

Conclusions on Albania

(extract from the Communication from the Commission to the European Parliament and the Council "Enlargement Strategy and Main Challenges 2011-2012", COM(2011)666 final)

Albania's domestic political scene has been dominated by the continuation of the political stalemate and the partial boycott of Parliament by the opposition. This political deadlock dates back to the June 2009 general elections. The outcome of these elections, which were considered by OSCE/ODIHR to meet most international standards although marked by shortcomings, was contested by the Socialist Party. The violent incidents of 21 January 2011, which led to the death of four demonstrators, exacerbated the climate of mistrust between the two larger political parties and also towards certain State institutions. The local elections of 8 May, as a result of the controversial vote count of misplaced ballots and contested results in Tirana, further accentuated the polarization between ruling majority and opposition. All these events diverted political attention away from much needed EU policy reforms.

Against this background, the government made some efforts to move ahead with the EU integration agenda and in particular to prepare an action plan to address the recommendations of the Commission's 2010 Opinion. These efforts were mirrored by good cooperation between the ruling majority and the opposition on the Action Plan in the parliamentary committee for European integration and joint work to achieve agreement on necessary reforms. The efforts, also to launch working groups on electoral reform, eventually stalled. On 5 September, the opposition ended its boycott and returned to parliamentary work.

Overall, Albania has made limited progress in fulfilling the **political criteria** for membership of the EU. Important EU-related reforms¹ have been hampered by the political stalemate. Progress in addressing the key priorities¹ and the other challenges identified in the Opinion has been uneven. There has been some progress on implementing measures to combat organised crime, on improving the treatment of detained persons in prisons, and on children's rights. However, there was only limited progress regarding the work of parliament, elections, the judiciary, anti-corruption policy, property rights and improving the living conditions of the Roma community. Albania will need to make considerable and sustained efforts on all areas identified in last year's Opinion.

As regards **democracy and rule of law**, the continuation of the political stalemate, further confrontational developments and increasing mistrust between majority and opposition have negatively impacted on Albania's reform agenda. Key reform areas are still work in progress and important pieces of legislation are awaiting adoption or finalisation.

Despite some improvements in parliamentary rules and practice and some increase of the parliament's administrative capacities, the performance of the *Parliament* on legislative and oversight functions, a key priority of the Opinion, remains insufficient. The political stalemate has seriously hampered parliamentary work, as well as the need for sustained and constructive political dialogue. It has also prevented the establishment of a consensus enabling the implementation of relevant EU reforms. The opposition's partial boycott has obstructed parliamentary business, including hampering the adoption of laws requiring a three-fifths majority. The end of the opposition's boycott and their return to parliamentary work on 5

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, please see COM(2010) 680.

September is a positive step towards the normalisation of political dialogue and cooperation. An inclusive political environment conducive to cross-party consensus needs to be fostered in Parliament. The climate of polarization and mistrust between the government and the opposition affected the local elections of 8 May. There are areas where international standards were met, in the conduct of these elections, a key priority of the Opinion, and areas where this was not the case. Electoral reform, which is a key priority of the Opinion, has stalled. Parliament has not yet ensured an orderly hearing and voting procedure for constitutional and high court appointments, a key priority of the Opinion.

Efforts have been made by the *government* and by the parliamentary committee for European integration to advance and coordinate reforms on EU integration including to develop and conduct consultations on an action plan to address the recommendations in the Commission's Opinion, and in particular the 12 key priorities. The quality of legislative drafting and consultation with third parties need to be significantly improved. The decentralisation reform process was adversely affected by the difficult relationship between central and local government.

Essential steps in *public administration* reform, which is a key priority of the Opinion, including amendments to the civil service law, have not been completed. Despite some reform measures such as the Council of Ministers' decision on the structure and organisation of public bodies of June 2011, adoption of essential legislation is still pending and contingent on overcoming fully and in a sustained way the political stalemate as it requires adoption by three-fifths majority vote in Parliament. Implementation of existing laws and administrative acts remains weak. The Department of Public Administration (DOPA) still lacks sufficient authority in the institutional context to fully assume its role. Establishing an independent, merit-based and professional civil service free from political interference has still to be achieved. Appointment of the Ombudsman is still pending.

