



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 4 June 2014
(OR. en)**

10582/14

COWEB 63

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 4 June 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: COM(2014) 331 final

Subject: REPORT FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT on Albania's Progress in the Fight Against
Corruption and Organised Crime and in the Judicial Reform

Delegations will find attached document COM(2014) 331 final.

Encl.: COM(2014) 331 final



Brussels, 4.6.2014
COM(2014) 331 final

**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN
PARLIAMENT**

**on Albania's Progress in the Fight Against Corruption and Organised Crime and in the
Judicial Reform**

REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

on Albania's Progress in the Fight Against Corruption and Organised Crime and in the Judicial Reform

1. Introduction

The present Report is a response to the Council Conclusions of 17 December 2013 which stated:

"The Council will examine, on the basis of a report to be presented by the Commission, continued implementation of anti-corruption and judicial reform strategies and of recently adopted relevant legislation as well as a continued trend of pro-active investigations and prosecutions, including in the area of organized crime. In the light of this report, and on the understanding that Albania builds on the encouraging progress made so far, the Council looks forward to a decision regarding granting candidate status to Albania in June 2014, subject to endorsement by the European Council."

In line with the Council's request this report focuses primarily on the fight against corruption and organized crime and judicial reform and highlights some additional key developments in areas, which are important for Albania EU integration. It covers the timeframe since the publication of the most recent Progress Report¹, and is based on information gathered and analysed by the Commission, including input provided by the country, peer reviews and regular contacts with the Member States and international organisations.

During the reporting period, the Albanian government has shown concrete action and continued political will in the area of EU-related reform, covering a broad range of issues. In November, government and opposition joined forces to adopt a resolution on EU-integration. Since then both have continued to support EU-integration, although further consensus building has been affected by an increasing confrontational climate between the government and the opposition, which inter alia withdrew from key votes in some parliamentary committees.

In November the High-Level Dialogue (HLD) on the key priorities was launched to provide support to Albania's EU integration process by focusing on key reform priorities. At a second meeting of the HLD in early March Albania presented a roadmap, outlining Albania's medium-term efforts in meeting the key priorities for the opening of accession negotiations.

¹The Commission's last Enlargement Package, including the Progress Report on Albania, was published on 16 October 2013.

At this meeting both government and opposition showed constructive commitment to EU-related reform.

2. Recent Developments

The new *Civil Service Law* (CSL) became effective on 26 February 2014 and its secondary legislation was adopted in time for its entry into force on 1 April. This is a major step forward to enhance professionalism and meritocracy and fight politicisation, inefficiency and corruption across a wide range of public sector bodies. Monitoring of implementation is essential. Since October, the issues of *dismissals* and downgrading of staff mainly due to disciplinary measures and restructuring in the public institutions created political tension. Against this background the government froze all new recruitments from March to July to allow for the new CSL to become fully operational, thus trying to ensure a robust and transparent recruitment process. Full respect of the applicable legislation and court rulings is key.

The Parliament has taken measures to strengthen its oversight role over independent institutions. Yet, there have been controversies as regards the set-up, appointment procedures and performance of a number of independent institutions and authorities, which are accountable to Parliament. It is essential that the applicable legislation is fully implemented and the professionalism of these institutions enhanced. The election procedure of the heads and boards of these institutions by simple majority in Parliament remains a matter of concern, as this risks to affect their independence. Unlike in the case of the legislation on the High Inspectorate for the Declaration of Assets and Conflict of Interest (HIDAACI), new draft legislation would benefit from the review of international experts. The Albanian government has requested a peer review to assess the performance, structure and capacities of independent institutions in view of strengthening their functioning and independence.

