
ALBANIA FILLING THE OBLIGATIONS OF MEMBERSHIP IN EUROPEAN UNION

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ABSTRACT: *The Integration into the European Structures contains inside an old dream for Albanians. The consolidation of democracy, the rule of law, everything is concluded into 12 Recommendations which should represent the process of democracy and the transformations of the Institutions towards the standards of European Union. Integrity can not be seen as a goal itself, but as a natural process towards of which our State and Society should go. In this paper the Integration of Albania into the European Union will be seen in a pragmatics way, by appreciating on concrete terms how possible and willingly is the implementation process and the applications of these duties for becoming a member of European Union. For this reason the contribution and appreciation will be made according to Copenhagen Criteria(1993),Madrid(1995),Treaty of European Union(Article 6,49),the Progress-Reports of the Commission about Albania and some other legal domestic documents and *acquis communautaire* . In fact European Union has gave to Albania the candidate status, this mean that Albania have the potential power to be integrated into EU , the matter now is not “if” but “when” is this going to happen?*

KEYWORDS: Membership’s obligating, political criteria, Copenhagen criteria,

INTRODUCTION

The Integration case of Albania into European Union(EU) is perhaps one of the most debated cases into the political and public life of Albania. Even that, it has passed twenty years ¹from the first contractual relation with EU, still today the Integration case remains unsure .Albania should fulfill the critters for becoming a member of EU. Everything has a relation or link with the Copengagen Criteria, including political criteria, economic criteria and *acquis communitaire*. Integrations remain unsure for today while the future of Albania into EU is confirmed by Feira Council when in 2000 stated that all the countries of Stabilization Association are potential candidates of EU. Also in Thessaloniki Summit is confirmed the European Perspective of Western Balkan Countries.²Now, the Integration is not a matter of “if” but a matter of “when”. This paper is build up through this debate for helping Albania becoming a member of EU, while Albanians have

¹ 1992-Trade and Co-operation between the EU and Albania.Albania becomes eligible for funding under the EU PHARE program.

² The European Council, recalling its conclusions in Copenhagen (December 2002) and Brussels (March 2003), reiterated its determination to fully and effectively support the European perspective of the Western Balkan countries, which will become an integral part of the EU, once they meet the established criteria.

always been pro-European and pro-change,³ the integration is the priority of our own political agenda, and the International Institutions support Albania's Integration. Albania applied for becoming a member of EU on 28 April 2009. In fact Albania's application is refused twice, because according to the European Commission(EC) the progress is insufficient.

In view of the progress made by Albania, the Commission recommended in October 2013 that Albania be granted candidate status, on the understanding that it continues to take action in the fight against organised crime and corruption. In December, the Council stated that it would decide on whether to grant candidate status in June 2014, in the light of a report by the Commission focusing on Albania's implementation of its judicial reform strategy and on the fight against organised crime and corruption⁴. The question now is-**Will Albania full field the twelve priorities and became a member of EU with all rights and duties?**.

SECTION 1: POLITICAL CRITERIA

*Albanian democratization brings to mind the legend of Sisyphus: It is marked by periods of progress followed by serious setbacks that bring it repeatedly to the starting point.*⁵

Since of its beginnings, in the years 50th the EU put as its establishments the creation of a peaceful community that guarantees development and stability for the continent. The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.⁶ These values, which are set out in Article I-2, are common to the Member States. Moreover, the societies of the Member States are characterized by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men. These values play an important role, especially in two specific cases. Firstly, under the procedure for accession set out in Article I-58, any European State wishing to become a member of the Union must respect these values in order to be considered eligible for admission. Secondly, failure by a Member State to respect these values may lead to the suspension of that Member State's rights deriving from membership of the Union (Article I-59). Article 49 of the Treaty on European Union states that "Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account. The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements." In Copenhagen, In June 1993, the European Council concluded

³ Ramadan Cipuri, Albi Kocibelli, Albanian Attitudes toward European Integration, European Studies Journal

⁴ European Commission: Analytical Report Albania 2014 SEC(2014).

