

ALBANIA AND ITS ROAD TOWARDS EUROPEAN UNION ACCESSION

Erjola Xhuvani

Shkolla e Lartë Private Vitrina, Fakulteti i Drejtësisë
Rruga Mine Peza, Pall 2.2, Ap.5
exhuvani@gmail.com

Abstract

After one century of delay in the European reformation of the Balkans: 1914-2011; and a decade of status quo of enlargement: 2000-2010; Western Balkans is facing a new historic challenge: will the next decade: 2010-2020 be the decade of realistic expectations to be part of the EU? The key dilemma in the relation between EU and Western Balkans remains the same: will the EU Europeanize the Balkans? In this paper it will be analyzed the crucial factors of the existing situation between EU and Western Balkans. It will be given a detailed view of the relations between two parties (EU and Albania).

The Union enriched the policy of Stabilization and Association including the SAA for the WB Countries all the way to their future accession. How long will the EU implement the SAA in the WB? Will the EU approves opening of the Accession negotiations, after the approval of the candidate status? In the first part of the article it will be analyzed the possible scenarios for Albania's candidate status. In this respect, it will given some examples of the countries of region (Croatia, Montenegro, and Serbia), for which the European Commission unable to open the Accession Negotiations, decided to launch the High Level Dialogue of Accession Process. The analyses of WB's negotiation framework and High Level Dialogue will be taken in consideration and will be implemented by Albania during its membership process. At the end of the article it will be given the opinion on the continuity of the integration process of Albania towards EU and on the need of fulfillment of reforms by Albanian party in order to implement all the obligations established in the Stabilization and Association Agreement.

Keywords: *Western Balkan, European Integration Process, European Union, Stabilization and Association Process, countries of region.*

1. EU-Albania Relations

The EU established diplomatic relations with Albania in 1991, and a year later, on May 11, 1992, was signed the Trade and Cooperation Agreement that entered into force on December 1, 1992, and allowed Albania to become eligible for funding under the EU Phare programme¹. In 1996, Albania was close to signing a new contractual agreement with the EU, which would pave the way for a classical association agreement, but contested parliamentary elections of May 1996, along with the deep financial and social crisis in early 1997 caused by the fall of the pyramid schemes led to the failure of any initiative in this direction². The political developments during this period in different countries of the region, such as the dissolution of former Yugoslavia and the creation of a set of new states whose parameters differed from those of Central Europe, led the European Union to adopt a Balkan policy called "Regional Approach" in 1996³. General Affairs Council, at this time, provided a range of political and economic conditions that the Balkan countries should meet to develop and strengthen their relations with the EU. These criteria had to do with democratic principles, freedoms and human rights, building and strengthen of the rule of law, protection of minorities, development of the market economy and regional cooperation. In May 1999, the European Union adopted a new initiative for the five Balkan countries— Albania, the Former Yugoslav Republic of Macedonia, Croatia, Bosnia-Herzegovina and the Federal Republic of Yugoslavia—called the Stabilization and Association Process (SAP).⁴

Albania was part of this new initiative since its launch. The process aims at establishing closer relations between the EU and the countries mentioned above through the Stabilization and Association Agreement (SAA), which are agreements that specify the commitments of the specific countries with regard to political, economic, trade, and human rights reforms, to be full filled, with an emphasizes on the EU legislation. In November 1999, the European Commission presented a report on the feasibility study for opening negotiations with Albania for the signing of the Stabilization and Association Agreement concluding, however, that Albania did not meet the conditions for such an agreement⁵. In November of 2000, a meeting of the countries involved in the Stabilization and Association Process was held in Zagreb. At this meeting, the EU decided to intensify the cooperation with Albania through the creation of the High Profile Taskforce. The purpose of this group was to assess Albania's capacity to assume the obligations of a Stabilization and Association Agreement with the EU. The Task-Force held three meetings in Tirana, at the end of which the European Commission drew up an evaluation report that described the processes and areas where improvements are still needed⁶. In conclusion, the Commission found that although much remains to be done in terms of meeting the obligations arising from a Stabilization and Association Agreement, the prospect of opening negotiations is the best way to maintain the pace of political and economic reforms in the country. For this purpose, the Commission concluded that it was the moment to proceed with the Stabilization and

¹ Ibrahim, Arta, *Integrimi i Ballkanit Perendimor ne UE, Logos-A, Skopje 2009*, p.135.

