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## **Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)**

### **Honouring of obligations and commitments by Albania**

#### **Information note by the co-rapporteurs on their fact-finding visit to Tirana (29 June to 1 July 2022)**

Co-rapporteurs: Mr Joseph O'REILLY, Ireland, Group of the European People's Party and Mr Asim Mollazada, Azerbaijan, European Conservatives Group & Democratic Alliance

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<sup>1</sup> Document declassified by the Monitoring Committee at its meeting on 10 October 2022.

## 1. Introduction

1. As a result of the Covid-19 pandemic, our previous visit took place from 28 to 30 October 2019. However, during the pandemic we continued the monitoring of the obligations and commitments of Albania, albeit from a distance. A series of online meetings were organised with experts and civil society representatives as well as members of the Albanian parliament on the issue of electoral reform, which resulted in the preparation of a special information note that was debated in the Committee and declassified. Another issue that has been, and continues to be, closely followed by the rapporteurs and Monitoring Committee is the media environment in Albania. The Monitoring Committee organised two hearings on this subject and in that context requested an opinion on the revised draft amendments to the law on the audio-visual media service from the Venice Commission.

2. Since our previous visit many developments have taken place and marked progress has been made with regard to the honouring of Albania, membership obligations and accession commitments. At the same time a number of challenges remain including with regard to the political environment and stability of the country's democratic institutions, the fight against corruption and the independence of the judiciary as well as with regard to the media environment in the country. These issues were therefore the main focal points during the visit that took place from 29 June to 1 July 2022.

3. On 14 December 2021 Mr Asim Mollazada was appointed co-rapporteur to replace Mr Petter Eide, who had left the Assembly. Mr O'Reilly's mandate was to expire on 23 June 2022. In order to ensure continuity as well as for the smooth running of the ongoing monitoring procedure, the Committee agreed, on 23 May 2022, to extend Mr O'Reilly's mandate with 6 months in line with paragraph 11.4 of [Resolution 1115 \(1997\)](#) as amended.

4. During our visit we met with, inter alia: the President of Albania; the Speaker of the National Assembly; the Minister of Justice; the President of the Constitutional Court; the Ombudsperson; the Chairperson and members of High Qualification Committee; the Special Anti-Corruption Prosecutor (SPAK) and the Head of the National Bureau of Investigation (NBI); the Chairpersons and members of Committees on "Education and Public Information Media" and on "Legal Affairs, Public Administration and Human Rights" of the Albanian Parliament; the co-chairs of the Parliamentary Ad Hoc Committee on Electoral Reform and the co-Chairs of the Parliamentary Ad Hoc Committee on Territorial Administrative Reform; individual meetings with the leadership of the Political Groups in the Albanian Parliament; the Albanian Media Council and the Audio-visual Media Authority; as well as representatives of civil society organisations and of the diplomatic community in Tirana. The programme of our visit is attached to this note in Appendix 1.

5. We would like to thank the Albanian delegation and Albanian Parliament for the excellent programme and hospitality, and the Head of the Council of Europe Office in Tirana and her staff for the support given to our delegation. The statement issued at the end of our visit is attached in Appendix 2.

## 2. Recent political developments and political climate

6. As we have outlined in previous information notes, the political environment in Albania is extremely polarised, characterised by the very contentious relationship between the main political parties in the country. As a result, for several years the country has been in a state of a nearly permanent systemic crisis with political parties regularly resorting to boycotts of the parliament and political institutions when they are in opposition. This situation has affected reforms and hindered the democratic consolidation of the country. While the political environment remains an issue of concern, it has somewhat improved since the agreement between the main parties on electoral reform of 5 June 2020 and the subsequent parliamentary elections on 25 April 2021.

7. For detailed information on the electoral reform process, we would like to refer to our information note<sup>2</sup> on this subject, which was discussed and declassified by the Committee on 3 February 2021. However, in summary: on 14 January 2020 the ruling majority as well as parliamentary and extra-parliamentary<sup>3</sup> opposition agreed on the establishment of a Political Council for Electoral Reform. On 5 June 2020 the Political Council announced that it had reached agreement on far reaching electoral reform. However, no agreement had been reached in the Political Council on a change of election system, which had been a key demand of the

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<sup>2</sup> [AS/Mon \(2021\) 03](#).

<sup>3</sup> Please see the information note for an explanation of the political environment at that time.

parliamentary opposition<sup>4</sup>. On 15 June 2020, 28 individual MPs, mostly from the parliamentary opposition, tabled a set of Constitutional amendments to introduce an open list instead of a closed list proportional system. The ruling majority agreed to these proposals, but the extra-parliamentary opposition decried these amendments as going against the spirit of the 5 June agreement. Nevertheless, these parties continued their involvement in the electoral reform, which we have welcomed. The constitutional amendments were subsequently adopted on 30 July 2020. These amendments removed constitutional link between constituencies and the administrative regions, leaving the demarcation of electoral constituencies to lower-level electoral legislation. However, it was agreed that for the 2021 elections the old demarcations of electoral districts would be maintained<sup>5</sup>. In addition, the threshold was lowered to 1% and electoral coalitions were replaced by joint electoral lists.

8. On 6 September 2020, President Meta of Albania called for parliamentary elections on 25 April 2021. These elections were won by the coalition led by the incumbent ruling Socialist Party. The Socialist Party obtained 48.7% of the votes or 74 seats, against 39.4% or 59 seats by the Democratic Party. The Socialist Movement for Integration (LSI) of President Meta won 6.8 % of the votes or 4 seats and the Social Democratic Party of Albania (PSD) 2.5% or 3 seats. No other parties passed the threshold. These elections were observed by the Assembly in the framework of an international election observation mission (IEOM) bringing together the OSCE/ODIHR, the OSCE-PA and PACE. While the IEOM deployed several observer teams on election day, the proceedings were less systematically observed than usual as a result of the pandemic conditions at the time of the elections. The IEOM concluded that the voters were provided with a choice of candidates' who could campaign freely. In their reports the IEOM and the *ad hoc* Committee of the Assembly concluded that the legal framework for the elections was adequate for the conduct of democratic elections and generally trusted by the stakeholders. Despite its considerable enlarged responsibilities, the Central Election Committee organised these elections in a generally transparent and efficient manner. However, the observers also concluded the ruling Socialist Party had derived undue advantage from its incumbency including through its control over local administrations and by its abuse of administrative resources, including reported pressure on civil servants. Regrettably allegations of vote buying remained widespread, affecting the public trust in the outcome of the elections.

