

# Annual Monitoring Report of Albania's Progress in the Stabilization-Association Process

[1 October 2008 – 15 September 2009]

**Open Society Foundation for Albania**

October 2009

**This report was prepared by:**

Gjergji Vurmo, *Project Coordinator*

Niazi Jaho

Gledis Gjipali

Etilda Spahiu

Edlira Papavangjeli

Ersida Sefa

Ahmet Mancellari

Geron Kamberi

Florian Xhafa

## Table of Contents

INTRODUCTION.....	5
1. MAIN FINDINGS.....	6
1.2 Democracy and the Rule of Law.....	6
1.3 Human Rights and the Protection of Minorities.....	9
1.4 Economic Criteria.....	13
1.5 European Standards.....	13
1.6 Sectoral Policies.....	15
1.7 Domestic Affairs.....	17
2. DEMOCRACY AND THE RULE OF LAW.....	20
2.1 Parliamentary activity.....	20
2.2 The Government.....	21
2.2.1. Ministry of European Integration.....	23
2.2.2. Inter-institutional structures of the European Integration process.....	25
2.2.3. European Integration Units.....	26
2.3 Electoral Reform.....	27
2.4 The Functioning of the Public Administration.....	29
2.5 The Justice System.....	30
2.5.1. The Organization of the Justice System.....	33
2.5.2. Access to the justice system and the transparency of judicial processes.....	33
2.5.3. The School for Magistrates and Trainings.....	34
2.5.4. Witness Protection.....	35
2.5.5. Juvenile Justice.....	35
2.6 Fight against corruption.....	37
2.7 Decentralization Reform.....	38
3. HUMAN RIGHTS AND THE PROTECTION OF MINORITIES.....	41
3.1 Observation of International Law and Respecting Human Rights.....	41
3.2 Civil and political rights.....	41
3.3 Economic and social rights.....	46
3.4 Minority rights, cultural rights and the protection of minorities.....	50
4. ECONOMIC CRITERIA.....	53
4.1 The existence of a functional economic market.....	53
4.1.1 Economic Policies and Macroeconomic Stability.....	53
4.1.2 Fiscal Policies.....	54
4.1.3 The Banking Sector.....	55
4.1.4 Non-Banking Financial Sector.....	56
4.1.5 Regulatory Framework and Legal Initiatives in the Non-Banking Sector.....	56
4.2 Competition and State Aid.....	57
4.2.1 Competition.....	57
4.2.2 Governmental Aid.....	59
5. EUROPEAN STANDARDS.....	62
5.1 Public Procurement.....	62
5.2 Education and Scientific Research.....	63
5.3 Employment and Social Policies.....	66
5.4 Commitments due to the World Trade Organization membership.....	68
6. SECTORAL POLICIES.....	70
6.1 Agriculture.....	70
6.2 Agribusiness and the Agro-Processing Industry.....	71
6.3 Animal Products, Plant Protection.....	72

6.4	The Fishing Sector.....	72
6.5	The Environment.....	73
6.6	Industrial Policies .....	74
6.7	Small and Medium-Sized Enterprises (SMEs).....	75
6.8	Statistics .....	76
6.9	Energy .....	77
6.10	Road Transportation.....	78
6.11	Railway Transportation.....	79
6.12	Sea Transport .....	79
6.13	Air Transport.....	80
7.	<b>DOMESTIC AFFAIRS</b> .....	81
7.1	Personal Data Protection .....	81
7.2	Visa Policy .....	81
7.3	Asylum .....	82
7.4	Migration.....	83
7.5	Repatriation .....	84
7.6	Integrated Border Management.....	85
7.7	Organized Crime and Illegal Trafficking .....	86
7.8	The Fight against Drugs .....	87
7.9	Prevention of Money Laundering.....	87
7.10	Fight against Terrorism.....	88
7.11	The Police .....	89

## INTRODUCTION

The aim of this report supported by the SOROS Foundation is to evaluate the implementation of the commitments undertaken by Albania within the framework of the Stabilization and Association process during the period of October 2008 – September 2009. This third annual review follows Albania's progress in the European integration process and is the result of the cooperation between the SOROS Foundation and a group of independent experts and takes into consideration the following documents:

