

## The wrong decision at the right time: the future of Europe and the european future of Albania

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**Abstract:** *On 17-18 October 2019, the European Council failed to reach a consensus to open accession negotiations with Albania and Northern Macedonia, as recommended by the European Commission, the German Bundestag and the majority of EU member states. The veto of France, Denmark and the Netherlands “sabotaged” the required consensus of 28 members. This was a visibly wrong decision, in contrast with the achievements of both countries, their vision and expectations for Europe, and European identity and values of the Western Balkans. Such a decision renders the European integration of Albania and the region more difficult. If the European Council remains reluctant to open negotiations because of President Macron’s veto, it will affect the European future of the Western Balkans as well as Europe’s future, nourish the existing negative stereotypes in the region, give the EU attitude towards some countries of the region a religious connotation, increase the gap between NATO and EU integration and pave the way for the domination of non-Western civilizations in the region.*

**Key words:** *Albania, Western Balkans, integration reforms, religion, regional stereotypes, non-Western influences*

**Sommario:** *Dal 17 al 18 ottobre 2019, il Consiglio europeo non è riuscito a raggiungere un consenso per aprire i negoziati di adesione con l’Albania e la Macedonia settentrionale, come raccomandato dalla Commissione europea, dal Bundestag tedesco e dalla maggioranza degli Stati membri dell’UE. Il veto di Francia, Danimarca e Paesi Bassi ha “sabotato” il consenso necessario tra i 28 membri. Si è trattato di una decisione sbagliata, in contrasto con le attese di entrambi i paesi, la loro visione e le loro aspettative di entrare nell’Europa, non-*

*ché con l'identità e i valori europei dei Balcani occidentali. Tale decisione rende più difficile l'integrazione europea dell'Albania e della regione. Se il Consiglio europeo rimane inflessibile a non aprire i negoziati a causa del veto del Presidente Macron, esso influenzerà il futuro europeo dei Balcani occidentali e del futuro dell'Europa; alimenterà gli stereotipi negativi esistenti nella regione; darà all'UE un atteggiamento di connotazione religiosa nei confronti di alcuni paesi della regione; aumenterà il divario tra l'integrazione Nato e UE e preparerà la strada al dominio delle civiltà non occidentali nella regione.*

**Parole chiave:** *Albania, Balcani occidentali, riforme dell'integrazione, religione, stereotipi regionali, influenze non occidentali*

### **Why a wrong decision at the right time?**

In June 2018 the European Council urged Albania to deepen integration reforms in five key priorities: justice reform; the fight against corruption; the fight against organised crime; human rights, including property rights; public administration reform. During the last years, the country has managed to achieve visible results in implementing the European Council recommendations in key priorities: judiciary reform, good governance and the fight against corruption, the fight against organized crime, property rights, public administration modernization and electoral reform.

Albania has continued integration reforms not just because they were recommended by the European Commission and the European Council, but because they serve Albania and Albanians. For instance, surveys showed that justice reform, uniquely in the countries aspiring to join the EU, was supported by 95 percent of Albanians, who deemed the justice system corrupt and requested its catharsis.<sup>1</sup> Therefore, the main goal of judiciary reform was to restore public trust and confidence in the judiciary system.

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<sup>1</sup> Faculty of Law, University of Tirana, Tirana, October 2019.

## **Catharsis of the judiciary system**

Judiciary system reform has followed three main pillars: constitutional changes and legal amendments; the establishment of new governing institutions of the system; the vetting process.

A package of thirty laws was approved after Parliament passed the constitutional amendments in 2016. The legislative package was concluded in May 2019.

The Government of Albania and its principal international partners, the United States and the European Union, agreed to implement the vetting process. It consists of the detailed examination of the integrity and legitimacy of people working at all levels of the judiciary system. Parliament defined specific provisions to re-evaluate judges, prosecutors and legal advisors and assistants on the basis of integrity (the evaluation of their propriety), ethical background (potential involvement in corruptive practices and unsuitable contacts with potential criminals) and professional competence (professional and institutional performance). The implementation of vetting was a courageous act of the Government as it would lead to thorough and in-depth assessment and re-evaluation of the system.

