

Reforming the Public Administration in Albania: Europeanization or Business as Usual?

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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 works to reverse slow patterns of reform in challenging domestic environments.

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 caliber 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 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. Europeanization and Institutional Reform in the Post-Communist Universe

Since mid 90s, EU enlargement processes are largely credited to impact institutional change in the candidate countries in Central and Eastern Europe (CEE). Indeed, many studies have noted that post-communist democratisation has been faster and less prone to reversals in countries sharing a strong promise of integration. At the same time, democratisation proved to be slower and inconsistent in countries where integration prospects were remote or non-existent.¹ Gradually, EU integration has come to be perceived as a crucial factor coming to the rescue of domestic reform in the post-communist sphere. Parallel to this growing interest on the role of EU integration, the Europeanization literature came to replace transition studies as the dominant approach to explain the quicker, coincident and to some degree convergent reforms in the candidate countries.

¹ Pop-eleches 142

In analytical terms, the europeanization perspective to post-communist change draws heavily on the growing literature on the impact of EU integration in member countries. The focus here is to connect domestic and European politics by shifting attention from the European-level orientation of classic integration theories to the domestic level.² The main questions keeping busy most Europeanists across different fields of political science is how EU integration impacts political systems across member countries as well as why it leads to the widely shared observation of a “differentiated Europe” or “incomplete Europeanisation”? The research agenda usually goes beyond a narrow notion of “impact” by absorbing concerns of both institutionalization -the development of formal and informal rules, procedures, norms and practices; and complex forms of interaction instead of a uni-directional impact or reaction to Europe (Radaelli and Paquier 2007:17).

Europeanization in the CEE extends the scope of the initial Europeanization agenda to processes of enlargement and deals specifically with how EU matters in the candidate countries. Europeanization via enlargement, shares the common concern to specify “the distinctive ways in which Europeanization works in candidate countries.”³ On the one hand, the EU relations with its candidates are different and so are the instruments and modalities of Europeanization -mostly characterised by the pressure of enlargement conditionality⁴ as well as complementary mechanisms such as gatekeeping, benchmarking, monitoring, the provision of legislative and institutional templates, aid and technical assistance, and advice and twining.⁵ On the other hand, most candidates coming from state socialism had to Europeanise while undergoing a deep process of transformation although at different degrees and paces. Europeanization perspective to the CEEC should thus take into account both the nature of EU enlargement tools and the particular transition contexts in the candidate countries. Along with the advancement of EU integration and accumulated evidence of the impact of enlargement, research has shifted to deal with questions of effectiveness of rule transfers from the EU to the candidate countries.

1.1 Enlargement Conditionality and Successful Institution Building in the East

A strand of literature copying with effects of EU upon candidate countries attaches an overpowering impact to the mechanisms of enlargement, especially the pressure of conditionality to foster institution building in the east. Indeed the EU has made accession contingent upon a set of rather intrusive criteria, first established by the European Copenhagen Council in 1993. Heather Grabbe seems to voice a wide spread consensus when suggesting that “in the context of framing its enlargement towards East, the EU established the most detailed and comprehensive accession conditions ever formulated.”⁶ These conditions, have also been partially designed to address transformation problems and weakness of the candidates, thus increasing their appeal to new democracies in the east.⁷ Further on, Enlargement conditionality follows a strategy of reinforcement by

² Books on Europeanisation

³ Dimitrova 2002: 173

⁴ Conditionality as the main instrument

⁵ Grabbe 2001).

⁶ 2006:250

⁷ Dimitrova 175

reward.⁸ Accordingly, the EU conditions come up with a set of rewards - assistance, upgrading of institutional relations and the ultimate reward of membership - which EU will delivered in case of compliance, but it will withhold in case of noncompliance. Conditionality, thus, promises to alter the domestic opportunity structures and provide additional incentives for domestic actors to comply. The EU incentives/rewards are all more powerful in the enlargement to the East as EU membership entails substantial benefits for the CEEC, but not that many for the EU.⁹ The power asymmetry combined with the high volume and intrusiveness of rules attached to membership has arguably allowed the EU enormous leverage on the restructuring of domestic institutions in the candidate countries and arguably make these countries extremely apt to EU influence and potential convergence. Schimmelfenning and Sedelmeier, for example, note that “for the peculiar context of accession conditionality[], Europeanization in Central and Eastern Europe not only proceeded at much a quicker pace than in the member countries, but also produced more homogenous and convergent outcomes.”¹⁰

However, even enthusiastic Europeanists do often admit that there is not necessarily a causal link between the presence of EU conditionality and successful rule transfer in particular issue areas and countries. Indeed, any simplistic causal relation between conditionality and rule transfer runs into trouble as research tends to accumulate increasing evidence of selective rule adoption and especially hollow implementation of adopted rules in the east.¹¹ Conditionality itself does not tell us much about the way the EU rules are adopted, interpreted and sometimes even deactivated at the domestic level. Posing a relation between EU and domestic impact needs a careful assessment of how conditions are perceived and incorporated within the country. Cautious studies of EU impact, therefore, tend to assume that it is the domestic politics that holds the key to domestic compliance and call for bringing politics back in when studying effectiveness of conditionality and broad compliance.¹² Those critical accounts coming from inductive empirically oriented research are much in tune with critiques towards top-down research design in Europeanization studies.¹³ Both sides joins effort to capture the relative importance of EU and reassess its role vis a vis the domestic factors rather than negate its potential impact. The common thrust here is that treating EU conditionality as a dominant and all pervasive factor to explain CEEC’s compliance could end up exaggerating the EU impact and leading to both epistemological and explanatory fallacies.¹⁴