The government continues to press for *economic reform* and for enhanced economic governance, in order to re-launch growth and increase competitiveness. A National Economic Council chaired by the Prime Minister with the participation of the business community was set up to provide guidance and coherence in economic reforms. Macroeconomic stability continues to be enhanced by a sound monetary policy and inflation stays at low levels. The much-needed fiscal consolidation will be facilitated by the loan agreement concluded with the International Monetary Fund (IMF). It will enable the clearance of large accumulated payment arrears over three years and foster substantial reforms related to public finance management, taxation, pension system and energy. Reforms have already resulted in increasing collection of revenues from taxation and customs duties and investigations into Value Added Tax (VAT) evasion and fraud schemes have been stepped up. The Economic and Fiscal Programme for 2014-2016 sets out the framework for supporting growth and macroeconomic stability and identifies necessary structural reforms in some key areas, including enhancing the rule of law, improving the business and investment environment and tackling labour market problems.

Regarding the crisis in Ukraine and *CSFP alignment* Albania has aligned itself with all EU statements and positions.

3. Anti-corruption policies

Since October, the Albanian authorities have further strengthened the *legal and institutional anti-corruption framework*. In November, a National Coordinator for Anti-corruption (NCAC) was appointed who coordinates the activities of state bodies and independent institutions, both at central and local level. To facilitate this process, a network of anti-corruption focal points in all line ministries and independent institutions has been established. The focal points' mandate covers reporting to the NCAC, giving guidance to relevant officials and monitoring the implementation of the anti-corruption strategy in the respective institutions and ministries. In April, the NCAC has finalized the National Anti-Corruption Strategy, which was widely consulted with civil society and the private sector, and which remains to be adopted. It needs to be followed up by comprehensive action plans.

Through amendments to the Criminal Procedure Code (CPC) adopted in March, competences for corruption offences by high-level state officials have been transferred, with the exception of abuse of office offences, to the Serious Crimes Prosecution Office (SCPO) and the Serious Crimes Court (SCC). Active and passive corruption of judges, prosecutors, justice officials, high-level state officials, and locally elected representatives now fall within the jurisdiction of the SCC, to move high-level corruption further into the spotlight. A definition of 'high-level officials' and 'locally elected officials' remains to be introduced in the legislation.

In March the seizure or confiscation of illicit assets deriving from corruption offences was made legally possible.

A new law on access to information has been drafted in May, introducing administrative sanctions as well as procedures for the examination of complaints to the Commission for the Right to Information and Personal Data Protection.

The laws on asset declaration and conflict of interest, which were amended in April 2014, are currently in formal adoption procedure. The revised law on conflict of interest extends the prohibition to enter into contractual relations with public bodies to cover judges and prosecutors of first instance and appellate level. Furthermore, the submission of false information is made a criminal offence, which shows the commitment to addressing conflict of interest. The law on asset declaration now requires public officials to deposit assets exceeding ALL 1.5 million (about EUR 10,700) in a bank.

As regards *cooperation among law enforcement agencies* for both anti-corruption and organised crime, a Memorandum of Understanding was signed between the Prosecutor General, Ministry of Interior and State Intelligence Service in December aiming at establishing a common platform for enhancing proactive investigations. Overall, the cooperation between the law enforcement agencies needs to be enhanced, including a secure information exchange system with a view to enhancing the efficiency of investigations.

In April, the number of anti-corruption prosecutors in regional Prosecutor's offices was increased from 22 to 33.

Regarding the *track record*, the number of corruption cases referred to the prosecution by the State Police has increased by 16% in the period from October 2013 to March 2014 compared to the same period of the previous year. Convictions at District Courts decreased by 8% in the same period, whereas convictions at Appeal Courts increased by 81%. Five corruption investigations within the judicial system are on-going, and there has been one conviction in the judicial system at appeal court level. Regarding high-state and locally elected officials, five cases involving 25 defendants are pending before the court and two cases are under investigation for abuse of office and other related allegations. Overall, the number of investigations and convictions remains low, especially with regard to high-level corruption cases. A high number of investigations into corruption offences do not result in final convictions, highlighting the need to reinforce the independence, efficiency and accountability of the judiciary, and the need to strengthen the capacity of the police and the prosecution.

