

Conclusions on Albania

(extract from the Communication from the Commission to the European Parliament and the Council "Enlargement Strategy and Main Challenges 2012-2013", COM(2012)600 final)

The political agreement of November 2011 between ruling majority and opposition marked the end of the political stalemate stemming from the 2009 parliamentary elections. This agreement set out to address electoral and parliamentary reform and to create the political climate for joint reform efforts in other areas. As a result, political dialogue and cooperation has improved considerably allowing for progress in core reform areas including electoral reform. The presidential elections were conducted in line with the Constitution, but the political process surrounding them did not build on the positive cross-party dialogue launched in November. Despite some confrontational rhetoric between the government and the opposition, the political agreement continued to be implemented. Overall, Albania has made good progress towards fulfilling the **political criteria** for membership of the EU and delivering a number of reforms against the key priorities of the Commission's 2010 Opinion¹. Good progress was achieved in key political reform areas such as the proper functioning of parliament, the adoption of pending laws requiring a reinforced majority, the appointment of the Ombudsman and the hearing and voting process in Parliament for high court appointments, as well as the modification of the legislative framework for elections, leading to the fulfilment of the four key priorities concerned. Albania is well on its way towards meeting the two key priorities regarding public administration reform and improving the treatment of detainees.

As regards the other six key priorities, there was moderate progress regarding the reform of the judiciary and the fight against corruption, with for example reform of the immunity system of public officials and judges and adoption of the law on administrative courts, and uneven progress on anti-discrimination policies including the protection of minorities and improving the living conditions of the Roma community. Progress concerning the fight against organised crime, as well as on property reform and women's rights, included some significant steps, notably an increase of seizures of criminal assets, the adoption of a comprehensive strategy on property reform, and amendments to the criminal code strengthening sanctions for domestic violence.

In all the areas covered by the key priorities not fully met significant additional efforts will be needed to ensure sustainable implementation of commitments already undertaken and further tangible results, notably in the context of implementation. In order to keep the current reform momentum and consolidate its achievements to date, Albania would need in particular to focus on consensually adopting the revised rules of procedure for parliament and the amendments to the Laws on the High Court and on Civil Service. Ensuring sustainability of the political dialogue is essential for the functioning of democratic institutions and for Albania's EU path. As regards **democracy and rule of law**, improved political dialogue in parliament and a more constructive atmosphere during committee and plenary meetings

¹ The key priorities concern the following areas: the proper functioning of parliament; adopting reinforced majority laws; appointment procedures and appointments for key institutions; electoral reform; the conduct of elections; public administration reform; rule of law and judicial reform; fighting corruption; fighting organised crime; addressing property issues; reinforcing human rights and implementing anti-discrimination policies; improving the treatment of detainees and applying recommendations of the Ombudsman. For the full text of the key priorities, see COM(2010) 680.

allowed for good progress in a number of areas, despite some short periods of confrontational political rhetoric and temporary slowdown of reforms.

The functioning of *parliament* and political dialogue has considerably improved as a result of the November 2011 political agreement. This allowed significant progress to be made through adoption of all pending laws requiring reinforced majority, the appointment of an Ombudsman by consensus, the conduct of a hearing and voting process for the presidential nomination of a judge to the High Court, and adoption of amendments to the electoral code (covering four key priorities of the Opinion). It is now essential that revised parliamentary rules of procedure are adopted. On 11 June 2012, a new president was elected in the fourth round of the election with the votes of the ruling majority only. Although in line with the Constitution, the presidential election did not meet all expectations for inclusiveness and put a strain on the consolidation of political dialogue and cooperation. This contributed to a temporary slowdown in reform efforts in core areas requiring political consensus, which was overcome shortly thereafter.

There has been some progress with regard to the work of *government*. This includes good progress on coordinating the EU integration process through the revision of the action plan to address the Opinion's key priorities, which was conducted in a transparent and participatory manner. Good cooperation between the opposition chair of the Parliamentary Committee on European Integration and the Minister of European Integration on the country's EU reform challenges continued, including joint participation at the May 2012 EU-Albania SA Council. Legislative drafting capacity and the planning process for aligning legislation with the *acquis* need to be further improved, notably through the effective implementation of the Council of Ministers decision on the NPISAA². As regards local government, the decentralisation of state responsibilities has not been matched by appropriate transfers in administrative and financial resources from central to local level. The existence of two separate local government associations is not conducive to improving the institutional relations between central and local government in view of a successful and transparent decentralisation process.