⁵ Freedom House, Nations in Transit 2004: Albania (Washington D.C.: Freedom House, 2004).

⁶ Article 2. Treaty on European Union.

that: "Accession will take place as soon as a country is able to assume the obligations of membership⁷ by satisfying the economic and political conditions required." Because of their legal value these provisions are fundamental for new memberships.

In this First Part will be treated the **Political Criteria**.⁸ The Copenhagen Council did not give a practical definition for understanding political Criteria, even more in other later documents the terms were not practical too. In some cases it was neutral and in some other Copenhagen Council treated democracy and the rule of law together, although their principles differ from one another.⁹ Schimmelfennig says that these political criteria are democratic conditions or political conditions that EU put as tasks to the Candidate's countries. The basic think of political conditions and democratic condition is the main strategy which has as a goal the fulfilling of Copenhagen Criteria¹⁰. This conditions may serve as a warning or as an encouragement.¹¹ Of course, becoming a member of EU notes the fulfilling of three criterions: political, economical and getting closer to the EU legislation but it should be said that political criteria consist the main criteria in the report, because for the European Council to decide to open negotiations, the political criterion must be satisfied. The Copenhagen Criteria have a double function: They are material requirements of Article 49. The first paragraph¹² has this information but on the other hand it has some standards, procedures that appreciate the process of becoming a member.¹³ The Rule of Law, the Democracy and the Respects for Human Rights consists the basements in which the EU is built up. These criteria are even more earlier than Copenhagen Council.¹⁴ The Integration Process should be understood as the process of transforming the institutions towards the European Standards. The Copenhagen Criteria mean and guarantee the Reports of Albania with EU. These relations have controversial developments. EU through Analytical Reports or Progress-Reports of the

Commission has appreciated officially the matching of Albanian developments with the standards of EU. The Commission has said that taking the Candidate Status should be made through the process of deserving, but a lot of scholars, and academics argue that membership is a political process because the enlargement of EU needs the approval of all the countries which are actually members of EU¹⁵. The conflicts between a country which is candidate can influence the

⁷ **Membership requires:** The candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. In the case of the Western Balkans the conditions defined by the Stabilisation and Association Process are also a fundamental element of EU

⁸ Stability of Insitutions, Democracy, Rule of Law, Human Rights, Respect for and Protection of Minorities

⁹ Tanja Markltler: "The power of Copenhagen Criteria" CYELP 2006 page 347-348

¹⁰ Sokol Lleshi: "Shqipëria ose Evropianizimi I veshitire" page 4

¹¹ Lavdosh Ahmetaj, Ilir Berhani: Requirments for getting closer to European Union and the potential Membership

¹² Article 49 of the Treaty on European Union regulates the admission or membership procedures in the European Union, but also provides the material conditions of a membership. Thus, in paragraph 1 in the first sentence states that any European state may apply to join which respects the principles set out in Article 6 paragraph 1 of the Treaty on European Union.

¹³ Juli Zeh, Right on membership? (Original: Recht auf Beitritt?), Baden-Baden, 2002, p.25.

¹⁴ European Council meeting in Copenhagen was held on 21 and 22 June 1993.

¹⁵ There are twenty-seven countries member of EU.

Austria(1995), Belgium(1952) Bulgaria(2007), Cyprus(2004), Czech

Republic(2004), Denmark(1973), Estonia(2004), Finland(1995), France(1952), Germany(1952), Greece

(1981), Hungary(2004), Ireland (1973), Italy (1952), Latvia(2004), Lithuania (2004), Luxembourg (1952), Malta(2004), Netherlands

Perspective and long lasting.¹⁶The political process can serve to speculate over the process of integration but it should be clear that first of all the membership is a process of fulfilling the requirements of membership. So, there should be analyzed the Progress –Reports of Commission about Albania in order to build clear projects about the future of Albania into EU.

