



EUROPE IN TWELVE “LESSONS”

How late is “too late”?

On the 9th of November 2010, the European Commission presented its opinion [SEC(2010) 1335] on Albania’s application for membership of the European Union, submitted on the 28th of April 2009. The Commission’s avis analyses Albania’s application on the basis of the country’s capacity to meet the criteria set by the Copenhagen European Council of 1993 as well as the conditionality of the Stabilisation and Association Process. The opinion does not recommend to the Council granting of candidate country status for Albania. Further, the Commission considers that EU accession negotiations with Albania should be opened once the country has achieved a certain degree of compliance with membership criteria and in particular with the Copenhagen political criteria. The opinion outlines twelve key priorities to be addressed by Albania and the progress (to be) made will be reported in the 2011 enlargement package.

Surprisingly or not, the political discourse in Albania still fails to focus on a “make status & accession negotiations possible” debate that would generate a concrete action agenda with clear deadlines. Rather, in the past few weeks political leaders and actors have centered their energies to find “whose fault was it”, thus ignoring the fact that such a debate is not only redundant at this point but also unproductive in view of the “12 steps towards negotiations”. Setting clear deadlines to accelerate the process on the other hand seems an even more distant perspective for Albanian political actors.

EXECUTIVE SUMMARY

On the 9th of November 2010 Albania was formally informed about what many feared and forewarned in the past year – the prolonged political stalemate will unavoidably jeopardize a positive consideration of the country’s EU membership application.

Few weeks from the EC’s avis Albanian political actors are not only asking the wrong questions but they also have misperceived the central concern. Preoccupied with debates on “whose fault was for not being granted the candidate country status”, political parties seem far from focusing on a “make status & accession negotiations possible” debate that would generate a concrete action agenda with clear deadlines. The delays in doing so are most likely to cart off the perspective of a decision for accession negotiations beyond 2012.

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This policy brief aims to encourage a concrete “next-steps-agenda” for political actors by looking at the implications of failing to address the avis’ priorities for Albania towards EU accession negotiations. It further strives to enliven public pressure on political actors to go beyond their political interests and engage in actions to achieve country’s strategic goal – EU membership. Reference to previous IDM’s policy work (“Timing Albania’s Application for EU membership”¹ and “Post-EU Membership Application”²) will be made in particular through looking at “how realistic” it still seems the then suggested timeframe – obtaining candidate country status by 2011 and opening of accession negotiations in 2012.

HOW TO READ THE TWELVE STEPS OF EC’S AVIS

Few weeks from the EC’s avis on Albania’s application for EU memberships Albanian political actors have not taken concrete measures to act on the priorities that condition the country’s further progress towards EU accession. Instead, the only purpose of their different readings to the avis is to link their political opponents with the reasons why Albania was denied at this point the candidate country status. The ongoing debate shows that the broad political spectrum in Albania is not only asking the wrong questions but they also have misperceived the central concern. Namely, a quest that does not look beyond the candidate country status (i.e. towards accession negotiations) is meaningless not only because the Commission itself focuses on “twelve priorities for opening accession negotiations” but also because the status without a clear perspective for accession negotiations would not bring any major input at this stage

1.IDM policy series Vol. I/no 3, October 2008.

2.IDM policy series Vol. II/no 4, September 2009.

