



**Organisation for Security and Co-operation in Europe
Presence in Albania**

**Report to the Permanent Council
Ambassador Osmo Lipponen, Head of Presence
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Introduction

Since the last report of the Presence to the Permanent Council on 6 February, the OSCE Presence in Albania has continued the process of redimensioning its work by completing its new staffing structure and focusing more closely on fewer key issues. Through this process, the Presence has repositioned itself at the centre of the debate, in the role of moderator and facilitator, on important political issues facing the country such as electoral reform and property restitution. Far from competing with the growing role of the European Commission, which is leading the Stabilisation and Association Process, the Presence has achieved a good form of complementarity with the work of the Commission and other international actors in the country involved in the reform process, given the Presence's role as facilitator of political processes and the depth of its expertise.

The overall political climate in Albania has continued to be influenced by the spirit of consensus, although inter-party relations have become much more competitive due to the start of the campaigns for the forthcoming municipal elections in October. With the prospect of local government elections looming, much attention has been focused on the Bipartisan Committee for the Implementation of the ODIHR Recommendations and the completion of the electoral reform process in which the Presence has played a central role. The other major issue of land property reform has taken on a more politicised character also as a result of election pressures.

Given the current pre-occupation of Albanian politics with matters directly and indirectly related to the forthcoming elections, this report will concentrate mainly on these issues, how changes are currently taking place in the political sphere and how the Presence's work has had an impact and is playing a role in facilitating dialogue. Concern has been expressed here as regards the recent debate on freedom of the media, a development with potentially far-reaching consequences that appears linked to the electoral campaign now that parties are given equal chances through an amended Electoral Code. Albania's regional policy and accomplishments in signing the Adriatic Charter are also noted as they illustrate how success can be achieved through prioritisation and focus.

General Context

The February report of the Presence to the Permanent Council indicated that, as a result of the building pressures of the pre-election campaign, the consensual pact between Mr Nano and Dr Berisha had broken down. It is evident, however, that the six-month "period of consensus" acted as a necessary interval and, together with the positive influence of the Bipartisan Committee, has brought about a nascent cultural change in the way that politics are increasingly beginning to be conducted. The term "consensus" itself has become a fixed part

of the politicians' vocabulary and channels of communication have been opened at a variety of levels across party structures. With the Assembly being the main arena where the opposition has a voice in the policymaking process, political and legislative activity has taken on a special significance there. As a result, the Assembly has quickly become a major focus of attention, regularly receiving wide media coverage. The Presence's support project for the Assembly has been able to further the MPs' endeavours to enhance their roles and responsibilities, generating positive results exceeding the initial expectations of the project.

The return to "conventional" Albanian politics, as exemplified by the inflammatory rhetoric used during the February–April debates on the establishment of a Committee of Inquiry on the activities of the Municipality of Tirana and the Ministry of Culture—essentially for the purposes of the opposition to pursue their allegations against the current mayor of Tirana Edi Rama, is a consequence of the approaching elections and the need for politicians to score points amongst their traditional electorate. Rather than a sign of political instability, these performances reflect a growing dynamism in the democratic development of the country. In this respect, the fiery diatribes of Dr Berisha and obstructionist tactics employed by other opposition figures in the Assembly represent similar, if somewhat more rudimentary, means of exerting political pressure to those seen in more developed Western democracies.

The opposition's assertions to use all available means afforded them by the rules of procedure of the Assembly to block the majority's interests illustrates the opposition's engagement in the political process rather than its rejection, previously expressed through boycott. Moreover, their further assertions that their manoeuvrings on the committee of inquiry issue were undertaken in defence of the Constitution are also significant, as they had originally boycotted the Constitutional referendum in 1998 and refused to recognise its authority once approved. Therefore, the opposition's actions during the past several months would seem to indicate a change in attitude, in particular of the Democratic Party, towards full engagement in the political process if only to frustrate the majority's ability to decide on issues unilaterally.

Although rhetoric and invective are still used to satisfy grassroots party supporters, the evidence of a maturation of the main political leaders can be largely ascribed to the effects of the constructive and consensual work of the Bipartisan Committee and to the Stabilisation and Association Process. The SA process has proven to be an influential force demanding change at the technical and legislative level, but is also beginning to foster a modernisation of Albanian political attitudes. The support given by the United States to the SA process and related goals in Albania has also had a noteworthy impact.

