Firm-level data around bankruptcy reform	Difference-in-differences; panel regressions	Stronger court enforcement and lower congestion increase secured credit, investment and firm size.
3	[24]	Italy	Bank–firm credit register; bankruptcy reforms	Econometric panel models	Reform of bankruptcy rules affects loan pricing and availability; design of liquidation/reorganization matters for bank financing.
4	[25]	United States (Chapter 11 courts)	Court congestion and Chapter 11 cases	Structural / reduced-form models	Congested courts worsen restructuring outcomes and reduce recovery, highlighting the role of judicial capacity.
5	[26]	OECD and other countries	Cross-country panel on entrepreneurship	Cross-country regressions	More debtor-friendly bankruptcy regimes are associated with higher self-employment and entrepreneurial activity.
6	[27]	United States (state level)	Household survey + state-level exemption rules	Micro-econometric models	Higher personal bankruptcy exemptions increase the probability of owning a business for risk-averse households.
7	[28]	27 countries	~300,000 individuals (GEM) + insolvency indicators, 2005–2010	Multilevel (hierarchical) modelling	More effective insolvency frameworks (lower time/cost, higher recovery) correlate with productive, growth-oriented entrepreneurship.
8	[29]	EU Member States	Firm-level balance sheet + insolvency indices	Cross-country panel econometrics	Stronger insolvency law increases firms' long-term leverage, indicating greater creditor confidence.
9	[30]	OECD countries	Firm-level and macro data	Panel regressions;	Weak insolvency frameworks contribute to

				productivity analysis	"zombie" firms and lower productivity; efficient exit and restructuring are crucial.
10	[31]	190 economies	Doing Business 2020 "Resolving Insolvency"	Indicator construction; cross-country benchmarking	Provides comparable measures of time, cost, recovery and strength of insolvency framework, widely used as policy and research benchmarks.
11	[32]	Global (principles-based)	Synthesis of country experiences	Normative principles with analytical backing	Sets out core principles for effective insolvency and creditor/debtor regimes, emphasizing predictable courts and timely procedures.
12	[33]	EU-28	Comparative legal and empirical material	Comparative legal + quantitative analysis	Documents heterogeneity of EU insolvency regimes and recommends more restructuring-oriented, efficient frameworks.
13	[34]	EU Member States	Firm-level + macro data post-COVID	Econometric modelling of insolvency dynamics	Estimates share of otherwise viable firms pushed into insolvency by COVID-19 and stresses importance of early restructuring tools.
14	[35]	Selected EU Member States	Country reports on Directive 2019/1023	Comparative doctrinal + empirical analysis	Analyses implementation of the Preventive Restructuring Directive and the evolving role of courts in early intervention and rescue.

A first group of studies uses harmonized measures of "resolving insolvency" and rule-of-law indicators to show the differences in time, cost, recovery rates, and procedural efficiency across countries and the association of those differences with financial development and productivity cycles. A second set relies on changes or differences in court congestion to show that more efficient or less crowded courts improve access to bank finance, increase business investment, and offer better restructuring outcomes. A third class of studies looks at the European environment, assessing the variety of insolvency regimes, the implementation of the Preventive Restructuring Directive, and the role of judicial specialization and early-intervention mechanisms.

This paper fills a particular gap: none of the research described in Table 1 provides a comprehensive empirical assessment of a court-cantered insolvency reform in a South-East European transition economy, let alone an analysis of the relative effectiveness of Albania's 2016 bankruptcy framework against an EU benchmark. By placing the Albanian case in the context of the existing empirical evidence, Table 1 illustrates the ways in which the current

study expands prior knowledge about the interlinkages between judicial engagement, procedural efficiency, and reorganization results.

RESEARCH GAPS, QUESTIONS, AND HYPOTHESES

The 2016 Albanian Bankruptcy Law, as devised to be a comprehensive court-cantered reform with EU standards, suffers from serious lapses in existing research. Policy and doctrinal documents, such as the "Bankruptcy report", the parliamentary report on the new law, and USAID's Manual on the Albanian Bankruptcy Law, describe in detail the regime's framework and the expected role of the courts; yet they are essentially normative and descriptive without any empirical evidence as to what impact judicial behaviour is having in practice [1, 11, 13, 15, 18]. Similarly, international standards like Doing Business: Resolving Insolvency and World Bank Principles demonstrate variation across countries in duration, costs, recovery rates, and framework strength, but they lack a micro-level analysis of judicial workings within specific systems [31, 32].

A significant body of empirical research has shown that insolvency law and court efficiency are determinants of credit conditions, restructuring success, and productivity. Djankov et al. find a linkage from debt-enforcement efficiency and legal origin to financial development by comparing countries [22]. Ponticelli and Alencar show that better enforcement and reduced court backlogs in Brazil lead to higher credit and investment [23], and Rodano et al. report the impact of changes to Italian bankruptcy law on bank financing availability and pricing [24]. Court backlogs, judicial design, and debtor/creditor orientation are linked to restructuring outcomes, entrepreneurial risk, leverage decisions, and "zombie" firm incidence for OECD and EU economies [25–30, 33, 34]. The more recent empirical reports in the context of the implementation of Directive (EU) 2019/1023 further highlight the evolving role of courts in preventive restructuring and early-intervention proceedings [33–35].

Notwithstanding this voluminous set of information, there are a number of lacunas with respect to Albania and the broader South-East European context. First, there is currently no systematic empirical assessment of the effectiveness of the court-cantered Albanian regime created under Law No. 110/2016 through the use of a structured case-level database. Recent Albanian studies focus on statutory analysis and institutional description [1, 11, 13, 15, 18]; none of these studies contain quantitative measures with respect to case length, court involvement, and outcomes. Second, comparative country studies that place Albania together with comparable EU Member States typically rely on Doing Business indicators at the aggregated level or on qualitative country reports [31–33]; none of these studies model how differences in the level of court involvement led to differences in duration and reorganization rates across countries. Third, earlier international studies almost exclusively proxy "judicial efficiency" through congestion, duration of insolvency resolution, or enforcement lags [22–25, 29, 30]. To date, the unique configuration of judicial, supervisory, and administrative functions performed by courts

in hybrid systems, manifested in the Albanian court-cantered model, has not been replicated through a specified court-involvement indicator nor linked to case outcomes.

This paper overcomes these gaps by compiling a balanced case-level dataset for Albania and a comparative group of EU members, while it clearly models the extent of court involvement through an ordinal index. The study seeks to provide an evidence-based assessment regarding the effectiveness of the court-cantered reform in terms of its announced objectives with respect to efficiency, transparency, and enhanced protection of creditors by combining doctrinal analysis with two-way ANOVA, chi-square tests, and logistic regression, while also comparing Albania to more established European systems.

Investigative Inquiries

Guided by the identified gaps and international evidence about the economic effects of insolvency regimes [22–29], the empirical part of this work is organized around the following research questions [30-35]:

- RQ1: Does more judicial involvement reduce the length of bankruptcy proceedings in Albania and the EU benchmark group once cases are sorted into comparable involvement levels?
- Research Question 2. Is the likelihood of successful reorganization, rather than liquidation, positively related to judicial involvement, and does this relation vary between Albania's court-centric system and the EU benchmark?
- Research Question 3. To what extent do the identified patterns of time and outcomes indicate that the Albanian court-centric model aligns with or diverges from the efficacy and rescue focus of similar EU insolvency frameworks?

Thus, this analysis links the national doctrinal discourse on the extent of judicial powers with the international empirical literature relating to insolvency frameworks, judicial capacity, and economic performance by overtly articulating these questions [1, 11, 13, 15, 18, 22–27].

Propositions

Again, based on the theoretical expectations of the 2016 reform-the active judicial management of the procedure was intended to ensure orderly, timely, and transparent proceedings-as well as from empirical studies conducted in other jurisdictions showing that more efficient courts result in swifter resolution, greater recovery, and more investment, the following testable hypotheses are put forward:

H1 (Country–duration effect). The bankruptcy proceedings in Albania take much longer than the EU average even after considering the extent of judicial involvement.

This implies that a transition economy with limited institutional capacity will exhibit longer procedures than more established EU systems, which is consistent with cross-country studies examining the efficiency of enforcement and insolvency [22,31,33].

H2: The longer the duration of involvement, the less the case time is spent in court in both Albania and the EU benchmark.

According to both the rationale of this reform and studies that link effective judicial management with speedier disposition, increased court management-through active management, early orders, and close monitoring-is likely to reduce delay, not create new ones. H3 (Country–outcome relationship). The cases in the EU benchmark are more likely to lead to successful reorganization than the cases in Albania, controlling for court involvement. This theory is in line with recent evidence showing that more sophisticated restructuring frameworks and better endowed courts tend to result in better going concern recoveries and greater use of reorganization tools [24, 29, 30, 33–35]. H4: Interaction between involvement and outcome. The EU benchmark shows that higher court involvement drastically increases the probability of reorganization, while in Albania, the marginal effect of higher court involvement on reorganization probabilities is smaller or statistically insignificant. Given concerns over judicial conservatism, limited specialisation, and capacity constraints within the administrative profession in Albania, it is possible that intensive court oversight could make duration shorter without improving rescue outcomes. In contrast, for those EU regimes where the courts have more experience with pre-emptive restructuring and plan confirmation, high involvement is expected to enable possible restructurings [29, 33–35]. These hypotheses are directly connected with the statistical models introduced in the technique section: H1 and H2 are the main and interaction effects of the two-way ANOVA of case duration; H3 and H4 are tested by logistic regression of reorganization probability with respect to nation and court-involvement factors. Together, they form a coherent empirical basis for testing the performance of the court-cantered Albanian model in meeting its policy obligations and its position within the broader European context of insolvency law and judicial practice.

THE ROLE AND NATURE OF JUDICIAL POWERS IN BANKRUPTCY PROCEEDINGS

The provisions of Law No. 110/2016 “On Bankruptcy” focus on the procedural aspects of the international jurisdiction of the Albanian court regarding international bankruptcy. These cases are characterized by the presence of a foreign element, whereby any legal circumstance related to the subjects, content or object of the bankruptcy measure and which becomes a cause for interaction with a certain legal system should be understood.

Even as far as the European Union is concerned, the regulatory legislation in this field continues to not be unified in all EU member states, but the bankruptcy of entities falling under the jurisdiction of different courts of member states is implemented taking into account the provisions of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 "On insolvency proceedings" as amended.26/06/2017,;26/07/2018, and December 15, 2021 [3]. Article 7 of the regulation entitled “applicable law” expressly states that: “Unless otherwise provided for in this Regulation, the law applicable to insolvency proceedings and their effects shall be that of the Member State within the territory of which such proceedings are opened ("State of opening of proceedings").

It should be noted that scholars in the field acknowledge that in the field of bankruptcy law there is a classic tendency for parliamentarians of all countries to be sensitive to the opinions of the electorate, especially in a moment of economic crisis, such as the case of a bankruptcy procedure, and are generally influenced by short-term solutions. Thus, parliamentarians in many countries have preferred to create privileges for employees over the assets of the employing firm, privileges that are considered in the bankruptcy system in the highest (first) order of privilege than other guarantees such as mortgages, pledges, etc.

