

THREE “STEPS” TO IMPROVE PARLIAMENTARY DEALINGS ON EU ACCESSION

PCEI & PARLIAMENTARY DEALINGS ON EU ISSUES

Initially established as an ad hoc Committee in 2002 (Decision no 37, date 16.05.2002) and acting as a standing committee since 2004 (Decision no 166, date 16.12.2004) the Parliamentary Committee on European Integration (PCEI) marked a new momentum in the parliamentary dealings on EU accession. Yet, almost eight years since its establishment the Committee is still struggling to consolidate its role and add value to the integration process.

The low level of expertise available to PCEI has been repeatedly emphasized in the progress reports of the European Commission (EC) as a major concern which is reflected in the quality of legislation and is also affecting the role and impact of this body in the EU accession process. Inactivity in the monitoring of the SAA implementation and underused oversight mechanisms of the Parliament vis a vis the Executive notes another hotspot in the reports. Last but not least, the cooperation of PCEI with civil society and interest groups also appears to be underdeveloped.

The Committee represents a cornerstone in the quality of parliamentary dealings on EU affairs and therefore expectations for improved role of the Parliament in this regard start from this point. In addition to legal approximation, PCEI's mandate and central focus must extend to oversight of SAA implementation and EU accession process, generate and reflect on qualitative inputs from societal actors etc. Concrete measures in this context would add value to the accession process; consolidate parliamentary practices and capacities serving, in the post EU accession phase, to carry out meaningful processes of national parliaments under EU treaties.¹

1. The subsidiarity check is one of these tasks for which PCEI must build capacities as a future COSAC - member. COSAC - Conference of Community and European Affairs Committees (French acronym COSAC – Conférence des organes spécialisés dans les affaires communautaires).

EXECUTIVE SUMMARY

At the outset of a momentous phase of Albania's EU accession, PCEI is still struggling to build an efficient role and a “**quality assurance**” brand in the **parliamentary dealings on EU issues**. The Committee's performance remains limited, with no significant role in the monitoring of integration reforms, performance of state actors involved and a missing dialogue with interest groups that may add real value to EU accession. In the past two years (September 2008 – September 2010) PCEI has held an average of fewer than **2 meetings a month**, reviewing **one draft per meeting**, where the presence of MEI representatives stands at **33% of the number of PCEI's hearings**, with only one case of a minister **reporting on SAA obligations'** implementation, with **no record** on interest groups' representatives participating in the discussion, and only 2 hearings where civil society actors have actively participated in the debate.

Such performance does not respond to **expectations** from parliamentary dealings on EU affairs in the current stage and is far from the profile and role of respective parliamentary bodies in advanced SAP countries. This policy brief suggests that **meaningful inputs and impact of PCEI** and the Parliament in general would derive from concrete actions on 3 major challenges – (1) **capacities and expertise** available to PCEI; (2) **oversight and coordination** mechanisms with the executive and within the parliament; and (3) **value-driven interactions with interest groups** where the advice to establish a National Council on EU accession should not be an alternative but an additional mechanism to enliven involvement of non-state actors in PCEI and parliamentary dealings on EU affairs.

IMPROVED PCEI'S IMPACT.... THREE STEPS AWAY

The challenges to accommodate the role and impact of PCEI in a multifaceted process such as EU accession are significant and manifold. Acting in a complex political environment where the Albanian Parliament still finds itself in a rather weak position vis a vis the Executive as regards the overall policy making process, the quest for strengthening the role of the former seems quite difficult. The mission and tasks assigned to the Parliamentary Committee on European Integration are designed to support the EU accession process not only in view of approximation of legislation and the design of a policy framework aimed to bring the country closer to the EU, but also in terms of a **"quality assurance" brand** through oversight over the process, cooperation and consultations with interest groups thus generating genuine local perspective in this course.

PCEI represents the first and perhaps the central echelon of the parliamentary dealings on EU affairs. Hence any action to strengthen the legislative body's profile and role in EU accession would start from this point. Fundamentally, **a strong profile and momentous role of PCEI** in Albania's EU accession is challenged by 3 major concerns, as repeatedly pointed out in the last four EC progress reports (2007 – 2010):

- **First**, the EC progress reports read that the **LOW LEVEL EXPERTISE** and capacities available to PCEI and the Parliament in general has often affected the quality of legislation.
- **Second**, EC progress reports point out to an almost inexistent role of the legislative body in the **MONITORING** of SAA implementation and more broadly in the EU integration process. The analysis of PCEI's track record in the past two years (September 2008 – September 2010) shows that the Committee has been quite inactive in this sense, with only one hearing held with a political representative reporting on the respective ministry's progress in implementing SAA obligations.