² Bello, Marko, *Negotium, Publication of the Ministry of Foreign Affairs, Tirana 2002*, p. 8-11

³ Moschella, Manuela, "European Union's Regional Approach Towards Its Neighbours: The European Neighbourhood Policy Vis-À-Vis Euro-Mediterranean Partnership", 2004 University of Catania.

⁴ http://ec.europa.eu/enlargement/potential-candidates/albania/relation/index_en.htm last accessed 22 March 2011.

⁵ Ibrahim, Arta, *Integrimi i Ballkanit Perendimor ne UE*

⁶ <http://www.mie.gov.al/?fq=brenda&d=4&gj=gj1&kid=58>

Association Agreement with Albania. By the request of the Council, in December 2001, the European Commission presented the Council draft mandate of negotiating a Stabilization and Association Agreement with Albania. In the meeting was set also the creation of the EU/Albania Consultative Task-Force. The said draft negotiating mandate prepared and presented by the European Commission was discussed at a technical level by EU member states during the period of January-July 2002⁷. The General Affairs Council of the EU, in its meeting on October 21, 2002, decided to open negotiations with Albania. Negotiations were officially opened by the President of the European Commission, Mr. Romano Prodi, on January 31, 2003. The Thessaloniki Summit, the so-called Zagreb II, held in June 2003 confirmed the prospects for EU accession of the Western Balkans countries and paved the way for the use of the same instruments as the ones used with the new member states at that time⁸. In June 2006 Albania signed the Stabilization and Association Agreement with the EU, which was ratified on January 2009 by the 25 EU member states of the time. The said agreement entered in force on April 1, 2009. On April 28, 2009 Albania has applied to become EU candidate country. While on November 8, 2010 the Ministers of Interior of the Member States of the European Union approved the lifting of the visa regime with Albania.

2. Reasons that lead the European Commission recommended for Albania “EU Candidate Status”

In October 2012, Commission recommended that Albania be granted EU candidate status, subject to completion of key measures in the areas of judicial and public administration reform and revision of the parliamentary rules of procedures. In the previous two years, the European Commission did recommend neither the candidate status nor the opening of accession negotiations for Albania. This was as a result of the country’s failure in fulfilling the required reforms with respect to the 12 key priorities, put forward by the Commission Opinion of 2010. The political agreement reached in November 2011 between the ruling majority and the opposition led to some concrete results, such as the adoption of the electoral reform, the election of the Ombudsman, the adoption of important pieces of legislation which required qualified majority voting and the adoption of constitutional changes to restrict immunity of high officials. Recognizing the need to address 12 priorities identified by the EC’s Opinion for Albania, the government and opposition embarked in a joint endeavour to review the existing Action Plan. The process of breaking down the 12 key priorities into concrete measures “deliverables” was made possible through a series of joint meetings with the Ministry of European Integration, the European Integration Parliamentary Committee, consultations with the civil society and consultative meetings with the European Commission. Based on political developments, the European Commission could have recommended two scenarios for Albania:

a) a positive recommendation

b) a conditional recommendation, followed with one or more unfulfilled conditions that must be met in order for the EU Member States to decide the granting of candidate status. In other words, it is called: status with a timeline.

The procedure foresees the discussion of the Commission’s recommendation by the Council of the European Union and later on by the Heads of Member States, who must decide by unanimity in the European Council meeting. The European Commission plays an important role in

⁷ Ibrahim, Arta, Integrimi i Ballkanit Perendimor ne UE, p.136-137

⁸ Brown, Adele; Attenbourg, Michael, EU enlargement: The Western Balkans, The House of Commons library, London 2007, p. 7

triggering the reforms in Albania. Thus, the positive proposal gives an encouraging message that useful steps towards reforms are rewarded, especially after a two-year failure. One such message reinforces EU's "transformative power" and its role as a catalyst for positive change in the country and the region as a whole. Even geopolitically, it's logical for the European Commission to encourage Albania's role as a stability factor in the region, by anchoring it further to the European family.