The Analytical Report of 2014 due to *parliamentary democracy*¹⁷ appreciates on whole the Constitution of Albania. This Constitution is matched with the Rule of Law. The independence of Constitutional Court has improved in 2005¹⁸, especially the new government took office. The Report says that progress has been made on the functioning of parliament. Transparency and inclusiveness in the legislative process have improved. Further action is needed to ensure a more institutionalized consultation process. Government and opposition should take steps to restore political dialogue in parliament. The Report of 2014, appreciates that European integration is the first priority for the government's programme, which pays particular attention to related challenges in the rule of law, public administration and fundamental rights areas. In July, the government adopted the 2014-20 National Plan for European Integration. But the problem is that still Albania does not have a tradition of Independence Judiciary. Parliament continued to monitor the work of independent institutions and discussed their. The new government undertook a number of reforms to bring the country closer to meeting the key priorities for progress towards the EU and deliver further tangible results, notably in the area of rule of law. But further action is needed to strengthen the administrative capacity of local government units, allowing them to exercise their authority and implement legislation in a financially sustainable way, enforcing transparency, effectiveness and inclusiveness. It is needed historical results about application of law. Corruption should be identified in Albanian Courts. In order to Respect the Human Rights owns some laws that are into high standards, just like the ones of EU. In many fields the application is not sufficient. At the same level of appreciation during the period of monitoring, the Last Progress-Report till now, the one of 08 October 2014 appreciated the progress that it has made into the fulfilling of the Political Criteria of Copenhagen. Transparency and inclusiveness in the legislative process have improved. In December, an action plan was adopted to address the recommendations in the European Commission's 2013 progress report relating to parliament ***Democracy*** is taking part of the population into government and it can not be understood without free and fair elections. Since 1992, none of the elections held in Albania has been considered free and fair by the OSCE, nor have they been compliant with internationally recognised standards. Albania's 2008 score in the

(1952),Poland (2004),Portugal (1986),Romania(2007),Slovakia(2004),Slovenia(2004),Spain(1986),Sweden(1995),United Kingdom (1973)

16 Kristin Archick(Specialist in European Union)European Union Largement April 4,2012

17 Political system is based on the idea that Parliament is supreme, or sovereign. A parliamentary democracy is one in which the people choose representatives at regular elections. These representatives are responsible for a number of functions: 1.The formation of the government. 2.The passage of legislation by majority vote of the Parliament.3.The scrutiny and monitoring of the executive government, the public service and other authorities and institutions created by Parliament. Most importantly, this scrutiny extends to monitoring the expenditure of public (taxpayers') money.

18 European Commission:Analytical Report Albania 2010 SEC(2010) 1335

Freedom House ratings of the electoral process was disturbingly low, and Albania ranks as the worst performer in the region by a wide margin. The June 2009 elections did represent a step forward and the OSCE claimed that ‘tangible progress’ had been made.¹⁹ The government secured a 3/5 qualified majority in parliament when two Members of Parliament (MPs) from the opposition decided to join one of the majority coalition’s parliamentary groups. The opposition generally participated in the political discussions during parliamentary proceedings, although it often abstained from parliamentary work including on the administrative and territorial reform, and withdrew from key votes on legislative initiatives. Since July, the main opposition party has boycotted all parliamentary work. The Commission thinks that further action is needed from both the government and the opposition to ensure a constructive and sustainable political dialogue. The Rule of Law has not totally scored a progress. The Courts are not independent, and the corruption is on high levels. Most of the judges have a lot of power into the judiciary system. It is scored a partly progress in **Human Rights** because of the New Strategy for Equality between people and the war against violence into family. Some of the races of people are still discriminated into our society. Twice the appreciation of progress in Albania has been the same. The elements which have a political criteria have not taken a good response which means that Albania needs reforms into basic Institutions. Albania is considered as a potential candidate just like Bosnia and Kosovo²⁰. This level perhaps shows exactly the parliamentary democracy and the institutions of state consolidated. We are equaled with these two countries which are new in the map of Europe and have serious problems in forming a state. In June 2014 Albania took the Candidate’s Status. Most of citizens and specialists of the fields were skeptical and doubtful about this report and the final decision of EC. It was unsure the decision of EU about Albania till June 2014. The political parties were accusing each-other if the refusal happens. But it didn’t happened. Albania took the status. The EC appreciate the fact that Albania has made progress over the past year. Further steps were taken towards the reform of the judiciary. The government has shown political will to act decisively in the prevention and fight against corruption. The legislative framework was strengthened and policy coordination and monitoring at central level improved. The fight against organized crime shows a positive trend in a number of areas, with an intensification of law enforcement activities, notably on drug seizures and drug-related crimes, and on economic crime and trafficking of human beings. Some steps were taken to improve the legal recognition of the rights of lesbian, gay, bisexual, transgender and intersex persons.