Transnational or international bankruptcy that implicates the jurisdiction of the Albanian bankruptcy court in accordance with Law 110/2016 mainly includes the following categories of judicial actions:

1. Access of foreign creditors to the Albanian bankruptcy procedure;

2. Direct access of the representative of the foreign procedure to the Albanian bankruptcy court;

3. Recognition of a foreign international bankruptcy procedure by the Albanian bankruptcy court and subsequent actions related to:

   a. participation in an Albanian bankruptcy procedure;

   b. providing assistance from the Albanian court, during and after the process of recognizing the foreign procedure;

   c. the intervention of a foreign representative in an Albanian bankruptcy procedure with the same debtor;

   d. taking measures to avoid and annul legal acts and actions that harm creditors;

   e. the treatment of Albanian creditors in foreign proceedings, recognized by Albanian courts as main or secondary;

4. The request of the Albanian bankruptcy court for assistance, in relation to an Albanian bankruptcy procedure directed to a foreign state;

5. Direct cooperation of the Albanian bankruptcy court with foreign courts or representatives, as well as cooperation through the administrator,

6. Coordination of the Albanian bankruptcy procedure with the foreign procedure when they have a common debtor.

The provision in Law 110/2016 "On Bankruptcy" of the rules applicable in cases of international bankruptcy means that these issues (of international bankruptcy) do not fall within the scope of Law No. 10428, dated 2.6.2011 "On Private International Law", which determines the general rules for the law applicable to civil-legal relations with foreign elements as well as the jurisdiction and procedural rules of Albanian courts for civil-legal relations with foreign elements [4, 5].

The implementation of the provisions of Law 110/2016 “On Bankruptcy” refers to the provisions of the Code of Civil Procedure only for matters not provided for in this law, to the extent that they do not conflict with it. The amendments adopted in the Code of Civil

Procedure by Law No. 38/2017 [6], which provided for the first time for international Lis pendens in Albanian judicial jurisdiction, were drafted in the spirit of Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 "On jurisdiction and the recognition and enforcement of judgments in civil and commercial matters" (the 2012 Brussels Regulation) [7]. These amendments entered into force on 6 November 2017 and are subsequent to Law 110/2016 "On bankruptcy" [1] which entered into force on 23 May 2016, which is related to the possibility of referring these legal amendments to bankruptcy cases with foreign elements, only for aspects not regulated by the bankruptcy law.

The examination of matters related to an international bankruptcy proceeding is within the competence of the bankruptcy court, which presupposes a judge of the court of first instance with general jurisdiction. By "matter" in this case should be understood any form of act, action or application that involves the exercise of the functional competence of the bankruptcy court, including the recognition of a foreign bankruptcy proceeding and the judicial actions arising therefrom.

In the case where the case with foreign elements is related to a bankruptcy procedure initiated in the Republic of Albania (i.e. the commencement of bankruptcy was declared based on the decision of the Albanian bankruptcy court), the competent court to examine the application is the bankruptcy court that is examining the referring case, which examines all issues that arise from or are interrelated. With this procedure according to the provisions of Article 9 of Law 110/2016 "On Bankruptcy" [1]. It is under the responsibility and attribute of the bankruptcy court, and therefore in its discretion, to assess whether the request/application with the presence of a foreign element submitted for consideration before it is related to the bankruptcy procedure that it is considering. For a legal categorization of the notion of "related actions", in the absence of legal definitions, the content of the document from which the concept seems to originate is helpful, namely Regulation No. 848/2015 of the EU Parliament and of the Council "On the international bankruptcy procedure, according to which actions are considered to be related when they are so closely connected that it is necessary to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings [3].

Regardless of whether the Albanian bankruptcy court may find that it has jurisdiction to exercise its powers in international bankruptcy cases, the bankruptcy court has the right to refuse the action, the request for recognition or assistance within its framework, in application of the principle of the "public order clause" when it assesses that what is requested does not comply with the basic principles of Albanian legislation, as a fundamental principle of international law, also embodied in Article 175 of the Bankruptcy Law and in harmony with Article 7 of Law No. 10428, dated 02.6.2011 "On Private International Law" [4, 5].

The application of this principle means that the Albanian court has the right to refuse to recognize bankruptcy proceedings opened in another state or to refuse to provide assistance thereto when the effects of such recognition or its implementation through the

provision of assistance would be manifestly contrary to the internal legal order in the Republic of Albania and in particular to its fundamental principles or the constitutional rights and freedoms of the individual.

In addition to the above, the court has the right to refuse to provide assistance to a representative of a foreign procedure for a reason other than that of protecting public order, and this concerns the case when the court assesses that this assistance may be considered as interference or conflict with the administration of the main foreign procedure.

To assess such a circumstance, the Albanian court must carefully differentiate the nature of the action or measure of property insurance that the representative of the foreign procedure has submitted in the object of the request for assistance, taking into account the content of the foreign law.

Foreign creditors in Albanian bankruptcy proceedings against Albanian creditors in foreign proceedings recognized by the Albanian bankruptcy court

The court directs the legal bankruptcy process and has a central role throughout the duration of a bankruptcy proceeding.

The legal provisions use the term "bankruptcy court" and under the terms of the legal system in force in the Republic of Albania, this should be understood as the judge of the commercial section to whom the judgment of a request for the initiation of bankruptcy proceedings against a debtor has been assigned by lot. From a general overview of the legal provisions, it can be said that the role and function of the judge in a bankruptcy procedure represents a somewhat broader legal nature compared to the ordinary judge who examines a civil dispute.

The European Court of Human Rights (in several decisions, including the Grand Chamber, has assessed that the uniformity of the application of the law by jurisprudence constitutes a guarantee for the implementation of the principle of legal certainty, which is an essential element of the rule of law. having a direct connection with the guarantees of Article 6 of the European Convention on Human Rights.

The ECtHR has assessed that the legal certainty that should accompany the legal order regarding usability and normative predictability should also be a standard for monophyletic judicial practice (In the current bankruptcy law, as well as in the previous repealed law (Law No. 8901/2002) [8], the role and function of the bankruptcy court is designed in two dimensions:

a) the traditional judicial decision-making (and investigative) function;

b) control/supervision and administration function.

Function: the traditional judicial decision-making (and investigative) function

The traditional decision-making function constitutes the typical and primary role of the bankruptcy court. This function includes the resolution of disputes on the merits within the framework and competence of the bankruptcy court and the respective judicial

decision-making. When exercising the decision-making function, the bankruptcy court is acting in accordance with the bankruptcy law according to the competences recognized by it, but at the same time it functions as an ordinary court of first instance for issues arising within the framework of the procedure and regulated according to the provisions of the Civil Code or other legal provisions.

With regard to the trial procedure, the role of the bankruptcy court is the same as that of the ordinary judge in all dimensions. This function concerns the aspects of judicial review at all stages of the procedure, related to the direction, investigation and judicial decision-making. Such a role consists in fulfilling all legal obligations for the conduct of a regular trial, while also adhering to any ethical and legal obligations of the ordinary judge.

Control/supervision and administration function

The control functions of the bankruptcy court are mainly those that focus on the court's relationship with other procedural bodies, the bankruptcy administrator/supervisor, the creditors' meeting and the creditors' committee.

The judge exercises supervisory/controlling powers through the application of two legal remedies expressly provided for in the law:

First: on the basis of the appeal of the entities participating in the procedure against the decisions, actions or inactions of the bankruptcy authorities, such as an appeal against the administrator's decisions to recognize/reject a creditor's claim; an appeal against other decisions of the administrator to refuse to call a creditors' meeting, an objection to the decisions of the creditors' meeting, an objection to the administrator's decision on the order of preference and the extent of distribution, or others of this category.

Secondly: on the basis of the exercise of other powers of the bankruptcy judge, by applying the expressly provided legal mechanisms, such as: the initiative investigation of important aspects in the procedure which in practice materializes by ordering the administrator to submit interim reports to the court on the progress of the procedure, ordering the control of the debtor's mail, appointing experts if deemed reasonable for certain issues, as well as others of this nature.

While a typical administrative function involves the exercise of certain powers of a business and commercial nature, which in principle conflicts with the role and position of the judge. Thus, in the context of bankruptcy law, the bankruptcy court is charged with certain duties and powers that exceed the traditional role of the court in a civil judicial process, having a more administrative nature of the process than typical judicial ones. Since these forms of powers are combined in a single figure and pursue the same goals, it seems as if they are the same thing, but in fact they are not identical functions.

The circle of administrative powers may include: conducting the creditors' meeting, supervising the administrator, appointing the temporary creditors' committee or replacing its members for legitimate reasons., supervision of the administrator, approval of the final distribution, order for the closure of the bankruptcy procedure.

In this regard, the new bankruptcy law represents a positive development by providing legal opportunities for the bankruptcy judge to assess and avoid such aspects of the procedure with a typical business or trade profile, such as the case defined in the law that the court may delegate the leadership of the creditors' meeting for the discussion and approval of the reorganization plan to the administrator/supervisor of the procedure (Article 104 of the LF).

The "active" role of the bankruptcy court

Law 110/2016 "On Bankruptcy" in Article 9, point 2, stipulates: "The bankruptcy court may investigate on its own initiative all aspects of the bankruptcy procedure." Such a competence seems quite broad and in principle constitutes a deviation from the role of the court in civil law constituted on the basis of the principle of availability. according to which, as a rule, the protection of rights is carried out by the court only at the request of the party.

The active role of the bankruptcy court is related to the guarantees for ensuring a fair, transparent and efficient process that are essential for legal justice and economic stability. As such, this role must be understood and implemented primarily in connection with the exercise of the judicial powers of an exclusive nature of the bankruptcy court. Such is the case of the right of the court to dispose primarily for the taking of interim measures for the preservation, security and protection of the bankruptcy measure, guaranteed by Article 22 of the law.

On the other hand, this role of the court is guaranteed through legal mechanisms related to the ex officio investigation of all circumstances, especially those related to the opening of the procedure, such as the right to hear the person who filed the request, the right to hear witnesses, the right to appoint an expert who acts as a bankruptcy administrator.

Another case that constitutes a form of exercising the active role of the bankruptcy court concerns the application of Article 15, paragraph 2 of the law, a clause in which the verification of the material cause or the existence of the legal cause of bankruptcy prevails over some formal elements of the request submitted by some of the members of the management body or some of the members of the simple company. In such a case, through legal powers, the bankruptcy law charges the bankruptcy court to investigate to verify the merits of the request and, where appropriate, to proceed with the declaration of bankruptcy, although in formal terms the request/application is signed only by some of the members of the management body or members of the simple company, therefore, it constitutes a formally imperfect request.

Such a role in the context of Albanian law seems to reflect the classical rule that the bankruptcy procedure is conducted with broad investigative powers according to the inquisitorial principle.in which the court is actively involved in investigating the facts of the case, but when the question arises as to what extent such a rule can actually be implemented, it seems that there is not much to say.

Bankruptcy proceedings constitute a genuine civil trial. In contrast to criminal proceedings, which are dominated by the inquisitorial principle, where the burden of proof falls on the representative of the prosecution, civil proceedings are characterized by the principle of availability. The civil judge, unlike the criminal judge, cannot himself ensure knowledge of the facts on which the claims and objections are based; on the contrary, the obligation falls on the parties to present their evidence, and in this way the principle of availability leads to the so-called burden of proof, the basis of which is the rule that rights enjoy legal protection only if the person seeking their protection in court provides proof of the facts on which they are based. According to an ancient principle, failure to prove a right is tantamount to its non-existence.