First, the epistemological fallacy is likely to arise when the logic of EU conditionality is transformed into a guiding analytical concept to study domestic impact, what Goetz refers to as “a cause in search of an effect.”¹⁵ Such analytical frames from the outset prejudge the role of conditionality and make it difficult to assess the relative role of EU compared to other sources of institutional development. As Goetz further notes, “[

⁸Schimmelfenning and Sedelmeier 670

⁹Moravcik and Vachudova, 2003: 42-57

¹⁰2007:98

¹¹Hughes, Sasse and Gordon

¹²Noutcheva

¹³Radaelli 2003: 50-51; Christoph Nill and Dihl Lehmkuhl; Adriene Heritier and Cristopher Nill; Brusis

¹⁴The analysis draws on Brussis critique

¹⁵Goetz 2000

europeanisation research is, in the main single-variable research, in the sense that the explanatory status of European integration []is not systematically compared with the influence of complementary or rival explanations of change.”¹⁶ Even when they recognised that EU conditionality acts in conjuncture with other factors, standard Europeanisation accounts start with EU pressure as an independent variable, which mediated by intervening variables leads to reaction and change at the domestic level.

Second, top-down research design may run the risk of explanatory fallacy when EU conditions are not determinate enough, as it is often the case, to prescribe clear guidelines for rule adoption in the target countries. According to Brussa,

“the commission’s annual monitoring reports [] contained numerous “thresholds”, that is, approximate and vague expectations that left accession states with considerable discretion over their implementation policies. While domestic policy change might well be caused by such thresholds, subsuming them under “conditions” misinterprets the way they became effective.”

Indeed the EU conditions stand scrutiny when considered as catch all variables, but do not perform as well when one moves to prescription of concrete policy sectors and institutional preferences. Here one must differentiate between general Copenhagen criteria and the more specific *acquis*. When an issue is included in the *acquis*, we can expect the EU conditionality to have strong prescription leverage on the outcomes of reform, but otherwise the formal EU leverage could be weak.¹⁷

Last, but not least, another explanatory fallacy that might arise from top down Europeanization research relates to its explicit focus on the outcome of reform as measured against the content of EU conditions. Such research, which is focused in outlining the substantive content of change, rather than in its modes and procedural features¹⁸ is not systematically interested in the dynamics as well as domestic context of change.¹⁹ Such accounts to EU influence are predisposed to decouple the policy output from the domestic policy evolution process and the ways it interacts with and/or fits to the EU conditions. In addition, such static accounts measuring the end result of reform are apt to assess the obvious layer of legal changes, but might well miss more complex stories of institutional change, the emerging amalgam of old and new institutions²⁰ and mixed results of implementation²¹, which characterise most CEECs.

The cultural legacies of partial modernisation, hybrid institutions, and informality have been influential in the region ever since its political transition. Thus, there is reason to assume that formal and *prima facie* compliance goes hand in hand with rather different political practices that are likely to remain unrecognised when the range of empirical observations is framed as mere results of the impact of EU conditions.

¹⁶ Goetz 2000: 223

¹⁷ Jacoby 2002: 10-11

¹⁸ Goetz 221

¹⁹ Brussa 300

²⁰ Olsen 521

²¹ Grabbe 2006: 63

Focus on one shot views to end results of reform, can thus, hardly count for the fluid, intermediate and at time ambiguous institution-building processes in the new democracies in the East.

Towards a Bottom-Up research Design

This study applies a bottom-up Europeanization approach, which is more sensitive to domestic politics and fairer to relative importance of the EU factor as one of the sources of change. EU conditionality is treated as an intervening factor vis a vis domestic ones rather than an overpowerful independent factor. Bottom-up research design starts from the system of interaction at the domestic level and by using temporal sequences checks if, when and how the EU provides a change in any of the components of the system of interaction (Radaelli 2003: 51-52). One of the added values of the bottom up approach is that “it can control for rival alternative hypothesis via process-tracing and time sensitive political analysis” (Radaelli and Paquier 2006: 40). This is necessary to discern whether the nature of outcomes is clearly the result of EU driven change or other non EU process at work -endogenous processes as well as other exogenous pressures- something which is rarely done systematically in Europeanization research.

In addition, bottom up research design it is less interested in question of end-state and more in complex processes of interplay and coevolution of the domestic and EU structures. This is increasingly important as one moves from macro-level grand assessment of democracy promotion to the meso-level of policy and institutional change. Indeed what looks as convergence at the macro-level might still show significant divergence at the meso and micro-level. Process tracing and the narrower scope of meso-level analysis is, thus, more apt to unscramble the modes of domestic emulation resulting from EU pressure as well as detect cases of “shallow Europeanization” (Goetz 2005: 262).

Finally, it can tell us more about the implementation - the process though which European norms are transposed, adhered to and enforced at the domestic level (Sverdrup 2006: 197). Studies of international bargaining suggest that implementation can be used to mitigate the impact of conditionality in a ‘two level game’ to use the language of Putnam (1988). This has been increasingly an issue of the EU effectiveness in the CEEC. Hughes, Sasse and Gordon for example draw attention that one of the problems that is weakly analysed and explained is “the scale of commitment and effectiveness of compliance of the CEEC in their policy implementation in response to conditionality” (2004:11). Grabbe similarly argues that in the EU-CEE case,

“the issue is more what happens after policies were transferred from one body to the other. Large-scale transfer of EU rules into national law in CEE certainly occurred, but what happened when the policies were implemented? [] the model has to be expanded in the implementation phase, moving beyond its current focus on the emergence of transfer networks to encompass the phase between process and outcome” (2006: 63).