EC’s AVIS ON ALBANIA: 12 PRIORITIES

- Ensure the proper functioning of Parliament on the basis of a constructive and sustained political dialogue among all political parties.
- Adopt pending laws requiring a reinforced majority in Parliament.
- Appoint the Ombudsman, and ensure an orderly hearing and voting process in Parliament for constitutional and high court appointments.
- Modify the legislative framework for elections in line with OSCE-ODIHR recommendations.
- Ensure elections are conducted in line with European and international standards.
- Complete essential steps in public administration reform including amendments to the civil service law & strengthening of the Dep. of Public Administration, with a view to enhancing professionalism & de-politicisation of public administration & to strengthening a transparent, merit-based approach to appointments & promotions.
- Strengthen rule of law through adoption and implementation of a reform strategy for the judiciary, ensuring the independence, efficiency and accountability of judicial institutions.
- Effectively implement the government’s anti-corruption strategy & action plan, remove obstacles to investigations, in particular of judges, ministers & MPs; develop a solid track record of proactive investigations, prosecutions and convictions in corruption cases at all levels.
- Strengthen the fight against organised crime, based on threat assessment and proactive investigation, increased cooperation with regional and EU partners and better coordination of law enforcement agencies. Develop a solid track record in this area.
- Prepare, adopt & implement a national strategy and action plan on property rights following broad stakeholder consultation and taking ECtHR case law into account; this should cover restitution, compensation & legalisation processes.
- Take concrete steps to reinforce the protection of human rights, notably for women, children and Roma, and to effectively implement anti-discrimination policies.
- Take additional measures to improve treatment of detainees in police stations, pre-trial detention and prisons. Strengthen the judicial follow-up of cases of ill-treatment & improve the application of recommendations of the Ombudsman in this field.

of the process.³ On the other hand, a debate that focuses on “whose fault was for not granting candidate country status” appears even more dramatic.

So how the EC’s opinion should be read and considered?

To start with, the wording used in the opinion and the focus placed on accession negotiations represent clear landmarks that the Commission expects a more concrete progress that relies on a clear medium to long term action plan to meet the EU membership criteria. Yet, to embark on such a process it is of pivotal importance to ensure a certain degree of compliance with political criteria and in this context, constructive political dialogue, proper functioning of institutions, electoral reform and elections in line with European and international standards are the most urgent challenges. Clearly, this refers to the first five priorities which of course note only a first step towards a sustained progress or at least, high expectations in this direction. The first half of 2011 is of course the high time to provide concrete evidence on Albania’s progress in this regard. However, lack of concrete preparatory and other measures to act on the remaining seven priorities in the mean time will not bring any positive development in the next year’s Enlargement package (2011).

Sustained progress in relation to the political criteria is understandably a key word in Commission’s view and this is the understanding that must guide Albanian political actors. The past year and a half provided clear evidence that any political stalemate may lead not only to a decelerated pace of reforms but also to sensitive institutional impasse – with both elements representing key pre-

conditions for the EU accession process. Accordingly, the (re)building of a constructive political dialogue and cooperation goes beyond the needs of overcoming the current political stalemate and the upcoming local elections. The judiciary reform and anti-corruption measures (e.g. the removal of obstacles to investigations, in particular of judges, ministers & MPs) will note a test for the prospects and sustainability of the degree of compliance with the political criteria. This means that any other possible scenario would jeopardize not only accession negotiations’ decision but also prospects of being awarded the candidate country status by the end of next year.

HOW LATE IS “TOO LATE”?

Given the progress and overall political developments in the past two years, as well as the current pulse of political actors’ commitment and willingness, it seems that the timeline proposed by IDM policy brief in October 2008 may be easily classified under the “in the best case” scenarios. Namely, in October 2008, IDM Center for European & Security Affairs issued a policy brief presenting a call for Albania to apply for membership under the Czech EU Presidency.⁴ This document’s advice for the Government and the broad political spectrum to submit EU membership application in the period of March–April 2009 as the most advantageous timing for processing the application, was heavily based on the understanding that Albania’s overall goal should not be limited to the status, but it must look towards the progress and reforms enabling a Council decision setting a date for EU accession negotiations. The brief concludes that “setting clear deadlines as regards the post-application process and working towards

3. The experience of Macedonia is a clear example of this. On the other hand, the opening of the other IPA components (available only to candidate countries) will not add significant value either, considering Albania’s low absorption capacity.

4. See “TIMING ALBANIA’S APPLICATION FOR EU MEMBERSHIP: Making the right choice between the French, the Czech and the Swedish EU Presidencies” (IDM policy series Vol. I/no 3, October 2008).

meeting the requirements represent the key elements which should guide the whole process”. Yet, two years from this public call and only few weeks since the EC’s opinion, Albanian political actors are not acting to translate in practice key concepts such as “clear deadlines, firm and sustained commitment”.

