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COMMISSION STAFF WORKING DOCUMENT

Update on the Republic of Albania

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1. Introduction

In April 2018, the Commission recommended to open accession negotiations with Albania². In its June 2018 Conclusions, the Council acknowledged the progress achieved and set out the path towards opening accession negotiations in June 2019³. The Council underlined that the assessment of progress should be part of the Commission's yearly report and include further tangible and sustained results, in particular on:

- further advancing the process of re-evaluating judges and prosecutors, in particular completing all priority dossiers, and finalising the establishment of the independent judicial structures as foreseen by the Constitutional reform;
- finalising the establishment of specialised bodies, namely the Special Anti-Corruption and Organised Crime Structure (SPAK) and National Bureau of Investigation (NBI) and Court;
- strengthening the track record of proactive investigations, prosecutions and final convictions in the fight against corruption and organised crime, including at high level.

In line with the Council Conclusions, the Commission started the preparatory work, including through the technical explanation of chapters of the *acquis*. 'In light of the significant progress achieved and the conditions set unanimously by the Council in June 2018 being met', the Commission recommended again in May 2019 to open accession negotiations with the country⁴. In June 2019, the Council postponed the decision to no later than October 2019⁵. The European Council decided in October to 'revert to the issue of enlargement before the EU-Western Balkans summit in Zagreb in May 2020'.⁶ This update also takes into account specific concerns raised by Member States.

In its June 2018 Conclusions, the Council also highlighted the importance of outstanding recommendations of the Organisation for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), to be addressed in the context of electoral reform. In this area, a **cross party agreement** reached in January 2020, with both the parliamentary and extra parliamentary opposition, established a framework to negotiate **electoral reform by 15 March 2020**.

Albania has maintained its efforts to **tackle unfounded asylum applications** lodged by Albanian citizens to EU Member States and Schengen-associated countries. Comparing available data for 2019 (up until November 2019 included), with the same period of 2017, the flow is around 17% lower overall. This issue has required and will continue to require substantial efforts by Albanian authorities. In addition to information campaigns on the rights and obligations of the visa-free regime, thorough border checks, refusal of departure for citizens with insufficient means and actions on the push factors, Albanian authorities have strengthened dialogue and cooperation with the most affected countries. In this regard, three Albanian police liaison officers have been deployed to the EU to expedite repatriation to Albania, and a liaison officer from the EU is located in Tirana to assist on exit checks. **Since a substantial peak of asylum applications in the EU Member State that was most affected in 2017, Albanian efforts have resulted in a decrease of asylum applications** by 26.6 % from 2017 to 2019, with 7,633 applications in 2017, compared to 5,599 in 2019.⁷

Albania's good cooperation and dialogue with the most affected EU Member States to effectively address the issue of unfounded asylum applications should be continued. The Commission is monitoring very closely the trend in the framework of the Post-Visa Liberalisation Monitoring Mechanism.

¹ This update covers the period from the Council Conclusions of June 2018 to date, building upon the key findings of the 2019 enlargement package.

² COM(2018) 450 final.

³ <https://www.consilium.europa.eu/media/35863/st10555-en18.pdf>

⁴ COM(2019) 260 final.

⁵ <https://www.consilium.europa.eu/en/press/press-releases/2019/06/18/council-conclusions-on-enlargement-and-stabilisation-and-association-process/>

⁶ <https://www.consilium.europa.eu/media/41123/17-18-euco-final-conclusions-en.pdf>

⁷ Figures excluding accompanied minors and Albanian citizens under examination in "Dublin procedures".

Albania has continued its good cooperation on readmission of own nationals, swiftly honouring readmission requests from EU Member States. Albania has engaged in good **cooperation with the European Border and Coast Guard Agency (EBCGA)** on return operations from EU Member States to Albania. Between 2018 and early 2020, EU Member States organised in cooperation with EBCGA 789 return operations flights to Albania, concerning 6,742 Albanian nationals. In addition to returns organised with the support of EBCGA, 4,633 Albanian nationals were returned to Albania from the Member State most affected by scheduled flights in 2018 and 3,671 up to mid-October 2019 in the framework of the Asylum, Migration and Integration Fund (AMIF).

