



Albania's EU accession – Is it risking a 2009 déjà vu?

Almost six months since it was granted the European Union (EU) candidate status, Albania's accession process is off the attention of the public discourse and a remote focus in political debates. The European Commission's (EC) Progress Report published in October 2014 was barely a highlight in the "rich" front-page of domestic issues and internal politics. Betting hopes on the so called Berlin Process¹, Albanian stakeholders do not seem troubled by the "enlargement fatigue".

The Government of Albania has adopted earlier this year a Roadmap on five priorities (CMD no 330, date 28.05.2014) and a National Plan for European Integration 2014-2020 (CMD no 438, date 02.07.2014) to walk the road towards opening of accession negotiations. With granting of the candidate country status EU officials have made it clear that, beyond the adoption of strategic plans and laws, a **track record of results** in the implementation of five key priorities is of paramount importance for accession negotiations.

However, over the past six months too little 'action' happened on the implementation side and even less, on preparations to take the next step (negotiations). The few attempts to initiate reforms related to EC's five priorities for Albania such as judiciary reform or establishing a National Council of European Integration are hindered by a confrontational political climate which has further deteriorated with the opposition's boycott of the Parliament since July 2014. Despite some applaudable moves to build a track record in fighting impunity and corruption of high level officials – part of EC's five priorities for Albania – chances to succeed are hindered, not least due to corruption in the judiciary and its role in fueling both, public dissatisfaction and confrontational political climate.

While "*quality over speed*" of the EU accession is broadly accepted in the Western Balkans (WB), its strict application with no "pressuring" quality benchmarks from Brussels will only serve to calming down EU's "enlargement fatigue" and to boosting of WB public's apathy towards the process. In the case of

¹ See Final Declaration by the Chair of the Conference on the Western Balkans, Berlin, 28 August 2014 http://www.auswaertiges-amt.de/cae/servlet/contentblob/684762/publicationFile/195997/140828-Abschlusserkl_Konf_Westl_Balkan.pdf

Albania, its EU accession process risks a *déjà vu* of the post 2009 stalemate. However, this time such risk is fueled not only by confrontational domestic politics, but also by resistance to reform, a sidetracked civil society and, last but not least, by dithering Brussels to engage more proactively and match such pressure with quality-benchmarks on Albania's "to-do-list".² Early action to prevent a *déjà vu* should take onboard solutions to address these concerns instead of resorting to the comfort of "enlargement fatigue" (in Brussels) and hesitation over political dialogue (in Tirana).

(Hesitate to) Dialogue on EC's five priorities

A violent attack to an opposition MP by two of his colleagues from the majority block in July this year led to a parliamentary boycott of the opposition which is still continuing. As both parties keep blaming each other over the boycott, Brussels has urged them to develop constructive dialogue and engage in EU accession reforms. The first "victim" of such political fight was the establishment of the National Council for European Integration – a multi stakeholder consultative forum composed of representatives from state and non-public sector – which was postponed due to opposition's boycott. Further, a high level roundtable hosted by the President and a technical discussion organized by the Minister of Justice in October this year did not bring any concrete pathway, different to that of a political rhetoric.

Despite calls for political consensus and dialogue the two political players remain standstill – the opposition refusing involvement and the Government hesitant to take steps. Accordingly, some progress was made only on routine measures related to some of EC's five priorities (e.g. public administration, human rights). However, ***Achilles' heel*** for Albania's EU accession – a solid track record in fighting impunity and high level corruption, and judicial reform – **remain untouched**.

Impunity and high level corruption – too much talk, too little action

Few charges against former ministers and high level officials over the past year or so ended up in no more than media headlines. Various allegations made by the opposition democrats over the criminal past of new appointees at different levels of central government have forced the latter to withdraw. Arrests at low to mid levels of the current central administration or local governments' officials from both, ruling and opposition parties are a good start, but not enough to prove that anticorruption will reach at higher levels. While majority and opposition parties' "finger-pointing" over corruption is often a front page news, the public is less hopeful of concrete results.