- The National Plan for the Implementation of the Stabilization and Association Agreement (NPISAA)
- The Stabilization and Association Agreement (SAA)
- The European Partnership
- The European Commission's Annual Report
- The National Strategy for Development and Integration
- The European Commission's Enlargement Strategy
- The Sectoral Strategy approved by the Council of Ministers
- Joint recommendations from the EU/Albania Consultative Task Force (CTF)
- Recommendations from the Joint Committee and EU-Albania sectoral groups within the framework of the Interim Agreement
- Reports and recommendations from the EU Assistance Missions
- Reports and recommendations from other international organizations regarding the areas monitored.

The review process was carried out through a combination of research and analysis of the actual progress made towards the fulfillment of the commitments undertaken by Albanian institutions. The monitoring of each area and subarea was first and foremost based upon the fundamental criteria of objectivity and impartiality. The report strives to present a panorama of Albania's progress towards implementing the obligations that stem from the entry into force of the Stabilization and Association Agreement. The main focus has been placed on the tangible results with the initial planning not treated as a goal in itself, but rather as a springboard for achieving a broader objective.

The report focuses on the issues of highest priority regarding the relationship between the EU and Albania divided into political criteria, economic criteria, fulfillment of European standards and administrative capacities.

## **1. MAIN FINDINGS**

### **1.2 DEMOCRACY AND THE RULE OF LAW**

#### **1.2.1 Parliamentary activity**

Parliamentary life has been relatively productive, as evidenced by the number laws that have been adopted. The March – May 2009 period of parliamentary activity was particularly busy as it was a period during which 52 laws were adopted, 18 of which are laws ratifying agreements with other countries. It is worth emphasizing that the Parliament's previous legislature did not review a draft-law for amendments to the Parliamentary Regulations, to the status of the Member of Parliament or regarding the media. 18 years after the fall of communism, the Parliament adopted the law "Law on the cleanliness of the figure of high functionaries of the public administration and elected persons of the Republic of Albania". This law included the penalization of specific categories of public officials, including judges and attorneys, who practiced their profession or held positions during communism. On February 16<sup>th</sup>, 2009 the Constitutional Court decided to suspend the law's implementation.

The Parliament continues to exhibit deficiencies in its administrative capacities to command the legislative process in regards to harmonizing national legislation with EU legislation. Only the European Integration Commission performs a formal check regarding whether legal initiatives proposed by the executive branch are accompanied by legislation alignment charts as well as the accompanying report, which is a requirement based on the Council of Ministers' regulations.

#### **1.2.2 The Government**

The National Strategy for Development and Integration (NSDI) 2007-2014 is the Albanian Government's primary strategic document. It lays out the blueprint that the nation should follow to achieve further socio-economic development and European Union integration. This strategic framework embodies 23 approved strategies, 9 others in the approval process and 4 currently being drafted. However, it is worth emphasizing that Albania has suffered from shortcomings in implementation rather than from a shortage of strategic documents. With the SAA coming into force on April 1<sup>st</sup> 2009, the inclusion of all obligations arising from the SAA within all of Albania's important strategic documents became imperative, the most of these being the National Strategy for Development and Integration (NSDI).

#### **1.2.3 Electoral Reform**

The new Electoral Code was adopted on December 29<sup>th</sup>, 2008. The small political parties initially disputed its adoption on the grounds of the proportional regional electoral system and, later, due to the composition of the electoral commissions. The new electoral system eliminates the "dushku" phenomenon, which had plagued earlier elections by allowing the transfer of votes and the distortion of the electorate's will. Nonetheless, the new Electoral Code presents several shortcomings such as not including a chapter on referendums and not reflecting key recommendations by the Venice Commission.

Equipping the electorate with identity cards proved to be a difficult process and even on Election Day a considerable number of non-passport holding voters still had not received identity cards. The elections on June 28<sup>th</sup> were monitored by both national and international observers. The OSCE/ODIHR mission published five interim reports before the elections. These reports presented the achievements within the legal framework and the technical-organizational measures undertaken by the CEC. However, it also highlighted violations and other concerns.