For the implementation of vetting, Parliament established two independent bodies: the Independent Qualification Commission, which represents the first level of vetting, and the Special Appeal Chamber, which represents its second level. The Parliament elected four Independent Qualification Commissions, IQCs, each composed of three members, which are carrying out the entire re-evaluation process, and one Special Appeal Chamber, composed of seven judges, which serves as appeal instance for the decisions taken by the IQCs. Part of the process are also two Public Commissioners who follow the process during its passage from the first to the second level.

The 2016 constitutional changes paved the way for the involvement of the international community in this process, through establishing the International Monitoring Operation, without executive functions. The IMO is led by the European Commission and oversees vetting. The constitutional amendments also provide that the IMO includes Albania's partners in the framework of Euro-Atlantic cooperation. Therefore, the European Commission and the United States are cooperating by appointing senior judiciary experts to support the activities of the IMO. By 1 October 2019 the Independent Qualification

Commission had given a total number of 194 decisions, including: 83 confirmations; 71 dismissals from office, and 39 decisions on interruption of the process.<sup>2</sup>

The reform also provided for the establishment and completion of the new governing bodies of the system. As a consequence of the vetting the Constitutional Court was left with just one member. This proves how indispensable and useful this process was. The procedures for establishment of the Constitutional Court started in the last months of 2019. There are currently nine vacancies open in the Constitutional Court, of which three are expected to be appointed by Parliament, three by the President and three by the Supreme Court.

The Constitutional amendments laid down the establishment of the new governing bodies of judiciary: the Justice Appointments Council, the High Judicial Council, the High Prosecutorial Council and the High Inspector of Justice.

Consequently, the Justice Appointments Council was constituted on 1 January 2019, the High Judicial Council and the High Prosecutorial Council were constituted in December 2018, the High Inspector of Justice is still in the selection procedure.

An Independent Commission for the coordination, monitoring and enforcement of the law “On the governance bodies of the justice system” was also constituted in November 2018.

Practically, for about two years the country has had no Supreme Court. However, the Supreme Court members are elected by the High Judicial Council.

Part of the new bodies of the judiciary system will be the Special Prosecution against Corruption and Organized Crime – SPAK – and National Bureau of Investigation, which are currently in the process of establishment.

### **Fighting corruption: a national priority**

Following the European Council recommendations, the Government established two specific bodies in order to strengthen the fight against corruption: the Coordinating Committee for the Monitoring of the Strategy against Corruption and the Implementation of the Action Plan 2018-2020 and the Task

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<sup>2</sup> Parliament of Albania, Tirana, 2019.

Force against Corruption on the implementation of anti-corruption measures in public administration.

The Anti-Corruption Task Force has given results in convictions of public officials. Officials of all levels, even very high-level officials, court of appeal judges and other officials, are being investigated. In 2019, the detection of corruption offenses amounted to 85%.

Albania is implementing GRECO's recommendations on preventing the corruption of members of parliament, judges and prosecutors. Recently, GRECO assessed that Albania has implemented all 10 recommendations, 4 satisfactorily and 6 partially.<sup>3</sup> 2018 saw the identification of 1,099 criminal offences for corruption of public servants, which is 11% fewer compared to 2017. Meanwhile, by October 2019 1,102 criminal offenses had been identified.<sup>4</sup> The number of negotiated procurements without prior publication decreased from 31.8% in 2017 to 9.4% in 2018.<sup>5</sup> Cooperation between law enforcement agencies, the Prosecutor's Office and the courts has been strengthened. In 2018, 16 police operations for 80 officials were completed. During the first half of 2019 the Prosecutor's Office filed 334 court cases compared to 275 during the first half of 2018.<sup>6</sup>

Control over the funding of political parties is strengthened. In 2018 the funds of all parties were audited in detail. In April 2019, the Central Elections Commission adopted three secondary legislative acts on control over the funding of political parties.

### ***The "Power of Law": the fight against organised crime***

The fight against organized crime cannot be developed or won by a single country, it needs cooperation, co-ordination and partnership among coun-

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3 Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, Second Compliance Report Albania, Adopted by GRECO at its 80th Plenary Meeting (Strasbourg, 18-22 June 2018).

