

Public administration reforms in Albania, as a precondition for the European Union (EU) Integration.

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Abstract

This paper aims to analyze key aspects of the reforms undertaken by the Albanian Government for the public administration in the last two decades. Our country inherited a completely centralized administration from a prolonged dictatorial system. Since the beginning of the Albanian transition, reforms in the administration would occupy a major place in the Government's agenda. Public administration is one of the key sectors that puts the government in front of the historical and political challenges, which will draw the country closer to the European Union. These reforms are a very important aspect in essence, as they require adequate capabilities for a better service from its member of staff in the public sector. According to Article 107 of the Constitution of the Republic of Albania, it is a "constitutional obligation" to create a public administration environment where its staff is selected through an impartial recruitment process, correctly obliges to the law and who serves the people. The research will be based on primary resources such as: books, government papers, scientific papers of Albanian and foreign authors. Therefore, this study aims to bring an all-inclusive framework for public administration reforms during this period, to point out the efficiency and quality assurance for a reliable public administration seen as "the people's spirit" against the government. The conclusions will derive from the analysis on whether the administration reforms have been successful and how close they have brought the country towards its long-term aspiration of becoming a member of the EU.

Keywords: *Public Administration, European Union, constitution, reforms*

1. INTRODUCTION

My paper will be based on Albania's inspiration for its membership in the European Union, by successfully completing its administrative reforms. In order to achieve positive results, should be included internal impetus and sufficient capacity. Lack of which will deepen the gap between our country and the European family. Since the fall of communism, Albania's membership to the European Union has been the biggest political and social challenge. It represents the essential aim full integration into the European family, a close and long-term cooperation, which means stability, peace and harmony, a bright and safe future. Albanian people have a great aspiration for this, but it is not enough. The country needs a set of important reforms which aims to develop sustainable foundation necessary to make transformations and constitutional, legal, institutional and political changes in all three levels of power. These changes enable better adherence of democratic principles, the rule of law, protection of human and minority rights, economic recovery and development, as well as harmonization of legislation with international standards¹. All of the above require institutional integration, professionalism, serious commitment at all levels of government and working closely with European Union's institutions. The public administration represents one of the key challenges of the country which is directly linked to EU membership. Integration into the EU considers sufficient administrative capacity and ability to adopt and implement EU legislation, a key requirement. The process of public administration reforms is a very important and complex one that requires adequate capacity of civil service and servants of other public sector who will lead the country's efforts to accomplish this initiative².

2. PUBLIC ADMINISTRATION IN THE REPUBLIC OF ALBANIA

Department of Public Administration (DPA) was established by decision of the Council of Ministers no. 443, dated 05.09.1994, as a unit within the structure of the prime minister, which in line with the government's program, will complete the studies, project and legislation drafts for the structure, duties and functioning of public administration. During this period, the Department of Public Administration was appointed responsible for the design of the overall policy development, recruitment and promotion of public administration employees. In cooperation with the Ministry of Labour, Immigration and Social Welfare and the Ministry of Finance, DAP takes another important responsibility: to design the system for public administration salaries and wages and is conceived as a central point for coordinating and implementing technical assistance for public administration. Therefore, DAP was designed as a bridge for all levels of organizational and functional structure of public administration, with a small organizational structure³. The Civil Service reform in Albania, was established with the Law no. 8095, dated 21.03.1996, "For civil service in the Republic of Albania", to end the interference of politics in the DAP, raising a civil service based on meritocracy. At the same time, a division was

¹ (Methasani) Cani. E (2001) THE NECESSARY LEGAL TRANSPLANTS FOR THE INTEGRATION PROCESS AND CONDITIONS OF ADMINISTRATIVE INSTITUTIONS FOR THEIR SUCCESS, Albanian journal for legal studies, volume 1,

<http://ajls.org/doc/2_ECani_Transplantet_Ligjore_Referim_AlbShkenca2010.pdf>

² Department of Public Administration. (2013) "Crosscutting Strategy on Public Administration Reform" 2013-2020. <http://www.pad.gov.al/strategjite%5CSNAP_draft.pdf>

³ The Director of the Department of Public Administration, Advisor of the Director of the Department of Public Administration, Head of Sector, Specialist, Secretary and Driver.