The only advantage that the country has drawn from applying under the Czech EU Presidency so far seems to be only the fact that the membership application was timely considered by the EU. EC’s 2010 analytical report and the opinion clearly show that this was a missed opportunity for Albania. While the overall positive assessment of 2009 General Elections enabled the green light by the Council to process Albania’s EU membership application, the still pending political impasse brought back the “elections” into the priority agenda as one of the factors conditioning further progress of EU accession. This shows that political actors’ approach and understanding failed to show due attention and sensitivity to the fact that this was an important momentum for the country “to establish sound capacities not only to meet the conditions to enter the EU but also capacities to shape the conditions under which it will do so through the accession negotiations”.⁵

At this stage is not important to argue on the “why-s” and “who-s” of “elections’ homecoming” or the EC’s avis in general, but rather on the implications of failing to timely remove barriers to the accession negotiations through a sustained approach to the twelve priorities outlined therein.⁶ Any delays and transient approach by political actors in this course would rightfully raise doubts and concerns over the willingness and commit-

ment from Albanian side. A “dèjà vu” as in the case of the prolonged SAA negotiations (2003 – 2006) caused by the lack of sustained political willingness to ensure minimum compliance with EU membership political criteria would be particularly harmful at this stage of the process – a pending recommendation from the Commission to open negotiations. Furthermore, even after the opening of the negotiations, any doubt or concern in this regard may easily lead a given EU member state to a decision to block negotiations on any of the chapters.

From this perspective, and also in view of the fact that the Commission would not take any risk to recommend opening of accession negotiations with a country that raises concerns over the po-

IDM Policy Brief “Timing Albania’s Application for EU membership” (October 2008)
TIMELINE

Submitting EU membership application	March - April 2009
Council requesting an avis from the Commission	October / December 2009
Answering the EC Questionnaire	2010
Positive avis from the Commission to the Council	Late 2010 / early 2011
Council decision granting candidate country status	Mid 2011
Opening of accession negotiations	Late 2011 / early 2012

5. This is also the advice of another IDM policy brief released in September 2009. See “POST - EU MEMBERSHIP APPLICATION: The Challenge of EC Questionnaire and beyond” (IDM policy series Vol. II/no 4, September 2009).

6. The Commission’s Opinion is a clear roadmap on how to embark on this process hence this section tends to focus on the hidden implications of the “do-s” and “don’t-s” in the approach of political actors and the cost of delay vis a vis the Opinion’s priorities.

litical criteria, this year was a missed opportunity for Albania to aim at opening of accession negotiations by early 2012, as advised by IDM policy brief in October 2008 (see Box). The impact of this year’s political stalemate would most likely impose the need within the EU to “keep an eye” on Albania also in 2012 before opening accession negotiations. Furthermore, some of the outlined priorities which must be addressed are still at early stages and hence would require more time to evaluate results. On the other hand, the EU internal dynamics and attitude towards enlargement vis a vis the “deepening” and other priorities of the Union may be also reflected in the case of Albania’s EU membership application. On top of all these factors, any failure of Albanian political actors to provide clear evidence particularly on concerns over compliance with membership political criteria, would most likely file the membership application in the “not so urgent” folder of the EU.

Accordingly, the only option for Albania to embark on a positive assessment in the 2011 Enlargement Package and eventually a Commission’s recommendation for the Council to open accession negotiations would start with the ending of the political impasse as soon as possible and immediate engagement in addressing the other key priorities. Local elections in May 2011 in line with European and international standards must end the saga of Albanian elections while continued political dialogue must provide the needed backing for concrete results in relation to other priorities before the Commission issues the next year’s progress report.

Failing to do so would lead to a delay in the subsequent stages of Albania’s EU integration process well beyond 2012.....even after the opening of negotiations (whenever that would follow), at every struggle to open a negotiation chapter.

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