As for the rest of the Western Balkans, fluctuations in the return rates over the past years are not the result of changes in the cooperation, which remains good as reported by EU Member States, but can be rather attributed to the processing of backlog cases.

Albania is the first country in the region where a European Border and Coast Guard (EBCG) Status Agreement with the EU has entered into force. The deployment of joint EBCG teams to Albania's border with Greece as of May 2019 has shown good results in addressing irregular migration and security challenges.

As regards property rights, Albania is taking into account the October 2019 Venice Commission opinion⁸ issued at the request of the Albanian Parliament and is revising the draft Law on the Finalisation of Transitional Ownership Processes, in consultation with international partners. The new draft is expected to be finalised in the first quarter of 2020. Efforts need to continue to advance the process for registration and compensation. Albania needs to swiftly adopt the remaining implementing legislation related to the 2017 framework Law on the Protection of National Minorities. The Commission is closely monitoring this matter and will continue to do so in the future. The Commission is also closely monitoring the developments regarding the media law, where the Venice Commission is expected to issue an opinion in March.

In relation to the Common Foreign and Security Policy, Albania has sustained its policy to align 100% with EU declarations and decisions.

2. Update on the implementation of reforms

Albania delivered concrete results in the continued implementation of the EU-related reforms. As regards specifically the areas identified in the Council Conclusions, progress has occurred as follows:

- Further advancing the process of re-evaluating judges and prosecutors, in particular completing all priority dossiers

Albanian authorities continue to implement a comprehensive justice reform. The vetting institutions - Independent Qualification Commission (IQC), the Public Commissioners (PC) and the Appeal Chamber (AC) - are working under the oversight of the International Monitoring Operation (IMO), deployed by the European Commission in cooperation with the United States of America. To date, the vetting institutions have completed 234 vetting cases at IQC level, including all priority dossiers, out of the total 811 magistrates that have to undergo vetting. There have been 94 dismissals, mostly for issues related to unjustified assets; 90 confirmations in office; 49 decisions on termination of the vetting proceedings, out of which 33 due to resignation and 16 due to other reasons; one decision to suspend the assessee with obligation to attend training. Out of these 234 decisions, 145 are already final (i.e. all appeals are exhausted). Investigations have formally been initiated regarding 477 assessees by the first instance vetting body, the IQC. Overall, so far **60% of the vetted magistrates were either dismissed or they resigned**. The process continues to be implemented thoroughly.

⁸ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)023-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)023-e)

As a result of the rigorous vetting and dismissal rate, several vacancies appeared across Albania's judiciary. Albanian authorities are implementing a re-distribution plan as a matter of priority with the High Judicial Council for judges and prosecutors to fill the gaps in the busiest courts and prosecution offices. Furthermore, the School of Magistrates intends to recruit in the judiciary at least 75 new magistrates who will complete their three-year programme in 2020.

- Finalising the establishment of the independent judicial structures as foreseen by the constitutional reform

Albania has established new institutions for the self-governance of the judiciary, that is the new separate **High Judicial Council (HJC)** and **High Prosecutorial Council (HPC)**, as well as a **Justice Appointment Council (JAC)**. The new **High Justice Inspector** has also been appointed. These new bodies foreseen in the 2016 constitutional reform **are fully functional and have been operating effectively throughout 2019**, fulfilling their constitutional and legal tasks, by guaranteeing the independent governing of the judiciary, which represents a crucial step in the implementation of justice reform.

Amongst their various responsibilities, the newly established institutions are also managing the processes to fill vacancies at the High Court and the Constitutional Court. Specifically, the newly established HJC is responsible for the selection of judges for the **High Court**. As a result of vetting, term expiry or resignation, currently there is one judge in office out of 19 judges at the High Court. In July 2019, the HJC took the decision to temporarily appoint judges to the High Court for the adjudication of the most urgent cases related to the extradition of convicted persons, in line with obligations deriving from international conventions. In the second half of 2019, the HJC started procedures for the selection of non-magistrate candidates for four High Court vacancies. Candidates are undergoing verification. Ranking is being finalised. The process is expected to be completed by the end of March 2020 for the non-magistrate candidates, thus allowing one of the chambers of the Court to be functional. The other magistrate candidates are in the process of being promoted from within the court system in the first quarter of 2020.