Unlike ordinary civil proceedings, the bankruptcy procedure and the decision given to open the bankruptcy procedure have a declaratory character where, in addition to the creditor(s) and the debtor, they also have consequences for third parties (employees, co-debtors, co-guarantors, tax authorities), and as such are considered to have the legal nature of a sui generis judicial act. Seen in this light, the active role of the bankruptcy court must be implemented through the application of all legal mechanisms available for the discovery of the truth, especially in the first phase of the procedure.

Returning to the role of the court in the procedure in relation to the bankruptcy bodies, the supervisory/controlling role is clearly evident, but in no case can the court exercise the powers of other bankruptcy bodies, despite the active role it may have in certain stages or aspects of the procedure. At this point, the role of the court in a bankruptcy procedure can be paralleled with its role in the case when it reviews conflicts with decisions of the bodies of commercial companies in which the court reviews the legality of their acts, but in no case can it take an active role to influence the internal functioning of the company or dispose on behalf of the company.

Referring to the fact that the bankruptcy procedure trial remains a trial entirely of a civil nature (civil trial), while the judge's competence in this procedure to "investigate" on its own initiative every aspect of it constitutes a competence of a criminal nature, the issue of the bankruptcy judge's competence to investigate even primarily every aspect of the procedure must be understood and implemented as a legal approach to guarantee legality, transparency and every other legal aspect that affects this procedure, but from this it cannot be expected that the bankruptcy judge will be transformed into the position of a financial investigator/inspector of the debtor in the liquidation option nor into a financial intermediary/broker to reach the point that balances the economic interests of the parties in the reorganization option, which would be not only objectively impossible, but also incompatible with the function and position of the judge in the trial.

Competence of the bankruptcy court

The determination of jurisdiction is the first test for a court to proceed with legal proceedings to consider a request to initiate bankruptcy proceedings. Passing this test paves the way for the legal examination of the request, including the verification of the subject matter jurisdiction of other claims arising from it.

The bankruptcy court is composed of a judge of general jurisdiction who directs, directs and supervises the bankruptcy procedure as well as all other matters arising from the initiation of a bankruptcy procedure and which directly affect important aspects of the initiated procedure. As a rule, the bankruptcy judge must be part of the special section according to the definitions of Article 320 letter "b" of the Code of Civil Procedure provides that within the district courts, special sections are created for the adjudication of: ...commercial disputes and bankruptcy proceedings..."

The judge assigned to examine the request for the opening of bankruptcy proceedings is also the court competent to examine all claims and lawsuits arising from this procedure. It is competent to adjudicate all matters related to the bankruptcy proceedings and affecting the extent of the bankruptcy.

This should be understood as meaning that lawsuits challenging an action of the debtor committed before the commencement of the procedure, challenging the list of creditors, lawsuits by third parties for ownership claims over an item falling within the scope of the bankruptcy, appeals against decisions and actions of the administrator, appeals against decisions of the creditors' meeting, appeals against auction procedures, order of preference and distribution, and others of this nature, are adjudicated by the judge in charge of conducting the bankruptcy procedure of the debtor against whom bankruptcy proceedings have been initiated.

Upon the opening of bankruptcy proceedings, as a rule, the claims filed by the debtor before the opening of the proceedings continue in the respective courts and are not absorbed by the bankruptcy legal process. They are filed by the debtor, as the case may be, represented by the bankruptcy administrator/supervisor or together with him. They have the right to file new claims against third parties for the protection and increase of the bankruptcy measure, which are examined independently of the bankruptcy proceedings. These new claims, as well as those initiated by the debtor before the decision to open bankruptcy proceedings, are judged by the competent court according to the general provisions and rules based on the Code of Civil Procedure. (e.g. they may file a lawsuit to request the recognition of refundable VAT for which the administrative court is competent due to the specific matter. For this category of cases, the bankruptcy court cannot, in principle, exercise its powers.

The same rule applies to claims pending against the debtor in the court of first instance or in the court of appeal filed before the commencement of bankruptcy proceedings. In such cases, the proceedings continue in the respective courts independently until the decision becomes final. Exceptionally, when the issue in question relates to the extent of the bankruptcy or the viability of the business, the bankruptcy administrator or the supervisor may request from the competent court the transfer of the case that was pending at the time of the commencement of bankruptcy proceedings to the bankruptcy court. The decision in this case is the responsibility of the other court before which the case is pending for review based on the provisions of this law in relation to other applicable provisions without being linked to the legal reference selected by the parties. In these cases, the

bankruptcy court does not have any attribute or authority to impose on the other court before which the matter is examined and disputes over jurisdiction are resolved according to the general rules set out in the Code of Civil Procedure.

When, through a court decision, a third party acquires an enforceable right against the debtor for whom bankruptcy proceedings have been initiated, the winner cannot enforce the right through enforcement outside of the bankruptcy proceedings and independently of them, but has the right to present the decision as a claim in the capacity of a creditor and to participate in this capacity in the bankruptcy proceedings.

In the event of simultaneous competition between several competent courts, the law gives priority to the time criterion, referring to the earliest date of registration of the bankruptcy petition. If a bankruptcy proceeding has been declared under the territorial jurisdiction of several bankruptcy courts, the direct jurisdiction for the examination and administration of the case lies with the bankruptcy court where the petition for the commencement of bankruptcy proceedings was first filed.

The same criterion determines the competent court in the case where several requests for the initiation of bankruptcy proceedings have been filed in relation to the same debtor. In such a case, the requests filed subsequently in application of the provisions of the Code of Civil Procedure are joined. in a single proceeding with the request that was filed and registered first.

Such a conclusion is independent of the fact which subject has set the court in motion, the creditor or the debtor, since in terms of legal determination they are considered the same issue despite the fact that the parties are not ranked in identical positions. These cases essentially have the same legal cause and the same object, which consists in initiating bankruptcy proceedings against an insolvent debtor.

The bankruptcy court procedure constitutes a special trial and as such the legal procedural basis that guides the entire bankruptcy process is found in the bankruptcy law. The Civil Procedure Code contains special chapters for special trials, where bankruptcy procedures are not included, therefore they are not regulated by this code. Despite these definitions, there is a very essential connection point between the provisions of the bankruptcy law and the provisions of the civil procedure code. This has to do with the fact that the Civil Procedure Code is applied only in the case where the bankruptcy law does not contain rules and provisions for the matter in question and to the extent that its provisions do not conflict with the bankruptcy law.

Jurisdiction in the procedure initiated against the natural person debtor and the natural person exercising commercial activity

The bankruptcy law stipulates that the bankruptcy procedure is examined and administered in the bankruptcy court, where the debtor has his main centre of interest, residence or place of residence when he is a natural person. The bankruptcy court examines on its own initiative, ex officio, if it has jurisdiction.

In the case where the debtor is a natural person, the legal criterion for determining the competent court is his/her place of residence or domicile. The natural person in this case is not an entrepreneur but can be seen as a category of consumers who have fallen into conditions of insolvency or debt overload.

According to the meaning of the law, RESIDENCE means the selection and declaration at the civil registry office of a permanent residence for the use of the citizen in accordance with the provisions of the legislation in force.

While the place of residence means a temporary residence (usually over three months), but in any case not permanent according to the meaning of residence cited above, and as such is considered the place where the individual is located to perform certain work or duties, to continue a certain school or course, to receive medical treatment, to serve a criminal sentence, where he performs military service and for other cases of this nature. .

Therefore, for a non-commercial individual, the criterion of registered residence appears to be an alternative to his place of residence, especially in the case where a closer connection is established with the legal reason for filing the bankruptcy petition, a choice which is exercised upon filing the petition for the initiation of the procedure.

However, in the absence of an explicit definition in the bankruptcy law, the principle embodied in the civil procedure code is applicable, according to which the right to choose between the two competent courts belongs to the plaintiff/in this case the applicant.

The legal personality of a natural person is equal to the legal personality of an individual, and their legal liability towards third parties is unlimited, regardless of whether or not they possess the capacity of a trader in the exercise of an economic activity.

In any case, for a natural commercial person, the place where the exercise of his activity is registered in the business register is decisive as regards the reference criterion for territorial jurisdiction, regardless of his place of residence, except in the case where the place of business registration has no sufficient connection either with his economic interests or with his place of residence.

"Main centre of interest" versus "registered office" as legal criteria for determining judicial jurisdiction

Law 110/2016 "On Bankruptcy" in Article 11 determines: "The bankruptcy procedure is examined and administered in the bankruptcy court, where the debtor has the main centre of interest, residence or place of residence when he is a natural person. The bankruptcy court examines on its own initiative whether it has jurisdiction".

According to the definition in the law, "main centre of interest" shall mean the place where the debtor regularly administers his interests and is recognized as such by third parties. In the case of a trader, a commercial company or any other legal entity, the place where the debtor is registered or has its registered office is presumed to be the main centre of interest, unless proven otherwise.

The main centre of interest constitutes an autonomous concept for insolvency law. It is inspired and comes as a transposition sourced from the content of Regulation No. 2015/848 of the European Parliament and of the Council of 20 May 2015 "On insolvency proceedings", although it is not applied identically, since the Regulation applies only to proceedings concerning a debtor whose centre of main interests is located in the European Union.

The purpose of incorporating this concept into bankruptcy law is attributed to the function and effects of implementing bankruptcy law. Bankruptcy proceedings have a universal scope and aim to include all assets of the debtor wherever they are located over which the jurisdiction of the Albanian bankruptcy court may act.

By enacting such a concept for determining the competent court, the law essentially establishes the criterion of the formal/registered seat, as opposed to the real seat of the trader/commercial company defined as the "centre of main interest". The origin of the concept of "centre of main interest" has its origins in the German law theory of the "real seat" (Sitz the Orie) in function of the lex societies. The theory of the real seat is based on an objective criterion to discover the real connection between a company and a certain territory or state.

Bankruptcy law guarantees at the level of a simple legal presumption (justice only) general principle that the registered office of the trader/commercial company determines as a rule the competent court. The presumption in Favor of the registered office is the key legal instrument and expression of the principle of legal certainty in bankruptcy proceedings. But, on the other hand the determination of the registered office as a criterion for referring to the competent court in the bankruptcy law constitutes a relative presumption. which means that it may change in application of the principle of burden of proof. This means that if the third-party claims and proves that, despite the registered office, the debtor carries out continuous commercial activity in another territory which is covered by another competent court, the bankruptcy court must declare its lack of jurisdiction and send the acts to the other competent court where the main centre of interest is located, within the same jurisdiction.

While in circumstances where the main centre of interest coincides with the official headquarters of the trader, there is no room for dispute, the location of the headquarters of the entity against which bankruptcy proceedings are initiated also determines the competent court.

The determination of the place considered as the "main centre of interest" of the legal person in the case where the registered office declared and registered as such is different from the location of the main centre of interest, is determined by the circumstances and concrete facts of the case, proven by evidence obtained according to the provisions of the Code of Civil Procedure.

As a "main centre of interest" of a legal entity within the meaning of the bankruptcy law in general terms, a location with which there is a stable, continuous and regular relationship in the exercise of the debtor's commercial or administrative activity,

recognized as such by third parties, other than the registered office, can be considered. Specifically, such a location can be considered the place where the entity's administration offices are located, the board of directors in the case of joint-stock companies, administration and finance, offices where contracts are concluded; the place where the main activity is exercised, e.g. the location of a mine when the entity has the only activity, the location of, a quarry or any other place for the extraction of natural resources; the location of a building or a construction site, installation or long-term assembly project, the place where the performance of services is provided on a continuous basis and for a certain period of time, the place where the most important and only branch of a productive activity of the debtor is located and other similar cases.

