

Albania's road toward integration under the supervision of EU

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Abstract

The purpose of this paper is to highlight the work Albania has done in its long way toward EU integration since the establishment of the democracy system. The justice system and human rights are also two topics that will be presented in this manuscript, as two of the main issues mentioned in the progress reports of EU Commission. Since the beginning of the establishment of international presence in Albania, a continuous improvement of the justice system and human rights protection has been required. Over the years, these improvements have been limited because of the lack of political consensus among parties. In other cases, even when the consensus on the adoption of a particular law has been reached and has allowed a particular law to be adopted, it has not been effectively implemented in practice. The issue of justice reform has been given particular importance during the period 2015-2016 and the European Commission left it as a mandatory task for its adoption by March 2016, such a thing was not achieved after the ongoing political clashes between the political parties, but with strong insistence and ongoing negotiations between political parties through international intervention, it seems that the adoption of justice reform is on the right track and will be closed as a process in 2018. For its proper implementation, the need for international oversight, especially of the special envoys of the European Union, will be indispensable.

Keywords: EU, Commission, Progress report, Integration, reform.

Introduction

The Commission, as the EU's representative body in the international arena, sends its representatives to every European country, which is a potential candidate for membership in EU structures (Antolisei, 1985). The Commission has also sent its representatives to Albania as a country with a perspective to join the European structures. Since September 2010, Head of the European Commission delegation to Albania is Ms. Romana Vlahutin. The Delegation of the European Union to the Republic of Albania is a permanent diplomatic mission. The delegation was established in 1993 when the European Commission decided to extend its Special Envoy Office to a full Delegation that reflected the positive democratic developments that took place at that time (Vorpsi, 2011).

This delegation has a variety of tasks, among which (Phoebus, 2009):

- Facilitating the development of political and economic relations between the EU and Albania, in the framework of the Stabilization and Association process;
- Management of EU assistance programs;
- Distribution of information about the EU.

Recommendations and achievements of Albania for 2016, under the supervision of the European Commission and the USA

The European Commission's progress reports have underlined the Commission's continued demand for achieving Albania's justice reform. Only after achieving a justice reform Albania will be on the right track for EU integration.

The Venice Commission recommended the implementation of a justice reform based on some principal key points. These points were drafted by the Justice Reform Commission, drawing on the final strategy on which the Albanian legislator should be based on the adoption of the justice reform.¹

The overall objective of the reform process is to establish a credible, fair, independent, professional and service-oriented, open, responsive and efficient justice system that has the public confidence, support sustainable and socio-economic development of the country and enable its integration into the European family. A justice system with these features is a prerequisite for strengthening the rule of law, respect of individual freedoms and rights, equality of citizens before the law, economic and social progress of the country and the progress of the European integration process.²

Following the overall aim of the reform explained above, this strategy follows some specific goals for reforming the justice system, to make it (Justice System Reform strategy, 2015, 3):

- *Independent of any kind of influence*; the independence of the judicial system is a fundamental condition for the functioning of the rule of law, respect for human rights in general, as well as the right to a fair legal trial in particular.
- *impartial in its functioning*; the judicial body must be impartial and unbiased in adjudicating a case, regardless of the social status of the parties involved in the trial.
- *accountable, with high moral and professional integrity at all its structural levels*; in order to achieve such a system of justice, all its links must be properly functioning from the way of selecting and appointing judges and the proper functioning of state instances that should keep them under control not to allow their abuse with the task assigned to them.
- *Efficient and professional*; a justice system that achieves the goal of respecting human rights must be efficient and professional. For a system to be efficient, the competent authorities should effectively carry out their duties set out by law.
- *Reliable, transparent and accessible to the public*; Creating public confidence in the justice system is a very important criterion for its normal functioning. In such a way that broad public confidence is enhanced to the justice system, it should be given access to justice. Transparency towards the public is achieved through the proper implementation of all the recommendations and legal provisions adopted for this purpose.
- *Collaborative at the institutional level when the decision-making power is exercised for the appointment of senior functionaries of the system*; Appointing senior judiciary officials is one of the most highly debated and problematic issues for the justice system in

¹ Established by the CoM decision no. 96/2014, date 27. 11. 2014.

² "Justice System Reform Strategy", project of the Special Commission on Justice Reform.

Albania. Precisely for this issue, Albania has been constantly criticized, criticisms that have been expressed in the progress reports as well. Even in 2016, the year in which the adoption of judicial reform was to be achieved, was required the improvement of the situation in the frame of the appointment of senior judicial officials.