To address shortcomings in the *efficiency of investigations* and cross-agency cooperation, monthly meetings chaired by the Prosecutor General and the director general of the police have been set up in May. A number of obstacles remain, such as provisions related to interceptions and surveillance, time limits for investigations, admissibility of evidence before a court and, overall, investigations continue to have a reactive nature. Investigating capacities of law enforcement agencies need to be enhanced, including tackling of financial and economic crime. The current legal framework needs to include legal provisions that allow the State Police to obtain information for investigative purposes from public institutions and private bodies delivering public services, and allowing for deterrent sanctions in case of non-compliance. Albania is also encouraged to include the offence of illicit enrichment, as a positive signal. Further efforts are needed regarding sanctioning mechanisms in case of non-compliance with inter-institutional Memoranda of Understanding (MoU).

The High Inspectorate for the Declaration of Assets and Conflict of Interest (HIDAACI) took steps to improve its performance in the first quarter of 2014. Among the cases of hidden assets it has reported to the Prosecution the cases of three judges, one prosecutor, one ambassador, and two inspectors. Overall, both HIDAACI and the internal inspection bodies should carry out their mandate in a more pro-active manner, focusing on inexplicable wealth through better risk assessment and cross-checking own data with available asset declarations and conflict of interest statements. Making available asset declarations to law enforcement and investigative bodies is essential in this respect. The publication of asset declarations as foreseen in the roadmap on the key priorities would enhance accountability and boost efforts to uncover inexplicable wealth.

Overall, there has been continued political will to act decisively in the prevention and fight against corruption. The structural reforms that have been introduced testify to an all-encompassing approach including a wide range of institutions. The broad consultation process

for the outline of the anti-corruption strategy shows that the government aims to include a wide range of stakeholders. Cross-agency work has been launched to enhance pro-active investigations, systematic risk analysis and overcome obstacles in view of improving the efficiency of investigations. To further advance decisively on its EU integration path, Albania would need to focus on the enforcement of legislation regarding asset declarations and conflict of interest, increase pro-active investigations and introduce further measures to make investigations more efficient, to continue building on its initial efforts, in order to develop a solid track record of investigations, prosecutions and final convictions in corruption cases. The deep judicial reform envisaged will also be essential in the fight against corruption.

4. Fight against Organised Crime

Since October several organisational changes in the State Police and Prosecution Office were introduced and key legislation is prepared for adoption, covering the areas of police organisation and training and control of firearms. An open competition for recruiting new staff for the State Police was launched in March. Despite a difficult budgetary situation, the funds allocated for police salaries have been increased by 10% in 2014. 39 police officers were dismissed since September for disciplinary reasons. Regarding terrorism financed through organized crime, a new anti-terrorist Unit has been set up within the State Police.

The police has organised successful operations, in the areas of fight against narcotics, trafficking in human beings, money laundering and seizures of explosives within the country and participated in similar operations abroad. In the area of *international police and judicial cooperation*, the Fourth Additional Protocol to the European Convention on Extradition was ratified in January. A total of 25 rogatory commissions from EU Member States visited Albania from October 2013 until end of April 2014. In the same period 34 persons were extradited to Albania from EU Member States, while the Albanian authorities extradited 49 persons to EU Member States. An Operational Protocol was signed between the State Police and the Department of Public Safety of the Ministry of Interior of Italy. Albania is working with Italy and Greece for setting up a joint police cooperation centre to control cross-border illicit activities in Saranda. Regular meetings are held with liaison officers of partner countries to exchange information on criminal assets investigations.

An operational cooperation agreement with Europol, signed last December, has been ratified by Albania on March 20. Exchange of information is facilitated by an Albanian liaison officer posted at Europol. During the reporting period Albania participated in an international police operation, supported by Europol, for the detection of stolen and trafficked vehicles. 24 perpetrators were prosecuted as a result. The authorities should use more actively all available tools of international cooperation and increase the deployment of joint investigation teams. The capacities to use special investigative techniques should be strengthened as regards the legal and procedural framework.