9. A specific issue that propelled to the foreground in campaign period, was the leaking into the public domain of a state database containing personal information of approximately 900.000 Albanians, including their contact details, and likely voting preferences. Opposition parties, who considered the database as proof of illegal use of personal data, called for an investigation of the special anti-corruption structures (SPAK) into this database. SPAK ordered the seizure of electronic equipment of journalists that had leaked the existence of this database. However, SPAK was rebuffed by the ECtHR and the High Court of Albania, which ruled that the journalists could not be forced to reveal the sources of the information. An investigation into this data leak was opened by the Albanian Prosecutor General and is reportedly still ongoing. In January 2022, the Prosecutor General announced that 4 persons had been arrested in relation to the data leaks. The parliament has initiated an inquiry into these data leaks but, at the time of our visit, had not yet come to any conclusions.

10. In 2020 legal provisions were adopted that changed, *inter alia*, the rules governing the start of the mandate of a new convocation of the parliament following elections. Therefore, although elections took place on 25 April 2021, the new parliament only convened on 10 September 2021, delaying the return of the main opposition parties to the parliament<sup>6</sup>, which led to some speculation about possible ulterior motives for this delay in convening the new parliament. This underscores the continuing tense and polarised political environment in Albania. When the new parliament convened, all members elect accepted their mandates and entered into the parliament. With the return of the opposition to the parliament and its work, an important political and constitutional crisis was resolved, although not all of its underlying causes. Three *ad hoc* committees were agreed upon between the ruling majority and opposition, one on electoral reform, one on the territorial administrative reform and one on an inquiry Committee into the alleged electoral misconduct, including abuse of administrative resources and the misuse of personal data.

11. Despite internal criticism following the Democratic Party (DP) losing the April 2021 parliamentary elections, Mr Basha was re-elected Chairman of the Democratic Party in June 2021. On 19 May 2021, the United States government declared former President, Prime Minister, and DP party leader (as well as one of the founders of the DP Party) Sali Berisha persona non-grata in the USA for his involvement in "considerable

<sup>4</sup> It should be noted that the main opposition parties were not formally represented in the parliament at that time, having chosen to return their mandates.

<sup>5</sup> This demarcation will have to be done before the next parliamentary elections and remains a sensitive issue.

<sup>6</sup> The main opposition parties had rescinded their mandates in the previous parliament in protest.

corruption". It is important to note that until now no criminal investigations or proceedings for corruption have been initiated against him in the USA or in Albania. Reportedly under pressure of the United States and the EU, Mr. Basha announced on 9 September 2021, the day before the new parliament was convened, that Mr Berisha had been expelled from the DP parliamentary faction. In reaction, Mr. Berisha called upon Mr Basha to resign and announced that he was challenging him at the next Party Congress for the leadership of the Democratic Party. Mr. Berisha's supporters, claiming they had obtained sufficient support from local party branches subsequently called for a Party Congress on 11 December 2021. In response, Mr. Basha announced that, according to his understanding of the party rules and regulations, only the DP party leadership had the right to call for a Party Congress and he subsequently called for another -competing- Congress for 18 December 2021.

12. On 11 December 2021, the participants of the DP National Convention convened by Mr Berisha dismissed Mr Basha as Secretary General of the Party and established a temporary Committee to lead the party until a new leadership would be elected in March 2022. In response, the DP executive Committee convened by Mr. Basha challenged the legality of the National Convention convened by Mr Berisha and dismissed a number of Berisha supporters, deepening the crisis in the party. Mr Basha subsequently challenged the legality of the convention that was convened by Mr Berisha before the Court. On 25 March 2022, the first instance Court ruled that the 11 December Convention called by Mr Berisha and its decisions were legal and valid. This decision was appealed by Mr Enkelejd Alibeaj, leader of the parliamentary group of the Democratic Party and Mr Basha ally, who functioned as interim party Chair following Mr Basha's resignation after his faction had lost badly in several municipality by-elections. On 22 May 2022, Mr Berisha was elected Head of the Democratic Party in an election organised among all DP party members in which he won 93% of the votes.

13. At the moment of writing the appeals court has not yet adjudicated on the appeal filed by Mr Alibeaj against the first instance court judgement, which allows the intra party conflict and confusion to continue. While Mr Berisha has continued to act as DP party leader and has started a reform of the party's organisational and political structures, on 2 September 2022, 28 out of the 59 DP MPs confirmed Mr Alibeaj as Chair of the DP parliamentary Group. This delay in adjudicating by the appeals court has been criticised by both Mr Berisha as well as by Mr Basha supporters.

14. It is important that the internal crisis in the Democratic Party is not allowed to create another national political crisis. The international community has an important role to play and has to avoid that it will be instrumentalised for domestic political purposes and therewith deepen the political crisis.

15. As mentioned in previous information notes, the return of all political parties and forces to the parliament, which is the constitutional platform for political interaction, is an essential precondition to resolving the systemic political crisis in the country. We therefore strongly welcome that, following the 2021 elections, all parties agreed to take their seats and enter parliament. All democracies need a well-functioning opposition to ensure a proper system of checks and balances. The internal crisis and schism inside the Democratic Party raises the spectre of a new disjuncture between the parliamentary faction and party structure of the main opposition party in Albania, which would run counter to the positive feat of the return of the opposition parties to the parliament. This is of serious concern.

