

EU Enlargement and State Institutions after Communism – Reforming Public Administration in Albania

Arolda Elbasani

IN **L'EUROPE EN FORMATION 2008/3-4 n° 349 - 350** , PAGES 119 TO 134

PUBLISHER **CENTRE INTERNATIONAL DE FORMATION EUROPÉENNE**

ISSN 0014-2808

DOI 10.3917/eufor.349.0119

Uploaded: 07/01/2011

Article available online at

<https://shs.cairn.info/revue-l-europe-en-formation-2008-3-page-119?lang=en>



Discover the contents of this issue, follow the journal by email, subscribe...
Scan this QR code to access the page for this issue on Cairn.info.



Electronic distribution Cairn.info for Centre international de formation européenne.

You are authorized to reproduce this article within the limits of the terms of use of Cairn.info or, where applicable, the terms and conditions of the license subscribed to by your institution. Details and conditions can be found at cairn.info/copyright.

Unless otherwise provided by law, the digital use of these resources for educational purposes is subject to authorization by the Publisher or, where applicable, by the collective management organization authorized for this purpose. This is particularly the case in France with the CFC, which is the approved organization in this area.

EU Enlargement and State Institutions after Communism – Reforming Public Administration in Albania

Arolda Elbasani

Ph.D., Post-Doctoral Fellow, Otto-Suhr-Institute for Political Science, Freie Universität Berlin

Introduction

The promise of membership offered to all countries in the Western Balkans as part of the Stabilization and Association Process has raised high expectations for change in the region. Hopes for change have been further nourished by the strong assumptions on the transformative power of the EU in the post-communist space, especially those countries included in the last wave of enlargement. This article questions whether and in what ways EU enlargement can reverse the slow patterns of reform in the region.

Administrative reform has been a particularly challenging area across most post-communist countries, especially in the Balkans region where, in addition to post-communist challenges, the states are also ravaged by political instability and not least civil unrest. Albania is a case in point. The administration is routinely staffed on the basis of politics rather than professional criteria, which has in part influenced the poor calibre of the whole administration. Politicization trends do not exempt the thin layer of more protected civil servants, whose career is regulated by specific laws. Hence, the country is a good case to assess whether EU enlargement conditionality has played a role to improve the record of reforms. The article, thus, analyses the role of EU conditionality in reforming state institutions, focusing on the specific case of civil service reforms in Albania.

The argument proceeds in three parts. The first part outlines the administrative criterion as developed during the last wave of EU enlargement. The experience of the EU with post-communist administrations has seemingly pushed the Union towards developing and refining the criterion of administrative capacity. The second part delves into the particularities of administrative reforms in post-communist Albania, a notorious case regarding both politicization and instability across the administrative staff. Following the 1997 crisis, the country with the help of international community has adopted a comprehensive legal framework to regulate the civil service system and insert classic principles of professionalism and stability. However, the analysis shows that the country has yet failed to realize de-politicization of this crucial section of administration. The third part seeks to assess whether the EU enlargement instruments operational since 2000 – institutional ties; political dialogue; monitoring and financial assistance – did play a role in pushing forward civil service reforms in the subsequent period.

One can safely assert that the transformation and improvement of the legal basis after 1997, which coincides with the important presence of the international community, owes a lot to the foreign intervention in the country. Since 2000, the offer of EU membership extended to all Balkans countries including Albania, has increased the EU role in region. In addition it has activated a range of new instruments to influence transition reforms in general and public administration reforms in particular. The analysis of the EU enlargement instruments, however, suggests that not all those are used in function of public administration results. The reform of the civil service system has been targeted and monitored through annual EU reports, European Partnerships and other documents setting the priorities for the advancement of relations between EU and Albania. Yet, public administration is hardly one of the areas that determines the advancement of the EU-Albanian relations or attracts important amounts of assistance, both among the crucial instruments of enlargement conditionality in the region.

Not surprisingly, the paper finds that the domestic actors have not really been interested in giving up the high spoils of replacing in administration their own supporters whenever in power, thus paying only lip service to the EU conditions and other international pressures for change. The results are an amalgam of legal reforms that seek to transplant the classic model of depoliticized administration, but have not worked as expected in practice.

1. EU Enlargement and the Administrative Criterion

The development of the EU and the completion of the internal market has increased the imperative that member countries develop certain administrative capacities to deal with both the transposition and the effective implementation of the growing body of the *acquis communautaire*. In addition, the EU enlargement

experience in the East and the challenging scope of reforming post-communist administrations have seemingly pushed the Union towards developing and refining a criterion of administrative capacity. The EU, thus, intended to avoid the possibilities that this group of states disrupted the functioning of the Union once they became part of it.