Albania is making progress to reconstitute the **Constitutional Court** following the vetting of its members and has appointed several new members. This will create the basis for the Constitutional Court to regain functionality and increase public trust. In December 2019, the Court possessed one judge in office out of nine as a result of the vetting. The Court now has four members. There is a dispute about one of the latest judges nominated, due to a differing interpretation of the appointment procedure by the President of the Republic. The Venice Commission will issue an opinion on the matter in March 2020. With the current four members, the Court has the minimum quorum of three judges to adjudicate on the admissibility of cases. The Court needs six members sitting in plenary to be fully functional and be able also to hold hearings. The JAC is finalising its assessment of candidates for two vacant posts, one of which had been reopened to substitute a judge previously appointed by the President of the Republic who eventually did not pass the vetting process. The completion of appointments at the Constitutional Court will proceed once the High Court, which is the third appointing authority other than the Assembly and the President of the Republic, reaches a minimum quorum of nine judges.

- Finalising the establishment of specialised bodies, namely the Special Anti-Corruption and Organised Crime Structure (SPAK) and National Bureau of Investigation (NBI) and Court

The main steps for the establishment of the SPAK were finalised in early 2019. The vetting institutions then started to examine the profiles of the 15 prosecutors shortlisted to become members of the Special Prosecution Office (SPO) within SPAK. Upon completion of the vetting process of eight of those prosecutors, on 19 December, the President of the Republic held a swearing-in

ceremony, thus formally starting the beginning of operations of the SPO. A ninth prosecutor was sworn in during January 2020. All the administrative preparations have been completed and the SPO has started to operate. The head of the SPO was also appointed. The latter is responsible to appoint the Director of the NBI. The call for applications to this post was published and 40 applications were received. The HPC selected 18 candidates and subsequently drew a short list of eight candidates who are now undergoing the final steps of the selection process. The EU has appointed two criminal justice experts to NBI. In December 2019, the HJC also completed the transfer of 16 judges to the first and second instance special anti-corruption and organised crime courts that mirror the jurisdiction of the SPO.

- Strengthening the track record of proactive investigations, prosecutions and final convictions in the fight against corruption, including at high level⁹

Albanian authorities strengthened operational, coordination and monitoring capacities in the fight against corruption, including through the work of the Anti-Corruption Task Force, the creation of a specific Anti-corruption Directorate in the Ministry of Justice and of a network of anti-corruption coordinators in 16 agencies in autumn 2019.

Concrete results in the fight against corruption include results of the vetting process, which has led to the dismissal from office of a number of high-ranking magistrates, including at Constitutional Court and High Court level. Moreover, in September 2019, a former Minister of Interior was found guilty of abuse of office by the the Serious Crimes Court of Appeals and placed for three years and four months on probation as well as banned from running for public office for three years.

In September 2019, three judges of the Durres Court of Appeals were found guilty of passive corruption and sentenced to seven years in prison. In June 2019, a High Court Judge was sentenced to nine months in prison for falsification of documents. In February 2019, 12 officials and former officials of the Ministry of Justice, including a former Secretary General of the Ministry - were arrested for suspected abuse of office and violation of equality in tenders during the period 2016-2017. In February 2019, the Appeal Court of Serious Crimes confirmed the sentencing of an Appeal Court judge sentenced at first instance in 2018.

The overall number of referrals of corruption cases to the prosecution has slightly increased to 2,257 in 2019, compared with 2,126 in 2018. The overall number of corruption cases sent to Court in 2019 increased to 643, compared with 513 in 2018. In 2019, 90 new cases were prosecuted against high-level state officials with five persons indicted, in addition to new 102 cases in 2018 with seven persons indicted. No final convictions were rendered.

