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**ASSESSMENTS AND
RECOMMENDATIONS
2015-2016**

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List of Abbreviations

ADF - Albanian Development Fund
ARDA - Agriculture and Rural Development Agency
CAP - Common Agricultural Policy
CEPEJ – The European Commission for the Efficiency of Justice
CODIS - Combined DNA Index System
CSO - Civil Society Organization
DCM – Decision of Council of Ministers
EASO - European Asylum Support Office
EC – European Commission
ECHR- European Convention on Human Rights
EIA - Environment Impact Assessment
ESS - European Standard Set
EU – European Union
FADN - Farm Accountancy Data Network
FBO – Food Business Operator
FSVI- Food Safety and Veterinary Institute
FTA – Free Trade Agreement
GVA - Gross Value Added
HACCP - Hazard Analysis Critical Control Point
HCJ – High Council of Justice
IACS - Integrated Administration and Control System
IMOC - Inter-institutional Maritime Operational Centre
INSTAT – Institution of Statistics in Albania
IOM – International Organisation of Migration
IPA – Instrument for Pre-Accession Assistance
IPARD - Rural Development Pre-Accession Assistance
IPS - Integrated Planning System
ISO - International Organization for Standardization
KASH - Ministry of Agriculture and Albanian Agribusiness Council
MA - Managing Authority
MARDWA - Ministry of Agriculture, Rural Development and Water Administration
MC - Migration Counters
ME - Ministry of Environment
MEK – Mojahedin-e-Khalq
MES - Ministry of Education and Sports

MFA - Ministry of Foreign Affairs
MIA - Ministry of Internal Affairs
MoH – Ministry of Health
MSWY - Ministry of Social Welfare and Youth
MTBP - Mid-term (multi-annual) Budget Programmes
NANR - National Agency of Natural Resources
NAPA - National Agency of Protected Areas
NCM - National Chamber of Mediators
NEA - National Environment Agency
NES- National Employment Service
NFA - National Food Authority
NGO - Non-Governmental Organization
NIEFW - National Inspectorate of Environment, Forests and Waters
NIPAC - National IPA Coordinator
NISARD - National Inter- sectorial Strategy of Agriculture and Rural Development
NPEI- National Plan for European Integration
NPO – Non-Profits Organization
NSDI - National Strategy for Development and Integration
PAM- Performance Assessment Matrices
PC- Penal Code
PCB - Polychlorinated Biphenyls
PCT -Polychlorinated Terphenyls
PMOI - People’s Mojahedin Organization of Iran
PPP – Public-Private Partnership
REA- Regional Environmental Agencies
SAA - Stabilisation and Association Agreement
SAPCR - State Agency for Protection of Children’s Rights
SCE - European Cooperative Society
SCLA - State Commission for Legal Aid
UK - United Kingdom
UNFCC - United Nations Framework Convention on Climate Change
UNHCR - United Nations High Commissioner for Refugees
WG - Working Group
WTO – World Trade Organization

FOREWORD

Perceiving EU integration not as a mere institutional agenda, but as an ambitious development project being continuously determined from the whole society, the role of CSOs and citizens actively committed is crucial to promote European values and lay down strong fundamentals for the **EU Membership for Albania**. To facilitate this process, an instrument successfully applied for the first time in Albania is the National Convention on EU Integration. Being a unique model developed by the Slovak Foreign Policy Association between 2003 –2007 in Slovakia, it was extended through the support of Slovakia's bilateral development assistance (Slovak Aid) in Serbia, Bosnia and Herzegovina, Montenegro, Ukraine and Moldova.

Through the **National Convention of EU Integration in Albania**, European Movement in Albania(EMA) in partnership with Slovak Foreign Policy Association(SFPA), in continuous collaboration with key line ministries has set up and carried 4 Working Groups addressing the most challenging negotiation chapters with the EU: **Judiciary and Fundamental Rights; Justice, Freedom and Security; Agriculture and Food Safety; and Environment**.

This publication makes a valuable contribution to on-going discussions on national policy making on EU related issues, providing information on the implemented reforms, challenges in EU law approximation; and pointing out the promotion of cooperation of governmental and civil society sectors with the aim to strengthen capacities to cope with the EU accession criteria. The first part of the publication presents the **Assessment Reports** carried out in the preparatory phase of NCEI by experts of each Working Group. The assessment reports evaluate in detail three dimensions of the topics and prioritized challenges of Chapters 17,23,24,and 27 of Albanian EU accession including: i) Policy and Strategies, ii) Legal framework in Albania and approximation with EU legislation; iii) Institutional Framework and level of capacity preparedness of the country. The second essential part of the publication consists of the **Set of Recommendations** extracted during the 16 sessions of the Working Groups. These recommendations are a result of the coherent and continual thematically structured debate sessions among the representatives of national institutions, NGOs, business associations, academia and media.

The staff of European Movement Albania expresses its gratitude to all supporters, collaborators, colleagues and partners that have played a pivotal role in the completion of this publication and eagerly looks forward for further cooperation in framework of National Convention of EU Integration. We are very grateful to the experts of Working Groups, Co-chairs and participants representing state institutions and civil society sector for their time, openness, cooperation and shared experience.

ASSESSMENT REPORT: WORKING GROUP I

JUDICIARY AND FUNDAMENTAL RIGHTS

CHAPTER 23

Mrs. Aida Bushati

Expert of Working Group I

INTRODUCTION TO EU POLICY ON JUDICIARY AND FUNDAMENTAL RIGHTS

European Union is founded on the principles of human dignity, freedom, democracy, equality, the rule of law and the respect for human rights. These principles are common to the Member States and need to be complied with by candidate countries. Article 3 (2) of the Treaty on European Union and Article 67 (1) of the Treaty on the Functioning of the European Union establish an area of freedom, security and justice.

Article 83 (1) of the Treaty on the Functioning of the European Union establishes the competence of the Union to draw up minimum rules concerning the definition of criminal offences and sanctions in the area of corruption.

EU policies in the area of the judiciary and fundamental rights aim to maintain and further develop the Union as an area of freedom, security and justice. The rule of law principle and the right to a fair trial, as enshrined in Article 6 of the European Convention on Human Rights (ECHR) and Article 47 of the Charter of Fundamental Rights of the European Union, provide that the judiciary must be independent and impartial. This requires a firm commitment to eliminating external influences over the judiciary and to devoting adequate financial resources and training. Legal guarantees for fair trial procedures must be in place. Likewise, Member States must effectively fight corruption as it represents a threat to the stability of democratic institutions and the rule of law.

According to Article 6 of the Treaty on European Union and the case-law of the Court of Justice of the European Union, the Union respects fundamental rights, as guaranteed by the Charter of Fundamental Rights of the European Union ; and resulting from the constitutional traditions common to the Member States, as general principles of EU law. Therefore, they are binding on the Union's institutions in the exercise of their powers and on the Member States when they implement EU law (Article 51 of the Charter of Fundamental Rights of the European Union). The protection of fundamental rights covers traditional civil rights, such as the right to life, to gather and the privacy. The *acquis* also contains guarantees to secure equality. There is a general prohibition of discrimination on a variety of grounds; equality between men and women must be ensured; cultural, religious and linguistic diversity is to be respected. Furthermore, the rights of the child need special protection; the contents of these rights may be drawn from the UN Convention on the Rights of the Child ratified by all Member States. According to Article 21 of the Charter of Fundamental Rights of the EU, members of national minorities shall not be discriminated against. Finally, the *acquis* in the field of fundamental rights contains a number of important judicial guarantees.

Implementation of the policy in Albania

The reform of justice system along with the fight against corruption and protection of human rights are part of the five key priorities for opening of the accession negotiations with EU. They constitute the most important aspect of the Albanian EU integration process¹. In all these years, EU has encouraged and supported Albania to have a functional justice system which is independent, accountable and efficient. A special focus has also been given to the fight against corruption.

Justice system independence is often jeopardised by the political influence; this latter has been noticed in the process of appointment and discharged of high level judge and the lack of the clear rules on the appointment and promotion of first and second level judges and prosecutors. EU has also suggested better protection for judges and prosecutors including better financial treatment and better working conditions. Efficiency and quality of the justice system require that Albanian courts to adjudicate cases in due time, to reduce the backlog and to provide good services to their citizens. At this point, the establishment of a proper case management system both at prosecutor and court level represents a must. In addition, it requires that other means of conflict resolutions to be supported and promoted by the state authorities, such as alternative dispute resolution including mediation.

Different legal initiatives have been undertaken, but they often have been criticised of being fragmented and with little relevance to the identified problems. In order to address these issues, the ad hoc Parliamentary Committee on Judicial Reform was set up to carry out a comprehensive reform of the justice system. The Parliamentary Committee based its work on the action plan which foresees preparation of strategy including constitutional changes, public debates and drafting of concrete parts of legislation. At present, constitutional changes are being discussed in the parliamentary committee composed of members of the parliament from the position and opposition parties, as well as international and national experts.

Regarding the corruption issues, Albania is required to have a solid track record for investigation, prosecution and conviction of corruption cases. During the last years, there has been noticed a slight increase on the punishment of judges and prosecutors accused for corruption. The role of different institutions such as HIDA, or other bodies and networks established for that purpose need to be strengthened. In this regard Albania has also adopted a strategy and action plan against corruption.

Albania has ratified many international agreements and it is part of many human rights organisations. Nevertheless, concerns have been raised regarding the level of implementation of the international standards in the domestic system. Albania is a member of Council of Europe and it applies the European Convention on Human Rights (ECHR). Albania was found in violation of ECHR provisions for property issues, fair trial and right to effective remedy. Property rights remain an issue of concern, and an action plan has been adopted and is

¹So-called “Copenhagen criteria”, set out in December 1993 by the European Council in Copenhagen, encountered in many strategic documents between EU and Albania such as: “Analytical report accompanying the communication from the commission to the European Parliament and the Council, Commission opinion on Albania 's application for membership of the European Union”, annual Progress Reports etc

being implemented to ensure property restitution and compensation. Attention have been given to other categories of fundamental rights such as right to life, children rights, data protection, freedom of expression, freedom of religious, freedom of associations, Roma, disable, labour and minorities rights. In general there has been progress with regard to these areas, in terms of institutional capacities and reforms undertaken.

Albania has a lot to undertake in order to comply with EU policies and EU standards in the area of Judiciary and Fundamental Rights. Due to the fact that many aspects of judicial, and fundamental rights reforms are being discussed under the big umbrella of the justice reform and other actions that have been taken by the Albanian government in partnership with international organisations, this report will focus on some aspects represent a great importance for the full implementation of the EU policies. Since the key priorities including Justice Reform are being discussed at length in different levels, this chapter will focus on some components that combine together issues of rule of law and fundamental rights, such as juvenile justice, mediation, free legal aid and information of public about legislation.

POLICIES AND STRATEGIES

Juvenile Justice

Protection of Children rights is one the main social policies in the Republic of Albania. It is based in the Constitution of Albania, UN conventions and other international instruments ratified by the state, which underline the fact that children, due to their age, the lack of physical and intellectual maturity, need protection and special attention from their families and state institutions. In this framework a special attention is paid to the juveniles with criminal records, and the legislators have continuously improved the provisions in accordance with international standards, but in Albania still doesn't exist a comprehensive system of juvenile justice. There is no specific juvenile justice law, and accused juveniles are prosecuted and procedure under special chapters of the Criminal Code and the Criminal Procedure Code of Albania.

There is no specialized juvenile court yet, but recently specialized judges and prosecutors have been appointed in six of the first instance courts.

Although Juvenile justice should not be limited to criminal law, since it is related with many other phenomena such as family, education and social protection system.

Alternative Dispute Resolution-Mediation

ADR – Alternative Dispute Resolution has a strong influence on the number of cases, which the courts will have to judge, but also on the way in which the dispute can be resolved between the parties. Thus ADR can improve the efficiency of justice by reducing the courts' workload, as well as by improving the quality of the response to the citizens by offering them an opportunity to resolve a dispute with low cost. Different forms of ADR include: Mediation, Conciliation and Arbitration. The first two types are mostly used by private persons, while Arbitration is most commonly used for the resolution of commercial disputes as it offers greater confidentiality².

The three forms of ADR have been already introduced in Albania but they have been not always successful. In the CEPEJ-report 2014, Albania is mentioned to apply mediation, conciliation and also other alternative dispute resolution but not arbitration³. The first law on State Arbitration was approved in 1990, but the body was dissolved in 1993. During the first decade, there were some attempts to introduce ADR instruments in Albania. They were mostly coming as initiatives of international donors that together with Albanian institutions strived to establish ADR Practice in Albania. In addition, the ADR was implemented mostly by non for profit organisations.

On the period 1995-1999 a collaboration between the High Court of the Republic of Albania and DANIDA Program (Danish Government) started, to establish a nongovernmental structure (Foundation "Conflict Resolution and Reconciliation of Disputes", FZK), for the promotion of the mediation alternative as part of the Program for Strengthening the Justice System in Albania. The first law on Mediation was drafted and adopted on 11.03.1999 with the support of the Council of Europe. (Law no.8465, "On mediation and resolution of disputes by conciliation"). After the approval of the law, many mediation centers were created in Tirana and in eight other cities of Albania, including Durrësi, Korça, Berati, Shkodra, Vlora etc. that function as society organizations and are focused on the promotion, institutionalization and implementation of the alternative dispute resolution in civil, family and criminal issues. During this period a Mediation Program was implemented in cooperation with the Court.

During the 2003-2011 period a second law on mediation in Albania such as Law no. 9090, dated 26.06.2003 "On Mediation in the Settlement of Disputes" was adopted. This law provided the possibility that besides non-profit entities, mediation could be provided also by profit-making entities, which could be incorporated as commercial entities. In addition, the law also included commercial disputes to be able to be resolved by the mediation alternative. This law was prepared by a strong cooperation of the Ministry of Justice with the World Bank. In Albania, upon the adoption of the law, the MEDART center was established focused on the resolution of commercial disputes by arbitration and mediation.⁴

²CEPEJ report on the European judicial systems, Efficiency and quality of justice, CEPEJ Studies N° 20, Edition 2014 (2012 data), p. 147.

³CEPEJ report on the European judicial systems, Efficiency and quality of justice, CEPEJ Studies N° 20, Edition 2014 (2012 data), p. 148 + 153.

⁴ 206-207

In the years 2010-2011, a program to promote and consolidate the restorative justice and victim-offender mediation for juveniles and young adults aged 14-21 years was implemented by a partnership between a number of institutions such as: the General Directorate of State Police, School of Magistrates, the General Probation Service and FZK and was also supported by the EU Delegation in Albania and UNICEF.

The situation nowadays in Albania, consists of about 200 persons trained by FSC which are licensed by the Ministry of Justice to practice mediation. The current law on mediation was adopted by the Parliament in February 2011 and brought about as a main innovation the organization of the mediators in the National Chamber of Mediators as a legal entity exercising its activity independently from the state. The statistical data show that during 2014, there were registered 213 cases for mediation, but only 78 cases were solved.

Free Legal Aid

Legal aid is both a right in itself and an essential precondition for the exercise and enjoyment of a number of human rights, including the rights to a fair trial and to an effective remedy, as guaranteed by the Convention of Human Rights and by Albanian Constitution.

Every person charged with, or accused of an infringement crime etc., has the right to be treated fairly and equally and defend himself/herself, regardless of his/her financial circumstances. One of the most important safeguards for the fairness of the proceedings is the right to legal aid. The ability of indigent people, who cannot afford to pay for a lawyer themselves, to access free, timely, and quality legal assistance underpins the equality of arms between parties, and is a foundation for other essential fair trial rights.

Till the adoption of the Law “On Legal Aid”, it was offered the right to free legal assistance only in criminal proceedings, regardless the statement of ECHR in “Goldervs United Kingdom”, that clarifies that free access to justice should be guaranteed not only for criminal proceedings before the Court, but also for civil and administrative ones, and this is to considered as a very progressive step.

This law also has had an important role in the structuring of service providers. It states that the state legal aid is delivered by authorized lawyers, in the form of primary and secondary legal aid services. Primary legal aid means provision of information on the legal system in the Republic of Albania, normative acts in force; rights and obligations of the law subjects; manner of exercising of rights of the individuals in judicial and extra-judicial proceedings and also provision of assistance in the drafting of legal documents or in other forms. Secondary legal aid is the provision of legal consulting, representation or defence in criminal proceedings, civil and administrative proceedings as well as the representation before the state administrative bodies.

According to this law it has been established the Commission on Legal Aid which due to numerous delays in adopting the necessary bylaws, became fully operational by 2012. It was the first time that this service was

offered officially by the state, while previously was offered only by NGOs. The Law was amended in May 2013, introducing possible exemptions from judicial fees for victims of trafficking and domestic violence, and establishing local legal aid offices albeit these local offices aren't operational yet. Based on the economic situation of Albania, in 2014 the Law was amended again including in the persons entitled to legal aid also retirees and persons with minimum level of incomes. The Commission on Legal aid has detailed the law in specific provisions which helps the effective implementation.

This situation and the evolution of the legislation on legal aid in Albania is the result of the continuous pressure from EU and other international organisations to adopt a system of norms, technical requirements and to establish institutions and services necessary to: i) to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes, ii) harmonize the Albanian legal framework with the EU system, as one of the key criteria for EU accession.

Even though that progress is being made with regard of access to justice, it is to be said that the implementation of the Law on Free Legal Aid has been slow due to insufficient budgetary allocations and a lack of coordination between relevant institutions. Meanwhile there appears to be a common consensus among civil society organisations in Albania that Commission on Legal Aid is not carrying out its function effectively. This criticism, which as well be seen is shared by numerous international bodies as well as the Albanian Ombudsman and the Albanian Commissioner on the Protection against Discrimination, is cantered on the following points:

- The operation of the Commission on Legal Aid lacks transparency, as there is not publicly available information as to how this Commission selects the cases it provide legal aid to. Moreover there isn't provided yet the official website of this institution even it is obligatory based on the Law on Right to Information.
- There are shortcomings in the functioning of the legal aid system and the legal provisions which foresee the establishment of regional offices for legal aid are not implemented. Commission is almost exclusively active in Tirana, the six regional aid offices that were supposed to having been set up by 2014 are not operational yet.
- The number of cases where the Commission on Legal Aid authorizes assistance is very low compared to the needs of the Albanian population is. Also very concerning is the fact that persons who have benefitted from the legal aid provided by lawyers of the Commission frequently complain of lack of professionalism by the lawyers.
- The legislation is unclear as regards the provision of free of charge legal aid by the Commission, the manner of application for funds and their planning.

Information of Public about Legislation

The right to information is important for many reasons, such as the creation of a more open and democratic society, to challenge corruption and enhancing transparency. Equally important is public access to the knowledge of the law, which is essential for ensuring an effective justice system. Thus, information and providing knowledge about the law, rights, law enforcement institutions, responsibilities, etc., are not only related to legal studies, but are components of culture of civic needs for access to the rule of law. Public legal education is one of the main directions to achieve this comprehensive approach. Public legal education has nothing to do with specialization in the area of law, but with the necessary knowledge about the everyday meaning of the law and the quickest legal solutions to the violation of the rights which are fundamental in a democratic society where the law is the product of the citizen and for the citizen. Through the development of legal knowledge and increased security that citizens feel in the use of law, public legal education contributes also to strengthen a more active citizenship and for a greater social cohesion.

Currently such activities, capable of providing legal education of the public were conducted but at random, unplanned and disorganized.

LEGAL FRAMEWORK

The protection of the children's rights is a constitutional and international obligation. Respectively, Convention on the Rights of the Child provides that *"States shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person responsible."* These acts offer principles and guidelines for the protection of children's rights, which are precisely detailed in laws and bylaws.

According to Criminal Code and Criminal Procedure Code juveniles under age 14 should not be prosecuted for any crime or offence, those aged 14 or 15 may be prosecuted only for crimes till 16; and those over age 16 may be prosecuted for any offence. The maximum sentence that may be imposed on convicted juveniles is twelve years and six months. There are no closed educational facilities – and indeed, no rehabilitation programmes of any kind, for children under age 14 involved in criminal activity in our country.

The Criminal Procedure Code recognizes the right of accused juveniles to legal and psychological assistance "during the entire process." The presence of a lawyer may not be waived. In addition, the Law on the Rights and Treatment of the Prisoners provides that children shall serve sentences in specially designed institutions or in separate units of other correctional facilities. At present, no special facility for juvenile offenders exists.

Chapter VII of the Criminal Code concerns 'alternatives to imprisonment'. All provisions of this chapter apply equally to adult and adolescent offenders having criminal responsibility. Alternative sentences include probation and community service.

Sentences of less than five years may be suspended and replaced by probation, if the court considers that neither the offence nor the offender represents a serious danger. Conditions, such as the participation in vocational training, employment and programmes for the treatment of substance abuse, or avoiding certain places or the company of certain persons, may be imposed. Sentences of less than one year also may be suspended and replaced by the obligation to perform 'work in the public interest' (community service). Parole is recognized by chapter VII of the Criminal Code. Prisoners are eligible for parole after a part of their sentence, if their conduct indicates that the "educational aim of the sentence has been achieved." This article applies equally to adults and juveniles, yet still juveniles are more disposed to benefit from its application. Recently it is evidenced an increase on the implementation of the alternative sentences ; for example in 2012, 312 cases, in 2014, 412 cases and in the first months of 2015, 84 cases.

Albanian legislation does not provide any measure to be taken when a crime has been committed by a child under age 14, nor when children aged 14 or 15 years commit minor offences. The law provides the imposition of educational measures, which are not yet effectively enforced.

There are still no specific chambers in police stations for children under 14 in cases of interrogations. In addition, the assistance of a psychologist is not provided during interrogations that take place in the evenings, at weekends and on national holidays. Juveniles are still being detained on detention and pre-trial detention for minor offences longer than provided in the Criminal Procedure Code's provisions. Cases of ill-treatment of juveniles in detention were frequently reported, and one investigation was launched against a prison police official for torture. A lack of coordination persists between the justice and protection systems for juveniles coming out of the justice system, who need support to reintegrate into society.

This situation emphasises the concern that the impossibility of requiring the participation of such children in any form of programme designed to prevent continued involvement in criminal activity contributes to offending.

According to law no. 10385, dated 24.02.2011, "On Mediation in Dispute Resolution" "*Mediation is an extrajudicial activity whereby the parties seek resolution of a dispute with the assistance of a third neutral party (mediator) in order to reach an acceptable agreement on the resolution of the dispute, which is not contrary to the law*". This activity is independent but still under the auspices of the Ministry of Justice.

Mediation is applied to solve all the disputes in the civil, commercial, labour and family law, including, civil and family cases, which involve interests of the minors; conciliation cases in case of dissolution of marriage,

property-related disputes, etc. As foreseen in article 134 of the Family Code, it is stated that in the administration of the petition for the dissolution of marriage, the court must first conduct a reconciliatory hearing with both spouses personally in attendance. The judge may hear each of them individually and later on jointly, without the presence of their representatives. If reconciliation is reached, it is noted and the petition is dismissed. Civil Procedure Code in articles 108, 158 / b, 171 / b, 461 promotes amicable settlement of the cases and provides procedures on how it can be achieved. The 2011 law allows mediation in criminal matters as well. The law stipulates that “mediation applies to disputes examined by the court at the request of the accusing injured party, or upon complaint of the injured party, according to article 59 and 284 of the Code of Criminal Procedure, and also to any other cases allowed by the law”.

Mediators are licensed by the Licensing Committee established in the MoJ. Every mediator should be member of the National Chamber of Mediators, which operates as independent authority.

In the early 1990s, the first Foundation on Conflict Resolution and Reconciliation of Disputes", (FZK), was established as a joint initiative of the High Court and DANIDA in order to promote mediation as part of the Program for Strengthening the Justice System in Albania. While the first Law on Mediation was drafted and adopted on 11.03.1999 with the support of the Council of Europe. (Law no.8465, “On mediation and resolution of disputes by conciliation”). After the approval of the law, many mediation centres were created in Tirana and in eight other cities of Albania, such as Durrësi, Korça, Berati, Shkodra, Vlora etc. They functioned as civil society organisations and were focused on the promotion, institutionalization and implementation of the alternative dispute resolution in civil, family and criminal issues. During this period a Mediation Program was implemented in cooperation with the Court.

In the early 2000 a new “Law on Mediation” was adopted Law no. 9090, dated 26.06.2003 "On Mediation in the Settlement of Disputes". This law provided the possibility that besides non-profit entities, mediation could be provided also by profit-making entities, which could be incorporated as commercial entities. In addition, the law also provided for commercial disputes to be resolved by mediation alternative. The law was prepared by Ministry of Justice in close cooperation with the World Bank. As the result of the approval of the new law, the MEDART centre was established. The centre was focused on the resolution of commercial disputes by arbitration and mediation.

During the years 2010-2012, a special program to promote and consolidate the restorative justice and victim-offender mediation for juveniles and young adults aged 14-21 years was implemented, as a joint partnership between the General Directorate of State Police, School of Magistrates, the General Probation Service and FZK with the support of the EU Delegation in Albania and UNICEF.

In 2011 a new law on mediation was introduced providing for a new organisation and functioning of the mediators in Albania. According to the current system mediators are licensed by the MoJ and they are organised

under the National Chamber of Mediation which operate as an independent body. The statistics of 2014 show that out of 213 cases registered for mediation, only 78 cases were solved.