1.1 *Outlining the Administrative Criterion*

The Copenhagen Council Meeting, which first defined the criteria for EU enlargement, did not include clear references to the administrative criterion.¹ However, the mention of “candidates’ ability to take on the obligation of membership” can be interpreted as an implicit requirement that applicant countries develop effective administrations before entering the EU. The design of the pre-accession strategy has certainly advanced the status of the administrative criterion in the hierarchy of enlargement criteria. The White Paper adopted in 1995 in order to “guide” the candidates’ adoption of legislative frameworks included extensive references to sectoral requirements, which can be seen as part of the criterion although only indirectly related to more general administrative capacities. In addition, the paper warned that “the main challenge for the [CEECs] lies not in the approximation of their legal texts, but in adopting their administrative machinery [...] to the conditions necessary to make the legislation work.”²

The Madrid Council in 1995, for the first time, referred to more general administrative reforms stating that: “The pre-accession] strategy will have to be intensified in order to create the conditions for the gradual, harmonious integration of those states, particularly through [...] the adjustment of their administrative structures.”³ The following Agenda 2000, which summarized the commission’s opinion on each country’s capacities to assume membership obligations, included administrative capacity as a criteria of political assessment in its own right and referred also to general capacities. The conclusions of the agenda 2000 reiterated that “a judgment on the three groups of criteria [...] depends also on the capacity of a country’s administrative and legal systems.”⁴ Consequently, the commission

1. The administrative criterion consist of several dimensions of reform: 1) horizontal administrative capacities which target the overall operation of the administrative system; 2) sectoral capacities which affect more specific capacities needed to cope with crucial policy areas of the acquis; 3) development of structures for managing intensified relations with the EU; and 4), increased capacity of regional governments and local administrations. This paper adopts a narrow concept of public administration focusing on the horizontal, or general administrative capacities.

2. European Commission, *White Paper: Preparation of the Associated Countries of Central and Eastern Europe for Integration in the Internal Market of the Union*, COM (95) 163, Brussels: May 1995, 105.

3. Quoted in Antoaneta Dimitrova, “Enlargement, Institution Building and the EU’s Administrative Capacity Requirement,” *West European Politics*, 2002 (4), 178.

4. European Commission, *Agenda 2000: Summary and Conclusions of the Opinions of Commission Concerning the Applications for Membership to the European Union Presented by the Candidate Countries*, Doc 97/8, Brussels: 15 July 1997.

has given increasing weight to the administrative criterion, which was included as an indispensable part of the forthcoming annual progress reports and accession partnerships.

1.2 Operationalizing the Administrative Criterion

Once the EU outlined a criterion of “general administrative capacity” for assessing a country’s eligibility to membership, it proceeded to operationalize this criterion into more specific measures of assessment. Yet, the Union had neither common institutional models nor common rules regulating the public administration sphere, except for maybe some general principles such as accountability, transparency and effectiveness.⁵ As a matter of fact, individual EU members are allowed to organize their administrations in different ways. Given the absence of the EU formal templates on administrative capacity, the commission asked the support of SIGMA⁶ to specify further the administrative criterion of enlargement.

The SIGMA paper on *Preparing Public Administrations for the European Administrative Space*, elaborated some baseline elements to assess the administrative capacities of candidate countries. It insisted that candidate countries adopt a civil service law guaranteeing civil servants political independence and professionalism; establish a career system; pay reform and training.⁷ Latter on, the commission has asked that these elements be embedded in a comprehensive reform strategy.

The textual analysis of the annual EU reports released between 1998 and 2001 shows that these items featured in the commission’s assessment of Central and East European Countries (CEECs), although in a selective way and prioritizing the problematic areas of each country in a case-by-case basis.⁸ Accordingly, the commission has asked the candidate countries to create an “independent, efficient and professional civil service.” In addition, the EU has occasionally asked for the creation of special institutions, such as some forms of a general directorate for civil servants, which can assume management responsibilities including appointments, training and systematic assessment of the performance of civil

5. Claudio Radaelli, “Whither Europeanisation? Concept Stretching and Substantive Change,” *European Integration Online Papers* (EIoP) (2000) 4/8; Available at <http://eiop.or.at/eiop/texte/2000-008a.htm>, 6-8.

6. SIGMA was created in 1992 as a joint initiative between the EU PHARE Program and the OECD Centre for Cooperation with Non-member economies. It aimed to offer the OECD expertise on public administration to all post-communist countries.