The Assembly's resolution on the European Commission's Second Annual Report on the Stabilisation and Association Process in Albania¹ illustrates the point. The lengthy two-day debate on this report was provoked by an opposition motion for the Prime Minister to explain the basis for the largely critical tone of the report. So as to not lose the main conclusions of the debate, the Foreign Affairs Committee drafted a resolution in which the Assembly called upon the government to undertake a number of important actions in response to the Commission's report. These included making a National Strategy for Integration into the EU; prioritising the fight against organised crime and trafficking; and submitting an action plan for accelerating the reform of strategic enterprises. The Assembly also declared its support

¹ European Commission, *Albania Stabilisation and Association Report 2003*, SEC (2003) 339, (Brussels, 26 March 2003).

for the President's efforts concerning judicial reform and appealed to political parties to strengthen the spirit of dialogue and guarantee political stability.

The elements of the resolution are similar to previous declarations of the Friends of Albania Group, an indication that state institutions understand and are beginning to fulfil their constitutional roles in balancing the government's power by acting as mechanisms of oversight. How the Assembly ensures government compliance with the resolution will be an important sign of the continued combined political will to move the country forward in the SA process.

Despite the positive trends visible in the underlying political structures and institutional relationships, implementation of laws and a continually fragmented reform process still hinders Albania's progress. As noted in the European Commission's SAP report, "the relative political stability and renewed inter-party dialogue...has not yet translated into significant achievements in terms of reforms." The critical tone of this report appears to have galvanised the government and the Assembly to make additional efforts. Nevertheless, the main difficulty in accomplishing a bold programme of required reforms aimed at improving governance and combating corruption comes from internal resistance arising out of existing economic interests that prefer to continue receiving private benefits at the expense of generalised social welfare.²

GDP growth in 2002 slowed to 4.7%³ after averaging around 7-8% for several years. This can be attributed to a number of factors related to last year's political instability, the continued energy crisis, last autumn's floods, a lack of liquidity in the banking system to finance the state deficit and postponement of key privatisations of Albtelkom and the National Savings Bank, which is also an indicator of decreased foreign investment in the country. Following a rise in inflation in 5.4% in 2002,⁴ the Governor of the Bank of Albania has recently warned of a renewed increase in inflation as a result of unplanned public expenditure due to the electoral campaign.

The lower rate of growth caused an unexpected mid-term budget revision last year and led to a decrease in budget outlays for 2003. Increasing state revenue has therefore been a priority, as customs and tax collection reached only 90% of their targets.⁵ Although tax collection has steadily increased over the years, the IMF has noted that the system is still characterised by "pervasive smuggling, underreporting on invoices, falsification of balance sheets and a general weakness in (tax) law enforcement".⁶ Allegations of favouritism shown to certain well-connected companies and targeting of foreign firms has done little to increase investors' confidence in the country. Recent attacks on some prominent businessmen has generated nervous tensions within the business community, who feel threatened amidst weakening economic indicators and increasing competition.

A confrontational undercurrent is still strong and there continue to be volatile tendencies in Albanian society. The recent demonstrations by squatters in the suburbs of Tirana were close to escalating beyond the control of the police forces and spread to new locations, revealing

²International Monetary Fund, *Albania: Selected Issues and Statistical Appendix*, Country Report No. 03/64 (Washington, DC, March 2003), 25-26.

³Bank of Albania, *Annual Report 2002* (Tirana, 31 March 2003).

⁴Ibid., v.

⁵Ibid., viii.

⁶IMF Report, 30.

that the old way of taking to the streets to demand solutions still exists. Property and other compensation issues frustrate many and the everyday social and economic realities are grim for the majority.

The recent emergence of the grass-roots MJAFT! (ENOUGH!) campaign intending to raise public awareness and stimulate civic engagement on a number of quality-of-life and governance issues represents an attempt at creating a voice critical of the *status quo*. The rapid incorporation of MJAFT! into the popular culture within the past three months is a sign that their themes have struck a chord with a segment of society dissatisfied with the unresponsive and insular nature of politics in the country. As the positive political developments noted by the Presence above do not necessarily translate into results tangible to the population at large, the way in which the future mayoral candidates can respond to citizens' concerns will be important in determining not only how far parties are willing to attract disaffected middle-ground voters, but also the level of active citizen participation in the governing process.