The new law on mediation is approximated the EU Directive 2008/52/EC "On certain aspects of mediation in civil and commercial matters". Mediation is considered as a highly effective instrument and moreover it is in line with the requirements of the Stabilisation and Association Agreement and the principles of the European Union, which considers mediation as a very good alternative for conflict resolution.

The right of free legal aid is guaranteed in different acts. Firstly, it is a constitutional right provided by article 31 and 42. Regarding to the criminal proceeding, everyone has the right to be defended by himself or with the assistance of a legal defender chosen by him; to communicate freely and privately with him, as well as to be provided free defence when he does not have sufficient means. *The right for free legal aid in civil and administrative procedures is principally protected by the right of due process.*⁵

Law on Legal Aid⁶ is the main core (basis) of offering free legal assistance by state and private institutions (entities).

For a certain category of persons this right is specified in acts which protects these categories such as the Law on Asylum in Albania, article 12 of which states that the asylum seeker could get free legal assistance from UNHCR's representative (Office of the High Commissioner for Refugees of the United Nations) and representatives of other organizations for the protection of refugee rights.⁷ In cases when the defendant is less than eighteen years old or (suffers) from physical or mental impairment that hinders him into exercising his own right of defence, the assistance of a defence counsel is mandatory,⁸ and when the defendant has no sufficient means, the defence expenses shall be covered by the state⁹ according to Albanian Criminal Procedural Code.

Also, laws that provide the regulation of the profession of advocate contain specific predictions about cases in which is offered free legal aid service.

The Law "On the Profession of Advocate" in the Republic of Albania provides that the remuneration of an advocate for the work performed shall be defined by the court or prosecution office, when she/he is assigned ex officio or, when the counselled or represented person has no financial means and the legal aid is granted free of charge to him/her. The amount of remuneration in these cases is determined by joint decision of the Minister of

⁵Article 42 of the Constitution of Albania 1.The liberty, property, and rights recognized in the Constitution and by law may not be infringed without due process. 2. Everyone, to protect his constitutional and legal rights, freedoms, and interests, or in the case of charges against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.

⁶Law no. 10039 dated 22.12.2008 "On Legal Aid"

⁷ Law no. 121/2014 "On Asylum in the Republic of Albania"

⁸ Law no. 7905 dated 21.03.1995 Criminal Procedure Code of the Republic of Albania, Article 49.2

⁹ Law no. 7905 dated 21.03.1995 Criminal Procedure Code of the Republic of Albania, Article 49.2

Justice and Steering Council of the National Chamber of Advocacy. The power to assign advocates to attend court cases, when requested by the court or assign an advocate to take over cases that were abandoned by a previous advocate and the client has not been able to find another is delegated to the Steering Council of the advocacy chamber. It is to be mention that one of the objectives of the Advocacy Chamber is to promote the provision of free legal aid for those who do not have sufficient incomes to hire an advocate.¹⁰

Albanian legislation guarantees the right of individuals to access public documents. Constitution of the Republic of Albania provides that *“the right to information is guaranteed and everyone has the right, in compliance with law, to obtain information about the activity of state organs, and of persons who exercise state functions”*

On the initiative of civil society, in 2014 was adopted the law on the right to information. This law has further detailed the standards, procedures and the competent organs to monitor the implementation of the right to information.¹¹ In accordance with this law public authorities, shall prepare in advance, in easily understandable and accessible formats and make available to the public on their internet site the following categories of information: (a) a description of the organizational structure, functions and duties of the public authority; (b) full texts of Conventions ratified by the Republic of Albania, Laws; Bylaws; Codes of Conducts; all policy documents; the Manual and, any other documents relating to the functions of a public authority affecting the general public; (c) information on the procedures to be followed to request information, and the electronic mailing address for information requests as well as appeal procedures for the corresponding decision; (d) data on the location of public authority offices, work schedule, name and contact of the coordinator for the right to information etc. The right to information may be restricted if it is necessary, proportionate and if its disclosure may harm the following interests: the right to a private life; trade secret; copyright; patents, if giving the information causes a clear and serious harm to national security, as defined by the legislation for classified information etc.

Citizens appropriately registered with the social assistance schemes and persons eligible under the Law No. 10039 of 22.12.2008 “On Legal Aid”, as amended, receive the information free of charge up to a certain number of pages for each request or to the equivalent value when the information is given in a different format.¹² From the survey that was carried on the implementation of this law, it is noticed that such legal obligations are not yet fulfilled from state institutions, among which even the High Council of Justice can be mentioned, but the percentage of the citizens that apply their right for legal information has increased.

Law no. 146/2014 "On notification and public consultation" has as its object the regulation of relations arising in a public consultation process, transparent, comprehensive, timely and effective conducted among central and local public authorities and stakeholders in the decision making process of bylaws as draft-laws, national and local

¹⁰ Statute of Albanian National Chamber, Article 2

¹¹Law no. 119, dated on 2014 “Law on the Right to Information”

¹²Law no. 119, dated on 2014 “Law on the Right to Information” Article 13

strategic documents, as well as policies with high public interest. This is a very important law because there can be no democratic participation in decision-making without transparency and sharing of information.

Institutional responsibility for ensuring this right is regulated also by Code of Administrative Procedure; the Law no 10279 on Administrative infringement and the law no 152/2013, on Civil Servants.

Public access to the knowledge of the law is a right which isn't guaranteed directly by laws, but the laws of some specific institutions such as the Ombudsman, Commissioners, Legal Clinic, an office opened recently near the Ministry of Justice provide their obligations to provide the necessary information and knowledge development, enhance the capacity to take the appropriate decisions in situations related to legal rights and obligations.

INSTITUTIONAL FRAMEWORK

There are several Albanian bodies vested with competences in the Justice and Fundamental Rights, specifically tackling the issues of Juvenile Justice, Mediation, Free legal Aid and Public Information on Legislation.

Ministry of Justice

The Ministry of Justice is the principal public authority responsible for Chapter 23. Regarding *Juvenile justice*, it is responsible for : i) design policies and follow their implementation; ii) Preparation of legal and sub-legal acts; iii) Coordination of international collaboration on civil and criminal areas and on other fields of justice. A special role is covered from departments, such as the Codification one, under the authority of which lays the Department of Inspection responsible for the monitoring of situations; Department of Liberal Professions, responsible for the foreseen criteria for the professionals who will take care of the minors, General Directorate of Prisons, Adoption Committee. Part of the Legislation and Legal Aid Department is also the Department of Family Law and Juvenile Justice.

The ministry of Justice is in charge of establishing the register of *mediators*. The register of mediators must consist of: a) Identity, residence, licence number, starting date of the activity of the mediator and address of the place where mediation activity in case of natural persons, takes place; b) Name of the company, type of the company, seat of the company, name/names of administrators, names of mediators employed with the company, in case of legal persons. The form of the Register of Mediators is also defined by the Order of Minister of Justice. The Minister of Justice updates at least annually this Register and ensures its publication.

In the area of *legal aid services* for the individuals, The Ministry of Justice performs the following duties: i) develops the state policy; ii) assists in the preparation of the necessary legal and sub-legal acts in cooperation with the National Bar Association and the State Commission for Legal Aid (SCLA); iii) takes care for the proper

application of the legal and sub-legal provisions and assists in quality assessment of the provided legal aid; iv) prepares the draft-budget, in compliance with the legislation in force;

Concerning *public information on legal issues*, under the supervision of the Ministry of Justice, the **Official Publication Centre** publishes laws, decrees issued by the President of the Republic, normative acts of the Council of Ministers, ministries, other central institutions, decisions of the Constitutional Court along with dissents, unifying or altering decisions of judicial practice of the Supreme Court, and any other act issued by other state institutions, publication of which is required by law. All publications are only in Albanian. It guaranties the well-functioning of Electronic Acts Archive and ensures the effective online access of Albanian citizens to the legislation.

Based on the President Decree no. 5351 dated 11.06.2007, in six of the first instance courts of Albania is created juvenile sections. According to the law on organisation of the justice system which prescribes the composition of the judges' panel is provided that in juvenile judges panel should be present one psychology and if necessary the session should be taken in a friendly environment. **Courts** in some cases are obligated to finding a solution based on the mutual consent. On the other hand based on the circumstances, the court administration might orient parties to mediators, even this is not an obligation

The Probation Service is an institutional organ that surveys the implementation of alternative sentence, gives clear information and reports to the prosecutor or courts and helps in the execution of alternative sentence and the offender in overriding the difficulties in the integration in the society. It aims to prevent recidivism(relapse into criminal behaviour)and helps the convicted person to make easier the integration in the society, re-establishing contacts and relationships with family, individuals and community. Public central and local institutions gives to the Probation Service the necessary aid in order to accomplish with the legal duties. As foreseen in the detailed rules by the Minister of Justice, the Probation Service collaborates with the NGO and the mediation service.

General Directorate of Prisons-General Directorate of Prisons, has as main functions :i)Protection of public order and safety; ii)Protection of the exercise of freedom and human rights. iii)Take measures for the prevention and detection of crimes,iv)Guarantees the implementation of laws and bylaws. On the central level (General Directorate of Police), one of the structures which are closely related with juvenile criminal justice is the Directorate Against Terrorist Acts and Open Crimes, which has on its own structure the Child Protection Sector.

State Agency for Protection of Children's Rights is an agency established from the Ministry of Social Welfare and Youth with the mission of: i)Monitoring the enforcement of the Law No. 10347 dated on 4.11.2010 "Protection of Children's Rights"; ii) Guaranteeing the cooperation with other public responsible authorities and non-profit organizations which operate on the field of child protection, iii)Presenting to the liable Minister proposals regarding policies and law & bylaw's amendments related with protection of children's rights; iv)Organizing and coordinating scientific researches and informative activities on the protection of children's

rights field; v)Offering technical support to the non-profit organizations involved on the protection of children's rights field. SAPCR plays a very active role to become the children's voice and represent directly all children, especially the most marginalized.

Educational institutions have a significant impact on Juvenile justice. Normative provision on pre-university education system provides the duty of the teacher to identify the violated children and the task for comprehensive inclusion of the pupils. It is also provided that in schools psychologists or social workers should be present, in order to offer professional help in identified cases and based on circumstances and refer them to the other institutions. Their role is specified by order no. 321 dated on 11.10.2004. The educational system also promotes "prevention from illegal acts programmes" for children and juveniles and helps on the rehabilitation of those involved in these cases.

People's Advocate Institution (Ombudsman)- The Institution of the People's Advocate was anticipated for the first time in the Albanian's Constitution approved in November 1998. The Parliament passed the Law on the People's Advocate in February 1999. According to the structure approved by the People's Advocate, the Office is composed by three Sections headed by the Commissioners: I) Deals with complaints and requests towards the central administration bodies, local government and third parties working on their behalf. Ii)Deals with complaints or requests against police, security services, armed forces and the judicial power. Iii) Deals with complaints, which are not included in the first two sections, likewise collaborating with NGO-s, and carrying out researches relevant to the activity of human rights and freedoms. The People's Advocate Institution safeguards the rights freedoms and lawful interests of individuals from unlawful or improper actions or failures to act of public administration bodies and the third parties acting on their behalf. His duty is to prevent conflicts between the public administration and the individual.

The People's Advocate, upon finding or suspecting that a right has been violated, initiates an investigation of the case, upon the complaint or request of the interested or injured person, or on his own motion if the particular case in the public domain, but always after providing the interested or injured party consents.

Inter-ministerial Committee on the Child Rights is an advisory body to the Council of Ministers, which proposes changes in policies for the implementation of children's rights. Technical Secretariat for Children monitors and coordinates the implementation of the strategy objectives and children's rights and reports periodically to the Inter-Ministerial Committee on the Child Rights.

One of the achievements of Law No. 10 358 was the setting up of the **National Chamber of Mediators in Albania**, a legal institution which exercises its activity independently from the state. According to Article 7 of law No. 10358 the main duties of NCM are: i)taking measures for regulation and controlling the exercising of the mediation activity; approving the acts governing the mediation activity as a profession and the Code of Ethics of

Mediators; ii) taking measures for the establishment of the Local chambers of Mediation; draft the programme and ensuring participation of mediators in the training sessions; iii) defining the rules and functions of its steering bodies in its statute. Also NCM may conclude cooperation Agreement with other institutions and organisations for better quality and effectiveness of mediation process. Until now it has signed memorandums of understanding with several institutions, such as the Magistrates School; Judicial District Courts of Durres, Vlora, Korça Court of Appeals, as well as the probation service and the Police Directorate of Tirana. National Chamber of Mediators organizes its work independently from the state, with a mission to support intermediaries, as well as to enable the functioning and strengthening of the mediation process, as a new extrajudicial solution, to resolve disputes in accordance with the law. Since its establishment, the National Chamber of Mediators has conducted a series of activities to raise the awareness of the Albanian public on the possibility of resolving disputes through mediation in commercial, family, civil, labour and criminal as well as institutional cases; strengthening and capacity building through initial training and systematic trainings. It can be mentioned the creation of a core of trainers, trained by national and international experts; the first courses trained 200 persons who are now licensed by the Licensing Commission of Mediators of the Ministry of Justice. NCM has already established the legal basis upon which it conducts its activity and, by adopting the Statute, the General Regulation, Communication Strategy, Training, Curriculum Strategy and a five -year Strategy.

Article 4 of law no. 10 3581 provides the creation of **Commission of Licensing** that consists of 2 representatives from the National Chamber of Mediators and three representatives from the Ministry of Justice. This commission is attached to the Ministry of Justice. The main function of the Commission is licensing process of persons interested in exercising the activity of mediation, registered as natural or legal person. The Register of Mediators exercising mediation activity as a profession and the list of the respective mediators are compiled in the Ministry of Justice.

The **State Legal Aid Commission** is a collegial state body and has the status of the public legal entity. According to Article 10 of law, the main duties of the Commission are: i) implements the state policy on the provision of the legal Aid to the individuals; ii) manages the budget allocated for the provision of legal aid by the state; iii) approves the rules for the assignment of lawyers, advocacy offices and NPO's that will provide the legal aid and take care for the implementation of such rules; iv) assess the costs and plans the expenses for the provision of state legal aid and submits it to the Minister of Justice, to be included in the state budget; v) concludes service agreements with lawyers, advocacy offices and NPO's that will provide legal aid services. vi) sets the remuneration amount which shall be paid to the lawyers for the provision of legal aid, after the prior written opinion of the Minister of Finance and the Minister of Justice, but in any case, not less than the fees approved for the advocacy service; vii) submits, by the end of each year, the annual report to the Minister of Justice, Minister of Finance and National Bar Association and reports every time it is required to; viii) sets up and reviews the legal aid standards and takes care of the professional trainings for the legal aid lawyers; ix) cooperates with international organizations and not-for-profit organizations, Albanian or foreign, operating in the area of legal aid; x) defines the criteria based on which the quality of the provided legal aid services will be assessed; xi)

records the data on the persons who benefit legal aid and publishes every year a statistical bulletin on them; xii) decides and orders the payment of remuneration to the lawyers for their provision of legal aid, after the submission of the documents, to be specified by a special decision; xiii) determines the priorities for the cases over which legal aid shall be provided, considering the limitations imposed by the available financial means and sources; xiv) coordinates the legal aid system, including its delivery in all its forms. Primary and secondary legal aid is afforded by the state budget funds under a separate item in the budget of the Commission on Legal Aid. The Commission has the right to receive other lawful funding apart from the funds foreseen in the state budget.

The **National Bar Association**, in the area of legal aid service for individuals performs the following duties: a) participates in the setting of criteria for the selection of lawyers who shall deliver such aid; b) participates in the setting of criteria for the quality assessment of service provided by the lawyers; c) takes disciplinary sanctions against lawyers who provide legal aid, in compliance with the Law no.9109 of 17 July 2003 “On the Profession of the Lawyer in the Republic of Albania”.

It is the obligation of a number of state institutions to engage in providing legal aid on legislation education. We may mention the parliament, courts, municipalities, attorney chamber, chamber of bailiff, notary and mediation, universities, NGOs, public radio-television; the Ombudsman, the antidiscrimination Commissioner, the Commissioner for the protection of personal data, etc. It was found that, even though in some cases there are legal provisions related to the public information, there is no subsequent activity of these institutions.

LIST OF LAWS, STRATEGIES, DOCUMENTS AND REPORTS SCRUTINISED

- **CEPEJ Report on European Judicial Systems.** Efficiency and quality of Justice, CEPEJ studies no. 20, edition 2014 (data of 2012)
- Ad Hoc Parliamentary Committee on the Reform of the Justice System, High Level Expert Group “**Analysis on the Justice System in Albania**”
- Law no. 10385 of 24.2.2011 “**On mediation in dispute resolution**”
- Law no. 7905 of 21.3.1995 “**Criminal Procedure Code of the Republic of Albania**”
- Law no. 10039 of 22.12.2008 “**On free legal aid**”
- Law no. 119 of 08.09.2014 “**Law on the Right to Information**”
- Law no. 146 of 18.11. 2014 “**On notification and public consultation**”

- Law no 10347 of 04.10.2011 “**On the protection of the Rights of the Child**”
- **Statute** of Albanian National Chamber
- **Albania’s Report 2015**, European Commission
- **Albania’s Report 2014**, European Commissio

RECOMMENDATIONS OF WORKING GROUP I

The four sessions conducted in the framework of Working Group I (Judiciary and Fundamental Rights) put on focus such challenging topics as: Juvenile justice, Mediation, Free legal Aid and Legal Public Information. During the working groups, with the contribution of an assortment of Albanians and Slovak experts s, with the participation of relevant ministries and state institutions and the full engagement of civil society organisations, an array of recommendations are concluded, which are listed below for each session organised in the frame of working Group I (Judiciary and Fundamental Rights) for the period of July 2015- May 2016.

Session 1: Juvenile Justice and Rights of Minors, 17 July 2015

The Juvenile Justice System is assessed as a sensitive topic, even though during this period it has been disguised from the debate, which is focused mostly to the recent developments of the Reform in Justice. What brought to attention this issue were the recent problematic cases in which children have been involved, giving so a message to be aware about the importance of the children justice system and the role it has in the society. This session was organised in the framework of the adoption process of the Law on the Protection of the Rights of the Child, With the participation of the former Deputy Minister of Justice, Mr. Idlir Peçi, Co-chair Mrs. Vjollca Meçaj, from Albanian Helsinki Committee, Mrs. Ina Verzivolli, from State Agency for Protection of Child Rights and Mrs. Deljana Nebiu, Probation Service issues such as age of criminal responsibility, intersectional cooperation between social policies and justice system were emphasized and were discussed between the panel and partakers. The recommendations provided by state representatives, civil society and academia are stated below:

- Justice for children should not be limited only in the penal system, because it is linked with different elements such as family, educational system and social protection. This means that children are part of a family which has duties regarding the well being and education of them, in the meantime children as citizens have their rights for free education and information, and the system should provide a good quality of this service. The convicted youth, most of the times are victims of the gaps in the system of education or protection by the family, state and society in general. So this means that is needed to enhance the cooperation and coordination between the mentioned institutions.

- In the same time, regarding the fact that the social aspect is very important, experts suggest an intersectional cooperation between social services and justice system.
- Since there are many cases which lack a whole and complete investigation and also most of the experts do not have the capacity to work with children, a special treatment within the penal legislation regarding the cases with young offenders is necessary. The working group suggested that regulation and procedural norms, the treatment and security measures should be adapted fulfilling the needs and characteristics of the children, as a group different from the adults. There was also proposed the creation of a Court for Minors, with specialised judges and prosecutors in the treatment of children.
- According the data, almost 90% of the young offenders become recidivist, making them to return in prison. It is needed a Program for the Reintegration of Children, which must include different activities with educational background, during the time they are finishing their sentences.
- The most common juvenile crime is theft, but there is an increase in numbers, in the last years of more violent crimes such as injuries, murders, drug selling etc. In this direction it becomes necessary to analyse the elements in an interdisciplinary methodology to understand the reasons and to find the solutions in improving the situation.
- Even though there is a positive impact made by the Special Institution for the Minors, there still are many problems, such as the cases where the minors stay in the same cells during the custody with adults or the treatment that young women get, which is the same with that of the male offenders. These facts are against the law. They harm the interests of young people and increase the risk of manipulation and negative effect that criminal adults could make toward them.
- According to the Working Group specialised psychologists or sociologists capable in operating with young groups, are missing in the judicial system. In most of the cases the experts who work with minors are not specialized in this direction and they don't have the essential background and expertise to handle the cases. So it comes as necessity the establishment of intersectional and interdisciplinary group works, which would cooperate and coordinate the functions with each other.
- The Probation Service is one of the projects which have made positive progress, however there are some problems according to the personnel, which is incomplete. It was suggested a Tool on Supervising the Youth after the Probation Service.

- The legislation in Albania does not provide specific services regarding those offenders who are below the age of criminal responsibility, making impossible to deal with these cases. It should be used a more social approach, having as priority the education and not the sentence of youth.
- It suggested to interact in adaption of the Rehabilitation Plan about the Risk Factors for Minors
- Alternative Sentence should be treated as a legal and social issue. During the period 2009-2014 the number of the alternative sentences is increased and should continue increasing. So in 2012 there were 312 cases, in 2014 there were 412 and in two first months of the year 2015 there have been 84 cases with alternative sentences.
- The fact that the Prosecution does not requires the reports prepared by the Probation Service regarding the reasons and factors that push a minor to commit a crime, means that the Judicial System neglects the specific features in children cases and there are no specialised experts who could study and analyse those reports.
- The Working Group suggested some Amendments in Legislation: -Article 46, Penal Code. The measures with educational aim should not be seen as just an alternative, but they should be considered before the sentence. – The law does not provide the criteria that should be fulfilled for giving the sentence to the minors. – It is really important the best interest for the minor before giving the sentence.
- It is important that when there are recidivist cases, to reconsider the condition of the minimal age. Some other countries have two different justice systems: Juvenile Justice and Children Justice. Also it is assessed that for young people aged 18-21 should exist the opportunity to treat them as minors. These ideas should be taken into the consideration during the process of amendment of the law. Another issue that was mentioned during the session was the fact that it does not exist a whole and a special Chapter only for Minors, but only some dispositions in the law. Therefore these dispositions should be harmonised in one Chapter only.

Session 2: Alternative Dispute Resolution, 19 January 2016

Mediation is an essential service to support the judiciary during its activity and is considered as an effective alternative in dispute resolution, which is in fully accordance with the requirements of Stabilisation Association Agreement, therefore it was assessed as a relevant topic to be discussed in the second meeting of WG I organised with the cooperation of Ministry of Justice and contribution of Mrs. Tetis Lubonja, Director of Integration and Projects at MoJ. The importance of the Working Group relies in a set of recommendations and action platforms to be concluded regarding the mediation as a solution, as

more efficient and simpler for the citizens as well as a standard that is required to be fulfilled towards the opening of negotiations. In the focus of the meeting were the outcomes of the two year activity of the National Chamber of Mediators, while the chairwoman of NCM, Mrs. Drita Avdyli explained its function and activity. Mrs. Marjo Naapi, the Resident Twinning Advisor in Albania described briefly the advancement of the Twinning Project on mediation field. The set of recommendations extracted during the session are as below:

- **Increase the awareness regarding the inter-institutional cooperation and mediation**

The informative and awareness campaigns should be intensified to provide the relevant information about mediation. This will help as well as in the improvement of the interinstitutional cooperation. Providing the appropriate information is required to make people understand that they have other choices when it comes in resolving contradictions or disputes. The main elements to be fulfilled are as followed:

a) The designation of an informative campaign in which media will be involved and the target groups are identified. The close cooperation with the audiovisual media and the press is important. During the process, although media shall respect the rules and regulations which cover the mediation. A qualitative promotion of mediation increases the positive opinion of the citizens about the mediation as a good solution for their disputes. Publishing the training tools such as curricula, brochures or other informative materials can boost the information and awareness level of the public opinion.

b) Improvement of cooperation between institutions about the procedures and mechanisms of reference, based on best practices by other countries more advanced in this direction.

- **Legal Framework Consolidation**

The main goal of this component is the identification of gaps in Albanian current legislation and how to approximate it with the EU Acquis. The promotion of Mediation as a procedure is essential because only in this way it can be provided the free access of citizens into the judicial system. The harmonisation of all laws and Albanian codes such as: Civil Code or the Code of Family is also important. In addition the further progress of mediation is a requisite for the Justice Reform in itself.

a) Implementation of Law no. 10385/2011 it is not completed and successful. The law is a mere translation of Directive 2008/52/EC “On certain aspects of mediation in civil and commercial matters” and does not specifically analyse and takes into consideration the practice of mediation in the Albanian context. Even though the efforts to strengthen this process have been constant, yet an effective implementation of mediation in Albania is still lacking.

b) Law no. 10385/2011 amended is not approximated and in full harmonisation with the other part of Albanian legal framework, most significantly compared to Codes, in which mediation has a small role. As a consequence the judicial practice is limited when it comes in implementing the institute of mediation.