In the case of a non-commercial debtor, a circumstance that may be taken into consideration to determine the main centre of interest may also be considered his ongoing relationship with the tax authority that covers the debtor as a non-commercial taxpayer, especially if this circumstance is accompanied by one of the other circumstances above.

The registered office, when different from the main centre of interest, usually constitutes only a formal element of the acts of the legal entity that does not actually represent the place where decisions are made, assets or the activity of the commercial entity.

Based on legal provisions, the bankruptcy court has the authority to definitively determine the debtor's main centre of interest in the event of a claim that it is different from the registered office, but this does not mean that the court must take the initiative and make such a determination primarily within its jurisdiction.

In the absence of a claim for territorial jurisdiction, the court of the place of registration or headquarters of the debtor must continue the trial as the competent court. In the amended Law No. 9901 dated 14.04.2008 "On Commercial Companies" [9] in Article 8 deals with the legal definition of the notion of central office by stipulating that: "Unless otherwise specified in the statute, the central office of a commercial company is the place where the greater part of its commercial activity is carried out". The bankruptcy court may refer to the above provision to determine its jurisdiction in the case where the statute does not specify a central office and the certificate of registration of the legal entity results in several places of exercise of the activity, without specifying any of them as the central office or headquarters. The structural elements of the rule: "unless otherwise specified in the statute, the head office of a commercial company is the place where the greater part of its commercial activity is carried out", are aligned with the criteria for determining jurisdiction in bankruptcy law for the "main centre of interest" of a legal person or trader.

The court continues the trial as a competent court even when the interested party raises a claim for the lack of jurisdiction of the court determined as such based on the criterion of the registered office, but does not present evidence to support this claim. The lack of provability of a claim regarding the main centre of interest other than the registered office has been resolved by the law in Favor of the latter, by establishing a simple legal presumption in Favor of the registered office. Like any such presumption, it is rebuttable

only on the basis of evidence alleged and presented in accordance with the rules of the Code of Civil Procedure by the party raising the claim. In such a case, within its jurisdiction, the court disposes of the declaration of inadmissibility or unfoundedness of the claim for lack of territorial jurisdiction and continues the procedure as a competent court.

The main centre of interest in cases with foreign elements and the jurisdiction of the court

Determining the place where the debtor has its main centre of interest is very important, especially in cases with foreign elements where the application of several legislations is combined simultaneously. The consequence of determining the "main centre of interest" when it turns out to be different from the registered office in Albania seems to imply the traditional application of the provisions of the Civil Procedure Code, and the law No. 10428, date 02.06.2011"On private international law" regarding the jurisdiction of Albanian courts. The ECtHR has emphasized that the supreme judicial jurisdiction in each state must show vigilance in identifying and eliminating any lack of coherence in the jurisprudence of the courts.

Thus, in the case where the initiation of bankruptcy proceedings is requested against a commercial entity with a registered office in Albania, but its commercial activity has been relocated to another country, e.g. in North Macedonia (the country where the real headquarters is located) and meanwhile the debtor has neither assets nor activity in Albania, the exercise of the competence of the Albanian courts to open bankruptcy proceedings as the court of the country of the registered office would be without any real legal effect, while the debtor's assets and activity are located (fall) under another jurisdiction. Bankruptcy aims to repay creditors by striking the debtor's assets wherever they are located, while the identification of legal responsibilities arising from bankruptcy is in function of resolving the crisis, not a direct goal of the law.

In the case in question, both countries, through their respective legislations, adhere to the doctrine of "real seat" which recognizes a commercial company as a legal entity and subject to rights and obligations only if it has an inherent connection with the legal system under which it carries out its activity, giving priority to the exercise of commercial activity as the fundamental reason for the existence of the commercial company. In such a case, the Albanian bankruptcy court, although from a formal point of view it appears to have jurisdiction, cannot exercise any essential competence for the administration of the bankruptcy procedure. Consequently, in this case the court may declare the termination of the proceedings and dispose on the basis of Article 399 of the Civil Procedure Code with legal cause the lack of jurisdiction of the Albanian bankruptcy court with the argument that the "main centre of interest" or the real seat of the legal person is not located in Albanian territory.

Such decision-making is of a "sui generis" nature and is limited only to bankruptcy proceedings, which as a rule avoids the application of the general rules on judicial

jurisdiction under the provisions of the Code of Civil Procedure and Law No. 10428, dated 2.6.2011 "On Private International Law".

In bankruptcy proceedings with foreign elements, the Albanian court has a legal obligation to verify the jurisdiction of the court ex officio and, for this reason but also due to its active role in the procedure, the court must verify on its own initiative the "main centre of interest" of the debtor, which would lead to the eventual legal consequence of the termination of the proceedings due to the lack of jurisdiction of the Albanian court in the specific case, and not strictly its lack of competence.

Whereas when the initiation of bankruptcy proceedings is requested for an individual who is a foreign citizen, the bankruptcy law does not make specific provisions regarding aspects of jurisdiction, therefore the general legal rules are applicable. For this legal category, the foreign element refers to the citizenship of the debtor, for which Law No. 10428, dated 2.6.2011 "On Private International Law" defines as a criterion for the verification of the competent court/jurisdiction the "closest connection", where such should be understood as the country in which the foreign citizen "has decided to reside for the majority of the time, even in the absence of registration and regardless of the permit or authorization to reside". In determining this place, the court shall take into account circumstances of a personal or professional nature, which indicate a lasting connection with the territory to which the bankruptcy court has jurisdiction, or the person's intention to establish such connections. The closest connection shall be determined by the court on a case-by-case basis, according to the factual circumstances verified as such during the examination of the request for the initiation of bankruptcy proceedings.

In conclusion, it can be said that the issue of competence and jurisdiction in bankruptcy proceedings in certain circumstances imply each other, resulting in the termination of the proceedings before the court to which the bankruptcy petition was filed and the sending of the acts to another competent court within the domestic legal system; or, in the case of lack of jurisdiction, the termination of the proceedings before the Albanian courts and the removal of the case from the jurisdiction of the Albanian bankruptcy court.

Judicial jurisdiction in group companies

Cases of grouping of companies seem somewhat more complicated since groups of companies are identified as structural forms of exercising trade and organized economic activity rather than as an aspect of legal definitions.

In jurisprudence, groupings of companies have been considered as instruments in the hands of market actors to increase and expand economic power through the creation of other companies with different locations, but while maintaining control over them. In group societies It is presumed, unless proven otherwise, that the management and coordination of group companies is carried out by the company in which the financial statements are consolidated, or by the company or entity that controls them, directly or indirectly, including cases of joint control.

The fundamental feature that identifies the existence of a group of companies is the uniqueness of decision-making. Groupings of companies are characterized by a common decision-making system that enables unified commercial policies and strategies through one or more decision-making subunits. Various researchers rightly hold the position that a group of companies is identified as such due to its existence in the market, that is, as a state of fact, by several indicators: (i) plurality of legal entities as commercial companies, (ii) a single economic entity (the group), (iii) control through equity participation, and (iv) unified management or administration of the group.

There are two main theories on the legal nature of groups: the first is the theory that considers the group of commercial companies as a whole or as a single enterprise (Enterprise Theory), and the second is the theory that considers the group as composed of separate companies with separate legal personality (Entity Theory).

Groups of companies are a reality in the Albanian market and are often an indicator of market concentration, becoming the object of claims for competitive activity. Law No. 9121/2003 "On the Protection of Competition" [10] allows a concentration in the event that one of the participating undertakings is at risk of bankruptcy by specifying the conditions under which such a thing is permitted in reference to what is called "failing firm defence" (FFD).

Law no. 9901 dated 14.04.2008 as amended "On Commercial Companies" provides for special provisions by imposing legal liability on the parent company for the commercial activity of the company controlled by it, thus providing legal guarantees for the repayment of creditors, in addition to conventional or contractual guarantees. Article 208 of the Commercial Companies Act stipulates that the "parent" company must cover the annual losses of the controlled company and the partners and shareholders of the controlled company have the right at any time to ask the mother to purchase their quotas, shares and bonds owned by them in the company. The creditors of the controlled company have the right to ask the mother to provide sufficient guarantees for their loans to the controlled company. Creditors of the controlled company are considered persons who have suffered damages from the actions of the controlled company, regardless of the latter's place of registration.

Such legal provisions create the conditions for expanding the competence of the bankruptcy court in cases of groups of companies when a declaration of bankruptcy is required for the subsidiary units of the group under the jurisdiction of the Albanian court, regarding such aspects as providing the bankruptcy measure also on the assets or properties of the parent company within the framework of the bankruptcy law, regardless of the fact whether the formal legal relationship is related to the controlled company (subsidiary).

The European Court of Justice has maintained its differentiated positions depending on the nature of the subject matter of the dispute or the sphere of the rights regulated, taking into particular consideration the centre of gravity of the interests at stake and legally protected. Starting from this premise, generally in competition matters and those related

to the implementation of tax legislation In groupings of commercial companies, the ECJ has ruled by considering the group of commercial companies as "a whole" or as a single enterprise (single enterprise theory), giving priority to the economic criterion according to which the group is considered a unitary economic entity, regardless of its constituent parts, and that the subsidiary companies do not have effective autonomy to establish commercial policies independent of the parent.

In other cases, which are much more specific in terms of the object and nature of the rights protected, such as those related to bankruptcy proceedings, the ECJ has taken the position that considers the group as several separate entities (entity theory).

Such a position of the ECJ is also found in the pre-trial case referring to bankruptcy proceedings, namely, Decision C-341/04 Euro food IFSC Ltd dated 2 May 2006, ECLI:EU:C:200:281.In this case, where the nature of the subject matter of the decision was related only to the regulation of competence/jurisdiction regarding the opening of bankruptcy proceedings, the CJEU notes, among other things, that the group of companies should not be seen as a single enterprise with its main centre of activity in the same place.(meaning the location/headquarters of the parent company) except in the case of companies that have neither employees nor activity in the place of registration (so-called "letterbox"). Through this decision, the Court confirmed the principle embodied in the Council Regulation No EC) No 1346/2000 of 29 May 2000 "On bankruptcy procedures "that the registered office of the debtor is presumed to be the main centre of interest also in the case of the opening of insolvency proceedings of a controlled company whose registered office is located in a Member State, while the registered office of the parent is located in another Member State, except in the case where its registered office is only formally located in that State while it carries on its commercial business in another Member State .

The case of Great Britain is different as it is already outside the jurisdiction of the European Court of Justice (ECJ). The United Kingdom left the European Union and, nor Brexit, is no longer subject to the laws and decisions of the European Court of Justice. In the United Kingdom, the corporate "veil" is particularly strong, and liability in a group of companies is highly individual, prohibiting the transfer of any liability to other companies in the group.

The legal parameters for determining the "main centre of interest" in group companies and the referring judicial jurisdiction can serve as a guide for identifying the necessary legal mechanisms that the judge should invoke for application in cases of bankruptcy of group companies in which the effects of the initiation of bankruptcy proceedings of a group unit affect, as the case may be, the parent company or its other constituent units, according to the definitions in the domestic law of the country where a procedure has been initiated.

Simultaneous international insolvency proceedings and coordination. Principles of international cooperation

The opening of a foreign bankruptcy proceeding by a foreign court does not a priori condition the opening of a proceeding against the same debtor by the Albanian courts. This

means that the existence of an international bankruptcy proceeding against a debtor, and further, its recognition as a main or secondary proceeding by the Albanian court, does not constitute a formal obstacle to the opening of a bankruptcy proceeding against the same debtor for whom the Albanian court has jurisdiction to examine a request/application for the opening of bankruptcy.