Electoral Reform

With electoral reform remaining the most important political issue on the national agenda during the past several months, the Presence continued to facilitate at the highest level the final stages of the work of the Bipartisan Committee for the Implementation of the ODIHR Recommendations. A deadline of 31 March had been established to complete the negotiations on amendments to the Electoral Code in order to have them approved in time for the October municipal elections. After having surmounted the large divide separating the majority and the opposition on a broad range of issues during the first two mandates of the committee, the third and final mandate concentrated on drafting the amendments. This required intense work and discussions at the Presence from the core negotiation group over the weekend and after midnight.

The sharp disagreements noted in the Presence's previous report over amendments on the non-interference of the state and government in the electoral process were resolved after the 6 February visit of the co-chairs to the Permanent Council. Following their discussions with delegations, the co-chairs returned to Albania with a renewed determination to complete the committee's task by avoiding any future deadlocks. Significantly, both co-chairs appropriated the declarations made by the EU Presidency and United States and publicly repeated Permanent Council calls for full cross-party commitment to compromise.

By the end of March, all recommendations contained in the ODIHR *Final Report on the 2001 Elections* relative to the local government elections had been addressed by the Bipartisan Committee. A total of 16 packets of amendments and recommendations for action by other state bodies such as the Central Elections Commission (CEC) were approved on issues related to the role of police in the electoral process, role of observers, registration of candidates, media coverage, layout of ballot papers and ballot boxes. A critically important text on the complaints and appeals process required a further extension of the committee by one week.

After the expiry of the committee's mandate, the Presence continued to facilitate talks between the Socialist and Democratic parties to reach agreement on the composition and selection procedures of the CEC. Although this issue lay outside the recommendations of ODIHR, it clearly concerned the parties, which considered a satisfactory solution a litmus test of the success or failure of the process. When a final agreement could not initially be

found on the procedure for appointing the seventh member of the body, further discussions held under the auspices of the President of the Republic brought agreement closer. Final negotiations, however, took place again through the Presence. To ensure that the Assembly could approve the package of Bipartisan Committee amendments with cross-party consensus, two additional protocol agreements were signed by SP and DP representatives and witnessed by the Head of Presence on 12 and 17 May to resolve remaining differences on additional issues.

With the signing of these protocols, electoral reform can therefore be considered successfully completed after one year of negotiations. The Presence played a major role in supporting and facilitating the whole process and in promoting win-win and consensual approaches to workable solutions. The achievements reached by the Bipartisan Committee are also due in large part to the personal commitment of the two co-chairmen, however, the process would have long ago failed were it not for the clear desire of the two main political parties to reach a satisfactory conclusion. This is significant given that the ODIHR report had identified that insufficient political will on the part of the parties had prevented the 2001 elections from fully meeting international standards.

In order to ensure success, the majority made a number of bold offers, such as allowing for 5:2 voting on a number of important decisions and a politically “balanced” CEC, exhibiting a great amount of flexibility. Just as importantly, although the opposition repeatedly demanded concessions in their favour, they maintained their openness for dialogue in marked contrast to the drafting process of the Electoral Code in 2000. From this point of view, the Bipartisan Committee process proved to be a powerful instrument for prompting a degree of change in inter-party relations. All decisions were taken with wide cross-party support, as well as with the required SP-DP consensus. Furthermore, the business-like climate of the Bipartisan Committee remained unaffected by the increased rhetoric and tensions surrounding the debates on the establishment of the committee of inquiry on Edi Rama and other contentious issues.

With the consensually agreed upon rules governing the electoral process leaving no party able to exert undue influence, provided that the required political will is sustained, the local elections will be an important indicator of Albania’s further democratic development. The extent to which parties compete through presenting alternative policies and platforms to win votes freely rather than by relying on previous methods of achieving results through exploiting institutional mechanisms will be a means of assessing how far this development has advanced.

Before this prospect can be entertained, however, the final amendments to the Electoral Code still require approval by the Assembly and the mandates of three members of the CEC that have been allowed to expire at the end of April, in violation of the law, require replacement to ensure proper preparation for this autumn’s elections.

It has been agreed in the final protocol that debate on the long-term issues of the electoral system, electoral zone boundaries and campaign financing will begin once the local elections have been completed, as these issues do not impact upon the forthcoming elections. The protocol also recognises the role of the Presence and the ODIHR in providing assistance and expertise. The Presence foresees that debate on these matters will continue into 2004, but will need to be concluded well before the next parliamentary elections in spring 2005.