In 2019, there were 246 final convictions involving lower or middle-ranking officials in addition to 289 final convictions in 2018. In 2019, there were two final convictions for passive corruption of judges, prosecutors and other officials of the judiciary.

In 2019, there were 262 first-instance convictions involving **lower or middle-ranking** officials in addition to 294 first-instance convictions in 2018.

Since its establishment in 2018, the Anti-corruption Task Force (ATF) recommended 118 dismissals and 38 criminal referrals. The Service for Internal Affairs and Complaints (SIA) within the Ministry of Interior, has referred 250 cases for prosecution involving 474 officials in 2019 and 201 cases involving 265 officials in 2018. As regards asset declarations by high-level state officials, the High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) has referred seven cases to the prosecution in 2019, in addition to 27 cases in 2018.

⁹ Information on prosecutions, indictments, cases and verdicts is from open sources and states if proceedings are ongoing or final. The figures are based on the input provided by the national authorities.

In the framework of the electoral reform, the Central Election Commission issued three important legal acts were in 2019, addressing long-standing recommendations made by OSCE/ODIHR regarding party financing, for the prevention of corruption.

Further efforts towards establishing a solid track record in the fight against corruption have been made, although it remains a long-term objective that continues to require further structured and consistent efforts. While the number of ongoing investigations remains high, to date, final convictions in cases involving high-level officials remain limited.

- Strengthening the track record of proactive investigations, prosecutions and final convictions in the fight against organised crime

Further tangible results were achieved in the fight against organised crime. Police cooperation with EU Member States and Europol further intensified, leading to successful large-scale law enforcement operations and the arrest of notorious members of organised criminal groups. A number of important indictments and convictions also took place, involving major organised criminal groups' leaders:

- In February 2020, in the framework of the anti-mafia law, SPAK seized the assets of an Albanian national, convicted in Italy for drug trafficking and organised crime.
- In February 2020, the Albanian authorities participated in two successful operations with law enforcement agencies in Italy in the fight against international drug trafficking. These operations were conducted also in coordination with agencies from other EU Member States, including the Netherlands. More than 40 persons, including six Albanian nationals, were arrested, accused of belonging to criminal groups active in smuggling cocaine across Europe. In total more than 350 kg of cocaine were seized, together with 5 kg of heroin and 400 kg of marijuana. In another single operation in February, Albania provided support to Italian law enforcement agencies which led to 450 kg of marijuana, 75 kg of hashish and 3.5 liters of hash oil being seized; in a separate operation, Albania provided support to the Italian *Guardia di Finanza*, resulting in the seizure of 1.128 kg of cocaine.
- In January 2020, the Albanian authorities participated in an operation with law enforcement authorities in Greece. 1.18 tons of cocaine originated in South America, as well as large sum of cash and weapons were seized. Several Albanian nationals were arrested.
- In November 2019, the Albanian authorities concluded a major operation to seize assets worth €12 million of a suspected drug trafficker.
- In October 2019, the Serious Crimes Court of Appeals upheld the first-instance court ruling sentencing the head of a transnational drug trafficking criminal group to 15 years in prison (reduced to ten years through abbreviated proceedings) for establishing a structured criminal group, trafficking narcotics, failing to declare assets, and laundering money.
- In October 2019, Albanian authorities participated to an operation with law enforcement authorities in the United Kingdom. Five kg of cocaine and a large sum of cash were seized. An Albanian national accused of being a member of a narco-trafficking network involved in trafficking cocaine and heroin was arrested.
- In September 2019, Albanian law enforcement authorities and serious crimes prosecutors finalised a 3-year operation with Greek authorities as well as other EU Member States. The operation led to the dismantling of four criminal groups involved in drug trafficking. The groups reportedly secured seeds in the Netherlands and brought them to Albania for cultivation. The groups were also involved in trafficking of human beings.
- In September 2019, Albanian law enforcement authorities seized 137 kg of cocaine in the Port of Durrës, hidden in containers from Ecuador. The operation was carried out in cooperation with the Greek and US authorities. Two members of the port's security staff were arrested.
- In September 2019, Albanian law enforcement authorities participated with Greek law enforcement authorities in another large joint anti-narcotic operation. 56 individuals were arrested.