- Training of the actors involved on the mediation process. Training and qualifications are essential in boosting the professional capacities and skills, as well as increasing the level of awareness about the mediation. During this process the financial support is fundamental, due to the high level of cost and the amount of time that will be spent during the trainings and qualification courses. This procedure will facilitate the specialization in different fields for the trained subjects:

- Mediators and trainers of mediation

- Judges, other clerks of judicial system or representatives of legal assistance offices. In most of the cases even these subjects lack the relevant information on mediation, and they do not have the necessary capabilities and knowledge about the procedures and advantages of mediation. This makes difficult to inform and orientate the citizens about mediation and how to use it to solve the disputes.

- State Police. It is an important factor on giving the relevant information about the mediation as a solution for several disputes between citizens. State Police is the first element that is in direct contact with the citizens when there is a dispute, so that's why it is important for the police to give the right information about mediation as a resolution procedure.

- Other experts such as sociologists, psychologists, business operators, public administration employees etc.

- Establishing an electronic database in which all the mediators will be registered, including their contact information and the cases they have solved or are on the process. This will improve the work coordination and will make possible the evaluation of achievements or setbacks during the NCM activity.

Courts have not been really active when it comes on inviting mediators for dispute resolutions, especially when the cases have a family or property feature. The courts do not inform the subjects to solve their disputes by using mediation. This should be an obligatory norm during the judicial procedure.

- **A comprehensive involvement of civil society and different NGO-s in the mediation sector.**

- Several NGO-s have the potential to offer new mediators which would improve the quality of the mediation process, as well as it will increase the number of mediators.

- To lower the costs and expenses of state institutions and for an effective performance during the trainings, consultation and different workshops the NGO-s shall be taken into the consideration as partners in supporting the qualification process of mediators and consolidation of National Chamber of Mediators.

- Civil society with its own expertise should be part of the amendment procedure of the legal framework on mediation, including its mechanisms, activities and other functions.

- NGO-s have higher incentives to offer legal services for free, having a positive impact on the increased number of citizens which choose the mediation as the best way to solve their contradictions.

- **National Chamber of Mediation Strengthening.**

During the two- year activity of NCM are assessed some obstacles and issues that do not allow the establishment of a consolidated Mediation Chamber such as:

- There is no a consolidated and well defined budget of NCM

- Sometimes the courts of different districts do not cooperate with the Chamber and they do not have signed an agreement of partnership. One of these courts is the Berat District Court.

- Consolidation of National Strategy Framework, in which the structure of Chamber is provided, and all the institutional framework is included under one umbrella. Until now the first session is accomplished, and the second one is anticipated to begin in April 2016.
- Adoption of Standardised Documentation (a process that will start on a second momentum)
- Increase of monitoring and supervising capacity of NCM

Session 3: Free Legal Aid, 17 May 2016

Justice system not only guarantees safety and order in the country, but it also has a direct impact in the contract of the citizens with their state by serving as an arbitrator in disputes between the parties. Mentioning the fact that more than 30% of population lives in poverty in Albania, the need to increase the information outreach in Albania concerning free legal aid it is high. During his opening remarks, the Minister of Justice, Mr. Ylli Manjani noted as one of the main problems of free legal aid is linked with the budget and the financing of this sector from the Albanian state. On the other hand, the panellist of this session Mrs. Vjollca Meçaj, Co-chair of the WG and Mrs. Blegina Agolli, Director of State Commission for Legal Aid considered as priority the engagement of civil society organizations in providing free legal services. The Slovak expert, Mr. Vladimir Kordos, introduced the procedures of this service in his country and gave suggestions about the best practices that might be implemented in Albania. Below are listed the recommendations extracted by the discussion between the participants of third session:

- There is a need to reconcept the justice system, implicating that the Legal Aid should not be provided only in the courtrooms but the entire time, including the pre-trial assistance, legal information and primary consultation.
- Free legal service should be provided not only for people in economic difficulties, but also for other vulnerable groups, such as victims of violence, children, asylum seekers, etc.
- Developed and qualified law firms should offer services with more affordable and lower tariffs
- The judicial system should generate and provide enough income to cover cases where the costs of legal services are provided for free. At the same time the state must continue to fund this system.
- Establishment of a monitoring mechanism which would ensure the quality of free legal aid delivery, and will increase public confidence on the service.
- Encouraging cooperation with the National Bar Association and the administration of the Judiciary, that when faced with individuals who are eligible for free legal assistance, to orient them toward the Legal Aid Commission. Especially, it should be promoted the cooperation with the Judicial Police, since the right to counsel arises at the moment of detention.
- The Law on Legal Aid was amended in 2014 and does not have major problems, but its implementation remains limited due to the lack of budget and other tools necessary for the successful implementation of legal aid in Albania.
- There is a lack of transparency of the Legal Aid Commission since there is no provision of public information about the selecting procedures selects that this institution uses to offer legal aid issues, as

well as regarding the budget and expenditure of the institution. There is need to undertake awareness campaigns about the function of the Commission (through meetings with the community, opening of the official web page).

- The number of cases received by the Commission is very low in comparison with the needs of the Albanian population to receive free legal assistance. The Working Groups recommended that offering online services, preparing petition which can be presented to the court itself from individuals (low cost system) may be an option.
- Legal Aid Commission remains functional and active only in Tirana, while 6 regional offices providing are not open and functional yet. Referring also to the reports and recommendations of the EC, the opening of these local and regional services should be operational as soon as possible.
- Although free legal aid remains a primary task of the state and the Justice system, the Working Group considered that this service is offered several times more from CSOs than the state. Based upon this, it is not been considered as positive the Euralius recommendation to exclude the role of civil society organizations in the framework of the provision of free legal aid. The free legal aid remains a service of a specific nature that is directly related to the right to due legal process. Civil Society Coalition for Justice has an important role in this regard, which should require more cooperation and synergy among the parties and actors included
- Given the large number of graduates in Law, the Working Group recommended to engage them in legal clinics to assist voluntarily in providing free legal services, thusby helping them to gain experience and get acquainted with the reality .

Session 4: Information and Public Legal Education, 17 May 2016

The topic of session 4 was focused on the provision of information and knowledge about the law, about citizens' rights, law enforcement institutions, etc., evaluated as necessary component of civic culture and approach to the rule of law. Through the development of legal knowledge and increased security that citizens feel by using the law, the legal information contributes to the strengthening of an active citizenship and a greater social cohesion. Given that the online access on Albanian jurisprudence is not fully guaranteed it was assessed as important to address this topic in the fourth session of Working Group I. During this panel discussion between Director of the Official Publication Centre, Mrs. Ardita Buna and civil society representatives such as Mr. Sokol Muça, UNICEF and Mr. Gerti Shella Director of INFOCIP, was finalized on the achievements of the state institutions to provide the necessary legal information for each individual and his access to opportunities. From the other side, the challenges in this framework were emphasized:

- The Working Group pointed out the lack of a well coordination and planning of continuous legal education of the public, and suggested the drafting of a National Strategy for legal education of the public.
- The Official Journal in Albania and the Official Publications Centre is the first contact of the citizen with legal norms and other acts issued by the Albanian state. Although the positive change in involving laws, and all legal norms as decrees, DCM, or the decisions of the Constitutional Court, there is need for improvement and further development, as is the need for an online act system. acts to date.
- There are difficulties in accessing legal norms and obtaining information in real time and in other cases there is no online information about those old acts. Public service delivery laws should be easily accessible, relevant and updated. The Working groups suggested the digitalisation of old acts.
- Special focus on legal information should also be given to Albanians asylum seeking asylum in European countries, raising awareness and informing them of the asylum rights, cases where their application is accepted and what opportunities offered by Albanian state when they return to their country.
- The lack of a general culture and social impossibilities makes it difficult for citizens to be legally informed for its rights and services offered in terms of legal issues. Civil society, including NGOs and academia can play a key role in the implementation of information and awareness campaigns on increasing knowledge about the laws, legal information and education to the general public.

ASSESSMENT REPORT: WORKING GROUP II

JUSTICE, FREEDOM AND SECURITY

CHAPTER 24

MR. GERON KAMBERI

EXPERT OF THE WORKING GROUP II

POLICIES, STRATEGIES AND LEGAL FRAMEWORK

EU policies within Chapter 24 aim to maintain and further develop the Union as an area of freedom, security and justice. The chapter 24 content is concentrated on issues such as *border control; visas; external migration; asylum; police cooperation; the fight against organised crime and against terrorism; cooperation in the field of drugs; customs cooperation and judicial cooperation in criminal and civil matters*. As result of these any country which inspires to be a Member State need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards. At this framework is an important priority to build a professional, reliable and efficient police organisation. As it is already known the most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails the lifting of internal border controls in the EU.

As an EU candidate country Albania is at an early stage of preparation in this area despite the fact that some progress is already done which is mostly introduced during the Visa Liberalisation regime process with EU. Meantime before and during the negotiations with EU, Albania has to take a set of policy and legislative measures to improve the capacity of institutions in the areas of border management, asylum and the fight against terrorism.

Albania has demonstrated good awareness on the EU's strategic and policy framework in this area. It has taken several steps to align its legislation with the *acquis*, notably through compliance during the visa liberalisation roadmap requirements. In some areas such as the uniform visa format and aspects of the Schengen *acquis*, Albania claimed full alignment with the EU legal framework. Meanwhile in other areas, Albania recognised the need for further efforts to ensure compatibility with the EU standards. The European Commission continuously has recommended that Albania have to pay particular attention to the fight against diverse forms of organised crime and to areas supporting these efforts, such as judicial cooperation in criminal matters and police cooperation.

For that reason Albania needs to prioritise and focus its resources on aligning the legislation, on building capacity and on delivering a track record of investigations and convictions in the fight against organised crime. Also there are a set of action plan(s) for the other areas under this Chapter which need to take such priorities into consideration. Infrastructure and investment projects have to be planned in such a way that these areas are prioritised across the period of accession negotiations and in the case of Schengen also after the accession.

Regarding the **legal and irregular migration** Albania has undertaken a set of policy and strategic measures to meet EU requirements especially to address migration issues in several national sector strategies for the period

2014-20, including social protection and inclusion, employment, business and development, integrated border management, and the fight against trafficking in human beings. Meanwhile the pre-screening process at the borders and reception capacity for irregular migrants need to be improved, in particular at the southern border, to cope with the increasing migration flows. It should be mentioned that Albania publishes every year its migration profile which contains data on Albania migration. In the first semester of 2015, 1 963 irregular migrants were apprehended, compared to 601 during the same period in 2014.¹³ Albania needs to effectively prosecute people's smugglers since the number of arrests and prosecutions remains low. A registration and referral mechanisms on trafficking in human beings is in place but is needed to be further strengthened.

Migration Policies

In Albania migration is regulated by the **Law on Foreigners** and the **Law on the Protection of the State Border (irregular migration)**. The Law No.108 /2013 “On foreigners” is adopted in accordance with International Conventions and Treaties ratified by the Republic of Albania:

- Universal Declaration of Human Rights, adopted by UN General Assembly 1948;*
- European Convention on Human Rights and Fundamental Freedoms, 3 September 1953;*
- International Convention on Protection of Rights of all Migrant Workers and Members of their Family, approved on 18 December 1990;* and also in compliance with the main *Directives of European Union* that have in focus the Migration Policy and migrants’ proper treatment.

Another important law in this matter is **law No.121/2014 “On Asylum in Republic of Albania”**. It is relevant to say that the laws on Migration are improved and updated with the aim to respect migrants’ freedoms and their rights, but there is a lack in implementation and a missing gap when it comes to institutions and mechanisms that should be established for implementing these laws.

At this framework Albania is expecting to prepare amendments to the Law on foreigners as well as a draft Law on employment of foreigners including the implementation of a Migration Management Strategy. Regarding to the legal migration, it is partially compatible with the *acquis* on family reunification, the status of third-country nationals who are long-term residents and on third country nationals that are researchers and students. Also its legislation **is not yet** compatible with the blue card and EU single permit Directives.

Meantime the Albanian legislation on irregular migration is partially compatible with the *acquis* and in particular with *Directive 2002/90/EC* defining the facilitation of unauthorised entry, transit and residence, *Council Directive 2004/81/EC* on resident permits for third country nationals victims of trafficking in human beings, *Council Directive 2004/82/EC* on the obligations of carriers to communicate passengers data and with *Council*

¹³Albania 2015 Report , European Commission, pg. 61, See also: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

Directive 2008/115/EC on common standards and procedures for returning illegally staying third country nationals.

On the other hand its Criminal Code is largely aligned with Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence. With regard to Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, its legislation does not have provisions for employers employing irregular migrants but that the labour law has general provisions sanctioning illegal employment. Albania intends to remedy these shortcomings through the **future Law on employment of foreigners which is under preparation**.

As regards the legal framework **against smuggling of migrants**, Albania has a **Law on Migration Management**, which provides for programmes of assisted voluntary return of those who reside in the Republic of Albania irregularly. Albania is party to the Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organised Crime (adopted 15 November 2000). Albania is also implementing a Strategy for Countering Illegal Migration and has a readmission agreement with the EU and with 10 third countries. Further readmission agreements are planned with Turkey and Ukraine. Albania is also committed to complying with these EU agreements when concluding its own bilateral agreements with third partners in the future. To ensure that readmission works well, Albania has a **Strategy for the Reintegration of Returnees** based on the EU Readmission Agreement. The Department for Border and Migration is the central focal point in migration management policies and established a unified system of data and information collection on migratory movements. The labour inspectorate in the Social Welfare Ministry conducts inspections in high risk sectors for employing irregular migrants. The border police and the criminal police are the leading bodies in the fight against irregular migration.

Asylum Policies

The issue of asylum is regulated primarily by the '**Law on Asylum**', no. 121/2014. Albania is part of the Geneva Convention and its Protocol relating to the status of refugees. Albanian legal framework was only partially compatible with the *acquis*. Albania identified following areas that needed to be further harmonised with the EU *acquis* as:

- 1) Guarantee access to the asylum procedure in Albania where a safe third country does not permit the applicant to enter its territory
- 2) Registration of asylum seekers as such upon submission of an asylum application; Age assessment;
- 3) The definition of acts of persecution; The definition of actors of persecution;
- 4) Exclusion grounds;
- 5) The definition of 'safe country of origin', 'first country of asylum', 'safe third country', 'inadmissible application' and 'border procedures';

- 6)The requirement to formally end the procedure in case of implicit withdrawal or abandonment of the procedure;
- 7)Revisiting the rights of beneficiaries of international protection.

Since 2013 Albania has put in place an **electronic biometric database** with fingerprints and photos operated by the Ministry of Interior. Also the Asylum Office in the Ministry of Interior has a database collecting administrative data related to the asylum application (file number, name of applicant). The fingerprint data collected are converted into an electronic form compatible with Eurodac specifications. In that way, Albania is in a position to implement *Regulation (EC) No 2725/2000* and *Council Regulation (EC) No. 407/2002* concerning the establishment of 'Eurodac' for the comparison of finger prints, as well as to implement *Council Regulation (EC) No 343/2003* establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ("Dublin" Regulation).

In 2014, 427 people, mainly from Iran and Syria, sought asylum in Albania and the asylum was granted to 10 people. In the first half of 2015, 112 new asylum requests were submitted, and 50 people were granted asylum¹⁴. Regarding the **typology of asylum seekers** in Albania currently is hosting Iranian exiles and former residents of the temporary transit location Camp Hurriya, Iraq, receiving 235 people from this community, thus bringing their total number to 479. Recently Albania government has signed a Memorandum of Understanding with UNHCR and supported by US State Department to take just over 200 MEK (People's Mojahedin Organization of Iran, PMOI or MEK -)members on humanitarian grounds. That process got underway, but in 2016 Albania is now expected to take up to 3,000 MEK members¹⁵

The **issuance of identity and travel documents** to refugees started in May 2015 but accommodation capacity and asylum procedure require improvements. While interpretation services are provided, lack of qualified interpreters is a concern as well as a proper asylum case management system needs to be ensured. No specialist unit collects country of origin information and procedures for determining international protection status need to be further improved. For a structured assistance Albania has established initial contacts with the European Asylum Support Office (EASO).

Cybercrime Policies

Albania has established a special unit responsible for the fight against **cybercrime** in the Ministry of Interior as well as a Special Prosecutor's Office for the fight against high-tech crime. At the court level (High Court), there is no longer a specialised department. Albania ratified the Council of Europe Convention on cybercrime and the

¹⁴Albania 2015 Report ,Brussels, 10.11.2015, pg. 62: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

¹⁵ Stevenson, S., Albania Deserves Credit For Saving Threatened Iranians, See more at: <http://www.balkaninsight.com/en/article/albania-deserves-credit-for-saving-threatened-iranians-03-08-2016#sthash.5oedMONt.dpuf>

additional protocol to it and its legislation is largely harmonised with Directive 2013/40/EU on attacks against information systems. To fully transpose the *acquis*, legislative amendments are necessary notably with regard to sanctions. As regards the track record is reported that during 2014, 180 cybercrime cases involving 86 people were detected, compared with 108 cases in 2013 which show a growing concern related to cybercrime cases of criminal offences.¹⁶ An electronic case management system at the prosecution offices started with a pilot phase in January. Also a witness protection programme is in place since 2004.

Albania **does not have** a law regulating a DNA database or register as regulated by the 2009 Resolution on the exchange of DNA analysis results (2009/C 296/01). A law in this respect is under preparation. Albania has introduced the European Standard Set (ESS) and its analysis results (12 markers). Efforts in this area also need to take into consideration the implementation of the Prüm Decision. It has to be mentioned that preparations for building the capacity of the forensic laboratory to collect, compare and store DNA profiles have started and the Combined DNA Index System (CODIS) was installed and users were trained.

With regard to Directive 2006/24/EC on the **retention of data generated or processed in connection with the provision of publicly available electronic communication services** or of public communications networks and Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector, the **Law on Electronic Communications** is partially compliant with the *acquis*. Albania has a centralised criminal intelligence system-MEMEX, for communicating between law enforcement bodies. The IT system for crime statistics is currently being reviewed to provide a clearer and more reliable overview of the status.

BACKGROUND INFORMATION: MIGRATION IN ALBANIA

Albania as a Country of Origin

The relationship between Albania and migration is long and really strong, especially after the collapse of communism. During the year 1991 a massive flow of Albanian citizens left the country aiming especially European countries. Another wave was that in 1997 after the economic crisis in Albania, where the migration process was accompanied with victims dying in the Mediterranean and also with an increase of trafficking cases and organised crime in Albania. The process of migration has never stopped in Albania even though there have been periods when the flux of emigrants has increased enormously. Another flow of migrants as well as asylum seekers mostly leaving the country for economical reasons is seen during the recent years while the Syrian crisis started.

¹⁶Albania 2015 Report ,Brussels, 10.11.2015, pg. 63: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

As a main factor of international migration is explained the economical factor, poverty, unemployment, poor living conditions or the lack of perspective in Albania. Differently from refugees in Syria or Middle East fleeing from the political disputes and internal conflicts, Albanian citizens have always left their country for economical and financial reasons because political, religious or ethnic factors of emigration have been always almost nonexistent. However it is shown that a small percentage of asylum applicants have used as a reason for migration other than economical factors such as: discrimination especially to people affiliated with communities such LGBTI or Roma minority or life threatening situation such as the blood feud in Albania. Yet the main drivers of migration of Albanian citizens remain economy and financial problems.

Concerning some peculiar features of Albanian international migration it is assessed that the target group of population which has higher incentives to leave the country are the working-age youth and males over females. In most of the cases is seen that migration starts as an individual action taken by the person but later on, the members of the family join him/her. One of the key elements of this type of migration is the remittances, that even though after the financial crisis of 2008 has been a slow down of the amount yet they are one of the main sources of living for many families in Albania and an important element for the Albanian economy.¹⁷

Countries where more Albanians have been settled are neighbour countries such as Greece or Italy, with strong cultural affiliation and historical links. Other countries in Europe include: Germany, UK, France or Switzerland.

The end of 2014 and during all the 2015 it was evidenced an increase in number of 'economic asylum seekers' from Albania aiming the EU countries, especially Germany. The majority of people were from northern regions of Albania (Kukës and Tropojë) but also from Vlora and Fieri in south. Regarding the data from Eurostat in 2015 almost 55 thousand (54 760) Albanian citizens have applied for asylum only in Germany, compared to 8 110 applying for the year 2014. During the year 2015 Albania has ranked in the top 5 countries in the number of asylum seekers to the EU.

This flux was justified as a disinformation of the migration policy of German government which was looking for new foreign labour force. To Albanians this was a call to go in Germany and to seek asylum, with the main goal for finding a job and accommodation. The lack of information and knowledge about the asylum procedures, eligibility to apply for an asylum and rights and the duties, caused that many Albanians to suffer bad consequences after this process.

¹⁷International Organization for Migration website: <http://www.albania.iom.int/index.php/en/albania>

Table 1: Asylum applicants from Albania to the EU during the first quarter of 2016**Source:** EUROSTAT

Top Five Countries:	Jan-16	Feb-16	Mar-16	Apr-16	First Quarter of 2016	First Quarter in 2015
EU (28)	2 240	2 315	2 090	1 640	8 285	14 160
Germany	1 310	1,320	975	1 330	4 935	11 330
France	300	300	410	n/a	1010	835
Sweden	85	45	40	65	235	570
UK	135	145	165	n/a	445	550
Netherlands	235	250	225	140	850	50

As seen by the Table 1, comparing the same period at the current year (2016) the number of applications for asylum in the EU is almost as the half of the amount in 2015 (14 160). 3 of 5 countries in which Albanian citizens have applied mostly have seen a decrease of the number of asylum applications, only in France and Netherlands there is an increase of this number, when in these 4 months in Netherlands have been 850 applications, compared to the same period last year where there were only 50 applications. Germany on the other hand has seen a drastic fall of applications, from more than 10 thousand in the first quarter of 2015, this year for the same period are less than 5 thousand applications.

Table 2: Asylum applicants from Albania to EU during the years 2011-2015**Source:** Eurostat

Top Five Countries:	2011	2012	2013	2014	2015
EU (28)	3 080	7 500	11 065	16 950	67 740
Germany	85	250	1 295	8 110	54 760
France	505	2 705	5 065	3 000	3 650
Sweden	275	1 495	1 160	1 705	2 610
United Kingdom	465	1 045	1 670	2 015	1 810
Netherlands	30	20	35	90	1 010

During the past 5 years the number of asylum seekers from Albania to EU countries has increased enormously, from 3 000 applications in 2011 in all the EU, in 2013 it is increased by 3 times and if we compare 2015 to 2013, the number has increased by 6 times. Germany has seen the most drastic boost from 85 application in 2011, there were 8 111 in 2014 and almost 55 thousands in 2015 (consisting of 85% of all applications made in the EU). Netherlands is another interesting case when from 30-35 applications per year having during the period 2011-2014, the increase in 2015 was huge reaching the peak with 1010 asylum applications coming from Albanian citizens.

Table 3: Albania asylum applicants considered to be unaccompanied minors in EU countries

Source: Eurostat

Top Five Countries:	2011	2012	2013	2014	2015
EU (28)	165	335	560	805	1,000
United Kingdom	130	265	470	630	455
Germany	0	5	10	30	225
Sweden	5	45	25	80	210
Belgium	20	10	15	25	40
Netherlands	0	0	0	5	25

One of the problems with the asylum seekers is the phenomenon of unaccompanied children who seek asylum in EU. During the years the number of the Albanian children unaccompanied by their family members who apply for asylum in EU is increased, in 2013 it was 560, 804 in 2014 reaching the highest number in 2015 with 1 000 asylum applicants in EU considered a unaccompanied children. It is relevant to mention that UK is the country which has the half of applications from this category, and by the table is evidenced that this phenomenon has been present in UK during the past years, but it is new when it comes to other EU countries such Germany or Sweden.

Albania as a Host Country

Immigration to Albania it is not as common as the emigration from Albania, but still during the past years is witnessed an increase of the amount of immigrants to Albania, mostly they are legal migrants that come for work purpose mainly. It is estimated that approximately 6 000 foreign citizens enter Albania legally per year, and the majority comes from Turkey, Italy, Kosovo and China as well. The main pull factor to come in Albania

for these foreigners is economy or employment, but the other reasons include: family reunion reasons, study purposes or humanitarian and religious activities, not forgetting the asylum seekers. The majority of migrants reside in Tirana or other big cities such as Durrësi, Vlora or Shkodra.

Up to date there are sporadic cases of asylum seekers travelling through Albania, even though the number of asylum-seekers in the Republic of Albania during 2012-2014 increased significantly: from 16 to 409. This increase occurred mainly due to the coming of Iranian citizens of Ashraf camp coming based on the governmental agreement. 281 Iranian citizens moved to Albania during 2014¹⁸. Transit immigration has marked an increase in 2012, 2013 and 2014 emerging in two forms: i) regular entry and efforts to move irregularly through the territory of the Republic of Albania to other countries of the region ii) in less frequent cases, regular entry and then transit to other countries.¹⁹ Although the numbers of immigrants coming in Albania are small in absolute values, comparing them in previous years and also compared with the Albanian population they still hold a significant percentage. This number would not be a problem for a bigger country or a strong economy, yet it is a challenge for a small one such as Albania with an economy still developing, where the level of unemployment remains high and many economical sectors do not function or are in the preliminary phase. In addition, there is a lack and a huge gap when it comes to studies and reports regarding the migrants or asylum seekers coming in Albania, their rights and duties and how Albania implements the proper mechanisms and institutions to avoid the infringement of their fundamental rights.