As regards the *judiciary*, limited progress has been made in completing judicial reform, which is a key priority of the Opinion. The judicial reform strategy and its action plan were adopted in July. They form a good basis for reform efforts. Implementation will require the allocation of adequate human and financial resources as well as sound inter-institutional cooperation. Important legislation requiring adoption by a three-fifths majority vote in Parliament such as the Law on Administrative Courts is pending adoption. The efficiency of the judicial system is undermined by lengthy court proceedings leading to backlogs. Budgetary appropriations for the judiciary remain generally insufficient. The rate of enforcement of decisions is still weak. No concrete steps have been taken to combat corruption in the judiciary, including through limiting or abolishing the immunity of judges.

Limited progress was made in the field of *anti-corruption* policy, which is a key priority of the Opinion. The legal framework and inter-agency structures are mostly in place, but implementation of specific actions remains overall ineffective and results are insufficient. Public awareness campaigns are only starting. The immunity of certain public officials, the absence of a proactive approach and lack of resources and equipment continue to seriously obstruct effective investigation. A track record of investigations, prosecutions and convictions is lacking at all levels. Corruption prevails in many areas and continues to be a particularly serious problem.

Albania has further enhanced the legal and institutional framework for ***human rights and the protection of minorities***. There has been progress in certain key priority areas, such as strengthening the protection of children's rights through the adoption of a comprehensive law and improvements in the conditions of detained persons in prison and the development of alternatives to detention. Progress in the field of human rights has nonetheless been uneven and renewed concerns have emerged in certain areas, such as freedom of media, where editorial independence continues to be hampered by political and business interests. Effective

implementation and enforcement of legislative and policy tools governing human rights and protection of minorities needs to be substantially reinforced.

Property rights remain an issue of great concern. There has been little progress towards the adoption and implementation of a coherent property reform strategy and action plan. This is a key priority of the Opinion. The fragmentation of responsibilities and lack of coordination between the various institutions involved hampers effective policy implementation and creates legal insecurity and a systemic risk of corruption.

There has been partial progress on addressing the key priority which calls for reinforcing the protection of human rights, notably for women, children and Roma, and the effective implementation of *anti-discrimination* policies. There have been developments in this area, including the adoption of the new National strategy on gender equality and the fight against domestic violence; the start of implementation of the Law on Protection from Discrimination. Some important legislative gaps remain, in particular with regard to *persons with disabilities*, and Albania needs to ensure the consistent implementation of existing legislative and policy tools. General awareness of anti-discrimination legislation and the complaints mechanism needs to be increased. Concerns remain over continued discrimination against certain vulnerable groups, such as lesbian gay bisexual and transgender persons and Roma. The *Roma* community continues to be marginalised and lacks access to social protection and services.

Some progress has been made towards addressing the key priority on improving the treatment of *detainees* and application of the recommendations of the Ombudsman in this field. Measures have been taken to improve the conditions of detention and to systematise the follow-up of the Ombudsman's recommendations. However, cases of *ill-treatment* are still being reported, notably during arrest and police custody. The treatment of mentally ill offenders still needs to be improved. The lack of a permanent appropriate solution for the placement of those under obligatory treatment remains a serious concern.

Regarding ***regional issues and international obligations***, Albania has continued to contribute to regional stability by fostering positive relations with neighbours and regional partners. It now has a visa-free regime in place with all Western Balkan countries. The country has 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).

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. The country needs to align with the EU position.

The **economy** of Albania maintained macroeconomic stability and positive growth during and in the aftermath of the global crisis. However, the political stalemate hampered the capacity of the government to implement necessary structural reforms. The economy grew by 3.8% in 2010, thanks to exports, while domestic demand was muted. Monetary policy has successfully assisted in keeping inflation stable, also against heightened international commodity prices. Shortcomings regarding the enforceability of contracts and the rule of law, together with weak infrastructure and human capital and the informal economy continue to hinder economic development.

As regards the ***economic criteria***, Albania made some progress towards becoming a functioning market economy by reducing the fiscal and external deficits and keeping inflation expectations anchored thereby reinforcing macroeconomic stability. Albania should be able to cope with competitive pressures and market forces within the Union in the medium term, provided that it steps-up structural reforms, including by reinforcing the legal system and strengthening physical and human capital.