16. Despite the improvements in the political climate since the last elections, it remains very polarised. This became again apparent during the election of the new President of Albania.

17. The term of President Meta ended on 24 July 2022. The President of Albania is elected indirectly, by the Parliament, for a five-year term. The constitution limits the term in office to two consecutive five-year terms. President Meta was first elected in 2017. However, given the contentious relationship between him and the ruling majority, as evident from the two attempts to impeach him, he was not considered to be a candidate for a second term. The President is elected by the parliament with a 3/5 majority of all members. If no candidate achieves such a majority in the first three rounds of voting, the majority needed to elect the president will be lowered to an absolute majority of 50%+1 votes in the subsequent rounds of voting.

18. On 10 May 2022 parliament agreed to hold the first round of voting for a new President on 16 May 2022. For the first three rounds of voting, it had been agreed between ruling majority and opposition that the candidate would be proposed by the opposition. The opposition interpreted this as that would mean a compromise candidate that would be agreed upon between opposition and ruling majority. This was not the interpretation of the ruling majority which stated that for the first three rounds the opposition could propose any candidate they wanted to but that if none of the candidates would obtain the required majority then the ruling

majority would propose a candidate for the next round(s), where only an absolute majority is needed, which the ruling majority has. As a result, no attempts were made to find a compromise candidate and no candidate was proposed in the first three rounds of voting. For the fourth round of voting the Socialist Party proposed the, reportedly independent, candidate of General Major Bajram Begaj, who until that moment was the Chief of General Staff of the Albanian Armed Forces. He was elected with 78 votes in favour, four against and one abstention, with the majority of the opposition boycotting the vote. Without wishing to question the status of the new President, it is to be regretted that no compromise candidate could be found between ruling majority and opposition<sup>7</sup>. The 3/5 majority requirement was built into the Constitution to ensure that a President has broad support among all political forces and can stand above them. The wilful resort to the anti-deadlock procedure without even attempting to find a compromise candidate for the first 3 rounds clearly goes against the spirit of the Constitution and underscores the level of polarisation in the political environment.

### 3. Electoral and territorial administrative reform

19. Electoral reform and territorial administrative reform are interlinked issues. As mentioned, when the parliament convened on 10 September 2021, a parliamentary ad hoc Committee on electoral reform was established as well as an *ad hoc* Committee on territorial administrative reform. Both *ad hoc* Committees are led by two co-chairs, one from the ruling majority and one from the opposition. We met the co-chairs from both *ad hoc* Committees during our visit.

20. With regard to electoral reform, the reports of the election observers noted a number of important shortcomings, in particular with regard to campaign financing as well as vote buying and abuse of administrative resources, that need to be addressed as a priority. At the same time, it is important to underscore that the Venice Commission, as well as the Assembly, have repeatedly stated that the legal framework for elections is overall adequate for the conduct of democratic elections. Addressing the shortcomings and electoral misconduct noted during previous elections requires most of all the full and unconditional implementation of the existing election legislation, more than its revision, as well as a commensurate change in attitude and behaviour of the relevant stakeholders. In addition, as we publicly stated before the elections, the negotiations and agreement on electoral reform was equally – or foremost – a means to resolve the political crisis. In that context we underscored the importance of the principle of stability of electoral legislation. We therefore wish to emphasise again that there cannot be a continuous process of changing and revising of the election legislation as a substitute for normal working relations and dialogue between opposition and ruling majority.

21. Several Civil Society Organisations emphasised the need to reform the law on Political Parties, as the current legislation has led to the proliferation of so-called technical parties, often established with the sole purpose of increasing campaign funding and media access by established parties during the election campaign period.

22. The *ad hoc* Parliamentary Committee on Electoral reform met for the first time on 17 June 2022, several months after its establishment. From our meeting we got the impression that the main parties have considerable differences in their objectives and approach to this Committee, as a result of which few or no tangible results have been achieved. The term of reference of the Committee was originally until 10 August 2022. However, on 7 September the co-chairs of the Committee announced that they would request a 6-month extension of the mandate of the Committee. It is important that the main parties now muster the required political will to agree on the reforms necessary, especially as the next local elections are scheduled to take place in May 2023<sup>8</sup>.

23. The territorial administrative reform is an important subject. During the previous administrative reform, the number of municipalities was brought back to 63 and regions to 12. This merging of municipalities and regions was widely welcomed by the country's international partners, including the Congress of Local and Regional Authorities of the Council of Europe, as it allows for the establishment of strong local government institutions. However, after the last administrative territorial reform, the opposition parties claimed that the new municipality boundaries favoured the election of SP led municipalities at the cost of the opposition. The Democratic Party has proposed an increase of the number of municipalities to 94, which the ruling majority

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<sup>7</sup> Both representatives of the ruling majority and opposition claim to have done everything possible to reach consensus, blaming the other side for the failure to do so.

<sup>8</sup> These local elections are of particular importance for the normalisation of the political environment, given that the previous local elections were boycotted by the opposition which severely undermined the representativity of the local government bodies that were elected in those elections.

opposes. While it is important that the logic of the previous reform, namely the creation of strong and effective local government structures is maintained<sup>9</sup> and respected, it is important that there is a wide consensus among all political forces about the administrative territorial map of Albania.

24. The impact of these reforms on national elections has diminished somewhat with Constitutional Amendments that remove the link between constituency boundaries for the parliamentary elections and local administrative boundaries. For the 2021 elections the constituency boundaries were not changed, but the demarcation of election districts for future elections has still to be agreed upon. This subject could easily become a vehicle for future political contention and controversy. It is therefore important that all political forces agree to a demarcation process of the electoral district boundaries that is based on international standards and a broad consensus between the stakeholders. The Parliamentary Committee on administrative territorial reform had its inaugural meeting on 15 June 2022.

