

Justice reform as a tool for enhancing Albania's EU accession process

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Roundtable Discussion:

**The New Enlargement Strategy for the Western Balkans: How to Enhance Civil
Society Role in Anti-Corruption and Good Governance**

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Justice reform as a tool for enhancing Albania's EU accession process

- On July 21st, 2016, after 18 months of negotiations, accusations, and counter-accusations between the majority and the opposition, the Albanian Parliament passed **the law to reform the judicial system** with 140 votes in favour and none against. It intervenes in depth on the Albanian Constitution, changing as many as 45 articles.
- This was the first concrete measure in **strengthening the rule of law and progress in the country's European path**, which was reached by mutual agreement and unanimity of all political parties.
- In Albania the adoption of legislation does not always correspond to its implementation, **the political consensus** around a decision does not always correspond to a real desire to undermine the status quo.

Justice reform as a tool for enhancing Albanian EU accession process (continued)

- In June 2014, the European Council gave the green light to grant Albania the status of candidate country for accession to the European Union. To continue in the path of integration, Brussels encouraged Albania to step up efforts for the reforms (with emphasis on **the rule of law and the fight against organized crime**), urging a **constructive dialogue between majority and opposition and emphasizing a systematic approach the reforms** – the well-known mechanism of "track record", intended to monitor the implementation of legislative measures.
- The formal approval of the amendments is only **the first step towards effective reforms of the Albanian justice system, notoriously inefficient and corrupt**. The reform process has required the drafting and approval of approximately 40 new laws related to the judicial system.

EU accession process milestones

Key dates

- ***1999:** The EU proposes the new Stabilization and Association Process for countries of Southeast Europe
- ***June 2000:** The European Council states that all the Stabilization and Association countries are potential candidates for EU membership
- ***June 2003:** Thessaloniki Summit; the EU perspective for the Western Balkans is confirmed
- ***June 2006:** The Stabilization and Association Agreement (SAA) with the EU is signed
- ***April 2009:** The SAA enters into force. Albania presents its application for membership of the EU
- ***November 2010:** The Commission issues its Opinion on Albania's application for EU membership, including a set of 12 key priorities to be fulfilled in view of opening of accession negotiations
- ***December 2010:** Visa-free travel to Schengen area for citizens of Albania
- ***June 2014:** The European Council grants Albania the status of candidate country for EU membership

Albania's EU Accession Key priorities

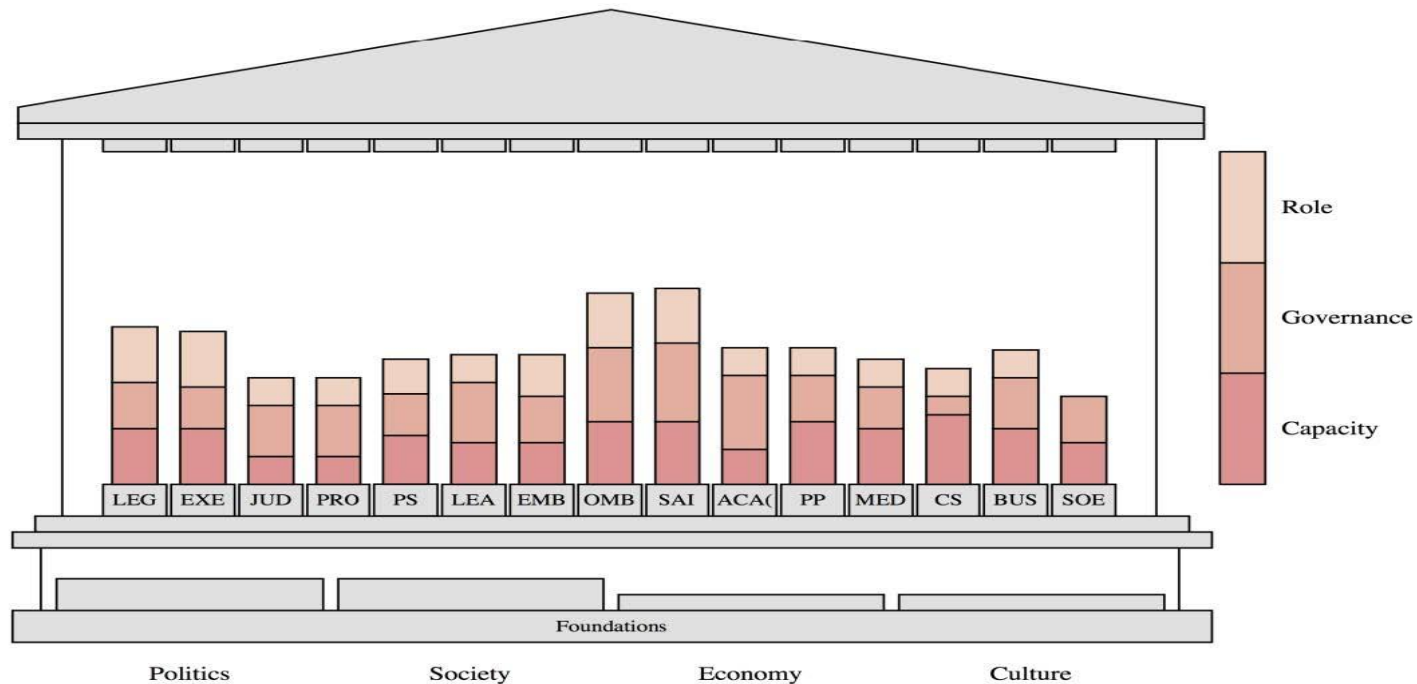
The European Commission has defined five key priorities for the opening of accession negotiations:

1. public administration reform;
2. fight against corruption;
3. fight against organized crime;
4. strengthening of independence, efficiency, and accountability of judicial system;
5. protection of human rights, including Roma and anti-discrimination policies.

Albania need to have concrete progress and substantial results in the area of rule of law, including progress with a view to establishing a solid track record of pro-active investigations, prosecutions and final convictions at all levels in the fight against corruption and organized crime; protection of fundamental rights, including property rights needs to be strengthened.

Current state of Institutional Integrity

National Integrity System



LEG. Legislature
 EXE. Executive
 JUD. Judiciary
 PRO. Prosecution
 PS. Public Sector
 LEA. Law Enforcement Agencies
 EMB. Electoral Management Body
 OMB. Ombudsman

SAI. Supreme Audit Institution
 ACA(. Anti Corruption Agencies (HIDAACI)
 PP. Political Parties
 MED. Media
 CS. Civil Society
 BUS. Business
 SOE. State Owned Enterprises

(TI, 2016)

Albania: Progress towards democracy

Regime Classification: **Transitional Government or Hybrid Regime**

Nations in Transit Category and Democracy Scores	2008	2010	2012	2014	2016
National Democratic Governance	4,25	4,50	4,75	4,75	4,50
Electoral Process	4.0	3,75	4,25	4,0	3m75
Civil Society	3.0	3.0	3.0	3.0	3.0
Independent Media	3.75	4,0	4,0	4,0	4,25
Local Democratic Governance	2.75	3,0	3,25	3,50	3,50
Judicial Framework and Independence	4.0	4,25	4,75	4,75	4,75
Corruption	5.0	5.0	5.0	5,25	5,25
Democracy Score	3,82	3,93	4,14	4,18	4,14

(1=Most Democratic, 7=Least Democratic)

Source: Nations in Transit 2016/Freedom house

Corruption and justice reform

- Widespread corruption in Albania has been the key term in all the progress reports by the EU and other international organizations such as Freedom House and Transparency International.
- “Nations in Transit 2016” figures demonstrate that performance in the Albanian judiciary is estimated to hold the worst position compared to the other variables measured by Freedom House in the years 2015-2016. According to these figures, the judicial system appears to be the most corrupt among the listed institutions.
- Many reports outline the close connections between judges and politicians, as well as political influence over the judicial branch. Over time, a system of impunity has established itself in Albanian society. Politicians are not sentenced for their wrongdoings, while many judges engage in corrupt practices.
- Since two years ago, the head of the EURALIUS Mission in Albania, has declared that the “whole judicial system in Albania is corrupt” while, during 2016-2017, investigative journalism played a most important role in denouncing corruption in the judicial system. BIRN has thus reported on several occasions on the level of impunity in the judiciary; recently they found that approximately 80% of Albania’s appellate judges could not provide an explanation regarding the wealth/family assets accumulated during their careers.