7. Jacques Fournier, Jacques, “Administrative Reform in the Commission Opinions Concerning the Accession of the Central and Eastern European Countries to the European Union,” In *Preparing Public Administrations for Public Administrative Space*. Sigma papers (1999) 23, 109-118.

8. Dimitry Kochenov, “The European Enlargement and Democratisation a la Cadenza Vizuale. Conditionality, Promotion of Democracy, Transposition of the Acquis,” Paper presented in the conference Europeanisation and Democratisation: The Southern European Experience and the perspective for the new member states of the enlarged Europe, Florence: 16-18 June 2005, 18-20.

servants. In some cases, the commission has also asked the adoption of specific measures to reinforce the transparency and accountability of administrations vis-à-vis affected actors.

1.3 *The Application of the Administrative Criterion*

The ‘bureaucratic’ criterion was, thus, formally outlined as part of enlargement conditionality. It was also by and large detailed down, especially in the EU documents monitoring accession stages. Yet, most analysis of the EU impact over post-communist administrations finds that the criterion was hardly used to speed up or slow down each country’s path to membership according to the respective progress of reforms.

First, the application of EU conditionality in this area seems to suggest that a state can hardly be refused entry into the EU on the basis of the administrative capacity alone. Even when all the aforementioned elements of the administration are absent, the country could still be judged to meet the general political criteria of accession. The 1997 commission’s opinions on candidate countries readiness to accede to the EU were quite telling in this regard. The majority of the candidate countries did not encounter any problems to meet the public administration criteria, although only few had passed a civil service law, a strategy of implementation and even less so specific civil service management institutions back then. The reports, in fact, acknowledged the slow pace of administrative reform when asserting that training continued to be insufficient, salaries remained too low, transparency only existed on paper, and the appointments were often highly politicized.⁹ The threshold for a country’s meeting of the administrative criteria was, thus, quite low. The candidate states were at best required to demonstrate their ‘willingness’ to comply with the commission prescriptions rather than accomplish them. This might explain why the administrative criteria was “defined as important, but their potentiality to stop a country from acceding is left deliberately unclear.”¹⁰

Second, the EU enlargement policy arguably prioritizes sectoral capacities over horizontal ones, in terms of both amount of aid spent and focus of monitoring. Following the design of its new pre-accession strategy, the commission has re-oriented some 30% of the PHARE funds towards candidates’ institution building priorities. The substantial share of the institution building funds was allocated to improve sectoral administrative capacities needed to implement specific areas

9. Ibid., 19.

10. Antoaneta Dimitrova, “Europeanisation and Civil Service Reform in Central and Eastern Europe”, *The Europeanisation of Central and Eastern Europe*, eds. Frank Schimmelfennig and Ulrich Sedelmeir, Ithaca: Cornell University Press, 2005, 79.

of the *acquis*.¹¹ The specific sectoral capacities also feature much more extensively than general capacities in the annual reports and other Copenhagen documents that assess country's progress towards meeting the membership criteria. The annual reports delve intensively in the important areas of the *acquis* mentioning a country's accomplishments and failures, but they dedicate much less space to the general administrative criterion. This might be taken as reflecting the limited role attributed to general administrative capacities for a country's overall progress towards membership.

1.4 The Record of the EU's Impact in the Post-communist Area

Most analysis on the degree to which EU conditionality has really impacted the post-communist administrations reveals a mixed record of influence. All CEE countries have adopted new laws on the status of civil servants and management of civil service system before accession.¹² Moreover, the adopted laws have embraced the dichotomy between politics and administration, which is intended to strengthen civil servants' independence from politics as asked by the EU. Both the adoption of civil service laws and their attention to ensure political independence relate well to the EU requirements to deal with the high politicization and turnover of most post-communist administrations in general. One might, thus, assume that the EU conditions have impacted the adoption of legal frameworks and the specific design of public administrations according to the model of depoliticized, professional and stable administrations. In addition, the EU accession process has seemingly encouraged the creation of small enclaves of expertise in institutions in charge of managing a country's relations with the EU.¹³

Yet, most studies on the EU administrative criterion are rather sceptical about the EU potential to turn around ineffective administrations in a root-and-branch matter. Students of post-communist reforms admit that the civil service acts adopted in the candidate countries have provided new and appropriate legal frameworks, but there is still much work left to putting this legislation into practice and even more so to bringing about behavioural changes that ensure depoliticized administrations. Several studies have disputed the depth of reform arguing that despite the adoption of new legal acts, the post-communist administrations still reflected old practices of politicization. Hungary, which was considered to be

11. Dimitris Papadimitriou and David Phinnemore. "Exporting Europeanization to the Wider Europe: The Twinning Exercise and Administrative Reform in the Candidate Countries and Beyond," *Southeast European and Black Sea Studies*, 2003 (2), 1-22.