#### 4. Judiciary

25. As outlined in previous information notes, a key part of the reform of the judiciary, as well as the fight against corruption, is the ongoing vetting of judges and prosecutors in Albania. To recall, the vetting of judges and prosecutors is conducted by the Independent Qualification Commission, which consists of 12 members, appointed by the parliament based on recommendations by the International Monitoring Operation, which functions under the aegis of European Commission and the United States. In addition to the Independent Qualification Commission (IQC), there is a Specialised Qualification Chamber (SQC), consisting of 7 judges appointed in the same manner as the IQC, to which decisions of the IQC can be appealed. There are two Public Commissioners (PCs) who represent the public in these proceedings and who can appeal IQC decisions to the SQC. The International Monitoring Operation monitors the proceedings in the IQC and can recommend the Public Commissioners to appeal IQC decisions. The Independent Qualification Commission works in 4 panels of 3 members. All judges and prosecutors are assessed on the basis of three criteria: justification of assets, background check and legal proficiency. If a candidate does not pass the analysis of his or her assets, he or she will not be assessed for proficiency or subjected to a background check. Similarly, a candidate that fails the background check will not be assessed for legal proficiency.

26. The vetting structures were established in June 2017. In total 800 judge and prosecutor positions are subjected to the vetting procedure. By September 2021, 437 cases had been completed in first instance. In 298 cases the decisions are final. During our meeting with the members of the IQC we were informed that, at the start of July 2022, 541 subjects had been vetted, around 70% of the total number subjects to be vetted. The results of the vetting procedure have been dramatic, over 62% of the persons vetted were either dismissed – mostly because these persons could not justify their assets – or resigned. This included the General Prosecutor as well as the majority of the sitting Constitutional and High Court judges. The very high level of dismissals and resignations underscores the necessity of the vetting process. However, this high dismissal and resignation rate has also had a considerable impact on the functioning of the judiciary. Despite the fact that Constitutional Court and High Court judges, in addition to the Prosecutor General and members of the High Judicial Council, were the first group of persons to be subjected to the vetting procedure, only at the end of 2020 did the Constitutional court obtain its quorum of 6 judges needed to hold plenary sessions. Similarly, the High Court only became operational in July 2021 when 6 new High Court judges were appointed. Their appointment brought the number of High Court judges to 9 – out of 19 – which gives the High Court the required quorum to operate. However, it can only appoint its candidates to the Constitutional Court when more than half of the judges have been appointed. The appointment of the remainder of the High Court Judges is therefore a priority to ensure the proper functioning of both the High and Constitutional Courts.

27. When the vetting process was established, it was limited in time, also on insistence of the Venice Commission which considered that an open-ended vetting process would fall short of international standards. The Constitutional provisions that govern the vetting process therefore foresaw a five-year mandate for the IQC and PCs ending on 17 June 2022, and a 9-year mandate for the SQC ending on 17 June 2026. However, given the sheer number of cases and the complexity of them, it appeared soon that these deadlines were too tight. Already in 2019, we expressed our concern as rapporteurs that the period foreseen would be insufficient to vet all candidates for judicial and prosecutorial positions. This was exacerbated by the impact of the Covid-19 pandemic and by July 2021 it was estimated that at the end of its mandate, the IQC would only have completed 500 vetting cases, leaving approximately 300 cases unfinished. According to the Constitutional provisions these cases would then need to be finalised by the High Judicial Council and High Prosecutorial Council with appeals heard by the Constitutional Court. However, given the estimated number of unfinished

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<sup>9</sup> In other words, quality over quantity of local government structures.

cases this would de facto mean different vetting procedures, and thus unequal treatment, for a large number of judicial positions, which would be in itself against international standards and undermine the success of vetting procedure as such. In order to address this issue, 39 members of the Socialist Party proposed Constitutional amendments to extend the mandate of the IQC and PC with two and a half years until 31 December 2024.

28. On 5 November 2021 the Speaker of the Albanian parliament requested an opinion of the Venice Commission on this proposal and whether the extension of the mandate would be in line with European standards including the ECHR. The Venice Commission adopted its opinion<sup>10</sup> on 14 December 2021. In this opinion the Venice Commission concluded that the extension of the mandate was in line with European standards as the extension was the result of extraordinary circumstances, in particular the Covid-19 pandemic and did not change the temporary and transitional character of the vetting procedure. On the other hand, it considered that transferring a large number of unfinished cases to other bodies would result in an unequal treatment between the different judges and prosecutors, which would run counter to European standards. Subsequently on 10 February 2022, the Albanian parliament adopted with 118 votes in favour the Constitutional Amendments that allowed the extension of the mandate of the IQC and PCs to 31 December 2024. This extension of the mandate of the vetting bodies had previously been recommended by the Assembly and should be warmly welcomed. In Tirana, the members of the IQC informed us that, barring unforeseen circumstances, this extension will be sufficient to process the approximately remaining 250 cases<sup>11</sup>.

29. During our meeting with the members of the IQC, we were informed that, following the approval of additional budgetary and human resources in December 2020, the IQC has been sufficiently funded and staffed. Cooperation with the Ministry, which was essential for the vetting process had been in general good. To our concern, several members informed us that at one time or another they had been attacked in social media and/or that pressure had been put on them by members of the judiciary that were being vetted or by some of the interest behind them. As an example, a criminal complaint was filed against a member of the Commission by two persons she had vetted and recommended for dismissal. It took over 2 years before this complaint was dismissed by the court, at the cost of considerable resources. We call upon the authorities to investigate and address any reports of undue pressure on members of the vetting Commission and their staff in order to safeguard the highest level of integrity of the process.