Property Legislation Reform

The Presence signalled the importance and urgency of the issue of resolving the long-standing property restitution and compensation question, an issue that the Presence has been actively encouraging since November 2001, in its previous Report to the Permanent Council. Apart from the constitutional requirement—long since expired—of adopting a new property law, an added impetus has been provided by the European Commission in the course of its negotiations on the Stabilisation and Association Agreement. Given the highly divisive and emotional nature of property rights, the Presence has continued to meet over the past several months with political and parliamentary representatives, who have invited the Presence to initiate a political process to achieve a satisfactory solution to the problem. As a first step, the Presence contributed extensive commentaries on the two bills presented to the Assembly from both the government and opposition MPs, highlighting a number of issues that required further contemplation in the law.

The Presence also provided a number of suggestions for organising the work of the Assembly, although little progress has been made to date. Whilst the Presence has suggested that the bill submitted by the government be used as the point of departure and has noted that case law from the European Court of Human Rights gives considerable latitude to the government to arrive at a solution within its available means, i. e., full restitution and/or compensation is not an absolute right, it also expressed concern over the government's apparent willingness to push for a swift passage of its bill, threatening to drop an earlier expressed preference for achieving a consensually approved law. The Presence has made efforts, supported by the European Commission and the US Embassy in Tirana, to convince the government not to take this approach.

Although initially giving tacit support to the government's bill, the pressures of the electoral campaign and its desire to foster a cohesive coalition of opposition forces have led the Democratic Party to side with the smaller parties of the opposition that have traditionally been more outspoken on the issue. Many of these parties favour abrogating the 1991 law that established the first land property reform. The recent protests of the residents living in the suburbs of Tirana and Durrës, who chiefly migrated to the urban areas from the rural north, have created an additional dimension to an already complex problem through their urgent demands for the legalisation of their property built on lands they have illegally occupied. Both sides of the debate are eager to use these protests for their own potential electoral gain, which could have the effect of limiting the means of achieving an appropriate long-term legal solution if promises are made on impulse without regard to the general principles requiring further consideration.

The Presence has developed a workplan with a proposed deadline of the end of July to facilitate the debate in the parliamentary committees. The European Commission and US Embassy have expressed their support for the Presence's "roadmap". A detailed analysis of the amount and type of land still available for restitution and a calculation of the potential costs of compensation are required before a realistic law can be approved. As the government-supplied data on these matters has been determined by the Assembly to be incomplete, further research to be supported by the Presence is necessary.

Freedom of the Media

Questions regarding the freedom of media in Albania have recently emerged as an important subject of discussion by journalists, media owners and politicians. The approaching

municipal elections have given an added significance to this debate and may indeed be a principle cause of media issues now coming into focus. In particular, attention has been given to the ways in which the business interests of the media intersect with the interests of politicians, some of whom are media owners themselves, and the degree to which influence is being exerted on the media in order to gain political advantage.

The underdeveloped radio and television market does not guarantee a sound financial basis for the survival of an exaggerated number of operators (approximately 60 TV stations for a population of 3 million), whose main source of income is advertising revenue.⁷ With most operators having to rely therefore on income from other business endeavours to support their media activities, financial constraints force them to seek assistance from lawmakers to the detriment of their impartiality. The interests of politicians for access to the media consequently infringes upon the authority of the National Council of Radio and Television (NCRT), the state regulatory body for broadcasting, by encouraging politically protected operators to ignore the standards set by law. With around 60% of media advertising paid for by budget-financed or state institutions,⁸ government-sponsored advertising has become the most efficient means to exert pressure on the media. This situation has been highlighted in reports issued by the Presence last autumn and more recently by the US State Department⁹ and the International Crisis Group,¹⁰ which also note that private businesses are increasingly fearful of advertising with anti-government media groups lest they risk financial inspections. As a result, a majority of the media has become openly pro-government in their reporting.

The issue of media freedom was given a significant attention in February, when journalists broadcasting the Assembly's plenary debate on the opposition's motion to create the committee of inquiry on the mayor of Tirana were locked outside the building during the final vote, which was defeated by the majority. Prominent journalists denounced the act as censorship and contrary to the Assembly's rules of procedure. The event triggered a public-wide discussion on the extent to which the media was being influenced by the government. A growing number of libel cases launched in the courts since then by politicians against journalists have only added to these concerns.