12. Danielle Bossaert and Christoph Demke, *Civil Services in the Accession States: New Trends and the Impact of the Integration Process*, Maastricht: EIPA, 2003.

13. Geoffrey Pridham, *Designing Democracy: EU Enlargement and Regime Change in Post-Communist Europe*, London, New York: Palgrave MacMillan, 2005, 104; See also Klaus Goetz and Hellmut Wollman, "Governmentalizing Central Executives in Post-Communist Europe: A Four Country Comparison" *Journal of European Public Policy*, 2001 (6), 881.

among the forerunners of reform, for example, still featured hidden forms of politicization due to the failure of politicians to relax control over personnel policy.¹⁴ In short, the EU pressure has seemingly impacted the adoption of new legal acts, but political interference continued to be an enduring feature in post-communist administrations.

This was more pronounced in countries where relevant domestic actors had not achieved at least a degree of genuine consensus on the need for reforming the administration and wider state institutions. In those cases, relevant political actors have either resorted to preserve the conditions under which they can control the administration and install loyal officials and/or have frequently changed the adopted laws. As such, “the new civil service systems can not be considered irreversible and sure to survive a change to government.”¹⁵

2. The Vicissitudes of Public Administration Reform in Post-Communist Albania

Albania is often treated as a “most difficult case” of democratisation or an outlier compared to other post-communist experiences of regime change in Central and Eastern European Countries. That is usually meant to differentiate the country for its troubled past and also the particularly difficult path to regime change flawed with permanent cycles of crisis and instability. Statebuilding and particularly public administration reform, has been distinguished as one of the most problematic areas of post-communist transition in the country. The 1997 crisis, when the state ceased to exist for some months showed in open light that the development of a state with adequate capacities to govern was the ignored dimension of reform. But also later on, Freedom House governance scores have persistently placed the country at the end of the list compared to both New EU members and Balkan countries.

Public administration in the country still suffers from both politicization and instability patterns as any change of government usually implies also a change of the administrative staff including technical positions. The trend so far is that each incoming party tends to place in administration its own supporters. As the International Crisis Group reports still in 2001, “the [...] consolidation of democratic institutions have been hampered by the inability to make a clear distinction between the state and the government of the day and confusion over their respective

14. Jan-Hinrik Meyer-Sahling, *Personnel Policy Regimes, Political Discretion and Civil Service Reform in Central and Eastern Europe*, Turin: ECPR Joint Session of Workshops, March 22-27, 2002, 22-28.

15. Tony Verheijen, “Introduction”, *Politico-Administrative Relations: Who Rules*, eds. Tony Verheijen, Bratislava: NISPAcee, 2001, 6-9.

powers.”¹⁶ As such, the state administration is often reduced to politicized staff with little experience, professional merit and bureaucratic sophistication. This part delves into the chronological record of reform in terms of both legal changes and implementation processes. The analysis focuses on the most protected part of the state administration, the civil service system.

2.1 Strong Politicization Patterns across the Administration

The first anti-communist opposition party and the winner of the first competitive elections in Albania, the Democratic Party (DP), which came to power at a difficult period in March 1992 soon faced the strong dilemma of how to deal with the previous administration – to maintain in place the inherited communist bureaucracy, which had the expertise, but could undermine the new government program; or replace it with new, inexperienced personnel from the rounds of the anti-communist movement.¹⁷ The DP seemingly chose sides with the anti-communist hard liners who advocated the cleaning of administration from those who had served during the communist regime since they were perceived as bearers of that system, and therefore not suitable for any kind of cooperation. Yet, the “cleaning” campaign included not only directors, but also specialists and simple technical staff.¹⁸

During the DP’s first term in power 1992-1996, the state institutions were thus filled with political activists, solely on the basis of political criteria. This was largely facilitated by the lack of a proper legal framework to protect public employees. The first civil service law was adopted only in 1996 and even then it was not really put in practice until replaced by a new law in 1998. Until then, the working status of all public employees was regulated by a temporary labour code adopted at the beginning of transition in May 1992.

Consequently, the political directors in various state institutions insisted on taking advantage of the legal loopholes as well as the ample political discretion they allowed to push forward political appointments. In their analysis of the period, Vickers and Pettifer note that all public employees “had their biographies scrutinized so that grounds could be found for dismissing them in favour of DP loyalists.”¹⁹ The governing party, DP, remained strongly identified with the new state institutions and public administration apparatus very much reminiscent to the one party-state of the communist period.