4 Ministry of Internal Affairs, Tirana, 2019.

5 Idem

6 Parliament of Albania, Tirana, 2019.

tries. Therefore, the Parliament and the Government have worked to enhance cooperation with EU member states. The “Power of Law” operation, designed by the Government and implemented by State Police, completed 51 operations, arrested 344 people and confiscated criminal assets worth about 78.3 million euros from November 2017 to September 2019. 24 structured criminal groups have been identified and prosecuted.<sup>7</sup>

Albania has been removed from the map of countries cultivating cannabis. The data show a decline of 70 percent in cannabis from Albania, confiscated in Italy, by June 2019. Heroin trafficking has also declined. The number of persons prosecuted for cocaine trafficking has increased. Quantities of cocaine seized during 2018 and 2019 have significantly increased.<sup>8</sup>

Albania is cooperating with international agencies and partner services, such as Europol, Interpol and CARIN, against money laundering and terrorist financing, supporting Albanian police liaison officers abroad and police liaison officers in Albania. In the last five years, 158.5 million euros has been seized from money laundering cases. 2018 saw the confiscation of 17 million euros in bank assets and 21.5 million euros in criminal assets.<sup>9</sup>

An Agreement between the Ministry of Justice of Albania and Eurojust was signed On 5 October 2018, with the purpose of expanding cooperation in the fight against serious crimes, in particular against organised crime and terrorism. Currently we have in force a bilateral administrative agreement on cooperation between our two countries in the field of justice and policing, which consists of exchanging information on legislation, sending and executing requests through letters rogatory in the criminal and civil fields, the transfer of proceedings and mutual recognition of criminal court decisions.

In 2017 Albania was in the top list of origin countries of asylum-seekers, with 365 persons, following Georgia with 487 persons, whereas in 2019, Albania is no longer in the top list. The Albanian authorities refused 20,255 Albanian nationals’ exit at the border in 2018, as compared to 12,175 in 2017.<sup>10</sup> The number of Albanian asylum seekers in EU countries in the period Janu-

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<sup>7</sup> Ministry of Internal Affairs, Tirana, 2019.

<sup>8</sup> Idem

<sup>9</sup> Idem

<sup>10</sup> Border and Migration Police, Tirana, 2019.

ary-March 2019 was 50% lower than in the same period in the previous year, 2,445 versus 4,930. In 2018 the number of asylum seekers was 26% less than in 2017 (18,825 versus 25,585).<sup>11</sup>

## **New developments in protecting human and property rights**

In recent years Albania has significantly improved the political and legal framework for the protection of minorities. In October 2017 the country passed a new special law on minorities, which abolished the distinction between national and ethno-linguistic minorities. In September 2018, the Council of Ministers adopted two additional decisions on teaching in the languages of national minorities. The new Act on cultural heritage, adopted in May 2018, guarantees further provisions on the protection and promotion of the cultural rights of national minorities.

A new Land Registry Act (“On Cadaster”) was approved in 2019 and, pursuant to this law, the State Cadastral Agency was immediately established. The new legislation has simplified procedures and shortened the time of financial and land compensation for landowners. In 2018 the Property Treatment Agency distributed increased financial funding and a physical fund for the compensation of owners. Following these measures, the European Court of Human Rights has not had to approve any decision on property rights of Albanian citizens during the last two years.

## **Public administration reform**

Following the reorganization of the administrative structures in 2017, in compliance with the law on the civil service, the Government reorganized all public institutions and agencies in line with the recommendations of SIGMA/UNDP. In October 2018, Integrated Policy Management Groups were established in order to implement a sectoral approach in planning, implementing and monitoring public policies.

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<sup>11</sup> <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration>

## **Striving for the consensus on electoral reform**

In addition to EU recommendations, the Parliament is working to implement the OSCE/ODIHR recommendations after the 2013 and 2017 parliamentary and 2015 and 2019 administrative elections. Electoral reform has always been a controversial issue between the Government and the opposition. Considering the reluctance of the opposition parties to agree to work on the Government's draft, the majority asked them to design the reform package itself, certify it with the OSCE and bring it to Parliament for approval. The Government expressed its willingness to vote every OSCE-supported version prepared by the opposition. However, the opposition refused to prepare its draft and use this opportunity.

Following the filling in of the vacancies created by the handover of the seats by the Democratic Party and the Socialist Movement for Integration with the candidates from the multi-name lists of these parties, the two new parliamentary opposition groups were established: the Democratic Parliamentary Group, with MPs from the Democratic party list, and the Independent Parliamentary Group, from the Socialist Movement for Integration list.

