



# BENCHER – (IN) EFFECTIVENESS OF EC MONITORING MECHANISMS

**BENCHMARKING IN ALBANIA**



**BENCHER - (IN)**  
**EFFECTIVENESS OF EC MONITORING MECHANISMS**



Coordinated by:  
European Policy Institute (EPI) – Skopje

Publisher:  
Institute for Democracy and Mediation (IDM) - Tirana

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Relativ ltd - Skopje

Tirana, February 2018



**European Fund for the Balkans**

This policy brief has been produced as part of the research within the 2017 Think and Link Regional Policy Programme and co-financed by OSF. The views presented in the policy brief are authors' views and do not necessarily reflect the position of the European Fund for the Balkans and Open Society Foundations.



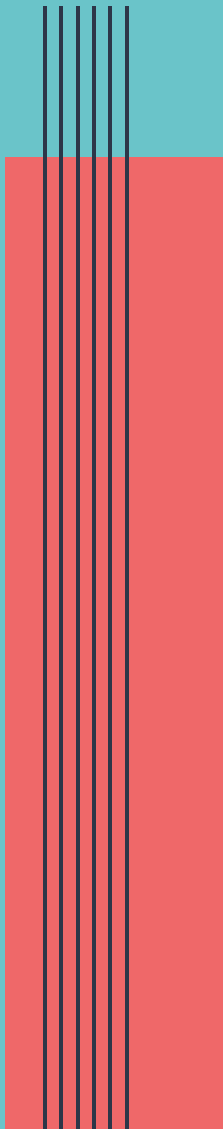
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# INTRODUCTION



In 2011, EU introduced the ‘new approach’, based on the principle that ‘issues related to the judiciary and fundamental rights (Chapter 23) and justice, freedom, and security (Chapter 24) should be tackled early in the accession process as they require the establishment of convincing track records’.<sup>1</sup> Progress in these two vital Chapters became the keystone of the advancement of the accession process in general. To determine exact targets and to measure progress, a benchmarking system was introduced for candidate countries. Yet, over the past six years its results have not been systematically assessed.

This country analysis will explore how effective the eight selected benchmarks are by assessing the degree to which the objectives have been achieved and the extent to which targeted problems have been solved. The analysis captures the challenges and evolution of the benchmarks under these two chapters during the period 2009-2017, considering that 2009 marked a new stage in bilateral relations between EU and Albania after the entry into force of the Stabilization and Association Agreement. The sample was selected following a mapping of benchmarks that are common or similar among the six Western Balkan aspirants for EU membership. This analysis represents a first major attempt to critically evaluate the degree to which the objectives are achieved and the extent to which targeted problems are solved in order to further advance in the EU accession process. The structure of this paper the following: first, it provides a contextual overview of the benchmarking in Albania as a case study followed by a brief explanation of the methodology. The empirical section that follows provides an analysis of the evolution of each of the selected benchmarks since their introduction joined by an assessment of the current state of play. Last, the study reflects on the findings and provides recommendations.

## METHODOLOGY

In order to **assess the effectiveness** of the benchmarking mechanism, this research process was based on sampling, comparison, monitoring of the implementation and assessment of the benchmarks. For the purpose of an in-depth analysis, the research is carried out on a sample of benchmarks from the Chapter 23 and 24.

The **selection of the sample of benchmarks** was done according to the following steps: interim and opening benchmarks that have been laid out for Serbia and Montenegro in Chapter 23 and 24 were taken as basis and were categorized in a table, depending on the type of action required:

**Adoption of a policy document (Pol); Adoption of legislation (Leg); Implementation: Setting up/strengthening a body (B); Training (T) Setting up ICT systems (ICT) Cooperation (Coop) Track-record (Trck) Other (O).**

Next, the research team selected a sample of 8 benchmarks which will be analysed in depth. In this process the following factors were considered: the relevance and importance of the issue both from a national and regional perspective; common critical junctures and equal distribution of categories and actions as set by the benchmarks; availability of information pertinent to assess the effectiveness of the benchmarks. While Montenegro and Serbia have traced the benchmarks in their Screening reports and Common position papers as countries that have opened negotiations, the other countries have adequately traced the benchmarks in the enlargement documents (EC country reports; roadmaps; Enlargement strategy). Thus, the following benchmarks were selected:

Chapter 23	
•Merit-based career system for the judges	Track record
•Judicial academy reforms	Setting up / strengthening a body
•Merit-based career system for civil servants	Other / track record
•Track record for addressing media intimidation; attacks on journalists; media independence	Track record / strengthening a body
•Implementation of Law on prohibition of discrimination	Leg/Pol
Chapter 24	
•Law on Asylum aligned with EU acquis	Leg
•Specific anticorruption plans; providing adequate follow up of detected cases	Track record/Cooperation
•The role of intelligence services and the oversight mechanisms that are introduced; established initial track record of investigations in organised crime	Other/track record

<sup>1</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/com\\_2011\\_666\\_final\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/com_2011_666_final_1.pdf)