On the theoretical level, bottom-up approaches to institutional change in the CEEC also follow on external incentive model explanations that actors attempt emulation when EU pressure alters their political opportunities (Jacob 2004; Vachudova 2004). But, they tend

to embody elite choices more readily in their historical institutional context and foresee the tendency for domestic institutional arrangements to stick to established path-ways (Grabbe 2006: 102-105). However, they also are open to consider critical junctures and learning, which count for elite driven changes and supersede historical determinism. Fruitful in this aspect are studies that establish explicit links with transition studies that take the initial “modes of transition” as establishing a linkage of the new polity to the past while constituting a quasi-fundamental moment for the empowerment of new political actors and establishment of new institutions. The process of EU accession and activation of EU leverage can be another critical juncture that reinforces pro-European actors and facilitates adoption of new institutional choices while creating spaces for longer term socialisation of domestic actors to EU institutions.

2. The Challenge of Reforming Public Administration After Communism

Polities that come out of a totalitarian one party –state, such as Albania are particularly resistant to change because the transformation of the administration was part of a very dense and complicated agenda of change. When the anti-communist forces, the DP came to power after the first free elections in 1992, the new government had to bow to a series of overwhelming tasks such as stop economic breakdown; replace public order and security threatened by endemic protests; establish state authority after the vacuum of the state authority in the last year and a half; deal with complex questions of social justice between former communists and the many dissidents of the regime; as well as build new institutions where none existed. The creation of a professional and stable administration, suggested as the best model to restructure the administration was probably the last of the government concerns and in fact did not enter the political agenda until the end of the DP first term in office.

Yet, from the very beginning the government faced the difficult dilemma on how to cope with the bureaucracy inherited from the ancient regime and the situation in the country did not offer many solutions. The choice seemed to be a crude one between the inherited communist bureaucracy, which had the expertise, but could undermine the new government program; and new inexperienced personnel from the rounds of the anti-communist movement. While the former was widely perceived as bearers of communism, the latter more often than not lacked the professional credentials and administrative experience. During the decades of communist rule the most important sectors of the state had been the exclusive property of devoted members of the party and their clique. In addition, the country lacked the choice of attracting professionals from the range of independent institutions, which were all crushed from the former totalitarian regime.

The DP government seemingly sided with the hardliners advocating wholesale cleansing of institutions from employees who had served during the communist regime. They were seen as unsuitable for cooperation and a danger to the new program of the party. The following step was to fill the state administration with people chosen on criteria of political loyalty. The choices of the cabinet which critics assessed as “young, with little or no experience and also little [] political sharpness required to run such a fragile

political environment”²², illustrated how the balance tipped towards merely political considerations at the expense of professional criteria. Although the DP might have had limited choices, the administration packed with party activists was as badly or even worse equipped to cope with transition challenges than the former administration. Adoption of loyalty as the main criteria of employment in administration was taken to explain the very poor calibre of the entire post-communist administration.²³

More problematically, ‘loyalty’ to the new regime seemed to be a wispy issue in a country where the democrats had appeared only two years before and were very often catapulted from privileged positions in the communist hierarchy. One need only look at the biographies of the Albanian main transition leaders to see that communists were well represented in both sides of the political spectrum and therefore made their way to state institutions even if under different political loyalties. The reshuffling, thus, did not mean much in terms of dealing with the past legacies and getting rid of communism. As Austin and Ellison have noted, “What we have seen take place in Albania is primarily politically inspired vengeance rather than an attempt to deal with the past in a constructive and objective way”.²⁴

2.1 Late and Intermittent Efforts to Introduce a Modern Civil Service System

The strong hand of the anti-communist government on the state bureaucracy was largely facilitated by the lack of a proper framework to protect the state from the political will of the day. Even the idea of separating the administration from the ruling majority, not to speak of elaborated devices for managing a professional administration was rather foreign to the Albanian authorities until at least mid 90s, when the government pushed a law on Civil Service System. Even then, the law proved to be a dead declaration of intent with little effect to curb politicization of the whole state administration.

In the first half of the 90s, the working status of all the public employees was regulated by the temporary revisions of the communist labor code adopted in May 1992. Article 24/1 of the revised law allowed the directors of the institutions, who were by definition political appointees the right to fire all employees under their direction, whenever they deemed it necessary to “implement the reform in the state sector”. Since the same directors were also allowed the discretion to decide about reform needs, there were really no procedures to protect the administrative staff from directors’ will. By means of this article, thousands of people, regardless of their capacities were fired or replaced with politically suitable subjects (luarasi 1997: 31). Another source used with effectiveness to clean the administration were the more general lustration laws adopted in the name of de-communization –the law on “Genocide and Crimes Against Humanity, Committed in Albania during the Communist Regime” and on “The Image of Official Servants and Persons Relevant to the Protection of the Democratic State”. Both laws aimed to prohibit the individuals holding key positions in the communist party and administration from employment in the new democratic government. Although both laws targeted those who

²² Biberaj 222

²³ 244

²⁴ 374

had important positions in the previous regime, it was widely used to discriminate also against medium-level specialists in the administration. As Vickers and Pettifer observed, all public employees “had their biographies scrutinized so that grounds could be found for dismissing them in favour of DP loyalists and Northern clansman.”²⁵

The Law on “Civil Service in the Republic of Albania” adopted in late 1995 was the first effort to instill in administration some contemporary management rules and curb the widespread politicization by “harmonization of the political and technical-administrative elements of the public administration” (article 4). The law claimed a clear separation between political and technical categories dividing employees into political functionaries, civil servants and supporting personnel. Only the civil servants were to be subject to career management rules including recruitment, job evaluation, career advancement, training and salary structure. The law, thus claimed to introduce the main devices of an impartial, stable, and professional civil service systems, but it failed to do so either because most of the provisions were incomplete or because they were not implemented according to the spirit of the law.