Regarding the *fight against trafficking in human beings*, the Office of the National Anti-Trafficking Coordinator (ONATC) has revitalised the national referral mechanism, with an

intensification of activities in the area of prevention and awareness-raising, and is finalising the new national strategy and action plan for 2014-2016. In 2014 the ONATC has been endowed with its own budget for the first time. Three mobile units were established in Tirana, Vlora and Elbasan, resulting in increased identifications of victims and potential victims. Meetings of regional police with Serious Crimes Prosecution are held on a monthly basis. Addressing forced labour and internal trafficking, the Labour Inspectorate has started inspections of night clubs in cooperation with Tirana Police. A special helpline for victims of trafficking became operational in March and, since November 2013, they are able to obtain legal aid with a reduction of 30% in lawyers' fees. The latest Criminal Code amendments on trafficking in human beings should be applied with particular attention, the structures responsible for their implementation strengthened, and the investigation of internal trafficking cases intensified. The number of convictions for trafficking in human beings remained low. Threat and risk assessment capacities to identify victims of trafficking need to be strengthened with a view to tackle this phenomenon proactively.

As regards the *fight against money laundering*, in the period from October 2013 to mid-April 2014, compared to the equivalent period of last year, there has been a slight increase of money laundering offenses referred by the police to the prosecution with almost the same number of perpetrators. Nevertheless, the number of convictions for money laundering remained low.

From October 2013 until end of March, the State Police referred to the Serious Crimes Prosecution Office 45 cases for initiation of criminal assets investigations, a slight increase vis-à-vis the comparable period the year before. Financial investigations need to be systematically applied and the capacities to conduct them efficiently enhanced, which should lead to more criminal assets being confiscated.

As regards *economic crime*, a major police operation took place between October and December 2013, targeted against illegal gambling establishments and leading to the investigation of 720 criminal offences in the area of economic crime and the seizure of important quantities of games of chance equipment of a total value of EUR 8.5 million. Seizures and confiscations of assets need to be used systematically.

The Inter-institutional Maritime Operations Centre's (IMOC) capacity to monitor operational aspects of fighting against organised crime has increased through the upgrading of 7 coastal radars, covering all national territorial waters. The Total Information Management System, an online data base for information exchange of law enforcement agencies, is fully functioning. Joint training for operational skills of service personnel have taken place. Particular attention is necessary as regards risk analysis of the expiration of the speedboat moratorium.

As regards the *fight against drugs*, the National Plan against drug cultivation is being implemented. From October 2013 to end of March 2014, compared to the same period last year, drug seizures have continued, with seizures of marijuana (18.8 t vs. 13.6 t) and cocaine (14.5 kg vs. 1.7 kg) increased and seizures of heroine decreased (25.6 kg vs. 44.8 kg). Public

destructions of seized drugs took place in March, April and May. In total, more operations led to increased prosecutions for drugs trafficking in the same period. Investigations in drug cases need to be systematically accompanied with parallel financial investigations. Intensified systematic controls of the blue border are necessary in order to close down drug trafficking routes. International cooperation with Italy, Greece Germany, Belgium, USA and Kosovo² led to the arrest of 51 suspects for international drug trafficking during the same period, compared to 31 arrested in the same period last year. There is a need to intensify the fight against drug trafficking networks through further international cooperation, and the use of special investigation techniques, based on threat assessment and with parallel financial investigations. Concrete measures to eradicate narcotic plantations need to intensify. Measurable performance indicators and expected deliverables need to be added to the National Plan against drug cultivation.