There has been progress in *public administration* reform, a key priority of the Opinion, mainly through the adoption of the Laws on Administrative Courts and on the Organisation and Functioning of Public Administration as well as through the appointment of the Ombudsman. It is now essential to adopt the amendments to the Civil Service Law. Implementation of adopted legislation and administrative acts needs to be strengthened. The legislative and institutional framework for the public administration is still marked by deficiencies that need to be addressed with a view to strengthening professionalism, de-politicisation, meritocracy, transparency and accountability.

As regards the *judiciary*, moderate progress has been made in completing judicial reform, which is a key priority of the Opinion. The judicial reform strategy and the relevant action plan of March 2012 started to be implemented. The Law on Administrative Courts and the Law on the National Judicial Conference have been adopted. The new private bailiff system is operational. However, important legislation to strengthen the accountability, the independence and the efficiency of the judiciary still awaits finalisation, adoption and implementation. In this respect, it is now essential that amendments to the Law on the High Court are adopted. Court organisation, transparency and case backlogs, as well as the status of the judicial administration, continue to raise concern for the efficiency of the judiciary, as does budget allocation. The proceedings to shed light on the events of the 21 January 2011 need to be completed through a credible judicial process. Good progress is reported in the fight against corruption in the judiciary, through the limitation of the immunity of judges. Albania needs to

² National Plan for the Implementation of the Stabilisation and Association Agreement

further accelerate the implementation of the judicial reform strategy in order to ensure the independence, efficiency and accountability of its judicial institutions.

Moderate progress was made in the field of *anti-corruption* policy, which is a key priority of the Opinion, notably through the limitation of constitutional immunity of high-level public officials and judges. Some efforts were made to improve inter-institutional cooperation, exchange of information and the prosecution of generally low and medium-level cases. However, the absence of a proactive approach and lack of resources and equipment continue to obstruct effective investigations. There is no adequate track record of investigations, prosecution and convictions at all levels. Corruption is prevalent in many areas and continues to be a particularly serious problem.

There has been some progress as regards the *fight against organised crime*, which is a key priority of the Opinion. Progress is to be noted in particular with regard to the increase of seizures of criminal assets, on inter-institutional cooperation in investigation of financial crime, on money laundering, and in the fight against trafficking in human beings. Cooperation with EU member states is advancing well, and a secure communication link has been set up to facilitate exchange of information with Europol. Threat assessment and proactive investigations should be promoted in order to further develop a track record of investigations, prosecutions and convictions at all levels. Organised crime remains a major challenge in Albania.

There has been moderate progress in the field of *human rights and the protection of minorities*.

There has been progress towards meeting the key priority that calls for improving the treatment of detainees, strengthening the judicial follow-up of cases of ill-treatment and application of the Ombudsman's recommendations. Measures have been taken to improve conditions of detention and strengthen cooperation with the Ombudsman. Some cases of ill-treatment are still reported and police do not systematically follow proper procedures for arrest and custody. Living standards in prisons still vary. There are plans for establishing a special medical institution for mentally ill detainees, but the need for additional specialised care and improving treatment remains. Delays in court proceedings and the as yet insufficient resources of the Probation Service continue to lead to over-use of pre-trial detention.

Progress towards meeting the key priority that calls for reinforcing the protection of human rights, notably for women, children and Roma and effective implementation of anti-discrimination policies has been uneven. Amendments to the Criminal Code on domestic violence are a positive step. Implementation of policies for child protection needs to be strengthened. There is a need to adopt legislative measures for persons with disabilities and to review legislation in view of addressing potentially discriminatory provisions against LGBT persons. The Commissioner for Protection from Discrimination has worked on raising awareness but additional efforts are needed to establish a track record of cases brought to final completion. There is still discrimination against certain vulnerable groups, such as LGBT persons and Roma. Inter-ethnic relations remain good but no measures have been taken to address weaknesses in the overall legislative and institutional framework in the field of minorities. Implementation of policy tools for Roma inclusion and access of this community to social protection and services are still insufficient, leading to marginalisation. Policies in the field of human rights are largely supported by civil society and donors. It is important for Albania to prioritise policies in these areas in order to ensure sustainability.