However, even when the Civil service Law was adopted in 1995, the public administration reform in Albania did not go further than introducing new concepts and procedures of civil service management that were either incomplete (World Bank 98: 95) or deformed during the implementation process (Shunsi 2004: 4). Aside of the gaps of law itself, the implementing institutions seemingly used all spaces and political discretion to circumvent the provisions of law in favor of political decisions. Biberaj’s establishes clear lines of similarity with the previous communist practices when assessing that,

“Several government functionaries including ministers and high level officials did not behave differently from their communist predecessors, supporting their networks of family loyalties and friends and neglecting law. In the many cases the government actions showed that official brutality had deep roots. (2000: 421)

During the first stage of transition in 1995-1996, old practices lingered all around late and intermittent efforts to modernize the administration according to the examples founded in the Western world, with insignificant results to bring in administration qualified, dedicated and professional staff. The Civil service system resembled badly to the depoliticized new model and the governing party remained strongly identified with the state institutions, much reminiscent to the one party-state of the communist period. The result were weak governing capacities and an emasculated state. By the end of the anti-communists’ first term in power, the analysts were still wondering whether “Albania’s social and value system and mentality provided a good soil for European institutions which are themselves the result of a long evolutionary process (UNDP 1998: 72)

2.2 The Wholesale Collapse of the State and the Lesson on Weak Institutions

In the first months of 1997, Albania perhaps not surprisingly, collapsed into the worst economic and political crisis in the recent history of the country. Initially, people

²⁵ Miranda Vickers and James Pettifer, *Albania From Anarchy to a Balkan Identity* (2nd edition) (London: Hurst and Company, 2000), 244

organized to protests against governments' mismanagement of the pyramid schemes, which were allowed to spread to a dangerous situation until escaping out of the country together with most savings of almost $\frac{3}{4}$ of the Albanian families. The popular anger however took a devastating dimension when the opposition added its political agenda and discontent in the steering wheel of the protesters. On March 1997, the protests had transformed into chaotic entities while the government had lost control of the situation – military and security forces left the cities; armed people broke into shops, institutions, banks and even normal citizens; most criminals escaped from prisons to join the armed groups; another wave of 15.000 Albanians emigrated en masse to Italy, while the international personnel left the country for security reasons. At the time, Albania came nearer than ever to Hobbes' definition of a state of nature. The all party government created by mid-March proved unsuccessful to replace the vacuum left by the withdrawing state. For some weeks in 1997, the state could not perform even its minimal functions such as providing food, order, security and minimal services for its citizens. The crisis had shaken the very pillars of the Albanian state and drew the country back to square one in economic and political terms.

By 1997 it was widely agreed that the development of a state with adequate capacities to govern was the ignored dimension of the Albanian transition. The huge socio-economic outburst of 1997 exposed in open light the fundamental problem of the weak state, unreformed public institutions and insufficient governance capacities. As Luarasi rightly puts it, “the 1997 crisis was first and foremost an institutional crisis.” (1997: 33). Among many similar evaluations, the World Bank reported that “the inability and/or unwillingness of the government to enforce its own laws and regulations allowed the pyramid schemes to mushroom to an enormous proportion, [] and led to a large scale crisis” (WB 1998a: 1). The weak administrative apparatus built during the first years of transition was part of state institutions that not only encouraged the crisis, but it also became the target of revolt, which finally wiped out also the limited progress made during the first years of transition. The clear message was that the failure to adopt new institutions after a collapse simply leads to the continuation of degenerative institutions and the potential for another collapse. Subsequently, public administration sector entered forcefully the reform agenda as a sine qua non component of sustainable transformation.

3 Foreign Push to Reform

Given the weakness of state institutions and the polarized political scene, the main actors to push for and pick up the new agenda of state reform proved to be the international actors including various organizations and bilateral donors. The international involvement in the country was all but new. Also before the crisis, the country managed to be one of the biggest recipients of aid and foreign assistance in the post-communist area. However, the post 1997 period signaled a new period when the international community turned into an all important actor of reform. The impact of various structures of the international community proved to be different given the depth of involvement and the lessons learned.

3.1 Openness to Foreign Assistance as the Main Development Strategy

Since the beginning of transition the Albanian elites have adopted an extremely outward oriented policy vision. Derek Hall described it as a move from isolationism to “flexible pragmatism” motivated by the need for economic and technical assistance as well as the desire to be accepted by the international community after decades of total seclusion (1994: 185). The Albanian governments have indeed projected integration into international arena and especially the EU as an answer to the country immediate economic and political problems. Integration in the international trends however was often measured by amounts of aid rather than anything else. The country was more concentrated to obtain aid rather than elaborate domestic strategies of development. Analysts have long noted Albania’s over-reliance on foreign assistance as the only development strategy (Daniel Vaugh). The country’s openness combined with the quest for foreign assistance has created a domestic environment exceptionally open to all forms of foreign involvement.

The supply of foreign funds and assistance has amplified during periods of crisis amidst of the Europeans worries of illegal migration and instability exported from Albania to their borders. Already during the disorder that prevailed in the period 1991-1992, the country was reduced to complete dependency on foreign assistance to provide minimum food supplies and security services for the population (Biberaj). Also afterwards, the country managed to attract substantial amounts of foreign aid ranging between 200 and 400\$ per capita yearly or approximately 15% of its total GDP (Johnson 182). Among the many donors pouring money in Albania, The EU has contributed the lion’s share of assistance followed by member countries, especially those most affected from the crisis. Other organizations, including European organizations, OSCE and CoE and international financial organizations, the IMF and WB had been present in the country by providing technical assistance as well as aid and credit. While initially most of aid went to humanitarian assistance sectors, the post-1993 aid has targeted various sectors of reform especially economic sectors.