The Commission was completed with representatives of both the two new parliamentary parties. The electoral reform is focused on several critical electoral issues, such as proposed measures to toughen punishments in order to fight vote trafficking; to eliminate any form of misuse of Government resources during electoral campaigns; electronic voting, e-voting for migrants abroad etc. Changes in the electoral system is also part of the Commission's activity. The Democratic Party, as the biggest opposition party, is given observer rights, having the role of the Deputy Chair, including the power of veto in the ad hoc Electoral Reform Commission. Since 2009 Albania has had a proportional regional voting system, which replaced the existing majority system, and new opposition parties have proposed a reintroduction of the majority system.

## **Albania and the Western Balkans: a problem or an added value for Europe?**

The European Council decision reflected not the (lack of) standards reached by Albania, but the EU's internal problems. Due to these problems, the at-



titude of some of the Governments (France, the Netherlands and Denmark) reveals their perception of the Western Balkans as a burden and not as a value for the rest of the old continent.

### **The future of Europe from an Albanian and Western Balkan perspective**

What does Europe look like at the time of the refusal by the European Council, or rather by French President Macron? Europe seems like a continent of asymmetries. However, in the coming decades, Europe will have smoothed many of them out.

In the coming decades, the entire European family will be inside the European home. The “European family” is all the European nations and the “European home” is the European Union.

Europe is still suffering from the consequences of asymmetries between the super-developed North and the under-developed or developing South, which is trying to catch up with the North. The future Europe will overcome this asymmetry.

In today’s Europe, the three developed peninsulas – Scandinavia, Iberia and the Apennines – have huge differences with the Balkan Peninsula. In the coming decades, these three will no longer be so different in terms of development rates, competitiveness, prosperity levels and contribution to peace compared to the Balkans. The people of the Balkans will no longer need Scandinavian negotiators to find peace among themselves.

South-East Europe is nowadays a troubled region of the continent. However, in the coming decades SEE as a concept will probably no longer exist, because the differences that gave rise to this notion will have disappeared, or at least be greatly mitigated.

The Western Balkans, which is currently considered a problem for the rest of the continent, will no longer be “the black sheep” for European leaders, but an additional value in the big European family.

Europe’s cultural and political boundaries will become less considerable and will probably match its geographical boundaries. Huntington’s Western Europe will approach the geographical Europe.

The reasons for keeping religious conflicts alive will have been mitigated. Relations between Islam and Christianity, described in detail by Huntington (1996) will be less conflictual. European statesmen and politicians would have just to follow the model of religious coexistence Albania provides.

European leaders will no longer argue over whether or not to accept immigrants. The large European economy will produce opportunities for everyone and citizens from other continents will not be stopped and sunk in Lampedusa.

### **The inertia of stereotypes**

The approach of the European Council might foster some dangerous stereotypes of Southeast Europe. The perception of the Western Balkans is acquiring negative connotations. This negative view is being transformed into discriminatory attitudes towards peoples that have made a prominent contribution to European civilization and that due to historical circumstances have been left behind the rest of the continent. Dealing with this perception is a challenge for the security and stability of the region. The Western Balkans is not a neighbouring region of Europe, it is an integral part of it. All parts of the continent are like communicating vessels where security, economy and democracy develop interconnected with each other. This scepticism and exclusion is against the unchanging tendency of history to bring Europe's political and cultural boundaries closer to its natural boundaries.

### **The religious connotation of attitudes towards the Western Balkans**

From time to time there is a view in the European political environment that the progress of democracy is partly a consequence of the religious composition of the population. (Weber, 1992; Huntington, 2011) According to this interpretation, Albania and any other Balkan country, for instance Kosovo and Bosnia-Herzegovina, should pay the consequences of the religious composition of their populations. As it is well known, these three countries have predominantly Muslim populations.

Despite the arguments of democratic theorists, this view does not correspond to reality, at least in the case of Albanian Muslims.

Albanian Muslims, who make up the majority of the population, have contributed to the democratic development of Albania as much as their Christian brothers, directly and clearly supporting the free market and democratic institutions.

The attitude of France, the Netherlands and Denmark thus risks having a religious connotation as well. Against this illusion, the Western Balkans, despite having a significant Muslim population, is a European region, an integral part of and an added value for Western civilization, an active contributor to peace, development and stability.