#### **1.2.4 The Functioning of the Public Administration**

Appointments in the public service sector continue to be politically assigned through non-transparent procedures. The most obvious problem is the process of hiring public service staff. Frequently, the state examination is administered fictitiously. The phenomenon of appointing individuals in the public administration on a temporary contractual basis is an issue of particular concern. The Department of Public Administration (DPA) as the main institution responsible for the supervision and implementation of civil service legislation continues to play a weak role in protecting and promoting the principles of civil service. As an institutions organized within the Ministry of Interior Affairs, it finds it difficult to impose its will upon other institutions of a higher hierarchical standing on the implementation of the law “On the Status of the Civil Servant”.

#### **1.2.5 The Justice System**

The Justice System has undergone continuous reform during the past years and yet what remains noticeable even this year is the absence of a long term strategy for the justice reform, in addition to the absence of a constructive dialogue between the political parties versus the administration and the justice system actors. The situation leading to, and immediately after the political elections of June 28<sup>th</sup> has certainly had a direct impact on the non-conclusion of a number of legal initiatives undertaken by the Government. Two very important initiatives such as the regulation of the status and functioning of the judicial administration, and the initiative on administrative courts still wait to be finalized. The first one has been a continuously outlined condition in the European Partnership documents, while the second one has gained major importance in the framework of the law on the judicial system, and the improvement of judicial proceedings in the administrative field.

Achieving greater efficiency and increased transparency in judicial proceeding continue to be critical goals for the justice system. The High Council of Justice (HCJ) and the Ministry of Justice have undertaken several steps in this direction, the most of these being the Presidential Decree on the reorganization of the justice system. Redistributing judges and creating new positions in some of the big court districts such as those of Tirana or Durrës, would help increase the efficiency of the courts.

The infrastructure in some of the courts continues to pose a problem, thus detracting from the solemnity of the judicial processes. Progress has been achieved on the criminal justice front with the creation of the parole service although in the same area there are not

concrete results in the witness protection area. Changes in the Penal Code have had a positive influence on juvenile treatment.

### **1.2.6 Fight against corruption**

The Inter-Sectoral Strategy for Transparent Governance and the Prevention of and Fight against Corruption, 2008-2013 was approved on October 3<sup>rd</sup>. Although the problems observed in the previous years such as the lack of success indicators, deadlines and responsible institutions have been solved, one of the major issues – budget for every action taken -- remains unaddressed. The objectives addressed in this plan are organized according to different ministries and not according to the issues as predicted in the Strategy. Furthermore there is no a direct reference to the objectives of the strategy and only that part of the strategy that deals with the executive power, that is the line ministries and the institutions under their auspices, are addressed in the Action Plan. The Strategy has omitted some issues of primary concern in the fight against corruption such as the judiciary, the Prosecutor's Office, the political parties' transparency, civil society and limitations placed on the high officials' immunity.

Other bodies responsible for the implementation of the law work to prevent and stamp out corruption, but their actions remain widely uncoordinated. One of the measures that have successfully improved the cooperation and coordination in the field of anti-corruption is the establishment of the Economic Crimes and Corruption Joint Investigative Unit under the jurisdiction of the Prosecutor's Office of Tirana.

The Albanian Parliament has voted several times on stripping parliamentarians and ministers accused of corruption or other offenses of their immunity. However, long term legal approach to this issue has not yet been developed.

### **1.2.7 Decentralization Reform**

Albania has now embarked on the third phase of decentralization, which comprises the implementation of legislation and the transference of full responsibility to the local governments. The government's fiscal policy for further delegating the collection of national level taxes to the local governmental units was not coordinated or accompanied by the requisite increase in the local governments' capacities for fiscal administration. This has led to a low tax collection results by the local government units, which have not managed to secure the expected revenues.

According to the government's predictions the consignment of public property to the Local Government Units is expected to be finalized within 2009. The most problematic issue seems to be the transfer of the water supply and sewage systems to the local governments' administration. Although they have legally transferred to the local government units, these units have refused to assume their administration due to the difficult financial position of the water and sewage systems, and the substantial difference between the cost of providing the water, and the tariffs at which it is provided to the population.