The **data collection** for all countries was consisted of **desk analysis of and interviews with stakeholders**. First, the **key documents**<sup>2</sup> related to the EU accession process were analysed for the identification, sampling and analysis of the evolution benchmarks. In addition, for the assessment of the effectiveness of the benchmarking the study utilises the assessments of own reports of the research team engaged, but also reports of other international bodies that have monitored developments in the policy areas studied. These included Progress/Country Reports and strategic documents on enlargement by the European Commission SIGMA reports, OSCE reports, US Department State Reports, Reports of UN bodies, as well as Council of Europe Monitoring Mechanisms. Where available, the analysis of the state of play also includes a review of available quantitative indicators such as: the Freedom House Nations in Transit scores, Bertelsmann Transformation Index in combination with perception indicators through regional surveys. Second, in all countries **semi-structured interviews** were conducted with representatives of the EU delegation and/or EU Members States as well as representatives of national institutions in charge of EU accession and in the implementation of the selected benchmarks. The focus on the EU staff and the national civil servants is a result of the important role these individuals play in both crafting the benchmarks at the EU level as well as the respective national response(s). In the case of Albania interviews were conducted in the period 09.11.2017 – 18.01.2018 and included Commission for Protection of Discrimination, Public Administration Reform expert, National Council of European Integration at Parliament of Albania, Journalists, EU delegation in Albania.

The analysis of the benchmarks was done through the insertion of the collected data and findings in a pre-determined template<sup>3</sup> which consisted of several steps. First, it traced the introduction and evolution of the benchmark at least in the last five years, or since the last critical juncture in the EU documents. Second, the researchers assessed current state of play through document review, including through available quantitative indicators findings in the specific policy area. Last, conclusions were drawn on the effectiveness of the benchmarking in the specific policy area thus far. The information from the templates was further used to develop the country analyses by each of the partners.

## ALBANIA'S PATH TOWARDS EU

Officially recognized in 2000 as a “potential candidate country” at Zagreb Summit, Albania has continuously made efforts to mold its institutions closely to European standards. Following the positive opinion of the Commission, in 2002, the Council decided to open negotiations for an SA agreement with Albania. SAA negotiations were concluded in 2006 whereas the same year the Interim Agreement entered into force. In 2009, Albania officially presented its application for membership of the European Union. The Commission’s Opinion assessing Albania’s application in 2010, determined that negotiations for accession to the European Union should be opened with Albania once the country had achieved the necessary degree of compliance with the membership criteria and in particular the Copenhagen political criteria and the 12 key priorities outlined in the Opinion. In October 2012, the Commission recommended that Albania be granted EU candidate status after the completion of key measures related to judicial reform, public administration reform and revision the parliament’s rules of procedure. Finally, after footslog, in June 2014, Albania was awarded the candidate status by the EU.<sup>4</sup>

The year 2014 marked a momentum for both, political and citizen discourse on country’s European integration. Yet, three years since the candidate status, Albania I still hoping for EU accession negotiations’ to start. While major reforms were designed and adopted to strengthen rule of law, tangible results are yet to be seen.

<sup>2</sup> EU common positions on chapter 23 and 24 (for countries in accession negotiations); EC Country reports – staff working papers (analysing the areas in which the sample of EU benchmarks are mentioned); Enlargement Strategy – Communication of the Commission (analysing the areas in which the sample of EU benchmarks are mentioned); EU negotiating frameworks; EU screening reports; Roadmaps, conclusions of “high level dialogues” and other instruments setting conditions for further progress in the accession process; Documents through which the countries involved respond to the set benchmarks (National Plans); Action plans submitted by relevant authorities to the European Commission, Stabilisation and Association Council minutes, Subcommittees on Justice and Home affairs committees.

<sup>3</sup> Annex 1

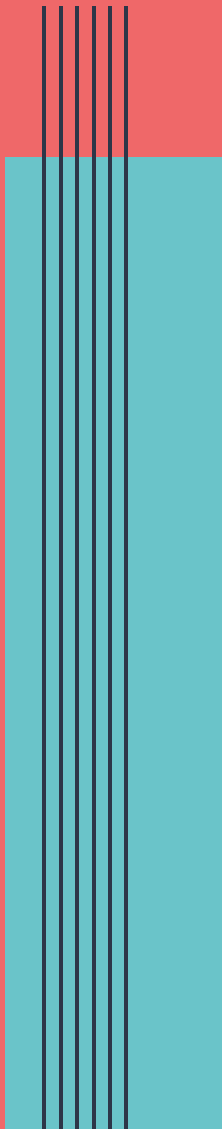
<sup>4</sup> European Commission, Commission Opinion on Albania’s application for membership of the European Union, Brussels, 9.11. 2010, Pg.11.