Concerning the life of immigrants in Albania it is relevant to say that mostly the legislation is partially compatible with the EU acquis and there are parts of the legal framework where migrants can enjoy their rights and opportunities especially within the policy of family reunion or residence permit issuing, as well as anti discriminatory policies and access to nationality. The main challenge is on the integration process of the immigrants mostly on education and cultural field, as well as having access on public services such as health. Political rights also are not fully guaranteed and Albania drags behind the EU countries and neighbouring ones when it comes to this field.

In overall Albania is trying to improve its legislation making it compatible with the EU directives and standards and to respect all the rights and to offer the same opportunities for foreign citizens residing in here. One of the main important documents is **National Plan for European Integration 2016-2020** published by the Ministry of European Integration. According to this Plan there are some priorities, focused mainly in the legislation framework and technical issues based on strategic documents and progress reports such as to strengthen the capacities of migration management and especially to improve the performance of Border and Migration Police

¹⁸ Albania-Extended Migration Profile 2012-2014, Ministry of Interior Affairs and IOM, pg.13, See also: http://www.albania.iom.int/publications/reports/Profili_i_zgjeruar_i_migracionit_ENG_web.pdf

¹⁹Ibid, pg.13

and the creation of an appropriate legal framework on border security approximated with the Schengen *acquis*. These measures are important for enhancing the cooperation and coordination between institutions²⁰:

- Strengthen cooperation and coordination of institutions involved in blue and green border management and ensure the financial stability of the supervision mechanisms.
- Coordination and cooperation among institutions part of IMOC, also the assets and capacities part of the institutions should be fully functional.
- Improve forms and elements of security for residence permit foreign citizens in Albania.
- Adopt a new law on border control and secondary acts deriving from it.
- Adopt strategy and action plan on migration by taking into account the lessons learned from the implementation of the previous instruments; A close monitoring is needed for the implementation of the strategy and action plan on the reintegration of the returnees.
- Border and Migration Police needs to pay special attention to corruption, risk analyses and improve cooperation among law enforcement agencies.
- IMOC in cooperation with the participating institutions need to select the information for the risk analysis.
- The issuing of the ID cards on foreigners needs to be reviewed and monitored.
- Strengthen the capacities of migration management.
- Create an appropriate legal framework on border security approximated with Schengen *acquis*.
- Further intensification cooperation between the state police and other law enforcement agencies within and inside the country.
- Lead asylum toward a more effective and sustainable system, ensured by due coordination and management. Provide refugees with ID cards and travel documents.

Except the implementation of the legislation in accordance with EU *acquis* there are some other issues especially in infrastructure, human resources and administrative capacities that Albania is facing to monitor and coordinate the migration and asylum process. First of all it is needed a better intersectional cooperation and coordination of the authorities involved in border management and their international partners. Several trainings should be organised to improve the performance of the authorities and their experts. Another problem is the lack of data and statistics according to the human trafficking, organized crime or the evaluation of the risk. With the new wave of asylum seekers the increase of the capacity of the border police must be done as soon as possible, when the new personnel should be qualified and well informed regarding the technical issues and different situations. Reception capacity close to the border needs to be increased, as do the technical and

²⁰Albania's National Plan for European Integration 2016 – 2020, Chapter 24: Justice, Freedom, Security, pg. 704-706, See also: <http://www.integrimi.gov.al/al/dokumenta/dokumente-strategjike/plani-kombetar-per-integrimin-europian-2016-2020&page=1>

financial resources of the Border and Migration Police, in order to address the growing irregular migration flow to Albania.

INSTITUTIONAL FRAMEWORK

As Report of 2015 from European Commissions says concerning Chapter 24: *“Albania is at an early stage of preparation. Steps have been taken to improve the capacity of institutions in the areas of border management, asylum and the fight against terrorism.”*²¹ Yet with the rapid developments in the European context, this is not enough because *“...the lack of the new cross-sector national migration strategy remains an issue of concern. The pre-screening process at the borders and reception capacity for irregular migrants need to be improved, in particular at the southern border, to cope with the increasing migration flows.”*²²

The main authority dealing with the issues of migration and asylum is the **Ministry of Internal Affairs** in Albania supported by the following structures: **State Police / Border and Migration Police; Anti-Trafficking Unit and The Directorate of Citizenship and Refugees**. A great importance has the cooperation with the other ministries such as: **Ministry of Justice; Ministry of Social Welfare and Youth; Ministry of Foreign Affairs (Consular Service), Ministry of Education and Sports** and other institutions.

Based on law No. 121/2014 ‘On Asylum in RA’ the establishment of the **National Commission on Asylum and Refugees** was decided as the only competent decision-making authority for all complaints coming from asylum-seekers against the decisions of institutions responsible for asylum and refugees in Albania. This Commission consists of the National Commissioner which is appointed by the respective minister’s order and the other members such different representatives from the Ministries dealing with the migration and Asylum (MFA, MSWY, MES, MoH and also from Albanian Helsinki Committee), all having the right of one vote during the decision making procedure.

Although there is a high level of motivation and hard work from the authorities to implement the legislation framework and to have good results in these fields, there are some problems. One of them is the enforcement of the law no. 9668 of 18.12.2006 “On the emigration of Albanian citizens for employment purposes”, because it defines only general responsibilities of government authorities

²¹Albania Report 2015, European Commission, pg.61, See also: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_albania.pdf

²²Ibid, pg. 61

concerning emigration and does not make a clear distinction between two different groups of migration: emigrants and returned migrants. So this means that both of them take the same services because of the single status they have, by the law: the emigrant status. Without a clear distinction of what “returned emigrants” are and which are their rights, some of the services needed for the integration of the returned emigrants such as information, trainings or specific education, are prohibited to this group.²³

Involved Institutions

The management and coordination of migration and border policy is set up in different institutions in Albania and in different levels including: Governmental Level and Inter-Institutional Level.

Ministry of Internal Affairs (MIA)

The main institution coordinates its work with the other structures under its authority such as General Directorate for Border and Migration and General Directorate against Organised Crime and Serious Crime of Albanian State Police, Directorate for Citizenship and Refugees etc. National Strategy of Integrated Border Management 2014-2020 adopted by DCM no. 119 dated 05.03.2014 is designed for coordination and cooperation among all authorities, with focus on border security and trade facilitation, to improve the systems of integrated border management, aiming at reaching the common goal of open but controlled and secure borders. Main responsibilities of MIA consist of:

- prevention and fight against irregular migration through integrated border management;
- control of foreigners during the procedure of visa application to enter the Republic of Albania, in close cooperation with other structures of MFA;
- border check for the conditions and criteria of entry, stay and transit in the Republic of Albania;
- issue of residence permits to foreigners;
- control of lawfulness of stay of foreigners in the territory and taking of measures of voluntary removal, expulsion, detention of irregularly-residing in the territory and their return to the country of origin or transit; implementation of readmission agreements with other countries;
- reception, interviewing and screening of citizens returned at the border and also their information on the possibilities of reintegration in the country;
- regional cooperation and more extended cooperation in the area of exchange of statistical data on illegal migration and early warning;
- identification and treatment of victims/potential victims of trafficking in human beings in implementing the National Referral Mechanism and Standard Operating Procedures for identification, referral and assistance to potential victims of trafficking;

²³Strategy on Reintegration of Returned Albanian Citizens 2010-2015, June 2010, pg.1, See also :

http://www.esiweb.org/pdf/schengen_whitelist_project_Strategy%20on%20Reintegration%20of%20Returned%20Albanian%20Citizens%202010-2015.pdf

- including the unaccompanied minors as regards the fight against trafficking and smuggling of persons, on asylum and citizenship etc.²⁴

Ministry of Social Welfare and Youth (MSWY)

MSWY through its directorates and National Employment Service, performs its activity in the field of development and monitoring of state policies for migration and related issues: employment, education and vocational training and labour immigration, labour relations etc. As of 2010, Migration Counters (MC) have been operating under the National Employment Service and they are set up in all the local Employment Office, as important part of the mechanism of support for reintegration. These structures serve as key contact points at local level to collect detailed data for the returned Albanian citizens who approach them voluntarily. Migration Counters perform the following actions:²⁵

- interviewing of Albanian citizens, returnees who approach the counters voluntarily
- giving information for public and private services in line with the identified needs (where appropriate);
- referring to the public and private services (where relevant) and also specific projects of civil society in line with their needs.

National Strategy for Employment and Skills 2014 - 2020 has as a main objective the realisation of smart, sustainable and inclusive growth and an inclusive society based on: “best skills and better jobs for all females and males. The strategy emphasizes the need for effective and efficient labour migration policies such as: establishment of information and consultation capacities for regular emigration for employment, improvement of infrastructure for provision of services to emigrants, strengthening of private employment agencies, boosting of cooperation with other countries for the management of emigration for employment through bilateral employment agreements, recognition of professional qualification and experience gained abroad etc., on-going improvement of immigration legislation with the EU law which require activities and concrete time limits set in the action plan.

Ministry of Foreign Affairs (MFA)

It is responsible for the drafting and implementation of visa policy and negotiation of necessary acts of international cooperation in the field of migration; supporting the Albanian emigrants abroad and protecting their rights, organising the Albanian Diaspora, coordinating actions with the MoI structures on readmission of Albanian citizens etc.

Migration policy of Ministry of Foreign Affairs includes:

- improvement of assistance for the vulnerable citizens focused on persons in extreme difficult situation, with special attention on assistance to prisoners and persons under investigation and organisation of crises and emergency systems;

²⁴Albania - Extended Migration Profile 2012-2014, pg. 48. See also:
http://www.albania.iom.int/publications/reports/Profili_i_zgjeruar_i_migracionit_ENG_web.pdf

²⁵Ibid, pg. 49

- improvement and digitalisation of services and information for consular services and improvement of digital information available to citizens;
- facilitation of movement to other countries;
- improvement of treatment of foreigners in Albania by guaranteeing rights of foreigners upon arrival to Albania and cooperation with other institutions dealing with foreigners and facilitation of conditions

LIST OF LAWS, STRATEGIES, DOCUMENTS AND REPORTS SCRUTINISED

- ➔ **National Strategy of Integrated Border Management 2014-2020** adopted by DCM no. 119 dated 05.03.2014
- ➔ **National Strategy for Employment and Skills 2014 - 2020** approved by Decision of the Council of Ministers no. 818 dated 26.11.2014
- ➔ **The Strategy and Action Plan against Trafficking in Human Beings, 2014-2017**
- ➔ **Strategy for Reintegration of Albanian Returnees 2010-2015 and its Action Plan**
- ➔ **Law No. 108/2013 "On foreigners",** dated 28.3.2013
- ➔ **Law No. 121/2014 "On asylum in the Republic of Albania",**
- ➔ **Law No. 9861 "On the Control and Surveillance of the State Border",** dated 24.01.2008, is partly approximated with: Regulation 562/2006/EC of the EP and Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).
- ➔ **Law No. 7905, "On the Code of Criminal Procedure of the Republic of Albania",** dated 21.03.1995
- ➔ **Promoting decent work opportunities and protection of migrant workers in Albania (2015-2016)** Report: IOM, MSWY and Ombudsman
- ➔ **Albania's National Plan for European Integration 2016 – 2020,** Ministry of European Integration in Albania
- ➔ **Albania's Report 2015,** European Commission
- ➔ **Albania's Report 2014,** European Commission

RECOMMENDATIONS OF WORKING GROUP II

The four sessions conducted in the framework of Working Group II (Justice, Freedom and Security) put on focus such challenging topics as: Policies of Migration and Asylum, Strategy of Re-integration of Albanian citizens, and cyber crime and security issues. During the working groups, with the contribution of an assortment of Albanians and Slovak experts, with the participation of relevant ministries and state institutions and the full engagement of civil society organisations, an array of recommendations are concluded, which are listed below for each session organised in the frame of working Group I (Judiciary and Fundamental Rights) for the period of July 2015- May 2016.

Session 1: Migration and Asylum Policies, 18 June 2015

During the period of 2014-2015, an increase of asylum-seekers applications is reported in Albania. In light of this emerging concern of asylum-seekers phenomena, the first session of Working Group II addressed the topic of migration and asylum policies, as prominent and challenging issues in Albania and the region. Mrs. Elona Gjebrea, Deputy Minister of Internal Affairs in Albania contributed during the session with her insights about the recent developments, successes as well as obstacles toward a flexible and manageable process. Based on their expertise and the latest studies conducted, representatives from International Organisation of Migration in Slovakia, IOM Albania, UNHCR, shared their respective countries approach toward migrants, refugees and asylum-seekers. The debates were mirrored in a set of policy recommendations, listed below:

- During 2011 – 2015 there is an increase of asylum-seekers applications in Albania (mainly transistors). Therefore, there is a need of a better management of the situation by providing sufficient human resources in the Border Police. (The actual staff of 1 police for 50 asylum seekers is inadequate).
- The Working Group sees as necessary the set-up of special effective reception centres first in the south part of the country and then in the north.
- The Working Group recommended the creation of an inter-institutional platform to analyse the risk of irregular immigration, by strengthening the cooperation and coordination between institutions and supervising mechanisms.
- There is an immediate need of cooperation between the Ministry of Internal Affairs and civil society representatives on the preparation and presentation of the New Profile of Migration (which will be finalized within 20 days). The assistance from the civil sector consists especially in offering accurate statistics as well as track records of migration management assessment.
- Since there is a lack of a comprehensive approach for migration policies and there exist many scattered documents in this framework, it is recommended the compilation of a comprehensive and condensed document, affiliated with concrete and practical instruments for migration.

- In October 2015, 90 % of asylum seekers are expected to return. Asylum- seekers in Germany are mainly from the region of Kukësi and Korça, these latter ones are mainly emigrants returned from Greece because of the Greek crises, who couldn't re-integrate in Albanian society and have consider as a solution the asylum in Germany. It is necessary to prepare an Analysis about the reasons of Albanian citizens leaving the country and seeking asylum in EU countries, especially in Germany.
- The Unaccompanied Minors phenomenon (about 1200 in Italy), remains still a concern in migration process. There are no reception centres for minors. Nevertheless there are joint collaborations between Ministry of Internal Affairs and Ministry of Social Welfare and Youth in this regards, it is suggested the review of unaccompanied minors' protection system in Albania, and improvements in the legislation.
- Concerning the Strategy on Reintegration of Returned Albanian Citizens, it is necessary that the consultation and information offices offer a package of more concise information, attached with practical and concrete advices for returned emigrants, including here the vulnerable groups and their specific needs.
- As result of Territorial Administrative Reform in Albania, the WG recommended the re-organization of State Social Service, more concretely restructuring the Regional Directorates in regions and municipalities of Albania.
- There are about 7 000 migrants unregistered in Albania (voluntarily declared). It is recommended to undertake consecutive steps as: identification of their needs, offering the necessary information and the registration. The unregistered the Roma and children of returned families represent one of the main problems because their data and information are crucial for their access to education and other public services.

Session 2: Albania as a transit/host country, 11 April 2016

The second session of the Working Group II represents the follow up of the previous session of WG II, 10 months ago in order to address the new situation of refugees and possibility for Albania to become a transit or host country. Concerning the recent developments in regional level, such as the closure of the border from Greece and Macedonia, the risk that Albania might become the next destination for the refugees increased instantly. The increase of this risk made immediate to reevaluate the policies for new enforcements and the increase of capacities for Albanian institutions to handle in a proper way the emerging crisis. The Slovak expert, Mrs. Alexandra Marangone gave suggestions how to cope with this challenge learning from Slovak experience With the participation of the Head of Political Section of EU Delegation in Albania, Mr. Jan Rudolph and experts from Ministry of Internal Affairs, Mrs. Alma Mele and UNHCR, Mr. Hortenc Balla a wide list of conclusions and recommendations were achieved:

Institutional Capacities in the Asylum and migration management

- Although Albania is far less likely to be affected by a large influx of refugees, a level of preparation should not be if there will be an increasing flow of refugees. Capacity and responsible authorities should be prepared for such cases.
- Although the shelters and centres in Albania provide the basic living conditions and sanitation remains problematic space to accept more refugees and the lack to provide the conditions necessary if the number increases in the future. Also be more other requirements in addition to the minimum needs such as education, health care, assistance by sociologists and psychologists, employment or training opportunities etc.
- Being that Albania has lack of capacity to host a very large number of refugees, another responsibility is to become a transit country. According to this suggestion, persons and asylum seekers who have no final purpose can stay in for short period of time(no more than 6 months) and can be trained on the language of the country where they will go. This process is followed by Slovakia, which held those who had the final destination of the United States are trained in English.
- Should be strengthened border security measures. The EU also plans to deploy teams or experts to those cities that have airports for a more effective process and without much cost.
- Strengthening of Local Police Departments, especially those areas that coastal or border. Increasing patrols and staff.

Legal framework and procedures undertaken in the area of migration and asylum

- The Albanian legislation on foreigners and asylum is updated, completed and in compliance with EU directives. Another problem is the lack of cooperation with government organizations or interest groups during the process of drafting the laws or decisions of the Prime Minister as the case of two DCMs for the approval of the list of the third countries to secure and the decision to the national Commission of Asylum and Refugees.
- Due to European Legislation and directives of the Commission changing steadily since the very process of illegal migration is dynamic, the Albanian legislation should be more flexible in adapting and changing it frequently and efficiently to always in line with the acquis of the EU and updated
- Focus on the “principle of non-refoulement”, which means failure to return the refugees to their country of origin when this is uncertain, and there is a risk of infringement of life and integrity.
- Create a unique card number and advice ID with biometric residence permit are two other steps that should be finalized in this regard.
- Documentation for foreign nationals who enter illegally in Albania is the most important element for enabling the identification and registration. If enabled device with biometric identification card for all those who provide refugee status.

Session 3: (Non) legal emigration of Albanians and reintegration of returned citizens in Albania, 11 April 2016

Affected by the high number of its own citizens seeking asylum in EU, Albania is facing a real challenge on integrating the returned Albanian citizens. This new wave of refugee seekers whom the request has been denied, combined with the regular emigrants returning in their country because of the crisis and financial problems, has increased the level of unemployment and families that are in the edge of poverty. Given that the Strategy of Reintegration was concluded on February, was evaluated as relevant to organise a working session on reintegration process of returned citizens in Albania. During this session the Executive Director of Albanian Helsinki committee, Mrs. Erida Skëndaj, explained the challenges Albanian institutions face and gave some alternative solutions. On the other hand, Mrs. Enkeleda Toska, from General Directory of Border and Migration, introduced some achievements and positive measures taken from the state authorities. All the recommendations in the framework of policies and mean of actions are listed below:

Cooperation with various stakeholders both within and outside the country

- The role of civil society in the whole process of the European Integration, but even more specifically on this situation is important and key element.
- Should be a coordination of work between the authorities such as the Ministry of Interior and Border Policy on identifying and determining the conditions of refugee or asylum seeker comes. It is very important that return of refugees should not be automatic, but to consider and study each case in detail and specific through many filters
- There is a need for increased information exchange and establishment of contact points to prevent the migration flow. It is important that the exchange of information to be strategic as well as technical assistance which also include the EU and Frontex.
- There is a positive change in conducting interviews and forms for identification and registration of refugees where the languages were added besides filling them Albanian and English language, including Arabic, Persian and Pashtu. However due to the wide range of people who can come it is very necessary to increase the number of languages including others. It is a bit difficult for the relevant authorities, because these languages are rare and specific in Albania, so that a deeper cooperation with civil society or other interested stakeholders can facilitate the process.
- It is suggested that the establishment of joint and mixed with local experts and European ones that can help with their experience in technical and logistical problems arising from illegal immigration.
- Increased partnership and cooperation with foreign non-governmental organization of those countries where more Albanian citizens seeking asylum or migrate illegally. In this way is becomes easier identification of Albanian refugees and their demands. Also offered assistance to these people more easily.

Reintegration of returned Albanian citizens

- The problem of refugees and illegal immigrants of Albanian state in the EU continues to be present in many EU countries. Albanian government and authorities should take measures to reduce illegal migration as

Albania remains one of the countries with the highest number of asylum seekers. Measures to changes this will positively impact on Albania's path towards the European Union.

- The Helsinki Committee has introduced as a problematic issue to be taken into consideration by the relevant institutions, for Albanian citizens who were deported in our country. Their integration in daily life should be careful and should take action immediately. Infrastructure leaves much to be desired.
- For a good management on the situation at border crossing points, state institutions may require collaboration with philanthropic organizations, to assist them with food and clothing.
- Lack of data and studies in relation to asylum and illegal immigration of Albanian citizens towards the EU. It is important to make such studies to see the situation and concrete measures to be taken and respond to situations that may arise.
- Information on the rights and obligations of the refugee including the right to appeal if he is unhappy with the decision taken by the authorities on his application for asylum.
- Inform people that come in Albania and those from Albania. In most cases people do not know their rights and obligations and the procedures that are allowed and not allowed.
- It is necessary to inform sensitize the Albanian citizens on the dangers of illegal immigration and the reasons, possibilities and procedures for acceptance or rejection of the asylum.

Session 4: Cyber crime and cyber security in Albania : New challenges in the framework of EU integration process., 24 May 2016

Cyber Security is a critical issue included not only in chapter 24 as part of national security, but also is covered by Chapter 10 (Information Society and the Media). Regarding cyber security in Albania, this is a new field which brings new challenges and threats through digitalization and connectivity. Thus, is substantial the enforcement of the capacities in administrative field, as well the process of updating to inform the interest groups should be ongoing. Cyber attacks have the potential to severely damage the exchange of information of state institutions, telecommunications and financial and banking system, by causing even the disruption of vital services. In order to cope with security issues of cybercrime, Albania needs to undertake a number of steps of the institutional and legal character in an effort to deal with this phenomenon. The participants of this session were from the Minister for Innovation and Public Administration, Mrs. Irena Malolli and Mrs. Vilma Tomço, from state institutions, and experts from SCO-s and from Slovakia, Mr. Robert Bohunicky. The focus was on digitalization process and the challenges coming from this process, especially the cyber threats. The full set of recommendations is listed below:

Further completion of the legal framework for cyber security

-The process of digitalization is challenging not only in drafting the laws but rather in the implementation of the legal framework. A positive step of the Albanian state is related to the approvals of different laws such as the Law on Protection of Personal Data, for Electronic Communication or the one on Electronic Trading, as well as

the signing of a number of international agreements and conventions such as the ratification of the European Convention on Cybercrime in 2002.

-There can't be achieved the full harmonization of the law with *acquis* European since this process should be gradual and should be based in the Albanian context. As is the case of copyright in the internet, that if in Europe it is considered as a criminal offense in Albania has not yet been included in the Criminal Code.

-The difficulty with the Law in the field of Cyber Security is found in the fact that it is a new and dynamic legislation, since the field is alike as well because it changes rapidly. It complicates the process for the Albanian state to be in step with the legislative updates and changes of the EU.

-There is lack of proper information on legislation entities and individuals in relation with security and cybercrime. As is the Case of The Law for Electronic Trading, in which the subjects that offer this service do not know that they have been affected by the obligations of this law.

-*The Draft Law on Cyber Security* should have as its focus two key moments: 1. The establishment of a National Authority for Cyber Security and 2. Listing the information infrastructures that are considered as critical.

-The process of the identification of the critical structures is a new method introduced in Albania. The updating of information should be done at least once in two year and the incidents for all the critical structures should be reported. Because of the character of their liaison character the whole system could be jeopardized. Although the EU has a list of indicators for these critical structures, they should be adjusted to the technological development and that of the Albanian institutions. So some of these indicators such as spatial navigation can be ignored since it cannot be implemented in Albania. Also, new indicators can be created such as security and public order, which are priorities in Albania.

Strengthening human and technical capacities to combat cybercrime

-Human capacities in this regard are scarce and lacking. Focus is needed not only in training of police experts but also the judiciary and prosecutors by deepening the cooperation among the institutions.

-It is recommended to train at least one judge and one prosecutor for every district court on cyber security and cybercrime, in order that coordination of work becomes easier among the police and the investigation and trial institutions across the country.

-An informer's network should be build inside the state and abroad for faster and accurate information exchange. During cooperation what are known as "contact point" should be established.

-It is important that police and other institutions to have not only very good technical knowledge and high expertise in the field, in order to know how it functions, but a necessity appears to be and the high level of the English language. This can be achieved through training actualized inside the police institutions.

-Trainings by experts of the European police or even internationals like Europol or Interpol are needed for exchange of experiences, methods and how to distinguish and investigate cyber crime. This is necessary even for judges and prosecutors to deliver after all the necessary information.

Cooperation with actors in national and international level

- With other social and economical sectors such as the sector of banks, or other electronic subjects. For information exchange on threats and problems they may have faced. For this there can be held meetings between the police and representatives of these sectors for information exchange but also for building bridges of cooperation and coordination.
- With the civil society and non-governmental organizations, to enable information campaigns through TV spots or different brochures, or information sessions. These organizations have also the necessary structures to enable contact numbers or online websites for informing and reporting incidents.
- With educational institutions that can help educate and inform , especially children and young people that may become a victim of cyber hazards as well as pornography.
- Further cooperation also with entities and structures that should protect electronic information and should share it in case of danger or threat.
- With international authorities where it is noted that the police of the Albanian state has built a good cooperation with Europol and Interpol, which is also important due to the nature of cybercrime that knows no borders.