For the EC it is crucial that the reform process to be accompanied by a constructive and sustainable political dialogue between government and opposition. It thinks that it is the responsibility of both government and opposition to ensure that political debate takes place primarily in parliament and to contribute to creating the conditions for its proper functioning. The government needs to ensure that the opposition has the possibility to fully perform its democratic control function, and at the same time, the opposition also needs to engage constructively in the democratic processes. The EC thinks that constructive work in parliament is vital for the sustainability of reforms.

¹⁹ FRIDE. Democracy Monitoring Report, Albania. April 2010. www.fride.org

²⁰ Republic of Kosovo declares Independence on 18 February 2008

SECTION 2: THE INTEGRATION OF ALBANIA INTO EUROPEAN UNION AND ACQUIS COMMUNITAIRE

European Commission views Albanian progress for the fulfilling of the tasks for becoming a member of EU²¹ since 2002. On 9 November 2010²² as a response the EC gave its opinion for this requirement. In this response it was said that Albania was not ready for taking the status of the candidate countries and was not ready for completing the documents of becoming a member of EU. The EC required Albania to complete the 12 key priorities²³. On December it was said These requirements were very important for achieving the main goal of Albania. The opinion of EC was matched with the analytical Report which has as basic principles the criteria of Copenhagen. On June 2014 Albania achieve these goals and take the green light. These 12 priorities were divided into three chapters :1.Political criteria 2.Economical criteria 3.The ability and responsibility of membership tasks. Albanian goals did not pass the class in 2011 but it passed on June 2014 .The most important document of Albania is the asigment of Agreement of Stabilization Association²⁴ (A.S.A). In principle the Stabilization and Association Agreements does not constitute a “promise” for integration. Their strategic objective is “full acceptance of the fundamental values of the European Union on the part of the Western Balkans countries, as: democracy and rule of law, the protection of human rights and respect for national minorities, the market economy and social justice.”²⁵

21 In 2009, Albania submitted its formal application for EU membership

22 In its Opinion on Albania's application (in 2010), the Commission assessed that before accession negotiations could be formally opened, Albania still had to achieve a necessary degree of compliance with the membership criteria and in particular to meet the 12 key priorities identified in the Opinion.

23 1.Proper functioning of Parliament on the basis of a constructive and sustained political dialogue among all political parties 2.Adoption of pending laws requiring a reinforced majority in Parliament 3.Appointment of the Ombudsman & High and Constitutional Court Judges 4. Reform of the electoral code in line with OSCE-ODIHR recommendations 5. Elections conducted in line with European and international standards 6. Public administration reform 7. Rule of law 8. Anti-corruption 9. Fight against organised crime 10. Property rights 11. Protection of human rights 12. Improvement of treatment of the detainees in police stations, pre-trial detention and prisons

24 Part of A.S.A are five states of the Western Balkans: Albania, Croatia, Bosnia and Herzegovina, Former Federal Republic of Yugoslavia and Macedonia.