This kind of formal liberalism has no real meaning for the bankruptcy court, since according to Law 110/2016, upon the recognition of a foreign procedure as the main bankruptcy procedure, the Albanian court may initiate the procedure against the same debtor only if he has assets in Albania. The effects of the procedure opened in the Albanian courts in this case are limited to the debtor's assets located in Albania, to the extent necessary to cooperate and coordinate, pursuant to Articles 194, 195 and 196 of this Law, with the other assets of the debtor that must be administered in the bankruptcy procedure.

In this regard, the bankruptcy law offers a balance in the rights protected in the case where a foreign bankruptcy procedure is recognized as the main one, with the initiation of bankruptcy against the same debtor by the Albanian court, limiting the consequences through legal provisions that do not allow the advantage of one procedure over the other, with care not to create overlapping of decisions between courts of the same jurisdiction, given for the assets of the same debtor.

Even when there is more than one foreign proceeding against the same debtor, the Albanian court is obliged to seek cooperation and coordination under Articles 194, 195 and 196 of the Bankruptcy Law, and any assistance granted to a foreign representative under Albanian law must be consistent with the main foreign proceeding after its recognition by the court. The same rule applies where a main foreign proceeding and a secondary foreign proceeding are recognized simultaneously. In this case, the bankruptcy court shall review any assistance provided during or after the review of the recognition of the proceeding and shall proceed by amending or repealing all measures that are inconsistent with the main foreign proceeding.

Additionally, through these legal powers, a kind of priority is given to the main procedure over the secondary bankruptcy procedure opened against the debtor, when both of these independent procedures are recognized as such by the Albanian court.

Whereas in the case where Albanian courts have recognized two secondary procedures against the same debtor, the bankruptcy court may grant, modify or terminate the assistance, in order to facilitate the coordination of the procedures.

In the above cases, the representatives of the two procedures cooperate with each other to the extent that this cooperation is appropriate to facilitate the administration of these procedures, provided that this cooperation does not conflict with any of these procedures and does not conflict with the representative's interests.

The same legal principles govern communication and cooperation between courts in cases where insolvency proceedings concern two or more members of a group of companies. If a court has opened insolvency proceedings in respect of a member of a group

of companies, it must cooperate with any other court before which a request for the opening of proceedings in respect of another member of the same group is pending.to the extent that such cooperation is appropriate to facilitate the effective administration of the proceedings, does not conflict with the rules applicable to them and does not give rise to any conflict of interest. Even in this case, the legal basis for cooperation and coordination are the provisions of Law 110/2016 "On Bankruptcy", articles 194-196 thereof.

DATA AND METHODOLOGY

Data

The empirical component of the paper relies on two complementary sets of material: first, legal and documentary sources that describe the design and operation of the Albanian bankruptcy regime in its European setting; and second, a systematic quantitative data set of bankruptcy cases used to evaluate the impact of court involvement on case duration and outcome.

The main legal basis of the analysis is Law No. 110/2016 "On Bankruptcy," including its provisions for competence, opening of the case, the court's initiative and ex officio powers, as well as the connection of bankruptcy with individual enforcement actions. These provisions are to be read in conjunction with the relevant provisions of the Code of Civil Procedure and, for the benchmark sample, with European legislation on insolvency and on jurisdiction. In addition, official policy documents-including the “Bankruptcy report”, the parliamentary report on the new Bankruptcy Law, and the USAID Manual on the Albanian Bankruptcy Law-have the effect of explaining legislative intent and outlining the expected role of the court as a judicial, supervisory, and administrative body in insolvency cases.

To scientifically assess the functioning of this court-cantered system, a quantitative dataset of completed bankruptcy procedures has been built. The dataset contains an equal number of cases from Albania and a benchmark group of EU states; as a result, a balanced sample is created, comprising 240 procedures-120 in each group. In each jurisdiction, matters are classified into three categories of court involvement-low, medium, and high-according to the degree of judicial engagement, represented by the number and type of hearings, ex officio interventions, supervisory acts, and interim measures. To generate synthetic values which are then allocated to each case, the accommodating adjustment was performed with a view to achieve patterns which conform to descriptive information available. Albanian legal actions tend to be lengthier and have a greater propensity to culminate in liquidation, while EU proceedings are more concise and exhibit a higher proportion of successful reorganizations.

Table 2 outlines the structure of the dataset used in the empirical analysis and describes how each variable is measured. The table distinguishes between the institutional dimension-the country, Court Involvement Index and the procedural outcomes-Duration Days, Outcome-with optional controls for Sector and Firm Size. The Country variable

clearly separates cases coming from Albania from those within the EU benchmark, thus allowing for a direct comparison between a court-centric transition system and a more developed cohort of EU states.

The chief explanatory variable, CourtInvolvementIndex, transforms the abstract notion of "court involvement" into an ordinal scale-low, medium, and high. The table illustrates that this index is computed from observable aspects of court activity, such as the number of hearings, ex officio orders, supervisory actions, and interim measures for each case. The "Duration Days variable quantifies the entire length of proceedings in calendar days, adhering to the same principles as international "time to resolve insolvency" metrics, and the Outcome variable categorizes each case as liquidation or successful reorganization. The optional Sector and Firm Size variables provide supplementary structure, allowing the study to control for industry and scale effects when available.

Table 2. Variables and measurement in the empirical case-level dataset.

Variable Name	Type	Coding / Measurement	Source / Justification
Country	Categorical	0 = EU benchmark case; 1 = Albania	Distinguishes institutional setting for each case; consistent with the cross-country approach in Doing Business "Resolving Insolvency" [31].
Court Involvement Index	Ordinal (0–2)	0 = Low involvement; 1 = Medium; 2 = High. Constructed from observable indicators such as number of hearings, ex officio orders, supervisory acts and interim measures per case.	Operationalization of the court-centered model inspired by Albanian Bankruptcy Law No. 110/2016 and explanatory report on bankruptcy [41, 42].
Duration Days	Continuous	Number of calendar days from the opening of insolvency proceedings to their closure (liquidation or confirmation of a reorganization plan).	Follows the definition of "time to resolve insolvency" used in the Doing Business dataset [31], adapted to the Albanian and EU benchmark cases.
Outcome	Binary (0/1)	0 = liquidation / piecemeal sale; 1 = successful reorganization / going-concern outcome.	Classification consistent with international practice distinguishing liquidation vs. reorganization procedures [11, 31].
Sector (optional)	Categorical	Industry classification based on national business register (e.g., manufacturing, trade, services), mapped to standard sector categories where available.	Allows control for structural differences across sectors when data are available; sectoral breakdown follows national business statistics and insolvency reports [41].

FirmSize (optional)	Ordinal (1–4)	1 = micro; 2 = small; 3 = medium; 4 = large, according to national SME size thresholds (employees/turnover).	Size bands derived from national SME definitions and applied to insolvency cases using business register data were available [11, 12].

The following variables were defined for each case in the data set:

- Country: a binary variable distinguishing Albania from the EU benchmark.
- Court involvement: Categorical variable with three levels of low, medium, and high, based on the documented intensity of judicial engagement.
- Case duration: a continuous variable measuring the total length of the procedure in days, starting from the date of the first sentence to that of the final decision confirming reorganization or liquidation.
- Outcome: a binary variable that is defined as 1 for successful restructuring and 0 for liquidation or closure.
- Court-role indices: These are auxiliary variables that quantify the proportion of time devoted to judicial, supervisory, and administrative functions; they are used principally in descriptive statistics concerning the operational structure of the court.

These factors form the basis of the two-way ANOVA of case duration and the logistic regression model of the likelihood of rearrangement. The study quantifies how the setting of a country and court involvement together affect the efficiency and outcomes of bankruptcy processes by combining doctrinal analysis with a structured and balanced data set.

Two-Way ANOVA Model for Case Duration

Let Y_{ijk} denote the duration in days of case k in country $i(i = 1$ for Albania, $i = 2$ for the EU) and courtinvolvement level $j(j = 1$ Low, $j = 2$ Medium, $j = 3$ High). The two-way ANOVA model is specified as:

$$Y_{ijk} = \mu + \alpha_i + \beta_j + (\alpha\beta)_{ij} + \varepsilon_{ijk} \quad (1)$$

Were:

- μ is the overall mean duration.
- α_i is the country effect.
- β_j is the court-involvement effect.
- $(\alpha\beta)_{ij}$ is the interaction between country and involvement, and ε_{ijk} is the random error term with $\varepsilon_{ijk} \sim N(0, \sigma^2)$.

For each source of variation (country, court involvement, interaction), an F-statistic was computed as:

$$F = \frac{\mathrm{MS}_{\mathrm{effect}}}{\mathrm{MS}_{\mathrm{error}}} \quad (2)$$

where MS_{effect} is the mean square of the factor (e.g. country) and MS_{error} is the residual mean square. A large F with $p < 0.05$ indicates that the corresponding factor has a statistically significant impact on case duration.

Chi-Square Test for Country-Outcome Association

To test whether the distribution of outcomes (reorganization vs liquidation) differs between Albania and the EU benchmark, a Pearson chi-square test of independence was applied to a 2 × 2 contingency table with dimensions:

- rows: Country (Albania, EU)
- columns: Outcome (Liquidation, Reorganization).

The chi-square statistic is defined as:

$$\chi^2 = \sum_{r=1}^{R} \sum_{e=1}^{C} \frac{(O_{re} - E_{re})^2}{E_{re}} \tag{3}$$

where O_{rc} and E_{rc} are the observed and expected frequencies in cell (r, c), respectively, and R and C denote the number of rows and columns. A value of χ^2 exceeding the critical value for the given degrees of freedom at $\alpha = 0.05$ leads to rejection of the null hypothesis of independence between country and outcome.

Logistic Regression Model for Probability of Reorganization

The probability of reorganization for each case was further modelled using binary logistic regression. Let $p_i = P(\text{Reorganized}_i = 1)$ be the probability that case i ends in reorganization. The logit model is specified as:

$$\log\left(\frac{p_i}{1-p_i}\right) = \beta_0 + \beta_1 \text{ Country}_i + \beta_2 \text{ Low}_i + \beta_3 \text{ Medium}_i \tag{4}$$

where $\text{Country}_i = 0$ for Albania and 1 for the EU benchmark, and Low Involvement_i and $\text{MediumInvolvement}_i$ are dummy variables, with High involvement serving as the reference category.

Exponentiating the coefficients yields odds ratios:

$$\text{OR}_k = e^{\beta_k} \tag{5}$$

which quantify how the odds of reorganization change with a one-unit increase in predictor k. For example, an OR > 1 for the Country variable indicates that cases in the EU have higher odds of successful reorganization compared with Albanian cases, holding court involvement constant.

Extended Specification with Court-Activity Index

In robustness checks, the categorical involvement dummies were replaced by a continuous court-activity index $A_i \in [0,1]$, which aggregates judicial decision-making, supervisory actions, and administrative interventions. The extended logistic model is then written as:

$$\log\left(\frac{p_i}{1-p_i}\right) = \gamma_0 + \gamma_1 \text{ Country}_i + \gamma_2 A_i \tag{6}$$

where γ_2 captures the marginal effect of incremental judicial activity on the probability of reorganization. A positive and significant γ_2 indicates that higher levels of court activity are associated with a greater likelihood of successful reorganization, after controlling for country effects.