Corruption patterns in Albania

- **Corruption exists in different patterns in Albania** (bribing of public officials, abuse of tenders, in faulty privatization, in the rewarding of public contracts, in purchasing of positions, in formation of monopolies on basic goods, in discriminatory application of laws and taxes against competitors, in illegal funding of political parties and electoral competition or in the outright theft of state property and revenue).
- Corruption in Albania **exhibits all the patterns of collective action**. It is not only the politicians, or bureaucrats/civil servants who are very likely to engage in corrupt practices. Untargeted corruption has led to a way of survival where people are more likely to engage in corruption than if they were in countries where institutions had not gone through such a rocky transition.
- **When it comes to corruption in the judiciary, verdicts are made in favor of those who offer more money to the judges, or to the prosecutors and their civil servants, insiders who become operatives performing corrupt practices.**

Civil society, democratization and corruption

- Civil society in Albania has risen to meet the challenges of an emerging democracy in a new global context with an emerging international framework of values.
- After 1990 civil society organizations (CSOs) first formed, focusing on issues of human rights, humanitarian aid, and good governance. But the effects and leftovers of the communist past in Albanian society and politics impede its work in democratization and citizens' engagement with global issues.
- In Albania, like in other the Western Balkan countries, civil society is developing in a state that in many respects is incomplete, an emerging democracy where many deficiencies are due to political structures that mirror the interests of clientelistic groups and not the rational will and expectations of ordinary citizens.

Civil society, democratization and corruption (continued)

- At present the term civil society in Albania is mainly applied to a number of Non-Governmental organisations (NGOs), which to a large extent are **donor dependent and thus donor driven**.
- Despite some progress, **civil society remains weak and unorganized**.
- The NGO sector is small, the enabling environment is constrained and access to government or private funding is limited. As a result, **most NGOs orient their operations to match available funding rather than operating under their own strategic approaches**. However, the dependency on donor funds is still disturbing since there is a **tendency on the part of civil society organizations to adopt their projects to the objectives of donors rather than the priorities and needs of the country**.
- Another aspect of the fragile NGO landscape in Albania is that **they mainly deal with awareness campaigns and capacity development, emphasizing freedom of information**. The underlying assumption is that the more people are informed about democracy and democratization, the larger their participation and impact in the process is going to be.
- Much evidence suggests that **official politics in Albania, as in the Western Balkan countries, yet underestimates the role of civil society and mas-media and even view them in a negative light**.

CSOs engagement in combating corruption

- Albania's civil society is playing an important role in the fight against corruption. Through the anti-corruption activities, CSOs have raised public awareness for the negative effects of corruption, advocated for important legislative changes and, together with the ma-media, have taken on the role of a watchdog by controlling and monitoring the government's activities.
- However, facing a declining public interest in advocacy campaigns in general, CSOs are considering moving away from broad anti-corruption campaigns to more targeted approaches in specific areas by involving those actors who are directly affected by corrupt practices. Now that the negative effects of corruption especially in justice system have been widely recognized, there is a strong likelihood that those groups who suffer from a certain type of corruption show interest in investing in anti-corruption and join civil society-led networks.
- Also, considering the experience gathered during last two decades, many potential anti-corruption players such as trade unions, business associations or lawyers have received little attention, and private sector involvement has been largely absent in anti-corruption activities in the past.

CSOs engagement and justice reform progress

- Albania, as a country aspiring to join the EU need to establish and promote proper functioning of core institutions necessary for securing the rule of law. **Fighting organized crime and corruption is hereby considered fundamental to countering the criminal infiltration of the political, legal and economic systems.**
- Strengthening of **CSOs enhances political accountability and promotes deeper understanding of accession related reforms.**
- CSOs need to **work closely with government in national strategies, policies and funding towards EU accession and negotiation structures, as well as in their programming and implementation of EU-funded project.**
- Albanian political authorities need to work hand in hand with civil society organizations when introducing **reforms and implementing legislation on key issues such as on handling high level corruption cases, better supervision of public procurement procedures and on improving the legal framework for the financing of political parties;**
- Strengthening the rule of law, and justice reform as part of it, remains a key challenge in the process of EU accession, in particular in terms of improving its functioning and independence, and fighting corruption and organized crime;

Hope is restored to life...

“ ...in particular the **judicial reform** that Albania is undertaking, let me stress, is one of the most important reforms ongoing in any of the enlargement countries. It plays, I believe, the crucial role in consolidating the rule of law in Albania, but it also constitutes a key element of Albania's EU integration process.

I repeated it so many times: before the decisions on the judicial reform were taken, I think it is important to acknowledge - once these decisions have been taken and the process has started - **how important this has been and how big expectations are there for this to be a really transformative process in Albania.**

We believe that **this would contribute also to positive aspects on other fields, in particular creating a more predictable and transparent environment for business and investors.**”

(Remarks by High Representative/Vice-President Federica Mogherini at the press conference following the 9th EU-Albania Stabilization and Association Council, Bruxelles, 15/11/2017)

A faint white outline map of Southeast Europe is visible in the background. The map shows the borders of countries in the region, including Greece, Bulgaria, and parts of Turkey and Albania. The map is centered on the Balkan Peninsula.

Thank you!

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