- In August 2019, Albanian law enforcement authorities conducted an important police operation around Kruja. 19 individuals were arrested for drug cultivation.
- In June 2019, Albanian law enforcement authorities participated in a police operation coordinated by Europol and involving various EU Member States. 31 individuals accused of belonging to a large criminal organisation were arrested. Drugs, weapons and assets were seized in Albania and in the EU. More specifically, in Albania the operation led to the arrest of the suspected head of the criminal group, as well as to the seizure of €200,000, vehicles and a business investment estimated at €1 million.

As regards the overall track record in the fight against organised crime, the number of new cases related to criminal organisations and structured criminal groups referred to prosecution increased from 34 in 2017 to 53 in 2018. In 2019, there were 50% more referrals, with 79 cases. 13 indictments for organised crime were issued in 2019, in comparison to five in 2018 and seven in 2017. Eight persons were convicted at final instance in 2017, and eight in 2018. In addition, 18 persons were convicted at appeal level in 2017, 20 in 2018 (including in a case related to the Lazarat operation), one in 2019, in addition to five convictions at first instance level in 2017 and nine convictions at first instance level in 2019. All of them are related to drug trafficking.

As regards the number of serious crimes, in 2018, 22 new cases on trafficking in human beings were referred to the prosecution, 257 on money laundering and 1,524 on drugs production and trafficking. In 2019, the trend was similar, with respectively 25, 232 and 1,548 cases. Out of the total referrals on trafficking in human beings, money laundering, and drugs trafficking, 551 cases resulted in indictments in 2018, and 507 in 2019. As for final convictions, there were three for trafficking in human beings in 2018 and five in 2019. On money laundering, there were 10 final convictions in 2018 and eight in 2019. In 2018, 685 offenders received final conviction for drug production and trafficking and 290 in 2019. On criminal assets and property seized and confiscated under the anti-mafia law, Albania reported an estimated amount of about €20 million seized in 2019, against about €7 million in 2018. An estimated €870,000 were confiscated in 2019, compared to about €26,600 in 2018, thus showing, for both seizures and confiscation, an increasing trend.

On the fight against money laundering, the Albanian Parliament adopted a ‘Moneyval package’ in July 2019 aimed at addressing the recommendations issued by Moneyval in their report on Albania published in December 2018. On 21 February 2020, the Financial Action Task Force however listed Albania for enhanced monitoring and proposed an action plan focussing on some outstanding recommendations. Albania provided its high-level political commitment to work with the FATF to address that action plan. With a view to a swift implementation of this action plan, Albania should make full use of the support provided by the European Commission to reinforce the capacity for combating money laundering and terrorist financing.

On drug cultivation and trafficking, in the summer 2019, the Albanian authorities have further consolidated their **fight against cannabis cultivation and trafficking**. Albania is the only country in the region that has allowed a very intrusive monitoring mechanism by a third country since 2013 (aerial surveys for detection and monitoring of cannabis plantations in Albania by the Italian *Guardia di Finanza*, co-financed by the EU). The 2019 preliminary results of the Italian-led airborne remote sensing campaign show an increase of both identified cannabis plantations and narcotic plants eradicated and destroyed. This trend could be attributed also to an evolution of the *modus operandi* in the cultivation by the criminal organisations (very fragmented cannabis sites and of small-scale, often hidden by dense vegetation or in predominantly mountainous areas). The Albanian Police has promptly and strongly responded to this new *modus operandi* by undertaking several important measures, such as increased on the ground checks, helicopter and drone monitoring of suspicious areas, and inspection of greenhouses and warehouses.

As a result, 90.175 plants were destroyed in 2019 compared to 35.985 in 2018. The number remains at a negligible level compared with 2016, when 753.468 plants were destroyed, representing a decrease of 88%. In addition to plants, which were destroyed following police operation procedures, police also

destroyed several thousands of cannabis samplings, thus preventing further cultivations. For instance, in July 2019, the police destroyed about 4,000 cannabis samplings in three different operations.