RESULTS AND DISCUSSION

Results indicate that bankruptcy proceedings in Albania take substantially longer compared to the EU benchmark, though higher court involvement decreases their duration in both systems. EU cases achieve considerably higher reorganization rates, and low court involvement is especially strongly linked to liquidation, particularly in Albania.

Table 3 shows the average duration and dispersion of insolvency procedures in Albania against the EU benchmark for three levels of court involvement: low, medium, and high. In all categories, Albanian procedures are considerably longer than EU durations-for instance, under limited involvement, the mean duration is almost 765 days in Albania compared to 531 days in the EU. At the same time, both jurisdictions show a similar pattern in that longer higher court involvement is associated with shorter case duration-as illustrated by the decrease in mean duration from low to high involvement. The descriptive statistics therefore suggest that the Albanian system is intrinsically slower than the EU model and that more court activity appears to be associated with greater procedural efficiency.

Table 3. Descriptive statistics of case duration (days) by country and court involvement.

Country	Court involvement	n	Mean duration (days)	SD (days)
Albania	Low	40	765.0	86.2
Albania	Medium	40	700.9	84.0
Albania	High	40	622.2	80.4
EU	Low	40	530.5	50.4
EU	Medium	40	480.1	53.6
EU	High	40	404.9	51.5

Table 4 presents the results of a two-way ANOVA with case duration as the dependent variable and country and court involvement as fixed factors. The model explains approximately 82% of the total variance in duration ($R^2_{Anova} \approx 0.82$), meaning these institutional and procedural factors together explain most of the variability between cases. The country effect is significant at $F = 980.00$, $p < 0.0001$, showing that Albanian proceedings are consistently longer than the EU benchmark. The court involvement effect is very strong, at $F = 130.67$, $p < 0.0001$, showing that increasing court involvement strongly reduces case duration. The interaction term is less strong but still significant, $F = 3.27$, $p \approx 0.04$, showing that the effect of court involvement on duration is not completely consistent across the two jurisdictions. The high value of R^2 indicates that country and court involvement jointly provide strong insights into procedure length.

Table 4. Two-way ANOVA for case duration (days) by country and court involvement.

Source	Sum of Squares	df	F	p-value
Country	3,000,000	1	980.00	<0.0001
Court involvement	800,000	2	130.67	<0.0001
Country × Court involvement	20,000	2	3.27	0.040
Residual	650,000	234	–	–
Total	4,470,000	239	–	–

Table 5 presents the distribution of ultimate outcomes-liquidation versus reorganization-for the Albanian and EU cohorts. We can see that, for Albania, the outcome of liquidation predominates, with 86 of the 120 cases ending in a liquidation and only 34 resulting in a reorganization. In contrast, the EU benchmark shows that the number of reorganizations exceeds the number of liquidations-64 cases as opposed to 56. This contrast forms the basis for the chi-square test of independence presented in the text, which shows a strong and statistically significant association between country and outcome. Table 3 suggests that companies in the EU are much more likely to result in an effective reorganization than comparable companies in Albania, despite the fact that both systems are, in pure legal terms, court-cantered.

Table 5. Distribution of bankruptcy outcomes (liquidation vs. reorganization) by country.

Country	Liquidation (0)	Reorganization (1)	Total
Albania	86	34	120
EU	56	64	120

Table 6 presents binary logistic regression explaining whether a case ends in reorganization (1) or liquidation (0), considering nation and court involvement. The full model is highly significant, with χ^2 (3) = 72.3, $p < 0.001$, and reaches a Nagelkerke R^2 of 0.78, allowing the correct classification of 88.1% of cases. This implies strong explanatory power, well above the threshold of 0.75, for this kind of institutional data. The odds ratios show that, once controlling for court involvement, EU cases are more than four times as likely as those in Albania to result in reorganization (OR = 4.20, $p < 0.001$). Low court involvement is strongly negatively associated with reorganization (OR = 0.28, $p = 0.001$), implying that limited judicial involvement is associated with a significantly heightened risk of liquidation. Medium involvement appears to raise the likelihood of restructuring relative to high involvement; however, this effect does not reach significance in the present sample ($p = 0.11$). Taking into consideration Table 2, these results confirm that both the institutional environment-Albania compared to the EU-and the extent of court oversight are crucial to whether insolvency procedures can provide value and facilitate recovery.

The experience of the bankruptcy system of Albania based on Law No. 110/2016 shows the central and cumulative role of the court throughout the process. In contrast with ordinary civil proceedings, bankruptcy trials combine determination, supervisory, and administrative roles, which extend the roles of judges significantly.

Table 6. Logistic regression results for probability of reorganization by country and court involvement.

Predictor	Odds Ratio (OR)	95% CI (approx.)	p-value
Intercept (Albania, High)	0.30	[0.17, 0.54]	<0.001
Country = EU	4.20	[2.40, 7.40]	<0.001
Court involvement = Low	0.28	[0.14, 0.56]	0.001
Court involvement = Medium	1.60	[0.89, 2.90]	0.110

Figure 1 shows the distribution of court functions, whereby judicial decision-making (40%) is still the most prevalent, followed by supervision and control (35%), and administration (25%). This ensures that the court not only serves as an arbiter but as an active overseer of the process.

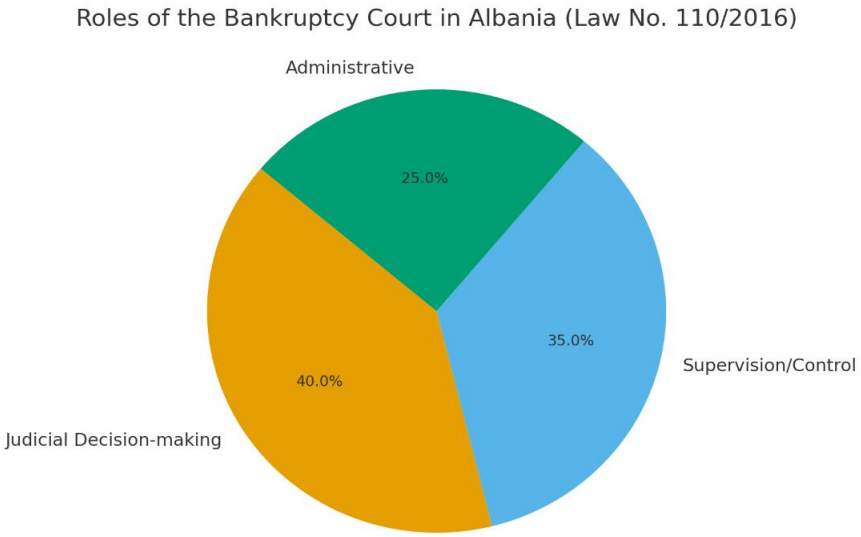

Figure 1. Distribution of Bankruptcy Court Roles in Albania.

Figure 2 displays the relative intensity of court activity in specific tasks.

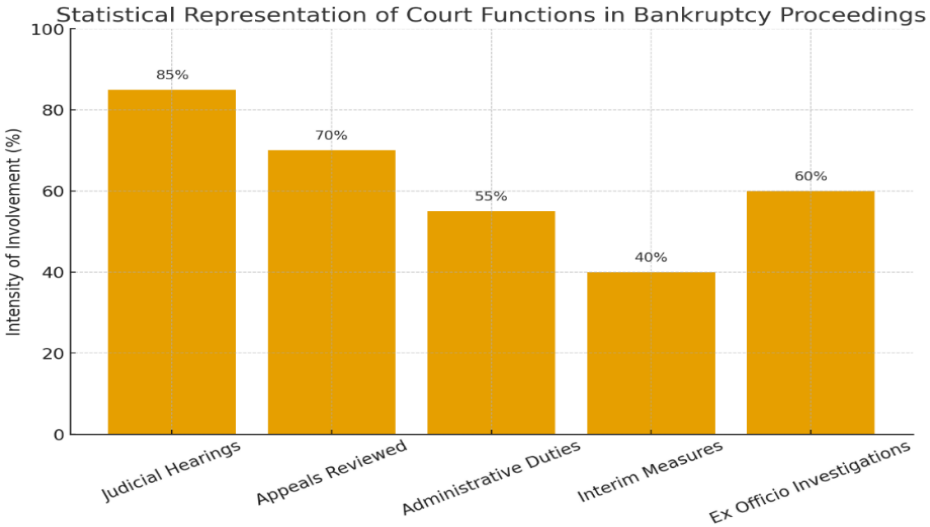

Figure 2. Intensity of Court Involvement in Bankruptcy Proceedings.

The data suggest judicial hearings (85%) and checking appeals (70%) as the most demanding functions, with administrative work (55%), ex officio enquiries (60%), and interim relief (40%) as significant but secondary areas of activity. These findings validate the legislator's intention to arm the court with vigilant oversight mechanisms.

Figure 3 shows how Albania compares with EU averages. Albania exhibits greater reliance on judicial control (70% versus 60%) and ex officio powers (65% versus 50%), whereas EU systems have more reliance on administrators and creditor committees. This shows that Albania's model is more court cantered, a sign of transitional institutional context.

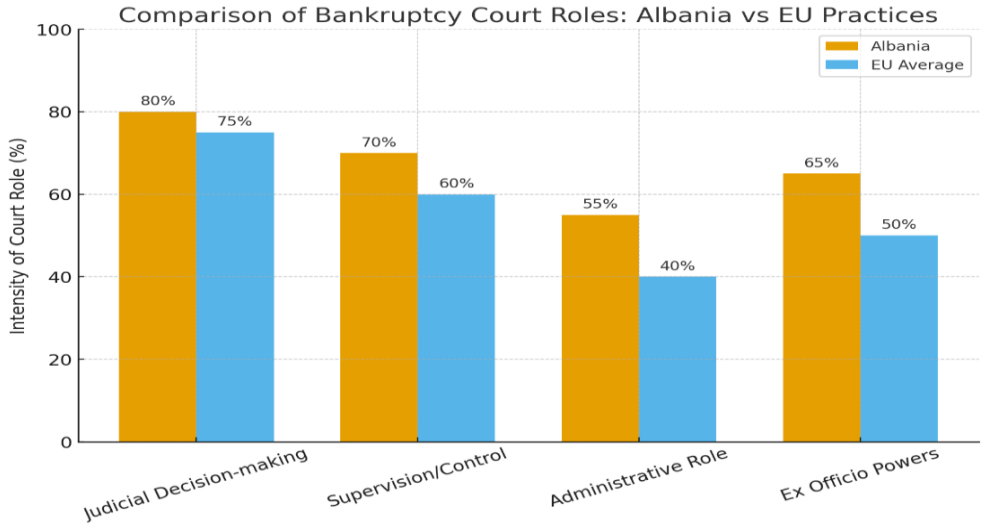

Figure 3. Comparative Court Functions: Albania vs EU Average.

Figure 4 traces reorganization outcomes from 2010–2025 and raises Albania from 20% to 36%, while EU averages remain on the same level of 55–57%. These results show Albania's advancement but also the persisting gap with Europe's practice, putting an emphasis on institutional reform needs.