EC PROGRESS REPORTS ON ALBANIA 2007 – 2010

"PCEI met infrequently and conducted no regular review of SAA-related topics. Monitoring of implementation of SAA obligations is done exclusively by the government. The level of expertise available to the parliament, including on EU integration issues, remains low. This is reflected in the quality of legislation."

EC, SEC(2007) 1429, pp. 6

"PCEI contributed to improving awareness about the EU integration process. However, no progress has been made on enhancing the role of parliament in monitoring implementation of SAA obligations. The low level of expertise available to parliament had an adverse effect on the quality of EU-related legislation."

EC, SEC(2008) 2692, pp. 6-7

"Parliament only partially exercised its oversight over the executive. To progress on approximation of legislation, parliament will have to strengthen administrative capacities to perform its control functions over the legislative process..."

...PCEI has continued to raise awareness on EU matters. PCEI checks whether draft legislation includes concordance tables for legal approximation, as required under a new regulation of the Council of Ministers. However, further efforts are needed to enhance the role of parliament in monitoring the implementation of SAA obligations."

EC, SEC(2009) 1337, pp. 6-7

A considerable number of laws have been passed by parliament in view of necessary social & economic reforms to align Albanian legislation with the EU acquis. However, the quality of legislation passed has not always been of an adequate standard.

...Involvement of relevant interest groups in parliamentary hearings and consultations is limited.

... Politicisation of parliament's administrative and expert staff is detrimental to the overall organisation of activities. Moreover, staff capacities are limited ..

...the parliament does not exercise effectively and efficiently its oversight & control function over the government.

EC, SEC(2010) 1335, pp. 11-12

- **Last**, our research and analysis of PCEI proceedings shows that **INTEREST GROUPS AND CIVIL SOCIETY** actors are not involved and the Committee appears distant from an approach that would rely on continuous consultations and active involvement of these societal actors.

All three aspects are crucial at this stage of the process and a significant asset to move towards a stronger “say” of the Committee and the Parliament in the process of EU accession. Furthermore, actions to address these concerns at this moment will improve Parliament’s track record in due time and will lay strong foundations for a sound performance and response to membership obligations once the country joins the EU.

The **subsidiarity check** is one of such rights and obligations of EU members’ national parliaments which enables them a significant role in the review of EC proposals in accordance with the principle of subsidiarity.² In terms of internal (national) dealings and processes in relation to EU matters, the so called **scrutiny procedure** allows national parliaments and especially the EU affairs Parliamentary Committees a greater say and control over the Government’s actions.³ Both instruments require a certain level of development and efficiency of parliamentary practices and overall performance in relation to EU affairs.

Nevertheless, the path towards such role and position of the Albanian Parliament and PCEI on “European” matters after EU accession unavoidably involves the need to develop policy

2. According to the Lisbon Treaty “Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.” The EC is obliged to review its position if 1/3 of national parliaments react with subsidiarity arguments.

3. Each national Parliament of the EU-27 has put in place scrutiny procedures to reinforce democratic control over EU matters. In most national Parliaments, the Committee on European Affairs is at the heart of the scrutiny procedure. The arrangements adopted for detailed committee scrutiny in the national Parliaments depend on the type of scrutiny system chosen by each parliamentary Chamber. Some Chambers have chosen a “document based” system which focuses on the scrutiny of EU documents, while others have developed procedures which empower their Committees on European Affairs to give a direct mandate to their Governments before ministers can endorse legislation in the Council meetings. A small group of Parliaments have chosen more informal channels of influence. In practice, many systems can be seen as mixed. Source: COSAC (<http://www.cosac.eu/en/info/scrutiny/scrutiny/>).

alternatives and measures that would lead to profound and value-driven inputs of the Parliament and PCEI in the pre-accession period. Hence this is the high time for involved stakeholders to build on actions that seek to improve parliamentary dealings on Albania’s EU integration process.

