



## **RELATIONS OF ALBANIA WITH THE EU**

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## TABLE OF CONTENTS

TABLE OF CONTENTS .....	2
LIST OF TABLES AND APPENDIX TABLES.....	3
ALBANIA'S EU INTEGRATION PROCESS.....	4
1. Introduction .....	4
2. Governmental Organisations and Institutional Structure of EU-Relations .....	5
2.1. <i>Governmental Bodies Responsible for EU Relations</i> .....	6
2.2. <i>Structure of Parliamentary Dealings with Matters of EU relations</i> .....	14
3. Contractual and Political Relations with the EU.....	17
3.1. <i>Moving Towards the Stabilisation and Association Process 1992-1999</i> 18	
3.2. <i>Walking the Road to a Stabilization and Association Agreement 1999-2003</i> .....	21
3.3. <i>The SA Agreement: Negotiations and Implementation of the Interim Agreement</i> .....	23
4. Economic Relations .....	28
4.1. <i>Foreign Trade with the EU</i> .....	29
4.2. <i>Foreign Direct Investments in Albania</i> .....	32
4.3. <i>Labour Migration to the EU Since 1990</i> .....	33
4.4. <i>EU Pre-Accession Funds</i> .....	35
5. Legal Adaptation.....	40
5.1. <i>Albania's Progress in the Field of Approximation of Legislation</i> .....	41
5.2. <i>Current National Plans for Alignment with the Acquis Communautaire</i> 46	
5.3. <i>Compliance with the EU Acquis</i> .....	52
6. EU Perspectives, Effects of Conditionality and Forecasts .....	54
6.1. <i>The EU's Conditionality in the Pre-SAP Period 1992-1999</i> .....	55
6.2. <i>EU's Conditionality under the Stabilization and Association Process</i> .....	58
6.3. <i>EU Accession Prospects</i> .....	66
7. Convergence to or Divergence from the EU Norms after Accession.....	70
Appendix Table .....	76
References.....	78

## **List of Tables and Appendix Tables**

Table 3.1. State Secretaries and Ministers of European Integration, 1997-2007

Table 3.2. Organisational Structure of the Ministry of European Integration

Table 3.3. The Development EU-Albania Trade Relations, 1989-1999

Table 3.4. Albania's Trade Volume with Italy, 1999-2007

Table 3.5. Albania's Trade Volume with Greece, 1999-2007

Table 3.6. Albania's Trade with EU27, 1997-2007

Table 3.7. Overall PHARE Assistance in Albania, 1991-2000 (million euros)

Table 3.8. Timetable for Achieving Member Candidate Country Status, Optimistic Scenario

Table 3.9. Nations in Transit Ratings and Averaged Scores – Albania

Appendix Table 3.1. Key Events in Albania-EU relations

# ALBANIA'S EU INTEGRATION PROCESS<sup>1</sup>

## 1. Introduction

Albania's EU integration process represents perhaps one of the most debated matters in the national public and political discourse. Being considered as the strongest incentive to move forward in the democratization process, the EU integration struggle and political actors' performance therein has attracted the attention of civil society representatives, private sector, as well as the public's attention at large. Yet, almost 15 years after the first contractual relationship with the European Union, Albania seems to be only half way from its strategic goal – EU membership. The democratization process, and thus the EU integration efforts in the past 15 years were described by the Freedom House Report "Nations in Transit" 2004 the following way: "Albanian democratization brings to mind the legend of Sisyphus: It is marked by periods of progress followed by serious setbacks that bring it repeatedly to the starting point".<sup>2</sup>

Following the signing of the Stabilization and Association Agreement and the entry into force of the Interim Agreement (December 2006) Albania entered a new and more advanced stage in its EU integration process. The successful transition towards the attainment of the final goal requires therefore better capacities to respond to membership obligations and certainly a more firm commitment to consolidate the governance system, democratic institutions and economic performance. The experience of other countries which have successfully fulfilled their ambition in 2004 (accession of the ten new members) and 2007 (Romania and Bulgaria), as well as the best practices of other more advanced Western-Balkan countries (Croatia) should undoubtedly be considered by Albanian stakeholders that are responsible for accelerating the EU integration process. In the meantime, however, a profound reflection should also take place of past mistakes made by Albania and lessons to be learnt from those. The opening of the SAA negotiations in 2003 after two consecutive failures as

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<sup>2</sup> Freedom House, *Nations in Transit 2004: Albania* (Washington D.C.: Freedom House, 2004).

well as the three-year long negotiations represent perhaps the most illustrative examples of the need for such reflection on the mistakes made by the country.

This study does not intend to fill the gap caused by the lack of comprehensive analysis about the 15-year EU integration process and neither does it pretend to outline all the possible lessons that Albanian stakeholders must learn and bear in mind in the future. This study focuses on some of the most essential components of Albania's EU integration process – experience and future prospects – and thereby increases the sensitivity on the entire process (rather than concentrating only on the eventual accession date) and to generate continuous debate and far-reaching analysis on this topic.

## **2. Governmental Organisations and Institutional Structure of EU-Relations**

Sound administrative capacities to implement the EU legislation (Madrid criteria) constitute one of the core criteria that a country has to fulfil in order to join the European Union. In its “Guide to the Main Administrative Structures Required for Implementing the *Acquis*” (May 2005) the European Commission suggests that “a candidate country preparing for accession to the EU must bring its institutions, management capacity and administrative and judicial systems up to Union standards with a view to implementing the *acquis* effectively or, as the case may be, being able to implement it effectively in good time before accession”.<sup>3</sup> Nevertheless, the process of building and upgrading these capacities is a continuous one and yet, decisive for progress into the various phases of the integration process. In order to enable a smooth implementation of the obligations assumed under this process, the potential candidate country must, amongst others, develop a sound institutional framework involving governmental structures with clear mechanisms for interaction and coordination. The experience of other countries (those from the 2004 enlargement and the SAP countries) reveals various institutional solutions for the main governmental body in charge of EU integration matters, often depending on the current stage of their integration process. Usually, a special ministerial portfolio has been assigned to follow and coordinate a country's efforts to join the Union, though other solutions have also been present – special secretariat under the Prime Minister's office (Macedonia) or within the Ministry of Foreign Affairs (Croatia).

In the last five years Albania has employed various approaches in the course of designing its institutional setup of the European integration process. Albania's choices have

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<sup>3</sup> European Commission, *Guide to the Main Administrative Structures Required for Implementing the Acquis* (Brussels: European Commission, 2005), 7.

mainly reflected its progress in the stabilisation and association process, and at times, also the impact of internal political developments. The subsequent sections reveal the development of governmental and other bodies involved in the European integration process.

## **2.1. Governmental Bodies Responsible for EU Relations**

Albania's efforts to join the European Union (EU) are presently coordinated by the Ministry of European Integration (MEI) which was established in 2004.<sup>4</sup> Point 1 of the 2004 decision establishing the Ministry reads that "MEI's mission involves technical management and coordination of Albania's EU integration process through approximation of legislation, design of integration policies, coordination of financial assistance and informing the public about this process". While the Ministry of Integration leads and coordinates the work of other line ministries with regard to EU integration matters, it also has to coordinate closely with the Ministry of Foreign Affairs and the Albanian diplomatic mission to EU. Furthermore, the coordination with the other line ministries is currently being carried out through the special Sections for EU Integration which have been established in all ministries.

The decision of the Albanian Government establishing a separate Ministry for EU integration matters followed the opening of the negotiations with the European Commission (EC) on a Stabilization and Association Agreement (SAA). The decision not only finalized the efforts (which began in 2001) to reflect the new stage the country was entering in its EU integration process, but it also brought under a single and direct institutional umbrella various departments at governmental (Department for European Integration) and ministerial level (such as the Department for Approximation of Legislation at the Ministry of Justice).<sup>5</sup> The strengthening of governmental structures dealing with the EU (State Minister and the Department for European Integration) was continuously suggested by the EC during the Task Force Meetings and also in the first and second EC progress report. Both reports' recommendation read the same: "*The main European Integration structures and particularly the Ministry of State for European Integration need further reinforcement.*"<sup>6</sup>

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<sup>4</sup> Decision of the Council of Ministers No. 580, dated 10/09/2004.

<sup>5</sup> Under the current organizational structure of the Ministry of European Integration, the work of the Department for Approximation of Legislation (formerly under the Ministry of Justice) is covered by two Directorates: Directorate of Justice and Home Affairs and the Directorate of Internal Market.

<sup>6</sup> European Commission, "Albania Stabilization and Association Report 2002" *Commission Staff Working Document* (Brussels: European Commission, COM 2002 163), 30; and European Commission, "Albania Stabilization and Association Report 2003" *Commission Staff Working Document* (Brussels: European Commission, COM 2003 139), 35.

Prior to 2004, the Albanian Government had established a State Minister for Integration and a special Department for European Integration in 2001 which would represent the country in the bilateral negotiations with the EC and coordinate and monitor the EU integration process soon to enter the phase of the SAA negotiations. Such step was imposed at the time not only due to the progress in the integration process but also because of the requirements that accompanied this progress such as the consolidation of the fragmented institutional setup dealing with EU matters. Although these governmental structures (State Minister for Integration and its Department for European Integration) were introduced only one year before the EC's first report and its recommendation for institutional improvements, it was obvious that the introduction of the State Minister did not change the fragmented setup significantly. The State Minister for European Integration was basically a simple substitute of the State Secretary for European Integration at the Ministry of Foreign Affairs.<sup>7</sup> The State Secretary in fact was considered as part of the Council of Ministers since 1997. Yet, under the Cabinet led by Mr. Bashkim Fino (National Reconciliation Government, 1997) the State Secretary at the Ministry of Foreign Affairs (MFA) was in charge of not only EU but also NATO integration matters and was called the State Secretary for Euro-Atlantic Integration.<sup>8</sup> Accordingly, since the separation of EU integration matters (State Secretary at MFA) and NATO integration matters (State Secretary at the Ministry of Defence) back in 1998, the establishment of the Ministry of European Integration (2004) that gathered all other specialized structures in various ministries under its umbrella, was the second most essential institutional change of the governmental setup on EU integration, although over this six year period there were many changes in the governmental cabinets.<sup>9</sup> As the table 3.1 shows, over a ten year period (1997-2007) Albania has had 10 State Secretaries and Ministers in charge of EU affairs, and during the period it has experimented with five possible institutional solutions (including the return to the pre-1997 scheme of EU integration matters under MFA's Euro-Atlantic Integration Department during 1999 – 2001). From 2004 onwards not only the composition of the governmental cabinet but also the EU related structures proved to be rather stable and this actually seemed to reflect the very progress of the Albanian SA process.

Table 3.1. State Secretaries and Ministers of European Integration, 1997-2007

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<sup>7</sup> Law No. 8327, dated 16/04/1998 "On Adjustments of the structure of the Council of Ministers".

<sup>8</sup> Presidential Decree No. 1742, dated 12/03/1997 on the new Cabinet of the Council of Ministers led by Mr. Bashkim Fino.

<sup>9</sup> Prior to 1997, relations with EU and EU integration matters were handled by a special Department at the Ministry of Foreign Affairs.

<b>Period</b>	<b>Name &amp; Position</b>
July 1997 - April 1998	Mr. Maqo Lakrori, State Secretary for Euro-Atlantic Integration
April - October 1998	Mr. Ilir Meta, State Secretary for European Integration
October 1998 - October 1999	Mr. Maqo Lakrori, State Secretary for European Integration *
September 2001 – February 2002	Mr. Paskal Milo, State Minister for European Integration *
February 2002 – July 2002	Mr. Marko Bello, State Minister for European Integration
July 2002 – July 2003	Mr. Sokol Nako State Minister for European Integration
July 2003 – December 2003	Mrs. Ermelinda Meksi, Deputy Prime Minister and State Minister for European Integration
December 2003 – September 2005	Mrs. Ermelinda Meksi, Minister of European Integration
September 2005 – March 2007	Mrs. Arenca Trashani, Minister of European Integration
2007 – Present	Mrs. Majlinda Bregu, Minister of European Integration

\* In the period between 1999 and 2001 Albania reverted to the pre-1997 institutional solution when EU integration matters were under the competencies of the Euro-Atlantic Integration Department at the Ministry of Foreign Affairs

At present, the governmental structures dealing with the process of European Integration are well-developed and they fully reflect the stage that the country has entered in its road towards the EU.<sup>10</sup> In addition to the Ministry of European Integration and the Council of Ministers there are three governmental structures that facilitate the EU integration process. The Inter-ministerial Committee for European and Euro-Atlantic Integration Matters is responsible for guiding and monitoring the entire integration process in Albania and in its periodical meetings the Committee deals with the most important issues regarding the process of European integration.<sup>11</sup> Another important governmental structure is the Inter-ministerial Working Group for the supervision and coordination of the implementation of commitments

<sup>10</sup> Yet given the current progress and also future prospects, independent experts argue that the EU integration process must occupy the agenda of the meetings of the Council of Ministers more often. EU funded experts in the framework of the SMEI (Support to the Ministry of European Integration) project suggest that the meetings of the Council of Ministers should involve discussions on specific issues related to EU integration process at least twice a month.

<sup>11</sup> Council of Ministers Decision No. 753, dated 01/12/1998.

undertaken in the framework of the SAA<sup>12</sup>. This body is headed by the Minister of Integration and it involves also the Minister of Finance (Co- Chairman), representatives from the line ministries (Deputy Minister or General Secretary), and officials of the central institutions depending from the Council of Ministers. The main duties of this body are related to the SAA which involve: directing, analysing, supervising and coordinating the work for the implementation undertaken by Albania in the framework of the Stabilisation and Association Agreement, the Interim Agreement, the European Partnership, and priorities and recommendations of strategic documents of European integration process.<sup>13</sup>

The Ministry of European Integration (MEI), as it has been pointed out, was established not only as a reflection of the EU integration process' progress in 2004 (SAA negotiations), but also to address the need for better institutional capacities and an improved coordination of the process. The Ministry of European Integration represents the official positions of Albania in the high level EU – Albania meetings.<sup>14</sup> Some of the core competencies and functions of the Ministry of Integration involve:

- the coordination and monitoring of the Stabilization and Association Process (SAP);
- coordination and monitoring of the process of addressing the SAP objectives and obligations;
- coordination, monitoring and implementation of the process of approximation with EU *acquis communautaire*;
- representation of the country in the joint EU-Albania consultative meetings;
- monitoring of the work and performance of various working groups (inter-ministerial) in the framework of the SAP;
- negotiation, programming, coordination and monitoring of the implementation of EU assistance (under CARDS<sup>15</sup> and the Instrument for Pre-accession Assistance-IPA);<sup>16</sup>
- promotion of the European integration process and raising public awareness.

The structure of the Ministry of European Integration involves four Directorates:

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<sup>12</sup> Order of the Prime Minister No. 33, dated 02/04/2007.

<sup>13</sup> This body is also expected to establish separate working groups for each of the chapters of the EU *acquis*. For more details please refer also to Alfred Kellermann, "Report on Guidelines for an effective approximation of Albanian legislation", *E drejta parlamentare dhe politikat ligjore* 38 (2007): 12-52.

<sup>14</sup> The Minister of Integration was the Albanian chief negotiator in the EU-Albania negotiations for the Stabilization and Association Agreement and will hold the same position in the eventual membership negotiations.

<sup>15</sup> Community Assistance for Reconstruction, Development and Stabilisation.

<sup>16</sup> The Minister of European Integration has been appointed National Aid Coordinator for the Instrument for Pre-accession Assistance (IPA).

- Directorate of Justice and Home Affairs
- Directorate of Internal Market
- Directorates of Integration Process and Institutional Support
- Directorates of Internal Services.

The first three directorates are particularly involved in the day-to-day work regarding the progress of the European Integration process and they cover almost all key aspects of this process. While there is no special department or section dealing with approximation issues, a sector-based approach is deemed to better cover these aspects within each field. See table 3.2. for the organisational structure of the Ministry of European Integration. *See Table 1.3.*

Table 3.2. Organisational Structure of the Ministry of European Integration



Source: Ministry of European Integration of the Republic of Albania.

Another important governmental body deeply involved in the European integration process is the Albanian Negotiators Group which is led by the Minister of European Integration and involves high representatives of line ministries and other central level institutions. This body is in charge of coordination, monitoring and implementation of all sector-based activities related to the SA process. The Ministry of Foreign Affairs and particularly the European Integration Department has the duty to promote and support Albania's EU integration efforts on high political level within the EU. In the framework of the Stabilization and Association

Process, the Albanian MFA is responsible for the advancement of the political dialogue with EU member states and other countries (particularly SAP countries).

In addition to the above described (macro-level) structures, the Albanian Government also established specialized European Integration Units (EIU) in all line ministries to act as focal points for EU-related assistance, reporting and monitoring. The Decision of the Council of Ministers No. 179, dated 22/2/2006 outlines the responsibilities of these units, which involve:

- a. internal coordination, ensuring direct links and cooperation with the MEI and other line ministries regarding the obligations the country has assumed with the SAP;
- b. internal institutional coordination and coordination with the MEI and other line ministries regarding the approximation of legislation and reporting on legal acts adopting the *acquis communautaire* under TAIEX;
- c. internal institutional coordination regarding the preparation of reports on the process of European integration;
- d. monitoring and reporting within the ministry on EU integration matters;
- e. data sharing on the EU integration process between the ministry, the MEI and EIUs in other line ministries;
- f. assessing the performance of the institution in the process of European integration; propose functional mechanisms facilitating sectorial reforms, implementation of the SAA through approximation of Albanian legislation with *acquis communautaire* and strengthening the administrative capacities;
- g. recommending priorities, planning of activities and human resources for the institutional support of the European integration process.<sup>17</sup>

Considering the new stage of the country's SA process (having signed the SAA and with the Interim Agreement in force), further improvements in the capacities of the Ministry of European Integration and other line ministries are certainly required. The implementation of the Interim Agreement and other SAA obligations call attention to the need for better administrative capacities, enhanced coordination and continuous consultations not only within the governmental matrix, but also with other institutions (Parliament, oversight institutions etc.) and civil stakeholders. Almost two years from the signing of the SAA, such challenges may well result in the need for a more advanced structure of the Ministry of European Integration and new coordinating and interacting mechanisms between the line ministries on

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<sup>17</sup> The Decision of the Council of Ministers No. 179. also indicates in Annex I the specific sectors which will be covered by EIUs in each line ministry.

EU integration related matters, including the establishment of EIUs in other governmental agencies and independent institutions as well. Furthermore, there is a need for further strengthening the capacities of the European Integration Units in the line ministries which at present perform mainly coordinative functions (as a link between the respective ministry and the MIE) with no substantial involvement in the target fields and the impact of EU integration on the areas managed by the respective ministry. Namely, in order to turn these units into specialized cells that could provide expertise for all individual fields covered by a ministry as specified in Annex I of the Decision No. 179., more attention should be paid to the implementation of point 2 of this decision: “The European Integration Units must coordinate and support the work of the respective institutions regarding the main elements of the *acquis communautaire* in the target fields, appropriate to the SAA implementation, as outlined in Annex I attached to this decision”. The emphasis is on the supporting role, which the EIUs are currently not quite able to fulfill.

The analysis above suggests that the development of Albanian governmental structures in charge of the EU integration process may be divided into three phases which in fact reflect not only the pace of Albania’s integration efforts, but also the problems of the overall economic and political consolidation of an emerging democracy:

- a) the pre-1997 period – the MFA’s special department is in charge of EU integration;
- b) the period between 1997 and 2004– characterized by experiments with various institutional solutions;
- c) the post-2004 period, which starts with the setting up of the Ministry of European Integration.

Although at first sight it seems that the internal developments – the 1997 collapse and its social, economic and political consequences or the Kosovo refugee’s crisis in 1999 – have not affected the European integration process, the 1997-2002 period particularly demonstrates that attention of the government was attracted by other, more pressing matters such as security and political instability (rather than the SAP). Despite the sporadic efforts to develop a sound institutional framework in charge of EU integration during this period, solutions were often fragile in the face of political manoeuvring. The establishment of the State Minister for European Integration in 2001, followed an almost 2-year period during which a special department at the MFA was assigned to cover this portfolio. (much like the pre-1997 period). Yet, even this move is often judged as an institutional solution to help appease internal political disputes (within the ruling party and within the ruling coalition) rather than to support the SAP as such. The European Commission has also underlined these shortcomings

in its first Report on Albania's Stabilization and Association Process (2002), though in a more tactful manner:<sup>18</sup>

"Since 1998, the governing Socialist Party has been working hard to stabilise Albania and to promote Euro-Atlantic integration. The actions carried out by the Socialist-led governments have, overall, yielded relatively good results and have been central to Albania's progress in the Stabilisation and Association process.

The work of the Government issued from the June 2001 elections was severely affected by the internal conflict within the SP between the party chairman and the Prime Minister. This crisis led to serious accusations of corruption against that Government, and provoked the resignation of several key ministers and ultimately of the Prime Minister himself (...) As in the past, the new Government identifies the European integration process as a main priority for its mandate and the portfolio of Minister of State for European Integration established in September 2001 has been maintained. However, political manoeuvring within the ruling party is still frequent. This poses a threat for stability and slows down the reform process."<sup>19</sup>

The establishment of the Ministry of European Integration however is only the beginning of the consolidation of governmental structures' dealing with the integration process, which is a continuous process itself. While critiques and strong recommendations continued to be delivered to Albania by the EC, the setting up of the Ministry and its improved role in the SA process were underlined as positive developments in the EC 2004 report.<sup>20</sup> The subsequent reports (2005 – 2007) of the European Commission on the Albanian SAP confirm that the Ministry of European Integration, as an institutional solution, has undoubtedly improved this process.