30. As mentioned above, the very high level of dismissals and resignations of judges and prosecutors, including in very prominent positions, highlights both the thoroughness as well as the clear necessity of the vetting process for the judiciary in Albania. The authorities and all stakeholders should be complimented for the establishments and conduct of the vetting process, despite the negative impact this process at occasions has had on the judicial efficiency in the country. In our view the vetting process as conducted in Albania could be a model for other countries where the judiciary is plagued by (perceptions of) widespread corruption.

31. In addition to the vetting process, several reforms have been initiated by the authorities with a view to increasing the quality and efficiency of the justice system and to address the shortages of qualified judicial staff and the backlog of cases. A key reform currently under discussion, that has been developed in cooperation with the European Union and the Council of Europe, is the drafting of a new judicial map which would reduce the number of courts, especially appeals and administrative courts, in Albania. main objective of this reform is to ensure the efficient use of judicial resources, which have diminished considerably, inter alia, due to the vetting process<sup>12</sup>. However, the proposed judicial map is controversial and opposed by the Albanian Bar Association which fears that the new map will increase the distance<sup>13</sup> between the justice system and the Albanian citizens, which could affect public trust in the justice system itself. This is indeed of concern, but we understood that, at this moment, many courts are understaffed and struggle to deal with the backlog of cases, which also limits the access of citizens to the justice system. The authorities informed us that the School of Magistrates has increased its number of students to address this shortage but that will only have effect after some years. Without wishing to express ourselves on the proposed judicial map and the concerns expressed

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<sup>10</sup> [CDL-AD\(2021\)053](#).

<sup>11</sup> We were informed that these were mostly lower-level judges and prosecutors whose vetting took far less time than the vetting of high-profile top positions.

<sup>12</sup> An inter-institutional working group on judicial reforms in which, inter alia, experts from the Council of Europe participated, had concluded that, given the backlog of cases and the shortage of judges, the Albanian judicial system was working over its capacity.

<sup>13</sup> This is also to be taken in literal sense. According to the opponents of the new judicial map, specialised and appeals courts will be concentrated in a small number of large cities, obliging citizens and their lawyers who do not reside in these cities to travel long distances to have their cases heard before these courts.



in that context, we underscore the need for a wide consensus between all stakeholders on such a judicial map and that concerns expressed in this context be addressed.

32. While the reforms have improved the possibilities for a more independent and efficient justice system, concerns remain. External and internal interference in the judiciary has not yet been eradicated and will need steps beyond the vetting system. In this context, it is to be regretted the random case assignment system is reportedly still not functioning correctly. Moreover, the adjudication of cases is still too slow, the length of court proceedings too long, and the execution of court decisions too slow, which all need to be addressed as a priority by the authorities.

## 5. Fight Against Corruption

33. The vetting process of judges and prosecutors, which is the key instrument to fight corruption among the judiciary has been outlined in detail in the previous section.

34. The Specialised Structure for Anti-Corruption and Organised Crime (SPAK) comprising of the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI) are now fully operational, with the last 32 of the 60 special investigators of the NBI being appointed only a fortnight before our visit took place. SPAK has initiated a number of cases against officials for corruption, but they are still relatively few<sup>14</sup>, especially in the light of evident widespread corruption as indicated by the vetting results. Regrettably, as also noted in the most recent report of the European Commission on Albania, the number of convictions of high-level officials accused of corruption is still very low, which creates a sense of impunity. This needs to be addressed. On the basis of the vetting results the SPO has started criminal proceedings against 10 former High and Constitutional Court Judges as well as a number of officials of the Department for Public Procurement of the Ministry of the Interior. SPAK arrested 8 current and former public officials for abuses related to a public procurement contract among them was former head for Public Procurement at the Ministry of Interior. Initially SPAK did not have access to all relevant state databases and registers, but we were informed that has now been resolved. In addition, both the SPO and NBI highlighted the fruitful and effective cooperation and support they receive from similar institutions in Europe and the USA.

35. The work of the High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) has been strengthened by a whistle blower and whistle blower protection law. HIDAACI is responsible for the auditing of the asset declarations by all high-level officials in Albania on a frequency set out in the law. In previous notes we have raised questions about the lack of staffing and resources of the HIDAACI, in comparison to the high number of declarations they are supposed to check. These concerns were echoed by the European Commission that noted that HIDAACI's resources have not increased over the last 2 years<sup>1516</sup>. The electronic audit system, that is essential for HIDAACI to execute its task efficiently reportedly only came into operation in the end of 2021.

36. With regard to HIDAACI, as mentioned in previous information notes, the very high number of dismissals as a result of the vetting process due to undeclared and unexplained assets of candidate judges and prosecutors<sup>17</sup>, shows that this inspectorate needs to be both strengthened and better adapted to its tasks. It is not yet clear to us what lessons have been learned from the vetting process with regard to HIDAACI's functioning. The anti-corruption task force, headed by the Minister of Justice, which aims to foster co-operation between the different bodies and agencies fighting corruption in Albania, has according to the European Union been less active over the last years, which we hope will soon be addressed.

37. On 25 September 2020, GRECO published the addendum to the second compliance report on Albania, in which it concluded that Albania had implemented satisfactorily 9 of the 10 recommendations contained in the fourth-round evaluation report. The fourth evaluation round is now considered closed. On 3 December 2020, GRECO published its evaluation report<sup>18</sup> in the fifth evaluation round which deals with preventing corruption and promoting integrity in central government (top executive functions) and law enforcement. In this report GRECO concludes that Albania has a comprehensive but overly complex and a sometimes-disjointed

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<sup>14</sup> According to the 2021 country report on Albania of the European Commission in 2020, 413 corruption cases were sent to the courts, 53 by the SPO, leading to 270 convictions in first instance and 87 in appeal.

<sup>15</sup> European Commission 2021 report on Albania p. 25.

<sup>16</sup> The Albanian authorities have informed us that the budget of HIDAACI was increased over the previous years, however these increases seem mostly related to HIDAACI acquiring new functions under the whistle blower law.