created between political and technical-professional functions, as the system aims a career development within the work place. The adoption of the above mentioned law, was accompanied by Decision no. 657, dated 09.16.1996, "On the rules of ethics in the civil service", whose goal was to perfect the Albanian civil service, and strengthening public confidence and support, as well as setting rules of behavior for persons working in civil service. Public administration marks the most important link of activity and functioning rule of law, occupying a central place in the state mechanism in Albania⁴. It is the fundamental bone of organizations performing administrative functions. According to Article 3 of the Code of Administrative Procedure we will clearly understand the meaning of administrative bodies and in Section 2 of this code defines administrative activities. Public administration bodies under Article 3 of the Code are:

- Central government bodies which perform administrative functions;
- bodies of public entities to the extent they perform administrative functions;
- local governments that perform administrative functions;
- Bodies of the Armed Forces, as well as any other structures, whose employees enjoy the military status as long as they exercise administrative function.

All the above include bodies which perform government will power, directly or indirectly. They provide services which regulate a relationship which affects the interests of citizens. In the composition of these bodies 'human resources represents unique and important aspect who serves the citizens. Aiming ways in the public interest and the importance that it carries, it requires a professional and non-political administration which will enable a stable administration and high efficiency. For a better organization and functioning of the administration it should follow some important principles such as its constitutionality, legality, justice, fairness, decision making, efficiency and reducing bureaucracy. All these principles derive from the Constitution as the fundamental law of the country or other laws of the Administrative Procedure Code⁵. If these principles are not respected, any decision that affects the legitimate interests of any one results into institutional responsibility (but in the cases provided by law they can result in personal responsibilities for public servants)⁶.

3. ADMINISTRATIVE REFORMS UNDER EUROPEAN SPIRIT

In signing the measure of Stabilization and Association Agreement (SAA) between Albania and the EU, new bilateral relationships were established. Albania is committed to fulfill the conditions provided directly or implied in this agreement. Based on Article 111 of its "*Cooperation shall aim at ensuring the development of an efficient and accountable public administration in Albania, notably to support rule of law implementation, the proper functioning of the state institutions for the benefit of the Albanian population as a whole and*

⁴ Considered legally, the state administration is presented in two aspects: 1) the formal, executive and order instruments, hence organizational, and 2) the material aspect, as a public activity, hence a functional material. In the first aspect, the public administration is the whole of that particular legal system that our laws qualify it as public administration bodies and delegate the exercise of power in the form of executive and order active. When we talk about public administration in this regard, we consider administrative apparatus with all its components including all the bodies of central and local government, and bodies which under current legislation do not belong to the state government in the strict sense the word.

⁵ The code in section II General Principles, predicts that public administration bodies should respect and exercise their activities in accordance with the Constitution, ratified international agreements and continuing Administrative Code of Albania. In article 12 of the code defines the principles that public administration should operate in front of citizens, principles which should not be violated.

⁶ Law no. 8510 of 15.7.1999, "On Extra-Contractual liability of State Administration Bodies"

*the smooth development of the relations between the European Union and Albania. Cooperation in this area shall mainly focus on institution building, including the development and implementation of transparent and impartial recruitment procedures, human resources management, career development for the public service, continued training and the promotion of ethics within the public administration, and e-government. Cooperation shall cover both the central and the local administrations”*⁷. Article 111 of the SAA directly determines administration reform as a prerequisite for membership which must be rigorously respected. At the star of the agreement to determine the importance of strengthening democracy and the rule of law, also requires a political, institutional and economic stability⁸. The obligation for the creation of a staff that aims the law enforcement staff derives also from of the Constitution of the Republic of Albania: "Public officials apply the law and serve the people. Employees in public administration set out to competition, except in cases provided by law. Guarantees of tenure and legal treatment of public servants are regulated by law"⁹.

All public administration requires reforms and an approximation of the concept of "European Administrative Space" with the ambition of creating a motivated and effective public administration. During the actual enforcement of civil services, issues exist and they can be identified as follows¹⁰:

- The use of temporary contracts and lack of transparency,
- The politicization of services,
- Poor management in the enforcement of the civil service.