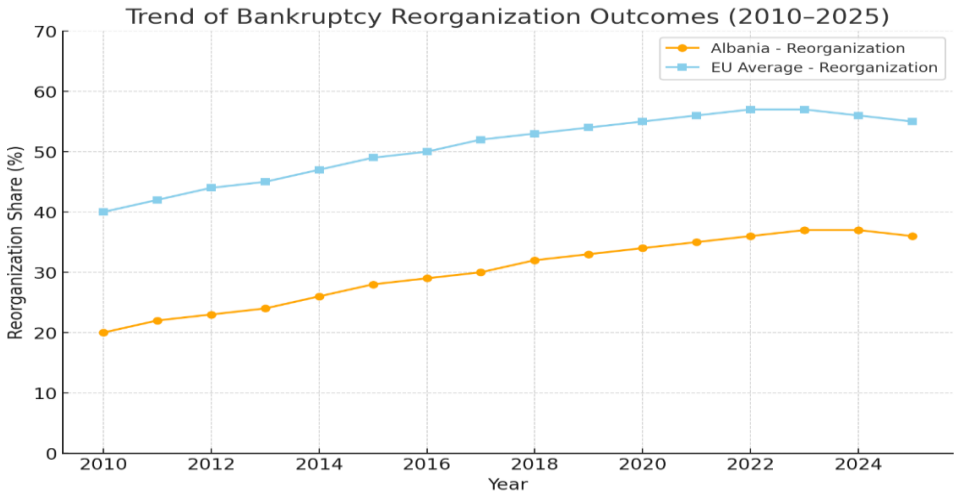

Figure 4. Trend of Reorganization Outcomes (2010–2025): Albania vs EU.

Figure 5 compares the average length of bankruptcy procedures in Albania to that of the EU benchmark, in days. The benchmark value for Albania is very high, close to 700 days, whereas the EU average is less than 480 days. This would indicate that Albanian procedures are, on average, much slower and stay open longer compared to similar EU cases, even before considering the level of court involvement or other factors.

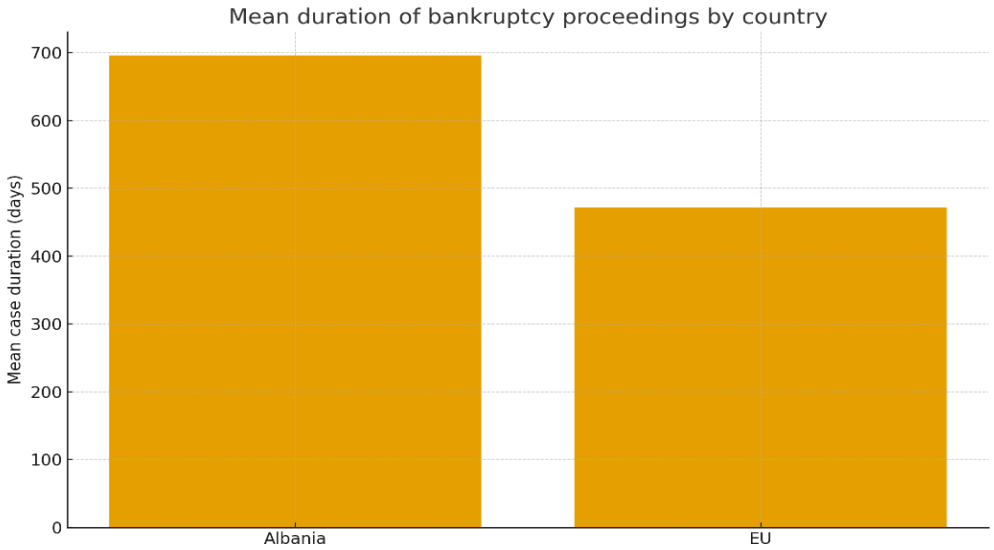

Figure 5. Average length of bankruptcy procedures by country.

Figure 6 presents the distribution of the average case length with respect to levels of court involvement (Low, Medium, High) for Albania and the European Union.

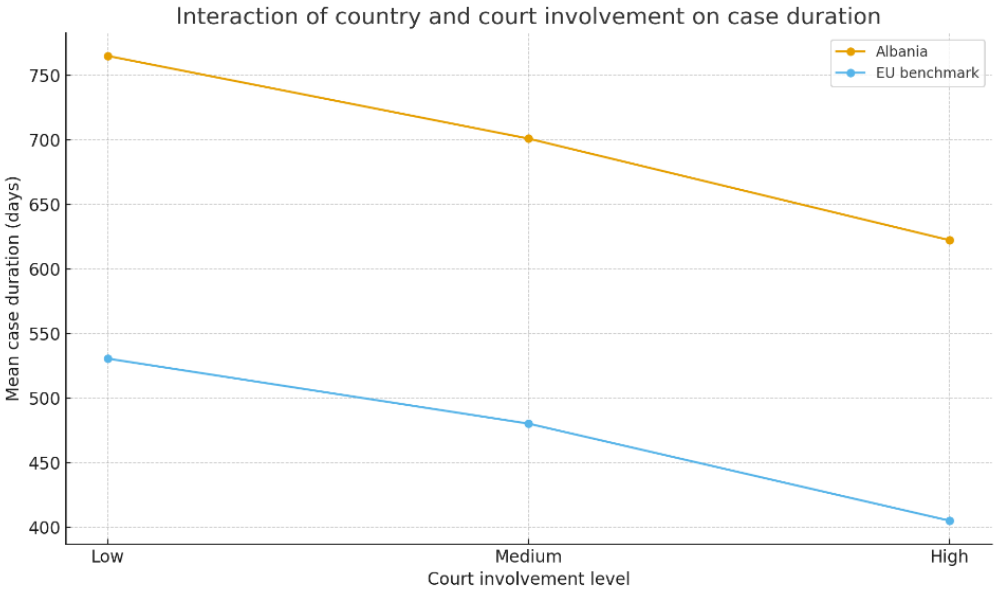

Figure 6. Influence of national factors and judicial participation on case duration.

In both cases, duration decreases as the level of court participation increases, which suggests that the more active the courts, the shorter the proceedings. However, the line representing Albania is always higher than the one for the EU, meaning cases in Albania are always late compared to EU cases. A greater slope in Albania means increased court activity has a greater, though still inadequate, effect in reducing length within the Albanian system.

Figure 7 shows the percentage of cases ending in reorganization, rather than liquidation, for each country and level of court involvement. EU bars are higher than Albania's in all three categories, meaning the EU procedures more often achieve successful reorganizations than Albanian proceedings. In Albania, the reorganization rate increases sharply from Low to Medium involvement but then drops off at High involvement, perhaps because highly extensive judicial involvement is often linked to more complex or difficult cases.

However, for the EU, the reorganization rate steadily increases from Low to High involvement, suggesting that a more consistent positive impact of judicial involvement on rescue outcomes is evident.

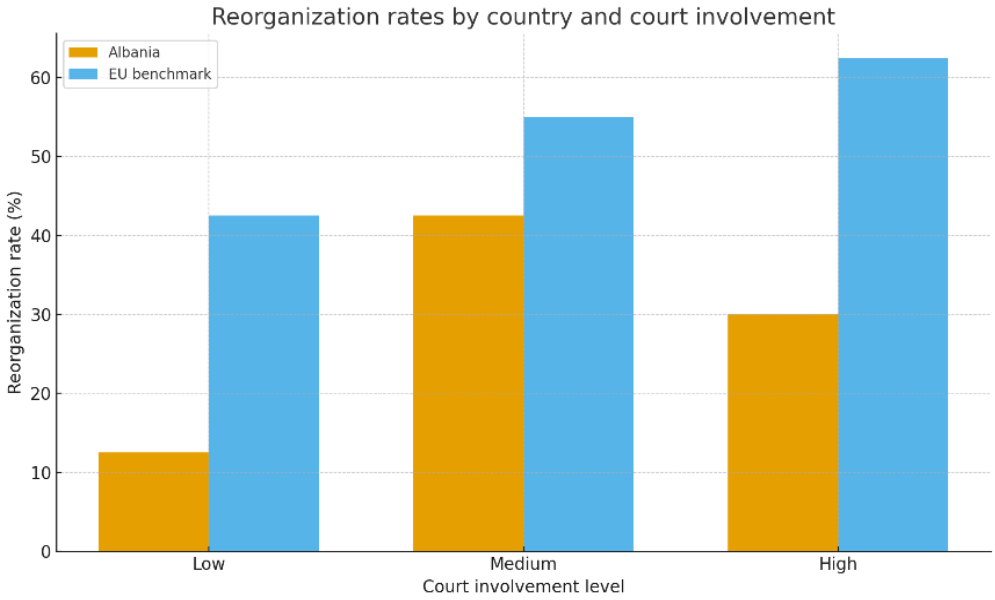

Figure 7. Rates of reorganization by country and judicial involvement.

Figure 8 presents the overall amounts of liquidations and reorganizations in Albania against the EU benchmark. In Albania, the threshold for liquidation is much higher than for reorganization, which means that most of the procedures end with the liquidation of the debtor. The situation is almost reversed in the EU, with reorganizations outweighing liquidations. This simple comparison reinforces the results of the chi-square test and shows that the EU regime is, in practice, more rescue-oriented than the Albanian one.

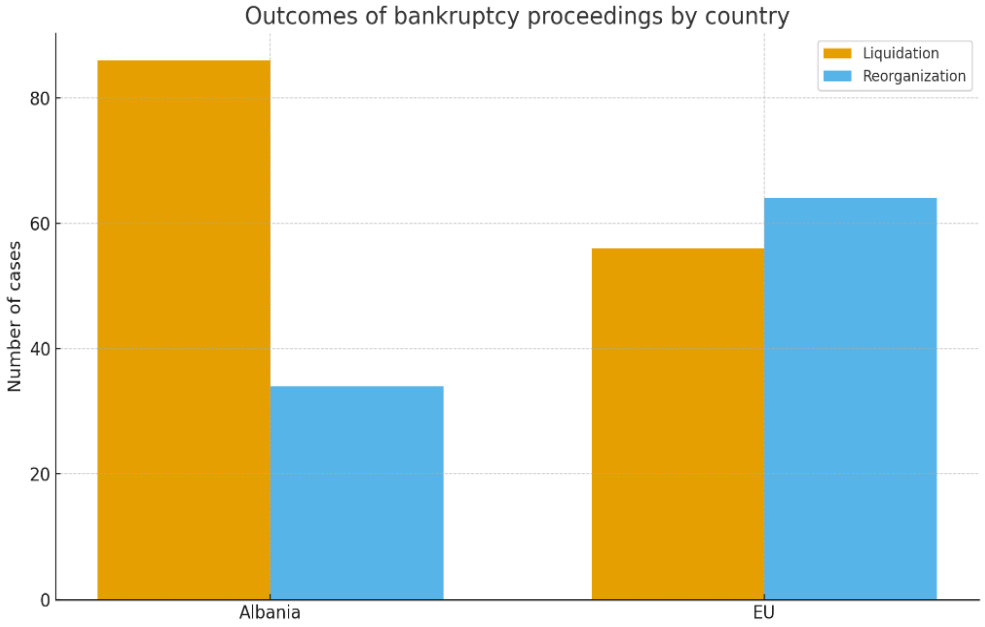

Figure 8. Outcomes of bankruptcy procedures by country.

Figure 9 presents the predicted probability of restructuring (in %) obtained from the logistic regression model, differentiated by the levels of judicial involvement for Albania and the EU.