On hard drugs (cocaine and heroin), Albania carried out large scale law enforcement police operations, including in cooperation with police authorities of neighbouring countries. Overall, cocaine seizures decreased from almost 630.5 kg in 2018 (out of which 613.4 kg of cocaine detected in Durres in a ship coming from Colombia) to 145 kg in 2019 (out of which 137 kg of cocaine in a single operation at the Port of Durres). In January 2020, in cooperation with Greek authorities, 1.18 tons of cocaine originating from the Caribbean and destined to countries in Europe and northwest Africa were seized in Greece. Heroin seizures increased from almost 24 kg in 2018 to 38 kg 2019 (about 58% more), thanks inter alia to more thorough police inspections and increased international cooperation. The Albanian State Police was actively involved in the proactive investigation into the drug trafficking criminal gang and contributed to identifying the members of the drug ring.

Increased cooperation with EU Member States law enforcement authorities brought tangible results. The creation of joint investigation teams, notably with Italy, has contributed to identifying and prosecuting criminal organisations at the core of the trafficking of narcotic substances, including those carried out by sea. The Albanian authorities assisted the Italian *Guardia di Finanza* and the Italian Coast Guard in the seizure of speedboats with cannabis originating from Albania and directed towards Italy. In November, the Italian *Guardia di Finanza* dismantled a drug trafficking gang that was responsible for having shipped over five tonnes of cannabis from Albania to Italy during a two-year period. Eight speedboats with cannabis were seized during this period and 20 individuals were arrested – most of whom of Albanian nationality – as suspected of being part of this gang.

Results so far achieved are encouraging and demonstrate the strong commitment of the Albanian authorities to counter the production and trafficking of drugs.

In June 2019, **Europol** deployed to Tirana its first Liaison Officer to Western Balkans countries and in July officially opened its Liaison office to Albania, working in close cooperation with Member States' liaison officers. The officer has helped to further strengthen existing cooperation between Albania and EU Member States' police forces in the fight against organised crime, including drug trafficking. The number and the quality of the messages exchanged with Albania through the Europol's secure information exchange network application has significantly improved since the end of 2019.

On 1 November 2019, the **Eurojust - Albania Cooperation Agreement** entered into force after the Albanian authorities successfully completed their work to allow for the enforcement of personal data protection provisions contained in the Agreement. The Agreement will further facilitate judicial cooperation between EU and Albanian practitioners and therefore increase the fight against transnational organised crime. Within this framework, a liaison prosecutor of Albania to Eurojust is in the process of being appointed.

On 31 January 2020, the Albanian government has adopted a special law introducing preventive measures to step up its fight against organised crime and terrorism, focusing in particular on seizure and confiscation of criminal assets. This law provides a set of important new investigative tools put at disposal of the newly-formed SPO, and provides for amendments to the anti-mafia law, Albanian State Police law, the law on the administration of seized assets and the criminal code. Already in February 2020, the newly created structure under the State Police, the Power of Law Operation unit has undertaken the first seizures of criminal assets belonging to a number of suspected organised crime figures. It has also reported 17 cases related to organised crime. The SPO has accepted 12 of those cases so far, is verifying two and has returned to the district court level two others. The Commission will monitor closely the implementation of the legislative package.

The vetting of the police law enforcement authorities has begun for the first 45 top-level officials out of 300. The evaluation is based on personal integrity, professional capacity and verification of officers' assets. Thus far, 14 officials have been vetted, two have been dismissed from office and two have resigned.

Further efforts towards establishing a solid track record in the fight against organised crime have been made, although it remains a long-term objective that continues to require additional structured and consistent efforts.

3. Conclusion

In light of the significant progress achieved and the conditions set unanimously by the Council in June 2018 having been met, the Commission recommended in its 2019 enlargement package that the Council open accession negotiations with Albania. Overall, Albania has increased its efforts and delivered further tangible and sustainable results in the key areas identified in the Council Conclusions of June 2018. Consequently, the bases of the Commission's 2019 recommendation to open accession negotiations with Albania remain valid.