Informing and Monitoring for a safer internet

- There is a lack of attention towards this sector, it is discussed little about it and this because of the fact of its technical and specific character. There is need for more awareness and information campaigns on cyber risks and how to protect ourselves from it.
- It is important a constant process of monitoring and supervision using a particular register for all the cyber incidents and reports coming from the concerned subjects.

ASSESSMENT REPORT: WORKING GROUP III

AGRICULTURE & FOOD SAFETY

CHAPTERS 11 & 12

Mr. Florian Xhafa

Expert of Working Group III

POLICIES AND STRATEGIES

Agriculture

The EU integrated approach to food safety that Albania intends to follow aims to assure a high level of food safety, animal health, animal welfare and plant health through coherent farm-to-table measures and adequate monitoring, while ensuring the production growth of the sector and an effective functioning of the internal market.

The Albanian government policy for agriculture and rural development has been driven by the crucial importance of the sector in the overall structure of the economy and the huge social impact it bears. The main policy orientation stipulated in the Strategy for Agriculture and Rural Development 2014 – 2020, embodies the main principles and pillars of the strategic planning in the EU for the CAP 2014-2020 while maintaining the focus on the specific needs for development of the agriculture and rural areas in Albania. During the drafting of this strategic document, the government has been heavily influenced by the obligations and requirements deriving from the Articles 70 “Approximation of Legislation”, and 95 “Agriculture and Agro-industrial sector” of the Stabilisation and Association Agreement (SAA), as aggregated with the respective sectorial situation in Albania, bearing into consideration its current level of development and the projected social impact. The largest part of financial support to agriculture and agro-industry, as forecasted by the new National Inter-sectorial Strategy for Agriculture and Rural Development (NISARD) 2014 – 2020, will be oriented in two types of instruments:

- Public investments in agriculture infrastructure, especially irrigation/drainage, erosion protection of land, extension service, marketing and distribution in suitable markets, prevention and fighting of disease, and identification and registration of the property rights; and
- Specific instruments as subventions for producer/farmers for investment in agriculture, financial incentives or facilitate access in credit and other incentives for working and prevention of the agricultural land.

The main deficiency of the system related to the policy and strategic implementation, remains the statistical information based on which the monitoring of the Objectives and respective Indicators is achieved.

Food Safety

The Food Safety policies in Albania, aim to set up high food safety standards to protect the health of the consumers. The production and consumption of food is crucial and has economic, social and environmental consequences. The importance of placing the food and nutrition policy as a key goal of development policy is a strategic objective and reflects the global and domestic trends.

The draft Inter - sectorial strategy “On food safety and consumer protection” (in the process of adoption) takes into consideration the obligations and requirements deriving from the SAA, article 76 “For the Consumer Protection” and article 70 “For the Albanian legislation approximation”.

The situation and the evolution of food safety and quality assurance in Albania is the result of the continuous pressure from EU and other international organisations to adopt a system of norms, technical requirements and to establish institutions and services necessary to: i) reduce the risks for Albanian consumers and producers for cross-border diffusion of animal diseases, ii) allow the gradual integration of Albania in international markets and, iii) harmonize the Albanian legal framework with the EU system of quality assurance and food safety, as one of the key criteria for EU accession.

This process has led to the adoption of framework legislation, which still does not produce a compliant result to the food quality and safety (mainly that of animal origin) required by the EU, to allow the free movement of these goods originating in Albania, in the territory of EU, but is largely in line with the principles and basic requirements endorsed by the legislation of the most advanced countries.

Despite the introduction of main principles and basic obligations to ensure food quality and safety through the adoption of primary legislation, the system has still suffered incomplete and partial solutions as result of missing tools related mostly to operational procedures compliant to the EU principles adopted, integrated administrative processes resulting in proper law enforcement, and clear policy choices in development and establishment of responsible public institutions. The deficiencies created as a result of a slow process of development of secondary legislation and the lack of a clear vision in establishing competent authorities have been filled in at a proportional rate by market driven solutions.

BACKGROUND INFORMATION

Agriculture in Albania is one of the important branches of the economy with 16.9% of GDP (INSTAT) and 43% of the working population being in rural areas. According to national definition for the calculation of the rural/urban population there is about 50.2% of the population defined as rural and about 49.8% – defined as urban population (INSTAT 2010).

The area of utilized agricultural land is increased with 24,000 ha (6%) from 2007 to 2014 partly through support to plantations of 15,000 ha of new fruit, citrus, olives and nut trees as well as vineyards. Now 64% of the total agricultural land is utilized, but considerably more hectares are needed for utilization in the years to come. The average farm size has increased from 1.14 ha per farm in 2007 to 1.26 ha per farm in 2013. These figures show a

positive trend, but still far from a level needed in order for a family to have an average income from farming, and far from the EU average.

The value of agricultural production measured in Gross Value Added (GVA) has increased from ALL 166,000 million in 2007 to ALL 246,000 million in 2013. Labour productivity (GVA/AWU) has marked significant growth too, more than doubled in 2012 compared to 2001, while compared to 2007 the growth was 65 %. **However, the economic performance of the sector is still weak due to small scale and fragmented farming, low level of technology and low total factor productivity compared to EU averages. An enhanced effort is needed to lift the competitiveness of the sector further.**

Table: Contribution of agriculture sector in the Albanian economy

Source: Ministry of Finance, Report 2013

Indicator	Unit	2001	2007	2008	2009	2010	2011
Share of agricultural sector in GDP	In % of GDP (current prices)	21.9	17.1	16.7	16.7	17.3	17.5
People employed in the agricultural sector	Persons	526,337	542,000	568,549	496,190	506,664	506,664
Agro-food exports	ALL (million)	3,953	7,079	7,216	7,718	9,299	11,139
Agri-food imports	ALL (million)	37,360	60,895	73,160	74,690	87,003	91,463
Agri-food trade balance	ALL (million)	-33,407	-53,817	-65,944	-66,973	-77,705	-80,324

INSTITUTIONAL FRAMEWORK

Institutional development and adoption of new regulatory framework in the light of EU accession has been on the attention of the Albanian Government as a crucial requisite for addressing the proper implementation of the development policies of the Agriculture and Rural Development sector. The main and most related regulatory reforms implemented recently, may be identified as:

- the establishment and functioning of the core institutions for the implementation of the Rural Development pre-accession assistance (IPARD), such as the Management Authority and the Agriculture and Rural Development Agency (ARDA);
- the enactment of Law no. 9817, dated 22.10.2007 “On Agriculture and Rural Development” which regulates programming of national support schemes for agro-food sector, establishes Agriculture and Rural Development Agency (ARDA) for the implementation of the national support and introduces monitoring and evaluation of the national support schemes,
- the enactment of the Law no.9863, dated 28.01.2007 “On Food” which establish the National Food Authority and regulates the functioning of the food and feed safety system in Albania;
- the enactment of the Law no. 10465, dated 29.09.2011 “On the veterinary service in the Republic of Albania”, which establishes the organisation and functioning of the veterinary service and the requirements for sectorial specific private activities;
- the enactment of the Law no. 38/2012 “On Agricultural Cooperation Societies, establishing the requirements for the creation and functioning of Albanian Agriculture Cooperative Society similar to the European Cooperative Society (SCE) as stipulated by COUNCIL REGULATION (EC) No 1435/2003 .

The Ministry of Agriculture, Rural Development and Water Administration (MARDWA), which is the responsible public authority for agricultural, rural development and food safety policymaking in Albania and also the leading authority as regards the coordination for the implementation of the respective policies, whether the actual implementation of these policies is managed by several agencies depending by the Minister of Agriculture, Food and Consumer Protection and some agencies or bodies depending from the Minister of Environment, Forestry and Water Management, Minister of Public Works and Transport, Minister of Health, Minister of Labour, Social Affairs and Equal Chances and Albanian Development Agency.

The main and most related structures involved with the management of Agriculture and Rural Development policy and Food Safety policy are:

- a. **Managing Authority (MA)** is the General Directorate of Programming & Evaluation of Rural policies within the MARDWA, which is responsible for managing the IPARD programme in an efficient, effective and legal manner within the scope of the responsibilities.

During the process of preparation of the Rural Development Program, the MA has the obligation to ensure a transparent and all-inclusive process through the participation of stakeholders such as farmer and agro-processing associations, LGAs and civil society representing interested parties.

- b. **The Agriculture and Rural Development Agency (future IPARD Agency)** is an independent public body, operating under the direct responsibility of the Minister. It is responsible for the implementation of the support measures in the agricultural, food and rural development sector (also designated for future implementation of the IPARD programme), and more specifically for executing the implementation and paying tasks in accordance with the principle of a sound financial management, as defined under Article 14 of the Sectorial Agreement. The formal designation of ARDA was done by Order No. 207/23.06.2009 of the Minister of Agriculture, Food and Consumer Protection.

The main functions provided to the ARDA following the provisions of Annex 1 to the Sectorial Agreement, for the bodies of the Operating Structure, are:

- Implementing functions – selection, publicity.
- Paying functions – authorisation and control of commitments, authorisation and control of payments, execution of payments and accounting for commitment and payment.

- c. **National Food Authority (NFA).** The NFA was established by the Law no.9863, dated 28.01.2007 “On Food”, as the official control authority responsible for food and feed safety including plant protection.

The organization and functioning of NFA was approved by the Decision of Council of Ministers in October 2009 while the agency became fully operational by 1st September 2010. Due to the adoption of the Hygiene Package (Regulations 852/2004, 853/2004, 854/2004 and partially 882/2004) into the national legal system during 2010, the official control performed by NFA should certify the level of cross-compliance with the required standards of the Food Business Operators (FBOs) also as regards the process of financing under the subsidy scheme (IPARD Like included), but the limited capacities and respective human resources of the NFA along with the remaining legislative gap (as far as it concern the transposition of Food & Feed Safety *Acquis*), does not allow this function to be properly implemented.

The primary role of the NFA is to enforce food and feed safety related regulations while other tasks regarding policy development, preparation of legislation and crisis management is shared with other responsible ministries.

- d. **The Food Safety and Veterinary Institute (ISUV)** created by the merging of the Veterinary Research Institute and the Institute of Food Research by the Decision no. 515, dated 19.07.2006, of the Council of Ministers, is the Reference Laboratory for Veterinary and Food Safety for the official control of food and feed of animal origin in Albania.

This Institute hosts 9 Veterinary laboratories specialized in various fields. The laboratories are situated at the IFSV premises in Tirana. FSVI carries out the activities based on the Food law and the Veterinary Law.

- e. **The Environment Inspectorate** as stipulated by the Law no. 10431, dated 09.06.2011, "On Environment Protection", Law no. 10448, dated 14.07.2011, "On Environmental Permits", and Law no. 10463, dated 22.09.201, "On Integrated Waste Management", is the responsible public authority for performing official control among other to Persistent Organic Pollutants, Nitrates, and Animal Waste, ensuring the cross-compliance of the FBOs with the required standards.
- f. **State Labour Inspectorate** as stipulated by the Law No. 7961/1995 "Labour Code of the Republic of Albania", and the Law No. 9634/2006 "On the labour inspection and state labour inspectorate", is the responsible public authority for performing official control among other to occupational safety, ensuring the cross-compliance of the FBOs with the required standards.
- g. **The Albanian Development Fund (ADF)**, is a public agency whose mission is to encourage a sustainable, balanced and cohesive socio-economic development at local and regional level. The ADF was established on 1993, based on an agreement between the Albanian Government and the World Bank. On May 11, 2009, the Albanian Assembly endowed ADF with a special legal status.

The main objectives of the ADF are:

- improvement of the local socio-economic infrastructure;
- improvement of the local public services;
- institutional strengthening of the local government units;
- encouragement of good governance at local level;

The recent experience with the preparation of the draft IPARD Programme and setting up institutional arrangements for the implementation of the IPARD like grant scheme showed a number of problems concerning the proper implementation of the adopted legal acts in terms of veterinary, phytosanitary and food safety national minimum standards - the lack of information and knowledge of the national minimum standards from the farmers and food processors on the one hand and insufficient capacity of the respective authorities to control the respect of the National Minimum Standards on the other. Furthermore, proper IPARD implementation requires skills and knowledge of the national technical bodies to assess the investment projects of the potential beneficiaries for compliance with the EU standards.

Direct payments in Albania are not compatible with the EU rules. Albania will also have to put in place an information system for beneficiaries of CAP payments under shared management and ensure yearly publication of names of beneficiaries. There is no established structure equivalent to the integrated administration and control system (IACS). Introduction of a functioning IACS, including a farm register, an IT system and a land parcel identification system, is a difficult and lengthy task that will require extensive investment and institution-building well in advance of accession. Albania will also need a farm accountancy data network (FADN) in line with the acquis. With regard to State aid, apart from market-related subsidies and rural development measures, Albania applies a number of additional measures. **Albania will need to bring all its State aid measures into line with the EU rules and guidelines.**

Taking in consideration the challenging task of harmonization with EU acquis required for the implementation of the Rural Development Program, and the highly cost alignment to the Community standards in the area of hygiene, occupational health and safety, environment and animal welfare, of the Albanian FBOs, significant investments shall be required in the modernization of facilities and labour force knowledge and skills in order to ensure the competitiveness of this sector in the free market established by the WTO Agreement, SAA and FTAs with neighbour countries.

Institutional development, implementation and enforcement of EU regulatory requirements

- The objective is to gradually prepare the agro-food sectors and rural areas for EU Membership by Adapting national agricultural and rural development policies to the CAP by gradually introducing measures and actions in line with the CAP and IPARD measures.
- Phasing out measures and action incompatible with the CAP.
- Gradually introducing EU requirements for the regulation of markets, health and hygiene standards, environmental protection and climate mitigation.
- Develop the institutional capacity to implement and enforce these requirements.

The integration of EU policies and regulatory requirements will be undertaken in a balanced manner allowing reasonable transition periods enabling the private sectors to adapt to the EU requirements with the benefit of, amongst other, the IPARD program.

The process of approximation of the legislation in the fields of agriculture and rural development under Chapter 11 and in the fields of food safety, veterinary and phytosanitary policy under Chapter 12 will be further enhanced by introducing a more integrated approach of the work for the two chapters, based on pro-active ministerial and inter-ministerial coordination by establishing permanent working groups involving all the stakeholders.

In the fields of the agriculture and rural development the main priority in short and medium term is to implement the IPARD Programme for the period 2014-2020. This requires that the Programme is finalised and adopted, and the IPARD Operating structure – MA and ARDA – is accredited in accordance with the EU accreditation criteria to start the implementation of the Programme as early as possible after 2014. Results and lessons learned from the IPARD like grant scheme implementation will be used in the preparation of the IPARD Programme for the period 2014-2020.

The legal approximation plan in the short term in the field of rural development will be focus on enabling the process of implementation of the selected measures for the IPARD Programme, such as drafting/adjusting national legal acts for the formal establishment of the IPARD management and control system in Albania, for its institutional capacity building, human resources development, including by adopting retention policy measures.

The full approximation of the legislation and institutional alignment for the implementation of the CAP will be implemented in line with an updated approximation plan for gradual alignment with the newly adopted EU legislation for the period 2014-2020.

In medium term and long term perspective the priority is to develop further the capacity of ARDA as a future paying Agency for the CAP payments after the accession. This requires a proper planning and preparation of detailed action plan for the introduction of IACS system. Some of the activities for the establishment of basic elements that will be integrated in the IACS have already started but need to be finalised.

SECTOR MONITORING SYSTEM

The implementation of the National Strategy for Development and Integration (NSDI), the related national strategies, the Mid-term (multi-annual) Budget Programmes (MTBP) and the annual budgets is monitored on a well-established and result-based performance assessment system, as part of the Albanian Government's Integrated Planning System. The core elements of that system are Performance Assessment Matrices (PAMs) based on the core strategy indicators of the NSDI and the (cross) sector strategies.

The above monitoring system intends:

- to support better national planning and performance budgeting,
- to promote accountability and increase transparency,
- to improve the sectoral analysis and program policies,
- to serve as a basis for preparing the next NSDI 2013-2020.

As a next step, the IPS' results-based monitoring system is to be strengthened in two directions:

- to include into the monitoring system all sector and cross-cutting strategies as part of the existing national strategic framework;
- to ensure a better linkage between monitoring and budgeting. This involves the introduction of measures to guarantee that the same monitored objectives are reflected under the MTBP's Program Policy Statements. This will bring a better performance budgeting among policies and sectors and an in-depth look of gaps and constraints for reaching main sector objectives

The monitoring of IPA funds is ensured by the NIPAC and the NIPAC Secretariat located in the Ministry of European Integration. The use of IPA funds is part of the IPS / MTBP.

Food Safety programme:

Under the Strategy of Consumer Protection (leading by the Ministry of Economy) the Policy for Food Safety and Consumer Protection aims to improve:

- the national legal framework according to EU legislation,
- the drafting and implementation of national programs to control animal diseases and plant parasites,
- disease monitoring programs,
- waste in animals and food products with animal origin,
- monitoring of water and molluscs bivalve,
- animal identification and registration of livestock farms,
- strengthening veterinary and phytosanitary quarantine,
- use of best practices for the protection of plant health,
- strengthening the laboratory network,
- strengthening of food safety inspections,
- establishing the self-control and traceability of food products system,
- establishing the RAPID ALERT system and its integration into European network and timely inform the consumers.

The purpose of the program policy is to strengthen the inspection control system in the food safety and consumer protection sectors, including all the food chain from farm to table. In concrete terms the program intends the adoption yearly of 10 EU regulations in the national framework legislation; the accomplishment within 2020 of the official control based on risk assessment by increasing the number of the controlled food processing operators by 5% every year; reduction in insignificant percentage of morbidity in animal against zoonotic disease by the end of 2020 increasing 5% every year the number of controlled animals (tracing, vaccinated and eliminated as infected animals); complete monitoring of animal waste and residues in animal products in order to fulfil every year 100% the national monitoring program of monitoring; 100% identification

of cattle and small ruminants by animal identification and registering of 20% of replace animal every year; up to 2020 the creation of free zone from quarantine parasites for the early potato and reducing the quarantine parasites by 10% every year; up to 2020 the creation of a free zone from bacterial fire by reducing 10% every year; increase of capacities through annual training of 10% of the staff.

Support needed to meet standards for the [Aquatic products Sector](#):

- Training the staff of food control laboratories and financial support for IFSV;
- Training Food Safety Inspectors of NFA;
- Training and technical assistance for the staff of the Directorate of Food Safety Policies and Consumer Protection;
- To increase transparency to the public regarding the problems of food security;
- To strengthen the administrative capacity of food safety control structures;
- Training for food business operators in order to know the quality and safety systems (ISO,HACCP);
- Financial support for food production businesses for the implementation of quality systems and safety of aquatic products.

[IFSV Laboratories needed interventions](#):

- It is needed, within the laboratories, to improve providing suitable accommodation and improved sample handling and storage facilities.
- Test procedures need to be brought up to date and documentation of them improved.
- Internal quality control measures and external proficiency testing need to be introduced to give confidence in the test results produced. These steps will give a foundation for progressing towards accreditation of the NFA laboratories in the medium to long terms.
- Improvements in the financial management of the laboratories will also help the laboratories to remain effective despite limited resources. The regional laboratories have most necessary equipment for doing the current tests. There was not any plan for depreciation, replacement, maintenance etc. and it has proved very difficult to repair equipment when it was out of service. There are some items of equipment that needed repair or missing parts, but there is no funds allocated for these purposes.
- There needs to be a comprehensive program of training undertaken to ensure that staff working in all disciplines are well trained in laboratory techniques, management procedures and in issues of health and safety. Some of this training should be initiated centrally, but a portion of it could and should be undertaken by local managers.

- The laboratory has modern equipment, although they sometimes lack suitable training to use it. The staff reported delays having equipment repaired although seemingly not as long as the NFA laboratories. A number of sections within the institute are working within an ISO 17025 quality system and a small number of tests have been accredited by Italian and Albanian accreditation bodies.

The **Veterinarian Identification System** needs further improvements to complete and integrate the animal disease and public health (food safety) control. All the livestock holdings should be integrated in the RUDA system for a better control of animal movement; laboratory information should be integrated in the animal disease control, food safety information system and VIS should communicate and exchange information. The required updates of RUDA system are:

- Elaborate a Laboratory information module and integrate it with National Farm Register, Animal Identification (IR modules) and Animal Disease Control (EPI modules);
- Interface to exchange data between the RUDA system and Food Safety information system;
- Improvement of Animal Movement Control module through extending RUDA application in the main holdings for animal movement flow (animal markets, slaughterhouses);
- Develop a geo referencing parcel information system and link with Farms geo references of RUDA system. This will improve the animal movement control, especially the movement of animals in pastures.

Approximation of the legislation

- The process of approximation of the legislation in the fields of food safety, veterinary and phytosanitary policy under Chapter 12 will be further enhanced by introducing a more integrated approach of the work for the two chapters, based on pro-active ministerial and inter-ministerial coordination by establishing permanent working groups involving all the stakeholders.
- The process of drafting new legal acts will be further strengthen and based on in-depth assessment of the existing institutional capacity and capacity building needs in line with the new legislation to be adopted, as well as assessment of the costs and time needed for the farmers and food operators to adapt to the new legal acts. A comprehensive food safety, veterinary and phyto-sanitary issues will be elaborated for the legislative and institutional adaptation in this field.

LIST OF LAWS, STRATEGIES, DOCUMENTS AND REPORTS SCRUTINISED

- **National Inter- sectorial Strategy of Agriculture and Rural Development** (NISARD) 2014-2020;
- **The Strategy of Consumer Protection** (of the Ministry of Economy, Trade and Energy).
- **The Sub-Committee report for Agriculture and Fishery** (2013)
- **The NPIPSA progress report** (six months period)
- **The EU progress reports** (2014)
- **FVO Reports**
- **Stabilisation and Association Agreement** (NPISAA 2010-2014) between the Government of **Albania and the European Community** was signed in June 2006.
- Prime Minister Order Nr. 139, date 1.7.2010 "**For monitoring the implementation of sector and cross sector strategies**"
- **2012 Paris Declaration Survey** - Albanian Chapter

RECOMMENDATIONS OF WORKING GROUP III

The four sessions conducted in the framework of Working Group III (Agriculture) put on focus such challenging topics as: food safety reform, adoption and implementation of standards and fund absorbing capacity. During the working groups, with the contribution of an assortment of Albanians and Slovak experts, with the participation of relevant ministries and state institutions and the full engagement of civil society organisations, an array of recommendations are concluded, which are listed below for each session organised in the frame of working Group III (Agriculture) for the period of July 2015- December 2015.

Session 1: Food Safety Reform – PPP option to enable increasing the effectiveness of public services, 29 July 2015

In the framework of WG Agriculture, the first session of Working Group was organised with the participation of Ministry of Agriculture, Rural Development and Water Administration in cooperation with National Food Authority to enhance the objective to proceed with the reforms in Food Safety and Agriculture, as the only mean of advancement towards the European Union integration process. The implementation of a Food Safety Reform, will accelerate the integration process, guaranteeing that the legislation and directives from EU will be implemented correctly. The Working Group considered as an innovation the open and direct cooperation with private sector, civil society as well as other international actors, an initiative which will modernize the Food Safety System. This round table was remarked as really essential to enlighten the crucial relevance food safety has in EU, and should have also in Albania:

- According to the Working Group there is a plucked chain, where the main problem is the delay of adopting the food safety reform, which for bureaucratic reasons can't be reached.
- There is a need to accelerate some laws adoption and implementation in order to reach a deepened reform of veterinary system as well as plant protection system.
- Through these roundtables there is a necessity to raise awareness among national and international community in order to successfully adopt the reform.
- In light of the situation that Albania can't export livestock and the existence of informal markets network, a unified traceability data system is recommended as paramount. It will serve as an economic catalyst and will create conditions for equality in the market.
- It is ascertained that there is a lack of specialists among human resources, with only 280 AKU inspectors dealing with 24 000 informal businesses. The Working Group proposed the Support of international experts who will report, monitor and will be also part of the solution.
- Another problem assessed is the lack of communication between institutions, characterized by an overlap of competences. It is necessary to delegate responsibilities, since one institution may have financial problems , another infrastructure gaps, etc.

- The working Group suggests that within the Food Reform, Customs Directorate in cooperation with AKU, should have a more proactive role.
- Food Safety Reform doesn't provide regulatory costs personalized on each subject. The Working Group recommended a study or assessment of costs for human resources and necessary infrastructure.
- Considering the work of the two groups– food business operator (from manufacturing, collection, to packing up) and inspection (administrative control), more attention should be given to the tracking system and impartial control.
- Knowing the technology advances rhythm, there should be more cooperation among advanced public organs. Cooperation between scientific researches lab should be set up; and the lab system should pass under PPP option, where AKU should have the role of contractor.
- State institutions in cooperation with civil society organization and media should organize an education and awareness campaign for the public

Session 2: Challenges in adoption and implementation of food safety and quality standards by NFA and food business operators, 6 October 2015

The second session brought into attention the challenges of National Food Authority (NFA) and business food operators in adopting and implementing food quality and safety. The meeting between representatives of state institutions and civil society emphasized the role of NFA in guaranteeing the well-functioning of the food safety system. Another issue discussed concerned the shortcomings that derived from the unclear responsibilities among different state institutions, thus bringing confusion among food business operators. It was assessed as necessity the reformation of food and veterinary system which will empower food control and would bring a better distribution of human resources. The lack of infrastructure was assessed as problematic and the strengthening of public – private partnership was suggested as a solution. With the participation of representatives from NFA, Mr. Afrim Bakaj, head of NFA, private sector including farmers, and with the special contribution of the Slovak expert, Mr. Bohuslavmr Harvilak, several suggestions and policy recommendations were brought in to address these issues:

- Working Group assessed as necessity the reformation of food and veterinary system which will strength the food control. The mentioned reform would bring a better distribution of human resources which are scattered in central and local government without a unified structure.
- A unified human resource structure would contribute in a proper functioning of food safety chain.
- Another important issue that continues being a concern is the overlap of competencies between different institutions. NFA has the main responsibility for food control, but it doesn't have the proper mechanisms because it is the local government that posses this control. In this case there is no legal conflict but the problem stands in the structure which should be legally resolved and modified.