Yet, as previously argued, the new phase in which Albania's EU integration process has entered, requires further consolidation of both MEI's and other line ministries' capacities.

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<sup>18</sup> However, the second EC report (2003) concludes in a more comprehensible style that "European integration has remained a declared top priority for all Governments, but their actions have not always supported these declarations." See European Commission, "Albania Stabilization and Association Report 2003" *Commission Staff Working Document* (Brussels: European Commission, COM 2003 139), 5.

<sup>19</sup> European Commission, "Albania Stabilization and Association Report 2002" *Commission Staff Working Document* (Brussels: European Commission, COM 2002 163), 6-7. Emphasis in original.

<sup>20</sup> Note that the 2003 EC Report emphasized the need for better capacities and leadership of the Department for European Integration (under the authority of the State Minister for European Integration). European Commission, "Albania Stabilization and Association Report 2003" *Commission Staff Working Document* (Brussels: European Commission, COM 2003 139), 19.

## 2.2. Structure of Parliamentary Dealings with Matters of EU relations

The progress regarding the Albanian parliamentary dealings on EU integration matters display a rather humble development. This is partly due to the country's progress until 2002-2003 and partly to the political disputes between the ruling coalition and the opposition. During this period the role of the Parliament was limited to inter-parliamentary meetings with EU counterparts (five EU-Albania inter-parliamentary meetings till 1999). EU integration related matters were being discussed under the Parliamentary Commission of Foreign Affairs while little attention was paid to the approximation of legislation. Nevertheless, the preparation for and the opening of the SAA negotiations, the setting up of a Parliamentary Commission on European Integration, the consolidation of the governmental bodies in charge of EU integration and the adoption of a National Plan for the Approximation of Legislation with EU *acquis*, somehow influenced a more active role of the Albanian Parliament in the SA process which despite some sporadic improvements, still failed to meet the expectations.

Few months before the start of the negotiations for the Stabilization and Association Agreement with the EU, the Albanian Parliament established an *ad hoc* Parliamentary Commission on European Integration.<sup>21</sup> This parliamentary structure was expected to increase the involvement of the legislative body in the European integration process not only through control but also through direct support to Albania's efforts in this context. The Commission aimed at attaining the following goals:

- a) encourage Albania's EU integration process and the implementation of the Stability Pact as an instrument that brings the country closer to Europe;
- b) inter-parliamentary coordination of the Parliament's permanent commissions;
- c) coordination of the policies of the Parliament, Council of Ministers and other institutions related to the SAA and the Stability Pact;
- d) compliance of Albanian legislation with EU standards and requirements;
- e) strengthening the cooperation of the Albanian Parliament with the European Parliament, parliamentary assemblies of the Council of Europe (CoE) and the OSCE in order to encourage the implementation of the Stability Pact and acceleration of the SA process;

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<sup>21</sup> Decision No. 37, dated 16/05/2002 "On the establishment of a Parliamentary Commission on European Integration and the Stability Pact". Following the recommendations of the European Commission in its 2004 progress report, this Commission was transformed into a Permanent Parliamentary Commission in 2005. This measure was acknowledged as a need by the Parliament in its Resolution of June 10<sup>th</sup> 2004.

- f) establish parliamentary cells for conflict prevention in the region and exchange of information between the parliaments;
- g) strengthening the cooperation with parliamentary bodies in the region, exchange of experiences on the SAP;
- h) meeting the necessary requirements and obligations in the fields of economy, justice, political situation and environment for the opening of the SAA negotiations;
- i) ensuring transparency and cooperation with civil society in the process of European integration and the implementation of the Stability Pact;
- j) organizing regular parliamentary debates on the fight against organized crime and human trafficking thus ensuring that this problem has the attention of the national political agenda;
- k) informing the Parliament on policies on democracy, security and economic developments in the framework of Stability Pact and other regional initiatives such as SEECI, SEECO, Adriatic-Ionian Initiative etc.

If confronted with the current reality of the European integration process, it becomes clear that the Parliamentary Commission needs to adjust its goals. The amendments to the decision establishing the commission were exclusively related to names of MPs nominated as members of the commission and so far no adjustments have been proposed to its scope of work. Some of the aspects that the Commission needs to reflect in its legal basis and further work include:

- the recent progress of Albania's SAP - IA in force, SAA ratification by EU members, the National Plan for the Implementation of the SAA, the National Strategy for Development and Integration, as well as the overall progress and future prospects of these developments;
- the new challenges to Albania's EU integration process which certainly cannot be limited only to the fight against organized crime and human trafficking;
- the forthcoming developments in the Stability Pact;
- the role of Albanian stakeholders (civil society, private sector etc.) in the process of EU integration;
- the current governmental structures involved in the SAP and the challenges related to sound capacities for better tackling SAP obligations;
- monitoring of and assistance to the process of addressing the SAP related obligations and reforms.

These amendments would help the Commission to adjust its work to the current progress and settings of the SA process, while they may well have an impact on the overall work of the Albanian legislative body and on the performance of other parliamentary commissions (which must ensure compliance of Albanian legislation with EU standards and laws).

On a bilateral, EU-Albania level, an important structure that includes the Albanian Parliament in EU integration related matters is the European Parliament-Albania Inter-Parliamentary meetings. This structure was established in the early 1990's (with its first meeting held in 1992), following two election observation missions of the European Parliament in March 1991 and March 1992. Meetings between representatives of both parliaments are held once a year and so far there have been 14 meetings. The last meeting took place in October 2007.

Depending on the stage of the SA process, the inter-parliamentary meetings focus on various topics and concerns with an aim to accelerating EU integration reforms and increasing the role of the Parliament in that course. There is also a practice of alignment of the Albanian Parliament with the declarations and positions to the European Parliament (mainly on external relations).

The SAP requires that the parliament no longer has a vague role and influence on European integration matters. Constructive dialogue and consensus should now involve the specific aspects of the integration process, thus leaving the frames of declaratory support to EU integration as a strategic goal. Furthermore, improvements of parliamentary structures dealing with EU matters should be accompanied with efforts aiming to improve expertise and capacities of this institution.<sup>22</sup>

Needless to say, the Parliament and the Government do not compete to take leadership over the SA process (despite the ill-formulated phrases in some documents/resolutions), but rather build partnerships with key actors in order to map out sound policies and reforming processes. Quite an important task for the parliamentary bodies is also the monitoring of the overall performance of the country's SAP and the response to the eventual shortcomings that it should design in cooperation with other stakeholders.

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<sup>22</sup> The last two reports of the European Commission make an explicit reference to this requirement. See European Commission, "Albania Progress Report 2006" *Commission Staff Working Document* (Brussels: European Commission, COM 2006 649), 5; and European Commission, "Albania Progress Report 2007" *Commission Staff Working Document* (Brussels: European Commission, COM 2007 139), 6.

The character of the issues which recent analysis and EC reports attach to the Parliament's domain (either through criticism or recommendations) demonstrates that the institution has already entered a new phase which requires a substantial expertise and input. Consequently, the criteria that will be used to scrutinize the role of the Parliament in the SA process will now assess not only whether the institution has succeeded in imposing itself (through partnerships, rather than through boycotts) as an active actor in this process, but also the excellence and the impact of such involvement in the overall European integration process.

### **3. Contractual and Political Relations with the EU**

Professor Elke Thiel argues that Albania's European integration has to be understood as a gradual process and each step has to be implemented properly. Referring to a German expression "*der Weg ist das Ziel*" ("the road is the goal") she further suggests that: "EU membership may be the final objective. Yet, it is the "European journey" that brings rewards".<sup>23</sup> Albania's European journey however does not display quite the characteristics of a step-by-step experience, as the setbacks have often delayed the reforms and consequently the progress through the various phases of the integration process.

Almost 15 years have passed since the first contractual relationship with the EU (the European Community at the time) until Albania signed the SAA and an Interim Agreement with the EU. Despite the setbacks and the slow pace of the process, the public's support for EU membership remains quite high, thus confirming its position on the top of the country's priority agenda. Yet, Albania's political commitment has often failed to address priority concerns and to achieve tangible results in the reforming processes which have on the other hand delayed socio-economic development, democratic consolidations and the EU integration process itself.

The subsequent part of the chapter will analyze Albanian political relations with the European Union by focusing on the key events that have marked the EU integration process. Appendix table 3.1. provides a summary of the events which will be further analyzed in order to better understand the Albanian journey towards the EU.

The analysis of the main events will focus on the Albania-EU political and contractual relations in three periods: a) 1992 – 1999, the pre-SAP period; b) 1999 – 2003, until the

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<sup>23</sup> Elke Thiel, "European Integration of Albania: Economic Aspects", *Bamberg Economic Research Group on Government and Growth Working Paper* 49 (2004).

launch of the SAA negotiations; and c) 2003 – Present. Obviously, the timeframes of the various periods in the analysis of Albania-EU relations do not fully reflect those of the development of Albanian governmental structures in charge of EU integration process. This is due to the fact that the analysis on the bilateral relations involves not only Albania-related developments but also the developments in the EU's approach towards the country and the region as a whole. On the other hand, the first section clearly concludes that the overall development of governmental structures in charge of EU integration have not always reflected the pace and the needs of the process.

### **3.1. Moving Towards the Stabilisation and Association Process 1992-1999**

Albania is part of the Stabilization and Association Process which represents a policy framework of the European Union guiding the Western-Balkan countries (WB) on their path towards EU membership. The current relations with the Union are based on the principles and objectives outlined in the Stabilization and Association Agreement (signed in June 2006) which is undergoing the ratification procedure by the EU member states, and on the provisions of the Interim Agreement on trade and trade-related matters with the EU (in force since December 2006).

Albanian relations with the EU (at that time, European Communities) were established following the fall of the Communist regime. In view of the economic and political crisis, as well as the turbulent 1991-1992 events in the country, the European Community announced an emergency plan worth 45 million US dollars. Soon afterwards Albania also became eligible for funding under the PHARE program.<sup>24</sup> The contractual relations between Albania and the EU were for the first time established through the signing and the entry into force of the “Agreement between the European Economic Community and the Republic of Albania, on trade and commercial and economic cooperation”.<sup>25</sup> The 1992 Agreement however was not simply an act regulating the trade and economic relations between the parties. Rather, it was an essential document that would pave the way for a closer relationship based on the principles of consolidated democracies and eventually for the achievement of Albania's goal – Albania as a member of the EU – despite the lack of consensus among member states for

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<sup>24</sup> The PHARE programme was set up by the European Community in 1989 following the collapse of the communist regimes in Central and Eastern Europe. The acronym “Phare” is derived from the French “*Pologne/Hongrie: Assistance à la Restructuration Economique*” (Poland/Hungary: Assistance to the Economic Reconstruction). The programme aimed at helping the recipient countries transform their economies, strengthen democracy and meet the conditions required for future membership of the EU.

<sup>25</sup> Official Journal L 343, 25/11/1992 P. 0002-0009. The signing of the SAA and the entry into force of the Interim Agreement has replaced the 1992 Agreement.

eastwards enlargement. According to Nikos Frangakis<sup>26</sup> this type of agreement represented less of a commitment from the EU as compared to the so-called Europe Agreements (signed with the Central and Eastern European countries). EU accession was not originally the goal of neither agreements, that is neither Albania's 1992 Agreement nor the Europe Agreements. Nevertheless, the latter clearly outlines a framework for political dialogue and an association relationship between the parties, whereas these aspects are lacking from Albanian's agreement with the EU.<sup>27</sup>

The 1992 Agreement with the European Community referred to the recent political changes in the country, recognizing Albania's wishes to stabilize and consolidate democracy, as well as the "importance of giving full effect to all the provisions and principles of the CSCE<sup>28</sup> process, and in particular those set out in the Helsinki Final Act, the concluding documents of the Madrid, Vienna and Copenhagen meetings, and those of the Charter of Paris for a new Europe, particularly with regard to the rule of law, democracy and human rights, as well as those of the Bonn CSCE Conference on Economic Cooperation". Furthermore, the preamble of this agreement reads that the contractual links "will contribute to progress towards the objective of an association agreement in due course, when conditions are met".<sup>29</sup> The Joint Declaration between the EC and its Member States in parallel with the Agreement provided the framework for a bilateral political dialogue with Albania. On the other hand, a Joint Committee (Article 18 of the 1992 Agreement) with Albanian and Community representatives was established with an aim to ensure the proper functioning of the dialog as well as to devise and recommend practical measures for achieving its objectives, keeping in view the economic and social policies of the Contracting Parties. Accordingly, all the instruments for further developing and consolidating the relationship with the EU were in place during the 1990's and prospects for an association partnership certainly remained open.<sup>30</sup>

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<sup>26</sup> Nikos Frangakis, "The Impact of Contractual Relations Between EC/EU and Central and Eastern European Countries in Solving Local Conflicts", *Hellenic Foundation for European and Foreign Policy Occasional Paper OP09.08.*, <http://www.eliamep.gr/eliamep/files/op9808.PDF>.

<sup>27</sup> Political dialogue between Albania and the EU was regulated through a Joint Declaration between the EC and its Member States. In the case of the Europe Agreements this aspect was an integral part of the agreement.

<sup>28</sup> CSCE – Conference on Security and Co-operation in Europe, the predecessor of the OSCE (Organization for Security and Co-operation in Europe).

<sup>29</sup> Preamble of the Agreement between the European Economic Community and the Republic of Albania, on trade and commercial and economic cooperation (1992).

<sup>30</sup> Needless to say, the 1992 Agreement had a different structure and did not involve aspects dealt with by the Europe Agreements, such as the approximation of laws and other issues characterizing an association partnership between parties.

In the framework of the Albania-EU political dialogue there have been four meetings at ministerial level (1994, 1996, 1998 and 1999) and five inter-Parliamentary meetings. Meetings of the Joint Committee were held in 1994, 1998 and 1999 while during this period several sectorial working parties were also established on:

- Approximation and reform of legislation (1994)
- Customs cooperation (1994)
- Economic and financial matters (1998)
- Agriculture (1999)
- Infrastructure (1999)

Three years after the entry into force of the 1992 agreement, Albania submitted a request for opening of negotiations for an association agreement, i.e. a Europe Agreement establishing an association between Albania and EU member states. However, an assessment of the European Commission in June 1995 on subjects such as free trade in goods and services, establishment and capital movement led to the conclusion that a “classical” Europe Agreement could not be envisaged. Six months later, the General Affairs Council asked the Commission to submit formal proposals for a new agreement with a view to enhancing relations with Albania. The General Affairs Council conclusions of the 13<sup>th</sup> May 1996 further indicated that such an agreement should constitute an important step towards a *sui-generis* association agreement. Meanwhile, the EU’s optimism for an advanced level of contractual relationship with Albania was challenged by the parliamentary elections in May 1996 which failed to meet democratic standards (see Chapter 1). The breakdown of the pyramid schemes which took place soon after and the collapse of the state in a few months prevented the European Commission to proceed with draft negotiating directives.<sup>31</sup> Accordingly, Albania lost the chance to become the first WB country to move closer to the European Union through a new and more advanced contractual relationship.<sup>32</sup>

Meanwhile, some interesting developments were taking place at the regional level. Following the shocking events of the Balkans, the EU realized that a substantial intervention through a regional approach was essential in order to contribute to long-lasting peace and prosperity in the region. Yet, despite the terror during the Bosnian war and the strong “hints” for further turmoil in the region, the EU’s first steps were quite insecure and with an unclear

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<sup>31</sup> For more details see European Commission, *Commission Report on the Feasibility of Negotiating a Stabilisation and Association Agreement with Albania*. (Brussels: European Commission, COM 1999 599 final), 4-5.

<sup>32</sup> In fact, it took exactly 10 years (from 1996 to 2006) for Albania to attain this status.

perspective for these countries. In December 1995, the Royaumont Process for Stability and Good Neighbourliness in South-Eastern Europe was initiated by EU Ministers in Royaumont (France). The initial objective of the Royaumont Process was to guide the implementation of the Paris/Dayton Peace Plan, and at the same time to incorporate it into a wider perspective covering the whole region. However, since the perspective that was offered to the countries of the region was neither accommodated to the needs of each single country nor offered a clear perspective of European Integration, they quickly lost interest in the Royaumont-Process.<sup>33</sup> In fact, few years after the initiation of this Process, in 1999, the Berlin-based think tank European Stability Initiative (ESI) concluded that “it is not clear what the contribution of the Royaumont Process consisted in.”<sup>34</sup>

### **3.2. Walking the Road to a Stabilization and Association Agreement 1999-2003**

Soon after the Royaumont Process was launched, the EU decided to take further steps in order to offer a clear perspective to the Balkan countries. On the 26<sup>th</sup> February 1996, the EU’s General Affairs Council adopted a Regional Approach to the countries of South-Eastern Europe. Two months after this meeting, the General Affairs Council (on the 29<sup>th</sup> April 1997) established political and economic conditions to be fulfilled by these countries, as the basis for a coherent and transparent policy towards the development of bilateral relations in the field of trade, financial assistance and economic cooperation, as well as of contractual relations.<sup>35</sup> To sum up, the EU agreed to establish, in the framework of the regional approach, political and economic conditions as the basis for a coherent and transparent policy towards the development of bilateral relations, allowing for the necessary degree of flexibility.<sup>36</sup> The conditions set out by the Council conclusions involved general conditions applying to all countries, and specific conditions dealing with country-specific issues. Five Conditionality Reports on the compliance of the countries of South-Eastern Europe with the conditions set out in the Council Conclusions (1997) were prepared by the Commission from 1997 to 2000.

In general, the Council conclusions on Albania have to do with the most acute issues the country faced such as security and consolidation of the rule of law, while less emphasis was put on the genuine membership criteria (Copenhagen and Madrid criteria). This was

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<sup>33</sup> Judith Hoffmann, “Integrating Albania: The Role of the European Union in the Democratization Process”. *Albania Journal of Politics* 1 (2005): 58-59.

<sup>34</sup> European Stability Initiative, *The Stability Pact and Lessons from a Decade of Regional Initiatives* (Brussels: ESI, 1999), [http://www.esiweb.org/pdf/esi\\_document\\_id\\_1.pdf](http://www.esiweb.org/pdf/esi_document_id_1.pdf)

<sup>35</sup> See: [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/en/gena/028a0057.htm](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/gena/028a0057.htm).

<sup>36</sup> The concept of conditionality involved all countries in South-Eastern Europe without an Association Agreement, i.e. it also included Albania besides the former Yugoslav republics.

understandable in view of the developments at that time, few months after the 1997 events and the Kosovo refugee crisis. Nevertheless, the Council conclusions in all five reports were strongly encouraging Albanian efforts to stabilize the situation and move on with other challenges.

In 1999, the regional approach was developed into the EU Stabilisation and Association Process. In the Operational Conclusions of the 26<sup>th</sup> May 1999 (following the publication of the fourth conditionality report) the European Commission proposed the creation of a Stabilisation and Association Process for the Western-Balkan countries. This process did not *a priori* change the conditions applying to the development of bilateral relations or for the start of negotiations on contractual relations. What was changed was the nature of the contractual relations on offer – replacing the prospect of a Cooperation Agreement with that of a Stabilisation and Association Agreement. This notes a historic turning point in the relations between the WB countries and the EU as a prospect of EU integration was thereby offered.

This offer was further reinforced at the Feira European Council (19<sup>th</sup>-20<sup>th</sup> June 2000) which granted a European perspective to the WB countries – “all the countries concerned are potential candidates for EU membership”. Five months later, the Stabilization and Association Process was officially endorsed at the Zagreb Summit (November 2000).

The Zagreb Summit was not such a happy event for Albania as it was for Croatia and Macedonia. Albania’s second attempt to enhance its contractual relationship with the EU failed on year before (1999) due to the insufficient preparedness of the country. This was the conclusion of the EC Report on the feasibility of negotiating a Stabilisation and Association Agreement with Albania.<sup>37</sup> In order to speed up the pace of integration an EU-Albania High Level Steering Group (HLSG) was set up following the Zagreb Summit, with the objective of identifying and supporting the reforms to be carried out. Based on the conclusions of the HLSG, the Commission concluded in June 2001 that:

“Albania is not yet in the position to meet the obligations of a Stabilisation and Association Agreement. However, if the current pace of change is sustained and if sufficient priority is given to strengthening administrative capacity during the negotiating and transition periods, considerable improvements can be made in the areas highlighted in this report. The Commission believes that the perspective of opening Stabilisation and Association Agreement negotiations is the best way of helping to maintain the momentum of recent political and economic reform, and of encouraging Albania to continue its

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<sup>37</sup> European Commission, *Commission Report on the Feasibility of Negotiating a Stabilisation and Association Agreement with Albania* (Brussels: European Commission, COM 1999 599 final).

constructive and moderating influence in the region. The Commission therefore considers it appropriate to proceed with a Stabilisation and Association Agreement with Albania, and it will in due course submit a recommendation for a Council decision to open negotiations, which can, of course, only be concluded when all appropriate conditions have been met.”<sup>38</sup>

It was clear that this decision was mainly political because the progress from 1999 to 2001, as acknowledged by the Commission itself, was not enough to justify this step. However, the EU decided this time to offer the first part of the “stick and carrot” approach, as an incentive for tangible results. Draft negotiating directives were therefore submitted to the Council of the EU and an EU-Albania Consultative Task Force (CTF) was set up in order to assist Albania to prepare for the negotiation of a SAA. Yet, these directives, as adopted by the Council in October 2002, clearly underlined that negotiations will only be concluded once Albania has developed the necessary administrative capacity and structures to ensure compliance with its SAA commitments. On the 31<sup>st</sup> January 2003, Commission President Romano Prodi officially launched the negotiations for a SAA between the EU and Albania.