# ANALYSIS OF THE SELECTED BENCHMARKS



## CHAPTER 23



## Judiciary: Merit-based career system for judges

A professional assessment process of judges, which is based on objective, clear and transparent criteria, is of vital importance for the consolidation of judicial power, as the only way to guarantee that transfer and promotions of judges can be based on individual merit. The foundations of the assessment system of the judges were created in 2002 by the High Council of Justice. The system of Assessment of Judges in Albania for the monitoring period (2009-2017) of this country analysis is regulated by Decision 261/2 date 14/04/2010 of the High Council of Justice, which provides details of the assessment process and criteria to be used during this process. The High Judicial Council (HJC). This new body replaces the High Council of Justice (HCJ). The HJC is composed of 11 members. Six of them are elected among judges of all levels. Five members are lawyers and are elected as follows: two members by the Assembly of the Republic of Albania upon proposal of lawyers, two members from the academic bodies of law faculties and the school of magistrates and one member from civil society.<sup>5</sup> The Supreme Prosecution Council (SPC) is now the highest governing body of the prosecution system in the Republic of Albania. The HPC is composed of 11 members following the same logic as the HJC. Six of them are elected among prosecutors of all levels, in the same form as the High Judicial Council.

As the recently adopted judicial reform in Albania has yet to born results, at present the merit based careers system for judges continue to be on unsatisfactory levels.<sup>6</sup> The appointment and promotion of judges in many cases are not based on merit and experience of the judge, but are often based on political influence.<sup>7</sup> Interview respondents, also highlighted that merit based recruitment should be based on further transparency.<sup>8</sup> Additionally, public perception on judicial independence remains at low levels. According to the Balkan Barometer for 2017, when asked if respondents agree that judiciary institutions are independent of political influence, 49% of the respondents totally disagree, 37% tend to disagree, while only 12% tend to agree, and a very small percentage of the respondents agree (3%).<sup>9</sup> The justice reform has yet to produce tangible changes in the merit based career system for judge's benchmark.

In addition the Freedom house – Nations in Transit, Judicial Framework and Independence score for Albania has not changed in the past three years. The score for 2015, 2016 and 2017 continues to remain 4.75,<sup>10</sup> showing that despite reforms, the judicial independence remained still unchanged. Therefore, based on the analysis, we can conclude that the benchmark has yet to produce tangible changes in the merit based career system for judges.

### Recommendation to the Government/specific institutions

*Eliminate any political interference from the work of judges and prosecutors*

*Establish a strong, verifiable track record of adjudication without external interference would be recommended to convince the public that there has been a break with the politicized judiciaries of the past.*

*Develop and expand communications and operational relationships with other government departments and agencies involved in judicial and law enforcement; and develop, promulgating and enforcing standards of performance and integrity, including investigative and disciplinary mechanisms, to institutionalize professionalism and integrity.*

## Judiciary: Judicial Academy Reforms

The establishment of the Albanian School of Magistrates in 1997 benefited from the cooperation of the Albanian State with the Council of Europe and the European Commission, which changed the recruitment of judges and prosecutors in the country. The School of Magistrates was established as a public institution with administrative, academic and financial autonomy. Since its creation, the School of Magistrates has been responsible for the education and continuing professional training of judges and prosecutors in the Albanian judicial system, established to create a new frame of judicial practitioners adhering to European standards. However, financial autonomy, chronic lack of budgetary and relevant trainings resources have been identified as a constant concern by the European Union since an early stage and continues to be a challenge even today. The 2016 EC report pointed out that School of Magistrate continues to be 'partly donor-supported, despite an increase in the School's budget in 2016, and training on the EU acquis is limited'.<sup>11</sup>

5 <http://www.lexferenda.al/en/how-is-justice-system-governed-after-the-justice-reform/>

6 Ibid 3

7 [http://www.rcc.int/seeds/files/RCC\\_BalkanBarometer\\_PublicOpinion\\_2017.pdf](http://www.rcc.int/seeds/files/RCC_BalkanBarometer_PublicOpinion_2017.pdf)

8 Interview, 20 November 2017

9 [http://www.rcc.int/seeds/files/RCC\\_BalkanBarometer\\_PublicOpinion\\_2017.pdf](http://www.rcc.int/seeds/files/RCC_BalkanBarometer_PublicOpinion_2017.pdf)

10 <https://freedomhouse.org/report/nations-transit/2017/albania>

11 Ibid 8



In addition, the law that established the School of Magistrates, raises some concerns over political influence through the composition of the Steering Council of the School and the appointment procedure of the School's Director. The Steering Council of the School includes the President of the High Court, the vice-chairman of the High Council of Justice, the national General Prosecutor (all of whom are appointed by the Albanian President), two appointees by the Minister of Justice, and the Director of the School. The Director is appointed by the High Council of Justice, whose composition, as shown above, is heavily influenced by the Albanian President. Despite periodic "reforms", the lack of judicial independence is still present in the Albanian constitution, and shortcomings in the High Council for Justice, the High Court, and the Constitutional Court have been highlighted in the EC Progress Reports over the years.<sup>12</sup>

Hinging on the current judicial reform, the School will be the first institution to have a direct effect on the way the laws will be applied, especially in regard to the process of re-evaluation and recruitment of young magistrates. However, despite its role in the effective implementation of the judicial reform, this benchmark does not consist on a much elaborated subject for the EU in any of the EC reports issued thought the years.