16. ICG (International Crisis Group), *Albania: The State of the Nation 2001*. Balkans Report 111, Tirana and Brussels, May 2001, 8.

17. Elez Biberaj, *Shqipëria në Tranzicion [Albania in Transition]*, Tirane: Ora botime, 2000, 237.

18. World Bank, *Albania Beyond the Crisis: A Strategy for Recovery and Growth*, Report n° 18658-ALB, Washington: December 1998, 9.

19. Miranda Vickers and James Pettifer, *Albania From Anarchy to a Balkan Identity* (2nd edition), London: Hurst and Company, 2000, 244.

2.2 The Crisis of the Albanian State and Renewed Efforts to Reform

The socioeconomic outburst of 1997, when the Albanian state ceased to exist for some months, exposed in open light the fundamental problem of a weak state and unreformed state institutions. The clear message of the crisis was that failures to adopt new institutions after a collapse simply lead to the continuation of degenerative institutions and the potential for another collapse. The public administration reform, thus, becomes a *sine qua non* component of a renewed effort to place the country on the path of sustainable change.

Despite the acknowledged need to reform, the credentials of the new government led by the Socialist Party (SP) which came to power after the fresh elections of 1997, were quite questionable. The SP was little more than a mutation of the former communist party and had actually participated in the armed movement against DP government that degenerated into the crisis of 1997. In addition, the new government had a merely light hand on power challenged as it was by armed bands still roaming across the country and ongoing protests instigated by the opposition. In these conditions, it was the international community that took the lead to reform the Albanian state institutions. The key donors first came together on the Rome conference of May 1997 and agreed that one of the prerequisites for ensuring donors financial support was “establishing a well functioning government, with full authority over the country and the capacity to make and implement decisions.”²⁰ In July 1997, the WB, EU, EBRD and partly IMF designed the joint “Strategy for Recovery and Growth”, where public administration and governance figured among the 7 strategic elements of comprehensive political, social and economic reform.²¹

The government in desperate need of foreign funds, was very active to embrace donors’ recommendations and draft a series of strategies, but it showed less attention to really breaking long rooted trends of politicisation and instability across state institutions. Different sources estimate that during the first year of SP governance 15.000 or 15% of the total public employees were dismissed in favour of SP loyalists.²² By 1998 the government had lost all civil servants from the previous administration together with their professional experience and skills, although nothing was documented.

2.3 The Overhaul of the Legal Framework

Most legal acts regarding the civil service system that followed in 1999 were part of a comprehensive plan, which comprised numerous strategies drafted at

20. World Bank, European Commission and European Bank for Reconstruction and Development, *Albania Directions for Recovery and Growth: An Initial Assessment*, Tirana: July 1997, 3.

21. *Ibid.*, 5-6.

22. Freedom House, *Nations in Transit, Country Report: Albania*, 1998, 51.

the aftermath of the crisis. The new law ‘on Civil Service Status’, adopted in November 1999 aimed to ensure “professionalism, independence, integrity, political neutrality, transparency, service to the public, career continuity, accountability and correctness in the application of binding legislation” (article 3). The law received positive comments from EU/Sigma, OSCE and WB in terms of being in line with mainstream European standards, although they noticed a few contradictions.²³ Most laws and by-laws necessary to implement the civil service code were soon adopted in the first half of 2000. However, many analyses still questioned whether the new laws would really improve the record of administrative reform, doubting that they could remain among the laws passed just to please the international community?²⁴

After the adoption of the new law and related by-laws, the civil service management system has certainly shown signs of improvement in all its dimensions – recruitment, job evaluation, career advancement, pay and training. Recruitment by open competition has increased yearly and has gradually become the main method of selection.²⁵ By 2005, more places were advertised as compared to 2004 and the previous years, which could be an indicator that more jobs are opened to competition and less to political patronage.

The new evaluation procedures have also encouraged a jump start to reform compared to the ambiguous provisions of the previous law. However, data from the Department of Public Administration show that the evaluation process has only started to work two years after its adoption in 2000. In 2002, the evaluation still covered less than 50% of the civil servants.²⁶ The evaluation figures also show a tendency to over-evaluation, which if used to distribute allowances as provided in law, would make the budgetary funds insufficient for this. It would also imply that each institution has achieved all the objectives set, which was not really the case.