Despite a more polarised political landscape, a broad agreement on the key essentials of a market economy was maintained. The Albanian economy continued to grow, albeit at a slower pace and notwithstanding the weak economic conditions in important trading partners. Monetary policy remained sound, maintaining price stability while inflation stayed within the target range. The current account deficit and the fiscal imbalance declined in 2010. State involvement in the economy is low and subsidies remain limited. The banking sector remains well-capitalised and liquid. Some progress was made to further facilitate market entry. The EU continues to be Albania's main trade and investment partner.

However, a lasting reduction of the relatively high public debt has not been achieved. Further narrowing of the external imbalances may prove challenging especially if the decline in workers' remittances persists. Labour market performance deteriorated in 2010, while unemployment remains high. Implementation of bankruptcy procedures remains incomplete, while the weak rule of law hampers the enforceability of contracts and the business environment in general. The issue of property rights remains unaddressed. The high level of non-performing loans in the banking system continues to be an issue of concern. Investment in human capital and infrastructure remain inadequate. The informal sector remains a challenge. The concentration of the production in terms of sectors and export markets leaves the economy vulnerable to external shocks.

Albania has made some progress in improving its **ability to assume the obligations of membership**, in particular in the areas of free movement of goods, enterprise and industrial policy, justice, freedom and security, external relations and financial control. Progress has been limited in other areas such as free movement of workers, public procurement, intellectual property law, information society and media as well as energy, environment and air transport. Overall, sustained efforts are needed to strengthen administrative capacity for the implementation and enforcement of legislation. Additional efforts are required to ensure the timely implementation of commitments under the Stabilisation and Association Agreement.

In the area of *free movement of goods* there has been good progress in standardisation. An adequate market surveillance structure needs to be established. In the area of *freedom of movement of workers*, there was little progress and preparations are at an early stage. There was some progress in the area of *right of establishment and freedom to provide services*, mainly in the area of postal services. There was some progress in the area of *free movement of capital* as regards the legislative framework on payment systems and combating money laundering. Further efforts are required to effectively implement the national strategy to combat money laundering and financial crime.

Little progress was made in the area of *public procurement*. Institutional capacity remains weak and there is a lack of a clear definition and distribution of competencies in all public procurement institutions. Preparations in this field are moderately advanced. There was some progress in the area of *company law*. However, the capacity of the National Accounting Council and the operational independence of the Public Oversight Board remain weak. There was limited progress in the area of *intellectual property law*, and preparations are not very advanced. Effective enforcement of intellectual and industrial property rights remains poor. Albania has not succeeded in meeting on-time its SAA obligation of guaranteeing a level of protection similar to that in the EU, including as regards enforcement. There was moderate progress in the area of *competition*, in the fields of both antitrust and State aid. However, the responsible authorities lack the appropriate administrative capacity. The operational independence of the State Aid Commission must be safeguarded. Preparations in this area are on track.

There was some progress in the area of *financial services*. The regulatory framework on risk management and capital adequacy improved. Supervisory capacity in the non-banking sector remains weak.

There has been uneven progress in the field of *information society and media*. Alignment with the *acquis* and market liberalisation on electronic communications are improving. However, media legislation is not yet aligned with the Audiovisual Media Services Directive and the capacity of the radio and television regulatory authority remains weak. Preparations in this field are not very advanced.

Some progress was made in the area of *agriculture and rural development*. Progress in setting up the structures for the implementation of rural development was made. However, the capacities to carry out analyses, as well as to design and implement rural development policies remain weak. There has been some progress, albeit uneven, in the area of *food safety, veterinary and phytosanitary policy*. The operational capacity of the National Food Authority was significantly enhanced and there were improvements in the legislative framework on food safety and veterinary issues. Overall capacity and inter-service cooperation and definition of competencies remain weak. There was some progress in the field of *fisheries*, particularly as regards inspection and control. Enforcement of the regulatory framework remains poor due to lack of physical and financial resources and poor inter-institutional cooperation.

There was some progress, albeit uneven, in the area of *transport policy*. Although alignment advanced in the areas of road transport and air traffic management, air safety remains a concern. The rail and maritime transport sectors require further efforts. There has been limited progress on *energy*. Security of supply improved slightly, but market reform in the electricity sector has not yet been effectively achieved and ensuring its economic viability will require further efforts. The capacities and institutional independence of the electricity, gas, and radiation protection regulatory authorities need strengthening. Preparations in this field are advancing slowly.