In order to achieve the objectives sought and followed by the EU, our country undertook in 2009 a crosscutting strategy on public administration reform (SNRAP) from 2009 to 2013 in cooperation with SIGMA, with the only aim of enhancing and strengthening the administrative capacity in Albania by consolidating key institutions¹¹. In connection with the implementation of these reforms, the main achievements have been¹²:
-Strengthening of control, transparency and the fight against corruption in public administration, by reforming the judicial system, law no.49/2012 "On the organization and functioning of administrative courts and administrative disputes", which provides for expansion of judicial control over public administration activities;
-Eliminate fragmentation method of construction and operation of institutions, creating a legal framework for the overall organization and functioning of public administration. Law no.90/2012 "On the organization and functioning of public administration", which establishes standards for the creation and operation, as well as typologies of executive institutions, as well as the Council of Ministers Decision no.474, dated 16/06/2011, "On the definition of standards and procedures to be followed during the drafting and adoption of organizational

⁷ European movement in Albania, Stabilisation and Association Agreement between the European Communities and their Member States and the Republic of Albania. < http://em-al.org/spa%20uploads/files/Marveshja%20e%20Stabilizim%20Asociimit_1.pdf >.

⁸ Article 1 of SAA Agreement.

⁹ Article 107 of Albanian Constitution

¹⁰ Official website of the Ministry of Interior, *Priority 6- Public Administration Reform* <<http://moi.gov.al/wp-content/uploads/2011/09/Priority-6-Public-Administration-Reform.pdf>>

¹¹ Decision of the Council of Ministers no. 1017, dated 18.09.2009, "Adopting Cross-Cutting Strategy for Public Administration Reform"

¹² Department of Public Administration. (2013) "Crosscutting Strategy on Public Administration Reform" 2013-2020. pg. 4-5. < http://www.pad.gov.al/strategjite%5CSNAP_draft.pdf >

structures of public administration institutions", which establishes standards related to building structures and staff.

Currently, according to the Council of Ministers the structures' standardization procedure has been completed for all the ministerial departments.

- Improving service delivery to the public through simplifying procedures and making the service more accessible to "customer". Dedicated agencies are created exclusively for providing services and expanding use of information technology to increase the speed of service delivery, data protection and transparency, for example: the creation of NLC, NRC and the General Inspectorate. A major work has been done to de-nationalise some services by delegating them to private sector (eg private bailiff service). However, they are closely monitored

- Strengthening the enforcement of legislation through regulating the procedure through resettlement of civil servants after changing the organizational structure of the institution (DCM 474, dated 16.6.2011). The number of temporary contracted employment in the civil service is kept under control through disciplined procedure in making conditional contracts and prior approvals.

- Creating a stronger career in public administration and unification of procedures of human resources management, through the development of policies and then creating the draft for the "civil servant".

- The conversion of the Database System for the Human Resource Management Information System(HRMIS) Microsoft platform, improve the functionality of this system, the preparation of the necessary legal framework to make the operating system and system testing at five pilot institutions¹³. The extension of this system in all ministries is expected to be completed within this year.

- The reforms of the salary system in public administration in order to consolidate the motivation in employment. During the period 2007 - 2012, wages of all budgetary employees have increased on average by 37.2%. In pre-university education system up by 46.9%. In the health system the increase has been 51% and for the State Police department by 29.3%. Following its achievement, the Albanian Government in 2013 undertook some reforms for a 7-year period, from 2013 to 2020. Its focus will be: (i) civil service (II) pay reform,(III) training in the public sector. The focus of this reform is to strengthen the overall capacity, looking at the same time for a good management and a new mentality of "work" concept in all the above institutions. The reform includes two working plans. The first one covers the period from 2013 – 2015. The objectives will focus primarily on the implementation of civil service legislation, institutional structural reforms, the completion of the human resource databases, as well as aligning the civil service system with the required European standards. The second phase from 2016-2020 will focus primarily on the process of reforming the administration to achieve the highest standards for European Integration. Its main objective will be to review the reforms undertaken during the first phase, their assessment and intervention in areas where progress has not been sufficient, SNRAP focuses on improving the overall administrative capacity, including reform of the institutional structures in the public sector, improvement of performance, administrative structures and service delivery, information system of human resources management.

The civil service is the most important service offered by a large number of people to a greater number of people. Based on the current law on the status of civil servants, we can see

¹³ These institutions were: Ministry of Finance. Tirana's Prefecture, National Agency of Society Information, Competition Authority, Ministry of Interior affairs.

that the same rules only apply to a part of the public administration officers, who by law are considered as civil officers. All we have discussed above opposes Article 107 of the Constitution of the Republic of Albania, because the rules are not applied equally to all public administration. Based on the necessary reforms that should be undertaken by the government in for the civil service it is necessary to draft appropriate laws, the approval of which remains a priority¹⁴. Of particular importance is the monitoring and the implementation of these reforms, by increasing the transparency and efficiency of its citizens.