Another concern is the non-inclusion of the local government units in the decision-making processes on the determination of foreign aid priorities. This process is led by the central institutions, which determine the national priorities during negotiations but fail to refer to the specific local developments even though these developments are outlined in the regional strategies.

### **1.3 HUMAN RIGHTS AND THE PROTECTION OF MINORITIES**

#### **1.3.1 Observation of International Law and Respecting Human Rights**

The European Court of Human Rights (ECHR) continues to rule against the Government of Albania on violations of Convention articles that outline the right to be judged by an impartial panel, the right to the execution of final form decisions, the right to property, and the right to not be a subject of degrading and dehumanizing treatment. Although the ECHR represents a new avenue for seeking out justice for Albanian society, an increase in information and awareness has been noted as per the number of cases brought before the court. The institutional change of integrating the office of the legal representative on human rights into the State Advocacy, an institution under the Ministry of Justice, have yet to bear fruit on finding legal mechanisms for the automatic execution of the Court's rulings

#### **1.3.2 Civil and political rights**

Despite the progress made on eliminating *torture and other forms of maltreatment*, various governmental and non-governmental bodies have continuously evidenced problems in the upholding of human rights. Applications of physical and psychological violence have been verified at several police precincts as well as detention facilities. In most cases, the accusations of exercising violence are brought against officials of the judicial police who deal with investigating criminal incidents. They often disregard the rights of the people who they detain or arrest, especially minors, and in some instances the methods used for questioning have been abusive.

Legal reform of the **prison system** has marked progress in the review period. The Parole Board service needs to be further strengthened, as must be its collaboration with actors from local government bodies, the prison system and the NGO sector. The functioning of the Supervisory Commission on the Execution of Prison Sentences remains inefficient. The creation of an efficient internal inspection system is needed.

The number of convinced persons suffering from mental illnesses who are housed in various detention centers and the Prison Hospitalory Center remains high. The initiation and functioning of the Dures Psychiatric Institution for the treatment of mental health patients is urgent.

The infrastructure of the *pre-trial* areas has undergone considerable improvements but the state of the detention facilities of the various precincts remains problematic. Some of the key issues are lack of ventilation, humidity, insufficient lighting, and the lack of appropriate accommodation basics for women and juveniles. Another issue evidenced was the detention beyond the legal limits in the precinct detention areas. The detention

center and prison personnel have reported higher levels of awareness regarding the importance of special treatment for juveniles. The commission of the new institution for the re-integration of juveniles in Kavaja remains a priority.

***Freedom of expression***, including media freedom, is guaranteed by the Albanian constitution. Within the framework of aligning Albanian legislation with European standards, the drafting of a media law has been underway. However, the legal initiative for this law was tabled during the period covered by this monitoring report. Amendments to the articles regarding libel and slander in the Penal Code and the Civil Code also were not adopted during this period.

The lack of a legal framework on the transparency of print and electronic media's financial resources favors the interests of media owners rather than the public's interests. Further reforms of the only public operator are a must. Investigative journalism in the print and electronic private media outlets has demonstrated positive developments. During the review period there were several reported cases of journalists coming under the pressure of public authorities after criticizing governmental bodies or high level government officials.

The Media Supervisory Board, an institution affiliated with the CEC, failed to carry out all its duties on assessing whether broadcasters fulfilled their legal obligations regarding the "pluralism of information" during the recent elections. The media outlets that were monitored showed political preferences towards the major parties on the left or the right in the tone of, and information provided to the public during the electoral process.

In general the relationship between the government and ***civil society*** has not demonstrated any visible progress during this period. The state budget for 2008 foresaw a special fund of 1.2 million EUR reserved for civil society, which remained unused due to the lack of the necessary legal and institutional framework. The necessary legal framework, and accompanying by-laws for the creation and functioning of the Agency for Civil Society have now been put in place. It is predicted that this Agency will play an important role in supporting the sustainability of civil society and the creation of the necessary conditions for the development of civic initiatives. Parallel to these positive developments there have been ambiguities created by several Government and Revenue Service decisions on the financial treatment of NGOs. The financial sustainability of civil society, which continues to rely on international donor support as its sole source of income, remains a problematic issue that influences its performance.