### **3.3. The SA Agreement: Negotiations and Implementation of the Interim Agreement**

Prior to the opening of the SAA negotiations, the EU-Albania Consultative Task Force<sup>39</sup> held four preparation meetings (in 2001, March 2002, June 2002, November 2002) while three additional ones took place in the first year of the opening of the negotiations (March 2003; June 2003; and November 2003). The negotiations took three times longer than for Croatia and Macedonia because Albania was moving too slowly, particularly with regard to the fight against corruption and organized crime. Considering the country’s SAP record and the slow pace of reforms due to political instability, only a couple of months after the launch of the negotiations the European Commission warned that “at the current pace of reform implementation, negotiations risk being long and drawn out. Before negotiations can be concluded, Albania will need to demonstrate its ability to implement the provisions of the future Agreement and to address the priority issues identified by the European Union through its various reports and monitoring instruments”. In fact, the 2003 report concludes that a great

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<sup>38</sup> European Commission, *Report from the Commission to the Council On the Work of the EU/Albania High Level Steering Group, in Preparation for the Negotiation of a Stabilization and Association Agreement with Albania* (Brussels: European Commission, COM 2001 0300 final).

<sup>39</sup> The Consultative Task Force (CTF) was responsible for the monitoring of the sectorial reforms’ implementation and it issued joint recommendation on various concerns which are discussed at these meetings. CTF should not be confused with the Joint Committee established under the 1992 Agreement and whose domain included matters related to the implementation of that agreement.

part of the recommendations outlined by the first (2002) EC Report on the Albanian SAP were either only partially implemented or not implemented at all.<sup>40</sup> By mid-2005 the SAA was practically negotiated, but due to lack of significant progress the European Commission was still hesitating to propose the conclusion and signing of this agreement.<sup>41</sup>

Meanwhile, the Thessaloniki Summit (June 2003) reaffirmed WB countries' European perspective and emphasized that the "principles of 'own merits' and 'catch up' will be applied, in parallel with the regional approach, which remains an essential element of EU policy towards the region".<sup>42</sup> The Thessaloniki agenda further strengthened the Stabilisation and Association Process by introducing new instruments to support the countries' reform and European integration efforts (such as European Partnerships), while it also stressed the need for enhanced co-operation in the areas of political dialogue and the Common Foreign and Security Policy, parliamentary co-operation, support for institution building, and the opening of Community programmes.

The first European Partnership with Albania was adopted by the European Council in June 2004 and it outlined the short and medium-term priorities the country had to address for further integration into the European Union, based on the analysis of the 2004 Annual Report.<sup>43</sup> The Albanian Government prepared an Action plan for the implementation of the European Partnership and various aspects and key priorities were discussed by the Consultative Task Force in five meetings held between March 2004 and September 2005. Albania's legislative body was also quite active in both: the drafting of the Action Plan on the European Partnership (2004) and also in its relations with the European Parliament through the EP-Albania Inter-Parliamentary meetings.<sup>44</sup> A national Plan on Approximation of

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<sup>40</sup> European Commission, "Albania Stabilization and Association Report 2003" *Commission Staff Working Document* (Brussels: European Commission, COM 2003 139), 12-13, 17-18, and 33-34.

<sup>41</sup> In his report to the European Parliament on the 13<sup>th</sup> April 2005, the Commissioner for Enlargement Olli Rehn states: "I have recently written to Prime Minister [Fatos] Nano to underline that the Commission will only be able to propose the conclusion of negotiations on the Stabilisation and Association Agreement if the parliamentary elections this summer are conducted in accordance with international standards. Tangible achievements must also be made in fighting corruption and organised crime." See Olli Rehn, *Progress in the Western Balkans* (Speech at the European Parliament Plenary Session, Strasbourg, on the 13<sup>th</sup> April 2005), <http://www.delalb.cec.eu.int>.

<sup>42</sup> General Affairs and External Relations Council, *Thessaloniki Agenda for the Western Balkans: Moving towards European Integration*, [http://ec.europa.eu/enlargement/enlargement\\_process/accession\\_process/how\\_does\\_a\\_country\\_join\\_the\\_eu/sap/thessaloniki\\_agenda\\_en.htm](http://ec.europa.eu/enlargement/enlargement_process/accession_process/how_does_a_country_join_the_eu/sap/thessaloniki_agenda_en.htm).

<sup>43</sup> 2004/519/EC: Council Decision of 14 June 2004 On the Principles, Priorities and Conditions Contained in the European Partnership with Albania. Official Journal L 223, 24/06/2004 P. 0020 – 0029. This Council Decision was repealed with the Decision 2006/54/EC (January 30<sup>th</sup> 2006) on the revised Partnership with Albania, while currently the Commission has proposed to the Council a new decision for the revised partnership following the 2007 Progress report.

<sup>44</sup> Twelve EU-Albania inter-parliamentary meetings were held by November 2005 (first meeting was in 1992).

Legislation (2004) was also adopted while an Integrated Planning System was launched by the government. The holding of free and fair parliamentary elections was one of the conditions that the European Commission had sought for the conclusion of the SAA negotiations and this was successfully achieved in 2005.

Accordingly, one year later the European Commission acknowledged the progress achieved (mainly in short term priorities), though it underlines that there is still much to do:

“Overall, Albania has made some progress in implementing the European Partnership’s short-term priorities, but has not yet begun to address concertedly those set out for the medium term. Notable progress has been made in the adoption of new legislation and in the formulation of action plans. In some cases implementation has followed, but in many cases proper implementation has been hampered by a difficulty in making available resources combined in some cases with a lack of political will.”<sup>45</sup>

Only a couple of months following the 2005 report and after ten technical and six official rounds over a three-year period (January 2003-February 2006), the European Commission decided to conclude the SAA negotiations. On the 12<sup>th</sup> June 2006 the SAA was officially signed and six months later (1<sup>st</sup> December 2006) its trade related provisions – the Interim Agreement – entered into force. The signing of the SAA had its own impact on the public’s optimism and support for Albania’s EU integration process, which according to some surveys had a declining tendency during the negotiations period.<sup>46</sup> The SAA notes in fact a new phase in the European integration process and requires concerted efforts not only from the government, but also from other public institutions and stakeholders to address the eventual shortcomings and speed up the reforms’ pace, particularly with regard to the rigorous provisions regulating trade and economic matters. This agreement outlines not only clear obligations in the framework of the SA process in the country, but more importantly, it also gives clear deadlines within which these obligations must be addressed in order to move on to other steps.<sup>47</sup>

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<sup>45</sup> European Commission, “Albania Progress Report 2005” *Commission Staff Working Document* (Brussels: European Commission, COM 2005 561), 66.

<sup>46</sup> See Eno Trimcevi et al, *Albania and European Union: Perceptions and Realities* (Tirana: Albanian Institute for International Studies, 2006), 7. The authors conclude that: “The 2006 survey shows that support for Albania’s EU membership has increased significantly since 2005 from a low point of 83.9 percent in 2005 and 84.9 percent in 2004 to 92.5 percent. That is, in 2006 the four year trend of constant decline in membership support has changed. (...) This increase in support can be explained by the signing of the Stabilization and Association Agreement (SAA) between the European Union (EU) and Albania on June 12, 2006 which restored some confidence and faith on the integration process”.

<sup>47</sup> While there is no legal barrier that would prevent Albania to submit an application for acquiring the candidate status in the next few years (even before SAA’s entry into force), it is now clear that a political decision (which in any case would not be easy to reach with an EU with 27 Members) would be deeply based on the assessment

### 3.3.1. Core elements of the SAA

The following constitute the most important elements of the SAA:

- provision for political dialogue (Title II);
- provisions on enhanced regional co-operation, including the perspective of establishing regional free trade areas (Title III);
- the perspective of the establishment of a free-trade area between the EU and Albania within ten years (Title IV);
- provisions on the movement of workers, supply of services, current payments and movement of capital (Title V);
- the commitment by Albania to approximate its legislation to that of the EU (Title VI);
- provisions on co-operation in a wide range of fields, including justice, freedom and security (Title VII);
- provision for the establishment of a Stabilisation and Association Council which supervises the implementation of the SAA, establishment of a Stabilisation and Association Committee and a Stabilisation and Association Parliamentary Committee (Title X).

While it has been only a year since the entry into force of the Interim Agreement (IA), its overall progress by now can be considered as satisfactory. In fact, the EC's 2007 Progress Report notes that progress in the IA's implementation is present in several fields, despite some limited deficiencies in some areas like state aid, intellectual, industrial and commercial property rights etc.

From an institutional point of view, the Interim Agreement is still being managed by joint (EU-Albania) structures established under the 1992 Agreement. This structure will be replaced by the Stabilisation and Association Council upon the entry into force of the SAA. The Stabilisation and Association Council shall regularly review the application of the Agreement and the accomplishment by Albania of legal, administrative, institutional and economic reforms in light of the Preamble and in accordance with the general principles laid down by the Agreement. Also, it is this structure that will decide whether the country is ready for the second stage in order to achieve full Association (article 6). The SA Council shall be

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of the ability to comply with the Copenhagen criteria. The case of Turkey, but also the difficulties faced by Macedonia demonstrate that the EU will practice strictness in this regard (unlike the Bulgarian and Romanian case).

assisted in the performance of its duties by the SA Committee while it can also establish other special committees or bodies. The SAA also establishes a Stabilisation and Association Parliamentary Committee which is a forum for members of the Albanian Parliament and the European Parliament to meet and exchange views (articles 116-122). Yet, unlike the structures created by the Readmission and the Visa facilitation Agreements (see below) these joint structures will be effective following the entry into force of the SAA.<sup>48</sup>

Parallel to the SAA negotiations, the European Commission and the Albanian government entered in negotiations for a Readmission Agreement during 2003. The EC-Albania Readmission Agreement was initialled on the 18<sup>th</sup> December 2003, it was signed in Luxembourg on the 14<sup>th</sup> April 2005 and one year later (May 2006) the agreement entered into force.<sup>49</sup> Although this agreement fulfilled one of the requirements which has repeatedly been underlined in the progress reports (2002 and 2003), the European Commission still remains suspicious regarding Albania's capacities and ability to properly implement the act, particularly with regard to provisions on third-country nationals and stateless persons.<sup>50</sup>

Two months after the entry into force of this agreement, in July 2006, the Commission made a proposal to the Council for a mandate to negotiate a visa facilitation agreement. This agreement complements the Readmission Agreement as they both facilitate people-to-people contacts between citizens of the EU member states and citizens of Albania. The Visa Facilitation and Readmission Agreement was officially signed in September 2007 (a couple of months after it was initialled) and it entered into force on the 1<sup>st</sup> of January 2008.<sup>51</sup> Visa facilitation is a first step towards visa-free travel, which, according to recent surveys, is very important for the Albanian public as they perceive it as the most important benefit from EU membership. The visa facilitation agreement has advantages for some categories of Albanian travellers (students, businessmen, journalists, researchers, civil society representatives etc.) in the form of low visa fee rates, simplified and faster application procedures. Document requirements will be simplified for certain groups of travellers, for example. Nevertheless, while the EU has announced that this agreement will increase exchange with Albania and will

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<sup>48</sup> Article 12 of the Visa facilitation Agreement establishes a Joint Committee for management of the Agreement, composed of representatives of the European Community and of the Republic of Albania. Article 18 of the Readmission Agreement also sets up a similar structure (Joint Readmission Commission).

<sup>49</sup> This agreement was ratified by the Albanian Parliament on the 23<sup>rd</sup> January 2006 with Law No. 9466. Article 22 of this Agreement foresees that provisions related to the readmission of third-country nationals will enter into force two years after the entry into force of the agreement (i.e. on 1<sup>st</sup> May 2008).

<sup>50</sup> In fact, this has been one of the conclusions which have been present in all six progress reports of the European Commission. See Progress Reports on Albania's SAP (2002: 29, 31; 2003: 28, 31; 2004: 32; 2005: 36; 2006: 40, 42; 2007: 44).

<sup>51</sup> The visa facilitation Agreement was ratified by the Albanian Parliament in October 2007 with Law No. 9815.

have a positive impact on the economic and democratic developments in the country, the analysis shows that one should be very careful with such forecasts. The impact of this agreement still remains to be seen, but in general it is very difficult to claim that it would “positively influence the economic and democratic development of the country” as it reads in the press release of the EC Delegation in Albania.<sup>52</sup> For some aspects in fact the only positive impact of the agreement is that it prevents the worsening of the conditions to acquire a visa but it certainly does not offer a facilitated environment. Also, the selective approach for the categories which are object to this agreement can be hardly endorsed as a factor that would “positively influence the economic and democratic development of the country”, with all due respect to its impact on the free movement of persons belonging to these categories and the contribution they may offer to the country’s overall development as a consequence to this benefit.

#### **4. Economic Relations**

Economic and trade relations of Albania with the European Economic Community were the first fields of cooperation between the two parties. The Trade, Commercial and Economic Cooperation Agreement which entered into force in December 1992 aimed at facilitating and promoting economic relations and cooperation between the parties by granting the Most Favoured Nation treatment and implementing other advantageous measures that would help Albania to restructure its economy. In September 2000 the European Union granted the opportunity for the country to benefit from its generous autonomous trade measures (ATMs) under which it allowed free access to the EU market for all industrial products and improved access for agricultural products including agricultural and fishery products. Furthermore, as a member of the World Trade Organization (WTO), Albania assumed the obligation to work towards full trade liberalization while the process of Stabilization and Association further encouraged the country to consolidate progress in meeting economic and political standards, as well as developments in other sectorial policies that would give rise to foreign investments and thus to sustainable economic development.

Nevertheless, despite the preferential treatment in the framework of EU economic relations and the continuous support in almost all problematic areas (democracy, economy, infrastructure etc) Albania’s performance in this regard appeared to be quite depleted. The country was not able to take real advantage of the generous autonomous trade preferences

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<sup>52</sup> See EC Delegation Press Release of the 10<sup>th</sup> April 2007 at [www.delalb.ccc.eu.int](http://www.delalb.ccc.eu.int).

granted by the EU, and according to EC reports this has been mainly seen as a consequence of the deficient commercial networks and inability to meet the quality requirements of EU markets.

As mentioned in Chapter 2, a regional free trade area (CEFTA) is actually in force and the country is now part of a regional trade integration effort that is designed to enhance economic ties, increase the attractiveness and thus prepare WB countries to eventually join the Union.<sup>53</sup> From the perspective of EU economic relations, the signing of the SAA assumed in addition the existence of better capacities of Albanian economy to cope with the competitiveness of the single market and to make full use of the facilities that are offered therein. At present, economic and trade relations with the European Union are regulated by the Interim Agreement.<sup>54</sup> While claiming that the economy was not sufficiently prepared for such measures that promote an open market with the EU and also with the neighbouring non-EU member countries, Albanian economic operators will now have to adopt a more sustainable approach in both, taking advantage of the neighbouring markets and also in facing the pressure of the regional economies and that of the European Union (gradually in the next few years).

The subsequent sections will analyze patterns, current situation and future prospects of various aspects influencing economic relations with the EU and economic development opportunities within Albania. The section will focus only on EU-related aspects of the developments in trade, foreign direct investments (FDI), migration, pre-accession fund's assistance and a general overview of infrastructure concerns, as the wider economic conditions of Albania have been discussed in Chapter 2.

#### **4.1. Foreign Trade with the EU**

The European Union remains Albania's main trading partner by far, with Italy and Greece occupying the first two positions of commercial partner countries. Trade opening measures have intensified their effects particularly in the last few years with the stabilization of Albanian economy and recovery from the late 1990's crisis and the strengthening of economic exchange relations with neighbouring markets. However, although governmental actions to ensure an open market economy have resulted in a positive trend of increasing volume of Albanian exports to a certain degree, the latter still remains at considerably low levels as

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<sup>53</sup> The new Central European Free Trade Agreement entered into force in July 2007.

<sup>54</sup> The 1992 Agreement on trade and economic cooperation will remain in operation until the SAA is ratified.

compared to imports. Accordingly, a large trade deficit represents a permanent concern for the Albanian economy which continues to be an import-oriented market where imports are by far exceeding export volume (see section 2.1.7. in Chapter 2.)

The sharp tendency of increasing trade deficit of Albanian trade particularly with EU member states began in the early 1990's, following the fall of the Communist regime. Until 1994 the Albanian economy was unable to make use of the preferential treatment granted by the Union. Although during the period between 1994 and 1997 (when the country faced a serious security crisis) the export volume with the EU noted a small but steady growth, this fact did not affect the trade deficit due to the large levels of imports from EU countries. The Albanian economy's structure was since then formed as an import-oriented market with quite moderate production capacities. Table 3.3. shows the country's volume of exports to and imports from the EU market until 1999.

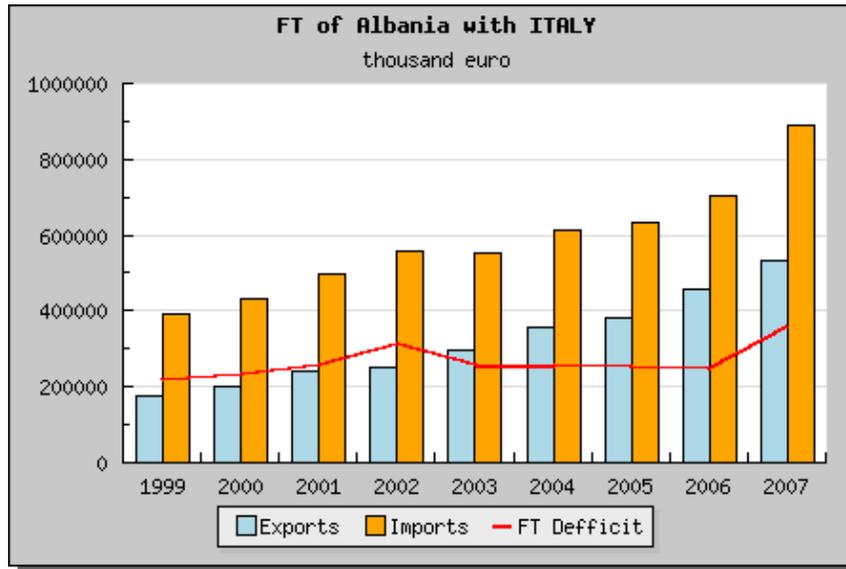
Table 3.3. The Development EU-Albania Trade Relations, 1989-1999

	Billion € (Billion Euro until 1998)			exp/imp	Annual rate of change		Share of Albania in extra EU trade	
	EU exp.	EU imp.	Balance	%	EU exp. %	EU imp. %	exp. %	imp. %
1989	0,121	0,100	0,021	121	80	39	0,03	0,02
1990	0,118	0,081	0,037	146	-3	-20	0,03	0,02
1991	0,167	0,065	0,101	255	41	-19	0,04	0,01
1992	0,304	0,058	0,247	528	83	-12	0,07	0,01
1993	0,400	0,081	0,319	496	31	40	0,08	0,02
1994	0,426	0,123	0,303	347	6	52	0,08	0,02
1995 (EU 12)	0,504	0,150	0,355	337	19	22	0,08	0,03
1995 (EU 15)	0,518	0,151	0,367	343	22	23	0,09	0,03
1996	0,744	0,198	0,547	377	44	31	0,12	0,03
1997	0,565	0,190	0,374	297	-24	-4	0,08	0,03
1997 (January)	0,055	0,022	0,034	255	-	-	0,11	0,04
1998	0,554	0,215	0,339	257	-2	13	0,08	0,03
1998 (January)	0,034	0,015	0,019	227	-38	-30	0,06	0,03
1999 (January)	0,037	0,018	0,019	203	8	20	0,08	0,03

Source: European Commission, *Commission Report on the Feasibility of Negotiating a Stabilisation and Association Agreement with Albania*. (Brussels: European Commission, COM 1999 599 final), 18.