The Presence is actively exploring the ways and means to assure the active and proper role of the media during the approaching electoral campaign. The Presence's principle involvement in the field of media development over the past year has been to help strengthen the NCRT, which remains a weak entity. As the NCRT continues to allow broadcasters to operate without full compliance with the law, the Presence is urging the body to implement the law strictly and fight illegal broadcasting. To this end, the Presence is currently supporting the NCRT's plan to rationalise usage of the broadcast spectrum through the frequency plan and thereby enforce licensing procedures. In addition, the Presence is engaged on issues such as copyright and print media and will be providing legislative assistance to the Parliamentary Committee on the Media on these matters.

⁷ National Council of Radio and Television, *Annual Report 2002*, delivered to the Assembly on 23 April 2003.

⁸ Diana Kalaja, "From Albania: Media Picture of Albania - Little Berlusconi Threaten Real Albania Media Freedom," *Media Online Special Reports* (21 April 2003).

⁹ United States Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices 2002* (Washington, DC: 31 March 2003).

¹⁰ International Crisis Group, "Albania: State of the Nation 2003," *Balkans Report*, No. 140 (Tirana/Brussels: 11 March 2003).

Regional policy

The Albanian government has continued to pursue an activist policy of regional co-operation aimed at completing a series of region-wide bilateral free trade agreements, connecting Albania to railway networks in Montenegro and the former Yugoslav Republic of Macedonia and undertaking regional and bilateral initiatives on boosting efforts to combat cross-border organised crime. Frequent high-level meetings continue to take place with leaders from Serbia and Montenegro. Most notably, Albania's drive to secure future NATO membership, together with Croatia and the former Yugoslav Republic of Macedonia, led to the signing of the Adriatic Charter between the three nations and the United States in Tirana on 2 May on the occasion of the visit of US Secretary of State Colin Powell. This major accomplishment figures alongside the opening of negotiations with the EU as part of Albania's twin-pillared Euro-Atlantic integration strategy. These successes, accompanied by the Albanian government's strong denunciations of separatist agendas in the region meant to suppress radical tendencies outside the country, act as both internal and external stabilising factors.

As a support for Albania's regional perspective and efforts to combat trans-border crime, the Presence continues to facilitate Joint Cross-Border meetings (JCBM) between the Albanian border authorities and UNMIK. The success of efforts have led to arrests of a number of wanted criminals on both sides of the border and have even spawned an independent local initiative between Albanian commune mayors and their counterparts on the Kosovo/Serbia and Montenegro side, who mostly come from minority ethnic groups living in the Dragash/Dragas area. The final version of the "Way Forward" document of the recent Ohrid Regional Conference on Border Security and Management gives the Presence a role in assisting the Albanian government in implementing its Strategic Plan for Border Management, helping to formulate a joint initiative within the terms of the EU Integrated border Management System and expand the JCBM model to other segments of the Albanian border.

Conclusion

Despite the underlying improvements in the political climate and progress achieved in electoral reform, the current focus on issues related to the forthcoming elections has diverted attention from other areas apart from some important successes achieved in regional policy. Those successes show how concrete progress towards a long-term goal can be achieved through government prioritisation and cross-party support. Progress on issues a range of other reform issues linked to the Stabilisation and Association process has been inadequate, as stressed by the European Commission in its report. These mostly lie in the field of justice and home affairs and have been focused on by the Presence in previous reports. The government and the Assembly appear to have taken recent steps to overcome these deficiencies.

Despite numerous good programmes, national strategies and enhanced legislation, implementation is still extremely slow, and the efforts to change the everyday economic and social realities are not yet producing enough progress. Keeping in mind the high population growth and inflation rate, there lies danger for feeding new social and political unrest.

The consensual process still needs to be sustained and facilitated because the major political issues currently facing the country have raised strong feelings between the government and opposition. In this context, the Presence has had a constructive role in reforming the electoral code and beginning the process on property legislation reform. In discussions for its 2004 activities, the Presence is planning to further its expertise and facilitation ensure continuation

of the talks on the issues related to the electoral system and zone boundaries and well as on the implementation of an eventual property law. On the question of new territorial divisions, where the Presence has already made a preliminary commitment, it is preparing to help moderate an extremely demanding process, which must to take place as far as possible in a consensual way.