UNDERSTANDING THE CHALLENGES TO DELIVER ALTERNATIVES

CAPACITIES AND EXPERTISE – appear to be a constant need for the Parliamentary Committee on European Integration, as pointed out by several EC progress reports and also by representatives of the Parliament. At present, PCEI’s work is supported by one advisor and also by a recently established Unit on approximation of legislation under the Legal Department of the Parliament. Although formally this unit increases PCEI’s support to a total of four advisors the experience shows that the Committee’s work still relies on permanent basis only on one advisor and one technical staff. An additional concern represents the fact that the **expertise** of the support staff remains limited in the field of legal **approximation practices and techniques** or in relation to other topical issues (e.g. costing of policy or legislative measures). Overall, PCEI’s technical support and expert assistance fails to respond to

PCEI ACTIVITY

September 2008 – September 2010

- With a total of 35 meetings, PCEI’s average reaches 1.8 meeting per month
- An average of 69% PCEI members (MPs) have been present in each meeting
- In each meeting PCEI has reviewed 1.1 draft legislative acts (i.e. a total of 36 draft laws, of which 13 bilateral or multilateral agreements)
- Only 1 strategic document (intellectual property right) and 2 resolutions (EU membership application and visa liberalization) have been reviewed in the course of the 19 working months for PCEI in the past two years.

ever increasing needs of the Committee and the integration process in general. It is also lagging behind the experience and settings of similar parliamentary bodies in the region and is certainly not comparable to the experience of EU newcomers in the 2004 enlargement wave. Namely, the work of the **Estonian** Parliamentary Committee on EU affairs in the period 2001 – 2004 (before accession) was supported on permanent basis by a total of four advisors thus allowing for detailed review of legislative and policy measures (average of 25 – 30 draft laws a year). After EU accession this body counts on the support of five advisors based in Tallin and another one based in Brussels, with a significantly increased activity of the Committee, processing an average of 65 – 70 acts a year. Albanian PCEI lags behind in this sense also as compared with the region. For instance, **Kosovo's** Parliamentary Committee on European Integration currently counts on the permanent support of four advisors and one technical staff. Although this country is considered to be in the early stages of the SA process it is worth mentioning that the technical and expert support allows for this body to deliver regularly not only on legal approximation tasks but also on monitoring of the Government's actions in the course of EU integration process.⁴ The experience of SAP countries in the region offers also other tools to allow for greater and easily accessible expertise on EU affairs of parliamentary committees – ranging from practices of **outsourcing** analysis and research, to cases of establishing permanent **research bodies** as part of the Parliament's support framework.⁵

Insufficient expertise and capacities available to PCEI are not the only obstacle and reason for the Committee's weak performance. The approach of political actors within the Parliament and the level of engagement they dedicate to advance the role of this body beyond the limits of a pro-forma practice appear to be another conditioning factor. Adding to these settings also the influences deriving from the

4. See for instance the Committee's Bulletin for the first half of 2009, available at http://www.assembly-kosova.org/common/docs/KIE_24.07.09.pdf

5. The Macedonian Parliament has recently established a Parliamentary Institute with the purpose to enable all parties to have greater access to information and high quality analysis.

political environment particularly when characterized by the lack of constructive political dialogue, the quest for improving parliamentary dealings on EU affairs and for a more active role in the monitoring of the accession process appears to be less realistic.

OVERSIGHT AND COORDINATION – The lack of a well-established role of the legislative body on EU related issues has apparently led to an almost inexistent practice of **periodic consultations and coordination** not only within the **Parliament**, but also in relation to the **Government** (i.e. Ministry of European Integration – MEI). Our research on PCEI's activity in the past two years shows that this body's performance is completely missing the **oversight role** over Albania's EU integration process and more specifically in terms of progress of SAA implementation and operations of line ministries and other governmental agencies responding to SAP priorities.⁶

PCEI ACTIVITY

September 2008 – September 2010

- Presence of MEI representatives is limited to 33% of the total number of PCEI meetings
- There is no record of the Minister of EI reporting to PCEI. The Minister has attended only one meeting of PCEI in 2009 (namely, 1st reading of draft law on 2010 State Budget)
- No other informative or review meetings with MEI political representatives has taken place on the progress of EU integration process
- In only one occasion a minister has reported to PCEI on the implementation of obligations deriving from the EU integration process (namely, the Minister of Justice in 2008).