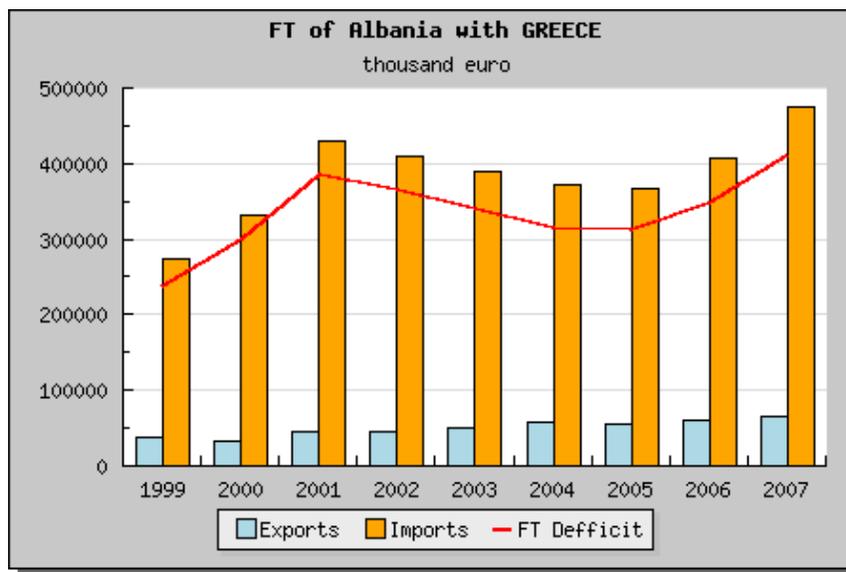
Italy and Greece have continuously represented the country's main trade partners and trade volume with these countries has constantly amounted to more than 50 percent of the trade volume with EU members. In the last eight years there has been a growing tendency to decrease the trade deficit with Italy through significant increase of the export volume, though this has not affected trade deficit with the second most important trading partner, Greece. See tables 3.4. and 3.5.

Table 3.4. Albania's Trade Volume with Italy, 1999-2007



Source: Albanian Center for International Trade, *Free Trade Agreements* (Tirana: ACIT, 2008), [www.acit-al.org](http://www.acit-al.org)

Table 3.5. Albania's Trade Volume with Greece, 1999-2007



Source: Albanian Center for International Trade, *Free Trade Agreements* (Tirana: ACIT, 2008), [www.acit-al.org](http://www.acit-al.org)

With regard to the general trends in trade relations with the EU-27, the last Progress Report of the EC published in 2007 reveals that for the past decade there is a tendency of steady (though small) decline in the volume of imports of goods from these countries. However, this is not accompanied by the same tendency in the volume of exports of Albanian goods in EU 27

which means that the increase in trade relations with neighbouring non-EU countries may partially explain the small declines in the volume of imports with the EU-27. See Table 3.6.

Table 3.6. Albania's Trade with EU27, 1997-2007

	1997	1998	1999	2000	2001	2002	2003	2004	2005
Share of exports to EU27 countries in value of total exports (%)	89.8	94.2	95.6	93.2	91.3	92.6	93.8	90.9	89.4
Share of imports from EU27 countries in value of total imports (%)	89.9	88.0	82.8	80.7	80.3	77.3	74.3	70.5	67.2

Source: European Commission, "Albania Progress Report 2007" *Commission Staff Working Document*

(Brussels: European Commission, SEC 2007 1429), 51

While observing a number of positive developments in Albania's trade capacities, the last EC Progress Report emphasizes that the trade deficit still represents a major concern which continues to depend largely on significant remittances and other current transfers from abroad, estimated at around 13% of GDP in 2006 or approximately 55% of the trade deficit.<sup>55</sup>

#### 4.2. Foreign Direct Investments in Albania

As shown in section 2.1.9. in Chapter 2, Albania's performance in attracting foreign direct investments until early 2000 has proved to be very low compared to other countries in the region. Such patterns is not only a result of the lack of commitment to firmly move forward with reforms and consolidate the functioning of democratic governance system, but it also came as a consequence of a number of crisis which challenged development – the turmoil in 1990 and 1997, the 1999 refugee crisis. Furthermore, the constant problems with the energy supply and other infrastructural concerns, as well as the continuous disputes on the Law on property (restitution / compensation of properties) had additionally undermined the FDI trends in the country and created a disadvantageous perception by investors on Albania as a high-

<sup>55</sup> : European Commission, "Albania Progress Report 2007" *Commission Staff Working Document* (Brussels: European Commission, SEC 2007 1429), 19.

risk country.<sup>56</sup> A comparative analysis of FDI in Albania and other countries in the region shows that during this period the country's performance was still at low levels (only Bosnia and the Union of Serbia and Montenegro – two countries which faced far more severe crisis – performed worse than Albania).<sup>57</sup>

It is difficult to analyze the effects of FDI on the overall situation of unemployment in the country. Considering the still high levels of grey economy and the high migration rate (in absence of a comprehensive registration of population) the official figures of unemployment may not appear accurate. Nevertheless, the data suggest that the unemployment rate (registered unemployment) continued to fall to 13.8 % in 2006, compared with 14.2% in 2005 (see section 2.1.10.3. in Chapter 2.). The highest increases in the number of new employees were observed in the mining, manufacturing and services sectors which are the same sectors where most FDI took place. Furthermore, the declining trend in the unemployment rate also corresponds with the increased resources that the country has been attracted through FDI from 2000 onward. Yet, it would be wrong to assume that FDI is the main factor for this progress as regards employment, not only due to the fact that Albania's foreign direct investments have not met expectations, but also due to other factors – expansion of national businesses, employment programmes etc.

### **4.3. Labour Migration to the EU Since 1990**

Emigration or outward migration of labour has been a characteristic that has accompanied Albanian developments throughout the years, except for the Communist period when the country practically isolated itself from the world. It was after the fall of the Communist regime that this phenomenon reached quite high figures. There are three main emigration waves of Albanian citizens in the past 18 years: a) the period between 1990 and 1992; b) the period between 1997 and 1998; and c) the brain drain wave of migration. While the first two waves took place mainly as a result of the economic and security situation (such as the 1997 crisis), the last wave's reasons have to do with educational purposes.<sup>58</sup>

The main destination of Albanian emigration involved EU member states, particularly neighbouring countries such as Italy and Greece. During the first wave, a mass flight of perhaps 200,000-300,000 Albanians took place, seeking refuge and work abroad, the

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<sup>56</sup> In fact the consequences of such perceptions are still present and this has been acknowledged as one of the reasons why Albania is not experiencing any FDI-expansion.

<sup>57</sup> World Bank, *Report on Albania* (Washington D.C.: IBRD, 2004), 141.

<sup>58</sup> Eno Trimcev, *Albanian Brain Drain: Turning the Tide* (Tirana: Albanian Institute of International Studies, 2005).

overwhelming majority in EU member states. During 1993-1996 the country's economy appeared to progress and some emigrants were returning and investing in their home country. Yet, despite the good record of economic progress the country was still unable to provide enough jobs for the active population (70,000 young people annually entering the labour market) and unemployment rate by the mid 1990's was at 20%.

The 1997 crisis and collapse of the state added to economic reasons for migration also security related issues and concerns. Kosta Barjaba (2000) published official government estimates of the total number of Albanian emigrants living abroad in January 2000 and the data revealed that according to the Ministry of Labour and Social Affairs approximately 800,000 emigrants (documented and undocumented migrants) had left the country until 1999, with 500,000 in Greece and 200,000 in Italy. Other countries hosting significant numbers of Albanians included Germany (12,000), the United States (12,000), the United Kingdom (5,000), Canada (5,000), Belgium (2,500), France (2,000), Turkey (2,000), Austria (1,000), Switzerland (1,000) and Australia (1,460). Emigration has been a major factor in the financial survival of the country since 1990 and in the maintenance and improvement of the livelihood of Albania's population through remittances (see section 2.1.8.1.). Immigrants' savings in 2004 reached the level of 5 billion US dollars or 70% of Albania's GDP. Remittances represent the main instrument for addressing the trade deficit concern (60 % of the country's trade deficit) and they actually stand at 15-20 % of the GDP.<sup>59</sup>

The latest studies show that a great part of migrants of the first two migration waves are less optimistic about their return in Albania. Namely, in the past years they have not only succeeded to integrate themselves in the societies where they live, but through family reunion they tend to build their families' future in these countries. This assumption is also supported by the recent projects of experts regarding the decreasing tendency in the volume of remittances for the next 10 to 15 years. Considering the fact that there is still a considerable number of illegal migrants particularly in EU countries (UK, Italy, Greece etc.) the readmission agreements' effect on Albanian migrants may involve only this category and thus, the number of Albanian emigrants will still remain at high levels.

In the past few years the Albanian government has been increasingly focusing on migration and it improved legal and policy related measures promoting the return of Albanian

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<sup>59</sup> Kosta Bajraba, *Albania: Migration and Development. Exiting from vulnerability in Global Migration System*, <http://www.oecd.org/dataoecd/34/17/38528665.pps#15>.

emigrants following a gap-analysis.<sup>60</sup> Nevertheless, the main resources and actions are focused on the brain drain phenomenon and considering the circumstances it is expected that the main community to respond to these policies will be only Albanian emigrants of the third wave of migration (Albanians that left the country for educational purposes). An additional factor that gives reason for optimism in this sense is the fact that according to recent studies, the main reason that is holding third wave migrants back is not related to incomes, but to career-related issues and the functioning of the state institutions (particularly as regards the hiring-firing practices).<sup>61</sup>

#### **4.4. EU Pre-Accession Funds**

Albania's endeavours in the framework of its EU integration process have been continuously assisted by the support and financial assistance of the European Union. From 1991 to 2007 the country has benefited from three main EU financial assistance programmes aimed at supporting this process: PHARE, CARDS and IPA (Instrument for Pre-accession Assistance, covering the period 2007-2013). In addition, the country has benefited also from other specific programmes designed to support the development of various sectors such as education, human rights etc. The intervention of EU assistance in the country has been continuously designed in accordance with the needs of the problematic areas which have evolved and changed in different periods of the transition process. While PHARE assistance was focussed more on developing the basic conditions for a market economy and also on humanitarian aspects following the 1997 crisis and the 1999 Kosovo refugee crisis, the CARDS programme provided increased support to institution building and supporting the governance system. Furthermore, considering the sharp infrastructure-related concerns in the country, particular attention has been paid also to this area through financial aid and investments.<sup>62</sup>

Albania became a beneficiary country under the first assistance programme (PHARE) in December 1991. From this period until October 1999 the European Union had granted a

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<sup>60</sup> Such analysis, focusing on the needs to align with EU *acquis*, has been carried out by International Organization for Migration (IOM) with the financial support of the European Union in 2004. See International Organization for Migration, *Gap Analysis on Migration Management in Albania* (Geneva: IOM 2004).

<sup>61</sup> This is one of the main findings of Albanian Institute for International Studies survey with Albanian students / scholars studying or working abroad. See Eno Trimcevi, *Albanian Brain Drain: Turning the Tide* (Tirana: Albanian Institute of International Studies, 2005).

<sup>62</sup> Since the 1997 crisis, EC assistance (in particular PHARE) has concentrated on four key areas: public administration reform (including customs, police and judiciary), large infrastructure (roads, water and ports), agriculture and local development.

total of approximately 620 million euros of assistance to Albania under the PHARE programme. Until 2000 the overall Community assistance to Albania amounted at 1.02 billion euros (PHARE and other programmes' assistance, as well as EIB loans). Table 3.7. shows only the structure of PHARE support.

Table 3.7. Overall PHARE Assistance in Albania, 1991-2000 (million euros)

TYPE OF PHARE ASSISTANCE	1991	1992	1993	1994	1995	1996	1997	1998	1999	TOTAL 1991-99	2000*	TOTAL 91-2000*
<b>PHARE NATIONAL PROGRAMMES</b>												
Agriculture		15,0	10,0	5,0		1,7	6,0	6,3	5,2	49,2		
Infrastructure (1)		4,4		3,0	18,4	17,0	7,0	8,0	5,5	63,3		
Private Sector Development (2)		2,8	7,0	3,0	2,0					14,8		
Health			6,0	7,0						13,0		
Water and Environment			3,3			1,5	6,7	2,5	12,6	26,6		
Education (incl. TEMPUS)		1,2	2,5	2,4	4,2	2,5	2,5	0,7	1,6	17,6		
Local Community Development					8,5		5,0	3,0	7,2	23,7		
Public Administration Reform (3)		1,6	1,2	0,8	1,9	8,6	6,3	8,9	11,4	40,7		
Approximation of Legislation				0,3						0,3		
Aid Coordination (4)				0,5		1,7		1,1	2,0	5,3		
Financial Sector and Audit							0,5		0,1	0,6		
<b>TOTAL Phare National Programmes</b>		<b>25,0</b>	<b>30,0</b>	<b>22,0</b>	<b>35,0</b>	<b>33,0</b>	<b>34,0</b>	<b>30,5</b>	<b>45,5</b>	<b>255,0</b>	<b>35,0</b>	<b>290,0</b>
<b>PHARE CROSS-BORDER PROGR.</b>				20,0	18,0	20,0	20,0	12,0	14,0	104,0	40,0	144,0
<b>OSCE ELECTION SUPPORT</b>							1,5			1,5		1,5
<b>BALANCE OF PAYMENTS SUPPORT</b>		35,0	35,0		35,0					105,0		105,0
<b>SPECIAL BUDGETARY ASSISTANCE</b>							14,9			14,9		14,9
<b>ASSISTANCE IN FAVOUR OF KOSOVO REFUGEES</b>									62,0	62,0		62,0
<b>PHARE HUMANITARIAN AID</b>	10,0	50,0	10,0	7,0						77,0		77,0
<b>OVERALL PHARE ASSISTANCE</b>	<b>10,0</b>	<b>110,0</b>	<b>75,0</b>	<b>49,0</b>	<b>88,0</b>	<b>53,0</b>	<b>70,4</b>	<b>42,5</b>	<b>121,5</b>	<b>619,4</b>	<b>75,0</b>	<b>694,4</b>

Note that the figures in this table include total amount of committed funds under PHARE programme only.

(1) Includes Transport, Energy, Telecommunications

(2) Includes Privatisation, SMEs, Banking, Tourism

(3) Includes Civil Service Reform, Supreme Audit Institution, Police, Statistics, Customs and Judiciary

(4) Includes feasibility studies in 1996 and the establishment of a Central Contracting and Financial Unit in 1999.

\* Forecast

Source: European Commission, Commission Report on the Feasibility of Negotiating a Stabilisation and Association Agreement with Albania. (Brussels: European Commission, COM 1999 599 final)

From 2001, the main EC instrument that was offering financial support to Albania was the CARDS programme which covered the period until 2006.<sup>63</sup> CARDS involved a long term assistance approach that aimed to address the needs of the country through a single programme and to reflect the ambitious objectives of the SAP. A major part of the CARDS programme focused on support for the judicial system and the police – construction and renovation of courts, police and justice assistance missions (PAMECA and EURALIUS, respectively), border management etc. Particular attention was dedicated also to the effective functioning of the customs service which was a necessity not only as regards the fight against

<sup>63</sup> The CARDS programme's overall budget amounted to 4.6 billion euros for all Western Balkan countries until the end of 2006. Out of this amount, some 2 billion euros were committed between 2001 and 2003.

trafficking and organized crime, but also in view of Albania's improved prospects to conclude the SAA and focus increased resources for the implementation of the Interim Agreement. Concerns over the functioning of the market economy and support to business and investment environment represented an additional intervention area of the CARDS programme (support in taxation, European standards such as standardisation, certification and inspection, metrology, veterinary and phytosanitary inspection etc). Additional support was provided also to consolidate democracy and the development of civil society, rural development, community awareness and involvement of local communities in decision making, higher education, vocational education and training, as well as a number of other problematic areas. From 2001 to 2007, the CARDS programme allocated a total of 282.1 million euros to advance Albania's performance in the framework of the SA process.<sup>64</sup>

The new financial perspective for the period between 2007 and 2013 of the European Union outlined a new assistance programme for candidate and potential candidate countries – the Instrument for Pre-accession Assistance (IPA) – which entered into force in January 2007. The IPA consists of five components: (I) Transition Assistance and Institution Building, (II) Cross-Border Cooperation, (III) Regional Development, (IV) Human Resources Development, and (V) Rural Development. Only candidate countries can benefit from all five components of the IPA programme while potential candidate countries (such as Albania) will benefit from the first two components only. IPA assistance to Albania is planned and programmed in close cooperation with Albanian authorities and the European Commission's Representation in Tirana. The Multi-annual Indicative Planning Document (MIPD), which represents the key strategic document for IPA assistance to the target countries, has allocated a total of 212.9 million euros of which 186.3 million euros will be allocated to component I for institution-building and 26.6 million euros to component II for cross-border cooperation. According to the National Programme 2007 which is designed in accordance with the MPID priorities, the main areas are administrative capacity building and economic and social development, with a particular focus on infrastructure.

Nevertheless, while the total assistance allocated by the European Union reaches considerable levels, experience shows that Albanian administration still does not possess the capacities to fully absorb this assistance. Accordingly, it remains to be seen what will be the level of performance under the new financial instrument and this represents a major challenge not only with regard to the actual stage of the EU integration process, but also in view of the

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<sup>64</sup> Data from the European Commission's website, available at [http://ec.europa.eu/enlargement/potential-candidate-countries/albania/eu\\_albania\\_relations\\_en.htm](http://ec.europa.eu/enlargement/potential-candidate-countries/albania/eu_albania_relations_en.htm).

medium-term objective of this programme to decentralize the management of financial assistance and involve directly the Albanian authorities.

#### **4.4.1. EU Support to Infrastructure Development**

Major concerns over Albanian infrastructure in terms of transport and communication, as well as reoccurring energy crisis have continuously hampered development pace in the country. Following the opening of the country infrastructure appeared outdated and could not respond neither to the needs of an open market economy (transport and communication) nor to the needs of its citizens (energy). Albania has a strategic position as compared to other Balkan countries that have no access to the Adriatic/Ionian Sea. Therefore, investments in road infrastructure and building new connections with the main European transit routes entered the development agenda as the main objectives in the early 1990's. EU assistance has therefore partially focused precisely on this component under the PHARE programme and latter with the CARDS programme as well. However, the setbacks and the serious crisis that Albania experienced during the first decade of its transition, as well as the continuous economic and political problems, influenced a greater attention towards other concerns during this period.

One of the greatest deficiencies in this regard represent the fact that infrastructure development remained mainly dependent on foreign assistance (EU) and only after 2000 did the country start to take a more proactive role in this area.<sup>65</sup> In addition to the consequences of the various crises and thus, the lack of strong institutions, infrastructure concerns represent another factor that has influenced economic development and especially the low performance in attracting FDI. Infrastructure-related concerns have directly affected trade relations and economic cooperation with neighbouring countries, as well as the economic development of remote areas in Albania. The economic potential of the country for a long period was concentrated in the triangle "Tirana – Durres – Elbasan" due to the fact that this area was better equipped with the basic conditions: better energy supply, direct road and railway links with the Port of Durres and other communication means with EU market etc. This is in fact also the main reason why internal migration flows, from rural and remote areas to urban areas, were heavily focused in these cities.

During the first decade of the transition period investments in road infrastructure, transport and energy depended mainly on donor assistance. The European Union had invested

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<sup>65</sup> Central government funding of local road maintenance effectively ended in 1991, and the breakdown of repair vehicles because of a lack of spare parts threatened to close access to some remote areas.

a total of 63.3 million euros under the PHARE programme alone in several projects on transport, energy and telecommunications during the period between 1991 and 1999. Development of Albanian infrastructure represented one of the main priorities also of the CARDS programme and various projects were realized under this programme as well as through the support of other EU financial assistance and loans (EIB). Yet, from 1997 to 2000-2001 the main attention of foreign donors and political actors in Albania was focused on restoring security, public order and the state institutions' authority. Following the improvement of the security situation in the country a more intense work on road infrastructure took place, particularly under the cabinet led by Ilir Meta. Road infrastructure and connection of Albanian transport routes with regional and EU networks became a priority of almost all governments since then, initially with the intention to boost economic development, further expand industry and other business operations (beyond the Tirana – Elbasan – Durres triangle) and lately, also with an aim to enhance performance in tourism.

Although, major improvements have been made over an almost seven-year period in enhancing routes with neighbouring countries such as Tirana – Shkodra highway (towards Montenegro), the southern corridor (with Greece) and the south-eastern connection (with Macedonia), there is still a lot to be done in order to complete these projects. After a long period of “thought”, the government started to implement, perhaps the biggest investment in the entire Balkans, i.e. the Durres – Pristina highway, an investment which according to experts will exceed a total of 600 million euros. In addition to strengthening contacts with Kosovo, this investment will also positively influence the economic development of one of the poorest areas of the country – the northern part.

There are considerable improvements in road infrastructure and the government puts great emphasis on investments in economic development in general and in the tourism sector in specific. Nevertheless, the energy sector and railways still remain major concerns which continue to have an impact on the level of foreign investments. Furthermore, environmental protection and sensitivity for environmental concerns generally remain low, while governmental actions in this regard are still limited to political declarations, with very little concrete results. There are a number of regional cross-border initiatives such as the Ohrid – Prespa Lake Euroregion or other similar attempts in the north which focus on environmental issues. However, results and impact of bilateral cooperation with the neighbouring countries in this context remain limited and often stained by disputes.<sup>66</sup> The consolidation of the role of

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<sup>66</sup> For instance, although there is a bilateral agreement with Macedonia that regulates the water-flow from the Drin river, it seems that this situation is not managed well during energy crisis.

Albanian civil society has recently resulted in an increased pressure on governmental actions in the field of environmental protection which sometimes experience clashes with major infrastructural projects.<sup>67</sup> Another positive element in the developments of infrastructure (transport, telecommunications, energy) represents increased involvement of the local business operators, particularly in the energy sector.