### **1.3.3 Economic and social rights**

There have been discussions on the new anti-discrimination draft law put together by civil society representatives which emphasizes the fight prevention of, and fight against discrimination in several main areas. One of the most discussed aspects of the draft that has generated media reaction and open opposition by various representatives of social and religious communities is the legalization of same gender marriages.

The partial progress achieved in the *gender equality* arena is closely linked to the non-implementation of the Strategy for the Prevention of Violence in the Family which has not been accompanied by concrete mechanisms that would assist in its implementation. Thanks to political will, but also to civil society's ongoing advocacy efforts, the Parliamentary Commission on Electoral Reform approved the inclusion of a minimal 30% quota of women candidates in the Electoral Code by general consensus. However, all of the political parties failed to fulfill this quota and, in many cases, women were ranked lowest on the parties' candidate lists. Currently, the number of female deputies is only 22 out of 140 members, comprising only 16% of Parliamentary membership.

In order to achieve an equal opportunity society for both genders, gender mainstreaming in programs, policies and strategies at the national and local levels remains a priority for the Albanian state. Institutions must ensure the *de facto* implementation of the existing legal framework and the policies for gender equality in Albania. This can be achieved by setting up and strengthening implementation bodies, but also through the simultaneous monitoring of the legislations' implementation. It is necessary that the organization that through their work address various human rights and gender equality issues coordinate their work between them, as well as with state institutions to increase the awareness on the implementation of the existing policies and legislation.

The period under review evidenced the continued engagement of the state's institutions to the defense of *children's rights*. Special departments for juvenile justice were established within the country's court districts, and these shall enable the emergence of experts in matters related to juvenile justice. The actual situation of *children's rights* remains unchanged. Child labor was addressed with an additional specification by the Council of Ministers but this addition does not change the current conditions. Violence against children is practiced and accepted not only by parents, but also by educators. The national hotline to the assistance of children provided by civil society is a step forward, but such a hotline must be undertaken by the Government, which must also ensure its management.

In regards to *socially vulnerable groups or people with disabilities*, the responsible state institutions have heightened their attention and have increased the state budget funds allocated to these categories. A considerable number of by-laws have been adopted that aim to improve the cash payments of people with disabilities and caretakers of paraplegic and quadriplegic individuals as well as to include the people from this category in the social schemes. Moreover, following a period of merely formal existence, the National Council on the Issues of People with Disabilities has begun to perform its normal functions.

The UN Convention "On the rights of people with disabilities" has not yet been ratified. At the same time, the draft-law for the status of people with mental, physical and sensory disabilities has not yet been adopted. The drafting of standards for caretakers' services was mapped out and sent to the stakeholders for their review. Although delayed, law no. 10.0107, dated 30.03.2009 "On healthcare in the Republic of Albania" was approved.

In general, progress has been noted, even though a need for better coordination of public and non-public institutions is required in order to guarantee the social rights of vulnerable groups. The strengthening of the coordinating structures on the regional and local levels would facilitate the achievement of effective interventions and collaboration among responsible actors, social structures, stakeholders, and the non-governmental sector. The development of social policies requires accurate and detailed statistics. The institutionalization of the social worker's role at every level of the justice system, as well as that of the educational and healthcare systems is very important. The monitoring instruments as well as the various inspectorates need to be more active and effective in fulfilling their obligations.

Upholding the rights of the mentally ill remains problematic. The infrastructural problems, the level of staff professionalism, and the funds made available to these institutions, as well as the failure to meet the general and special needs of these patients seriously infringe upon their rights and, in many cases, result in their inhumane treatment in violation of the standards set forth by Albanian and international legislation.

***Property ownership*** problems and conflicts persist in substantial numbers and give rise to major social conflicts, leading even to cases of self justice amongst individuals. The Government continues to execute rulings from the ECHR, which primarily consist of ownership cases. By a Council of Ministers Decision, a special fund was created in June 2009 for the administration of the return/compensation of property, as well as legalization. The Legalization process enjoyed a rapid pace and a multitude of decisions were adopted in the review period on the recognition of property titles, as well as the compensation of legalized properties.