Some progress was achieved in the area of *property rights*, notably through the adoption of a new law on the registration of immovable property and of a cross-cutting strategy and action plan for reform in the field of property rights, a key priority of the Opinion. Efficient

coordination and monitoring is necessary to ensure the implementation of the strategy and consistency between legislation in force and future initiatives. Consultations with stakeholders need to continue in this respect. The first registration of properties has not yet been completed. Compensation and restitution claims by former owners are met at a very slow rate.

Regarding *regional issues and international obligations*, Albania continued to play a constructive role in contributing to the stability of the region by consolidating positive relations with neighbours and regional partners. The country has cooperated fully with EULEX and in May 2012, Parliament adopted a special law allowing EULEX investigators to carry out inquiries on Albanian territory. In the framework of its MARRI (the Migration, Asylum, Refugees regional Initiative) presidency, an agreement entered into force between Albania, Montenegro and the former Yugoslav Republic of Macedonia to ease border crossing procedures between the countries. Nationals of these countries are now able to travel between them with biometric identity cards for a period of up to three months.

As regards the International Criminal Court, the bilateral immunity agreement with the United States does not comply with the EU common positions and guiding principles. Albania needs to align with the EU position.

Albania continued to participate actively in regional cooperation initiatives, including the South-East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), and the Central European Free Trade Agreement (CEFTA). The country holds the chairmanship of CEFTA and of the Council of Europe Council of Ministers.

Albania maintained macroeconomic stability. GDP growth, driven mainly by domestic demand, decelerated but remained positive at 3.1% in 2011. Economic activity has been stagnant in the first quarter of 2012 amid weather related power disruptions. Underperforming revenue and higher expenditure led to a rise in the government deficit and consequently higher public debt. Structural reforms lost steam in part due to the fragile domestic political dialogue. Monetary policy remained sound and kept inflation within the target range. Weak enforceability of contracts and the rule of law, inadequate levels of infrastructure and human capital, as well as the informal economy continue to hamper economic development.

As regards the **economic criteria**, Albania made some further progress towards becoming a functioning market economy. Albania should be able to cope with competitive pressures and market forces within the Union in the medium term, provided that it accelerates and deepens structural reforms, including by reinforcing the legal system and strengthening physical and human capital.

Broad agreement on the key essentials of a market economy was maintained despite the often polarised political context. The Albanian economy continued to grow, albeit at a slower pace and despite the persistent unfavourable economic conditions in its main trading partners. Monetary policy has successfully helped to keep inflation stable and anchor inflationary expectations. Labour market performance slightly improved. State involvement in the economy and the level of subsidies have remained limited. The banking sector is well-capitalised and liquid. Some progress was made to further facilitate market entry.

However, the fiscal deficit increased in 2011, leading to a further rise in the relatively high public debt which continues to show a short-term bias. The persistently high current account deficit is a source of vulnerability. Unemployment continues to be persistently high. Implementation of bankruptcy procedures is incomplete. Weaknesses in the rule of law hinder the enforceability of contracts while pending issues in the area of property rights hamper investment and business environment in general. The informal sector and weak tax collection

remain a challenge. The high and increasing level of non-performing loans in the banking system is an issue of concern. Investment in human capital and infrastructure remain inadequate. The lack of diversification of the production base in terms of sectors and export markets leaves the economy vulnerable to external shocks.

Albania has made moderate progress in improving its **ability to take on the obligations of membership**, in particular in the areas of competition, taxation, statistics, justice, freedom and security, education and culture and customs union. Progress has been limited in other areas such as freedom of movement for workers, public procurement, intellectual property law, food safety, fisheries, energy, and environment and climate change. Overall, Albania has generally continued to implement smoothly its obligations under the Stabilisation and Association Agreement (SAA). Still, there is a need to ensure the timely implementation of commitments, in particular as regards intellectual and industrial property rights. Furthermore, sustained efforts are needed to strengthen administrative capacity for the implementation and enforcement of legislation.

In the area of *free movement of goods*, there has been progress as regards standardisation. Work needs to continue on legislative approximation with the *acquis*. An adequate market surveillance inspectorate is not yet in place. Preparations in this area are moderately advanced.

There has been little progress in the area of *freedom of movement for workers*. Some preparations have been made for future participation in EURES and coordination of social security systems. Further efforts are required to align the legislation on access to the labour market with the *acquis*. Overall, preparations in this area are not very advanced. There has been some progress in the area of *establishment and freedom to provide services*, particularly as regards the mutual recognition of professional qualifications. Preparations for alignment with the Services Directive remain at an early stage. The Albanian postal legislation is not yet in line with the *acquis*. Preparations in this field are moderately advanced. There has been progress in the area of *free movement of capital* as regards legislative measures through the adoption of amendments to the Criminal Code and the Law on Banks. Further efforts are needed regarding the approximation of the Law on Payment Systems with the *acquis*. Preparations regarding free movement of capital are moderately advanced.