The variety of topics being discussed by state, civil and private stakeholders in the field of infrastructure demonstrates that an improved approach is being employed by these actors. In addition, the advancement of an inclusive debate on infrastructural concerns, from strictly basic needs towards a more comprehensive attitude that analyses the impact of infrastructure investments on other areas as well shows that Albania's efforts in this regard in the future may further improve. The assistance of the European Union under IPA structures as well as the support of other financial mechanisms in the area of infrastructure will certainly support governmental efforts in this regard. Nevertheless, the main challenges for Albanian political actors include not only to increase national resources involved in these investments, but particularly the consolidation of administrative capacities to attract foreign support and better absorb these financial resources.

## **5. Legal Adaptation**

The alignment of Albanian legislation with EU the *acquis communautaire* – in the form of a structured development with clearly defined objectives and deadlines – is a relatively new process and follows a certain level of advancement in the European integration process. In fact, approximation of legislation as an obligation is mainly related to association agreements such as Europe Agreements or the SAA. Due to the type of agreement signed in 1992 with the EU (cooperation agreement) and the lack of progress in the relationship with the Union, the time-gap between the first steps of EU integration and one of the most essential elements of this process – approximation of legislation – in the Albanian case was quite long. The long transition and the setbacks in that course have imposed during the 1990's other priorities for the European integration process and for the overall development of the country, which postponed the approximation of legislation for almost a decade. In fact, support to Albania's approximation of legislation under the EC's PHARE assistance amounts to only 0.3 million

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<sup>67</sup> One of such disagreements between environmental organizations joined by the Vlora local community and the central government is currently taking place on the AMBO pipeline project – one of the greatest investments in this field.

euros between 1991 and 1999 period, which represents the least funded area.<sup>68</sup> Alignment with EU *acquis* was an almost non-existent idiom not only in the legal acts regulating the bilateral relations but also in other, not-legally binding documents related to Albania's European integration process during this period.

Following the endorsement of the Stabilization and Association Process and in view of the preparations for the SAA negotiations, Albania's alignment process finally entered the EU integration (political) agenda in rather concrete terms.<sup>69</sup> However, concerns over the implementation of aligned legislation due to various anomalies (lack of administrative capacities, training etc.) constituted an additional element that had initially impaired this process, particularly in its early phases. This, on the other hand, implies that the process of approximation of legislation in Albania was often partially implemented, being more formal than an "effective implementation of legislation".<sup>70</sup>

The subsequent sections of this chapter provide an overview of the process of approximation of legislation since the early 1990's until nowadays, while a thorough analysis of the current state of affairs – actual progress and plans for future adaptation – will conclude this section.

### **5.1. Albania's Progress in the Field of Approximation of Legislation**

In the context of EU integration, the terms "approximation" or "harmonization" refer to the process of adapting the legal systems of associated countries to the *acquis communautaire* and, as previously mentioned, it involves not only the adaptation of laws but also their actual implementation. This on the other hand requires a certain level of socio-economic development and a sound record of performance of democratic institutions in order to allow for an efficient rapprochement process. In fact, this has been the guiding philosophy of both,

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<sup>68</sup> Assistance for this area has been provided only for one year in 1994, when the working party on "approximation and reform of legislation" was established. This body was not utilized for some years and it restarted its activity only in 1999. See European Commission, *Commission Report on the Feasibility of Negotiating a Stabilisation and Association Agreement with Albania*. (Brussels: European Commission, COM 1999 599 final).

<sup>69</sup> Although the 1998 Strategy for European and Euro-Atlantic Integration (approved by the Council of Ministers with Decision No. 752, dated 01/12/1998) mentions the alignment with EU *acquis* as a key objective for the EU integration process, most of the Governmental actions and EC recommendations during this period lacked a clear reference as regarding the level of alignment, thus focusing the struggle mainly on establishing a framework respecting the basic standards.

<sup>70</sup> At this point, the chapter refers to the approximation of legislation not only as a formal legal obligation (under the SAA) but also as a strategic objective addressed in various strategic documents of the country. Accordingly, this part of the chapter will discuss the process of alignment with EU *acquis* from a point of view which is broader than the strictly legal settings of this process.

the SA process and the last enlargement experience.<sup>71</sup> Once confidence has been established, an individual country can effectively address adaptation and implementation components of approximation with EU *acquis* by taking further steps toward a closer relationship with the Union.

The 1992 Agreement between Albania and the European Community provided in this sense a less advanced cooperation framework as it was focusing more on economic cooperation and trade related matters. The only provisions to adjustment (but not approximation) of legislation in this agreement (articles 13:2, 13:3, 13:4 and 14) dealt with issues and concerns that would eventually facilitate trade relations and economic cooperation between the parties.<sup>72</sup> In contrast, the Europe Agreements of Central and Eastern European (CEE) countries reflected a higher level of political and economic maturity containing also the legal obligation to start approximation with EU *acquis*.<sup>73</sup> On the one hand it is understandable that without an association partnership with EU there were no legal obligations of Albania to align its legislation. Yet it is hard to find even references to recommendations by the EU addressed to Albanian authorities. For instance, the 3<sup>rd</sup> and 4<sup>th</sup> EC Annual Reports on the implementation of the Community assistance (PHARE) mention the need for a sound legal framework in Albania but only in the sense of developing minimum legal standards allowing economic operations to function in an open market economy which was still under construction at the time. Accordingly, it was still too early to put even in not-legally binding documents (reports, EC Communications etc.) references such as “compliance with European standards or EU *acquis*”.<sup>74</sup>

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<sup>71</sup> Article 70 of the Albanian SAA reads: “The Parties recognise the importance of the approximation of Albania's existing legislation to that of the Community and of its effective implementation”.

<sup>72</sup> The term „approximation” is not used in this agreement.

<sup>73</sup> This has been made clear in several documents such as European Commission, *Report from the Commission to the Council and the European Parliament on common principles for future contractual relations with certain countries in South-Eastern Europe* (Brussels: European Commission COM 1996 476); European Commission, *Communication from the Commission to the Council. Follow up to Commission Communication on “The Europe Agreements and Beyond: A strategy to prepare the countries of Central and Eastern Europe for Accession”*. (Brussels: European Commission COM 1994 361) or European Commission, *Communication by the Commission to the Council, In view of the meeting of the European Council in Copenhagen. 21-22 June 1993 – Towards a Closer Association with the Countries of Central and Eastern Europe* (Brussels: European Commission SEC 1993 648). Source: University of Pittsburgh, Archive of European Integration (<http://aei.pitt.edu/>). Date accessed November 27<sup>th</sup> – December 8<sup>th</sup> 2007.

<sup>74</sup> European Commission, *3rd and 4th Annual Reports from the Commission to the Council and the European Parliament on the implementation of the Community assistance to countries of East and Central Europe (PHARE) in 1992 and 1993* (Brussels: European Commission COM 1995 13). The same applies to European Commission, *Report from the Commission to the Council on Regional Cooperation in Europe* (Brussels: European Commission COM 1997 659).. Source: University of Pittsburgh, Archive of European Integration (<http://aei.pitt.edu/>). Date accessed November 27<sup>th</sup> – December 8<sup>th</sup> 2007.

Albania's process of approximation-related matters remained along the same lines in the framework of the so-called regional approach. In view of the developments at that time, remarks and recommendations on legislative improvements in the economic area were focused on the pyramid schemes. The conditionality reports, which were designed to monitor compliance by the countries of South-Eastern Europe with the political and economic conditions established by the Council (29 April 1997), practically underlined more or less the same *problematique* by focusing on: democratic principles; rule of law, human and minority rights; market economy reform; and regional cooperation.<sup>75</sup> While in the first three conditionality reports for Albania the main legal adjustment-related issues to which the European Commission drew attention had to do with the same concerns which were characteristic for the pre-1997 period (including the pyramid schemes' problem), the last two reports put greater emphasis on relatively new topics for the country such as laws on functioning of the government and ministries, independent institutions, the Parliament; public administration reform, law enforcement bodies etc.<sup>76</sup> Again, the main analysis on Albania's development of the legal framework in various areas was more focused on whether the minimal conditions exist (for instance regarding media, human rights acts) rather than on whether the legal framework had incorporated the European standards in line with the EU *acquis*. Accordingly, the main expression used by the European Commission in all five conditionality reports regarding the legal framework in various aspects was "the right of ..... is generally ensured / respected" and no reference was made to the level of compliance with the *acquis communautaire*.<sup>77</sup>

On the Albanian side, the Strategy for European and Euro-Atlantic Integration approved by the Council of Ministers in 1998<sup>78</sup> was the first step towards a structured approach regarding the challenges of approximation of legislation with the EU *acquis*. It is the first document that makes a clear and direct reference to the process and measures that would facilitate the start of approximation. Such a step was also the establishment of a special body under the Ministry of Justice, a department on approximation of legislation with EU *acquis communautaire*. The Strategy defines European integration as a "multi-dimensional process" which involves also the approximation of laws as a key prerequisite. One of the main

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<sup>75</sup> For former Yugoslav countries involved in the war, the Council conditions involved also other concerns related to post-conflict matters such as implementation of Peace Agreements.

<sup>76</sup> See the conditionality reports listed in section 3.3.2. or, for more information, the Commission's website at: [http://ec.europa.eu/enlargement/key\\_documents/sap\\_en.htm](http://ec.europa.eu/enlargement/key_documents/sap_en.htm).

<sup>77</sup> It is extremely difficult to identify reliable online references on the Albania-EU relations during the period between 1992 and 1997. The research work focusing on this period is based mainly on the original documentation provided online by the Archive of European Integration at the University of Pittsburgh, USA.

<sup>78</sup> Decision of the Council of Ministers No. 752, dated 01/12/1998.

directions for the overall progress defined in this document involves the development of the “necessary legislative parameters” and other specific tasks, such as legal amendments to the existing legislation in order to align it with standards of the EU’s founding documents. While referring to the period between 1992 and 1999, only a year after the adoption of this Strategy, the European Commission concluded that “results in this field have been rather uneven and clear priorities were never established within the relevant working party on approximation and reform of legislation”. On the other hand, the EC underlined the need of a more systematic approach of governmental actions in this field and observed the newly established department as a positive step in this regard.<sup>79</sup>

By the time the first Stabilization and Association Report was issued (2002) Albania had a generally positive score only on the (basic) legal framework regulating the private sector’s operations, on which account the main emphasis was put on implementation aspects.<sup>80</sup> Recommendations for further legislative improvements in most of areas of the SAP reports were continuously put forward by the European Commission also in the subsequent years. Yet, despite the shortcomings of the adoption of new legislation in specific areas and adjustment of the existing ones, the EC reports were increasingly focusing on implementation aspects. The 2004 SAP Report concluded that with regard to anti-corruption measures “the problem in Albania is not the absence of strategies and legislation, but rather deficiencies in their implementation and enforcement”.<sup>81</sup> The same report observed that weak implementing capacities undermine the country’s capacities to comply with SAA requirements.<sup>82</sup>

Almost one year and a half after the opening of the SAA negotiations, a European Partnership with Albania was adopted by the Council outlining the short and medium-term priorities of the Albanian SA process. This is perhaps the first document of the European Union which makes clear reference to matters related to “approximation of Albanian legislation with EU *acquis* and standards” and which outlines specific recommendations and obligations for the country. The first European Partnership emphasizes that “where legislative approximation is concerned, incorporation of the *acquis* into legislation is not in itself

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<sup>79</sup> European Commission, *Commission Report on the Feasibility of Negotiating a Stabilisation and Association Agreement with Albania*. (Brussels: European Commission, COM 1999 599 final), 10.

<sup>80</sup> Of course, the country was still far from having addressed minimum standards in the reports’ target fields. See European Commission, “Albania Stabilization and Association Report 2002” *Commission Staff Working Document* (Brussels: European Commission, COM 2002 163).

<sup>81</sup> European Commission, “Albania Stabilization and Association Report 2004” *Commission Staff Working Document* (Brussels: European Commission, COM 2004 203), 7. Same concerns have often been identified also in other areas such as management of public finances, internal market and trade, various sectorial policies (environment), justice and home affairs (money laundering, drugs, organized crime etc.).

<sup>82</sup> European Commission, “Albania Stabilization and Association Report 2004” *Commission Staff Working Document* (Brussels: European Commission, COM 2004 203), 20.

sufficient; it will also be necessary to prepare to its full implementation”.<sup>83</sup> It was clear that, in attendance of the SAA negotiations’ conclusion, the country was entering in a more advanced stage where requirements and indicators of success in the process would go beyond matters of simply ensuring a basic legislative framework. The Albanian government responded immediately with an Action Plan for the implementation of the European Partnership.<sup>84</sup> Although this action plan did not undergo a formal approval by the Parliament, the involvement of the institution during the drafting phase noted a positive step towards the promotion of the Parliament’s impact on EU integration matters.<sup>85</sup> Importance of the process of approximation of Albanian legislation was further reinforced through the adoption of the National Plan for the Approximation of Legislation (NPAL) which did not go through formal approval by the Parliament either.<sup>86</sup> The NPAL recalled the SAP’s achievements and outlined the country’s objectives in the field of alignment with EU *acquis* based on the European Partnership<sup>87</sup>, EC progress Reports, draft text of the SAA including the anticipated requirements of the Interim Agreement. The structure of the NPAL was similar to that of the European Partnership consisting of three parts: political, economic and European standards. Differently from the European Partnership, the National Plan covered a 10 year period through short (2005-2006), medium (2007-2008) and long term priorities (2009-2014). It was expected that the NPAL would be updated in accordance with the findings of the subsequent EC reports and the accompanying European Partnerships.

Yet, the only goal that the NPAL failed to fulfil despite the monitoring and reporting instruments was the implementation of the short-term priorities (legal initiatives) within the deadlines that it had defined in several fields. Even when the country succeeded to meet the NPAL objectives related to the adoption of legal acts in line with EU *acquis*, lack of attention on implementation and capacities to implement the new legislation prevented effectiveness of this process.<sup>88</sup> The slow pace of the approximation of legislation and its actual implementation was also portrayed in the medium-term priorities for alignment with EU

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<sup>83</sup> See 2004/519/EC: Council Decision of 14 June 2004 On The Principles, Priorities and Conditions Contained in The European Partnership with Albania.

<sup>84</sup> Decision of the Council of Ministers No. 634, dated 30/08/2004.

<sup>85</sup> The parliamentary debate has usually followed the progress reports issued by the European Commission as well, but these sessions have been mostly used for political accusations.

<sup>86</sup> Decision of the Council of Ministers No. 317, dated 13/05/2005.

<sup>87</sup> The NPAL did succeed in avoiding duplications with the Action Plan for the implementation of the European Partnership by focusing only on approximation related aspects.

<sup>88</sup> Similar remarks have been made by the EC in the 2005 and 2006 Progress Reports in several fields, particularly those related to (implementation of) European Standards.

*acquis*.<sup>89</sup> The setting up of too optimistic deadlines and measures in the process of approximation of legislation was in fact a phenomenon that was observed also in the previous period.

Delays in the implementation of the NPAL objectives during the first year were also partly influenced by the parliamentary elections and the change of the ruling coalition – the new government took office two months after the elections (September 2005). Furthermore, following the last negotiations round on the SAA (end of 2005) it was clear that the Agreement was close to signing and the government was preparing for a new “road map” for the EU integration process and consequently, also for the process of approximation of legislations with the EU *acquis*. Less than a month after the official signing of the SAA on the 12<sup>th</sup> June 2006, the Government adopted the National Plan for the Implementation of the SAA (NPISAA).<sup>90</sup> The new document repealed the previous decisions of the Council of Ministers on the Action Plan for the implementation of the European Partnership and on the National Plan for the Approximation of Legislation. The NPISAA’s measures related to approximation of legislation will be analyzed in more detail in the subsequent section.

## **5.2. Current National Plans for Alignment with the *Acquis Communautaire***

Title VI (Approximation of Laws, Law Enforcement and Competition Rules) of the SAA clearly defines Albania’s obligations regarding the alignment of its legislation with EU standards and *acquis*. Article 70 of the SAA stipulates that this process will take place in two consecutive phases of the transitional period, starting with the fundamental elements of the internal market and related areas during the first five-year period. The SAA’s Article 70 reads:

1. The Parties recognize the importance of the approximation of Albania’s existing legislation to that of the Community and of its effective implementation. Albania shall endeavour to ensure that its existing laws and future legislation shall be gradually made compatible with the Community *acquis*. Albania shall ensure that existing and future legislation shall be properly implemented and enforced.
2. This approximation shall start on the date of signing of this Agreement, and shall gradually extend to all the elements of the Community *acquis* referred to in this Agreement by the end of the transitional period as defined in Article 6.

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<sup>89</sup> Gjergji Vurmo, *Visa Policy of Albania* (Western Balkans 2006), [http://www.western-balkans.info/upload/docs/1a\\_Albania\\_Visa\\_Policy\\_GjergjiVurmo.pdf](http://www.western-balkans.info/upload/docs/1a_Albania_Visa_Policy_GjergjiVurmo.pdf).

<sup>90</sup> Decision of the Council of Ministers No. 463, dated 05/07/2006.

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

4. Albania shall also define, in agreement with the Commission of the European Communities, the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken.

According to Article 6 of the SAA, the transitional period is set to a maximum ten-year period. The first stage shall start upon the date of entry into force of the Agreement. In the fifth year after the date of entry into force of the Agreement, the Stabilization and Association Council shall evaluate the progress made by Albania, and shall decide whether this progress has been sufficient for the passage into the second stage in order to achieve full Association. In the field of legal approximation and law enforcement, the aim shall be for Albania to concentrate in the first stage on the fundamental elements, with specific benchmarks, of the *acquis*.<sup>91</sup>

As mentioned, Albania's approximation process is currently taking place under the National Plan for the Implementation of the SAA (NPISAA) adopted by the Council of Ministers. The Plan is largely based on the former National Plan for the Approximation of Legislation and is structured in three parts – Political Criteria; Economic Criteria; and Capacity to address EU membership obligations. With regard to the first two criteria, the NPISAA focuses mainly on short (2006-2007) and medium-term (2008-2009) priorities, i.e. legal initiatives and accompanying measures. The last part, capacity to address EU membership obligations, involves long-term priorities (until 2012) as well and measures to be undertaken by the government in addition to the short and medium-term priorities. This strategic document focuses individually on all key areas and sub-chapters falling within the three criteria which it aims to address by providing detailed information on:

- Political objectives
- Recent situation
  - Legal framework

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<sup>91</sup> See Article 6 of the Stabilization and Association Agreement with Albania.

- Institutional framework
- Technical assistance
- Priorities (short, medium and long term)
  - Legal initiatives
  - Implementing measures / activities
- Summary table on institutional capacities (investments / human resources / infrastructure etc.)<sup>92</sup>

The NPISAA also remains open to updates in accordance with the new developments and the priorities of the European Partnership and the EC reports. While from the structural point of view and the approach to the approximation process, the NPISAA seems to reflect the current trends of the EU integration process, concerns still remain on whether some deadlines in some areas (movement of persons and services, free movement of capital, asylum, migration etc.) are too optimistic. These concerns are particularly present when speaking about the implementation of adjusted legislation within the deadlines as anticipated by NPISAA.<sup>93</sup> Although there is no official data on the exact level of compliance with the short-term objectives and measures set out in the NPISAA, progress on specific areas suggests that the country is far from meeting these objectives within the deadlines of the National Plan.<sup>94</sup> This will have a direct effect on the overall progress of the first stage of approximation process (horizontal provisions contained in Title VI of the SAA), which would consequently be reflected in the postponement of the second phase (related to vertical provisions – Cooperation policies) of the transition period if the country fails to take appropriate measures.

From the institutional point of view, the process of approximation of legislation has been considerably improved since the “concordance table” was introduced. This instrument enables an additional filter (Ministry of European Integration) in the process of alignment of legislation with the EU *acquis*. In compliance with the assigned duties, the Ministry of European Integration is the first body that examines the compliance of the draft legislation prepared by the line ministries and other institutions with the *acquis communautaire*.<sup>95</sup>

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<sup>92</sup>This element is not present in all sub chapters of the NPISAA.

<sup>93</sup> See European Commission, “Albania Progress Report 2007” *Commission Staff Working Document* (Brussels: European Commission, SEC 2007 1429) and European Commission, *EC Proposal for a Council Decision on the principles, priorities and conditions contained in the European Partnership with Albania and repealing Decision 2006/54/EC* (Brussels: European Commission COM 2007 656 final).

<sup>94</sup> Experts argue that the country’s progress in attaining NPISAA’s short term objectives generally remains within 30-35 percent of the measures. See below section 3.5.3.