When the Albanian state collapsed again in 1997, the European leaders and overall international community was reluctant to get even deeper involved and create a new protégé in the Balkans. Few European countries sympathized with the Albanian quests for military intervention to stop a possible meltdown in the country. Neighboring Italy, most effected by waves of instability in the country, was left alone to create a “coalition of the willing” states to intervene and halt the crisis (Greco 206). Even then the European leaders made it clear that they would only assist the country to survive the crisis and charged the operation with a limited mandate of escorting aid convoys and patrolling state institutions. However, what followed were further requests from the Albanian side to extend and deepen the international involvement to combat criminal groups and build infrastructure (Mema 60). As a response, the EU organized an ad hoc mission to help reestablish and train police forces. In addition, at the insistence of the Albanian political parties, the international actors including EU were involved in the organization of fresh elections in 1997.

The deep polarization among the Albanian parties and the unreliability of institutions that characterized the post-1997 has extenuated the role and the interventionist style of the international community. While the Albanian politicians became increasingly prone to ask and accept different forms of international involvement and solutions, the internationals got deeper involved to rebuilding the failed state and set the country in the path of sustainable change, creating a vicious circle of dependency. As one of the prominent Albanian politicians has put it, after the crisis, “not a single problem has been solved without the intermediation, supervision or intervention of various structures of the international community” (Ruli 2003: 153). After 1997, the international community was so involved in Albania, that the country was often depicted as a client state that needed foreign control in order to gain the features of a European state (Della Rocca 2000: 138).

3.2 From Donors’ darling to International Protégé

Indeed at the aftermath of the crisis the international community took the lead to rebuild the Albanian state. The internal actors were the first to analyze the lack of public administration that far while noting underfunding (4% of total aid disbursement and under prioritizing of the sector in the previous donor strategies (WB 2000: 14-15). Moreover, the international organizations involved in the country assessed that assistance to public administration had been mainly “supply driven”, with each donor focusing on areas they assessed to be important without much coordination among each other. Once the inefficacy of administration was identified as the substantial cause of collapse and also the ignored issue of donors’ activity, the obvious recipe was to place administration among the strategic targets of future reform and act in concert to improve government capacity.

Already in July 1997, the Strategy for Recovery and Growth designed jointly by the World Bank, EU, EBRD and party IMF listed public administration among the 7 strategic components of future reforms.²⁶ The donor conference held few months latter in Brussels transformed these priorities into focus areas of around 130 million euro of promised assistance to implement the program. The World Bank was among the first to push forward a new governance agenda by considering “governance and institution building as one of the central planks of its intervention and [] the most important challenge facing the government of Albania”. Consequently, most donors endorsed the reform of administration as a strategic priority of their aid program in the country. The common Strategy for State Institution and Public Administration reform (SIPAR) adopted by the government at the end of 1997 was almost totally funded by the donors including the EU, OSCE, EBRD, WB, UNDP, CoE, USAID as well as a range of bilateral donors.

Both the reality of weak domestic structures and necessity of aid seemed to have induced Albanian authorities to accept any proposals especially when accompanied by money without much analysis of their compatibility with each other and also the country’s needs (Ruli 2003: 153; UNDP 2002: 25). In the absence of home grown priorities, the

²⁶ World Bank, European Commission and European Bank for Reconstruction and Development, *Albania Directions for Recovery and Growth: An Initial Assessment*, (Tirana: July 1997), 3.

government seemingly took the foreign recommendations at face value and adopted them as its own. Moreover, the involvement of a myriad of donors complicated their capacity to negotiate with government and each other. As one of the donor organization, Sigma assessed “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.”²⁷ Donors’ activity by and large continued reflecting the vision, practices and procedures of each individual organization creating in many cases confusion among the Albanian actors in administration and government.

3.3 The Overhaul of the Legal Framework

The recommendations from various organizations thus made it into a range of government strategies to structure the state. In addition to the SIPAR, the government corruption plan and the government economic program included a set of overlapping and not always consistent administrative tasks. The reform strategy envisaged to address public administration tasks in two major stages –1) civil service reform and 2) broader public sector human resource management reform. During the first stage reform aimed at creating the professional nucleus required to improve the performance of public institutions. In the second stage the reform would be expanded to the wide range of public employees to improve effectiveness and reliability of overall public policies.

The international focus on institution building certainly encouraged a general overhaul of the legal framework to reorganize and improve the management of civil service system in the country. The post-communist constitution adopted in 1998, which was itself one of the components attached to the Strategy for Recovery and Growth and owes much to the international assistance, made sure to entrench the aspired principles of a new administrative model in the highest-ranking body of the Albanian law. Article 107 required that the public employees must apply the law and serve to the people; be selected through examinations, and be guaranteed tenure and special legal treatment, alluding to the superiority of law in the work of administration, a merit based selection process and guarantees of work to ensure independence of administration from the political masters. The constitutional set guidelines determined the broad confines of change and launched a renewal process at least at the symbolic level. The detailed rules of operationalising these principles were to be supplemented by an organic law.