### Recommendation to the Government/specific institutions

*Enhance the management and operational capacity of the School of Magistrates, including its financial sustainability*

*Identify efficient leverages to reinforce the independence of the judiciary, correlated with increasing magistrates' responsibility*

## Anti-corruption: Merit-based career system for civil servants

Public administration reform represents one of the main priorities of Albanian government, both as a key instrument for improving the quality of services provided to citizens and businesses and basic condition for the country's integration processes. With the entry into force of the Stabilization and Association Agreement (SAA) in 2009, Albania has focused on developing and implementing transparent and impartial procedures for recruitment, human resources management, career development in the public service, continued training and promotion of ethics in public administration.

In the context of country's EU accession, the need for a more professional administration has increased in order to ensure the implementation of national policies and obligations. To address this need the government approach for a sector reform began with the drafting of the first National Strategy for Development and Integration for the period 2014-2020 and its action plan. Currently, merit based recruitment of civil servants is regulated by Law 152/2013 "On Civil Servant"; and Law 10 405/2011 "On competences for defining the salaries and bonuses", which defines the competences to determine the salaries and bonuses for the public employees based on performance.

In addition, in 2016, the Government approved the second National Strategy for Development and Integration 2015-2020 aiming to create an enabling environment for stronger, professional and depoliticized public administration. However, based on the focus group findings and literature review, political affiliation is still predominant factor in public sector employment, especially at senior positions. According to SIGMA assessment, no major improvements have been noted during the period 2015-2017 for the implementation of merit system principles for civil servants. Therefore the indicator values remain the same.<sup>13</sup> In fact, the weakest progress has been achieved with the civil service reform. The 2017 Balkan barometer report also indicates a negative image of civil servants, with 73% of respondents believing that public officials/civil servants are affected the most by corruption in Albania.<sup>14</sup>

### SIGMA baseline study 2015 vs SIGMA report 2017:

Extent to which the recruitment of public servants is based on the merit principle in all its phases:  
2015 - 4 and 2017 - 4

Extent to which the termination of employment of public servants is based on merit:  
2015 - 3 and 2017 - 3

Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented: 2015 - 3 and 2017 - 3

### Balkan barometer 2017

To what extent do you agree or not agree that the following categories in your economy are affected by corruption? 73%

12 [http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap\\_wp\\_11.pdf](http://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap_wp_11.pdf)

13 <http://www.sigmaxweb.org/publications/Monitoring-Report-2017-Albania.pdf>

14 [https://www.rcc.int/seeds/files/RCC\\_BalkanBarometer\\_PublicOpinion\\_2017.pdf](https://www.rcc.int/seeds/files/RCC_BalkanBarometer_PublicOpinion_2017.pdf)

Given all conditions described above, fulfillment of this benchmark has remained limited. Despite some encouraging developments, also due to the constant support of EU and SIGMA, progress is concentrated mainly on the legal framework setting, while implementation remains still an issue. Key components identified by this analysis, for proper implementation of the reform, include the correct functioning and independence of the Civil Service Commissioner (CSOC) along with transparent practices based on meritocracy.

#### Recommendation to the Government/specific institutions

*The Government should ensure a high-quality monitoring and reporting framework is in place for all PAR planning documents, and that civil society representatives are involved in monitoring implementation more actively. All PAR planning documents should have outcome-level indicators in place, and implementation reports should provide information about progress towards achievement of those objectives, particularly the time frame for implementation, should also be reviewed carefully to ensure more realistic deadlines are established that take into consideration financial circumstances and administrative capacity constraints.*

### Fundamental rights: Track record for addressing media intimidation; attacks on journalists; media independence

Looking at the evolution of media in Albania in the past decades, one might pinpoint some positive developments related to the creation of a pluralistic media scene, the increase of the number of media outlets, the diversification of formats and the development of digital media. However, in spite of the positive developments, issues related to the climate in which the media operates and editorial independence have always been identified as concerns on every EC report. Research reveals that, censorship and self-censorship are still present in the Albanian media environment.<sup>15</sup> The press freedom is complex, and media freedom is defined not only by the absence of censorship but also (among other factors) by political and economic pressures, lack of financial viability, lack of professionalism, ethics and of respect for journalists' rights.<sup>16</sup> Journalist continue to be intimidated and physically assaulted.<sup>17</sup> Freedom House qualification considers Albania only partly free.<sup>18</sup>

Business interests, media and politics seem unhealthily interlinked in Albania. Once considered a forerunner in the region in terms of guaranteeing favorable conditions for free and independent media; media freedom in Albania deteriorated throughout the years, reaching a dramatic low in 2013.<sup>19</sup> Regardless of some developments over the last years, the 2016 EC report continues to indicate that no progress has been achieved in the freedom of expression area.<sup>20</sup> In addition, last years' recommendation to enhance transparency of government advertising in the media was not addressed. The overall environment is generally conducive to the exercise of freedom of expression, but implementation remains a challenge even in areas where there is a sound legal basis. The independence of the regulatory authority and the public broadcaster should further strengthen.