Although some progress was made in aligning *taxation* legislation with the *acquis*, and preparations are advancing, further efforts are required in the administrative and technical capacity, including in the area of tax fraud and avoidance. There is no progress to report in the area of *economic and monetary policy*. Progress was made in the field of *statistics*, particularly as regards classifications and statistical infrastructure. Progress as regards sector statistics was uneven.

Progress in the area of *social policy and employment* has been uneven. Although there were some positive developments in the fields of health and safety at work, social dialogue, and social protection, high levels of informality and inactivity continue in the labour market. Overall implementation of policies also remains insufficient, particularly as far as social inclusion is concerned. Preparations in this field are not very advanced.

There has been progress in the field of *enterprise and industrial policy*, particularly as regards improving the regulatory framework for business and on access to finance to SMEs. Institutions have been established to facilitate innovation and technological development. Preparations in this field are advancing.

Some progress was made in the area of *trans-European networks*. Completion of road corridors advanced and a new electricity interconnection became operational.

There has been limited progress in the area of *regional policy and coordination of structural funds*. Considerable efforts are needed to establish the necessary institutional and administrative capacity and to develop a mature pipeline of projects in the area of regional development. Preparations in this area are still at an early stage.

As regards *judiciary and fundamental rights*, there are still some important gaps despite some efforts to develop legislation in line with European standards. Furthermore, the implementation of legislative and policy tools remains insufficient overall and presents a

major challenge. Albania's alignment with European standards and the *acquis* in the field of judiciary and fundamental rights is at an early stage.

Albania has made progress in the area of *justice, freedom and security*. Visa-free travel to the Schengen area entered into force in December 2010 for citizens holding biometric passports. Progress has been made on fighting organised crime, notably through good international cooperation and implementation of the 'anti-mafia' law including confiscation of criminal assets. Nevertheless, organised crime remains a challenge. Efforts need to be maintained for the effective implementation of the legislative framework and in strengthening the fight against organised crime, which is a key priority of the Commission's Opinion. This includes the building up of a credible track record of proactive investigations, prosecutions and, where appropriate, convictions. Measures to increase the expertise and empowerment of investigators and the cooperation of law enforcement agencies should be actively pursued. The fight against drug trafficking, money laundering, trafficking in human beings and protection of its victims must be intensified and conducted systematically, and the legal framework for the confiscation of criminal assets systematically enforced.

There is progress to report as regards the capacity to implement the *acquis* in the area of *science and research*. Administrative capacity relating to participation in the 7th EU Research Framework Programme improved, although national research capacity remains low. Some progress was made in the areas of *education and culture*, in particular as regards Vocational and Educational Training.

There was little overall progress as regards legislative alignment in the field of *environment*. Overall implementation and enforcement of legislation remains weak. Strengthening administrative capacity and inter-institutional cooperation require further efforts. Regarding *climate change*, Albania has made no progress overall and institutional capacities remain very weak.

Some progress has been made in the area of *consumer and health protection*. There was also progress in consumer protection regulation and enforcement. The legislative framework improved overall. As regards public health, advances were made in legislation on health care insurance and there were positive developments in the fields of communicable diseases and mental health. However, inequalities on access to primary health care remain.

In the area of *customs union* there was some progress on legislative alignment and preparations in this field are advancing. However, the use of reference prices in customs valuation remains high by EU standards and further efforts are required as regards simplified procedures and trade facilitation. Enforcement capacity and management of human resources remain weak.

Some progress was made in the area of *external relations*, in particular as regards the common commercial policy. Strengthening the institutional and administrative capacity is needed. There has been progress in the area of *foreign, security and defence policy*. The country aligned with most EU declarations and common positions, and continued to participate in CSDP operations.

There was progress as regards *financial control*. The primary legal framework for Public Internal Financial Control and centralised budget inspection improved. Administrative capacity in the field of internal control requires strengthening. Preparations in the area of protection of EU's financial interests are at an early stage.

In the field of *financial and budgetary provisions*, the basic principles and institutions for the underlying policy areas affecting the own resources system are in place. The administrative framework for the application of the own resources rules is not yet in place.