However, considering Albania's unsatisfactory⁹ progress towards the implementation of necessary reforms aimed to meet the 12 priorities, it appears that the Commission was not in a favorable position to propose the candidate status without any conditions. This, especially considering the opinions and evaluations from Member States, which have expressed reservations with regards to the organization and administration of elections, functioning of the democratic institutions, respect for the rule of law, judiciary system, fight against corruption and organized crime, politicisation of the public administration and guarantee property rights.

Notwithstanding the cross-party cooperation on parliamentary level, the adoption of some reforms and laws that require qualified majority voting in the Assembly, for the Commission and Member States, the November Agreement still remains unimplemented for as long as the parliamentary reform has not been completed. The same can be said about the improvement of the constructive political climate in order to establish a track record of achievements in the implementation of main reforms in the justice sector and independent functioning of the judiciary and as well as the fulfillment of 12 priorities¹⁰.

Moreover, the Member States are less optimistic in their assessments regarding the progress of reforms in Albania, especially about the fight against corruption, where apart from adoption of laws, political will and concrete results are required. In recent years, some Member States have grown sceptical of the objectivity of the Commission in its assessments for Western Balkans countries, informally criticizing the Commission as being "more optimistic than necessary"¹¹. In dealing with a country's progress towards European integration, it is often emphasized "how can the EU strike the right balance between offering incentives to anchor the Balkans in Europe while at the same time ensuring that their reform is democratic in substantive terms¹²".

Based on the above, it is clear that the first scenario, that of positive straightforward recommendation for candidate status cannot be implemented for Albania. The most realistic scenario for Albania was the conditional recommendation, or 'status with a timeline', after which, the Council will assess whether the country has done enough progress towards the implementation of the electoral reform, continuity of the political dialogue, reforms in the judiciary system, fight against corruption and organized crime.

⁹ See the Report of the Head of OSCE Presence in Albania in front of the Permanent Council of OSCE, September 20th 2012, pg. 1

¹⁰ See the declaration of the current President of the Council of the EU, the Foreign Minister of Cyprus, Kozaku-Marcoullis, on 31st July 2012 in Tirana and declarations from the President of the European Council, Van Rompuy on 16-17 September 2012 in Brussels

¹¹ See The Economist "The Balkans and the EU: Integrated circuit", September 10th, 2012

¹² See European Policy Centre "The democratic transformation of the Balkans", Issue Paper, November 2011, pg. 3

3. Applied practices in the negotiations process with the Western Balkans Countries

Croatia

Croatia is the first country to start the accession negotiations with the EU, on 3rd of October 2005. By procedure, simultaneously with the opening of negotiations with a candidate country, the Council approves the negotiating framework. This document contains the principles upon which the entire process of negotiations between the candidate country and the Commission is based, constituting the essence and the procedures of negotiations. Croatia's negotiating framework, set in place after the rejection of the EU constitutional treaty in France and the Netherlands, was more demanding than for any previous applicant. In its negotiating framework, the EU insisted on handing over generals indicted for war crimes by the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the Hague. Also, Croatia had to demonstrate that its judicial system could put on trial and convict highly placed officials.

Chapters 23 and 24 with Croatia were opened only a year before the conclusion of the entire negotiation process. Thus, Croatia had to face the challenge of presenting tangible results in these areas towards the end of the talks and that a negative assessment from the Commission would have caused the negotiations to remain still open. Jadranka Kosor, who succeeded Ivo Sanader as Croatia's prime minister, was faced with the challenge to find a strategic solution, quite different from her predecessors. The EU kept insisting firmly for important judiciary reforms and Kosor accepted these requests.

Croatia changed its legislation, strengthening the public prosecutor's competences. A series of arrests accompanied by trials were carried out in the country. The investigations did not spare even Kosor's predecessor, Ivo Sanader and other important members of his party, Croatian Democratic Union (HDZ). This was the crucial step that enabled the signing of the Accession Treaty with Croatia in late 2011; trials for corruption at high levels convinced sceptics in the EU that change in the judiciary was real.