It is clear that the reasons and factors for PCEI's inactivity in this regard and the missing mechanism that would ensure continuous cooperation and coordination with governmental actors are interconnected. Accordingly, any

6. The Commission's progress reports have repeatedly emphasized that SAA implementation is monitored exclusively by the Government and that the legislative body has not acted to initiate and build its oversight role in this process.

action to improve the performance of PCEI and more broadly the role of the Parliament must start with practices and instruments that would impose as a sine qua non the cooperation of line ministries and above all, **MEI interactions** with the Parliamentary Committee on European Integration as the Parliament's focal point on EU affairs. On the other hand, **intra-parliamentary coordination** among representatives of political groups must urgently incorporate in the agenda issues related to EU accession which are (expected to be) dealt in PCEI's hearings.⁷

The experience of other SAP countries (e.g. Macedonia, Croatia, Montenegro) suggests that coordination on EU related issues among political groups in the parliament and chairpersons of standing committees must unavoidably take place at least on monthly basis. The current practice of cooperation and interactions between PCEI and MEI must be radically changed not only in terms of MEI representatives' participation in PCEI hearings but also by introducing a compulsory practice of regular **informative and coordination meetings** with MEI political representatives. Yet, this is not simply a matter of legal rules and bylaws, but particularly a matter of **political approach and commitment** to EU accession process in real terms. These measures would note a first step to strengthen the Parliament's profile and more specifically PCEI's role in developing comprehensive monitoring mechanisms regarding SAA implementation and more broadly, the process of Albania's accession. Yet, the quest for such a high profile of the Parliament and of PCEI in the process of European integration would definitely remain incomplete if actions do not extend to cooperation and consultations with civil society and interest groups. Despite recent positive developments in the work of the Parliament in this regard, the research data on PCEI's activity reveal a disturbing concern as the subsequent section points out.

CONSULTATIONS AND COOPERATION

– The contribution of various interest

7. Involvement of the Minister of EI is of great importance also at this level of coordination.

groups, think tanks and other civil society actors is particularly essential for this stage of the process not only in view of the above presented challenges but also due to two additional reasons. Firstly, as many public opinion polls show large support for Albania's EU accession, it becomes evident that at this stage Albanian societal actors need **informed debates and analysis** rather than campaigns "advertising the EU" in front of ordinary citizens who have no objections towards EU accession anyway. Secondly, cooperation with civil society and interest groups is particularly important for the subsequent phase of EU accession where Albania will **shape the settings** under which it will join EU and also would eventually add **local value** to the Union's policies by introducing national priorities and interests.

PCEI ACTIVITY

September 2008 – September 2010

- In only one occasion civil society actors have participated in PCEI hearings on specific draft legislation. Namely, two hearings on the draft law on prevention from discrimination (early 2010)
- Interest groups from the private sector have never attended a PCEI meeting on specific draft legislation in the past two years.

While this may be the right timing to ensure qualitative steps in the future stages, from the present perspective it is of significant importance to address this shortcomings in order to embark on **qualitative reforms and applicable policy and legal framework** that are necessary in the context of EU accession. For this purpose, PCEI or any other parliamentary body can not afford to hide behind the "lack of interest from civil society or interest groups" as an excuse. Not only because this would undermine efforts to move towards an efficient and high profile parliamentary dealings on EU accession related issues but also in view of the often repeated observation of EC progress reports that **enforceability and quality of aligned legislation** is often questioned in practice also due to lack of inclusive consultations with impacted actors.

Although PCEI's agenda in the past two years has involved alignment of a number of laws with significant impact on the private sector and in other areas, in the past two years no interest groups has been engaged in the committee's debates while civil society representatives have participated in only two hearings as active contributors. Involvement of non-state actors and interest groups is not necessary just for the sake of consultations or ex-post information. Rather, the purpose is reflect in the country's EU accession reforms the experience and priorities of those actors that are impacted by the process or may have an impact on the (quality of the) process. This must be the guiding principle for all state actors and especially for PCEI and the Parliament which has the final say in the general alignment process of the policy and legal framework.

Two neighboring countries, Montenegro and Macedonia, have adopted an efficient instrument to reach these objectives in their respective pathways towards EU. This instrument must be employed also in Albania not as an alternative to the (lack of) involvement of non-state actors in PCEI work, but as an additional forum for consultations and policy advice.

Namely, the **National Council for European Integration** in Macedonia (established in November 2007) represents an advisory body and a consultation forum gathering members of Parliament, Deputy PM in charge of EU affairs, representative of the President's Office, and

representatives from private sector, labour unions, academia, media and civil society. The Council is established in order to strengthen the activities and responsibilities of all the relevant national and other bodies and institutions for securing a harmonized and coordinated action in the process of accession the Republic of Macedonia to the European Union.⁸

The activity of this Council since its establishment offers evidence for the added value it brings for the Macedonian EU accession process. Furthermore, the importance attached to this body is particularly evident also in terms of the human resources – a total of **nine experts and support staff** – that assist the work of the Council.