Overall, the constitution and other relevant laws are in line with international human rights law, guaranteeing individual liberties including the right to privacy, freedom of expression and sanctions against incitement of hatred. A government proposal in November to re-criminalize defamation was withdrawn after harsh criticism by human rights organizations and the media community. However, further actions are needed to ensure effective implementation of the amendments on defamation and guidelines on setting damages at a reasonable level.<sup>21</sup> The main means to achieve this is through training for the judiciary.<sup>22</sup> Further efforts are also needed to implement the rules on public complaints against media, as set out in the law on audiovisual media, and to establish bodies and initiatives that address reader/viewer complaints effectively.

#### Recommendation to the Government/specific institutions

*Ensure the impartial access of journalists to government information and facilities. Government agencies should take further steps to monitor and guaranty the proper implementation of the 2014 Law on the Right to Information. In addition, administrative measures should be taken to enhance the transparency of public administration and do away with its legacy of official secrecy.*

*Conduct prompt and thorough investigations of government officials, including police personnel, implicated in abuses against members of the media, and prosecute or discipline those responsible*

*The Albanian High Court should use its constitutional powers to guarantee freedom of expression and the press in compliance with international and European human rights law and practice.*

15 <https://freedomhouse.org/report/freedom-press/2015/albania>

16 Interview with Journalist, December 2017

17 <https://rsf.org/en/news/albania-journalist-who-covers-corruption-hospitalized-after-attack>

18 <https://freedomhouse.org/report/freedom-world/2017/albania>

19 <http://www.kas.de/wf/en/71.13549/>

20 Ibid 8

21 <https://freedomhouse.org/report/freedom-press/2015/albania>

22 Ibid 8

## Fundamental rights: Implementation of Law on prohibition from Discrimination

Over the past years, Albania has experienced continuous improvement of standards related to the protection of and respect for human rights and fundamental freedoms, including minority rights. On February 2010, Albanian adopted the Law No. 10 221 “On Protection from Discrimination” which was a significant step forward for the protection of equality and nondiscrimination in the country. This law aims to regulate the implementation and observance of the principle of equality in connection with gender, race, colour, ethnicity, language, gender identity, sexual orientation, political beliefs, religious beliefs, economic, educational or social condition, age, marital status, residence, health status, genetic predispositions, disability, belonging to a particular group, etc. In addition, this law represents also a significant success of the Albanian civil society organizations, which drafted the original bill (with the advice and guidance from The Equal Rights Trust) and was adopted by the parliament with only minor amendments. The change in legislation and creation of strategies has been a sign of continues will for Albania to meet EU standards. A 2013 reform of the criminal code introduced protections against hate crimes and hate speech based on sexual orientation and gender identity. However, bias against LGBT (lesbian, gay, bisexual, and transgender) people remains strong in practice.<sup>23</sup> A similar discriminatory situation applies to ethnic and religious minorities such as the Roma people. Roma face significant discrimination in education, health care, employment, and housing.<sup>24</sup>

The legal and institutional framework for protecting and prohibiting discrimination is in place and operational and to a large extent complies with EU standards. However, more effort is needed for proper legal implementation.

### Recommendation to the Government/specific institutions

*Fully implement the Law on Protection from Discrimination and launch a national awareness campaign on the issue of discrimination and racism.*

*Based on the interview with the Commissioner for Protection from Discrimination, it was emphasized the need to keep the recommendations submitted by the Commissioner regarding legislative improvements unchanged and unfragmented from the original recommendations.*

<sup>23</sup> <https://freedomhouse.org/report/freedom-world/2016/albania>

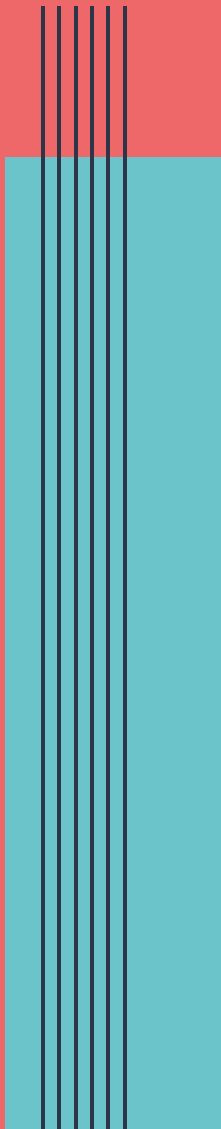
<sup>24</sup> Ibid 8



# ANALYSIS OF THE SELECTED BENCHMARKS



## CHAPTER 24



## Asylum: Law on Asylum aligned with EU Acquis

The need for legislative adjustment of the Law on Asylum, as well as administrative and financial capacity to implement existing legislation, particularly the action plans for asylum and migration, have been EU recommendations to Albania since the early EC country reports. So far, Albania has completed the legal framework, and updated in October 2014 the Law on Asylum. One of the novelties of this law is the “Exemption for deportation, which applies when the person in question is considered as a danger for the security of the Republic of Albania or has been sentenced for a serious crime to a minimum of seven years in prison.<sup>25</sup> Besides the above improvements, the Directorate for Asylum, which is the first instance body in the Ministry of Interior and also responsible for the overall policy coordination in this field, is now adequately staffed.<sup>26</sup>

