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Albania 2019 Report

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2019 Communication on EU Enlargement Policy

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centred on contrasting interpretations of the constitutional provisions on ministerial appointments between the Prime Minister and the President of the Republic. Given the presidential refusal to nominate the new Minister for Europe and Foreign Affairs, the Prime Minister took over the post, and delegated the acting functions to a deputy minister.

The Constitutional Court has been unable to fulfil its mandate over most of the reporting period due to the absence of a quorum. The court should have nine members, but only one of its nine members is in office, due to resignations, retirements, and a vetting process that removed some of the sitting judges. The process to fill these vacant posts started after the creation of the new Justice Appointment Council (*see section 2.2.1 Chapter 23: Judiciary and fundamental rights*), as foreseen in the justice reform package.

On **local government**, the territorial administrative reform (TAR) needs to be further consolidated as part of the wider decentralisation agenda. The government undertook a mid-term review of the 2015-2020 national cross-cutting strategy for decentralisation and local governance. The Supreme State Audit Institution also carried out an assessment of the TAR and issued a report on it, in October 2018. The new legislation affecting local government is not yet fully harmonised and implemented. Most notably, while municipalities have been attributed larger powers, the adequacy of financial resources available to local government units (LGUs) are at risk. LGUs' fiscal autonomy is also at risk. 73% of the LGUs' budget comes from national transfers. The central budget allocates about 1% of GDP to LGUs, the lowest in the Western Balkans. In most municipalities, LGUs are not effective at collecting revenues. As a result, the overall ability of local institutions to deliver quality public services remains limited. Appointments not fully in line with all the principles of the civil service law have continued, hindering the establishment of a fully merit-based civil service.

On **public participation in local decision-making**, further progress has been made by municipalities, especially in the area of participatory budgeting. However, the institutional framework for effective and inclusive participation needs further strengthening. The Agency for the Delivery of Integrated Services (ADISA) expanded its presence throughout the territory with its one-stop-shops. A parallel process to roll out 'front desks' for service delivery at the local level is ongoing. The definition of national minimum standards for services remains outstanding.

On **territorial planning**, general local plans have been approved and budgeted for 45 municipalities, and general local plans for the remaining 16 are budgeted for 2019. Coordination of the national sectoral strategies with local plans is weak. On transparency, guidelines for disclosure of information to the public by local governments were adopted by the Commissioner on the Right to Information and Protection of Personal Data in September 2018. All municipalities in Albania now regularly publish decisions of their municipal councils online. The network of 61 EU local coordinators has strengthened the LGUs' involvement in the EU accession process, raising more awareness of EU policies and the *acquis*. The so-called 'EU desks' in municipalities have been upgraded into structured units, based on a Council of Ministers decision of July 2018. A report on the performance of municipalities on EU matters was presented in April 2018.

Civil society

Progress is yet to be made on the implementation of the roadmap on an enabling environment for civil society. The Law on the National Council for Civil Society needs to be amended to reflect changes in ministerial portfolios and provide for appropriate representation in the National Council for Civil Society. Substantial efforts are needed to ensure meaningful and systematic consultations with civil society as part of an inclusive policy dialogue for reforms.

affected by the lack of full functionality in the electronic case management system, which thus far did not produce reliable and coherent statistical information. A new modern, centralised and unified case management system is being developed with donors' support, but remains to be established.

The impact of **alternative dispute resolution** continues to be low. The total number of cases referred to and solved through mediation was 2 077 compared with 1 260 in 2016.

Efficiency

There is still a lack of consolidated reporting on the efficiency of the justice system. Efficiency of the justice system is affected by issues such as the length of proceedings, the clearance rate, and the number of pending cases at all court levels including the Constitutional Court. The clearance rate is lowest for the appeal courts, particularly for the Appeal Administrative Court (37%). This is due to a high number of appeals and the low number of judges allocated to the Court. The highest clearance rate (100%) is in the first-instance court of serious crimes.

Dismissals and resignations resulting from the vetting process have created vacant positions in the judiciary. **This increased the backlog in cases, in particular at the High Court level, where the current backlog is approximately 30,000 pending cases.** The Constitutional Court repealed the provisions of the Law on Status regulating the rights for retirement for judges and prosecutors. Revised 'repairing' provisions remain to be adopted to clarify the age of retirement for judges and prosecutors.

There are 205 related applications pending at the European Court of Human Rights.

Changes in the procedural codes under the reform have provided for improved legal provisions on the length of proceedings. A human-resources strategy should also be developed by the High Judicial Council. However, correct implementation of these improved legal provisions requires more training for judges and advocates.

In addition to the overall length of court proceedings, the execution of court decisions remains a cause of concern. Since the introduction of the private offices' service, enforcement of court decisions has improved. However, the enforcement of monetary claims against the state should be improved further. Success fees should be more proportionate to the final value of the immovable property at the end of the enforcement procedure, rather than its initial value. The centralised electronic system into which all enforcement cases should be registered is not yet functional. The system should also be effective and accessible for other related agencies, such as notaries and the Immovable Property Registration Office. At the same time, enforcement officers should have access to existing state-run registers and databases on assets, such as immovable property. Further amendments in the procedural laws are necessary to ensure the timely implementation of decisions, particularly for territorial powers linked to the residence of the debtor.

Fight against corruption

Albania has **some level of preparation** in the fight against corruption. **Good progress** has been made, notably with the adoption of the new action plan 2018-20 for the implementation of the Inter-sectoral Strategy against Corruption; the amendments to the Law on the Declaration and Audit of Assets; the Law on Public Procurement; and the adoption of the Code of Conduct for Members of Parliament. Although the vetting of members of the judiciary is an administrative process, progress in this area is relevant to assess Albania's concrete results in fight against corruption. Improvements are still expected to the Law on political party financing, the Electoral Code and the Law on Conflicts of Interest. The

establishment of an Anti-corruption Task Force has increased the proactivity of administrative investigations and is already producing its first concrete results. Good progress has continued through further consolidating efforts towards the establishment of a solid track record on investigating prosecuting and trying high-level corruption cases.