The new career mobility procedures, which are supposed to stimulate the career advancement of civil servants, have not really succeeded to encourage the expected movement within the system. Reports show low movements and very few promotions per year, arguably because of the limited knowledge of the legal

23. SIGMA, Balkans’ Public Administration Reform Assessment: Albania, 2004, 30-32.

24. United Nations Development Program, *Human Development Report: Challenges of Local Governance and Regional Development*, 2002; Available at: http://hdr.undp.org/reports/view_reports.cfm?country=ALB&countryname=ALBANIA%20, 25.

25. Republic of Albania, *Annual Report*, Tirana: DoPA, 2005.

26. Republic of Albania, *Annual Report*, Tirana: DoPA, 2002; Available at: <http://www.pad.gov.al/index.aspx?tabID=4&MenuID=48>.

provisions and the lack of minimum number of candidates for the competition process.²⁷

The implementation of a new salary scheme including civil servants and partially other sectors of administration started in 2000-2001 with the close assistance of the WB and SIGMA program. However, still in 2005 the country lacked a centrally coordinated and transparent salary scheme providing information on the positions and salaries across various ministries. The EU reported a deep discrepancy between reform objectives and achieved results when assessing in 2005 that “over time, salaries have become severely differentiated, as the government has favoured different groups of public servants or where well placed heads of institutions are able to press cases for special treatment.”²⁸

Training has also been among the main targets of reform. The creation of the first Training Institute for Public Administration in 2000 was a jump start to the process. However, the development of training capacities progressed only slowly until 2003 when the institute managed to develop some systematic training within a three years strategy, 2002-2005. In addition, the institute was set up with foreign funds – a UNDP grant for the period 2001-2004, substantial EU sources and money from other projects – and it did not figure in the state budget until 2004.²⁹ The institute also did not have its own premises until 2005 when the EU provided a grant for the creation of new facilities.

2.4 *The Test of Government Turnover*

The relative improvement of the laws and bylaws regulating management of the civil service system in the period 2000-2005 had yet to face the test of a new party turnover until the summer elections of 2005. Given the bitter experience of the Albanian transition when the administration was consistently forced to side with the party in power, many worried that the new governing party would resort to the same tools of politicization and reverse the progress made that far.

Although there are no official data, nonofficial figures regarding dismissals and politically motivated replacements abound. The opposition sources asserted that within the first months of the new DP government 4.500 public employees, of which 1.300 from central administration, 30% from fiscal institutions, and the rest employees at different levels of administration were fired.³⁰ The DP has persistently justified the huge dismissals in the context of broad restructuring

27. Republic of Albania, *Annual Report*, Tirana: DoPA, 2003; See also Republic of Albania. *Annual Report*, Tirana: DoPA, 2004.

28. European Commission, *Albania: 2005 Progress Report*, COM (2005) 561, Brussels: November 2005.

29. Republic of Albania, *Annual Report*, Tirana: TIPA, 2003; Available at: http://www.itap.gov.al/Materiale_Trajnimi_Publikime_PDF/ITAP%20Report%202003%20-%20Shqip.pdf, 5

30. Antonin Braho, *Disa Pyetje per Reformen ne Administrate [Some questions about the Administrative Reform]*, Shekulli, 24 December 2005.

of the government institutions, but analysts doubted that they were excuses for replacing in administration militant activists and political loyalists. Accordingly, the government engaged in more than a fair share of abuses of Civil Service Law including non-advertisement of free positions, filling the opposition without competition and taking *a priori* decisions in favour of political candidates when holding competitions.³¹ In any case the dismissal of administrative staff was a huge drawback of what was achieved that far. Most accumulated capacities and skills were again gone in spite of the sophisticated framework to protect the administrative staff.

3. The International Involvement

The Albanian post-communist reforms in general and public administration reform in particular have always had a strong international dimension. All the Albanian governments have been keen to attract various forms of international assistance and support. The country has persistently occupied one of the top places in the aid recipient lists including East European and Balkan countries. Yet, the international factor has become all the more important after the 1997 crisis when various international actors engaged both as donors, mediators and leaders of reform. One of the prominent politicians in the country has captured the all-important role of the international community when assessing that the country is “de facto in a co-governing situation, which compromise[s] both the indigenous political elites and the international community.”³²

The completion of the legal framework regarding civil service system in the period 2000-2002 coincides with the closer involvement of international community in the country and its increasing focus on state institution reform. The relevant domestic actors have readily embraced the priorities of administrative reform and the various strategies elaborated with the help of international donors. Those strategies have been translated into a comprehensive and updated legal framework regarding the civil service. One can, thus, safely assert that the transformation of the legal basis wouldn't have occurred at such a quick pace and against unfavourable domestic conditions, if it was not for the role of the international community.