<sup>95</sup> Decision of the Council of Ministers No. 580, dated 10/9/2004. Point 2/e of this decision specifies that the MEI examines compliance with EU legislation of draft legal acts put forward by the line ministries and other

Despite the delays and sometimes even problematic draft legislation, this instrument has been quite a helpful experience not only for the central institutions' legal departments but also for the Parliament and its respective bodies (legislative commission, EU integration commissions etc.) which, as the last EC report concludes, lack the necessary capacities and expertise in this field.<sup>96</sup>

While under the previous EU assistance program (CARDS) priority was given to “stabilization” components related to capacity-building support and infrastructure, IPA will increasingly focus on assisting the country to meet the objectives and obligations assumed under the SAA – where aspects related to alignment with EU standards and *acquis* as well as the effective implementation of new legislation remain central. Under the new assistance programme, Albanian authorities will be more involved in the programming process related to these funds, unlike CARDS assistance which was managed through a centralized system. It remains to be seen to what extent the country will manage to absorb and efficiently channel EU assistance in order to address SAA obligations, including the approximation of legislation. Despite the different focus, the CARDS programme has generally encouraged the development of Albanian legislation in line with EU *acquis*. However, the source of its shortcomings was not only the lack of political consensus (tense political situation) from the Albanian side, but also an inappropriate approach from the European Commission's devolved bodies.<sup>97</sup> Such an example was the draft Law on State Police sponsored by the EU Police Mission in Albania (PAMECA) which was strongly contested by Albanian think tanks in December 2006. This network of Albanian think tanks organized a public round table with experts who afterwards presented their arguments on behalf of the expert community against the draft law in the Parliamentary Commission on Legal Issues. As a result, the draft law was withdrawn for additional improvements. However, PAMECA experts and governmental

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central institutions. These institutions must state in the explanatory memorandum the level of compliance and respective legal references of *acquis communautaire*.

<sup>96</sup> “The level of expertise available to the parliament, including on EU integration issues, remains low. This is reflected in the quality of legislation.” See European Commission, “Albania Progress Report 2007” *Commission Staff Working Document* (Brussels: European Commission, SEC 2007 1429), 6.

<sup>97</sup> In fact, this has been one of the reasons why IPA employs a decentralized approach of its management. Similar problematique was present also in Macedonia with regard to the performance of the European Agency for Reconstruction (EAR). National experts had previously suggested a similar approach to that of the current IPA programme. Delays and other shortcoming in the work of the EAR have been acknowledged also by EU Special Representative in Macedonia Mr. Erwan Fouéré in an interview for the daily Dnevnik (see Devnik, “Нема проневери со странските донации” [“There is no ill-management with foreign donations”]. *Devnik*, 6<sup>th</sup> October 2006, <http://www.dnevnik.com.mk>). On the other hand, cases of mismanagement from the EU side may well have a negative impact on the general perception in SAP countries. Such cases have been largely debated earlier in 2007 when EU officials were charged with corruption (see EU Observer, “EU corruption case sparks fresh questions”. *EU Observer*, 5<sup>th</sup> April 2007 and EU Business, “EU official charged in corruption probe”. *EU Business*, 20 June 2007).

representatives did not fully reflect the remarks of Albanian think tanks in the second draft which was adopted. The experience with the EU's Police Assistance Missions has shown that the EU has not been very careful in ensuring that each of these Missions respect the principle of continuity in both, their work and their approach. While PAMECA I (2002-2004), in accordance with its objectives, smoothly followed the pattern of the previous mission (Multinational Advisory Police Element: 1997-2001) by furthering the achieved progress, the second mission (PAMECA II), experts argue, has been less efficient in some regards.<sup>98</sup>

Needless to say, the programming and implementation of the NPISAA is primarily a responsibility of the Albanian stakeholders – the executive, legislative and judiciary branches of power. However, close cooperation with independent actors (think tanks and experts) and interest groups is essential for framing the approximation efforts into a sound process. The assistance of the European Union for this process (now under the IPA) will increasingly support these efforts particularly with regard to the actual implementation of the aligned legislation. In this course however, more space should be enabled for the local expertise of independent think tanks which have already outstripped the “infantile” period and are now exporting their know-how in the region and beyond.<sup>99</sup> The recently established practice of consultations between the political actors, interest groups and civil society representatives should be further consolidated: involving third parties in these consultations which may be quite sensitive for the political actors' agenda; and strengthening communication and mutual brainstorming processes between EU agencies providing expertise in the country's approximation process and local think tanks and independent experts. Such an approach has been increasingly employed by political actors in the last 3-4 years and the experience shows that legislative processes have been more effective when remarks and suggestions from such public-private-civic consultations have been adequately reflected in the legal acts or other strategic documents.

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<sup>98</sup> In addition to PAMECA's failure to provide sound expertise for the Law on State Police and to cooperate with Albanian think tanks on other police reform matters, Albanian experts note that PAMECA II has often shown lack of continuity and commitment to push for certain reforms, regardless of political reactions. Another “scandal” of PAMECA II has been recently published by the daily Panorama which's investigative report shows that the mission's 2007 report on Albanian State Police is a simply “copy-paste” work of a Report on the Bangladesh Police from 2006. The Panorama report further notes that in three years PAMECA II has only criticized certain shortcomings of the police reform in Albania once (in June 2007, only a few months preceding the conclusion of the mission). See Panorama, “Misioni PAMECA: Raporti për policinë u kopjua nga Bangladeshi” (“PAMECA: The report on the police was copied from Bangladesh”), *Panorama*, 17<sup>th</sup> December 2007 and Panorama, “Interview with Artan Didi former Police Director of Public Order”, *Panorama*, 18<sup>th</sup> December 2007.

<sup>99</sup> A considerable number of Albanian think tanks have succeeded to build themselves as centres of excellence and are involved in various international consortiums providing assistance and expertise on various fields in the region (Kosovo, Macedonia) and also in other parts of the world.

A similar experience of the influence of civil society and independent experts on a governmental strategic document has been recently noted with the draft text of the National Strategy for Development and Integration 2007-2013 (NSDI) which involved the medium and long-term commitments of the government with regard to the EU and NATO integration, the democratization process, consolidation of the rule of law, socio-economic development and the accompanying measures to meet the objectives in these fields. At a series of public consultations during October-November 2007 civil society representatives, private actors and other stakeholders delivered serious remarks on several parts of the NSDI. As a response, the government withdrew this draft for further improvements, even though its approval was supposed to take place by the end of the year 2007.<sup>100</sup>

The National Plan for the Implementation of the SAA has already been updated a few months ago in accordance with the new developments. Nevertheless, public institutions still cannot efficiently respond to the deadlines outlined therein. It seems that the shortcomings are not simply due to the too optimistic deadlines, though this still remains a concern. The coordination structures which have been established between the Ministry of European Integration and other line ministries proved to be only moderately efficient in the overall performance of the EU integration process. It is therefore evident that there is need for further improvements in this aspect. While the existing institutional setup in charge of EU integration matters has been largely acknowledged as an efficient experience, additional adjustments are needed especially now – following the new stage of this process with the Interim Agreement in force and in view of the forthcoming challenges (eventual application for membership and screening). The European Integration Units (EIUs) established in the line ministries cannot efficiently coordinate the entire process, while they can be even less efficient with regard to the approximation of legislation. Permanent working groups focusing on these matters and performing in accordance with a set of guidelines and rules on approximation of legislation may provide the necessary shift to speed up the process. To this end, the Ministry of European Integration should be allowed to take a more active role with regard to monitoring and “pressuring” the central institutions to meet the obligations they have assumed in the framework of the integration process. Furthermore, an appropriate attitude should be

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<sup>100</sup> NSDI is a strategic document of the Albanian Government replacing the National Strategy for Economic and Social Development (expired in 2005) which in addition involves also priorities (such as NATO and EU integration) which were not reflected in the previous document. One of the main remarks that Albanian experts addressed on the draft NSDI is that this document should not be a simple “copy-paste” work of the sectorial strategies (on EU integration, economic development, anticorruption etc.). Rather, it should provide a more comprehensive approach to the implementation of the outlined objectives and its adoption must undoubtedly undergo parliamentary debate due and procedure.

developed among central institutions with regard to an essential element of the alignment process – i.e. the capacity to implement the enforced new / adjusted legislation and standards.<sup>101</sup>

Nevertheless, these measures would not yield the expected results if the Parliament did not adjust its performance to the pace of the alignment process. In this sense, it is of crucial importance that Albania addresses the EC recommendation voiced in the 2007 Progress Report to improve the capacities and expertise for Albanian law-makers. Last but not least, political consensus amongst Albanian parties for crucial reforms, legal improvements and implementation of EU standards is a condition which needs to be further enhanced by widening this consensus through permanent consultations with third actors. This is particularly important now, as the recent EU enlargement debate suggests that “tangible results” and not political commitment will be the core criteria for progress in the relations with the EU.

### **5.3. Compliance with the EU *Acquis***

Various deadlines have been announced by Albanian political leaders and representatives, especially during electoral campaigns, regarding the date for acquiring the candidate or membership status. Nevertheless, they have not succeeded yet to convince the general public and the opinion-makers on the seriousness of their electoral statements through presenting a road map in an official (strategic) document with clear measures and deadlines for each of the stages ahead in the European integration process.<sup>102</sup> The political coalition currently in power has been very careful in this regard and has not predicted in its program any deadlines (unlike those voiced during the 2005 campaign).<sup>103</sup> Consequently, it seems that despite the national plans and strategies for EU integration (and thus approximation of legislation) there still exist uncertainties in the political discourse about the timing and progress of this undertaking (but not as regards the final result). The source of these uncertainties has to do not only with the deepening EU enlargement debate in Brussels, but also with internal factors (progress on economic, political and other essential reforms) conditioning the capacity to implement the SAA obligations.

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<sup>101</sup> There are quite a number of legal acts which have been developed in compliance with EU standards, but which Albanian institutions have failed to properly implement, due to lack of capacities or other factors that have not been taken into consideration in the drafting phase.

<sup>102</sup> While the NSDI mentions the “candidate status” as a strategic goal to be achieved, it does not provide a timeframe within which this status should be achieved.

<sup>103</sup> Government of Albania, *Program of the Government 2005-2009* (Tirana: Government of Albania, 2005), [www.keshilliministrave.al](http://www.keshilliministrave.al).

The level of approximation of legislation as well as the implementation of the aligned legal acts remain essential for such plans, especially now that the country has signed the SAA. Preparations for an eventual application for membership will have therefore to take into account progress and tangible results in this field in order to avoid failures similar to those in 1996 and 1999 regarding an association agreement.<sup>104</sup> The absence of such plans should not however be linked with the lack of progress in the approximation process exclusively. The European Commission has acknowledged the overall good progress with regard to the NPISAA, despite the shortcomings or the delays in this course. Yet, the current pace of alignment with EU *acquis* is not satisfactory for a successful transition to a more advanced stage.

The last EC reports note a steady progress in approximating Albanian horizontal legislative framework to the *acquis communautaire* in several sub-areas of the “economic criteria” – internal market and sectoral policies. However, serious deficiencies in this field have been often linked also to lack of progress in other areas such as the judiciary reform which still remains a central concern. A generally good progress has been acknowledged by the EC 2007 Progress Report in the field of state aid which is essential for strengthening the competitiveness of the Albanian economy.<sup>105</sup> Similar progress was reported also with regard to environment and labour legislation although further improvements for both areas’ legislative framework remain an essential need to be addressed. In addition, implementation of the aligned legislation remains relatively modest due to lack of sound administrative capacities.

The 2007 EC Progress Report maintains a relatively positive assessment of Albania’s SA process as compared to the two progress reports before it (2005 and 2006). Although there are no legal barriers disallowing an eventual application for EU membership at this stage, progress in addressing SAA obligations and especially with regard to the NPISAA is not sufficient. The draft text of the new European Partnership 2007 outlines a series of short and medium-term priorities focusing on approximation aspects of the SA process in the fields of competition, environment, customs, taxation and other sectoral policies. Furthermore, this document underlines serious challenges which should be adequately addressed as regarding the administrative and institutional capacities to enforce the new legislation in important areas like employment, food safety, consumer protection, state aid, intellectual property law,

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<sup>104</sup> The country was denied an association partnership with the EU two times so far, in 1996 and 1999.

<sup>105</sup> European Commission, “Albania Progress Report 2007” *Commission Staff Working Document* (Brussels: European Commission, SEC 2007 1429), 30-31.

financial control and other fields conditioning progress in the economic criteria.<sup>106</sup> The effective implementation of the NPISAA requires concerted efforts by all stakeholders involved in both alignment of legislation and its actual implementation. This is essential in order to create an acceptable record that may justify support to an advanced relationship with the Union and thus, a “negotiation chapters-based approach” for future EC reports.<sup>107</sup>

## 6. EU Perspectives, Effects of Conditionality and Forecasts

Frank Schimmelfennig and Ulrich Sedelmeier (2004) distinguished two dimensions of EU’s governance: a) internal dimension which concerns primarily the creation of rules as well as their implementation in EU members’ political systems; and b) external dimension of governance which is exclusively about the transfer of given EU rules and their adoption by non-member states. With regard to the latter dimension, the authors emphasize the importance of conditionality which has been widely acknowledged as the most powerful instrument of EU’s external dimension of governance.<sup>108</sup> Conditionality as an institutional arrangement represents a norm, a standard of behaviour which links a set of perceived benefits with the fulfilment of certain conditions.<sup>109</sup> Within this framework, a clear definition of the “supply” (incentives) and “demand” (EU membership bid) side of a conditionality relationship is vital for this instrument to instigate the expected impact in the governance / policy-making process of a non-EU country. Othon Anastasakis and Dimitar Bechev (2003) argue that the absence of a clear EU strategy with visible benefits for the Balkans runs counter to the main objectives of EU conditionality.<sup>110</sup> Many scholars share the opinion that the current settings of the EU’s conditionality vis-a-vis the Western Balkan countries is not producing the expected impact in those countries, or at least not within the desired timeline. While further exploring these concerns, they argue that the impact of EU conditionality depends also on the level of

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<sup>106</sup> See in particular the short term priorities of European Commission, *EC Proposal for a Council Decision on the principles, priorities and conditions contained in the European Partnership with Albania and repealing Decision 2006/54/EC* (Brussels: European Commission COM 2007 656 final).

<sup>107</sup> The NPISAA’s structure in fact has employed a similar approach. However, it should be understood that it is actual progress and not the choice of the document’s structure that matters when it comes to preparations for an advanced relationship with EU.

<sup>108</sup> Frank Schimmelfennig and Ulrich Sedelmeier, “Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe”. *Journal of European Public Policy* 11 (2004): 669–687.

<sup>109</sup> Karen Elizabeth Smith, “The Use of Political Conditionality in the EU’s Relations with Third Countries: How effective?” *EUI Working Papers*, SPS No.97/7, 1997.

<sup>110</sup> Othon Anastasakis and Dimitar Bechev, “EU Conditionality in South East Europe: Bringing Commitment to the Process”. *South East European Studies Programme, European Studies Centre, University of Oxford*, 2007.

economic and political development and traditions conditioning the political commitment of a certain (non-EU) country subject to this relationship.<sup>111</sup>

The subsequent part of the chapter will analyze precisely these aspects, i.e. to what extent EU conditionality has impacted upon the Albanian political processes and what are the future prospects in this context. To this aim, this section will analyze EU conditionality in the Albanian integration process in terms of the requirements outlined by the EU and their purpose and also in terms of the role of the actors involved in such a conditionality relationship. In doing that, attention will be paid to the recent concerns of various scholars with regards to clarifying both the “supply” and “demand” side of the conditionality relationship in the Albanian case as well.

The section shares the position of many scholars arguing that the EU’s conditionality in the pre-SAP period (1992-1999) lacked a substantial element in the side of incentives offered by the EU to Albania (and other WB countries), i.e. a clear membership perspective. This has weakened the impact that the EU could have had on the Albanian political and economic development processes. As such, this part focuses more on the conditionality relationship and on its impact under the SAP. The following section will also provide a description of the settings of the EU’s conditionality during the period between 1992 and 1999 and its influence at both, national and regional level.

### **6.1. The EU’s Conditionality in the Pre-SAP Period 1992-1999**

The preceding sections of this chapter offered an overview of Albania’s political relations with EU and the key developments of the EU integration process. As previously mentioned, the first contractual relationship with the EC, the 1992 Agreement, was essential for the country to overcome the economic difficulties in the early stages of its transition as well as to pave the way towards its final goal, that is, EU membership. Nevertheless, this Agreement at the time met only half of the expectations as it made no clear reference to a commitment (from EU side) for Albania’s EU membership. Instead, its preamble was referring only to the objective of an association agreement in due course when conditions were met. As a consequence, the 1992 Agreement lacked also a clear definition of the conditions to be met by the country in terms of its EU membership prospects such as approximation of legislation or

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<sup>111</sup> In this sense, Anastasakis and Bechev suggest that in addition to a clear reference of accession as the final goal, EU policy should pay due attention also to make the (accession) criteria more relevant to the needs of the citizens in the region and to tune the regional and bilateral dimensions of its policy in order to tackle all negative externalities of the current confusion.

other specific requirements as in the case of the Europe Agreements. In this sense, the relationship established between Albania and the EU did on no account answer the two core questions of a supposedly “conditionality relationship”: 1) what precisely are the requirements?; and 2) what are the conditions actually for?

Therefore, it is almost impossible to speak about typical conditionality in the relations with the EU in this period and this is much a consequence of the level of Albania’s economic and political development or democratic traditions conditioning its political commitment. Until the late 1990’s the European Union had made no clear commitment as regarding the Western-Balkan region’s membership prospects. An explicit reference to the Copenhagen criteria was never made by the EU in its framework of relations with the Western-Balkan countries. This means that during this period an eventual conditionality approach would lack the most essential element – the incentives, in other words,, the supply side of conditionality. In such conditions, it is understandable that the EU’s influence on the Albanian democratization processes has been fairly small and far from the intensity of recent years.<sup>112</sup> Yet, it would be unrealistic to deny in full an increasing impact of the Union on the Albanian democratization process around the mid-1990’s (following the 1996 elections and during the 1997 collapse of the state). However, as a result of the lack of a clear “supply and demand” agenda in Albania-EU relations Albanian authorities were left with only vaguely defined agenda for “homework”. Thus EU membership remained only a matter of electoral campaigns’ promises for politicians.

Starting from 1996, and as a consequence of the war in the former Yugoslavia, the EU launched for the first time the conditionality approach in its relations with Western-Balkan countries. A new regional approach was introduced which finally called for a more firm involvement from European countries in order to stabilize the Balkans.<sup>113</sup> Accordingly, on the 29<sup>th</sup> April 1997 the General Affairs Council adopted the conclusions on the application of conditionality in the relations with these countries – Bosnia and Herzegovina, Croatia, the former Yugoslavia (Serbia and Montenegro), Macedonia and Albania. Yet, neither the

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<sup>112</sup> As argued in Chapters 1 and 2, until 1997 Albania had achieved little progress in the democratization processes and the consolidation of a market economy. Lack of a substantial involvement and “pressure” from the EU’s side during this period was certainly one of the reasons for this state of affairs in which the country and the ruling political elite still could not identify the real incentives to walk on the road towards Europe. This has been the case also with other Western Balkan Countries. In fact, many scholars note that the EU’s influence in preventing the former Yugoslav crisis and wars was almost non-existent.

<sup>113</sup> The regional approach to the countries of South-Eastern Europe was launched on the 26<sup>th</sup> February 1996 by the EU (Conclusions of the General Affairs Council of 26 February 1996) which was followed up by a Commission report (European Commission, *Report from the Commission to the Council and the European Parliament on common principles for future contractual relations with certain countries in South-Eastern Europe* [Brussels: European Commission COM 1996 476]).

regional approach, nor its accompanying instruments at the early stages (i.e. conditionality approach under and the General Affairs Council Conclusions of 29.04.1997) addressed the gap on the “supply side” of an eventual conditionality relationship. The General Affairs Council described the purpose of conditionality in the context of “developing a coherent EU strategy for its relations with the countries in the region” and it outlined a comprehensive list of obligations (economic and political requirements) to be addressed by these countries. But Council made no reference to a clear EU membership perspective what would have been the most attractive “carrot” for Western-Balkan countries . Instead, the EU referred at this point only to the development of economic, trade and contractual relations with these countries (the latter implied an association agreement) thus leaving quite an elusive situation with regard to the region’s European future.<sup>114</sup>

From 1997 to 1999 the European Commission had issued four Conditionality Reports on the compliance of Western-Balkan countries. Yet, it was obvious that the impact of the Union on the overall political and economic developments in the region was not showing the expected results,. The situation called for more firm and proactive involvement of the EU in order to move towards a more stabilized state of affairs in the region that would allow more space for the advancement of the political and socio-economic situation. However, the settings of the regional approach and the incentives it offered to the region did not reflect these needs and the European Commission itself indirectly acknowledged this fact in 1999.<sup>115</sup> As a consequence, General Affairs Council conclusions (8<sup>th</sup> and 26<sup>th</sup> April and 27<sup>th</sup> May 1999) recognized the EU’s responsibility in addressing the immediate instability and for the first time mentioned the perspective of EU membership on the basis of the Amsterdam Treaty, once the Copenhagen criteria have been met by these countries. This marks a historic turning point in the EU’s relations with the Western-Balkan countries, while it consequently completes the framework of a more efficient conditionality relationship.<sup>116</sup> The Santa Maria

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<sup>114</sup> The incentives for WB countries to comply with the requirements of the General Affairs Council and the recommendations of the Conditionality Reports during this period involved mainly EU financial assistance and the preferential treatment in trade relations which would take place with the development of contractual relations. See “*Approche progressive*” and “*Canevas pour l’application des conditions aux différents niveaux de relations et de coopération*” parts of the General Affairs Council conclusions, 29<sup>th</sup> April 1997.