#### **1.3.4 Minority rights, cultural rights and the protection of minorities**

Despite the fact that the current legislative framework on cultural rights and the protection of minorities is almost fully completed, the implementation of the legislation, including international conventions and obligations remains a problem. The Roma minority and Egyptian community continue to face a multitude of economic and social problems regardless of the growing awareness and attention of the state bodies towards minority rights. Unemployment, economic hardship, low education levels, frail access to state institutions, discrimination, proper housing and representation in the public administration are some of the main issues that slow down their integration into Albanian society. The fact that the National Minorities Committee continues to not function as an effective advisory organ in the protection of minority rights, the need for the strengthening of the professional capacities as well as for the human and financial resource augmentation of the Technical Secretariat for the Monitoring of the Roma Strategy on top of the non-implementation of the National Strategy "On the Improvement of the Living Conditions of the Roma Minority" are some of the factors that have influenced this lack of progress.

## **1.4 ECONOMIC CRITERIA**

### **1.4.1 Competition**

The legal framework in the field of competition shows a partial alignment with the *acquis* and is undergoing a process of completion and further alignment. The Competition Authority has continued its work on the approval of a number of regulations and ordinances such as those on fines, agreements of minor importance the regulation on the conflict of interest etc. From October 2008 to September 2009 the Authority has acted intensively to implement the law “On the Protection of Competition”. A number of investigations have been undertaken on the abuse of dominant positions, or illegal agreements in the electronic communications sector, in the insurance and banking sectors, in the fossil fuel sector, the flour and bread industries etc. The Competition Commission has recommended the abrogation of Council of Ministers Decision Nr. 1110, dated 30.07.2008 “On the quality of fuel produced by the refining of crude oil extracted in the country” due to its considered negative impact on competition and the discrimination of imports versus local products. Important progress has been noted in the realization of the SAA conditions on competition, but more work is needed on the timely implementation of the measures foreseen, as well as for the strengthening of capacities, especially in the fields of monitoring and analysis.

### **1.4.2 Governmental Aid**

The legislation on state aid in Albania is generally considered as compliant with the respective EU legislation. However, the law “On State Aid” is currently being amended to reflect recent changes in EU law. A number of by-laws on the issue have been approved. Regulations and ordinances have been approved. *The state aid map*, approved in April 2009, will serve as a basis for determining the destination and quantity of state aid. The Directorate for State Aid has paid attention to consultations with the providers of state aid, their training and awareness on the criteria and procedures for the disbursement of aid. In general, visible progress in regards to state aid has been noted and the measures envisioned in the NPISAA have been achieved; in several aspects progress has even gone beyond what was originally planned. However, a number of governmental acts regarding measures that might deform the relevant market structures are not being evaluated by the DSA’s competent bodies. An expected increase in the volume of work and the complexity of the cases reviewed will require the further strengthening of capacities for analysis, evaluation and monitoring of state aid.

## **1.5 EUROPEAN STANDARDS**

### **1.5.1 Public Procurement**

The Council of Ministers’ Decision of October 2007 “On the regulations for carrying out public procurement procedures through electronic means” paved the way for electronic public procurement starting from January of 2009. The law on public procurement only ensures a partial harmonization with the *acquis*, while the harmonization process has progressed slower than predicted. The Procurement Attorney has raised a number of concerns on public procurement, based on the complaints of interested parties and the results of the respective investigations. These concerns were related to the noted

shortcomings in tender documents and procedures, with the placement of discriminating criteria, the favoring of operators that did not fulfill the defined criteria, the protracting of tender procedures or complaint reviews, the failure to respect the regulations in cases when administrative investigation was underway, etc. The clarification of criteria and the follow up on the implementation of procedures must be complemented by the rigorous control of the quality of products and services offered through the public procurement in order to increase the effectiveness of the system.

### **1.5.2 Education and Scientific Research**

During the period from October 2008–September 2009 progress has been noted in the achievement of several objectives and in the undertaking of legal and institutional initiatives envisioned in the National Plan for the Implementation of the SAA in the areas of pre-university education, vocational training and education, higher education, and scientific research. Among the most important developments in basic education for the academic year 2008-2009 has been the inclusion of the 9<sup>th</sup> grade and the changes to the university curricula in the pedagogy colleges. At the end of October 2008 the law “On vocational education and training in the Republic of Albania” was amended in regards to the time span of Vocational and Technical Education so as to better adapt to the new pre-university educational structure (the inclusion of the 9<sup>th</sup> grade as compulsory). Meanwhile, priority is being given to the full alignment of this law with the requirements of European legislation.