However, the 2016 EC report highlighted again the need to ‘take immediate and determined action, including via the post-visa liberalization monitoring mechanism, to effectively address unfounded asylum applications in the EU and further improve its capacity to deal with mixed migration flows’.<sup>27</sup> During the last years, Albania has raised concerns in EU countries where Albanians in large numbers have sought asylum. According to Amnesty International data for the period 2016-2017, an estimated 20,000 Albanians applied for asylum in EU countries, the majority of them in Germany, but most of them were rejected.<sup>28</sup>

On the other hand, in light of the current global situation of asylum seekers and refugees coming mainly from MENA countries and heading to EU countries, Albania’s capacity to handle the phenomenon necessary. So far, Albania has not been affected significantly by refugee crisis compared to neighboring countries. The number of asylum applications in 2016 decreased compared with the period 2013-2015 which were the peak years.<sup>29</sup> However, in order to meet EU standards, it is about time that the state authorities start taking measures and actions to fully implement the legislation on migration and to increase and improve its human resources, capacities and reception conditions.<sup>30</sup>

### Recommendation to the Government/specific institutions

*Create a more effective network and interactive international cooperation.*

*Strengthen the capacity for inter-institutional cooperation to properly implement the law. One of the main problems in Albania, is the fact that the law adopted is difficult to put into practice*

*Building on the above recommendation, another proposal would be to increase staff the capacity and qualifications through trainings and financial support in order to meet the standards requested for the law implementation.*

*Fully harmonies the legal framework dealing with migration and more specifically the one on Asylum. Even though it is a new law adopted in 2014, it is assessed that there are many gaps compared with EU acquis. On the other hand it should bear in mind that EU legislation itself is updated and amended consistently meaning the Albanian authorities and policy-making should keep up the same speed and frequency as EU countries, to make possible a comprehensive way to deal and tackle the issue.*

## External Borders and Schengen: Specific anticorruption plans; providing adequate follow up of detected cases; cooperation on borders.

Corruption in Albania remains one of the major challenges that requires constant measures. International and EU authorities have continuously urged the country to intensify the fight against corruption. In this regard, during the past years some progress has been noticed on the improvement of anti-corruption measures in the border management sector. The External Border and Schengen benchmark was first introduced by the Visa Liberalization Roadmap in 2008, presenting concrete step towards visa – free regime for the Albanian citizens upon fulfilling requirements on document security, Illegal migration, public order and security and external relations.<sup>31</sup> In 2014, Albania adopted the updated National Strategy on Integrated Border Management and its Action Plan for the period 2014-2020. In this strategy, further steps have been listed as regards training, infrastructure and equipment for the control and surveillance of the state border. The new strategy has produced positive results, by increased inter-institutional cooperation in the fight against corruption. The mechanism established for monitoring the activity of border agencies such as, anticorruption mechanisms for border agencies, camera installation at the BCPs, IT system implementation in performing border procedure, as well as other relevant measures have already helped to achieving significant progress. In addition, the Law no. 71/2016 on border control, which entered into force in August 2016, and associated by-laws are aligned with the acquis.<sup>32</sup>

25 Law no. 121 / 2014 “On Asylum in the Republic of Albania”

26 Ibid 8

27 Ibid 8

28 <https://www.amnesty.org/en/countries/europe-and-central-asia/albania/report-albania/>

29 [http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics)

30 Interview, 7 December 2017

31 <http://www.esiweb.org/pdf/White%20List%20Project%20Paper%20-%20Roadmap%20Albania.pdf>

32 Ibid 8

Improvements have been noted with regards to professional capacities of migration and border police. This paper's respondents reported that several specialized trainings have been provided to border police officers.<sup>33</sup>

Nevertheless, as EC recommendations note, further improvements of professional capacities and (legislation) knowledge of BCPs' employees is needed. In particular human rights regulations and other regulations dealing with cases of police mistreatment or freedom of movement.<sup>34</sup> In addition, police involvement in corruption continues to be a challenge<sup>35</sup> that contributes to hindering in-depth investigations of corruption cases. Despite the increasing number of those being punished, most of them belong to lower or middle-ranking police employees.<sup>36</sup>

With regards to bilateral and international cooperation, Albania has made good progress.<sup>37</sup> The country has offered its support regarding the exchange of information, as well as joint patrolling. International cooperation, namely with Europol and Interpol has also increased. However, a more pro-active cooperation should be achieved. The inter-institutional cooperation, particularly with the Prosecution Office for detecting and investigating complex criminal cases has yet to fulfill EU standards.<sup>38</sup>

Albania has performed successfully in relation to this benchmark especially during the Roadmap for visa free travel back in 2008. For several years this benchmark was not in the main focus of the EC recommendation. However, since the refugee crises and the so-called Balkan route in 2015 the EU has again brought to focus the importance of proper border management, especially accentuating on further developing border cooperation through Western Balkan Countries.