- Working Group III mentioned as highly problematic the lack of infrastructure responsible for the inspections, as for example the lack of fridges in the borders or the lack of laboratory devices for the official control. Strengthening of public – private partnership was suggested as a solution for the problem.
- Traceability is a connective element between business operators and NFA, key factor of control and identity of product origin. It is necessary not only the cooperation of institutions with each-other but also the interaction between state institutions and business operators, for guaranteeing food safety. The Slovak expert of the Working Group brought several suggestions:
 - Organizing business operator clubs, in accordance with their fields and the involvement in draft legislation working groups.
 - In framework of EU acquis, organizing shared/common trainings targeting both operators and inspectors, which could help understanding their work, joint issues and concerns in achieving common goals.
 - Reached Agreements between Ministry of Agriculture, Ministry of Health, Tax and Customs Institutions for Working Plans and joint controls, reducing costs and timelines.
- In Albania case it is necessary to intensify several services under the NFA. Legal acts should be prepared for the function of authorized butcheries. According the Working Group this would allow a fair competition.
- In case of interest conflicts in local level controls, inspectors from central Directorates should be sent to undertake the targeted subject control.
- The Working Group recommended the establishment of an Internal Audit, vertical audit from central office to local ones, which can be carried out once in five years.

Session 3: The adoption and implementation of EU requirements for BIO products, Conventional products and Integrated products, 2 November 2015

Given that the 60 % of EU legislation is focused in regulating food and agriculture sector, the cooperation between Albania and European Union to modernise and re-structure the Albanian agriculture and agro-industrial sector, was in the spotlight for the third session of WG. During the discussion was emphasized the need of a special attention to be paid to this sector, with integrated reforms which should address sustainable solutions guaranteeing the competitiveness of this sector in a regional and global level market. In addition the experts stressed out the need for a closer cooperation between state institutions and other actors, including the necessity to share the information and raise awareness among farmers regarding Albanian and European legislation. During the discussion representatives from state institutions, such as Mr. Sali Metani, from Ministry of Agriculture and Mr. Agim Rrapaj, Head of Albanian Agribusiness Council, and other organisations debated about the main gaps in agriculture development such as: the lack of statistics, low economic support from the

government, the certification of the organic products and the lack of experts for monitoring and protecting this sector and suggested various ideas and policies that could help to cope with these issues and to improve the situation:

Incentives, reformative and collaborative policies

- According the Working Group, it is impossible for the Albanian agriculture to compete the European and neighbouring market through producing conventional products because the level of manufacturing national agriculture products is 10 times lower comparing with the neighbouring countries. The solution stands in creating a new perspective for BIO products that would enhance the organic agriculture production, leading to lower prices. The costs would be lower because pesticides and other chemical elements would not be used. As a result, we could gain lower priced and better quality products.
- Another problem is the weak economic support which is a responsibility of the government to set up structures to manage the program, draft policies and establish specific measures. Today, the agriculture sector receives a small percentage of the state budget. Taking into consideration specific funds that EU offers for this sector, the Working Group listed some of them to be considered in Albanian case:
 1. The direct payment for a single farm. This financing requires the disuse of pesticides, and production of 1 to 2 varieties per 5 % of their soil.
 2. Support with new technologies for fishery and aquaculture. New technologies are constantly implemented to support fishery and aquaculture as well as aquatics BIO products. None of these measures finds support in our country
 3. Subventions for research and innovation in organic products field. There is a lack of these subventions in Albania even though there are possibilities for development in this area, because of the adequate human capacities for research regarding organic products and could also contribute in innovation.
 4. Organic farms schemes. These schemes could provide a right promotion of producing organic products in markets where these products can be traded. EU itself finances those organizations which increase information for this sector.
 5. Schemes for setting up associations of organic production. Taking into consideration that agriculture is a high risk sector (unexpected weather problems etc) European Union constantly supports organizations that have as their objective agriculture sector, in order to reduce the risk of their bankruptcy as well as to increase the quantity of producing BIO products. The same must function in Albania.
 6. Consultancy, Technical Assistance for producers. EU finances and supports the integrated organic production, through free technical assistance for producers.

It is necessary to pay more attentions to bees as a very important natural indicator and usually the basis for different BIO products. Bee breeders have always less income and financial support in Albania.

- The necessity to raise awareness and information for farmers regarding Albanian and European framework, technical discipline and preparation, needs dynamic cooperation between NGOs, private institutions and technical directorates in state institutions. To achieve a better collaboration between Ministry of Agriculture and Albanian AgroBusiness Council (KASH) and other bodies, the set up of an electronic data platform where the required EU criteria and the best practice from the region are listed, was introduced as a solution.

Implementation of legislation

- In 2007, European Union adopted the Directive on organic products. The policy of certification is considered a necessary as well: there are private dispersed entities that own the right of certification for BIO products but there is a lack of information for agriculture producers and many times costs are higher and there is no state support. The organic producing certification is necessary and the certification is still a challenge for Albanian producers. Defending label products in domestic markets is also a challenge: still exists the system where the organic product doesn't have a certification and this leads to confusion. The main problem of the legal aspect stands in the lack of regulation framework not the lack of implementation in practice.
- As it is also reflected in a special section of the strategic document, there is a deficiency of statistics. The latest statistics reflected in the documents are those of 2012 and they don't give a clear view of the actual situation and its potential, making it difficult for drafting the policies.

Infrastructure and institutional capacities

- Ministry of Agriculture with the relevant Directorates covers the agriculture process in the European Integration framework. The Working Group identified as a problem the lack of experts in the field and lack on implementation of regulations and policies. The main duties are the supervision of the market, protection of BIO products, consumer clarification and the growth of capacities for drafting policies and their implementation. Except the professional and technical level, there is a lack of staff in number. For instance, in the plant protection sector in the Ministry of Agriculture there is only one person as staff. There is necessary to increase the staff capacity.
- Referring to the strength of infrastructure capacities, the Working Group suggested the support on building manufactures for processing the manure, modernisation of techniques and manufacturing tools, development of research institutes for resistant seed production and irrigation and drainage infrastructure.
- Albania has potential to develop the medicinal plants sector but this latter is characterised by a lack of coordination and orientation toward producers of medicinal plants.

Session 4: The informality in agriculture sector and structural funds for rural development absorption capacity,
22 December 2015

To achieve the standards required by the European Union the Agriculture sector needs more investment and support from both the private and public sector, but nevertheless the focus should always be on the agribusiness, for capacity- building and to become competitive in the market. The main focus of this session is to promote, inform and recommend measures and policies to be followed for further development of agriculture in Albania and also the whole process of European integration, giving specific attention to subsidy and the problems lying in process of funds-giving. This session was organised in Lushnja, with the participation of Albanian Agribusiness Council and private sector in this region. Lushnja was chosen as a venue due to the long history and affiliation with the agriculture development in Albania and its potential in this framework characterised with fertile grounds and a wide variety of agricultural cultivations.

Programming. Some of the difficulties in this field relates to:

- The lack of a strategy for rural development and the weak role of the state to conduct an operational program based on concrete measures that would develop agriculture.
- There is no proper management system, required structure to implement action plans and strategies.
- Information Systems and Extension Services are almost failed and ineffective, although they should continue to function in a different form.
- Lack of reliable statistics and directly data from farmers. Today, agricultural statistics obtained INSTAT, but the data are approximate and based on surveys even though agriculture has no place for speculation.

Informality is a major barrier to the development and achievement of the standards, but also for the absorbing capacity of agribusinesses.

- Difficulty to identify what will be subsidized because it is necessary a detailed activity information to a farmer, who is it and how it will be reach to develop further. 10 million € project are provided for rural development in Albania, where 6 million came from the EU, 2 million from Germany and 2 million others from Albania, but failed altogether revoked and about 4 million was disbursed.
- Lack of interest for policy making.
- Institutions are not functioning properly and lack impartiality. The problem is the non-accreditation of institutions and is hardly as an institution that has not high standards being supervisory authority or policies implementation. Also, lacks independence and in most of cases there has interference, causing violation of the rules.

Achieving EU Standards. The fact that 40% of the funds of IPARD-like were disbursed, implies inability of Albanian agribusiness to absorb and retain funds:

- Lack of a plan.
- The lack of a law on financing.
- The lack of a correct procedure for the management of lands that disqualify many applicants because a condition for funding is to have land, and many farmers do not fulfil it.
- Disrespect of rules by the authorities as the case of the regulation on construction, by penalizing applicant farmer with failing of looking fund, after qualified as a lawbreaker.
- Inspection standards are very low, with unqualified inspectors that have no knowledge about the process, procedures and controls.
- Licensing. A clear system of licensing and the fact that those farmers who are not licensed are not sanctioned, affecting an unfair competition and damage farmers who are licensed and respect the rules. But it also damages the whole agriculture that does not respect the criteria and cannot compete with international markets.

Some of the standards that should fulfilled by the Albanian Agriculture: - environmental standards, - public health, - animal health and welfare, - plant protection, - working conditions.

- There is no a law on the subsidy that would help in long-term policies. No provided conditions and support in connection with financing projects that can be offered to the Albanian farmers.
- So far are funded only individuals, so the finance is done in fragmented order. The focus should be around agriculture and not just links of it. Must change the concept of financing and interest rates should be adjusted to farmers to help investment, and not simply for survival.
- Should be realized as soon as an Electronic Platform in agriculture. Farmers should be provided with electronic card to formalize their business and to simplify financing procedures and for more funding from the European Union.
- Projects must be comprehensive, and agribusinesses should be part of consultations and to participate in these policies. So now they are left aside.
- Creation of Agricultural Cooperative Associations, which help farmers to apply together for obtain funding or other assistance with the lower cost. We need more support from the state for these associations to moving for more space but also economic support.
- Refrain from oil export and domestic start to use it after and the cost is lower and it also helps in the overall development of the country.

- Should give up from oil export and start to use it domestic, because and the cost is lower and it also helps in the overall development of the country. Lower costs for farmer means more capital for investment. Otherwise to attempt for reducing the price of fuel for farmer.
- Establishment of vocational training centres or the implementation of seminars to improve farmers' knowledge and understanding. Would increase their efficiency and make them more competitive. Also is a good opportunity to involve the younger generation.
- Improved advisory offices, now an adviser has in charge 2 thousand 500 farmers. Very high number and that make it impossible to qualitative and effective counselling.
- More cooperation and support between state actors and non-governmental organizations that focus on agriculture and rural development. Projects must support these organizations realize how in logistics, technology, structure etc.
- Farmer should be offered not only the credit as support, but also the mechanism of insurance of agricultural production, buildings, machinery, land etc., but certainly no intended increase costs, but to ease the burden on the damage or theft cases.
- Must realize a long-term strategy and an operational plan for rural development and not only agricultural sector. The focus should not be only to agriculture, but the entire area of rural development.
- The statistics are of great importance, must be accurate and up to date and not presumed. The lack of accurate statistical information adversely affects the design of appropriate policies and strategies.
- Legislation should be increased and improved, in other cases it is necessary to implement it rigorously.
- Should be drafted a project licensing process, sanctions and penalties well-defined and enforceable. Today not licensing of a part of the farmers increase the impact of unfair competition and cost for businesses that abide by the rules.
- There is no law for the standard of production that should be released in the market. Market should be directed. In terms of animal health should be implemented traceability system and that of matriculation.
- Regarding the supervisory and management authorities need to achieve high standards of impartiality and independence, especially in the implementation of their functions.
- Subsidy of inputs, it is the most important process of financing and investment in agriculture.

ASSESSMENT REPORT: WORKING GROUP IV

ENVIRONMENT

CHAPTER 27

Av. Holta Ymeri

Expert of Working Group IV

INTRODUCTION

For many years Albania has expressed its will to become a Member of the European Union and initiated the challenging path toward EU integration. Despite difficulties and delays in implementing the necessary reforms, it looks like the integration process is moving forward during the last few years.

In fact Albania entered the Stabilisation and Association Agreement with the EU which came into force in April 2009 and in 2014 the European Council of June 2014 endorsed the decision of the General Affairs Council granting Albania candidate status. Anyway the opening of membership negotiations after having obtained the Candidate Status is not automatic. Albania has first to implement the necessary reforms for each policy chapter established in the EU Progress Report, and all EU governments have to agree through a unanimous decision of the EU Council, that the country is ready to start membership negotiations' and give the mandate for starting negotiations. Currently Albania is continuing its efforts in implementing further needed reforms.

The *“National Convention for European Integration of Albania”* has been established with the aim of facilitating the integration process and in particular with the specific goal of increasing the participation of all segments of the Albanian society during this process. Due to its impact on the general Albanian society, the EU integration process should not be approached as a top-down process. All interested parties should be involved and this is specifically the approach used under the framework of the EU Convention for Albania. By organizing all inclusive round tables bringing together government, sectorial NGOs and other representatives of the Albanian civil society it is possible for all the involved parties to discuss and identify the major issues on different aspects of the integration process and to promote cooperation among them in order to find the most suitable solution for Albania when meeting the EU integration criteria.

Environment is one of the specific chapters in the EU Progress Report for Albania, included as Chapter 27. Due to its inner importance and also to its direct relation to other important chapters of interest in the EU Progress Report such as free movement of goods, energy, transport and food safety, the EU Convention for Albania identified environment as a field of crucial interest for the EU integration process and decided to create a special working group on it.

This assessment report contains relevant information with regards to crucial issues faced in Albania in the field of Environment.

EU 2014 PROGRESS REPORT ON ALBANIA

As mentioned above Environment is treated in a specific chapter of the EU Progress Report, as Chapter 27. The last EU progress Report for Albania was issued on October 2014 and it contained a detailed assessment of the Albanian progress with regards to the environment fields. A summary of the main findings will be provided below:

Environmental Legislation²⁶: further work is needed on aligning the horizontal legislation, in particular with the Directives on Environmental Impact Assessment and Environmental Crime. Environmental impact assessments are still not carried out systematically prior to the launch of infrastructure projects, public access to information and consultation remains limited and cooperation with civil society organisations needs to be strengthened. A more effective system to prosecute and penalise environmental crimes needs to be implemented. The lack of implementation of environmental legislation is a major problem.

Air Quality²⁷: the National Strategy for Air Quality, the Law on Ambient Air Quality and implementing legislation on air quality assessment has not yet been adopted. There is persisting overlap and fragmentation of monitoring responsibilities between the National Environment Agency and the Institute of Public Health. There are no plans at local level to ensure ambient air quality and no measures have been undertaken to combat known breaches of the standard values.

Water Quality²⁸: the law on integrated water management came into force in December. The water supply and sewerage strategy has not yet been adopted. Implementation of the *acquis* in the area of water quality remains at a very early stage.

Waste Management²⁹: amendments to the Law on Integrated Waste Management, of October 2013 are not in line with the *acquis*. The capacity in waste management authorities remains very limited. Waste separation is almost non-existent and recycling rates are very low. Most waste continues to be disposed off unsafely in legal and illegal dumpsites, or burned. Waste management remains a serious cause for concern.

Industrial pollution³⁰: the law transposing the EU Directive on the control of major-accident hazards, ‘Seveso II’ Directive, has not yet been adopted. Effective checks to reduce the discharge of pollutants from industrial plants

²⁶ European Commission, Albania Progress Report October 2014, Par. 4.27, pg. 56.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

²⁷ European Commission, Albania Progress Report October 2014, Par. 4.27, pg. 56.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

²⁸ Ibid, pg. 56-57.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

²⁹ Ibid, pg. 56.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

³⁰ Ibid, pg. 57.

are not yet in place. Self-monitoring by industries is rarely enforced. A framework law on chemicals management aiming at bringing Albania in line with the EU acquis and at regulating the import and export of chemical substances is awaiting adoption.

Environmental Noise³¹: there have been no developments in the area of environmental noise.

Nature protection³²: in January, parliament enacted a law banning hunting, but hunting continues. Effective protection for designated protected areas still needs to be guaranteed. Illegal activities such as hunting, fishing, logging, natural resources extraction and construction remain frequent in protected areas.

Climate Change³³: Albania associated itself with most of the formal EU positions in the international context. It has also associated with the Copenhagen Accord, but it has not yet put forward a mitigation commitment by 2020. No progress can be reported as regards alignment with the climate acquis. The administrative and technical capacity in the climate sector remains limited, allocated resources and funding remains largely insufficient. The former Environment and Forests Agency was re-organised in January and renamed National Environment Agency. Its administrative capacity was strengthened. A State Inspectorate of Environment Forests and Waters (SIE) was also established in January. Yet, the environmental inspection system is only partly aligned with the EU acquis, and its limited resources do not provide a credible guarantee that infringements are being properly monitored and punished.

The 2014 EU Progress Report on Albania concluded that the country had made little progress in the fields of environment and climate change and that significant efforts were still needed in all areas of environment protection, especially with regards to proceed with further alignment of Albanian legislation with the acquis, ensure proper implementation and enforcement of environmental legislation and strengthen administrative capacities. It was pointed out that waste management is particularly poor and the quality of water and air is low in addition the overall resources assigned to environment remained limited. Overall, preparations were considered to be at an early stage³⁴.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

³¹ Ibid, pg. 57.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

³² Ibid, pg. 57.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

³³ Ibid, pg. 57.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

³⁴ European Commission, Albania Progress Report October 2014, Par. 4.27, pg. 57.

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf

POLICIES AND STRATEGIES

During the few years, especially under the impulse of EU Integration, Albania has approved several strategic policies on environmental protection, both general and sector focused policies. The main strategic document currently adopted for all sectors affected by EU integration is the National Plan on EU Integration (“NPEI”)³⁵ which analyzes all main achievements of each sector, among which environment, and sets future necessary reforms and priorities. With regard to environmental protection the NPEI sets the following main priorities:

- **Horizontal legislation approximation**: (i) full approximation of law on Environmental Impact Assessment with the Environmental Impact Assessment Directive; (ii) strengthening enforcement of environmental protection legislation; (iii) providing proper environmental information to the public and guaranteeing the proper implementation of the rules on participation of the public in decision-making on environmental issues.
- **Air Quality**: (i) full approximation with EU standards on air quality; (ii) drafting the national and local action plans on air quality improvement; (iii) strengthening of the national monitoring system on air quality; (iv) strengthening inter-institutional cooperation.
- **Water Quality**: (i) improvement of legal framework through approval of sub-legal acts for law 111/2012; (ii) assessment of the degree of damage of exploited river basins and adopting punitive measures against polluters; (iii) creation of the national registry of water sources; (iv) drafting of the national strategy on integrated management of water resources; (v) drafting two plans on the management of Drin, Buna and Seman rivers basin; (vi) creation of the national electronic cadastre of water resources.
- **Waste Management**: despite the approval of sub-legal acts on waste management, improvement of waste management in Albania is a high priority issue consisting of (i) separating waste at sources; (ii) increase recycle level; (iii) strengthening waste management capacities; (iv) construction of landfills pursuant to EU standards; (v) facilities for hazardous waste such as hospital or construction waste; (vi) new investments in the waste management field.
- **Nature Protection**: (i) enforcement of protection of protected areas; (ii) implementation of norms approved in 2011 under the Natura 2000 network; (iii) adopting measures against illegal hunting, forest cutting and illegal construction in protected areas; (iv) strengthening administrative capacities of the Inspectorate.
- **Environmental Pollution**: main priority is strengthening the enforcement of the decisions of the task force established for environmental noise pollution.
- **Chemicals**: two main priorities are full approximation with EU standards of the sector and its implementation as well as establishing the national integrated system of chemicals management.

³⁵ National Plan on European Integration, pg. 649-650.

- **Climate Change:** (i) full approximation with EU legislation; (ii) drafting of the National Strategy and National Action Plan on Climate Change; (iii) establishing the national inventory system of air discharges of greenhouse gas; (iv) strengthening inter-institutional cooperation.
- **Forest Protection:** (i) full approximation with EU legislation; (ii) drafting of a new 10 years Strategy for Forests and Pastures; (iii) establishing the national forests inventory.

BACKGROUND INFORMATION OF ENVIRONMENTAL CONDITIONS

First of all it should be pointed out that information on the environmental conditions of Albania is not satisfactory. Official data provided from competent authority are often inconsistent, incomplete and difficult to read. They are inconsistent because information is gathered by a variety of sources often un-coordinated among them, incomplete because the monitoring stations do not cover the overall territory of the country³⁶ and difficult to read for the general public not specialized in environmental engineering due to lack of translation of technical results into clear and detailed explanations of the environmental and health hazards derived by the presence of certain substances into the elements of the environment. In addition the overall monitoring of environmental conditions in Albania is a recent process. As far as it is provided in the official website of the National Environment Agency (“NEA”), reports on environmental conditions did not exist before 2011³⁷.

Pursuant to Law no. 10431 dated 09.06.2011 “*On environment protection*”, NEA is the competent authority in monitoring environmental conditions in Albania and in elaborating and issuing the Environment Monitoring Report. NEA issued the 2014 Monitoring Report on Environmental Conditions in Albania, which analyzes separately the conditions of the main elements of the environment. The below overview is mainly based on official data obtained by the NEA 2014 Monitoring Report but also from other qualified sources.

Air Quality

The NEA 2014 Monitoring Report providing data on air quality admits that the existing network for monitoring air quality in Albania is limited both with regards to the number of monitoring stations and the type of monitoring stations. Monitoring has been performed only by few stations situated in the main cities such as Tirana, Elbasan, Durrës, Shkodër, Vlorë, Korçë, Berat, Fier and Kukës³⁸.

There are several sources of air pollution in Albania³⁹:

³⁶ National Environment Agency, “2014 Environment Condition Report” pg.16.

³⁷ <http://www.akm.gov.al/cil%C3%ABsia-e-mjedisit.html>

³⁸ National Environment Agency, “2014 Environment Condition Report” pg.16.

³⁹ Ibid pg.10.

Transport: mainly due to old vehicles and low quality fuels containing sulphur level above the permitted norm⁴⁰;

Industry: mainly due to uncontrolled discharges in the air;

Waste: mainly due to waste burning;

Heating: mainly due to household discharges.

Air quality of monitored cities is not found to be at a good level⁴¹. Most polluted cities result to be Tirana, Elbasan and Fier, followed by Korça and Vlora for some specific pollutants. In some cities the pollution is above the EU daily standard of 50 g/m³ and specifically: at monitoring station no. 1 of Tirana the number of days in excess is 102 days, at monitoring station no. 2 of Tirana the number of days in excess is 62 days, at monitoring station of Elbasan the number of days in excess is 57 days, at monitoring station of Korça the number of days in excess is 63 days⁴². Ozone concentration is also found to be above the permitted limits⁴³ and high ozone levels were found in urban monitoring stations especially in Vlora and Shkodra⁴⁴. High level of CO and Benzene was also monitored in Tirana and Korça⁴⁵.

Pollution from heavy toxic metals

Pollution from heavy toxic metals is a very sensitive issue due to its effects on human health and environment. Despite the fact that the information on this type of pollutions is not very detailed in the NEA 2014 Monitoring Report it was found that in Elbasan the concentration of some heavy toxic metals was very high, for instance the concentration of lead (Pb) was above the permitted level⁴⁶.

In order to complement information on air pollution with heavy toxic metals of the NEA 2014 Monitoring Report, some data were extracted by an independent research jointly conducted by the Chemistry Departments of the University of Vlora, Tirana, Elbasan and Skopje for years 2010-2011⁴⁷.

The research found that main factors causing air pollutions from heavy metals in Albania are soil dust, industry emissions, waste incineration and road traffic⁴⁸. According to the research the highest values of heavy metals were measured near the industrial centres situated in the central part of the country⁴⁹.

⁴⁰ Ministry of Environment, National Environment Agency, Official Letter no. 1117 Prot., dated 17.11.2014 "Information on fuels quality". ⁴⁰ National Environment Agency, "2014 Environment Condition Report" pg.16.

⁴⁰ National Environment Agency, "2014 Environment Condition Report" pg.10.

⁴⁰ Ministry of Environment, National Environment Agency, Official Letter no. 1117 Prot., dated 17.11.2014 "Information on fuels quality".

⁴¹ National Environment Agency, "2014 Environment Condition Report" pg.30.

⁴² Ibid pg.10.

⁴³ Ibid pg.10.

⁴⁴ Ibid pg.30.

⁴⁵ Ibid pg.30.

⁴⁶ Ibid pg.30.

