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**THE SITUATION OF ALBANIA'S
ENVIRONMENTAL REFORMS:
THE CONFLICT BETWEEN
HUMAN RIGHTS AND LEGAL
HARMONISATION**

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ABSTRACT

With an emphasis on the intricate relationship between normative duties and national legal autonomy, this paper seeks to investigate how EU legal harmonisation has affected the limits of human rights protection. This study explores how harmonised legal frameworks affect the interpretation and application of human rights standards by looking at the European Union's approaches to legal approximation and transposition, both within its Member States and in relation to candidate or neighbouring countries.

With a focus on Albania's experience implementing the *acquis communautaire*, the paper draws attention to a persistent discrepancy between formal legal alignment and the substantive realisation of human rights standards. The analysis demonstrates how factors such as institutional capacity, political commitment, and prevailing legal culture contribute to this discrepancy, prompting critical reflection on the depth and authenticity of harmonization efforts.

KEYWORDS: *legal harmonization, legal autonomy, normative obligation, domestic legal traditions, EU normative power.*

1. INTRODUCTION

This paper aims to explore the Brussels Effect through the lens of legal harmonization and transposition, particularly in the context of EU candidate like Albania. It analyzes how the EU promotes legal convergence by requiring or encouraging the adoption of its legal standards and how those efforts are operationalized in domestic legal orders.

The most significance of this study lies in its examination of the EU's normative power in a critical domain and, the creation of legal frameworks, as many countries aspire to deepen integration with the EU or benefit from trade and political cooperation, aligning with the EU legal *acquis* becomes both a strategic objective and a legal challenge and, some authors point out, the effectiveness of transposition and harmonization varies widely, raising questions about the depth and durability of EU influence (Börzel & Risse, 2009).

This study aims to explore the process of European legal harmonization in Albania context by focusing on how EU and human rights norms are integrated into national law and practice. To achieve this, a qualitative, interdisciplinary methodology is applied, combining doctrinal legal analysis with social science perspectives.

2. LEGAL HARMONIZATION AND TRANSPOSITION

While harmonization can be partial or full, and formal or substantive, transposition is typically the formal step through which harmonization is implemented in Member and candidate states. Initially articulated by Anu Bradford, the concept known as the Brussels Effect describes how the European Union extends the global reach of its regulatory frameworks.

The theoretical landscape of the European Union's external influence, Ian Manners' concept of *Normative Power Europe* highlights the EU's unique capacity to diffuse norms and values beyond its borders, but not merely through coercion or material incentives and, through its identity as a promoter of universal principles such as human rights and rule of law (Manners, 2002). Complementing this perspective, Chad Damro introduces the notion of *Market Power Europe*, which emphasizes the EU's ability to shape global regulatory environments by leveraging the attractiveness and size of its internal market (Damro, 2012). Further enriching this discourse, Sandra Lavenex (2004) introduces the notion of *external governance*, emphasizing the EU's capacity to export rules and norms through networks and policy diffusion mechanisms, particularly toward neighboring states.

The most important critical dimension of transposition is the phenomenon of legal translatability, which goes beyond the mere linguistic translation of EU legislation into domestic legal texts. As mentioned in my paper when I argue that the Europeanization of law involves complex processes of conceptual and cultural translation, where legal norms must be interpreted within the context of local legal traditions, structures, and values (Olldashi, 2013).

3. THE EU LEGAL HARMONIZATION PROCESS

The legal harmonization process within the European Union can be categorized into some main interrelated forms identified as horizontal, vertical, material, and formal. Refers to the alignment of legal norms across different Member States, or between EU Member States and candidate or neighboring countries, fostering legal consistency across jurisdictions (known as horizontal harmonization) and, concerns the internal relationship between EU law and national legal systems, focusing on how supranational legal norms are incorporated and operationalized within individual Member States (known as vertical harmonization). The most further distinction is drawn between material harmonization (which aims at achieving substantive equivalence in the content and practical effects of legal norms) and, formal harmonization (which is primarily concerned with textual or structural alignment without necessarily ensuring functional convergence in enforcement or interpretation).

EU institutions are central to the design, promotion, and supervision of legal harmonization across the Union and its neighboring regions: initiates legislative proposals, monitors compliance with EU law, and may launch infringement proceedings against Member States in cases of non-compliance (Craig & de Búrca, 2020); The European Parliament and the Council of the EU act as co-legislators, adopting binding legal instruments—most notably directives and regulations—that form the core of harmonization efforts (Chalmers et al., 2019); The Court of Justice of the European Union (CJEU) ensures the consistent interpretation and application of EU law across all Member States and, the jurisprudence provides authoritative guidance, shaping national legal systems in line with EU norms (European Court of Justice, 2023).

As is known, transposition involves the incorporation of EU directives into national legal frameworks, while directives set out binding objectives, national authorities retain discretion over the form and means of implementation. Needs to be mention that this flexibility introduces several limitations such as for example, the delays or incomplete transposition can undermine

the harmonization process and create legal uncertainty (Horsley, 2018) and, divergences in interpretation and enforcement may lead to inconsistencies in the practical application of EU law across jurisdictions (Weatherill, 2021), especially in candidate countries, often influences the depth and quality of legal alignment (Sedelmeier, 2008).

The process of harmonizing national laws with EU standards presents several recurring challenges, regardless of a country's membership status as many states lack the necessary technical expertise and resources to implement EU law effectively and consistently (Dimitrova, 2010) and the formal compliance does not always reflect genuine commitment, particularly where EU rules challenge established domestic interests or practices (Grabbe, 2003), as well as fundamental differences—such as between civil law and common law systems—can hinder full convergence, especially at the level of legal reasoning and interpretation (Kelemen, 2011). Based on European Commission, even when legislation is adopted, ensuring consistent enforcement and compliance remains a significant difficulty for both Member States and aspiring members (European Commission, 2022).

4. ALBANIA'S PATH TOWARD LEGAL HARMONIZATION

While formal legislative steps have been taken, challenges persist in ensuring coherence across ministries and guaranteeing the full implementation of EU-compliant norms (European Commission, 2023). Although Albania has transposed a significant portion of the *acquis*, actual convergence in practice is limited and legal reforms are often adopted to meet EU benchmarks, but without sufficient institutional follow-through or public engagement. In this regard, I have argued that legal transposition in Albania often occurs within a system where legal sources are fragmented and codification efforts are not fully harmonized with European legal standards (Olldashi, 2018). This structural gap between legal form and substance contributes to a pattern

of superficial compliance, where formal approximation does not guarantee functional convergence and this phenomenon is especially common in pre-accession countries that adopt EU norms to meet formal criteria or gain international legitimacy, without ensuring the structural, institutional, or cultural conditions necessary for effective application (Noutcheva, 2009). In such cases, EU directives may be translated and codified, but their enforcement remains symbolic. Laws remain *on the books* but fail to produce tangible changes in governance, judicial behavior, or citizen rights.

5. CONCLUSION

The Brussels Effect remains a formidable force in promoting legal harmonization beyond EU borders, yet its impact on human rights standards is neither uniform nor automatic. As the Albanian experience demonstrates, the formal adoption of EU norms does not in itself guarantee genuine alignment with human rights principles. They require deeper conceptual engagement, targeted capacity building, and an adaptive implementation strategy that respects domestic legal traditions and social contexts. Only through this multifaceted approach can the balance between normative obligation and legal autonomy be meaningfully achieved.

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