3.1 *The Strengthening Role of EU*

Initially the EU was merely one of the international actors involved in the process. At times, the EU and its founded program SIGMA were often accepted

31. Fejzi Braushi, Raporti I KSHC: Emerimet ne Administrate jo Ligjore [The Report of Civil Service Commission: Illegal Employment in Administration], Shekulli, 6 Mars 2008.

32. Genc Ruli, “Albania: The Weakness of the State.” In *Prospects and Risks Beyond EU Enlargement, Southeastern Europe: Weak States and Strong International Support*, ed. Wim Van Meurs. Leske, Budrich: Opladen, 2003.

as informal leaders of public administration reforms. Yet, the field was crowded also with other foreign donors such as the World Bank, UNDP, EBRD, USAID and also bilateral governments. Sigma itself admitted that “it is generally recognized, and freely admitted by the Ministers and senior officials [...] that there are too many plans, too many monitoring matrices, too great a reporting burden on Ministries, too little real coordination, and too much competition between donors.”³³

The closer approach of Albania with the EU under the Stabilization and Association Process (SAP), which started taking shape around 2000, promised to change the trend and accentuate the pulling power of the EU. The offer of EU membership extended to all Balkans countries including Albania, has increased the role of the EU in the region and activated a range of new instruments to influence the path of reforms.³⁴ The pull of EU membership is facilitated by the country’s all-encompassing consensus in favour of EU integration. The prevailing majority of the public has long embraced European integration as the most desirable destiny for the country. Similarly, political elites have without any exception held on to the goal of integration as absolute priority for the country.

The EU has in fact long recognized that “there is a clear official policy in favour of EU integration, which is frequently presented as a reform facilitator.”³⁵ By 2005, the EU assessed that “the thinking inside government appears to be that the imperative of European integration should be the policy around which the integrated [public administration] strategy will be constructed.”³⁶

3.2 EU Enlargement Tools

The process of EU enlargement goes a long way to preparing, assisting, monitoring and checking a candidate country’s capacity to be a member of the EU. The whole process is driven by a set of material rewards, most notably the offer of membership and assistance. In other words, the EU is entitled to check candidate countries’ progress because it controls the rewards at stake. During its last wave of enlargement, the EU has sharpened the criteria for assessing a country’s readiness to become member of the Union. Those conditions have been translated into an array of tools to safeguard that respective countries comply with the conditions set and will thus be ready to work within the Union without disrupting its internal working. The process of enlargement in the Western Balkans includes a similar

33. SIGMA, *Central Policy Capacity* (2004); Available at: <http://www.sigmaweb.org/dataoecd/40/18/34990334.pdf>, 4.

34. Arolda Elbasani, “EU Enlargement in the Balkans: Borrowing and Inventing,” *Journal of Southern Europe and the Balkans* 10 (2008).

35. European Commission. *First Annual SAP Report*, COM (2002) 163 final, Brussels, 4 April 2002, 32.

36. European Commission. *2005 Progress Report*, COM (2005) 562 final, Brussels, November 2005, 32

array of instruments related to each other: access to various institutional relations up to the final stage of membership; a process of political dialogue whereas both parts can raise their concerns; a formal process of monitoring weakness and/or progress of reform; and also aid and assistance. The first is by far the most important instrument, because it also helps to provide the others.

The EU has conditioned the strengthening of its contractual relations with Albania also with progress of administrative reforms. Public administration was one of the areas under consideration when the EU proceeded with the opening, negotiation and conclusion of the Stabilization and Association Agreement (SAA), an important step towards membership. Yet, the administrative criterion was hardly among the main concerns informing the EU decisions to strengthen the institutional relations with the country in all stages of concluding the SAA. The crucial decisions to open, negotiate and later conclude the SAA with Albania were taken in the aftermath of national elections and in function of electoral-related assessment.³⁷

As for the instruments of political dialogue, the European Council has insisted on adopting a special mandate for negotiating the SAA with Albania.³⁸ Accordingly, the Common Task Force (CTF), a common forum usually in charge of discussing general issues of reform, would continue to meet parallel to the SAA standard negotiations. Keeping a double forum for discussion, the EU could ensure that even if SAA technical negotiations proceeded quickly, they would not be concluded until the EU assessed a sufficient level of general reforms. In fact, the EU in principle could use the CTF meetings to raise various concerns and if necessary block the conclusion of the SAA with Albania. Yet, none of the CTF meetings was used to discuss public administration concerns. The issue is only rarely raised in the EU ad hoc declarations regarding general reforms in the country. The lack of raising the administrative criterion in the CTF meetings and EU ad hoc declarations can be taken to confirm that the administrative component is considered to be one of the ingredients of reform, but hardly an EU priority to be discussed at a high political level.