There has been little progress in approximating the legislative framework on *public procurement* and concessions to the *acquis*. The division of responsibilities among all public procurement institutions remains poorly defined and their administrative capacity and independence remain insufficient. Preparations in this field are moderately advanced. There has been some progress in the area of *company law*, where preparations are moderately advanced. Albania approved the Corporate Governance Code, further aligning its legislation with the *acquis*. Further legislative approximation is needed on reporting and documentation requirements in case of mergers and divisions and in corporate accounting and auditing. Progress has been limited in the field of *intellectual property law*, where preparations are not very advanced. Substantial shortcomings remain as regards effective enforcement of intellectual and industrial property rights which impinge on Albania's commitments under the SAA. Some progress can be reported in the area of *competition*. Legislative alignment with the *acquis* on antitrust and merger control advanced and the regional State aid map was adopted. The administrative capacity and the operational independence of the State aid and competition authorities need to be adequately safeguarded. Preparations in the field of competition are on track.

There has been some progress in the field of *financial services*, where preparations are moderately advanced. The banking legislation was further approximated to the *acquis* and the

investment market was further developed. Additional efforts are needed in the areas of insurance and occupational pensions, financial market infrastructure and the securities market and investment services. Administrative capacity in the banking and non-banking sector remains insufficient. There was little progress in the field of *information society and media*, where preparations are not very advanced. While a number of pro-competitive regulatory measures were taken in the electronic communications, concerns remain about the overall reform and liberalisation of the sector, legal uncertainties and, the capacity and independence of the telecoms regulator. Adoption of the Law on Audio-visual Media Services has been further delayed. In spite of some progress as regards the independence of media, concerns remain particularly regarding the independence of the regulator. Effective implementation of the digital switchover strategy needs to be ensured.

Progress was uneven in alignment with the *acquis* in the area of *agriculture and rural development*, in particular with regard to the setting up of rural development institutions. Efforts are needed regarding capacity building in rural development, the setting up of a land cadastre and the development of strategies in the fields of agriculture and land use. Overall, Albania has started to address its priorities in this area. Progress has been limited in the areas of *food safety, veterinary and phytosanitary policy*. Efforts are needed to improve the definition of competence, responsibilities and communication regarding risk management, the registration of movements of animals, the control of animal diseases, and the upgrading of food and feed establishments. Preparations in these areas remain at an early stage. There has been limited progress in the area of *fisheries*, where preparations are not very advanced. There is still a need for increased resources and technical capacities for monitoring, control and surveillance of the competent services, including the Inter-institutional Maritime Operational Centre. The division of tasks with regard to reporting and communication among directorates at the Ministry of Environment, Forests and Water Administration is not sufficiently defined.

There has been little progress on *transport policy*, mainly concerning cabotage in the maritime sector. Further efforts are required on alignment with the *acquis* and to implement legislation effectively. Administrative and technical capacity remains weak across the different modes of transport, particularly in the case of aviation and road safety. Rail infrastructure maintenance is a concern and needs more resources. There has been little progress in the *energy* sector. Lack of diversification hinders security of electricity supply. Energy market reforms require further efforts to ensure the viability of the sector. The administrative capacity and independence of the Energy Regulatory Entity require further strengthening. Overall, preparations in the field of transport and in the field of energy are not very advanced.

There was some progress in aligning legislation on indirect *taxation* with the *acquis* as well as in strengthening the capacity of the Tax Administration for investigation and internal audit. Further efforts are required in the fields of direct taxation, tax collection, VAT refund and IT. Preparations in this area are moderately advanced. Albania has made no progress in legislative alignment with the *acquis* in the field of *economic and monetary policy*; preparations in this field are not yet sufficient. Little progress has been made in the preparation of the economic policy document. There are insufficient capacities for policy formulation. Some progress has been made in the area of *statistics*. INSTAT conducted a population and housing census in October 2011. Sectoral statistics require substantial improvement and sufficient resources need to be secured for the forthcoming agricultural census. The independence and administrative capacity of INSTAT has to be secured. Overall, preparations in the field of statistics are moderately advanced.