Overall, organisational changes were introduced and key legislation in the areas of police organisation and training and control of firearms is prepared for adoption. International police and judicial cooperation has intensified through the implementation of extradition agreements. The national referral mechanism against trafficking in human beings has been revitalised through increased cooperation of the law enforcement authorities. Investigations have yielded some positive results in the fight against drugs, trafficking in human beings and money laundering. The fight against drugs cultivation needs to be intensified. To further advance decisively on its EU integration path, Albania would need to further develop its track record in the fight against organised crime through increased inter-agency cooperation, enhanced efficiency of proactive investigations and systematic use of financial investigations, strengthening its international and regional cooperation, including with Europol, and intensifying its efforts in tackling all forms of organised crime.

5. Reform of the Judicial System

To enhance the effectiveness of the *judicial system*, judicial reform measures were announced in January. Albania requested the cooperation of the Venice Commission and a roadmap for the five key priorities, including the reform of the judicial system, was developed. The process of drafting a strategy for the period 2014-2020 was initiated. In February, an advisory working group on the reform of the judicial system was established within the Ministry of Justice.

In March, Albania asked the Venice Commission to assess two sets of amendments to the Codes of Civil and Criminal Procedure. One set of amendments empowers judges to impose fines on lawyers who are repeatedly absent in civil and criminal judicial hearings, whereas the second limits the types of appeals that can be filed to the High Court. These amendments aim

² This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

at reducing the workload of the courts and increasing their efficiency. It is intended that the assistance of the Venice Commission will gradually extend to a wide range of subjects.

In line with the amended provisions of the Code of Civil Procedure, most civil cases in the High Court are being reviewed by a panel of three judges. Further measures are needed to make the functioning of the High Court more efficient. These include harmonisation and publication of caselaw, amendments of the Code of Criminal Procedure changing procedures applied at the High Court in relation to the composition of panels reviewing criminal cases, the adoption of provisions aimed at reducing the number of appeals, the completion of the ongoing internal reorganisation of the Court, as well as filling the 3 remaining vacancies in the Court.

The recent publication, for the first time, of a comprehensive list of judges with an indication of their rank is a step towards increasing the *transparency* of the system for the appointment, promotion and transfer of judges. The evaluation of judges needs to be pursued in respect of the period 2007-2009 and subsequent years. Additional measures are required to ensure that the procedures within the High Council of Justice for the appointment, promotion and transfer of judges are based exclusively on applicants' merits and other objective criteria.

The unified electronic case management system ICMIS, ensuring a random and transparent allocation of cases to judges and instrumental to monitor the backlog of cases, is not yet applied in all courts. This is particularly relevant to Tirana District Court, the Serious Crimes Court, the Serious Crimes Court of Appeal and the newly established Administrative Courts, where the system is not operational.

Judicial decisions should be made available to all practitioners and the general public. Decisions should also be published in a searchable database, with their respective reasoning and within a reasonable deadline, as well as in compliance with the recommendations of the Commissioner for Data Protection.

The amendments to the Code of Criminal Procedure regarding corruption offences by high-level state officials (see section 3. Anti-corruption policies) introduce the procedures regulating the lifting of their immunity. In the case of ordinary judges, authorisation of the High Council of Justice upon request by a prosecutor is required for personal and house search, as well as any form of deprivation of liberty. For High and Constitutional Court judges, it is up to the General Prosecutor to request the High Court to authorise the lifting of immunity. Unlike ordinary judges and prosecutors, members of the High and Constitutional Courts remain under the jurisdiction of the High Court for corruption related offences.

Information on six cases of suspected corruption within the judiciary has been sent by the High Council of Justice to the General Prosecutor.

Since October 2013, the Minister of Justice has initiated disciplinary proceedings against 19 judges, which have been transmitted to the High Council of Justice for examination. To date, the High Council of Justice has dealt with five of these cases, dismissing one judge,

transferring another judge to a court of a lower level for two years, and issuing a warning for dismissal against 3 judges. In a separate case, the High Council of Justice suspended in December 2013 a judge from exercising his duties pending a final ruling. Proceedings have been initiated by the Minister of Justice against two prosecutors. The disciplinary system should be strengthened, the Minister of Justice's role in the disciplinary procedure as well as within the High Council of Justice reviewed, new immunity rules for magistrates effectively implemented, and a track record of sanctions established.