25 Juliana Latifi: The approximation of Albania legislation within European legislations, one imperative condition for membership in the EU. Paper presented to the UACES Conference. France 3-5 September 2009

One of the conditions of membership is to adopt the whole legal framework of the EU known as “acquis communautaire”. It is absolutely an inevitable obligation for a comprehensive incorporation of the *acquis communautaire* in the national legislation of each country. It is not indispensable only to bureaucratically adopt the obligatory legislation, but its implementation has importance by insuring this way the elimination of the differences regarding the standards.²⁶ Title IV of ASA envisaged: 1. The Parties recognize the importance of the approximation of Albania's existing legislation to that of the Community and of its effective implementation. Albania shall endeavour to ensure that its existing laws and future legislation shall be gradually made compatible with the Community *acquis*. Albania shall ensure that existing and future legislation shall be properly implemented and enforced.

2. This approximation shall start on the date of signing of this Agreement, and shall gradually extend to all the elements of the Community *acquis* referred to in this Agreement by the end of the transitional period as defined in Article 6.²⁷

3. During the first stage as defined in Article 6, approximation shall focus on fundamental elements of the Internal Market *acquis* as well as on other important areas such as competition, intellectual, industrial and commercial property rights, public procurement, standards and certification, financial services, land and maritime transport – with special emphasis on safety and environmental standards as well as social aspects – company law, accounting, consumer protection, data protection, health and safety at work and equal opportunities. During the second stage, Albania shall focus on the remaining parts of the *acquis*.

Approximation will be carried out on the basis of a programme to be agreed between the Commission of the European Communities and Albania.

4. Albania shall also define, in agreement with the Commission of the European Communities, the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken. By the European Union it is given a great importance to the appliance of legislation in Albania, like a serious problem of the country. When the Progress-Report was read in June 2014 resulted that : The fight against organized crime shows a positive trend in a number of areas, with an intensification of law enforcement activities including on drug seizures and drug-related crimes, economic crime, and trafficking of human beings. In particular, the authorities have taken serious steps to fight cultivation and trafficking of cannabis, which remains a serious concern, most notably through a major police operation in the village of Lazarat and in the north of the country. International cooperation has been strengthened. The EC recommend that efforts in fighting organized crime need to be further stepped up, however. Albania should continue acting decisively against cannabis cultivation. Fighting organized crime and corruption is fundamental for countering criminal infiltration of the political, legal and economic system. As regards fundamental rights, freedom of assembly and association, as well as freedom of thought, conscience and religion, continued to be generally respected. Cooperation between the state authorities and civil society organizations regarding the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons was improved. The legal framework for persons with disabilities was revised but its implementation needs to be ensured. Gender

²⁶ See Juliana Latifi, paper presented to the UACES Conference, France 3-5 September 2009

²⁷ Art. 6 of SAA: The Association shall be implemented progressively and shall be fully realised over a transitional period of a maximum of ten years, divided into two successive stages.

discriminatory legal provisions need to be removed, the institutional capacity for child protection should be strengthened and children's forced labor should be addressed. An action plan on children's rights was adopted. But EC recommend to Albania to be focused on implementing measures to enhance Roma inclusion and protect vulnerable groups. The protection of property rights needs to be further strengthened, including through reviewing the 2012 property reform strategy and strengthening security of legal ownership. As regards freedom of expression and media, the government failed to act on the identified priorities. All statutory functions of the Audiovisual Media Authority need to be restored and its independence guaranteed in practice.²⁸ Albania has tried matching of legislation with the ones of EU but is this law suitable and well-adjusted with the reality of the people lives in Albania? Is it necessary coping the laws of developed countries of Europe in order to regulate our social relations? Is not this law useless for being applied in our society because of low-level of administrative tasks? In Albania there is a Law against the domestic violence²⁹ but there is not any real institution for helping the people who suffer from violence, and often the definitions used in law texts are useless in Albanian reality. The laws exist but there should exist the real tools for applying it. A good government is a government that has good applied laws, democratic and suitable for the specific relations of a country.