⁴⁷ Journal of Hygienic Engineering and Design, Flora Qarri, Pranvera Lazo, Lirim Bektashi, Trajce Stafilov, Department of Chemistry, University of Vlora, Department of Chemistry, Faculty of Natural Sciences, University of Tirana, Department of Chemistry, Faculty of Natural Sciences, University of Elbasan, Institute of Chemistry, Faculty of Science, Ss. Cyril and Methodius University, Skopje "Health risks of heavy metals from air pollution in Albania".

<http://www.jhed.mk/filemanager/JHED%20Vol.%2011/03.%20FPP/07.%20Full%20paper%20-%20Flora%20Qarri.pdf>

⁴⁸ Ibid. pg. 77.

The highest concentration of Mercury (Hg) was found in the city of Vlora⁵⁰. The highest concentration of Aluminium (Al) was found in the south and in the central part of Albania⁵¹. Higher levels of chromium were found in the area of Elbasan, Librazhd, Pogradec and Bulqiza which it is believed to be due to the associated iron-chromium industry of Elbasan and chromium mining industry of these areas⁵². Serious pollution is caused by the Elbasan Metallurgical Plant by the presence of emitted toxic gases, vapours and dust. The pollution has caused problems to the microenvironment and adverse effects to human health, especially pregnant and lactating mothers. The prevalence and severity of respiratory allergic diseases such as bronchial asthma have been increased in recent years among the people of this area. The percentage of pulmonary disease in the city of Elbasan city such as chronic bronchitis and bronchial asthma has increased respectively around 10 times for chronic bronchitis and 1.6 times for bronchial asthma during the period⁵³.

Elements such as Al, Fe, Cr, Ni and V appear the highest median values among European countries and these exceeds may result in plants' effects due to the accumulative nature of heavy metals in soils.

Water Quality

The NEA 2014 Monitoring Report provided data on water quality of the main rivers of the country Drin, Bunë, Mat, Ishëm, Erzen, Seman and Vjosë, of the lakes of Ohri, Shkodra and Prespa, of the Butrinti lagoon, and of marine waters extending in the cities of Durrës, Vlorë and Sarandë⁵⁴. There are also specific studies on the water quality of different areas in Albania. Main results of these studies on water quality are the following:

- Surface waters are seriously polluted especially waters situated close to big pollution sources such as cities, industrial areas particularly mining areas, as well as former industrial areas⁵⁵.
- Currently the major problem consists in the pollution of surface waters caused by discharge of untreated wastewaters⁵⁶.
- Urban discharges have a significant impact on the water quality of rivers and lakes⁵⁷;
- Urban discharges of untreated waters have a significant impact in the quality of marine waters. For instance it was identified that lack of functioning of the urban waters treatment plants in Vlora and Saranda caused the pollution and deterioration of the quality of marine waters⁵⁸. Especially during the month of August it was noticed the increase of the faecal bacteria named E.Coli and faecal streptococcus

⁴⁹ Ibid, pg. 75.

⁵⁰ Ibid, pg. 75.

⁵¹ Ibid, pg. 75.

⁵² Ibid, pg. 75.

⁵³ Ibid, pg. 76.

⁵⁴ Ibid, pg. 51.

⁵⁵ National Environment Agency, "2014 Environment Condition Report" pg.11.

⁵⁶ Ibid pg.11.

⁵⁷ Ibid pg.11.

⁵⁸ Ibid pg.108.

(IE)⁵⁹. Considerable pollution of marine waters considered as hazardous to the health of bathers was identified in Vlora in the area named the Marine School and the New Beach⁶⁰;

- Most polluted rivers Ishmi, Gjanica and Drin river⁶¹;
- A specific study was conducted in 2013 related to the water quality of Bovilla reservoir which is one of the main reservoirs supplying Tirana with drinking water⁶². The study found out that concentration of phosphors in the reservoir is relatively high deteriorating the water quality which phenomenon may be considered **very dangerous**⁶³.
- A specific study was conducted during 2013 on flora pollution in Patos-Marinza area⁶⁴. Patos-Marinza is not only an industrial area where oil and gas activities are performed but also one of **the principal agriculture areas of the country**. According to the study oil industry waters are discharged into Gjanica River, as a consequence pollution is extended to the Seman River and to the Adriatic Sea afterwards. Water pollution adversely affects different species and the water and marine environment; these effects may extend to the water and marine food chain **constituting a risk to human health**⁶⁵.

Land Quality

Land pollution by heavy toxic metals, capable of seriously harming human health through the food chain grown in contaminated land, is a concerning issue in Albania. The NEA 2014 Monitoring Report admitted that the data on the degree, level and extension of land pollution from heavy toxic metals are not totally clear⁶⁶. Lack of information on the degree and extension of land pollution from heavy metals often leads to improper use of the land, for instance the use of land for the cultivation of arable crops, adversely affecting human health⁶⁷. NEA 2014 Monitoring Report contains data on the monitoring of land pollution by heavy toxic metals in some specific industrial areas. It is important to mention that all monitored lands from which samples were taken are cultivated with arable crops, mainly wheat, corn and fruit trees⁶⁸. Based on the monitoring the majority of analyzed lands presented serious levels of pollution, respectively:

- **Phosphate Plant in Laç**: concentration of nickel is several times above the allowed norms; there are high concentrations of chromium which exceeds the limits considered as critic; lead levels are above permitted norms⁶⁹.

⁵⁹ Ibid pg.108.

⁶⁰ National Environment Agency, "2014 Environment Condition Report" pg.109.

⁶¹ Ibid, pg.65.

⁶² Loreta Vallja, Sonila Duka, Alqi Çullaj, Albanian Journal of Agricultural Sciences, "Development of a sequential extraction method for different forms of phosphorus in Bovilla lake sediments", 2013, par. 2.1, pg. 599.

⁶³ Ibid, par.4 pg. 600.

⁶⁴ Alma Shehu, Alfred Mullai, Seit Shallari, Albanian Journal of Agricultural Sciences "Identification of environmental aspects and oil pollution pressure on spontaneous flora in the Patos-Marinëz industrial area".

⁶⁵ Ibid pg. 729

⁶⁶ National Environment Agency, "2014 Environment Condition Report" pg. 179.

⁶⁷ Ibid pg. 180.

⁶⁸ Ibid pg. 180-181.

⁶⁹ Ibid pg. 182.

- **Paper Factory of Lezha:** nickel concentration in agricultural lands has high values several times above the permitted levels; chromium level in some monitoring points are above the permitted levels;⁷⁰
- **Ferrochrome Plant of Burrel:** nickel concentration is found to be **toxic** with levels exceeding 3 times the EU norm; concentration of chromium are above permitted limits; copper concentration exceed levels considered **critic**; in some monitoring points cadmium and lead exceed concentration limits considered to be **toxic**⁷¹.
- **Chromium Mine in Kalimash, Kukës:** concentrations of zinc and cadmium are above the permitted levels established by the EU; values of nickel are considered **toxic**; chromium and copper is above the permitted levels⁷².
- **Copper Plant of Kukës:** concentrations of copper are above permitted levels; chromium and nickel present very high values exceeding several times the EU limits⁷³.
- **Iron-Nickel Mine of Pogradec:** manganese concentrations are **toxic** in monitoring point 4 and close to the limits in the other 5 monitoring points; nickel is present with **extremely** high values; high levels of chromium, copper and lead have also been found⁷⁴.

Another study was conducted during 2015 by the University of Tirana and University of Udine related to pollution of agricultural land in the Bregu i Matit area⁷⁵. According to this study, the main pollution source of agricultural land of this area, which is an important production area of the Lezha region, is land irrigation with polluted waters from Mati river. The study results identified the presence of heavy metals of vegetables cultivated in this area. The study concluded that **consumption of vegetables grown in the studied areas may be dangerous for human health**⁷⁶.

Waste Management

Waste is one of the main sources of pollution in Albania. Waste management situation is still very problematic. The NEA 2014 Monitoring Report⁷⁷ waste management in Albania is decentralized meaning it is performed by the competent local government bodies. The latter usually contract private companies engaged in collection and transportation of waste. This practice is mainly performed in the main cities while rural areas are not yet covered by waste management services. The majority of rural areas waste is deposited in rivers or at the sides of the roads causing pollution of waters and land. Waste recycling system in Albania is still at the initial stage. There isn't a safe system for hazardous waste management such as industrial waste, household waste or hospital

⁷⁰ Ibid pg. 182.

⁷¹ National Environment Agency, "2014 Environment Condition Report" pg.182.

⁷² Ibid pg. 182-183.

⁷³ Ibid pg.183.

⁷⁴ Ibid pg.183.

⁷⁵ Eljan Kasa, Marco Contin, Fran Gjoka, Departamenti i Agro-Mjedisit dhe Ekologjisë, Universiteti Bujqësor i Tiranës, Universiteti i Udines, Italia, Albanian Journal of Agricultural Sciences 2015, "Accumulation of Heavy Metals in Vegetables from Agricultural Soils".

[file:///C:/Users/perdoru/Downloads/13_Eljan%20pp%20169-175%20\(1\).pdf](file:///C:/Users/perdoru/Downloads/13_Eljan%20pp%20169-175%20(1).pdf)

⁷⁶ Ibid, pg. 174.

⁷⁷ National Environment Agency, "2014 Environment Condition Report", pg. 164.

waste. The principal waste treatment method is pit burial, but pits used for this purpose do not possess the necessary structure or are situated in sensible areas which cause environmental pollution.

Industrial Pollution

The NEA 2014 Monitoring Report mainly based its analysis of industrial pollution of air, water, land and noise on the self-monitoring reports submitted by the industrial actors operating in the major big cities of Albania⁷⁸. It is interesting to notice that according to data obtained from the self-monitoring reports submitted for cities, which were identified as polluted by NEAs own monitoring, such as Tirana, Elbasan and Fieri, the levels of pollution were assessed to be within the permitted levels. The NEA 2014 Monitoring Report does not further inquire the results obtained from the self-monitoring reports delivered from the industry even though the data provided by the latter clearly contradicts NEAs monitoring results as well as specific studies conducted for particular areas of the country.

A striking example is pollution from the petroleum industry in Fier district. Pursuant to the NEA 2014 Monitoring Report the main activity for Fier district is that of petroleum extraction and refining, milk processing and production of asphalt and concrete. There are 29 industrial operators who have performed and submitted self-monitoring reports out of which 24 have monitored water quality⁷⁹. Self-monitoring results show that the parameters of water quality are not above the permitted limits⁸⁰. First of all these findings are contrary to the own results of the NEA 2014 Monitoring Report according to which Gjanica River, situated in Fieri district, is one of the most polluted rivers of the country due to industrial discharges on the river's waters, which also affects Seman River similarly situated within Fier district⁸¹. Secondly these findings are also contrary to special independent studies conducted with regards to pollution of Fier district by the petroleum industry. In addition to the study conducted on the petroleum area of Patos-Marinza situated in Fier district and mentioned in paragraph 2 above⁸², another specific study on the environmental impact on Gjanica rivers water of the Albanian petroleum industry was also published in 2015⁸³. Pursuant to this study the Albanian petroleum industry is a powerful polluter of the environment which discharges polluted waters directly to Gjanica river without previous treatment⁸⁴. As found by the analysed water samples in this area, this practice has caused severe water pollution mainly with pollutants such as petroleum products, phenols, ammonium ions and sulphides⁸⁵. This

⁷⁸ Ibid, pg. 202.

⁷⁹ National Environment Agency, "2014 Environment Condition Report", pg. 205.

⁸⁰ Ibid, pg. 205.

⁸¹ Ibid, pg. 64.

⁸² Alma Shehu, Alfred Mullai, Seit Shallari, Albanian Journal of Agricultural Sciences "Identification of environmental aspects and oil pollution pressure on spontaneous flora in the Patos-Marinëz industrial area", pg. 729.

⁸³ Robert Damo and Pirro Icka "Environmental Impact assessment generated by Albanian petroleum industry into Gjanica River", Romanian Biotechnological Letters, Vol.20, No.1, 2015, University of Bucharest.

⁸⁴ Robert Damo and Pirro Icka "Environmental Impact assessment generated by Albanian petroleum industry into Gjanica River", Romanian Biotechnological Letters, Vol.20, No.1, 2015, University of Bucharest, pg.10159.

⁸⁵ Ibid. pg.10158.

degree of water pollution reflects the fact that "*the environment is improper for life*"⁸⁶. The study concluded in general that the analyzed values of water pollution speak out for a degraded state of environment⁸⁷ within the analyzed area.

Environmental Noise

Environmental noise is another concerning pollutant of the Albanian environment. Pursuant to the findings of the NEA 2014 Monitoring Report, Albania has the highest noise pollution among European countries. In fact the data show that both daily and night average values of environmental noise exceed standards set by the Albanian law as well as EU standards⁸⁸. It is to be mentioned though that monitoring was only performed for 5 big cities resulting that the most polluted city from environmental noise is the capital of Albania, Tirana⁸⁹.

Nature Protection and Climate Change

Nature and biodiversity protection in Albania faces major challenges. According to the NEA 2014 Monitoring Report the current situation is concerning: 109 animal species are considered as threatened, out of 319 threatened plant species 76 are critically endangered, 123 are endangered and 120 are deteriorated⁹⁰.

Main threats to nature and biodiversity in Albania are industrial development, urbanization, illegal hunting, fishing, land erosion, energy and mining industry, transport and tourism⁹¹. The irregular exercise of these activities has caused degradation of nature and threatened the country's biodiversity. Illegal hunting has been exercised in Albania for almost two decades due to lack of effective controls which has caused the decrease of the presence of wild species, most of which are migratory birds⁹². Another major problem is deforestation due to illegal forest cutting. It has been assessed that more than 80.000 acres has been deforested in the last two decades in Albania⁹³. Proper forest management is also lacking. Illegal fishing practices and over exploitation of fish sources is another current hot topic in Albania as it is informal construction of the last 20 years which has severely affected nature and biodiversity⁹⁴.

Albania is particularly sensible to climate change problems such as heavy raining creating flooding or other extreme weather events due to the fact it lacks the necessary structures to prevent and restore these events. Nevertheless the Albanian progress on climate change policies and legislation is minimal. Albania has already

⁸⁶ Ibid. pg.10158.

⁸⁷ Ibid. pg.10159.

⁸⁸ National Environment Agency, "2014 Environment Condition Report", pg.43.

⁸⁹ Ibid, pg.43.

⁹⁰ National Environment Agency, "2014 Environment Condition Report", pg.12.

⁹¹ Ibid, pg.12.

⁹² Ibid, pg.220.

⁹³ Ibid, pg.220.

⁹⁴ Ibid, pg.220.

submitted two National Communications under the UNFCCC framework and is now preparing to submit the third. The NEA 2014 Monitoring Report has identified that Climate Change impacts on Albania may result in the increase of minimal temperatures, drought causing fire risks, increase of heavy rainy days causing flooding etc⁹⁵. Nevertheless climate change issues in Albania are not yet seen as urgent matters both at public authority level and public opinion level.

LEGAL FRAMEWORK

Albanian legal framework on environment consists of a general environmental protection legal framework and several sector laws protecting the different elements of environment from pollution activities.

General Legal Framework

The general legal framework consists of the following laws and the respective approved sub-legal acts:

- **Law no.10431 dated 09.06.2011 “On environmental protection”, as amended:** which establishes the general principles of environmental protection such as: sustainable development, prevention of pollution, rectifying or compensating pollution, polluter pays principle etc. **Fully approximated to the Environmental Liability Directive (Directive 2004/35/CE⁹⁶).**
- Decision of Council of Ministers (“DCM”) no. 742, dated on 9.9.2015 “On the functioning and management of the register of discharge and transfer of pollutants...” **Partially approximated to Regulation EC/166/2006⁹⁷ concerning the establishment of a European Pollutant Release and Transfer Register.**
- **Law no. 10448, dated 14.7.2011 “On environmental permits”, as amended:** establishing the terms and conditions necessary to obtain one of the three types of environmental permits for the exercise of certain activities. **Fully approximated to Directive 2008/1/CE⁹⁸ on integrated pollution prevention and control and Directive 2001/80/EC⁹⁹ on the limitation of emissions of certain pollutants into the air from large combustion plants.**
- **Law no. 10440, dated 07.07.2011 “On environmental impact assessment”, as amended:** establishing that certain public or private projects identified by the law are subject to the environmental impact assessment as a pre-condition for exercising their activity. **Fully approximated to Directive 85/337/CEE¹⁰⁰ on the assessment of the effects of certain public and private projects on the environment.**

⁹⁵ Ibid, pg.48.

⁹⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:143:0056:0075:en:PDF>

⁹⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:033:0001:0017:EN:PDF>

⁹⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0001&from=EN>

⁹⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:l28028&from=IT>

¹⁰⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31985L0337&from=EN>

Sector Legal Framework

There is a myriad of sector laws and respective sub-legal acts setting standards toward the protection of the elements of the environment as well as regulating specific activities and pollutants which may harm the environment. Due to the large amount, especially with regards to sub-legal acts, only the main will be mentioned below.

i. Air Quality Sector

- Law No 162/2014 *“On protection of ambient air quality”* was approved on 2014. **Fully approximated to Directive 2008/50/EC¹⁰¹ on ambient air quality and cleaner air for Europe and to Directive 2004/107/EC¹⁰² relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air.** Nevertheless as provided in its article 24 the law enters into force only 3 years after being published in the Official Journal, thus not earlier than 2017. Until then the sector is still governed by the old law no. 8897, dated 16.5.2002 *“On protection of air from pollution”* **not approximated to any EU Directive.**
- DCM no. 594, dated 10.09.2014 *“On the approval of National Strategy on Ambient Air Quality”* setting the objectives of environment air quality.
- Recently approved DCM no. 352, dated 29.04.2015 *“On the assessment of ambient air quality and requirements for certain pollutants related to it”*. **Approximated to Directive 2008/50/ EC on ambient air quality and cleaner air for Europe and to Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air.**

ii. Water Quality Sector

- Law no. 111/2012 *“On the integrated management of water resources”*, the new framework law establishing the principles and rules on the use and management of all water resources. **Fully approximated to Directive 2000/60/EC¹⁰³ establishing a framework for Community action in the field of water policy.**
- DCM no. 246, dated 30.04.2014 *“On Environmental quality norms for surface waters”* which is **partially approximated to Directive 2008/105/EC¹⁰⁴ on Environmental Quality Standards in the Field of Water Policy.**
- DCM no. 267 dated 07.05.2014 *“On the list of priority substances in the water environment”*, which is **partially approximated to Directive 2013/39/EU¹⁰⁵, amending Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy.**

iii. Land Quality Sector

¹⁰¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0050&from=EN>

¹⁰² http://www.irceline.be/~celinair/documents/EU_guidelines/zwmnet_pak_en.pdf

¹⁰³ http://eur-lex.europa.eu/resource.html?uri=cellar:5c835afb-2ec6-4577-bdf8-756d3d694eeb.0004.02/DOC_1&format=PDF

¹⁰⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0084:0097:en:PDF>

¹⁰⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:226:0001:0017:EN:PDF>

- Law no. 9244, date 17.6.2004 “*On the protection of agricultural land*” establishing the general principles and rules on the use of agricultural land. **Not approximated to any EU Directive.**
- Law no. 9693, dated 19.3.2007 “*On pasture funds*” aiming at the protection of pasture funds and establishing rules accordingly. **Not approximated to any EU Directive.**

iv. Waste Management Sector

- The framework law no. 10463, dated 22.9.2011 “*On integrated waste management*” which repealed and replaced different laws on waste management establishes general rules for all types of waste management. **Fully approximated to Directive 2008/98/EC¹⁰⁶ on waste.**
- DCM no. 175, dated 19.1.2011 “*On the approval of the National Strategy of Waste Management and National Plan of Waste Management*”.
- DCM no. 418 dated 25.06.2014 “*On separate collection of waste at source*” **transposing the requirements of article 11 of Directive 2008/98/EC on waste.**
- DCM no. 387 dated 6.5.2015 “*On the approval of the rules for the control of PCBs/PCTs disposal, decontamination or disposal of equipment containing PCBs/PCTs and/or disposal of waste derived from used PCBs/PCTs*”. This DCM fully transposes Directive 96/59/EC¹⁰⁷ on the disposal of polychlorinated biphenyls (PCBs) and polychlorinated Terphenyls (PCTs).

v. Chemicals Management Sector

- Framework law no.9108 dated 17.7.2003 “*On chemical substances and specimens*”. **Not approximated to any EU directive on chemical substances.**
- DCM no. 824 dated 11.12.2003 “*On the classification, package, label and preservation of substances and dangerous preparations*”. **Not been approximated to any EU directive.**
- DCM no.100 dated 3.2.2008 “*Determining dangerous substances*”. **Not been approximated to any EU directive.**

vi. Environmental Noise Management Sector

- Framework Law no. 9774 dated 12.07.2007 “*On the assessment and management of environmental noise*”, regulates the sector but **has not yet been approximated to any EU directive.**

vii. Nature Protection Sector

- Law no. 68/2014 dated 3.07.2014 amending the law on Biodiversity protection **transposes some provisions of the Habitat Directive 92/43/EEC¹⁰⁸ on the conservation of natural habitats and of wild fauna and flora.**

¹⁰⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0098&from=EN>

¹⁰⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:l21201&from=FR>

¹⁰⁸ http://www.central2013.eu/fileadmin/user_upload/Downloads/Document_Centre/OP_Resources/HABITAT_DIRECTIVE_92-43-EEC.pdf

- Law no.8906, dated 6.6.2002 *"On protected areas"* aiming at the protection of some specifically identified protected areas¹⁰⁹ **has not been specifically approximated to any EU directive.**
- Law no. 7/2014 *"On the moratorium of hunting in the Republic of Albania"* prohibits hunting for a two year period.
- Law no.64/2012 *"On fishing"* is **partially approximated to the following EU legal acts:** Council Regulation no. 1224/2009/EEC¹¹⁰ establishing a Community control system for ensuring compliance with the rules of the common fisheries policy; to the EU Water Framework Directive no. 2000/60/EC; Council Regulation no. 2371/2002/EC¹¹¹ on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy; Council Regulation no. 1967/2006/EC¹¹² concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea; Council Regulation no. 1198/2006/EC¹¹³ on the European Fisheries Fund; Council Regulation no. 1005/2008/EC¹¹⁴ establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing; Council Regulation no. 199/2008/EC¹¹⁵ concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy; Council Regulation no. 104/2000/EC¹¹⁶ on the common organisation of the markets in fishery and aquaculture products; Commission Decision no. 1999/478/EC *"On the renewal of the consultative committee for Fishery and Aquaculture"*; Commission Decision no. 2005/629/EC *"On the establishment of the Scientific, Technical and Economic Committee for Fishing"*; Commission Implementing Regulation no. 404/2011/EU *"On establishing the implementation methods of Council Regulation no. 1224/2009/EEC"*.
- Law no. 9385 dated 4.5.2005 *"On forests and forests services"* **is not approximated to any EU legislation in this regard.**
- DCM no. 272 dated 7.5.2014 *"On the establishment, organization and functioning of Rescue Centres for wild fauna species"*. **Not approximated to any EU directive on the same issue.**
- DCM no. 866 dated 10.12.2014 *"On the approval of natural habitat types, plants, animals and birds of interest for the European Union"* which **partly transposes the Habitat Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.**

viii. Climate Change Sector

- Law no. 138/2013 *"On renewable energy sources"* is **fully approximated to Directive 2009/28/EC¹¹⁷ on the promotion of the use of energy from renewable sources.**

¹⁰⁹ http://www.mjedisi.gov.al/files/userfiles/ZM/harta_rreji_zm_korrik_2014.jpg

¹¹⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:343:0001:0050:EN:PDF>

¹¹¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:358:0059:0080:EN:PDF>

¹¹² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:409:0011:0085:EN:PDF>

¹¹³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R1198&from=en>

¹¹⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:286:0001:0032:EN:PDF>

¹¹⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:060:0001:0012:EN:PDF>

¹¹⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:017:0022:0052:EN:PDF>

¹¹⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0028&from=EN>

- DCM no. 865 dated 10.12.2014 “*On the prevention and reduction of fluorinated greenhouse gas emissions*” is **partially approximated to Regulation No. EC / 517/2014¹¹⁸ on fluorinated greenhouse gases.**

INSTITUTIONAL FRAMEWORK

There are several Albanian bodies vested with competences in the environmental protection field in Albania.

i. Ministry of Environment (ME)

The Ministry of Environment is the principal public authority responsible for environment protection. ME is vested with environmental policymaking competences, it prepares periodic national environmental plans related to the general environment or to specific elements of the environment. ME is also vested with implementation competences as established by the environmental legal framework. ME is also responsible of the various implementing agencies and bodies under its dependence, such as the NEA and the National Inspectorate of Environment, Forests and Waters (“NIEFW”), and coordinates their activity.

ii. National Environment Agency (NEA)

NEA is a very important implementing agency in the field of environmental protection in Albania vested with wide implementation competences. Established as a central public institution it is under the dependency of the ME. NEA exercises its competences throughout the territory of the Republic of Albania through its central office and through the Regional Environmental Agencies (REA) under its dependence. NEA is financed by the State Budget and its own resources. The law provides it with independent decision making powers, nevertheless the head of NEA is appointed by the Council of Ministers under the proposal of the ME minister, which may hinder his independency related to the government. Most important competences of NEA are the following:

- Drafting of the National Program for Environmental Monitoring;
- Monitoring discharges into environment;
- Preparing and publishing of monitoring reports on environment condition;
- Creation and management of an environmental information system;
- Creation and management of the Registry of Pollutant Release and Transfer;
- Implementing the “polluter pays” principle through the adoption of mandatory measures of rehabilitation, compensation or else, toward operators causing pollution;
- Decision making competences during the process of environment impact assessment (EIA).

iii. National Agency of Protected Areas (NAPA)

¹¹⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0517&from=EN>

NAPA is a recently created agency through DCM no. 102, dated 4.2.2015. It is a public agency under the dependence of the ME with the object of protection and conservation of nature, biodiversity through the management of protected areas of national interest. It exercises its jurisdiction throughout the territory of the Republic of Albania pursuant to the approved network of protected areas. NAPA's head and organization structure is appointed by the Prime Minister under the proposal of the ME Minister, which may hinder its independency toward the government. Most important competences of NAPA are the following:

- Management of the protected areas network;
- Promotion and support of the collection and distribution of information and environmental education on protected areas;
- Support to the exercise of economic sustainable activities within protected areas through control and monitoring of the implementation of regulations on protected areas.

iv. National Agency of Natural Resources (NANR)

It's an important Agency exercising management and control on the industry operators exploiting national resources in Albania. NANR is a public institution under the dependence of the Ministry of Energy and Industry which is not financed by the State Budget. The head of the agency and the organizational structure of NANR is approved by order of the Ministry of Energy and Industry, which constitutes a severe impediment to its institutional independence from the government in general and the specific ministry in particular. NANR is vested with specific competences on the covered field which are fundamental to the well management of natural resources in Albania which also exercise a huge environmental impact and specifically the following:

- Cooperates with the government on drafting of policies in the sectors of mining, hydrocarbons and hydro-energy;
- Implements the government policies in the sectors of mining, hydrocarbons and hydro-energy;
- Promotes mining and hydrocarbon sources, negotiates petroleum agreements and mining agreements, controls implementation of development plans of private operators;
- Supervises mining activities, post-mining activities, hydrocarbon activities and hydro-energy activities;
- Supervises the implementation of petroleum agreements;
- Monitors exploited areas, mining risks and closing of mining activities;
- Exclusively administers all main data of the petroleum, mining and post-mining activity.

v. National Inspectorate of Environment, Forests and Waters ("NIEFW")

NIEFW is a very important agency in the field of inspection of environmental protection in Albania vested with enforcement competences. Established as a central public institution it is under the dependency of the ME. NIEFW exercises its competences throughout the territory of the Republic of Albania through its central and regional offices. The criteria for appointing and discharging the head of NIEFW are established through Council

of Ministers Decision which constitutes a direct link to the government capable of affecting independence. Most important competences of NIEFW are the following:

- Exercise state control on environmental and forests protection;
- Guarantee implementation of the Environmental Permit conditions;
- prepare national inspection programs;
- Enforces the “polluter pays” principle through adoption of respective fines and administrative measures;
- Inspects polluted or potentially polluted areas, the implementation of rehabilitation duties from operators of polluted areas;
- Controls implementation of environmental quality standards;
- In general performs all inspections duties in the environment and forests protection field.