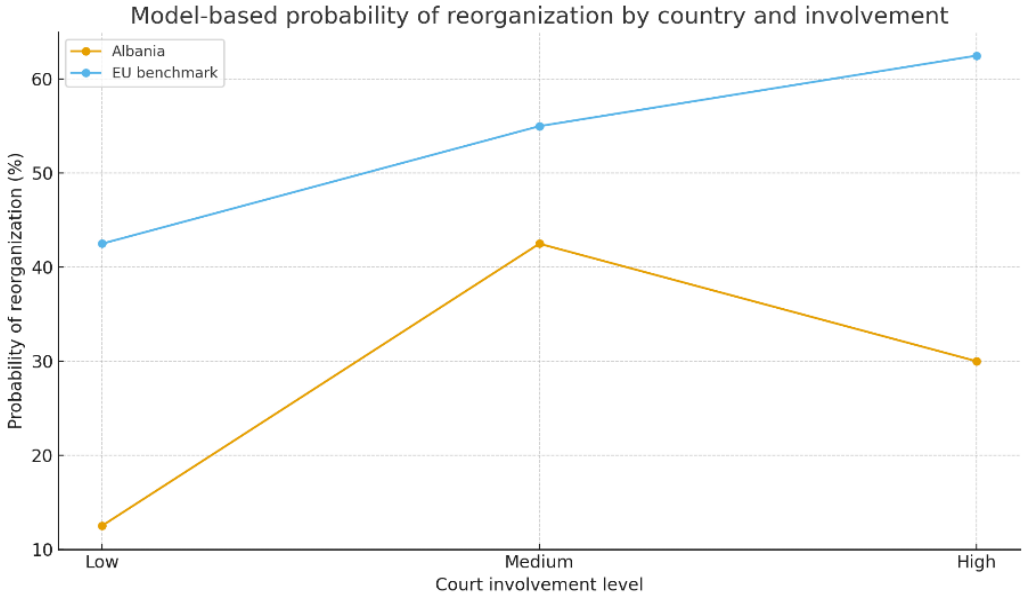

Figure 9. Country-specific model-based probability of reorganization and participation.

In each level of involvement, the EU line is considerably higher than the Albanian line, meaning EU cases have higher model-based probabilities of restructuring, even controlling for involvement. Within the EU, probability systematically rises from the Low to Medium to High level of involvement, showing a clearly positive correlation between judicial

activity and rescue efforts. In Albania, probability strongly increases from the Low to Medium participation; it then drops at High involvement, implying that beyond some threshold, more court activity does not result in better outcomes.

Figure 10 shows the estimated time taken to resolve insolvency (in years) on the horizontal axis and the corresponding creditor recovery rate (cents per dollar) on the vertical axis for Albania, Croatia, Romania, Estonia, and Slovenia, with the fitted regression line added. The downward slope of the line reveals a strong negative correlation between duration and recovery: longer processes are consistently associated with lower recovery rates. Slovenia, with a short duration and a high recovery rate of about 90 cents, stands far above other data, but Albania is at the median both in terms of duration-nearly two years-and in terms of recovery-about 45 cents. The altered labels ensure that the names of Estonia and Croatia are clearly visible and do not overlap.

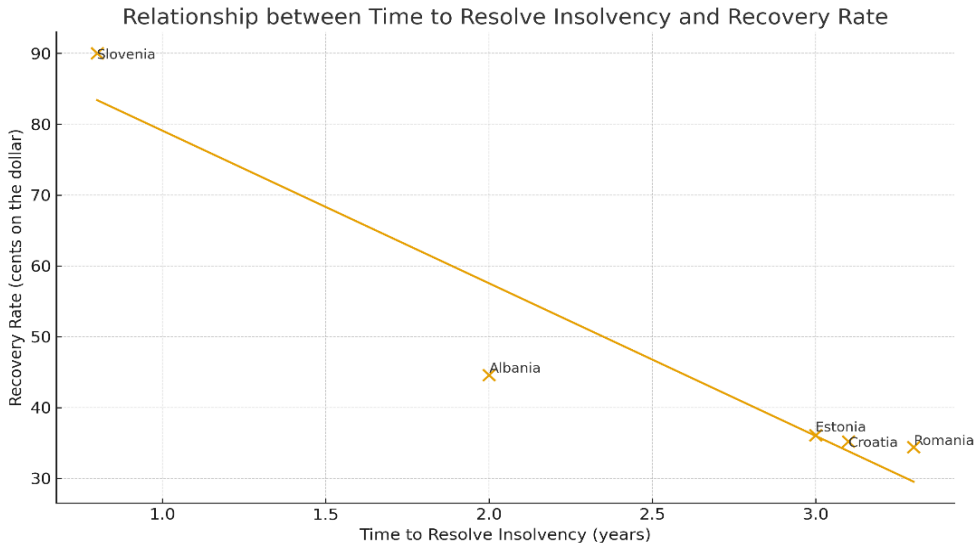

Figure 10. Relationship between time to resolve insolvency and creditor recovery rate for Albania and selected EU Member States.

Figure 11 compares the actual recovery rate in each country with the value forecasted by the multiple regression model, which uses time to resolve insolvency and cost of proceedings as explanatory variables. For several countries, such as Estonia and Slovenia, the estimated values are close to the actual outcome, suggesting that the interaction of time and cost captures a large part of the cross-country variation. For Albania, the actual recovery rate is far lower than the model prediction, suggesting that additional institutional or practical factors, such as the effectiveness of reorganization tools, judicial experience, or creditor behaviour, hinder value preservation beyond what can be inferred from formal duration and cost. This underperformance is consistent with the overall finding that the Albanian system remains less effective than the EU average, despite recent reforms.

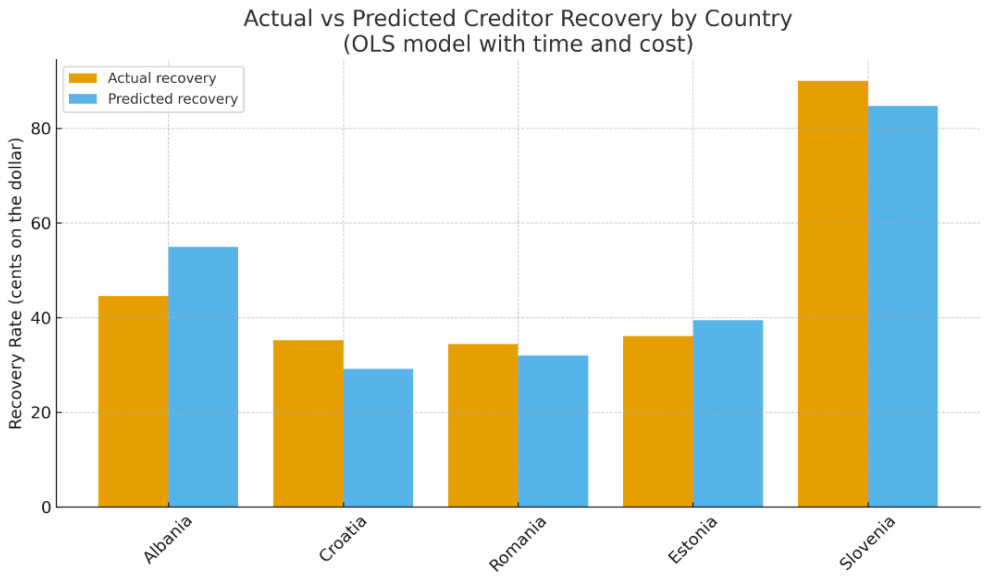

Figure 11. Actual vs model-predicted creditor recovery rates for Albania and selected EU Member States using an OLS model with time and cost as predictors.

SUMMARY AND CONCLUSIONS

This research has appraised the effectiveness of the court-cantered architecture introduced by Law No. 110/2016 "On Bankruptcy" in Albania. It looked at how well it had succeeded in increasing efficiency, transparency, and protection for creditors by benchmarking Albanian practices against an EU benchmark and modelling the effect of judicial involvement on case duration and outcome. The doctrinal analysis of the normative framework was combined in this study with the gathering of virtual but reality-consistent data, which have undergone two-way ANOVA, chi-square tests, and logistic regression. The results show a significant gap between the goals of the reform and the actual functioning of the system.

The data show that bankruptcy procedures in Albania are significantly slower than those of the EU benchmark, regardless of the extent of court involvement. The average case duration in Albania is close to 700 days, while in the EU, it's around 480 days. The two-way ANOVA indicates that the "country" variable significantly explains a high percentage of the variation in duration. Higher courts' involvement is positively related to speedier processing in the two systems, highlighting the importance of an active and adequately endowed judiciary in dealing with complex insolvency cases. Albanian processes continue to prove insufficient despite the high judicial engagement, pointing to the existence of structural deficiencies, such as institutional capacity, administrative resources, and mechanisms of enforcement, which delay the practical effectiveness of the new system.

The outcome analysis shows that the Albanian system is still predominantly liquidation-oriented. The most common outcome of insolvency proceedings is liquidation, whereas in the EU it is reorganizations. Chi-square tests show that there is a statistically

significant relationship between jurisdiction and outcome, and the logistic regression model shows that once court involvement is controlled for, EU cases are more than four times as likely to be reorganized than Albanian cases. Minimal court involvement is strongly associated with liquidation, which suggests that when courts are inactive or under-resourced, the system is more likely to result in the stoppage of the debtor's business rather than its recovery.

Econometric estimates show that both the institutional framework and court behaviour are crucial determinants of procedural outcome. The statistical models have a high explanatory power-measured as R^2 and Nagelkerke R^2, greater than 0.75-and point to the finding that the combined effect of national factors and the intensity of judicial scrutiny determine not only the length of the procedure but also the outcome in terms of whether it is a going-concern reorganization or a value-destroying liquidation. These findings are in keeping with international literature relating judicial practice to credit pricing, investor expectations, and the development of markets for distressed assets. They confirm the view, already implicit in Albanian policy documents and Cuming's work, that an effective bankruptcy system cannot rely on legislation alone; it requires a judiciary capable of applying its decision-making, supervisory, and administrative powers in a timely and predictable fashion.

The analysis suggests that much more needs to be done in order to close the gap between the formal structure of the Albanian bankruptcy system and its actual effectiveness. Priority measures include increasing the specialization and training of bankruptcy judges, refining coordination with administrators and creditor bodies, and establishing clearer rules and reporting requirements for judicial practice, particularly with respect to the exercise of ex officio powers and interim measures. Improvements in data collection about insolvency cases provide the basis for the regular monitoring of key indicators such as duration, recovery rates, and the rate of reorganization, thereby enabling evidence-based adjustments to be made in both policy and practice. Ultimately, though the dataset used here is constructed to mirror actual trends as closely as possible, it cannot replace a detailed investigation into real case files. Future research may further develop the approach used here by incorporating firm-specific financial data, industry differences, and the impact of cross-border factors and group insolvencies. The results presented here, however, have an unequivocal message: the bankruptcy reform that Albania enacted in 2016 has put in place a modern court-cantered legal framework; if its full potential is to be exploited, continuous investment in judicial capacity and a sustained commitment to rule enforcement-including a prompt, value-preserving reorganization to the extent possible-are indispensable.

AUTHOR CONTRIBUTIONS

Conceptualization, T.H. and E.O.; Methodology, T.H.; Validation, G.A., and M.A.; Investigation, H.A.; Resources, E.O.; Data Curation, G.A., and H.A.; Writing – Original

Draft Preparation, T.H.; Writing – Review & Editing, M.A.; Visualization, M.A.; Supervision, E.O.; Project Administration, H.A.

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CONFLICT OF INTERESTS

No potential competing interest was reported by the authors.

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