#### **Recommendation to the Government/specific institutions**

*Continue improving the track record of investigations, prosecutions and convictions in corruption cases at all levels, including high profile cases.*

*Need for additional domestic training for the personnel of Border Police.*

*Ensuring a career, promotion and objective and sustainable evaluation system based on merit.*

### **Fight against organized crime: Role of the intelligence services and oversight mechanisms introduced; established initial track record of investigations in organized crime**

Organized crime remains serious concern in Albania despite government efforts to address this phenomenon. The fight against organized crime has been in focus of EU and International authorities since very early on. In this regard, Albania has established a legal and institutional framework to deal with the issue. In the last three years, Albania has updated and continues to implement the strategy and action plan on the fight against organized crime and trafficking. The 2015-2017 strategy on cyber security was approved by the government in December 2016. That same year, the government adopted the 2014-2017 strategy on the fight against human trafficking and its accompanying action plan, together with the action plan on the prevention and fight of cultivation of narcotic plants.<sup>39</sup> However, according to the 2016 EC report the number of final convictions in organized crimes cases is still limited, marking only a slight increase in recent years. In addition, there is lack of systematic and effective use of financial investigation targeting suspected members of organized criminal groups. EU has also demanded confiscation and sequestration of assets and final conviction of criminal networks. However, despite recommendation track record of freezing and confiscating illegally acquired assets remains very low.<sup>40</sup> Even more worrisome is the fact that organized crime seems to have created strong bonds with politics.<sup>41</sup> The "decriminalization" law that passed at the end of 2015 has had only minor results in removing incriminated officials from public office and has not yet made a dent in the problem of state infiltration by organized crime.<sup>42</sup>

#### **Recommendation to the Government/specific institutions**

*Inter-institutional cooperation and exchange of information among rule of law institutions*

*Enhance professional capability through trainings, guaranteeing stability of employment for specialists/experts, selecting individuals free of any conflict of interest and based on meritocracy*

33 Focus group with CSOs

34 Ibid 8

35 <http://pointpulse.net/magazine/albanian-state-police-whirlpool-corruption/>

36 <http://www.pecob.eu/Corruption-Albania-biggest-challenge-integration-E-U>

37 Ibid 8

38 Ibid 8

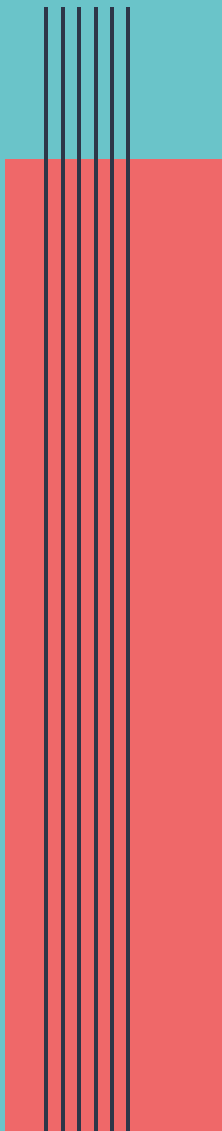
39 Ibid 8

41 <http://www.balkaninsight.com/en/article/study-find-that-for-25-years-of-albanian-crime-had-political-ties-12-01-2017>

42 <https://freedomhouse.org/report/nations-transit/2017/albania>



# CONCLUSIONS AND RECOMMENDATIONS



Highly confrontational politics and media owners' linkages with politics prevent effective cooperation between the parties and subsequently slow down the country's advancement towards implementing the necessary reforms for joining EU. Polarization and non-cooperation are a major obstacle to EU membership, which must be overcome. The analysis shows that the legislative framework is aligned to the EU requirements for most of the benchmarks, however, the level of implementation and progress is still poor.

The majority of civil society and government representatives interviewed, emphasized the need for more specific benchmarking, which lay down steps and targets within a precise timeframe. In order not to give space for subjective interpretation of the achievements by the political influence. On this note, the speed and quality of progress towards EU membership can only be achieved through the political will of the Albanian elites, improvements in the administrative capacity and showing concrete results in the reforms undertaken, as well as through strong public support.

In addition, Albania is more likely to comply with EU legislation and policies if offered intermediate 'rewards' for the country in specific areas, like the example of visa liberalization in the case of compliance with the conditions in the justice and home affairs sector. There is clearly a potential for EU to use direct political conditionality against the government. Hence, it is essential for EU to maintain pressure on key issues and set a clear agenda for action for Albanian government to comply. As a result, the EC should consider the following recommendations:

- More specific benchmarking, laying down steps and targets within specific period of time;
- Set clear agenda for action for Albanian government to comply. There is clearly a potential for EU to use direct political conditionality against the government;
- It is apparent that Albania is more likely to comply with EU legislation and policies if EU offers intermediate 'rewards' for the country in specific areas. Hence, continuing to pressure on key issues, while providing benefits that will legitimize the process and outcomes;
- The concerns are that the approach is too institutional in its focus, and that the 'one model fits all' approach might ignore the significant variation amongst judiciaries across the Western Balkan. Thus, a more 'custom-made' approach would be suitable;
- Provide further assistance through trainings and experts to strengthen the countries capacities to further align Albanian legislation with EU acquis; and last but not least;
- Consider and reflect the recommendations of the civil society into these benchmarks.