As regards *efficiency*, all six Administrative Courts, the Administrative Court of Appeal and the Administrative College of the High Court were set up as from November 2013. The appointment of judges to these courts, which are inter alia handling cases transferred from other courts, was made following an examination. The process of filling the nine remaining vacancies in the five Administrative Courts outside Tirana and finalising the provision of law clerks and court premises needs to be completed.

Following the March 2014 decision of the Constitutional Court declaring unconstitutional the April 2013 Law on Judicial Administration, it is necessary to fill this legal gap and adopt provisions to regulate the work of courts and their staff. According to the ruling, a qualified majority, as opposed to a simple majority, would have been required for the Parliament to approve the Law in 2013.

As regards *access to justice*, provisions amending the 2008 Law on Legal Aid, in respect of exemption from judicial fees for certain categories of citizens and the establishment of local legal aid offices (legal clinics), should be implemented.

Overall, Albania has demonstrated its commitment to judicial reform, notably by interacting with the Venice Commission to improve the independence, accountability and professionalism of the system. Some efforts were made to reduce the courts' backlog and workload in general, and enhance transparency within the judiciary. Measures were taken to promote the accountability of judges and prosecutors through the adoption of procedures regulating the lifting of their immunity. A number of sanctions were adopted following disciplinary procedures. To further advance decisively on its EU integration path, Albania would need to rigorously pursue judicial reform, through continued engagement with the Venice Commission, the adoption of significant additional provisions to strengthen notably independence and accountability - in line with the roadmap for the reform of the justice system - as well as adequate implementation of adopted measures.

6. Conclusion

Albania has continued to implement and consolidate its EU-related reform measures, in particular those relating to candidate status. There has been continued political will to act decisively in the prevention and fight against corruption and structural reforms testify to an all-encompassing approach including a wide range of institutions. Important legislative reforms have been introduced in the fight against organised crime and investigations have

yielded positive results in the fight against drug trafficking and other areas of serious and organised crime. Albania has demonstrated its commitment to judicial reform, notably by working with the Venice Commission to improve the independence, accountability and professionalism of the system.

On the basis of the findings of this Report, the Commission confirms its recommendation that the Council should grant Albania candidate status.

It is important that Albania's systematic reform approach be continued as sustainable results will be key for its further EU integration. This report already identifies a number of key challenges essential for Albania to further advance decisively in its EU-integration path.

In the fight against corruption, to further advance decisively on its EU integration path, Albania would need to focus on the enforcement of legislation regarding asset declarations and conflict of interest, increase pro-active investigations into corruption cases and introduce further measures to make investigations more efficient, to continue building on its initial efforts, in order to develop a solid track record of investigations, prosecutions and final convictions in corruption cases. The deep judicial reform envisaged will also be decisive in the fight against corruption.

In the fight against organised crime, to further advance decisively on its EU integration path, Albania would need to further develop its track record through increased inter-agency cooperation, enhanced efficiency of proactive investigations and systematic use of financial investigations, strengthening its international and regional cooperation, including with Europol, and intensifying its efforts in tackling all forms of organised crime.

In the reform of the judicial system, to further advance decisively on its EU integration path, Albania would need to rigorously pursue judicial reform through continued engagement with the Venice Commission, the adoption of significant additional provisions to strengthen notably independence and accountability - in line with the roadmap for the reform of the justice system - as well as adequate implementation of adopted measures.

Moreover, it is crucial that the reform process is accompanied by a re-invigorated and consolidated political dialogue between government and opposition. Compromise-based and constructive work in parliament is essential for the sustainability of reforms, and the establishment of a National Council for EU-integration, uniting all stakeholders, is key for consensus across Albanian society.

The key challenges identified in this report will be further elaborated in the Commission's progress report of October 2014.