One year later, in 1999, the government drafted a new master strategy, which comprised the programs drafted in the last two years and provided the overall framework for reform. The World Bank lent a credit of around 8 million \$ to fund a major project aiming “to provide required resources for technical assistance, training, goods and incremental operating costs needed to implement the Government’s institutional and public administration reform agenda effectively.” That was the start of an intensive work to improve and complement the legislative framework. A new Civil Service law was drafted with the assistance of World Bank and SIGMA and adopted soon in November 1999. The

²⁷ SIGMA, *Central Policy Capacity* (2004); Available at: <http://www.sigmaxweb.org/dataoecd/40/18/34990334.pdf>, 4.

law reiterated the guiding principles of professionalism, independence, integrity, political neutrality, transparency, service to the public, career continuity, accountability and correctness in the application of binding legislation (article 3).

Most laws and by-laws necessary to implement the civil service code were soon adopted in the first half of 2000 with substantial assistance from abroad. As the World Bank, which put up a major Public administration Reform Project 2000-2006 assessed,

The Law on the Status of Civil Servant [] is consistent with good international practice and Albanian public administration has benefited by the enactment of this law. With this law, the framework for competitive, transparent recruitment and selections procedures were put in place. Civil service management practices have been set up and have had a very important impact on the behaviour, the practices and the incentive structure of politicians in hiring and firing decisions. It [] replaces the previous system in which any civil servant independently of grade or function could be fired at the whim of anyone with sufficient authority. This is at stark difference from the previous system which was subject to arbitrary and non transparent human resource management practice (2007: 27)

However, given that most of what happened in public administration carried the substantial input from donors, the ongoing reform had still to show domestic ownership and that it was more than a wholesale package of legal acts passed to please the international community.

3.4 Half-Hearted Initiatives to Depoliticize the Administration

This comprehensive legal framework set the broad frames of change and contributed to improve the civil service management components compared to the previous stages of reform. Yet, the new laws also proved to still have a range gaps, were often selectively implemented, with mixed results to realize the objectives set in law. While the package of laws on Civil service system was an achievement in itself and contributed to improve the management of a core civil servants, it proved an insufficient device to instill professionalism and curb deep-rooted politicization patterns in the public administration. The wave of dismissals that followed each government turnover showed in open light that the domestic actors were hardly committed to realize and implement the law although they hurried to embrace foreign advices and were very active to issue them into a range of strategies and laws.

First, the law issued in 1999 was too late to stop the massive way of dismissals that followed the change of the ruling party and the creation of a new socialist government after the 1997 elections. Different sources estimate that 15.000 or 15% of total public employees mostly from key positions in administration were dismissed for political reasons and replaces with SP supporters (freedom house 1998:51). By 1998, the government had lost all civil servants from the previous administration together with their accumulated experience and skills although literally nothing was documented (UNDP

2003). One can thus argue that when the law was issued in 1999, most of current civil servants to be protected by law were anyway from the rounds of the governing party loyalists rather than professionals.

Second, the internal fighting and the consequent frequent changes of 6 cabinets during the SP ruling in the period 1997-2005 stimulated further the pattern of unqualified political nominations at all levels of administration as each incoming cabinet resorted to place members of their inner circle in key state positions (SIGMA 2004a:32). As one of the Albanian politicians noted, the SP premier Nano frequently resorted to appointing members of his own circle rather than simply party supporters in the administration. In 2003 the IMF blocked the release of promised credit as a protest against unqualified appointees in key positions in administration. Consequently in addition to the first wave of political dismissals, the incoming SP cabinets removed approximately 5000 public employees in 1999 and another 3.000 in 2000. Political dismissals remained frequent also afterwards.

The overall limited results of the new legal package to ensure the principles of professionalism and neutrality it stood for were also facilitated by the limited coverage the civil service law, which covered only a small range of core executive institutions. The number of civil servants in 2004 mounted to a total of 2.090 or a mere 2% of the 110.000 public employees in the period. Therefore, the biggest part of the administration continued to function unprotected from the political will of the day and vulnerable to ripples sent by each government turnover.

4 The Role of EU Conditionality to Advance Reform

Up to 2000 the EU was one of the many international actors involved to create sustainable institutional change in Albania. At times, the EU and its founded program SIGMA were often accepted as informal leaders of public administration reforms, but the field was crowded also with many donors such as the World Bank, UNDP, EBRD, USAID and a range of bilateral governments that picked up the issue of institution building and made it a central component of their programs in the country. Hence, the EU was one of the many donors contributing to push forward an agenda of change after the institutional crisis in 1997. Its political influence was limited to the control of assistance and general aid conditionality applied in unity with other foreign donors when necessary to put pressure on Albanian authorities.

This promised to change after the introduction of the EU enlargement conditionality once the EU extended the promise of membership to all Western Balkan countries including Albania in 2000 (Elbasani 2008: 298-9). The new EU enlargement policy has increased the political role of the EU and activated a range of conditions which the country must comply with in order to be ready to work within the union. The process is driven by a set of material rewards, most notably promise membership stages and assistance, which enable the EU side to impose conditions on target countries. Moreover, those conditions are related to respective rewards via a range of tools to safeguard that respective countries do comply with conditions set – control of access to various institutional stages up to

membership; a ongoing process of monitoring and targeting weakness and/or progress of reform; and also aid and assistance.

The leverage of EU membership is facilitated by the country's all-encompassing consensus in favor 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 favor of EU integration, which is frequently presented as a reform facilitator."²⁸ By 2005, the EU itself acknowledged the increasing role of the EU when assessing that also on the specific areas of public administration "the thinking inside government appears to be that the imperative of European integration should be the policy around which the integrated strategy will be constructed."²⁹ However, enlargement conditionality in Albania came into play when the country had already moved to adopt comprehensive legislation, although with limited results to change patterns of instability, poor qualification and political dependency. As such we can trace the usage of EU conditionality in function of administrative change and its added value to improve the remaining problematic areas of reform -1) ensure continuity of achievements also after the political turnover 2) to amend and complete the laws to deal with the gaps identified that far.