There has been little progress in the field of *social policy and employment* where preparations are not very advanced. The labour market continues to be shaped by high informality, low

participation of women, and relatively high youth unemployment. Social inclusion of persons with disabilities and the Roma minority remain insufficient. Sustainability of funding needs to be addressed to ensure successful implementation of social assistance and protection reforms. Implementation of policies in this area continues to be a challenge. There was some progress in the area of *enterprise and industrial policy*, where preparations are moderately advanced. Some measures were taken to facilitate access to financing for SMEs and to improve the regulatory framework for doing business. Market exit procedures remain slow.

There was some progress in the area of *Trans-European networks*. Rail transport remains underdeveloped and substantial investment is needed to maintain and upgrade overall transport infrastructure. Concerning energy networks, further efforts are required to complete electricity interconnection lines with neighbouring countries and to start developing a strategy for the introduction of natural gas. Overall, preparations are not very advanced. There was some progress in the area of *regional policy and coordination of structural instruments*, where preparations are still at an early stage. Considerable efforts are needed to establish the necessary institutional and administrative capacity at central and local levels and to develop a pipeline of mature and quality projects.

There has been some progress in implementing policies on the *judiciary and fundamental rights*, notably through efforts to address the relevant key priorities set out in the Commission Opinion. Yet, significant gaps in the legislative framework remain, in particular as regards judicial reform. Consistent implementation of legislative and policy tools remains a challenge in all areas under this chapter. Albania's alignment with European standards and the *acquis* in the field of the judiciary and fundamental rights is not very advanced.

There was some progress in the area of *justice, freedom and security*, particularly in border management, international cooperation and the fight against organised crime. Efforts need to be stepped up in the coordination between law enforcement institutions and in building a solid track record of investigations, prosecutions and convictions. Overall, preparations in this field are advancing.

There was little progress in the area of *science and research*, where preparations are not very advanced. Further efforts are required at national level to strengthen the research and innovation capacity and increase the country's competitiveness. The level of investment in research remains very low and the human capital-building requires strengthening.

Good progress can be reported in the fields of *education and culture* in aligning with European standards, particularly in the area of higher education and in the development of vocational and educational training (VET). Further efforts are required to improve transparency in private higher education institutions. In 2012, Albania started to participate in the Culture programme. Overall, preparations in this area are moderately advanced.

While there has been some progress in alignment with the *acquis* in the field of *environment*, there was very little progress in the field of *climate change*. Further efforts are urgently needed to align, implement and enforce legislation. Public awareness and consultation on legislative initiatives or public investments remain weak. There is a need for greater political commitment and coordinated action in these sectors. Substantial investment is needed while current resources allocated remain limited. Environment needs to be better integrated into other policy areas, such as transport and energy. Concerning climate change, substantial efforts are required on awareness-raising, setting a more strategic approach for the country, aligning with and implementing the *acquis*, as well as strengthening administrative capacities and inter-institutional cooperation. Preparations in the area of the environment are still at an early stage, whereas preparations in the area of climate change remain at a very early stage.

There has been some progress in the areas of *consumer and health protection*. Implementation and enforcement of legislation remain very weak. The market surveillance system is not yet in place. Low awareness in the health protection system, both amongst professionals and the public, is hampering transparency and enforcement. The health sector remains under-financed. Preparations in these areas are not very advanced. There was progress in legislative approximation in the field of *customs union*, where preparations are moderately advanced. Shortcomings remain in the overall administrative and operational capacity, including the compatibility of IT systems with EU requirements. Further efforts are required on customs valuation and trade facilitation.

Progress was moderate in the area of *external relations*. Albania has continued its good cooperation within the WTO and CEFTA. The administrative capacities of the institutions involved in trade policy remain to be improved. In the field of *foreign, security and defence policy* the country continued to align with the EU common security and defence policy positions and has shown continued political commitment regarding its participation in civil and military and crisis management operations. The online registry of weapons and ammunition under the management of the State Police has yet to be finalised. Overall, preparations in this field remain on track.

There was little progress in the area of *financial control* where preparations are still not very advanced. Shortcomings remain as regards implementation of the PIFC legal framework and the principle of managerial accountability. External audits need to be improved in line with the INTOSAI standards.

In the field of *financial and budgetary provisions* there has been no particular progress. Sound coordination structures and implementing rules will need to be established in due course for the administration of the own resources system. Overall, preparations in this area are at an early stage.