Croatia can without doubt be considered a successful story of democratic transformation. It is at the same time a clear evidence of the fact that a strict but fair negotiating framework can bring good results and can be used as an example to follow for other countries in the region.

Montenegro

Starting the accession negotiations on 29th of June 2012, only six years after the declaration of its independence, Montenegro has overtaken Macedonia, Serbia and Albania in its European journey. The negotiating framework for Montenegro (approved by the Council on 26th of June 2012) is more explicit and detailed as regards chapters 23 and 24 than the one for Croatia, seven years ago. This document reflects the new approach adopted by the EC in 2011. Thus, the negotiating framework states the concerns of some Member States related to the rule of law, corruption and organized crime¹³. In this context, in addition to setting the benchmarks for opening and closing each chapter of the *acquis*, which can be decided by the Member States, new procedures regarding chapters 23 and 24 were included.

¹³ Dimitar Bechev "The Periphery of the periphery: The Western Balkans and the Euro crisis", August 2012

Given the current challenges and the long-term character of the reforms, chapters “Judiciary and fundamental rights” and “Justice, freedom and security” should be dealt with in the early stages of the negotiations, so that there is enough time for establishing the necessary legislation, institutions and solid track records of implementation, before these chapters are closed. Their opening will be based on the action plans, to be approved by the Montenegrin authorities.

"Screening reports to be prepared by the Commission for these chapters will provide substantial guidance, including on the tasks to be addressed in the action plans, which will constitute the opening benchmarks. Where justified by exceptional circumstances arising during the screening process, the Council or the Commission, each in accordance with their respective roles, may determine that the action plans should include measures to address the identified shortcomings within a specific timeframe, including where necessary as a matter of urgency. Once the Council is satisfied, on the basis of an assessment by the Commission, that the opening benchmarks have been met, the Council will decide on the opening of these chapters and lay down interim benchmarks in the EU opening positions. These interim benchmarks will specifically target, as appropriate, the adoption of legislation and the establishment and strengthening of administrative structures and of an intermediate track record and will be closely linked to actions and milestones in the implementation of the action plans¹⁴.

Subsequently, the Council will lay down in an interim position closing benchmarks requiring solid track records of reform implementation". The Negotiating Framework also introduces a "safeguard clause" that allows member states to put the overall negotiation process on hold if progress in the chapters 23 and 24 is lagging too far behind.

Macedonia

It is the first Western Balkans country to obtain the candidate status in 2005. For three consecutive years, from 2009 the Commission has recommended the opening of accession negotiations but this has not happened due to Greece's veto regarding the name issue. Meanwhile, the Commission has started a new practice with Macedonia, the High Level Accession Dialogue and so far there have been three rounds of this format. High officials from the Commission have stated that the dialogue between Brussels and Skopje is neither overlooking the fact that Greece is blocking the opening of negotiations with Macedonia, nor serving as a substitute to accession talks. According to them, this new practice aims at keeping the pace of reforms in Macedonia until the name issue with Greece is solved. Among the matters discussed between the two parties during the High Level Accession Dialogue are the implementation of the Ohrid Agreement, freedom of press, electoral reform, public administration reforms, free market economy and last but not least- the rule of law. Hence, based on the new approach for chapters 23 and 24, Macedonia took part as an observer in the screening process for these two chapters for Montenegro¹⁵.

The purpose of this new practice is to somehow solve the problem noted when a country does not have a clear accession perspective. Inability to move towards this objective puts into question the fundamental principle of the enlargement policy: that the membership perspective will entice

¹⁴ European Policy Centre “The democratic transformation of the Balkans, EPC Issue Paper, November 2011,

¹⁵ European Policy Centre “The democratic transformation of the Balkans, EPC Issue Paper, November 2011

the political leaders of these countries to undertake the necessary reforms. It seems that politicians in Macedonia do not see any interest in implementing painful reforms as long as Greece is blocking the accession negotiations. Also, the Commission is fully aware of this negative dynamics. The High Level Accession Dialogue aims at finding a solution to this situation.