The EU monitoring documents further analyze and assess the administrative criterion among a wide range of political issues. The annual progress reports on Albania published since 2001 analyze three main dimensions – economic, political and European standards – on the basis of both the decisions *actually* taken, the legislation *actually* adopted and the degree of implementation. The public administration is mentioned in parts of reports dealing with political issues and

37. Arolda, Elbasani, *The Impact of EU Conditionality upon Democratization: Comparing Electoral Competition and Public Administration Reforms in Post-Communist Albania*, Ph.D. thesis, (Florence: European University Institute, 2007), 271.

38. Judith Hoffman, Integrating Albania: “The Role of the European Union in the Democratization Process.” *Albanian Journal of Politics* 2005 (1), 70.

European standards. In addition, the European partnerships adopted yearly since 2004 set concrete priority targets for each sector and mention how they are dealt with year by year. The evaluation of administrative capacities in annual reports has ranged from “weak” (2002, 2003) to “showing some progress” (2004, 2005, 2006, 2007). This seemed to be sufficient for EU to conclude the SAA with Albania in 2006.

Public administration has also been emphasized as one of the consistent categories of EU assistance since the elaboration of the first aid program, the PHARE program in 1992. The strategic shift of assistance that followed in 2000, under the framework of the Stabilization and Association process, has put new emphasis on the EU integration and harmonization requirements. While the new strategy identified public administration as one of five macro-sectors of the new assistance program, it also insisted on the prioritization of sectoral capacities needed to implement SAA obligations.³⁹ The focus on sectoral capacities at the expense of general ones was criticized by the evaluation report of the following year as “inappropriate sequencing and overemphasis of the formal requirements for an SAA rather than the implementation of urgently needed reforms.”⁴⁰

Conclusions: EU Integration and the Drive to Reform

The improvement of the legal codes to manage the civil service management system in Albania coincides well with the timing of the international initiatives to strengthen the weak state institutions after the deep institutional crisis and almost total collapse of the state in 1997. The reform of state institutions and particularly public administration, thus, owes a lot to the drive, technical assistance and not least substantial funds coming from external actors. Initially, the EU was one of the many actors, although at times it was accepted as informal leader of the external push to reforms merging different organizations, governments and not least nongovernmental organizations active in the country. The international community was thus effective as an aggregate, but the push to reform is more problematic to assess when one focuses on the EU alone even after the new Stabilization and Association Process activated a range of tools to assess, prepare and reward progress of reform.

The use of the EU instruments in function of public administration shows the limits of enlargement tools to bring about miracles and transform public administrations in a root-and-branch matter. The administrative criterion is more often than not applied inconsistently, which can be interpreted to show that the

39. European Council, *Council Regulation on Assistance for Albania, Bosnia and Herzegovina, Croatia, the FRY, and the Former Yugoslav Republic of Macedonia*, doc no 2666/2000, Brussels, 7 December 2000.

40. Investment Development Consultancy and Development Strategies, *Evaluation of EC Country Strategy: Albania 1996-2001*, Brussels, September 2001, vi.

development of general administrative capacities is a second rate criterion. The EU has monitored and targeted administrative reform, but that was hardly an area that determined the sequence of the EU relations with the country. The case study shows that the Union has used neither the advancement of institutional relations, nor significant shares of assistance, nor high level political dialogue to push for the progress of public administration. Overall, the administrative capacity criterion was lost in the midst of urgent political issues and the “harder” requirements for improving sectoral capacities related to the fulfilment of EU standards. This might not come as a surprise given that the EU is confronted with difficult choices and trade offs in a country facing many problems, however delays of public administration reform might be at the very roots of some of the urgent issues in the country.

In fact the introduction of EU enlargement instruments has not succeeded to break down patterns of instability and politicization, which undermine the whole reform across the Albanian administration. As the chronological analysis shows the government turnover in 2005 sent the usual ripples of instability throughout state administration, once again cleansed by current staff and filled with supporters of the governing parties’ coalition. One can thus argue that the relevant domestic actors have not been really enticed to give up their short term interests of replacing in administration their own supporters. In any case, the article shows that are no easy choices in difficult cases of democratization and miracles do hardly follow from the use of EU conditionality.