<sup>115</sup> In this document the Commission underlined the lack of substantial political and economic development in the region and calls for a new approach to peace and stability. See European Commission, *Communication from the Commission to the Council and the European Parliament on the Stabilization and Association process for countries of South-Eastern Europe* (Brussels: European Commission COM 1999 235 final).

<sup>116</sup> The Fifth Conditionality Report issued by the European Commission in February 2000 had basically the same structure and approach as the previous reports, but referred to the EU Stabilization and Association process for countries of South-Eastern Europe and the accompanying General Affairs Council Conclusions of the 21<sup>st</sup>-22<sup>nd</sup> June 1999 (in addition to those of April 1997).

de Feira European Council (19<sup>th</sup> and 20<sup>th</sup> June 2000) reaffirmed the Union's decisiveness to follow an open door policy vis- a-vis the Western-Balkans:

“The European Council confirms that its objective remains the fullest possible integration of the countries of the region into the political and economic mainstream of Europe through the Stabilization and Association process, political dialogue, liberalization of trade and cooperation in Justice and Home Affairs. All the countries concerned are potential candidates for EU membership. The Union will support the Stabilization and Association process through technical and economic assistance.”<sup>117</sup>

The launch of the Stabilization and Association Process as the new approach towards the WB countries was further reinforced at the Zagreb Summit (24<sup>th</sup> November 2000). EU leaders at the summit explicitly underlined that “prospect of accession is offered on the basis of the provision of the Treaty on European Union, respect for the criteria defined at the Copenhagen European Council in June 1993 and the progress made in implementing the stabilization and association agreements, in particular on regional cooperation”.<sup>118</sup>

## **6.2. EU's Conditionality under the Stabilization and Association Process**

The Stabilization and Association Process followed a commonsensical development of the regional approach and the pace of the changing attitudes of the European Union towards the Western-Balkan countries. Considering the modest impact of the EU's policy towards this region until 1999, it was clear that this relationship had an urgent need for further improvements. However, this was not simply a matter of increasing emphasis on the “carrot's” side of the EU-Western-Balkan relationship. The EU had to define more clearly the obligations and the conditions to be met by WB countries, as well as the framework of the process through which this relationship would further evolve. Such conditions were aimed at avoiding the discrepancies of the previous experience, namely the EU's weak influence and the WB countries' lack of commitment. The SAP was an adequate response to all these concerns and in the case of Albania its impact could be observed, despite the 1997 crisis and the emergency period until the beginning of the new millennium.

EU conditionality at this stage was developed into a true “accession conditionality” which meant that both actors (the EU and WB countries) had a clear picture on the final goal

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<sup>117</sup> European Council, *Presidency Conclusions: Santa Maria da Feira European Council, 19-20 June 2000* (Brussels: European Council, 2000).

<sup>118</sup> European Council, *Final Declaration of Zagreb Summit, 24 November 2000* (Brussels: European Council, 2000).

(membership), and the conditions to be met to reach that goal.<sup>119</sup> The rules of the game were set and the SAP countries became well aware of the incentives as well as the potential sanctions (suspension of benefits in case they fail to comply). The conditions that SAP countries have to meet were rooted in the general Copenhagen and Madrid criteria (Political, economic, administrative capacity and *acquis*-related) and also on country-specific aspects outlined under the regional approach in 1997. The latter, involved principally obligations under the peace agreements following the Balkan wars. The SA process was therefore aimed to assist WB countries to move towards EU membership through introducing values and principles such as democracy, rule of law, respect for human rights, protection of minorities, regional cooperation and a market economy. The conclusion of a Stabilization and Association Agreement establishing a formal association partnership with the EU remained the focal point of this process which was assisted by continuous assistance to meet the criteria.<sup>120</sup>

Albania entered the new process of rapprochement with the European Union at a time when it was facing an urgent need for restoring security and public order, rule of law and the authority of state institutions in its territory. Furthermore, political tensions were still a “normal” feature of the stabilizing efforts even following the clamorous events of 1997-1999. The country had finally approved its Constitution providing a sound basis for further legal reforms and consolidation of democracy, institutions and economic development; yet, a number of challenges to achieving minimum standards of a functioning democracy remained. The role and influence of the EU at the outset of the SA process was following an increasingly intense stream which was conditioned by the post-1997 situation and the country’s needs for development, while further reinforced by the prospects being offered under the SA process. In this course, the EU appears to be largely perceived as the most important strategic partner for the country, while Albania’s EU membership ambition started to be backed with a more firm commitment and concrete measures by the political elite, both the opposition and ruling coalitions.<sup>121</sup> In fact, although disputes and clashes between, and

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<sup>119</sup> According to Heather Grabbe EU accession conditionality represents an evolving set of conditions for membership which have been progressively expanded to cover a wide range of policy outputs, and imply a role for the EU in policy-making of countries aspiring for EU membership. See Heather Grabbe, “A Partnership for Accession? The Implications of EU Conditionality for the Central and East European Applicants”. *European University Institute, Florence: Robert Schuman Centre Working Paper 99/12*, 1999.

<sup>120</sup> The General Affairs Council Conclusions of the 21<sup>st</sup>-22<sup>nd</sup> June 1999 outline these conditions and the frames of the SA process. See European Commission, *Communication from the Commission to the Council and the European Parliament on the Stabilization and Association process for countries of South-Eastern Europe* (Brussels: European Commission COM 1999 235 final).

<sup>121</sup> The first SA Report of the European Commission on Albania underlines this gap in the previous period. The report notes that “the lack of a democratic culture, the absence of dialogue between different political tendencies

sometimes even within various political forces in Albania have been a recurring elements of political “interaction”, EU and also NATO integration have always represented the sole agenda for which political parties have constantly achieved the necessary consensus. All five Conditionality Reports issued by the European Commission on Albania in between 1997 and 2000 referred to an almost identical description for the political climate in the country: “Political and parliamentary life in Albania remains dominated by extreme bipolarization and confrontation between the political parties”. The only positive assessment in this period involved governmental efforts to stabilize the Albanian economy and also the positive role of the country with regard to regional cooperation. Such assessment remained the same also in the Stabilization and Association Reports but now with a greater emphasis on other concerns and problematic areas which have to do with the rule of law, consolidation of institutions, administrative reform and corruption, economic development etc.

As the previous sections of this chapter underlined, the Stabilization and Association Process hit the highest point as regards EU conditionality with Albania. The SAP as a comprehensive framework that clearly identifies all essential elements of an efficient conditionality relationship (such as actors, obligations, incentives and risks) notes the beginning of an intensive effort committed to reforms which involves both the ruling elite and the opposition. Although progress in achieving SAP requirements has at times been sporadic and unsatisfactory, awareness and sensitivity among other (non-political) stakeholders has improved the quality of this process. The new era of greater and more tangible involvement by the political actors in the EU integration agenda had started a couple of years before the launch of the SAP, i.e. under the regional approach. In the period between 1997 and 1999 Albania introduced some changes in the institutional setup in charge of EU integration matters while it also adopted the Strategy for European and Euro-Atlantic Integration, which note a rather structured approach towards the country’s strategic goal. Yet, the Albanian process of European integration still could not accelerate due to the consequences of the 1997 crisis and the situation in Kosovo, but also due to the lack of political consensus and continuous boycotts. Furthermore, the post-communist development of state institutions and democratic processes (1992-1997) did not leave behind any meaningful struggle for consolidation of the democratic culture that would encourage the appearance of other societal stakeholders, consolidate their input in the democratic processes and increase sensitivity about inclusive

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and a limited understanding of the concept of national interest amongst political leaders have often prevented the development and implementation of sound policies to address the many issues that Albania faces”. See European Commission, “Albania Stabilization and Association Report 2002” *Commission Staff Working Document* (Brussels: European Commission, COM 2002 163.), 4.

policy making processes and respect for the rule of law. These are all extremely important elements of a consolidated democracy and political culture that have a direct impact on the quality of the democratization processes and hence, the European integration process.<sup>122</sup> Consequently, the EU integration process at the outset of the SA process could not show a better picture as the main actors – the ruling political coalition and the opposition – were in constant disputes while there were almost no inputs from other institutions and civil stakeholders. Considering the lack of a clear EU membership perspective and also the challenges of the post-1997 situation, the regional approach and the impact of the EU with regards to “Copenhagen criteria-related” matters of the Albanian democratization process could not go beyond the limits of an influence that may be described as “progressing” but still insufficient.

Such situation of Albanian political developments until 1999 may perhaps serve as the best illustration for the argument of many scholars, that the impact of EU conditionality, besides others, depends also on the level of economic and political development and traditions conditioning the political commitment of a certain (non-EU) country subject to this relationship. Seen from this perspective, Albania had not progressed considerably, thereby leaving the impact of EU conditionality at unsatisfactory levels.

The changes of the institutional setup of governmental bodies in charge of the EU integration process as well as the development of a more structured approach in this process which took place between 1998 and 2000 represented a kind of response to the newly launched SAP and the improved EU conditionality. Yet, although these measures noted a step forward and were acknowledged also by EU, Albania’s European integration process was still relatively immune to the impact of EU conditionality.<sup>123</sup> Namely, until the publication of the first SAP Report Albania had achieved little progress and almost every SAA area (where the country would take on obligations under a future SAA) was characterized by a considerable lack of implementing capacity. This fact, as emphasized in the EC’s 2002 Progress Report, reinforces the conclusion of this chapter’s previous sections that even those efforts aiming to enhance the institutional setup of bodies in charge of EU integration during this period have often emerged to help appease internal political disputes (within the ruling party and coalition) rather than to support the SAP as such. Nevertheless, despite the low level of influence on the political processes, EU conditionality was increasingly pressuring political

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<sup>122</sup> All five Conditionality Reports until 2000 underline the lack of development of two of the most important stakeholders for a democratic polity: the media and the civil society.

<sup>123</sup> European Commission, “Albania Stabilization and Association Report 2002” *Commission Staff Working Document* (Brussels: European Commission, COM 2002 163.), 6-7.

actors by making use of both instruments – sticks and carrots. The subsequent period in the relations with Albania undoubtedly demonstrated such an approach from the EU’s side. Despite the fact that the country had not achieved a sound record of results in the European integration process and neither had it created a cooperative political climate, the European Commission in its report on Albania’s readiness for SAA negotiations suggested the following:

“(…) the Commission considers that Albania is not yet in the position to meet the obligations of a Stabilization and Association Agreement. However, if the current pace of change is sustained and if sufficient priority is given to strengthening administrative capacity during the negotiating and transition periods, considerable improvements can be made in the areas highlighted in this report. The Commission believes that the perspective of opening Stabilization and Association Agreement negotiations is the best way of helping to maintain the momentum of recent political and economic reform, and of encouraging Albania to continue its constructive and moderating influence in the region. The Commission therefore considers it appropriate to proceed with a Stabilization and Association Agreement with Albania, and it will in due course submit a recommendation for a Council decision to open negotiations, which can, of course, only be concluded when all appropriate conditions have been met....”<sup>124</sup>

The EU’s message to Albania was therefore instantly recognizable and it provided clear incentives through giving an EU membership perspective through the SAA / SAP. Albania however had to address many concerns in many issues, such as:<sup>125</sup>

- weak democratic system and state institutions;
- administrative capacities;
- law enforcement;
- judiciary;
- key areas of the SAA (free movement of goods, establishment, competition, intellectual, industrial and commercial property rights, public procurement and Justice and Home Affairs-related issues etc.).

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<sup>124</sup> European Commission, *Report from the Commission to the Council On the Work of the EU/Albania High Level Steering Group, in Preparation for the Negotiation of a Stabilization and Association Agreement with Albania* (Brussels: European Commission, COM 2001 0300 final) This report observes also the progress made since the 1999 EC Feasibility Report on Albania.

<sup>125</sup> See the “General Evaluation” part of European Commission, *Report from the Commission to the Council On the Work of the EU/Albania High Level Steering Group, in Preparation for the Negotiation of a Stabilization and Association Agreement with Albania* (Brussels: European Commission, COM 2001 0300 final).

The first EC Report on Albania's SAP (2002) concludes that "short term interests of political leaders had occasionally prevailed over the strategic vision of a continued rapprochement to Europe."<sup>126</sup> A year after, the second SAP Report notes that these negotiations risk being long and drawn out if the pace of reform implementation fails to accelerate. Political tensions and instability ceased only shortly in 2002 (during the election of the President as discussed in Chapter 1) while immediately after, lack of cooperation and also the feeble political commitment continued to seriously jeopardize the implementation of the SA process. The government's attention was increasingly focused on internal political disputes which, combined with the lack of a constructive role of the opposition, caused delays in the reform processes. Serious concerns over the rule of law, organized crime and corruption, administrative reform etc. were underlined also in the third SAP Report (2004). Progress of SAA negotiations through nine negotiation rounds were therefore meaningless because Albania's advancement in the SA process could not provide the necessary guarantees for proper implementation of the SAA and especially the Interim Agreement. The active involvement of other political and civic stakeholders in this process – such as parliamentary bodies, civil society etc. – influenced the opening of the European integration process, but still failed to produce any tangible effects except the fact that EU integration was now an even more important argument for mutual accusations between and within political coalitions and parties.

The influence of EU conditionality on the Albanian reform processes and particularly on the commitment of the ruling political coalition was during this period at quite low levels. The government had achieved very little progress and was showing very vague commitment to the implementation of the SA process. The EU's pressure on Albanian politics was increasing and it seemed that at that point the postponement of the conclusion of the SAA negotiations simply was not enough. The country was clearly told by EU representatives on several occasions that political declarations for commitment to the integration agenda must be matched with meaningful efforts and tangible results. Few days after the publication of the third Stabilization and Association Report on Albania, the EU Commissioner for External Relations, Mr. Chris Patten, concluded that the country had achieved not nearly enough real reform to bring about meaningful progress. Through quite a frank description of the situation and by using a language which was characterised by diplomatic wording, Commissioner

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<sup>126</sup> European Commission, "Albania Stabilization and Association Report 2002" *Commission Staff Working Document* (Brussels: European Commission, COM 2002 163), 21.

Paten underlined that the country would not advance along the road towards Europe until it did not tackle the pending key priorities of the European Partnership.<sup>127</sup>

The only priority of the European Partnership which was successfully influenced by the EU over the next period – from March 2005 until November 2005 when the 4<sup>th</sup> SAP report was issued – was the holding of the parliamentary elections (July 2005) and the smooth transfer of power from the Socialist to the Democratic Party led coalition. While – to put it in the EC reports' usual wording – “very modest progress was achieved” with regard to other SAP areas, the Parliamentary elections of July 2005 boosted Albania's EU integration bid. The EU Enlargement Commissioner, Mr. Olli Rehn on that occasion said that “Albania has removed a critical barrier to the conclusion of negotiations on a Stabilization and Association Agreement”.<sup>128</sup> Considering the fact that the country until 2005 was continuously “blacklisted” for lack of action on various negative phenomena (organized crime, corruption, transit route and a source of trafficking in human beings and drug, unfavourable business environment etc.), the internal civil society reaction and pressure on the government (and in general, on the ruling coalition) to align itself with European integration mainstream processes was a positive step towards the opening of the EU integration process and hence the consolidation of civic actors' role therein.

Naturally, the EU's conditionality and the progress-oriented attitude in the relations with Albania were also a key factor for the progress achieved in the parliamentary elections in 2005. This was coupled in addition with internal pressure by the opposition and more importantly, by the general public and the civil society structures that made clear that this was the last chance for Albania to change attitude and start addressing pressing concerns and thus move forward in the integration process. The consequences of EU conditionality in addition to other international bodies and independent national organizations' reports on organized crime, corruption, trafficking etc. was certainly one of the more important arguments which was used by Albanian civil society to increase pressure for tangible progress and concrete results. While lack of progress in key areas (identified by the European Commission as problematic ones) represent a clear indicator of the failure of political actors' commitment in the reforming processes, the increased pressure by national stakeholders undoubtedly demonstrated the impact of EU conditionality on the national overall developments and political processes. The continuous use of EC progress reports by both, political and non-

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<sup>127</sup> Christopher Patten, *On the third SAP Annual Report and European Partnership for Albania* (Tirana: Delegation of the European Commission), [www.delalb.cec.eu.int/en/news/articles/march2004.htm](http://www.delalb.cec.eu.int/en/news/articles/march2004.htm).

<sup>128</sup> Deutsche Welle, “Interview with Olli Rehn”, *Deutsche Welle* 12<sup>th</sup> July 2005, <http://www.western-balkans.info/htmls/page.php?category=355&id=780>.

political actors, as a comprehensive comparative scale measuring the performance and success of governmental reforms, the parliament's and other institutions' role in the process, shows that the conditionality instruments under the SAP are far more developed and efficient than the previous period. Nevertheless, it would be unrealistic to argue that tangible results should come exclusively as a consequence of the impact of EU conditionality on political actors and processes. In addition to political commitment by all political actors, this would also require the existence of civic pressure and active attempts to influence decision-making processes. The first two EC progress reports on Albania's SA process (2002, 2003) have continuously underlined the fact that "civil society remains underdeveloped and largely ineffective" and only in 2004 some improvement in this regard was identified.<sup>129</sup> The political developments and progress during the period between 2002 and 2005 provide clear evidence of the accuracy of such conclusions.

Such level of advancement in the role of civil society and other non-political actor's influence (business sector, media, interest groups etc.) on political processes and consequently on the EU integration process continue to be one of the key factors for success, however moderate. In fact, the signing of the SAA and the entry into force of the Interim Agreement seems to have increased sensitivity of and involvement in EU integration affairs of the aforementioned actors. Not only are Albanian civic and private actors attempting to actively influence policy and decision making processes in the country, but they have often appeared very determined to criticize and influence EU-originating processes as well.<sup>130</sup> The novelties in this regard and the improved role of civil and other non-political actors in the policy-making processes is being considered also by governmental representatives who have developed consultations with them on various topics of interest of reforming processes in line with EU conditionality and SAP framework. Yet, although this may note a good starting point, there is a lot of space for improvement by both governmental and non-political stakeholders. Accordingly, the Albanian experience shows that not only the existence of a clear conditionality relationship, but also the settings under which EU conditionality is used, are essential for success and even more important for sustainability of the pace of progress.

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<sup>129</sup> See European Commission, "Albania Stabilization and Association Report 2002" *Commission Staff Working Document* (Brussels: European Commission, COM 2002 163), 5; European Commission, "Albania Stabilization and Association Report 2003" *Commission Staff Working Document* (Brussels: European Commission, COM 2003 139), 4 and European Commission, "Albania Stabilization and Association Report 2004" *Commission Staff Working Document* (Brussels: European Commission, COM 2004 203), 4.

<sup>130</sup> In addition to the previously mentioned case with Albanian think tanks who opposed the PAMECA Mission sponsored draft Law on State Police (December 2006), there are also other cases where the representatives of the private sector have tried to influence various developments caused by the negotiation and implementation of the Interim Agreement.

The experience of Albania shows that not only the lack of a clear conditionality relationship but also the use of conditionality in the absence of the involvement of non-political stakeholders (civil society, media, business sector and other interest groups) in the policy-making processes, may well prove inefficient in bringing about enhanced commitment and tangible results in national reforms.<sup>131</sup> In perspective, however, it can be claimed that both the alignment with EU requirements as well as the involvement of societal actors' in the decision-making processes is slowly but firmly developing in the country. Yet, it seems that Albanian political actors are still not adjusting adequately to this new trend. As previously argued, there are currently some positive examples of changing attitudes in this respect too. However, such developments are still of a sporadic nature. Without the the “stick and carrots” of EU conditionality democratic consolidation and thus the integration process of the country would not be strong enough to continue on its own. Consequently, a harmonized approach between EU conditionality, non-political actors' involvement and continuous real political commitment may best serve the purposes of the EU integration process. Furthermore, such a harmonized approach that takes into consideration role of these elements, would undoubtedly ensure an upward and sustainable development of social, political and economic advancement of Albanian society.

### **6.3. EU Accession Prospects**

The debate on an approximate date (i.e. year) of Albania's eventual EU accession has been one of the most interesting topics of the public debate in the country. Differently from the columnists of daily papers, Albanian experts of EU integration matters have persistently tried to point out that in view of the proven record of the level of political commitment to reforms, it is not the date but the progress to meet the requirements that matters the most. It is understandable that the general public's attention may be more easily attracted with the debate on the date rather than on the complex concerns of reforms in specific areas. Yet this has been a “favourable” circumstance for the politicians, not only during election campaigns but particularly at times when they were in desperate need of shifting public attention away from the severe criticism regarding its failure to take forward reforms.<sup>132</sup>

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<sup>131</sup> This is also one of the reasons why the new Instrument for Pre-accession Assistance pays particular attention to the strengthening of the role of civil society and other private stakeholders in WB countries.

<sup>132</sup> Such shortcoming has been (mis)used by Albanian politics on several occasions. For instance, it has always been easy for the ruling political coalitions to attract the people's attention on the prospects for a visa free regime with the EU (and the eventual date when that would become a reality) and thus minimize the effects of the debate on the civil registry system (which is the core condition for free and fair elections).