# ANNEX 1

## Benchmark [xxx]

[Country]

Date created:	[dd.mm.yyyy]
By:	[Organisation]

0. Benchmark basics	
<b>Method of introduction</b> <i>[E.g. laid out in document...]</i>	
<b>Year introduced</b>	
<b>Content of the benchmark and actions required</b> <i>[Please list actions required as bullets as per EC last report/specific document]</i>	
<b>Type of benchmark and actions required</b> <i>[E.g. Adoption of a policy document (Pol); Adoption of legislation (Leg); Implementation; etc.]</i>	
1. Data analysis/methodology	
<b>Documents subject to analysis</b> <i>[Desk research e.g. EC reports; OSCE reports; own monitoring reports - please include hyperlink next to each document]</i>	
<b>Interviews</b> <i>[Number of interviews and type of respondents]</i>	
<b>Focus groups</b> <i>[if applicable]</i>	

<p><b>Quantitative indicator findings</b>  <i>[Here inserted you have the indicators for each of the benchmarks – since we will fill out a separate template for each benchmark, please delete the rows of the benchmark you are not filling in and appropriately copy paste the rows for each of the benchmarks in their separate adequate template – you should at the end have 8 identical templates in which the sole difference is this section. In these regards note that we have taken the same indicators for the two benchmarks in the area of judiciary.]</i></p>	<p><b>Merit-based career system for the judges</b></p> <p><b>Judicial academy reforms</b></p>	<p><b>Freedom house – Nations in Transit</b></p> <p>Judicial Framework and Independence score <i>(insert the score for your country for the last 3 years)</i></p> <p><b>Balkan barometer –</b></p> <p>Figure 86: Do you agree that the following institutions are independent of political influence? (by economies)(NEW QUESTION) <i>(fill in the score for your country for this year for judiciary)</i></p> <p>Table 16: To what extent do you agree or not agree that the following categories in your economy are affected by corruption? (by economies)(NEW QUESTION) <i>(fill in the score for your country for this year for judiciary)</i></p>
	<p><b>Merit-based career system for civil servants</b></p>	<p><b>BTI –</b></p> <p>Rule of Law – Independent Judiciary <i>(insert the score for your country for the last 3 years)</i></p> <p><b>Balkan barometer –</b></p> <p>Table 16: To what extent do you agree or not agree that the following categories in your economy are affected by corruption? (by economies)(NEW QUESTION) <i>(fill in the score for your country for this year)</i></p>
	<p><b>Track record for addressing media intimidation; attacks on journalists; media independence</b></p>	<p><b>Freedom house – Nations in Transit</b></p> <p>Independent Media - <i>(insert the score for your country for the last 3 years)</i></p> <p><b>Freedom house - Freedom of the Press Scores</b></p> <p>Total Score; Legal Political and Economic Environment - <i>(insert the score for your country for the last 3 years)</i></p>
	<p><b>Implementation of Law on prohibition of discrimination</b></p>	<p><b>European Equality Law Network –</b></p> <p><i>(Source for Macedonia, Montenegro and Serbia. The rest of the countries: Kosovo; BiH and Albania please insert relevant grey literature reference.)</i></p>
	<p><b>Law on Asylum aligned with EU acquis</b></p>	<p><b>Findings from interviews and EC country report from the last 3 years</b></p>
	<p><b>Specific anticorruption plans; providing adequate follow up of detected cases; cooperation on borders</b></p>	<p><b>Findings from interviews; FOI request for track records and EC country report</b></p>
	<p><b>The role of intelligence services and the oversight mechanisms that are introduced; established initial track record of investigations in organised crime</b></p>	<p><b>Findings from interviews and EC country report from the last 3 years</b></p>

## 2. Overview of findings

<b>Timeline/evolution of the benchmark over time</b>  <i>[Please add as many rows as needed in the table]</i>	<table border="1"> <thead> <tr> <th>Event/document/juncture</th> <th>Year</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </tbody> </table>		Event/document/juncture	Year				
	Event/document/juncture	Year						
<b>Narrative timeline of the benchmark</b>  <i>[Please briefly explain the evolution of the benchmark over time guided by the info that you have inserted in the table]</i>								
<b>Key findings on the implementation and monitoring of the benchmark</b>  <i>[Please provide a critical evaluation and incorporate your findings from the interviews/desk research/organization expertise – please reference in this process]</i>								
<b>Key findings on the effectiveness of the benchmarks</b>  <i>[Please provide findings from interviews and findings from quantitative indicators accompanied with a critical evaluation – please reference in this process ]</i>								
<b>Key challenges for the implementation/effectiveness of the benchmark</b>  <i>[Briefly state in bullets]</i>								
<b>Observed trends</b>  <i>[Briefly state in two sentences]</i>								

## 3. Recommendations

<b>Recommendations for strengthening the monitoring mechanism/the effectiveness of the benchmark</b>  <i>[Please list in bullets; add rows if needed.]</i>	To the government/specific institutions	
	To the European Commission	

## 4. Conclusions

*[Please mention briefly the conclusion of your findings related to the specific benchmark.]*