Adoption of draft Strategy on Justice Reform

Romana Vlahutin and Donald Lu were the main catalysts representing the EU and USA, which contributed to the adoption of the law draft reform from Ad Hoc Committee and after its approval by an absolute majority in Parliament. On 22 July 2016, the Assembly of Albania after a marathon plenary session, managed to vote on the draft law reform with 140 votes in favor of the justice reform. Through the adoption of this draft, Albania managed to meet one of the conditions so much demanded by the European Union, thus opening the green light to its integration into these structures. Adoption of the draft is just the first step in reforming the justice system, as a lot of work is needed to make all the changes in legislation as outlined above, as envisioned in the draft Justice Reform Strategy.

Through the adoption of this draft, international bodies, and in particular the European Commission, have been given extensive powers in monitoring the situation that will be created because of the implementation of these changes in Albania. Thus, a new body added to the constitution is also the International Monitoring Operation.

1. The International Monitoring Mission will support the reevaluation process through monitoring and overseeing the entire process. This operation includes partners in the framework of the European integration process and Euro-Atlantic cooperation and is led by the European Commission.
2. The International Monitoring Mission exercises its tasks under international agreements. International Monitoring Operations appoints International Observers after the notification of the Council of Ministers. Observers are appointed from the ranks of judges or prosecutors with no less than 15 years of experience in the justice system of their respective countries. The international observer's mandate is terminated by the International Monitoring Mission for serious violations
3. The international observer carries out the following tasks:
 - a) Give recommendations to the Ombudsman regarding the qualification and selection of candidates for the position of a member of the Commission, Judge of the Appellate Panel and the Public Commissioner;
 - b) Introduces findings and opinions on matters reviewed by the Commission and the Appellate Panel and contributes to the control of the image. Regarding these findings, the international observer may request that the Commission or Appellate Panel consider evidence or present evidence received from state bodies, foreign entities or private persons under the law;
 - c) Provides written recommendations to the Commissioners to submit a complaint. In case the Public Commissioner fails to implement the recommendations, he prepares a written report giving the reasons for the refusal;
 - d) Has the right to receive all information immediately, data on persons and necessary

documents, in order to monitor the evaluation process at all phases and levels.³ As part of this special body and more its chair, the European Commission will follow step-by-step the implementation of the justice reform, thereby contributing to the development of Albania in terms of meeting the conditions for integration into the EU and achieving a justice system standard at a level comparable to the developed European countries.

Conclusions and Recommendations

Establishing diplomatic relations between Albania and the EU at its very beginnings was very difficult, as Albania needed major changes to adapt and fulfill the conditions that the EU Commission as the representative body of the European Union determined. Through inter-institutional cooperation, Albania made significant improvements by continuing the path towards integration into the EU area.

Through the ongoing work of the European Commission and Albanian diplomats, some progress has been made in the area of freedom, security and justice, particularly in border management, international cooperation in investigations and the fight against organized crime. Efforts should be added to the coordination between law enforcement institutions and the consolidation of a register of investigations, prosecutions and convictions. Overall, preparations in this area are progressing.

Overall, the functioning of parliament has improved. The transparency of the legislative process and involvement of civil society and interest groups has increased. Albania needs to focus its efforts on a more inclusive consultation process and strengthen the parliamentary oversight role. It is important that co-operation between the government and the opposition works well to provide a solid basis for further reforms.

Achievement has also taken place in terms of managing the state budget, local government units or private entities, as public procurement has been achieved through an electronic system created by the PPA. Opportunity to abuse and render tenders in violation of the law decreased considerably.

In the area of fundamental human rights, especially regarding the implementation of the right to a fair legal process, progress has been made, thus making the process of the execution of the judicial decision part of the legal process. The adoption of the law on private bailiff service was another positive step in minimizing the timing of implementing a court decision. But even in this, there is also a leap for problems and abuses, such as the high fees of court judges, who declare different values in an official way and other values are taken under the guise. Often, in order to enforce a court decision requiring enforcement of an execution order for payment of a monetary obligation, it leads to the violation of the vital minimum for the other charge to which the decision is based. In practice, there are cases of "agreements" between the bailiff and the debtor, where the latter "signs", to give up on his pension or his economic assistance, which is in contravention of the Constitution and the

³ "International Monitoring Operation" was integrated in the Constitution of the Republic of Albania. This integrated version with draft constitutional amendments was adopted by the Special Parliamentary Committee on Justice System Reform dated 14.06.2016.

Code of Civil Procedure. Intensification of state control on this issue is indispensable in the framework of the protection of individuals' fundamental rights.

With the adoption of justice reform, Albanian policy arise a number of new challenges. It is necessary to make all the changes in legislation as it is envisioned in the draft law on justice reform. For Albania to walk on the right track, it is necessary to have the consensus of the political parties and their representatives in the Parliament. All the adoption of new legislation is a vital process, which cannot be achieved within a short time but requires a longer-term commitment. All this process will be under the constant supervision of European Commission envoys.

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