Nevertheless, the debate on an approximate date for EU accession *per se* may not be considered as irrelevant or useless for as long as this debate takes place under a comprehensive framework of actions that outline a road map with clear indicators of success. Unfortunately, this has never occurred under such framework in the past 15 years. On the contrary, EU accession has always been an issue which has been announced by political actors only in election campaigns as an instrument to attract voters. Considering their record so far in the progress and commitment to the reforming process, the reasons for their reluctance to firmly announce a deadline for accession and an objective action plan to attain this goal become clear. The NPISAA follows the example of the previous strategic documents in the field of EU integration and thus provides no details about this challenge. The first draft of the National Strategy for Development and Integration also provides no details about such plans.<sup>133</sup> Although such attitude of the political actors and particularly of the ruling political coalition has often been characterized as “justified cautiousness”, in fact it is simply an attitude that displays insecurity, first and foremost about their readiness (rather than capacities) to take forward the reforms and the advancement of the Albanian polity.

Given these circumstances any further analysis and forecast regarding the accession date would involve many “if-s”. Some of the key factors from a national perspective that should be considered in this regard involve:

- political consensus and functioning mechanisms that ensure involvement of key civic and private stakeholders in policy making processes;
- substantial political commitment to carry out reforms in key problematic areas;
- efficient implementation of the Interim Agreement and better capacities to address SAA obligations;
- achieving a satisfactory level of capacities in compliance with the membership criteria.

The previous sections’ analysis on the overall progress and performance of Albania’s EU integration process between 1992 and 2007 call attention to a number of shortcomings and internal concerns that have influenced such a slow pace of this process. The aforementioned factors certainly fall within the set of most acute conditions that political actors “tend” to

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<sup>133</sup> This document went through a consultation process with non-governmental actors at the end of 2007 and the accession debate was one of the central issues. Nevertheless, high officials in the Ministry of European Integration and the Ministry of Foreign Affairs said that the final version to be adopted in 2008 March by the Government most probably will provide a target date for the membership application only, with no details about an eventual target accession date.

ignore or manipulate. Accordingly, the forecast on an approximate date for EU accession largely depends precisely on these elements and on whether the political elite will take full responsibility to address these gaps and lead the process in close consultation with other key stakeholders in the country. The last two Reports of the European Commission on Albania's SA Process have been quite encouraging although shortcomings and moderate or lack of progress in key areas still remain actual concerns. Moreover, political parties' lack of confidence to envisage and firmly follow an objective and attainable timetable of the various stages in the EU integration process is still present, though to a lesser extent. While this may well be a consequence of the perception based on the recent experience of other countries,<sup>134</sup> the missing structured approach based on wide political consensus and commitment to reforms in the country also indicates that such insecurity may also derive from internal factors. At present, there is an additional factor which should be considered while analyzing political actors' lack of confidence for a determined accession plan: the bitter experience with the SAA negotiations (which the Commission refused to conclude in the absence of tangible results).

Obviously, none of these circumstances can justify the eventual delays in addressing the factors described above. In order to overcome the prejudices regarding the final decision, actual progress in key areas of the EU integration process remain essential. Further, eventual plans for EU accession should be realistic and avoid wishful thinking. It is difficult to assess or anticipate future behaviour of political actors and their skills to establish wide consensus and cooperation among key national stakeholders in the process of EU integration. Considering the fact that such skills and determination have occasionally appeared in the past for quite short periods of time, the Commission's generally positive assessment of the SAP progress in the last two reports does not appear to be a sufficient argument on which one can decisively base a positive assumption.

Therefore, forecasts on the eventual accession date for Albania should involve both scenarios – the optimist one which is attainable if the pace of reforms continues to accelerate and a pessimist scenario, which unfortunately remains possible given the track record. However, it is difficult to foresee the second scenario not only due to internal factors (i.e. to what extent can lack of progress jeopardize the integration process), but especially because it is difficult to assess how that would affect the EU's attitude toward the country.<sup>135</sup> Therefore,

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<sup>134</sup> For instance the Commission has not yet recommended the opening of accession negotiations with Macedonia.

<sup>135</sup> Note that the following scenario is based exclusively on the analysis of internal factors.

the following part offers the settings of the first (optimistic) scenario for EU accession which sees the following timetable as a fully attainable goal:

- *Status of candidate country by 2010-2011.* At present, there is no debate about Albania's application for membership. However, considering the fact that regular parliamentary elections should take place in summer 2009 any eventual decision that would offer the status of a candidate country may not be expected before 2010. This is so because even if the application would be submitted by the end of 2008 (earliest date given the circumstances), the process of answering the EC questionnaire is not expected to conclude earlier than the end of 2009.<sup>136</sup> The finalization of the process related to the EC questionnaire cannot precede parliamentary elections not only due to political reasons (related to election campaigns), but also due to the fact that the training of the public administration to answer the questionnaire will certainly take some time.<sup>137</sup> The most realistic scenario for this stage would include the timetable in table 3.8. The sole and most important condition for this timeline is to show concrete results in addressing the short term priorities of the European Partnership 2007.
- *Conclusion of accession negotiations by 2014-2015.* If the first stage of this process takes place within the timetable in table 3.7, and also, if the decision for the candidate status (shortly after) is followed by the opening of the negotiations, it would take at least 3-4 years to conclude the accession negotiations. Again, this requires not only sound administrative capacities, but also firm commitment and concrete results of reforms (especially as regarding the Copenhagen criteria). Given the present capacities and the weak track record of Albanian political factors this stage is most likely to be concluded in late 2015.
- *Full membership by 2016-2017.* Full membership in any case cannot take place earlier than 2016 as it is difficult to assume without doubt that the conclusion of membership negotiations would correspond with the moment at which Albania would be ready to fully assume the membership obligations. A transitory period of 1 or 2 years is accordingly most likely to happen once the membership conditions are defined.

Table 3.8. Timetable for Achieving Member Candidate Country Status, Optimistic Scenario

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<sup>136</sup> Particularly due to the fact that the Parliamentary elections and the forming of the new government will take few months and will distort the public administration's attention.

<sup>137</sup> Currently, there are no plans to implement such a training. Neither has a preliminary assessment of the administrative capacities to be involved in this process been carried out (until February 2008).

Stage / Action	Approximate date
Preliminary assessment of the administrative capacities and projections for the necessary infrastructure to answer the EC questionnaire (independent experts, translators, coordinative bodies etc.)	By October 2008
Preparing the public administration for the EC questionnaire and the necessary infrastructure	Not earlier than November 2008 (it should take at least 4 months)
Application for membership	Not before early 2009
Completion of the EC questionnaire (including the additional questions)	End of 2009 - June 2010
Candidate country status	Not before than late 2010

The second scenario would imply an accession date that may not take place earlier than 2017-2020. Although many politicians have announced in election campaigns that the 2013-2015 timeframe is a realistic and attainable goal, under the current progress this would be wishful thinking. Albanian political discourse on the accession date (during election times) seems to ignore the importance of the process of building the capacities and the ability to efficiently respond to membership obligations. Considering the complexity of the process of EU integration and the accompanying challenges of sound implementation of irreversible reforms, it would certainly be a wrong approach to minimize the debate and the struggle only on the eventual date of accession. While such approach would serve only short-term political purposes, its consequences would be reflected, first and foremost in the overall development of the country and with that, in the EU integration prospects as well. The arguments of the expert debate must therefore prevail in the national discourse and raise public awareness on the fact that EU membership without capacities to respond to the obligations would harm Albania more than it would the EU.

## **7. Convergence to or Divergence from the EU Norms after Accession**

Adherence to democratic values and rule of law in Albania has been widely analyzed by opinion-makers, the representatives of the political and non-political sectors or international institutions reports and this debate still remains a hot topic. The country's overall performance in strengthening and consolidating its democratic system has gone through various periods of

setbacks to progress . It is perhaps this experience and also the track record of a slow progress that continuously reminds the public debate about the necessity to maintain its focus on this issue. The setbacks and progress in the Albanian democratization process are best described in the Freedom House Nations in Transit reports, according to which from 1999 to 2005 the country was listed under the category of transitional government or hybrid regime while for the past two years (2006-2007) its performance moved towards a Semi-consolidated Democracy.<sup>138</sup> See table 3.9.

Table 3.9. Nations in Transit Ratings and Averaged Scores – Albania \*

	1999	2001	2002	2003	2004	2005	2006	2007
Electoral Process	4.25	4.00	3.75	3.75	3.75	3.75	3.50	4.00
Civil Society	4.00	4.00	3.75	3.75	3.50	3.25	3.00	3.00
Independent Media	4.50	4.25	4.00	4.00	3.75	4.00	3.75	3.75
Governance **	4.75	4.25	4.25	4.25	4.25	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	4.25	4.00	4.25
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	3.25	2.75	2.75
Judicial Framework and Independence	5.00	4.50	4.50	4.25	4.25	4.50	4.25	4.00
Corruption	6.00	5.50	5.25	5.00	5.25	5.25	5.25	5.00
Democracy Score	4.75	4.42	4.25	4.17	4.13	4.04	3.79	3.82

\* Based on the democracy score and its scale of 1 to 7, Freedom House has defined the following regime types: Consolidated Democracy, with 1-2 score; Semi-consolidated Democracy with a 3 score; Transitional Government or Hybrid Regime with a 4 score; Semi-consolidated Authoritarian Regime with a 5 score; and Consolidated Authoritarian Regime with a 6-7 score.

\*\* With the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance.

Source: Freedom House, *Nations in Transit 2007: Albania* (Washington D.C.: Freedom House, 2007).

<sup>138</sup> Freedom House Nations in Transit reports measure progress and setbacks in democratization in 29 countries and territories from Central Europe to the Eurasian region of the Former Soviet Union. It builds its conclusions and provides a so-called “democratic score” based on the assessment of progress in the following key areas for a democratic society: electoral processes, civil society, independent media, governance / national democratic governance, local governance (separately, from 2005), judicial framework and independence, and corruption.

Table 3.9. shows that from 1999 there is an increasingly strengthened tendency to move forward with democratization efforts, despite the slightly worsened score attached to 2007 developments. While the Sisyphus legend mentioned in the introduction of this chapter in this case may hold true for the developments within most of the monitored areas individually, this reference is even more accurate in relation with the pre-1999 developments, when such setbacks culminated in the 1997 crisis.<sup>139</sup> The overall democracy score of the most recent assessment of Nations in Transit Report on Albania (2007), as well as the sporadic upward pace within specific areas individually do not give enough arguments to reason without doubts that the upward direction would maintain its course in the overall assessment and also in the developments of the key areas individually. Nevertheless, considering the stage in which the EU integration process has entered (Interim Agreement in force, and soon with a ratified SAA) and the consolidation of the role of civil society, media and also private sector, the set of tools that most likely will not allow major setbacks (comparable to the pre-1999 period) actually involves not only the EU conditionality but also a growing capacity of internal pressure on governmental actions (in case they fail to comply with democratic principles).

Analyzing the future prospects for convergence to or divergence from EU-norms after the eventual accession from the perspective of democratic norms, it should be noted that the gravest concern does not lie within the lack of a sound legal framework that regulates key areas (human rights, political rights, economy etc). Rather, it is the weak implementation of and compliance with the legislation in force. This is a result of a lack of administrative capacities or a lack of political commitment. In addition to these factors, such situation has sometimes been a consequence of weaknesses and gaps in the capacities related to:

- drafting comprehensive legislative acts and bylaws;
- assessing the requirements for implementation of specific legislation;
- outlining a thorough framework of implementing actions which would involve not only administrative capacities, but also specific measures on financial, technical, infrastructural and other actions which would be deemed necessary for the implementation.

The EU integration perspective has put forward (more intensely at this stage) the need for a concerted effort that state institutions and political actors have to carry out. Not only the

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<sup>139</sup> Only developments in the area of civil society and local governance have had an upward progress.

approximation of Albanian legislation *per se*, but especially its actual implementation pose immense challenges for both public administration and institutions involved in the legislative and decision-making processes. The pre-accession period should be therefore maximally used not only to build such capacities, but also to provide concrete evidence of the country's ability to respond to the EU membership requirements: stability of institutions, functioning market economy, administrative capacity, and ability to assume membership obligations.

The concerns described above over the general democratization process and especially with regard to the rule of law principle have been continuously underlined by the European Commission. Despite the continuous improvements in the country, the SA progress reports still underline a number of shortcomings in specific areas related to legal gaps and/or blurred implementation performance. In addition, a lack of political commitment to fully enforce the rule of law principles has also been identified as a major concern by the SA reports in the past. A general understanding is being increasingly strengthened among political representatives about the gravity of consequences that an eventual disregard of democratic values and principles may result in. Furthermore, the active role of non-political stakeholders – media, civil society, interest groups, private sector etc. – has been essential in drawing attention of the general public as well as politics to this issue in the past few years. While EU conditionality will continue to play an important role in the consolidation of an accountable, transparent, responsible, democratic and citizen-oriented system of governance in the country, the reinforcement of the position of non-state civic actors remains an undisputable imperative. This could contribute to increased pressure on political actors in order for them to maintain and further enhance the respect for democratic principles.

Considering the progress in the integration process, any major backward development comparable to the 1992-1997 period, seems to be quite an improbable event. Yet, this does not deny the possibility that the accession process could still potentially slow down in the future. A key element in avoiding this is continuous positive pressure by the civil society on politics. What is needed for this is that third parties react more actively to political processes, rather than simply hoping that EU conditionality would provide the appropriate 'sticks' for influencing political developments in a positive way.

The debate on growing convergence or divergence after accession is most probably going to centre on the first part of the question (convergence) rather than the second.<sup>140</sup> The

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<sup>140</sup> A satisfactory level of respect for democratic values may not pose a dilemma after accession, though such an event always remains a possibility. However, any doubt about this issue will prevent Albania's accession while any circumstance leading to such a conclusion after accession will certainly activate the EU's suspension

main concern may well be the level of convergence and the quality of capacities to further consolidate compliance with EU norms. Therefore, greater attention on the pre-accession process itself (and less emphasis on the accession date) would not only enable the EU to process an “easy to digest enlargement” with Albania, but more importantly, it would equip the country with efficient capacities to benefit from EU membership. The experience of Albanian political actors with EU institutions has built a level of awareness and understanding that any progress towards more advanced stages (associate/candidate/member country status) in the EU integration process is conditional on reforms and tangible results.

Even though this lesson seems to be clear to Albanian political representatives, the fact that they occasionally tend to waste more energies on speculations about the EU accession date rather than to set themselves sharp deadlines for the reforming process shows that they have learnt only half of the lesson. Concrete results and tangible progress in Albania’s EU integration process is still being perceived like a simple evidence to be demonstrated to the EU, who ‘in return’ award benefits – visa facilitation or liberalization, candidate status and new financial assistance programmes and so forth. In other words, convergence to or divergence from EU norms is still being perceived simply as a matter of conditionality.

The entry into force of the Interim Agreement served as first feedback about how detrimental the approach of not taking into consideration the local context by the government is. For instance, business sector representatives appeared to be quite surprised and rather unprepared to face the fact that in five years time they would have to deal with EU market competition. Although representatives of some economic sectors were actively consulted by the Albanian negotiating team, the general reaction of the business community displayed feelings of concern and apprehension.<sup>141</sup> The business reactions, as well as their recently increased sensitivity towards questions of EU approximation provide perhaps one of the best examples of why third parties need to be consulted. Representatives of business are being increasingly involved in this process and they exert increased pressure on the government or show support according to their particular interests.<sup>142</sup> Civil society representatives and the

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mechanisms (as was the case of the suspension of bilateral political ties between Austria and the EU, following the electoral success of Jörg Haider in 2000).

<sup>141</sup> In their reactions, some business representatives even asked from the Government to re-negotiate some parts of the SAA protocols (which are integral part of the Interim Agreement).

<sup>142</sup> Another concern recently raised by the Albanian business community involves the debate on a visa free regime with the EU. While opposing most of the Albanians’ wish and also the government’s efforts, KONFINDUSTRIA representatives have asked for a more prudent approach to this issue which should be accompanied with active measures to enhance higher education in accordance with the needs of the Albanian economy. According to Mr. Gjergj Buxhuku, Albanian industrialists are currently faced with the lack of qualified and skilled workers and they fear that a visa free regime might encourage the brain drain phenomenon. Without any prejudice to the accurateness of KONFINDUSTRIA arguments, their intense involvement in the EU

expert community have continuously tried to point out that that convergence towards EU norms is primarily a matter of development and consolidation of democratic reforms. Yet it was the business community that first provided practical evidence on the importance of this argument. Their concerns underlined that convergence or divergence should not be treated as a matter of conditionality that would pose the question of “what would the EU’s reaction be if we comply with these norms or fail to do that”. On the contrary, a more pragmatic “cost and benefit” oriented approach to this issue would pose the following question: What capacities do we have to develop in order to best respond to EU membership and thus make full use of the benefits of such status?

The latest developments in the EU integration process show that such attitude is slowly gaining ground among Albanian public and private stakeholders. Yet, contrary to the case of economic actors – whose motivation is quite strong and directly related to concerns over their performance and success in an open market – the behaviour of political actors still displays certain gaps in this regard. This does not imply that political actors are not aware of the necessity of this kind of understanding and approach to EU integration. But their performance shows that they are still more concerned about EU accession dates and that political commitment does not exceed statements and declarations.<sup>143</sup> Accordingly, third parties’ involvement will most probably offer the key remedy which will force political actors to leave declaratory political commitments behind and provide concrete evidence in the process of alignment with EU norms. Such pressure on and change in political behaviour however must take place and be further reinforced during the pre-accession period in order to allow the new attitude of political actors to perform efficiently and with sound capacities after accession.

In its history of over half a century, the European Union has often been faced with various situations where member states have failed to comply with EU legislation. Nevertheless, the foundations and basic principles of democratic societies have never experienced failure in these countries and this is a consequence of a number of factors that

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integration / enlargement debate shows the first indicators of a process which is increasingly becoming more inclusive and de-monopolized.

<sup>143</sup> Furthermore, their statements often confront any pragmatic approach which should guide the integration process, thus reinforcing the perception that this struggle is simply a matter of paying “any price”. A similar statement has been recently articulated by the Albanian Prime Minister at the Annual Assembly of the Atlantic Treaty Association (Ottawa, Canada, October 31- November 2, 2007): “I’m taking this opportunity to assure you that Albania, and all Albanian state institutions are fully committed to take every measure, adopt every legislation, pay any price necessary for the success required, in order to deserve membership in NATO as the best and most secure future for their country.” (The Prime Minister’s speech is available at <http://www.atlantic-council.ca/berishaspeech.html>).

have conditioned the establishment of the Union and have further strengthened the importance of the shared values it promotes and protects. Contributing to the formation of stable and prosperous democracies in the former-communist countries has been identified as an essential task for the European Union. Their European integration process however would not be a success story if they would see the EU as the sole remedy to their socio-economic or political problems. While the EU may serve as an example, democratization and adherence to democratic values remains a process to be carried out from within, for the sake of the country itself. In view of these countries' EU membership ambition, the pre-accession process should be fully utilized to provide concrete results in this regard. It is only after this moment that EU accession of a certain country can take place; and it is only after a successful process of alignment with EU standards that a certain country can efficiently “absorb” and address its membership obligations. In this way only, divergence from EU norms after accession would be limited only to intermittent cases which provide the “*raison d'être*” of institutions such as European Court of Justice, European Commission etc. This has been the core philosophy that guided the 2004 enlargement through a smooth adjustment process and as such, it will certainly continue to streamline the recent enlargement efforts in Albania and other Western-Balkan countries.

## Appendix Table

Appendix Table 3.1. Key Events in Albania-EU relations

1992	Trade and Co-operation Agreement between the EU and Albania. Albania becomes eligible for funding under the EU's Phare programme.
1997	Regional approach. The EU Council of Ministers establishes political and economic conditionality for the development of bilateral relations with countries in the Western Balkans
1999	The EU proposes the new Stabilisation and Association Process (SAP) for five countries of South-Eastern Europe, including Albania.
1999	Albania benefits from Autonomous Trade Preferences with the EU.
2000	Extension of duty-free access to EU market for products from Albania.
2000 June	Feira European Council states that all the SAP countries are “potential candidates” for EU membership.
2000	At the Zagreb Summit the SAP is officially endorsed by the EU and the

November	Western Balkan countries (including Albania).
2001	First year of the CARDS programme specifically designed for the SAP countries
2001	The Commission recommends the undertaking of negotiations on a SAA with Albania. The Göteborg European Council invites the Commission to present draft negotiating directives for the negotiation of a SAA.
2002 October	Negotiating Directives for the negotiation of a SAA with Albania are adopted.
2003 January	Commission President Prodi officially launches the negotiations for a SAA between the EU and Albania.
2003 June	At the Thessaloniki Summit the SAP is confirmed as the EU policy for the Western Balkans. The EU perspective for these countries is confirmed.
2004 June	Council decision on a first European Partnership for Albania
2006 January	Council decision on the principles of a revised European Partnership for Albania
2006 May	Entry into force of the EC-Albania readmission agreement
2006 June	Albania signs the SAA at the General Affairs and External Relations Council in Luxembourg
2006 December	Entry into force of the Interim Agreement
2007 January	Entry into force of the new instrument for Pre-Accession Assistance (IPA).
2007 May	Adoption of the Multi-Annual Indicative Planning Document (MIPD) 2007-2009 for Albania under the IPA
2007 September	Signature of a visa facilitation agreement between Albania and the EU.

Source: European Commission, DG Enlargement [http://ec.europa.eu/enlargement/albania/key\\_events\\_en.htm](http://ec.europa.eu/enlargement/albania/key_events_en.htm).

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