The 2005 elections were to be an important test for the role of EU conditionality to energize reforms. Given the abundant evidence that each new government moulded the legal provisions and filled the administration with its own supporters, the baseline for evaluation the added value of conditionality 1) safeguarding the progress achieved that far and 2) improvement of the legal framework and implementation of those codes in practice. The EU had still to show whether its incentives were as powerful and credible as to overrun the high spoils of using the state and bring in change in the country.

4.1 EU Administrative Criterion in Function of Reform

The EU has neither treaty provisions nor agreed upon common institutional models regulating the public administration sphere of its member countries. However, from very early stages of the previous wave enlargement the union realized that public administration capacities were critical to deal with the transposition and especially effective implementation of the growing body of *acquis*. Moreover, the union experience with generally weak administrative capacities of post-communist candidates has pushed the EU to develop a criterion of administrative capacity (Verheijen 2002: 248). The initial Copenhagen criteria on 'candidates' ability to take on the obligations of membership outlines', could be interpreted as an implicit reference to administrative criterion. The White paper adopted in 1995 further warned that "the main challenge for the CEECs lies not in the approximation of their legal texts, but in adopting their administrative machinery [] to make the legislation work". Latter on, the Agenda 2000, which elaborated commission's opinion on country's capacities to assume membership obligations, included administrative capacity as a criteria in its own right when assessing

²⁸ European Commission. *First Annual SAP Report*, COM (2002) 163 final, (Brussels, 4 April 2002), 32.

²⁹ European Commission. *2005 Progress Report*, COM (2005) 562 final, (Brussels, November 2005), 32

that “a judgement [on the Copenhagen criteria] depends also on the capacity of a country’s administrative and legal systems”.

Consequently, the commission gave increasing weight to the administrative criterion asserting it as an indispensable part of upcoming annual reports and accession partnerships. SIGMA paper on Preparing Public Administration for the European Public Space drafted in 1998 further helped to elaborate some baseline criteria of assessing administrative capacities of candidate countries. The EU implicit and even explicit requirements insisted on general rules such as the adoption of civil service laws to guarantee independence, the establishment of a career system, pay reform and training (Verheijen 2002: 250; Fournier 1998: 113). Those items featured in most annual assessments although in a selective way and prioritizing the problematic areas of each country in a case by case basis (Kochenov 2005: 18-20). The administrative criterion, thus represented a general institution building approach through which the EU tried to fix the problems of each country through an individual and ongoing process of evaluation. Moreover, the EU requirements consist of general outlines of administrative reform and improved capacities, but not much on the details of how to go about.

When it came to encompass the Western Balkans in yet a new wave of enlargement, the EU seemed more determined to push for administrative capacities especially given the weak state capacities across the region. In the case of Albania, the EU was pretty much aware of the weak capacities of the Albanian post-communist state, which just few years before had badly collapsed and left behind a vacuum of power. By that time, it was also clear that the foreign led efforts to strengthen the Albanian state had encouraged a comprehensive legal overhaul that on letter resonated with the EU administrative capacities, although few of those promises were delivered in reality. From the outset, when identifying the reforms needed to be carried out in preparation for the negotiation of a stabilization association agreement (SAA), the equivalent of European Agreements for the Western Balkans the commission stresses,

The Albanian administration remains extremely weak. Recruitment on the basis of open competitions has only just begun and it will take time to build a culture of public service, free from political and financial influence. In almost every area where Albania would take on obligations under a Stabilisation and Association Agreement there is a lack of implementing capacity. The legal situation is broadly satisfactory [], but there is little capacity to implement them. Until this situation can be redressed the new laws will exist only on paper.

Since the first report in 2001, the EU has persisted to monitor PA non/achievements as part of the “democracy and rule of law”, which is a subtitle of political standards. The evaluation of administrative capacities tends to be rather bleak as it ranges from weak (2002, 2003) to showing some progress with many buts attached (2004, 2005, 2006, 2007).

Table 21: Assessment of Public Administration in Annual Reports, 2001-2008

2008	The public administration is continuing to stabilise, but the lack of transparency
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	and accountability in appointments is endangering its independence.... Further progress is needed to establish an independent, merit-based, professional civil service (8).
2007	Overall, the public administration is stabilising and becoming somewhat more focused. Further progress on strengthening the Department of Public Administration and ensuring competent, motivated and impartial staff is now needed (8).
2006	Career structures, career planning, salaries and performance management in the civil service and other public services remain poor. Political appointment of higher civil servants remains prevalent, restricting the growth of a professional senior civil service level (7).
2005	The Albanian civil service remains hindered by a pervasive lack of understanding of the need for, or will to implement, a real separation between the political and administrative levels. Political appointments, down to Director level in most central ministries, are still the norm (22).
2004	There has been some progress in public administration reform over the Reporting period, but sustained efforts remain necessary (summary: 3).
2003	Some efforts have been made by Albania to strengthen its public administration. However, public administration remains weak ... (summary: 3)
2002	General assessment: Public administration is weak and still subject to political and financial influence (summary: 4).
2001	The Albanian administration remains extremely weak. Recruitment on the basis of open competitions has only just begun and it will take time to build a culture of public service, free from political and financial influence (summary: 7)

Source: European Commission annual reports 2001b, 2002b, 2003c, 2004b, and 2005a

In addition, both the three European Partnerships, which identify priorities for country's further integration in the EU since 2004 have targeted PA as both a short and mid term priority. The first EP (2008) much like the last one (2004) asked Albanian authorities to "Ensure enforcement of the Civil Service Law and take steps towards its improvement. Take measures to prevent undue political interference in the functioning of the public administration. Produce clear guidelines as regards recruitment, transfer and dismissal for all civil servants, and implement them. Ensure that the Civil Service Commission fulfils its duties in accordance with the law." Those reports, have gone far to assess the weakness of reform and provide government authorities with targets of reform.