The recommendations of the last annual report were partially implemented. Efforts should continue towards consolidating a track record of seizure and confiscation/recovery of criminal assets resulting from corruption-related offences. The ongoing establishment of specialised anti-corruption investigative and judicial bodies remains crucial. Direct access to databases for prosecutors and the police continued to improve. Overall, corruption is prevalent in many areas and remains an issue of concern. There is awareness at political level of the need to effectively address corruption. The justice response against high-level corruption has started to generate concrete results, which needs to continue.

In the coming year, Albania should therefore:

- further progress towards establishing a solid track record of seizure and confiscation/recovery of criminal assets resulting from corruption-related offences; further increase the use of financial investigations;
- finalise the procedures for the establishment of the specialised anti-corruption bodies, composed of the Special Anti-Corruption and Organised Crime Structure (SPAK), the National Bureau of Investigation (NBI), and the Court to address high-level corruption; ensure adequate resources and cooperation between these new structures;
- continue to improve access to national electronic registries for law enforcement authorities.

Track record

On the track record of **investigations, prosecutions and convictions** in the fight against corruption, the overall positive trend of recent years continued. However, further efforts are needed to consolidate this trend, as shown by some statistical data. In particular, the number of final convictions involving junior or middle-ranking officials has slightly decreased compared with the previous reporting period (there were 289 such convictions in 2018 compared with 331 in 2017). The overall number of referrals to prosecution has also slightly decreased (2 126 in 2018 and 2 342 in 2017).

On convictions of **high-level state officials**, the judiciary has achieved some good initial results. In 2018, one Appeals Court judge was sentenced by the Serious Crime Court (case currently at appeal level) and one prosecutor was sentenced by the Court of Appeal for Serious Crimes (case currently at the Supreme Court). There were 102 new cases against high-level state officials sent to prosecution in 2018 (7 persons indicted), this has been an increase compared to 61 in 2017 (10 persons indicted). However, these frequent investigations in recent years have so far not resulted in a substantial number of final convictions of high-ranking state officials. This risks fostering a culture of impunity.

In February 2019, 12 officials and former officials of the Ministry of Justice were arrested for suspected abuse of office and violation of equality in tenders during the period 2016-17. The officials include a former secretary general of the Ministry of Justice.

Although the vetting of members of the judiciary is an administrative process, it is relevant for assessing Albania's concrete results in fight against corruption. Of the more than 140 magistrates who underwent vetting so far 88 have been dismissed from office, mostly for issues related to unjustified assets, or resigned. These results have been crucial to restoring public trust in the judiciary. Institutional support has been crucial to the progress made and

confirms the strong commitment of all relevant authorities in Albania to eradicate corruption in the judiciary. Among the high-ranking judges and prosecutors that have been dismissed through the vetting to date, it should be noted that eight out of nine Constitutional Court judges and 15 out of 18 High Court judges have been dismissed through the vetting or have resigned. This represents a significant number of cases involving high-level state officials.

On **asset declarations by high-level state officials**, the number of cases referred by the High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) to the prosecution has increased: 27 cases were referred in 2018 and 22 cases in 2017. In 2018, eight high-level officials (four of whom were heads of commune and one of whom was a head of municipality) were convicted, compared to five in 2017 (including one head of commune and two customs officials). In total, HIDAACI referred 53 low- and mid-ranking officials to the prosecution services in 2018 (of which 17 resulted in final convictions). This is an increase compared to the 32 referrals resulting in 14 final convictions in 2017.

Seizure and confiscation of criminal assets are not systematically ordered and carried out in corruption-related cases. Risk assessments have been piloted in some sectors (Customs Administration, General Inspectorate), and should be further expanded. Establishing a solid track record of investigations, prosecutions and final convictions in corruption cases remains a long term objective to be further consolidated.

Some progress was made in setting up an interface between the different electronic case-management systems of the police, prosecution and courts. However, the electronic case-management system of the courts needs a technical update before further progress can be achieved.

Implementation of the Law on **whistle-blowing** and whistle-blower protection continued. At both central and local level, 163 units responsible for protecting whistle-blowers and for reporting cases to HIDAACI have been established. In 2017, 446 units responsible for the protection of whistle-blowers were established across private companies. In 2018, 16 external reporting cases were registered and investigated by HIDAACI, compared with eight in 2017.

On **internal control mechanisms**, the newly established Anti-corruption Task Force carried out 70 inspections leading to 108 dismissals from the civil service and 36 criminal referrals. The State Supreme Audit Institution referred 41 cases, including high-level officials, to prosecution. The rate of implementation of the State Supreme Audit Institution's general recommendations by public institutions remains low.

On **access to information**, the Commissioner for Information and Data Protection received 820 complaints and issued 37 decisions in 2018, while 560 complaints were received in 2017. A system was established and installed in 27 public institutions to record the overall number of requests made and to enable citizens to submit online requests for public information.

The impact of anti-corruption measures in **particularly vulnerable areas** (customs, tax administration, education, health, public procurement etc.) remains limited. There is still a strong and urgent need to improve and strengthen internal checks and inspection mechanisms within the public administration. There is also a need to improve their cooperation with law enforcement authorities.

Institutional framework

Prevention of corruption

The capacity of the anti-corruption network in line ministries, at local level and in the Office of the National Coordinator against Corruption (NCAC) needs to be further strengthened. The Ministry of Justice, which serves as the new NCAC since September 2017, is currently vested