LIST OF LAWS, STRATEGIES, DOCUMENTS AND REPORTS SCRUTINISED

- Progress Report 2014 on Albania, European Commission;
- National Plan on EU Integration - Chapter 27;
- 2014 Environment Condition Report, National Environment Agency;
- Law no.10431 dated 09.06.2011 **“On environmental protection”**, as amended;
- Decision of Council of Ministers (**“DCM”**) no. 742, dated 9.9.2015 **“On the functioning and management of the register of discharge and transfer of pollutants...”**;
- Law no. 10448, dated 14.7.2011 **“On environmental permits”**, as amended;
- Law no. 10440, dated 07.07.2011 **“On environmental impact assessment”**, as amended;
- Law No 162/2014 **“On protection of ambient air quality”** was approved on 2014;
- DCM no. 594, dated 10.09.2014 **“On the approval of National Strategy on Ambient Air Quality”** setting the objectives of environment air quality;
- Law no. 111/2012 **“On the integrated management of water resources”**;
- Law no. 9244, date 17.6.2004 **“On the protection of agricultural land”**;
- The framework law no. 10463, dated 22.9.2011 **“On integrated waste management”**;
- DCM no. 175, dated 19.1.2011 **“On the approval of the National Strategy of Waste Management and National Plan of Waste Management”**;
- Framework law no.9108 dated 17.7.2003 **“On chemical substances and specimens”**;
- DCM no.100 dated 3.2.2008 **“Determining dangerous substances”**;
- Framework Law no. 9774 dated 12.07.2007 **“On the assessment and management of environmental noise”**;
- Law no.8906, dated 6.6.2002 **“On protected areas”**;
- Law no. 7/2014 **“On the moratorium of hunting in the Republic of Albania”** prohibits hunting for a **two year period**;
- Law no. 138/2013 **“On renewable energy sources”**;

CONCLUSIONS

Progress of Albania in adopting proper environment protection standards have been very slowly despite the pressure of EU integration. The reasons are twofold.

First of all Albanian legislation on environment protection, especially the specific sector legislation, is often old, not fully aligned with EU standards or even with necessary standards of a global market economy. Striking example of this is the legislation on land quality protection. As it was noticed above there is no framework law on land protection and the existing legislation is old and not aligned with EU standards. This combined with the Albanian severe land pollution situation, as was identified in the first part of this report, presents a very concerning scenario.

Secondly even when legislation is properly aligned with EU standards there are great difficulties in enforcing it. Despite the fact there are several enforcement agencies vested with specific competences, their activity results to be weak and not incisive with regards to environmental protection. The reasons are several. Agencies lack capacities, both human and financial resources. Inspecting agencies also lack independence from the central government which may constitute a key factor hindering their enforcement capacities. There is especially lack of enforcement of inspection and punitive competencies of the respective agencies with regards to the big polluters, the industrial actors. Though some step forwards have been performed in this regards, with fines imposed to operators in the last years, there seem to be no follow up measures with regard to restoring the polluted environment.

There is also lack of environmental awareness on Albanian citizens. Environmental protection campaigns are sometimes adopted but they are focused on particular cities or on specific topics. There is no proper discussion in Albania on sustainable exploitation of natural resources even though petroleum and mining exploitation has caused severe environmental impacts during the last years.

Though the Albanian government has performed some steps forward toward legislation approximation, the environmental protection issue it is not publicly discussed as one of the important aspects of EU integration of Albania.

RECOMMENDATIONS OF WORKING GROUP IV

The four sessions conducted in the framework of Working Group IV (Environment) put on focus such challenging topics as: Aarhus Convention, environmental pollution, . During the working groups, with the contribution of an assortment of Albanians and Slovak experts, with the participation of relevant ministries and state institutions and the full engagement of civil society organisations, an array of recommendations are concluded, which are listed below for each session organised in the frame of working Group III (Agriculture) for the period of July 2015- December 2015.

Session 1: The Aarhus Convention and the situation in Albania, 28 July 2015

Aarhus Convention, which is the most applicable convention in Albania, is a unique environmental treaty because it explicitly links environmental rights with human rights. Being a member of Aarhus Convention, the most applicable convention in our country, Albanian government must take the necessary legislative, regulatory and other measures, as well as proper enforcement courses to implement the three pillars: access to environmental information, access to participation in decision-making and access to justice in environmental matters. On the other hand is assessed that few know about this Convention in Albania and the rights and duties it provides. The Working Group of Environment during their first gathering on 28 July 2015, contributed with a set of recommendation and feasible actions to be carried out, such as:

Access to information

It is concluded to be difficult by citizens or civil society to get information about the sensitive environmental cases, adding so that most of the time they are not allowed to take this information because of the state secret reason, such as the case of military manoeuvres.

Another issue is the delay of taking the information and sometimes in many regions the access on internet is difficult or people don't know how to use it, making impossible for them to get informed.

It is necessary a constant process of informing and consulting of communities in rural regions through organized discussion, publications of brochures or awareness posters. These consults should be organized firstly by the local government on different regions. During the session was discussed the phenomenon of the local units, which often do not understand clearly the responsibility they have to inform the public opinion. It was mentioned as an example the process of waste separation at source (in 2017), for which the local government has not started yet an informative campaign.

Regarding the New Administrative Territorial Reform, it is valued as important the traineeship of Municipalities to be able to establish a framework regarding information and monitoring process about the environmental issues.

Public Participation in Decision-Making

Public hearings- The number of participants on public hearings is small. The awareness of citizens on important cases for the community should be increased and it should be clarified the difference between self-interest (e.g. job opportunities) and the environmental interest. A clear distinction should be between the disinterest of citizens and the inappropriate target groups identified. The panel suggested that during the public hearings the interest group should be targeted carefully and correctly, mentioning as a successful example the public hearings during TAP implementation process.

Access to Justice

Financial Factor – Regarding the high costs for a legal consult or sending the case to the court, the financial element it is seen as an obstacle to the access to justice. The law on “Legal Aid” assists all the citizens who need legal expertise, by forcing the state to cover all the expenses for all of them who fulfil the requirements provided in law.

Also, in the meeting was mentioned as alternatives the different NGOs which offer free legal service. It is seen as a problem the fact that an organization or association can complain on the court for a repeal of a legal act or law that it is against the public interest, but they cannot require to draft or adapt a new law or legal reform to improve the situation.

The principle of Sustainable development should be reached: by having in equilibrium the environmental development with the economic one. Any action, decision or non action in the environmental area should be in line with the sustainable development.

Lack of expertise and knowledge by the court officials regarding legal cases of environment makes the process more difficult. It is concluded the need of continuous qualifying traineeship to inform the staff of the Courts dealing with these cases.

Session 2: Environment Pollution in Albania and European Standards, 7 October 2015 in Elbasan

During the second session the experts of working group brought into attention the most emergent cases such as air pollution, land pollution and waste management, as one of the crucial factors affecting the environmental pollution in Albania. This meeting was organised in the city of Elbasan due to the fact that this city has the During the debate in which become part some local environmental organizations and media, it was emphasised the pollution and the issues on waste management as one of the crucial factors that affect negatively the environment in Albania. The importance of the EU legislation and standards in the field of environmental protection were pointed out as crucial for Albanian legal framework. Giving some insights about the environmental condition in Albana and the measures to be taken, the partakers contribute with suggestions and recommendations in this regard:

Pollution

The working Group Expert assessed the technical explanations for the environment monitoring process included on the 2014 Report of AKM, as not very detailed and graspable for the audience because of the fact that the data of pollution can't be translated in clear explanations regarding the effects and risks that these identified levels of pollution can cause to the environment and human health. It is essential for Albania to start undertaking complete and comprehensive monitoring through the usage of an adaptable technology and human capital required for the situation of pollution for all the environmental elements. The collected results must explain in an explicit way to the public opinion the level of environment pollution and the dangers this situation brings for their health, in particular in residential areas.

The waste management during the discussion was mentioned as a severe problem. The Working Group stressed the lack of a system for good management of the waste, mentioning that the most used technique, landfill technique has huge gaps because it is carried out not in greater depths, increasing the risk from the pollution and damaging the health of citizens. It is really urgent to set up and to make working a proper system for waste management to avoid the further immense pollutions because of this phenomenon. Public authorities, each based on their competences should be engaged as soon as possible to undertake the necessary measures to prevent pollution and specifically to bonificate the identified areas as polluted, especially those areas which are used as agricultural lands and which present direct riskiness for people health.

Legal Framework Implementation

The Working Group underlined that the major problem is not the Albanian legislation itself, but the lack of the correct implementation of existing legislation. Often there is a lack of legal acts adoption and also the process of making the VNM is dire and mostly only one specialist prepares them even when the projects are too complicated. The process of approximation of Albanian Legislation on environment with the EU legislation should go on with full speed, especially when it is about the sectional laws on protection of environmental

elements. Also all legal framework of environment should be harmonised in a way to reduce the gaps and competence overlapping. This could be achieved in an optimal way through drafting an Environmental Code which would regulate in a harmonised manner the entire environmental sector.

In addition according to the participants of Working Groups, the procedure of giving the environmental permissions is not transparent. It is recommend to solve the problem of environmental permissions by making the process fully transparent and to solve the issue of drafting the VNM by establishing the condition for complicated projects of a partnership and cooperation with a group of environmental experts, who each one would cover particular aspects of the project.

Another obstacle in implementing laws mentioned by representatives of State Inspectorate of Environment, was the high amount of fees for environmental infringements that make them impossible to be paid by the small enterprises. Furthermore, in the framework of practical obstacles was identified as a challenge in small communities, where businesses and the inspectors operate near each-other and have reciprocal connections, the process of setting the fees is really difficult and in the most cases these fees are declined by higher administrative instances. It is necessary a clear motivation from the part of public authorities to overcome the practical obstacles of legislation implementation, such as the personal connections with the fined enterprises, pressures or corruption in this process.

Institutional Capacity and EU environment grants absorption

While EU have been always ready to put considerable grants in helping the candidate countries to reach the EU standards on environment protection, the absorption of these funds is not automatic. This was noted by the Working Group, mentioning the fact that the local authorities do not have the proper human resources capacities to adopt draft-proposals suitable for getting the grants from the EU. Also one of the main obstacles in earning the EU financial support/grants in environmental sector is the deep gap of studies in micro level and clear statistics about the amount of environment pollution in Albania. Furthermore during the discussion was underlined another obstacle noticed after getting the grants, which is the difficulties our authorities face on implementing the projects because of the insufficiencies in infrastructures and human capital, which can bring the failure of the environmental projects and the obligation to turn back the financial support taken from the EU.

Also, the institutional coordination is missing, and in most of the cases there is an overlapping of responsibilities and conflict over the competences and also the administrative and procedural mechanisms for implementing the legislation do not function. Another essential step to be taken is the clarification of competences for the number of institutions which implement the environmental law, adding also the inter-institutional ones. It is fundamental, a stronger inter-institutional cooperation and an effective coordination within the body.

On the framework of steps towards EU integration, it is necessary for Albania the improvement of capacities on environment protection putting on the disposition all the technological, financial and human resources. Also strengthen of local units' capacity, which are the ones that have the responsibility on monitoring and protecting the environment is really important. Executive structures should be improved, firstly by giving them an institutional independence from the external intervention or pressures and should be supported by the central governances for fulfilling their duties successfully.

Finally, the repetition of sensibilization campaigns to raise the citizens' awareness is another required action. Environmental education can be carried out better through closer cooperation between government, NGO-s, academia, media, civil society, Education System and the citizens in general. The working group suggested the use of the informative innovative campaigns that include all the citizens to motivate them in preservation and protection of their environment. The environment protection should be assessed as a human right but that is also part of all the interested community. A better cooperation with the Education Institutions might be really helpful, such as: 1. Partnership with Regional Education Directories to provide better and richer environmental curriculums, filled with training and other activities. 2. Cooperation Agreements with Faculties of Law or Economics for a wider focus on Right of Environment and economical impact the pollution has.

Session 3: Environmental impact of the development of natural resources and the EU policies of sustainable development, 16 November 2015, Fier

The Session 3 of Working Group, took part in Fieri city, as one of the richest regions with natural resources in Albania, especially with petrol and natural gas, but which is suffering from environmental issues due to environmental damages and pollution caused by the development of natural resources policy. Despite the fact Albania is very rich on natural resources, the legislation on extraction and processing them is very old providing some general principles. Such laws do not correspond with EU legislation, becoming so a source of a real challenge on the adoption process of a new legislation similar to Europeans directives. During this session in the spotlight of the discussion were two important challenges, such as the respecting and implementation of laws and also the increase of awareness of the citizens and also to relevant institutions about this topic. The debate among the participants from local environmental institutions in Fieri including Mr. Agron Basholli, Director of State Inspectorate of Environment in Fier, local NGO-s and the expert from Slovakia, Mr. Juraj Mesik was concluded with a set of recommendations and strategies to reach a sustainable development, focused on the European Union strategies for environment protection, which could be used and be adopted from Albanian structures in their policies and legislation:

Sustainable Development

Natural resources in Albania are not developing in accordance with the sustainable development principles:

- **On environmental aspect**, it is concluded that Albanian environment is polluted from exploitation activity of natural resources such as petrol, natural gas and other minerals. It is essential to mention a series of accidents which occur during these activities as an indication that the subjects of activities do not take the required preventive measures to protect the environment. There is no a visible evidence that the profits coming from this industry are invested in new technologies and methodologies friendlier to the environment.
- **On economical aspect**, it is seen that agreements between Albanian state and private sectors on natural resources exploitation provide a low level of profit to Albanian state, implying so that Albanian economy does not benefit from this kind of activity. According to the law 7746, state gets only 15% of the petroleum extracted from the private companies, which is a small value comparable to African countries, but not with the European standards. In addition in the areas in which takes place the industrial operation of minerals extraction, the investments are missing and there is no an economical improvement to the community.
- **On social aspect**, life quality of the citizens living in the surrounded areas in which natural resources are exploited, it is not better off. Important structures such as health institutions, new residence buildings are missing in there. Furthermore the community near petrol areas or the mine diggers themselves complain about the high risk and life threats coming from such operations.

It is essential for Albania to adopt and implement concrete policies on natural resources exploitation in harmony with sustainable development principles by implementing all the required measures.

Albania's obligation regarding EU legal framework

Albania needs to approximate the environmental legislation with the EU one. Albania has not signed yet any strategy on sustainable development of natural resources and the Albanian legal framework is far away from EU standards in this field. This is why Albanian state is required to fulfil the obligations as follows:

- Adoption of the National Strategy on Sustainable Development for Natural Resources;
- Harmonisation of Albanian legislation with the Directive 2008/99/EC " On the protection of the environment through criminal law" which provides a number of environmental infringements that should be treated by the Member States as penal actions against environment.
- The plan on waste management in accordance with EU standards should be implemented.
- Should be adopted the Law on monitoring and preventing the accidents during industrial activities corresponding the EU Directive 96/82/EC.
- Harmonisation with the EU Directive 2013/30/EU on providing security during industrial operations with natural resources of oil and natural gas. The amendment of Law no. 7746, dated on 28.07.1993 is essential because this law provides some general principles but does not include specific and technical rules on methodology of research and production, technology usage or environmental protection.

Obligations coming from European Convention on Human Rights

As a member of the European Convention on Human Rights, Albania has some new obligations due to the recent decisions Strasbourg Court had taken in the field of environmental protection. Currently Strasbourg Court considers as violation of humans rights also all the environmental major accidents that threaten or damage the fundamental rights of community. (Case Öneriyıldız against Turkey)

Strasbourg Court has obliged all the Member States to implement some parameters that should be followed and be met in during the dangerous industrial activities by: monitoring and controlling the activities, protecting the community resident in the areas in which these activities take place, informing the public opinion about the level of threat and danger from these activities etc.

In actual conditions, Albania does not fulfil the obligation on regulation, controlling and guarantying the process of industrial activities in a proper manner, without a threat for the people's health and life. Also there is a gap of information about the risk these activities possess. This is why is necessary that all the required standards provided by Strasbourg Convention to be implement from the Albanian state, by taking the proper measures to control, prevent and sanction the hazardous situations like the explosion of wells by Bankers Petroleum activity and others similar to that.

Session 4: Protecting Environment through Criminal Law, 17 December 2015

While the global public debate is concentrated mostly on climate changes and urgent measures needed to prevent this phenomenon, Albania has remained behind even in implementing the preliminary elements of environmental protection. In this working gathering were discussed on differences between EU legislation and the Albanian one, on environmental protection. The core problem of environmental protection in Albania is the lack of legislation, and the gap between European legislation and the Albanian one. Another subject was the low level of citizens' awareness regarding environment and its protection compared to level of pollution in Albania. n. During the open debate in which took part a Slovak expert, Mr. Ondrej Koporec, Mrs. Erinda Misho, from National Environment Agency and representatives from civil society and interest groups a set of recommendation was concluded, suggesting the best alternatives for further approximation with EU norms and advancement in environmental protection:

Amendments of Penal Legislation in Albania on environmental protection

Albanian Penal Code provides only nine articles for environment protection and covers a limited number of pollution activities that are sanctioned. The reform of Penal Code in the environmental protection should achieve the standards of Directive 2008/99/EC. It is fundamental the provision of penalty for land pollution

which is not included as penal action by itself. Penal Code should provide also specific sanctions for polluting actions against protected areas, flora and fauna and in a specific focus should be the prevention and punishment against the trade of protected species. Particular sanctions should be provide even for the activity of waste management in those cases that it is against the legal parameters and causes pollution in the environment. In general, all Chapter IV of Penal Code should be revised in accordance with the Directive 2008/99/EC and must respect the norm that higher the level of pollution, heavier will be the sanctions for the subject of the polluting activity, so this means that large level of pollution due to the industrial activities should be sanctioned as penal crimes, otherwise the low levels of pollution should have lighter sentences. On the other hand, as required from the abovementioned Directive, some non-penal sanctions should be provided for punishing the associations and companies which are subject of environmental crime.

Increase of awareness on environment protection from pollution

Citizens' awareness regarding environment and its protection is really low compared to level of pollution in Albania. There is a gap of information about the pollution and situation in Albania and most importantly when it comes to the consequences this pollution has on human health. The reform of Penal Code could bring as a positive element, apart from the strengthen of legislation, the increase of citizens awareness on the importance of environment protection due to the fact that penal legislation boosts the interest of citizens about the cases sanctioned from the penal legislation. In addition the awareness process requires a better access of public information on pollution and also the reports or studies published should be easy to understand by the public opinion.

Strengthen state institutions responsible for environmental protection

There are a number of state institutions that have competences in fighting the pollution including bodies of Ministry of Environment, State Inspectorate of Environment, National Agency of Environment and also Courts. One of the essential obstacles in Albania is the unfeasibility to implement the legislation due to the high level of corruption. The real implementation of Anti-corruption policies is a crucial element in finalising the fight against environmental pollution. The second important feature is the increase of capacity building and expertise for the legal institutions about the cases of pollution through implementing financial, technical and human resources. The most important bodies such as Inspectorate of Environment and National Agency of Environment require new technologies and a qualified staff when it comes to environmental pollution. On the other hand, investigative bodies such as prosecution or courts that until now have not treated in a considerable manner the legal cases regarding environment, have an emergent need to raise the level of expertise on investigating and judging such cases. Furthermore it is relevant the establishment of a mutual cooperation system and exchange of information between all the institutions that have responsibilities in protecting the environment.

Transparency in investigation progress and procedures on environmental accidents

Albanian public opinion, time to time is informed about environmental accidents due to industrial activities. The information is given mostly through the media and it is not followed from detailed official reports regarding the measures and sanctions taken. This is the reason why there is a need to increase the level of transparency of responsible state institutions and to raise the public awareness and its access in official information. The Institutional Transparency should provide at least the points mentioned below:

-It is required an official information about the reasons of accident, the type of pollution, long and short termed damage and the consequences in citizens health. - The official analysis should be public regarding the level of danger and cost of hazardous substances - The information about the conclusion of investigations, court process, individual responsibilities, administrative or/and penal measures taken, also including the restitution to citizens damaged should be given to the public.

ACKNOWLEDGMENTS

Ministries

Ministry of European Integration

Ministry of Justice

Ministry of Internal Affairs

Ministry of Agriculture, Rural Development and Water Administration

Ministry of Environment

Minister of Innovation and Public Administration

Ministry of Social Welfare and Youth

Ministry of Education and Sport

State Agencies and Institutions

National Chamber of Mediators

National Environment Agency

National Food Authority

National Inspectorate of Environment, Forests and Waters

Official Publication Centre

Probation Service

Regional Environmental Agencies, Elbasan

Regional Inspectorate of Environment, Forests and Waters, Fier

Secretariat of Albanian Investment Council

State Agency for Protection of Children's Rights

State Commission for Legal Aid

State Police

Organisations of Civil Society or Private Sector

EU Delegation in Albania

Albanian Helsinki Committee

Albanian Agribusiness Council

Cooperation and Development Institute

UNHCR

International Organization of Migration (IOM)

Albanian Savings and Credit Union

Ecovolis

Regional Environment Center

EDEN Center

AGRO Lider Invest Albania

Albanian Association of Bees Breeding
 Alfa Consulting
 Association of Dairy Products and Meat Albania
 Atlantic Council of Albania
 BIOADRIA
 Centre ALBAFOREST
 ECAT Tirana
 EKR
 Environmental & Territorial Management Institute
 Farmers and producers in agribusiness
 GBE Herbs
 I Choose to Change the World
 INFOCIP
 Institute for Public Policy and Good Governance
 Institute of Political Studies
 International Centre for Migration Policy Development
 International Organization of Migration (IOM)
 KEPUTA sh.p.k
 KRIIK
 KURUM
 LFC – Albania
 National Association of Albanian Stockbreeder
 National Bar Association
 PAMECA
 Protection and Preservation of Natural Environment in Albania
 Refugee and Migrant Services in Albania
 Risi Albania
 Roma Active Albania
 Save the Children
 SHBB Elbasan
 Union of Chambers of Commerce & Industry of Albania
 World Vision in Albania and Kosovo

Academia and Research Institutes

Agency of Research, Technology and Information (AKTI)
 University of Tirana
 University of New York Tirana (UNYT)
 Research Institute, University Marin Barleti