4.2 The Leeway between Progress of Administration and Advancement of Relations

In addition to broad thresholds asked under the basket of administrative reform, the power of EU to push for change in this specific area seemed to be weakened by the ambiguous association between recorded progress and delivery of rewards. Indeed the EU more often than not proved to chose silence over the weakness of administrative criterion when advancing the contractual relations with the country.

Delayed institutional reforms and weakness of the state reform were taken into account when the EU refused to sign a European Agreement with Albania back in 1995. The crisis of 1997 further froze all the alternatives to advancing institutional ties with the country. Also back in 1999, the commission discouraged the council to update institutional relations with the country on the bases that “Albania remains marked by important [] institutional weakness, which do not facilitate the perspective of an association with the EC and its member states.” (1999:16)

After the Kosovo war and the adoption of a framework of enlargement in the Balkans, the EU moved to adopt a positive incentives strategy to “make Albania’s European perspective more concrete.” 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. In 2001, the High level Steering Group created to stepping up co-operation with Albania suggested to open negotiations for a new Stabilisation and Association Agreement, although it noted “widespread lack of capacity to implement its own laws and international obligations.” (2001:8). Opening of the SAA negotiations were delayed until October 2002, but that was done to push the parties agree on a consensual president, which could bring calm at the aftermath of problematic elections. The four years delay in negotiating the SAA chapters was directly related to political stabilization objectives in the country. The finalization of the SAA followed only in 2006, after the 2005 national elections took a bill of good conduct from international monitors. Neither the deficiencies identified in the functioning of public administration, nor the lack of capacity to ensure implementation of the SAA, nor the long list of administrative priorities the country had to deal with al part of the EP legal obligations prevented the EU from advancing the contractual relations and finalizing the negotiations of an SAA in summer 2006.

As for the instruments of political dialogue, the European Council has insisted on adopting a special mandate for negotiating the SAA with Albania. The Common Task Force (CTF), a common forum including EU and Albanian representatives, would continue to meet parallel to the SAA standard negotiations in order to discuss general issues of reform. 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 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 political dialogue can be taken to confirm that the administrative component is considered to be one of the ingredients of reform, but hardly a priority to be discussed at the high political level.

4.3 The Test of Turnover: Paying Lip Service to Administrative Criterion

The broad thresholds regarding the administrative criterion and especially the vague association between record of compliance and advancing institutional relations allowed amply space for the Albanian actors to pursue on the previous patter of politicizing the

state and rent-seeking behavior, while advancing in the path of EU integration. The administrative criterion failed to provide incentives for the Albanian actors to give up the high spoils of a politicized state as they perceived that not much was at stake.

Moreover, many domestic factors played to undermine administrative progress and the prospects of compliance. The SP government, 1997-2005, benefited from the two consequent terms in power to advance civil service legislation and give some sense of increased professionalism and stability. However, progress did little to cover the fact that the administration was already overfed with SP supporters and molded to ally with the governing party. When the opposition, the DP came to power after the 2005 elections, it perceived the administration as siding with the outgoing party and the civil service law as the majority law. Most progress did not stand the test of party turnover, which rather casted doubt on sustainability of reforms.

Although there are no official data, non-official 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 of the government institutions, but most analysts did not fail to see that they were excuses for replacing in administration militant activists and political loyalists. Accordingly, the government engaged in open abuses of Civil Service Law including non-advertisement of free positions, filling the opposition without competition and taking apriori decisions in favor 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 despite of the sophisticated framework to protect the administrative staff.

In addition, the outgoing government's proposals to improve some dispositions of Civil Service Law were withdrawn by the parliament and shelved by the incoming government. The efforts to move to a second stage of expanding the coverage of law to include more positions, was not considered by the incoming government. The DP instead issued few amendments to move DoPA from the prime ministry to the department of interior, which ultimately downgraded the role and authority of the institution to safeguard civil service managements. Not surprisingly, those changes, have again created a new rift between the government and opposition, which considered the DP dismissal in contradiction to the spirit and the letter of the civil service act. This might well turn against the current administration if the opposition turns to power creating a vicious circle whereas each government has to start all over again to renew emphasis on depoliticisation and autonomy of civil service.

Conclusions: EU Integration and the Drive to Reform

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

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.

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 non-governmental 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 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 fulfillment 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.

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.

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 there are no easy choices in difficult cases of democratization and miracles do hardly follow from the use of EU conditionality.

How disastrous this approach was became very obvious along the way of “reforming” the administration in the first half of the 90s. The highly politicized administration enabled the governing party, DP to be strongly identified with the state apparatus very much reminiscent to the one party-state of the communist period. The opposition was excluded from participating in governing the country altogether and perceived the institutions as serving DP’s objective to concentrate and maintain power. Furthermore, the administration was reduced to a bunch of political stuff with little bureaucratic sophistication to run the country.

The above analysis points to 1) the reality of reshuffling of administration after each party/government turnover and 2) the need to expand the civil service rules from a tiny core to the wider administrative staff. The country had still to show that the framework for protecting civil servants would face the test of the 2005 elections