<sup>17</sup> Who by law have to declare their assets annually, which should have been inspected by HIDAACI.

<sup>18</sup> [GrecoEval5Rep\(2019\)5](#).



legal framework for the prevention of corruption among persons with top executive functions in government (PTEFs). In addition, GRECO expressed doubt that all components of this framework are indeed implemented or applied. In this respect, it urges the authorities to ensure that the ethics Committee for the Committee of Ministers is indeed established and functioning and that clear post-employment rules for PTEFs are established and enforced. During our meetings we stressed the importance of these GRECO recommendations to be addressed as a matter of priority.

38. Besides corruption among the judiciary, perceived widespread corruption among law enforcement agencies and personal is a matter of concern and addressing it a stated priority for the government. In this respect the authorities have tried to duplicate the vetting structures of the judiciary for the national police, but without the safeguards and international monitoring that are the hallmarks of the successful vetting process of the judiciary. In 2018, the Albanian parliament adopted a law on the transitional vetting of the Albanian State Police. All State Police Officers, including border guards, are to be vetted on the basis of the legitimacy of their assets; interest and contacts with persons involved in criminal activity; and on professional proficiency. This vetting is carried out by an External Evaluation Commission composed of 5 members appointed by HIDAACI, 10 members selected by a board composed of five members representing the Minister of the Interior, the Ombudsperson, the Commissioner for protection against discrimination, the State Intelligence Service, and the Commissioner on the right to information and protection of personal data. As mentioned, unlike the vetting process for the judiciary there is no international involvement or oversight over the vetting process for the Police. While welcoming the priority given to fighting corruption among the police in Albania, GRECO has expressed strong misgivings about the feasibility of this vetting process, and about the impact of this process on the functioning of the police, given the enormous task of vetting 12.000 police officers, which easily could take much more time than the limited period for vetting foreseen in the law. Moreover, GRECO has also expressed reservations about the fairness of the process as, unlike the vetting of judges and prosecutors, the different verification processes have far less safeguards than those deployed for the judiciary. In this context GRECO also expressed its concern about the politicisation of the Albanian police force. Currently all high and middle level managerial positions are directly or indirectly (via the General Director of the Police who is a political appointee) appointed by the Minister of the Interior, undermining the independence of the Police, and leading to a high staff turnover with each change of government. These reservations were also shared with us by a number of stakeholders.

## 6. Media Environment

39. While Albania has overall made considerable progress in honouring its obligations and commitments, the media environment has regrettably continued to deteriorate in Albania. This backsliding is of serious concern to us as a free and pluralist media environment is a quintessential requirement for a well-functioning democracy. Already following our last visit, we expressed concerns about the deteriorating media environment in Albania. As mentioned in the information note we published after the visit: *“Regrettably, the media environment in Albania, which has always been challenging, has deteriorated since our last visit. Threats and harsh rhetoric against journalists have increased over the last year, including by Prime Minister Rama, who has reportedly called journalist rubbish bins or garbage in public speeches and meetings. As noted during previous visits, defamation remains criminalised, although it does not carry a prison sentence. However, the law allows for high fines in cases of a conviction, which has a chilling effect on journalists. The media environment remains split along party-political party lines, with many of the private media being supportive of one or the other of the main political parties. We do not question the authorities’ assertion that fake news is rife in the region, and that certain media outlets sometimes publish unsubstantiated allegations. However, such harsh rhetoric by leading members of the government and threats of defamation lawsuits are unfortunate and infringes on press freedom...<sup>19</sup>”*. Unfortunately, this situation has continued to deteriorate. In the 2022 World Press Freedom Index<sup>20</sup> by Reporter without Borders, which was published on 3 May 2022, Albania moved down 20 places in comparison to 2021 and is now ranked 103 out of 180 countries (1 being the best). According to this report press freedom is threatened by partisan media regulation (!) and the physical integrity of journalists by lack of protection against violence by organised crime as well as from the police<sup>21</sup>. The Council of Europe Platform to promote the protection of journalism and safety of journalists has so far for 2022 recorded 6 alerts while the authorities have answered to only one of them<sup>22</sup>.

<sup>19</sup> [AS/Mon \(2020\) 01 REV](#) § 35.

<sup>20</sup> 2022 World Press Freedom Index by [Reporters Without Borders](#).

<sup>21</sup> Reporters Without Borders – [ALBANIA](#).

<sup>22</sup> Safety of journalists platform – [ALBANIA](#).

40. One of the concerns in this respect has been the proposed so-called anti-defamation package. In December 2018, a package of amendments to the Law on Audio visual Media and the Law on Electronic Communications were drafted by the authorities that would give the authorities disproportionate power over online media content and which could lead to increased self-censorship by journalists. While a number of consultations were reportedly organised, none, or very few, of the recommendations made by the stakeholders involved – as well as of the international community – were taken into account in the package of draft amendments. For many media representatives, this confirmed their fears that the amendments were an attempt to bring online media outlets under the control of the authorities. Therefore, on our proposal, the Monitoring Committee, during its January 2020 meeting, decided to request an opinion of the Venice Commission on this package of draft amendments.

41. The Venice Commission adopted its opinion on the draft amendments to law n°97/2013 on the audio-visual media service on 19 June 2020. In this opinion<sup>23</sup>, the Venice Commission expressed serious concerns with regard to the draft amendments which it considered “*are not ready for adoption in their current form. The law suffers from vagueness and would likely to have a “chilling effect” suppressing free discussion and political speech in the Albanian sector of the internet*” While recognising the legitimacy of trying to address the issue of defamation and online media, the Venice Commission recommended the authorities to “*reconsider the adoption of the draft amendments to Law no. 97/2013 (and the related draft amendments to Law no. 9918/2008), in their current form, as voted by the Parliament in December 2019.*”

42. Following the publication of the opinion, in a welcome move, the authorities withdrew the draft amendments from parliament and promised to revise them in line with the Venice Commission recommendations before tabling them again. The authorities requested assistance from the Council of Europe in the process of revising these amendments. However, this process did not produce the desired results, raising questions about the political will of the authorities to revise the amendments in line with the Venice Commission recommendations.