Given the overall challenges of parliamentary dealings on EU affairs and more specifically the lack of involvement of civil society and interest groups in the work of PCEI, as well as in view of forthcoming developments and needs under successive stages of country's accession, the establishment of a similar forum by the Albanian Parliament must accompany at this moment also other measures to consolidate the role and impact of the legislative body in Albania's EU integration process.

Based on the above analysis, the following section outlines a set of recommendations for the Parliament to respond to concerns highlighted in EC's Progress Reports as evidenced also by additional facts and research data described in this policy brief.

MANDATE OF THE MACEDONIAN NATIONAL COUNCIL FOR EUROPEAN INTEGRATION

The Council shall:

- Monitor and assess the activities for accession the Republic of Macedonia to the European Union;
- Give opinion and guidelines regarding the preparations for the start of negotiations for membership of the Republic of Macedonia to the European Union;
- Give opinion and guidelines on the negotiation positions of the Republic of Macedonia;
- Review the information on the process of negotiations;
- Give opinion on the issues that will arise during the negotiations;
- Review and assess the activities of the persons involved in the negotiations teams;
- Have regular consultations and exchange of information, through the Chairperson of the Council, with the President of the Republic of Macedonia, the Prime Minister, and the President of the Assembly of the Republic of Macedonia;
- Have regular consultations with the head of the negotiations team and the Minister of Foreign Affairs;
- Give opinion, when needed, on the harmonization of the legislation of the Republic of Macedonia with the *acquis communautaire*;
- Inform the Assembly of the Republic of Macedonia on its work at least twice each year.

8. For more detailed information please visit [http://www.sobranie.mk/en/WBStorage/Files/NCEI-Decision%20for%20Establishing\[1\]\[1\].doc](http://www.sobranie.mk/en/WBStorage/Files/NCEI-Decision%20for%20Establishing[1][1].doc)

RECOMMENDATIONS

INCREASED CAPACITIES & EXPERTISE AVAILABLE TO PCEI

- Increase the number of advisors supporting PCEI's review process of draft legislative and policy documents. In addition to a strong background on legislative process, the expertise of newly hired staff must involve also relevant skills on the implementation of EU acquis, approximation of legislation techniques including costing and other topical issues related to the parliamentary mechanisms on oversight and cooperation.
- Develop capacity building programs for the technical and expert staff assisting the activities of PCEI
- Take under consideration the possibility to establish a Parliamentary analytical research unit that engages in research and analysis on relevant issues related to EU affairs and accession process
- Develop cooperation partnerships with Albanian think tanks and relevant academic bodies involved in the policy and research work on a variety of sectors and areas that are relevant for PCEI's work. Take under consideration the possibility to outsource specific analysis of topical issues of interest for the Committee.

IMPROVE PCEI'S OVERSIGHT ROLE & COORDINATION MECHANISMS

- Take actions to establish an intra-parliamentary coordination practice on EU integration related issues, involving the chief coordinators of parliamentary groups, chair of PCEI and the Minister of European Integration
- Establish a periodic and obligatory coordination mechanism between PCEI and MEI, involving the Committee's chairperson and MEI political representatives (Minister of deputy ministers).
- Make sure that representatives of MEI – as the main ministry in charge of the coordination of EU integration process – deliver more qualitative input in each PCEI meeting.
- Make full use of the oversight powers acknowledged to PCEI by inviting regularly political (and expert) representatives of MEI and other line ministries to report on progress of implementation of SAA/SAP obligations. This approach would lead to a more active involvement of PCEI also in the process of review and update of strategic documents related to country's accession (especially the National Plan for the Implementation of the SAA – NPISAA)

VALUE-DRIVEN INTERACTIONS WITH INTEREST GROUPS

- Identify and invite regularly in public hearings representatives of civil society, interest groups and other potential stakeholders that are impacted or have an impact on the process thus adding value to PCEI's activity and overall parliamentary dealings on policy and legislative aspects related to country's EU accession.
- Implement initiatives that bring PCEI closer to interest groups and other stakeholders, most notably by organizing regular consultation and informative forums (outside the Parliament).
- Build on the neighbouring SAP countries' experience to establish a national forum of consultations between parliamentary and institutional representatives, interest groups, civil society and other non-state actors on matters related to Albania's EU accession, as an additional mechanism that aims to generate qualitative inputs to this process. Make sure that this forum (NATIONAL COUNCIL ON EU ACCESSION) is adequately resourced with technical and expert staff in order to perform its advisory and monitoring role.

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