The Integration of Albania is not only the challenge of Albanian society but also it is a political challenge. Albanian have always been pro-European and they will profit a lot of goods and needs by achieving the Integration. But also the people are the first who are obligated for the tasks of membership. Albanians citizens should be correct with taxes, the protection of environment, health, fishing and it also should be adjusted with *acquis communautaire*. The Government, Albanian Government has responsibilities for people who do not respect laws.

On the other hand Albanian Government should collaborate well with opposition in order to achieve these goals. Both Position Parties and Opposition Parties through their Deputies are part of Albanian Parliament, a lot of laws, important laws, pre-condition of Integration, and they need the collaboration of both Parties. In fact in this political challenge there is a serious problem because if the political parties do not agree with each-other in fulfilling the goals and completing Copenhagen Criteria then the Integration will be more difficult and more later. Even we won now the Candidate Status Albania must work hard on cases or issues which were not completed. The long lasting transition period of Albania has blocked the applying of legislation and integration of Albania, so the economical development of the country has remained the same. Getting closer the legislation of Albania with the one of the developed countries helps a lot in the implementing of the legislation. This can be made through the good relations that Albanian government should make with EU. Another important factor is the social-economical development and the existence of democratic institutions. In the First Three Reports of EU were treated the political and social events of Albania in 1997 (pyramid schemes)³⁰. According to the last two reports of EU it should

²⁸ European Commission: Analytical Report Albania 2014 SEC(2014

²⁹ Law Number 9669 date 18.12.2006 "For some measurement against domestic violence"

³⁰ Decision of Council of Ministers nr.752 dt.01.12.1998.

be done more work on governmental tasks, independent institutions, the reforms on public administration etc.

The reforms that are made should have been adjusted with *acquis* of EU. It should be fulfilled in order to get closer to the *acquis communautaire*. Every advice given by the EU should be considered more seriously. It is very important to know that Countries like Romania and Bulgaria³¹ entered into EU before than Albania, even that Albania has 23 years democracy. Democracy should exist into the basement of Albanian State, but Albania should try to get closer its legislation with the one of EU, in order the same events that happened with Romania and Bulgaria before entering into EU. Now Albania has made a big step for the process of Integration. Free Visas for Albanians into the EU countries was made possible in December 2010 and in June 2014 she got the Candidate Status. Albanians may move free into every place of EU. Albania should analyze the factors that can help her to be part of EU with rights and duties. We should not forget that this positive answer came directly after the general elections of 2013 as we are now nearly the local elections which are very important.

CONCLUSIONS

The integration process of Albania into EU depends a lot on political development of the country. Another important role should play the political stability and economical stability of Albania. Free elections should be made in order to increase the chances of Albania to enter into the EU with all rights and duties as European Country . Albanians should learn how to govern. The implementation of legislation, getting closer to *acquis communautaire* and its appliance correctly play an important role into the Integration of Albania. The government should take into consideration the advices of opposition in order to create and build credibility and integrity. The Integration of Albania into EU depends a lot on political factor because the other two factors are directly linked with this factor and are influenced by it. Becoming a member of EU is the priority of our political agenda. The passages of laws are made for the better of membership into EU. The history of Albania it is unusual and it reflects the features of an ex-communist country. It is said that becoming a member should be deserved but Albania as to fulfill Copenhagen Criteria, especially political criteria. Still politics has a strong position in the places of work in our government. The Parliament now a days can manage to approve the Laws needed by EU but it is not only a matter of approval but so it is discussed the implementation of the law ,the function of a constitutional institution like the Parliament. The Reform in Judiciary System has to do a long road .We don't want to believe that Albania got the Candidate Status as a political decision of EU, but we want to believe that we deserved. The only question now is "when", Albania is going to be part of EU as a country with full rights and duties ... no one knows the answer...it seems far a way , only e dream ...

31 See, more specifically paragraph 7 of the conclusions of the European Council 14-15 December 2006.

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