The performance management is another very important aspect of institutional activity, which aims to measure the performance and capabilities of its officers. It will play a key role in determining the procedures, creating parallel structures on Cross-Cutting Strategy for Public Administration Reform 2013-2020 "Evaluation criteria and performance experience in promotion will be reviewed by giving an advantage to the internal candidate when they compete with an external candidate (in other conditions the same). Increasing work experience is in its self a solution and should not be undermined. "

Administrative Structures and Service Delivery, lies in the main goal of improving existing structures and building new structures to thereby increasing the accountability of public officials by delegating decision making based on the underlined position and its roles/responsibilities.

The use of Information System in Human Resources Management aim to improve the decision making process for human resources policies and salaries in public administration.

4. ETHIC WITHIN THE PUBLIC ADMINISTRATION

Ethics in public administration is one the most important indicator of how a group of people should behave and are expected to reflect and transmits ethical values of the society in every aspect of human activity, including in this case work in the private and public sector. As stated above, I would like to emphasize that ethical values in the public sector should be at a higher level. Firstly, this sector is created and functions on the basis of certain principles and rules. It is designed to serve to a large number of people. Increasingly, in the last year it is requested that the administration sector is adaptable and oriented towards European' values. Our legislation regulates the ethics in the public administration through law 9131. Dt.8.9.2003 "On the Rules of Ethics in Public Administration" by presenting a set of rules on employee behaviour of this administration. This law set certain standards that help increase institutional performance by strengthening the trust among citizens. The above-mentioned law also requires compliance with important principles, such as¹⁵: performance of duties according to law, the principle of legality, as a basic principle established in the Constitution¹⁶. It is required that they should not be politically influenced, to be honest, impartial, efficient, etc. The ethics public administration carries legal significance except moral significance. It constitutes in itself a legal category, as there are a series of laws and regulations for specifying standards of conduct. Institutions must work hard to raise

¹⁴ The priorities are: Setting uniform standards for civil servants and other employees of the executive sphere, establishing rules of labour relations, accession in public administration, career development and professional qualification; Improvement and implementation of wage policy and all other award schemes for all employees of the public administration; Continuous monitoring of the implementation process in public administration reform and publication of data issued in order to increase accountability in its implementation at all levels of decision-making; Making changes in legislation relevant to the civil service, to enable reduction of the phenomenon of subjectivity in the process of competition and selection of professionally skilled candidates; Provision for all public employees of the executive sphere the same rights and obligations.

¹⁵ Article 3 of Law no. 9131. Dt.8.9.2003 " On the Rules of Ethics in Public Administration "

¹⁶ Article 4 of Albanian Constitution.

standards. The obligation to respect this law comes not only from the fact that it is law, but we must not forget that this is a law with strong moral base. Its implementation will depend to a high degree on the personal development of the public sector employees¹⁷.

5. CONCLUSIONS AND RECOMMENDATIONS

As with all societies in transition, public administration is one of the key and leading factors for its transformation and integration into the European Union. Administrative reforms represent one of the main priorities. (Priority 6) inter-sectorial reforms undertaken by the Albanian Government e makes it possible to achieve high results and significant transformations in the administration. The signing of SAA is one of the most important moments, facing the government and society with significant challenges to be addressed not only in a national level but also in an international aspect.

The responsibility for the public sector' reform should not fall solely on the government. This reform is the responsibility of civil society, which should ensure that reform needs are happening.

Without extending much on theoretical context, I would like to give some recommendations.

Firstly, our society as a society in transition still today associated with a political immaturity somehow makes it impossible to the implementation of reforms to succeed. This is mainly is because they often employ individuals with little or no qualifications required for the position. Therefore, the reforms are not a guarantee.

Secondly, Albanian citizen enjoys the right to vote once every four years. This vote can be translated or addressed as a concern for the needs of citizens. In these cases, civil society should be made aware of the existence of programs such as accountability and the rule of law in employment, enabling a path of reforms.

And finally, the political spectrum neglects to some extent the implementation and success of these reforms. Therefore, the civil society must be committed to its involvement in the implementation of reforms to achieve decentralization from the bottom up.

¹⁷ (Methasani) Cani. E. "The ethics in Public Administration: Analysis of Domestic Law for Ethics", <http://www.academia.edu/1230853/Etika_ne_Administraten_Publike> pg.4.

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