In addition, we should consider another factor of the role of religion and interfaith relations in Albania. Believers are much more tolerant than politicians. This disproportion is related to the way religious outlooks and institutions have been established on one hand, and on the other hand political outlooks and institutions. More specifically, Albanian believers have faith in the religion itself rather than being members of religious institutions. Religious ideas, feelings and values prevail over affiliation and membership of institutions. Whereas sympathies, affiliations and membership of political institutions, primarily political parties, prevail over democratic feelings, views and values. While believers believe in God and values, politicians believe more in parties than in values and in democracy as a system.

Indulgence in matters of faith has meant that the four great religions in Albania flourish and penetrate people's lives, and the faiths and religious communities themselves share their best features. The distinction between being a believer and being a member of an institution has helped Albanian believers to find more meeting points in their relations with other believers. The well-known expression "Your church is also my church" (Zakaria, 2004) in Albania is complemented by the lessons of our coexistence: "Your mosque is also my mosque. Your tekke is also my tekke" But by analogy, it very rarely happens that we hear two politicians of different parties stating "Your party is also my party".

Religious institutions in Albania, in the absence of other social institutions, have also served as centres of community life, as *agora* of public speech and life. This multi-functional role of religious institutions has facilitated their penetration into social life and has served as a catalyst for the social commu-

nities and groups to be closer to each other, as well as an absorber of social disagreements.

The walls of religious institutions have collapsed in the face of pressure that aimed and still aims to bring the believers of different religions closer to each other. This approach has contributed to maintaining and strengthening the social cohesion of Albanian society. Meanwhile, the “bodies” of political parties foster intolerance among their members and supporters. This closure undermines the social cohesion of society. Political parties often aim to poison the tolerance, harmony and understanding that believers inject into society.

### **The asymmetry between NATO integration and EU integration**

It is a fact that for the Western Balkans region the NATO perspective is clearer and more advanced than the European Union perspective. This is demonstrated by the fact that many countries of the region are NATO members, but they don't yet have a clear EU perspective.

Albania acceded to the Alliance in 2009, Montenegro in 2017 and North Macedonia in 2019 – it is waiting for the ratification of the parliaments of some member countries. Thus, three of the six Western Balkan countries are NATO members. This is a strong guarantee for the security, peace and stability of the region. The European perspective of the region's countries is quite different from the Atlantic perspective. None of the six countries of the region is a member of the European Union yet.

Montenegro and Serbia have opened accession negotiations, respectively in 2012 and 2013, and at present no evident progress is being made in this regard. Albania and North Macedonia were unjustly and undeservedly excluded from this process in the European Council meeting held on 17-18 October 2019. Kosovo and Bosnia-Herzegovina have a even more unclear prospects in their path to the EU.

Once the EU used the technicalities of bureaucrats to justify its dilemmas and delays in the accession of the countries of East and Central Europe. This time the bureaucrats seem to be much clearer than the EU leadership, whose confusion and hesitation derives, as we have mentioned, not from the standards of the aspiring countries, but from the problems of the Union. (Palmer, 2019a)

This asymmetric position between NATO integration and EU integration affects not only the region's countries, but also EU security itself and it also increases the instability of the Western Balkans. (Bugajski, 2019)

### **Western and non-Western influences in the region**

The Western Balkans is situated at the crossroads of the influence of the Western civilisation and non-Western influences.

The ambiguous positions of the sceptical countries, such as France, the Netherlands and Denmark, as well as their imposition on the European Council naturally pave the way for non-Western influences and powers in the region. (Von der Leyen, 2019)

The European Council's refusal to open negotiations began to be followed by a rise of the influence of non-Western civilizations in the countries of the region, which have received various invitations to join non-European and non-Western initiatives. (Palmer, 2019b)

But not all countries of the region have the same Western vocation as Albania. Periodic public opinion polls show that about 95 percent of Albanians support Albania's European perspective. Whereas the societies and cultures of the other regional countries are less Pro-Western than Albanian society. Consequently, Albania is less endangered by non-Western influences.

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## **TERZA PARTE**

### **PREVISIONE, ANTICIPAZIONE, APPROCCIO NORMATIVO, E COMPLESSITÀ DELLE SCIENZE SOCIALI**