43. Expertise provided by the Council of Europe, which was presented in the meeting of the Monitoring Committee on 13 November 2020, concluded that the revised amendments, while containing some improvements, do not address satisfactorily the main and most crucial recommendations of the Venice Commission and could not be considered compliant with international standards. Subsequently, on 15 December 2020 the Monitoring Committee requested an opinion of the Venice Commission on these amendments as soon as they would be officially tabled in Parliament. Since then, the authorities have indicated that they no longer intend to propose these amendments to the Parliament. This should be welcomed. At the same time, these amendments have not been formally withdrawn from the parliamentary agenda and could resurface at any time. This is continuing to create unnecessary disquiet among the media in Albania, who understandably feel that these legal proposals hang as a sword of Damocles over their heads. We therefore urge the authorities and parliamentary colleagues to formally withdraw these amendments from the agenda of the parliament. After the discussions in the Committee on this information note had taken place<sup>24</sup>, we were informed that the authorities have announced that they will formally withdraw these amendments. This is a welcome development which we hope will soon be effectuated.

44. Recent changes to the Criminal Procedure Code reportedly have made prosecution of journalists and media outlets for defamation much easier. The criminalisation of defamation, even if no longer punishable with prison sentences, and the increase in the use of so-called SLAPPS (Strategic Lawsuits against Public Participation), create chilling effects and are of serious concern. We call upon the Albanian authorities to fully decriminalise defamation as well as to enact proper legislation to counter the abuse of SLAPPS to silence critical voices.

45. In a worrisome development, journalists have been banned by the Prime Minister Rama from government press conferences for extended periods of time (3 months) after asking questions that were not to his liking. This undermines the possibility for critical reporting by journalists and encourages self-censorship by them. This in turn is detrimental to transparency of governance. In response, 6 major international media and journalists’ organisations<sup>25</sup> appealed to the authorities to un-ban these journalists and refrain from applying similar measures to other journalists for asking critical questions. We consider that asking

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<sup>23</sup> [CDL-AD\(2020\)013](#).

<sup>24</sup> The information note was discussed in the Monitoring Committee on 10 October 2022.

<sup>25</sup> European Centre for Press and Media Freedom (ECPMF); European Federation of Journalists (EFJ); Free Press Unlimited (FPU); International Press Institute (IPI); OBC Transeuropa (OBCT); Reporters Without Borders (RSF); and Safe Journalists Network.

critical questions, no matter how unwelcome these may be to the authorities, is an integral and important function of journalism. Banning a journalist from government press conferences for asking critical questions undermines media freedom and public transparency. We therefore urge the authorities to refrain from such practices.

46. On 18 September 2021, the Albanian government established the Media and Information Agency (MIA). According to the authorities the aim of this agency is to ensure transparency and centralise the communications about activities and policies of the government. This agency will also monitor domestic and foreign (social) media with a view to informing the government of public opinion regarding its activities. Following its establishment, individual ministries no longer communicate directly with the media and their statements are approved by the Head of the Media and Information Agency, who holds a level equal to that of a state minister. While the government has asserted that the establishment of this agency will ensure the efficiency of distribution of information about the activities of the government, the establishment of this agency and the centralisation of the provision of information has raised considerable concerns among a wide range of domestic and international stakeholders who consider this agency to be a *de facto* ministry of propaganda aimed at increasing the control of the authorities over the media at the cost of media freedom<sup>26</sup>. To underpin their position, they point to the above-mentioned bans on journalist as well as to the fact that, despite legal provisions regulating access to information, official requests for information are often refused without reason or take so long to fulfil that the request is no longer topical or relevant. Their concerns about partisan control over this agency were compounded by the appointment by the Prime Minister of his spokesperson, Mr Endri Fuga as Head of MIA. While we do not wish to express ourselves about the merits of these concerns, we wish to highlight the importance of access to public information in a democracy and urge the authorities to address the concerns expressed in this respect. Reportedly the authorities are considering revising the law on access to public information as well as drafting a law on the status of journalists. Given the sensitivity of these subjects in the current media climate in Albania, we call upon the authorities to request an opinion of the Venice Commission on any revision of the current legal framework for access to public information or on journalism to ensure it fully adheres to European standards and to dispel concerns and allegations that this would not be the case.

47. The impartiality of, and political control over, the Albanian Media Agency (AMA) have remained a point of controversy. On 8 July 2021, after the parliamentary elections, but before the new parliament was convened, the Albanian parliament appointed Ms Armela Krasniqi as chairwoman of AMA. Ms Krasniqi has been a communication officer in the Socialist Party and was the Director of communications for Prime Minister Rama, raising questions about her impartiality. The European Union, who had called for the appointment process to be delayed until the new parliament was convened expressed concern about her appointment<sup>27</sup>. On 17 February 2022, the Albanian filled 6 vacancies on the board of AMA in a reportedly bipartisan manner and with the support of more than 3/5 of the votes. This is to be welcomed.

48. At the time of writing of this information note, the authorities published for consultation new amendments to the law on audio-visual media. The amendments, which reportedly are meant to transpose EU directives into Albanian law, propose *inter alia* an obligation for media outlets to provide information on their ownership structures and beneficiary owners. The amendments reportedly also foresee a review of Code of Conduct that regulates the standards and practices to be followed by audio-visual media outlets. We intend to closely follow the drafting process of these amendments.