As confrontational politics intensifies, certain segments of the judiciary complete the vicious circle by fueling the politicization of impunity. Earlier this year the High Council of Justice (HCJ) refused to dismiss one of its members – a judge of Tirana Court of Appeal – over charges of fraudulent declaration of assets worth nearly EUR 2.4 millions. Another two court decisions backed the judge by rejecting

² As outlined in the Joint Conclusions of the fourth High Level Dialogue on the Key Priorities (29 September 2014). Source: http://ec.europa.eu/commission_2010-2014/fule/docs/news/2014/20140929-4th-hld-conclusions.pdf

Prosecution's request for suspension. While the opposition democrats accused the Government of attempting control over the judiciary, the Minister of Justice declared that one of the judges has ruled against the Prosecution in clear conflict of interest. Cases of highly suspicious court rulings and prosecutors' decisions related to criminal charges were published by the Minister of Interior in October this year, urging HCJ to investigate. The Head of State and the Union of Judges issued public statements calling for respect of judiciary's independence. Hence the debate for judicial reform was easily replaced by a quest of finding culprits. Moreover, such counterproductive majority-opposition fight turned not only more complex, but also more "inclusive" – adding to political actors also segments of the judiciary and the Head of State.

Judiciary (resistance to) reform

Albanian Judiciary has a crucial role to play in establishing a track record of results in fighting impunity, high level corruption and also organized crime – a key request for Albania's EU accession. While the Government leads country's EU accession steps including on judicial reform, the latter requires much more than a governmental action plan and constructive political dialogue with the opposition. In fact, it requires a broader societal *accord*.

The politicization of the debate on judicial reform has so far had devastating effects on several accounts. First, it has increased public discontent with the judiciary, distrust in the rule of law and in "blind justice". Secondly it is harming the EU accession process and fueling skepticism in EU member states. Last but not least important, it is seriously endangering the still "healthy" segments of the judiciary and political reformers, as the organized crime remains unchallenged and well linked with parts of the political milieu.

The highly polarized debate which has recently involved segments of the judiciary has added to the political obstacles in approaching such fundamental reform. While the emergence of resistance within parts of the judiciary speaks of tenseness among them, stalled efforts to reset political dialogue may well bring back the *status quo* and limit judicial reform to mere refinements rather than fundamental reforming. Requesting expertise from the Venice Commission is a welcome first step to wear off politicization. However, the resuming of political dialogue and putting on the right track the judicial reform and other measures on EC's five priorities as a condition for accession negotiations will demand more than this. Inclusiveness beyond politics is therefore essential for shaping a broader accord. Interest groups, experts and civil society must engage constructively in judicial reform and be more vocal on the remainder of EC's five priorities as well as on delays caused by political actors.

Taking risks to prevent 2009 déjà vu

The long-awaited National Council of European Integration would enable civil society not only to provide inputs to EU accession reforms, but also to put pressure on political actors and reinforce institutional

accountability on assumed obligations. Delays in establishing the Council but also the postponing of amendments to the Law no 9252 on the "Role of the Parliament in the process of integration" have not helped the third sector to articulate such pressure. Additionally, the role of civil society in "fueling" the accession reforms through the inter-institutional working groups on European integration (PM Order no 107, date 28.02.2014) is conditional upon invitation from respective working groups.

Nevertheless, Albanian CSOs continue promoting EU accession among the public and struggle to improve policy discourse on sector-based implications of the process. However, civil society appears quite passive on pressuring to achieve a key precondition of European integration – constructive political dialogue and broad consent. Caught amid heated political debate in Tirana whereas political actors are more sensitive to "Berlin" (Process) rather than "Brussels" (speaking of enlargement fatigue), CSOs are reluctant to take risks in such confusion.

The menace of a *déjà vu* of stalled EU accession process may soon become a reality in view of the approaching local elections and the "majority – opposition" debate over the administrative and territorial reform. A sidetracked civil society cannot reroute efforts and, as proved by the 2009 political impasse, neither can Brussels alone.

Hesitating to pressure for constructive political dialogue will not help country's EU bid while failing to set "quality benchmarks" on EC's 5 priorities will allow political actors bring their "game" at a different level. "Risk-taking" Brussels and civil society must prevent such event and their actions may lead to more empowered "reformers" instead.