A similar approach was adopted by the Commission for Slovakia as well, during the '90s, when due to the authoritarian policies of Vladimir Meciar, the EU could not start the accession negotiations with this country. As an alternative, the Commission applied dialogue between Brussels and Bratislava and during that time both parties dealt with different chapters of the acquis. Thus, when the negotiations were officially opened, the Slovak part was able to use all the experience acquired during the previous dialogue.

4. Conclusions

The new approach adopted by the Commission in the framework of the enlargement process has been applied to Albania. Finally, after some important developments in Albania and considering the improvement of the political climate compared to last year and the consensual adoption of some important reforms, the Commission recommended the candidate status for our country.

Since the conduct of free and fair elections is not only a precondition for approval of candidate status and opening of accession negotiations, but most importantly it is judged by the Albanian citizens themselves as an important factor affecting integration, the political actors should take the utmost responsibility to provide all guarantees for a normal and trustworthy electoral process. As the final decision about the status has not been made yet, and it is conditional upon completion of a few key reforms until December, the full effect of a transformative power is yet to come with the start of the efforts to secure the opening of negotiations.

Hence positive fine tuning on the conditionality towards Albania is possible. This conditional recommendation can help the continuation of reforms in Albania.

Bibliography

1. Dr. Mirela Bodgani, Prof. John Loughlin, *Albania and European Union*, I.B.Tauris, 2007;
2. Gabriel Partos, *Reshaping Albania*, Iliria Newspaper, 2007;
3. Arolda Elbasani, *European integration and transformation in the Western Balkans*, Routledge, 2013;
4. P. Siani-Davis *International Intervention in the Balkans: A Critical Evaluation*, Routledge, London, 2003;
5. S. Wolff and A. Peen Rodt, 'The Reactive Conflict Management of the EU in the Western Balkans', March 2007;
6. W. P. Van Meurs, 'The Next Europe: South-Eastern Europe After Thessaloniki,' *South East Europe Review*, 6(3), 2003;
7. Leonard J. Cohen, John R. Lampe, *Embracing democracy in the Western Balkans*, Johns Hopkins University Press, 2011;
8. Florian Trauner, *The Europeanization of the Western Balkans*, Manchester University Press;
9. John O'Brennan, *The EU and the Western Balkans: Stabilization and Europeanization through enlargement*, Routledge Advances in European Politics, 2013
10. Florian Bieber, *EU conditionality in the Western Balkans*, Routledge, 2012
11. Steven Blocmans, *Tough Love: The European Union's relations with Western Balkans*, T.M.C. Asser Press, 2007
12. Andrew Hammond, *The Balkans and the West*, Ashgate, 2004
13. Caterina Ruggeri Laderchi, Sara Lavastano, *Poverty and Exclusion in the Western Balkans*, Springer, 2013
14. Dorian Jano, *The Europeanisation of Western Balkans*, VDM Verlag Dr. Müller, 2010
15. Elvana Tafilaku, *The dynamics of EU approach towards of EU integration of Western Balkans*, LAP LAMBERT Academic Publishing, 2011
16. Smith Karen, *Enlargement and European Order*, Oxford University Press, 2006
17. Gjomema E., *The EU and consolidating democracy in Post communist states*, 2007, www.uea.ac.uk/psi/workingpapers
18. Gazmend Qorraj, *Integrating the Western Balkans into the European Union: Overcoming political and economic constraints*, *Journals of European Perspective of Western Balkans*, Vol.2, No.2, October 2010;
19. Rumiana Jeleva, *The impact of the crises on the EU perspective of the Western Balkans*, Centre for European Studies, 2012
20. Sinisa Kusic, *The Western Balkans on their way to EU*, Peter Lang International Academic Publishers, 2007
21. Cristophe Hillion, *EU enlargement: A legal approach*, Hart Publishing Ltd, 2004

22. Christina J. Schneider, *Conflict, negotiation and European Union enlargement*, Cambridge University Press, 2009
23. Lucia Vesnic-Alujevic, *European Integration of Western Balkans: From reconciliation to European Future*, Centre for European Studies, 2012
24. Lejla Simona Talani, *EU and the Balkans: Policies of integration and disintegration*, Cambridge Scholar Publishing, 2008