49. In June and September 2022 Albania suffered unprecedented cyber-attacks, reportedly by Iranian state interests<sup>28</sup>, on the state informatics infra structure. As a result of these cyber-attacks, Albania broke off diplomatic relations with Iran on 7 September 2022. During these attacks a considerable amount of data was stolen from government servers, including from those of the State Police, which was subsequently leaked into the public domain. On 19 September 2022, the Prosecutor's Office of Tirana, based on Article 103 of the Code of Criminal Procedure, prohibited the publication in Albania of any information from the stolen files that were leaked online. A number of media organisations expressed concern about the blanket nature of this prohibition to publish this leaked data, which they feared could infringe on media freedom. While stressing that media freedom should be fully protected, we cannot but express our solidarity with Albania in the face of such unprecedented attacks and urge all media outlets to act responsibly and show commensurate constraint when considering publishing information obtained from data stolen by foreign state actors.

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<sup>26</sup> See also [DW](#) (28.09.2021).

<sup>27</sup> [Euractiv](#) (8.07.2021).

<sup>28</sup> Albania hosts the exiled Iranian opposition group the People's Mujahedeen of Iran (MEK) on its territory. These cyber-attacks are widely seen as a retaliation for this.

**Programme of the fact-finding visit to Tirana  
(29 June to 1 July 2022)**

Co-rapporteurs: Mr Joseph O'REILLY, Ireland, Group of the European People's Party  
Mr Asim MOLLAZADA, Azerbaijan, European Conservatives Group and Democratic Alliance

Secretariat: Mr Bas KLEIN, Deputy Head of Secretariat, Monitoring Committee

Main topics:

- Recent Political Developments
- Electoral Reform and Administrative Territorial Reform
- Reform of the Judiciary and vetting process
- Fight against corruption
- Media environment and freedom of the Media
- Minorities and census

**Tuesday, 28 June 2022**

*Late afternoon / evening: arrival of members of the delegation and transfer to the hotel*

**Wednesday, 29 June 2022**

09:00 - 09:30	Briefing on recent developments by Head of the Council of Europe Office in Tirana (*)
09:30 – 10:30	Roundtable with civil society organisations on recent political developments and electoral reform (*)
10:30 – 11:30	Roundtable with civil society organisations on legal reforms and fight against corruption
11:45 - 12:45	Roundtable with media representatives and civil society on the media environment and freedom of the media (*)
14.00-14.45	Meeting with the Speaker of the Albanian Parliament
14:50- 15:35	Meeting with the President of the Constitutional Court
15:40- 16.20	Meeting with the Secretary General of the Socialist Party
16:30- 17:15	Meeting with the Ombudsman (online)
19:00-21:00	Working dinner hosted by the Albanian Delegation to PACE

**Thursday, 30 June 2022**

09:15-10:00	Meeting with the President of the Republic, H.E. Mr Ilir Meta
10:15-11:00	Meeting with the Committee on Education and Public Information Media
11:05-11:50	Meeting with the Committee on Legal Affairs, Public Administration and Human Rights
12:00-14:00	Individual Meetings with the representatives of the Parliamentary Political Groups
15:00-15:45	Meeting with the Co-Chairs of the Ad-hoc Committee on Electoral Reform
15:50-16:35	Meeting with the Co-Chairs of the Ad-hoc Committee on Territorial Administrative Reform
16:50-17:30	Meeting with the Deputy Minister of Justice
17:30-19:00	Meeting with International Community (*)

**Friday, 1 July 2022**

09:00-10:00	Meeting with the High Qualification Committee
10:30-11:30	Meeting with the SPAK and Head of NBI
11:45-12:15	Meeting with Albania Media Council
12:30-13:00	Meeting with AMA

*Afternoon and Saturday 2 July 2022: departure of members of the delegation*

(\*) Meetings organised by the Council of Europe Office in Tirana

## **Albania: PACE monitors welcome marked progress in reforms, call for consistent implementation to ensure tangible results**

04/07/2022 | Monitoring

Following their visit to Tirana from 29 June to 1 July 2022, the co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) for the monitoring of obligations and commitments by Albania, Joseph O'Reilly (Ireland, EPP/CD) and Asim Mollazada (Azerbaijan, EC/DA), welcomed the marked progress in the reform of the judiciary and fight against corruption, but highlighted the need for consistent implementation in order to produce the tangible results expected by Albanian society.

The co-rapporteurs particularly welcomed the recent extension of the mandate of the bodies for the vetting of Albania's judiciary, as the high number of dismissals resulting from the vetting underscore the continuing need for this procedure. They also welcomed that the special bodies to fight corruption and organised crime are now fully established and functional, which the rapporteurs hope will now result in a marked increase of indictments and convictions for - especially high level - corruption. "The fact that Albania still scores very low in Transparency International's Corruption Perception Index and even went down in ranking in 2021, underscores the tenacity of corruption in Albania and the need for all stakeholders to step up their efforts in fighting this menace for the functioning of Albania's democratic institutions", the co-rapporteurs emphasised.

Despite continuing progress with regard to the functioning of democratic institutions, the media environment remains a source of concern for the rapporteurs. While welcoming the assurances from the ruling majority that it no longer intends to pursue the controversial defamation package, they called for these amendments to the media law to now formally be removed from the agenda of the parliament as they continue to be hanging as a 'Sword of Damocles' over the media environment. At the same time, they urged Albanian media outlets to establish a proper system of self-regulatory mechanisms to strengthen ethical reporting.

The co-rapporteurs welcomed that, since their last visit, the opposition had fully returned to parliament. However, they expressed concern about the tribulations inside the main opposition party and the risk that this could spill over into the national political environment, which could undermine the pluralist functioning of the country's democratic institutions. "All democracies need a well-functioning opposition to ensure a proper system of checks and balances. We therefore urge the Democratic Party to overcome its internal differences and to play its important role in the governance of the country. All sides should be involved in this," they stressed.

Lastly the rapporteurs paid tribute to Albania's multi-cultural and denominational society as well as the dominance of women in Albania's cabinet which underscores the prominent role women play in the country's political life.