Further improvements were introduced to the overall structure of the VET in June 2009 with the approval of the national vocational list. Nonetheless, regardless of the work done so far, and the identified labor market needs, the weight of VET in the educational system remains quite small. Developments in *higher education* have generally been in line with the demands of the NPISAA. 2008 marked the end of the first level cycle according to the Bologna process for a number of colleges. The curricula preparation process has been completed, or is in the completion phase for the second level programs of higher education, as is the process of curricula preparation for the first and second level master studies, and doctorate studies. More attention must be paid to the upholding of the corresponding norms and standards. Standards, competition encouragement, a better relationship with the labour market and the increase of the weight of VET would positively contribute towards the development of higher education in the country. Special attention must be paid to the better and fuller integration of *research activity* in the universities, a stronger orientation towards the countries actual social, economic and technological needs, and an increased focus on quality.

### **1.5.3 Employment and Social Policies**

Progress has been noted regarding the fulfillment and harmonization of the legal framework, policies encouraging employment, and vocational education and training. Nonetheless the harmonization objectives with the *acquis* for the 2008-2009 periods have been only partially achieved. Steps have been undertaken for the digitalization of the employment services, on the institutionalization of the curricula preparation process for VET, on the addition of professional qualification centers etc. Work is currently ongoing

on management decentralization in the educational and professional qualification systems.

*Social protection* is offered through mechanisms such as the Economic Assistance Scheme, Payments for Handicapped Persons and the Social Care Services Program. A number of by-laws were approved during 2008 and work has started on improvements to the Law on “Social assistance and services”. Attempts have been made towards the increase of the amount of aid provided, towards the conditioning of aid with community work and the guaranteeing of social inclusion. Despite the noted progress, more work must be done not only on the further improvement of social protection programs, but also on their practical implementation. A more comprehensive monitoring and evaluation of the functioning of social protection schemes is needed along with the strengthening of the role of the Social Services Inspectorate, and comprehensive and actual poverty and social exclusion analysis per the country’s regional characteristics.

#### **1.5.4 Commitments to the World Trade Organization**

Albania has taken serious steps towards fulfilling the obligations and conditions stemming from its WTO membership. Progress has been made towards tariff liberalization, although there are still problems with non-tariff barriers, the application of the non-discrimination clause, competition, state aid, public procurement, service trade, intellectual property etc. The country continues to contribute to negotiations in Geneva within the framework of the Doha Agenda for Development. The General Policy Directorate (The Sector for Relations with the WTO and Economic Integration), which is under the jurisdiction of the Ministry of Economy, Trade, and Energy (METE), is responsible for monitoring the implementation of the obligations that derive from Albania’s WTO membership and during this period it has focused on capacity enhancement through a series of training programs. Cases that reflect discrimination versus market participants such as the exclusion from VAT payment of textbooks produced in the country and the permission to provide the D2 diesel type produced by the local refiner while disallowing the importation, have been publicly debated by interest groups.

## **1.6 SECTORAL POLICIES**

### **1.6.1 Agriculture**

The modernization and strategic development of agriculture is one of the key challenges facing the Albanian Government in the short and medium term in order to complete the necessary reforms that would enable this sector to achieve European standards, and sustain the costs associated with the integration process. The necessary legal framework to guarantee the safety of food has been completed (the Law “On Food”) and a number of by-laws are being prepared, but a substantial void remains in setting up the necessary implementation structures. Several initiatives, such as the property reform, the creation of the vinery registry, the definition of origin and geographic appellation, and the creation of the payments agency are expected to bear fruit in the near future. Nonetheless there is still a need for the coordination of these activities with the creation of the appropriate

bodies that must satisfy the demands of the *acquis* on the funds allocation transparency, function segregation and reciprocal responsibility as without these structures it will be impossible to benefit from EU funds.

### **1.6.2 The Environment**

Environmental protection remains a highly sensitive issue which is in a direct correlation with the priority of economic development of the country through the support of industrial development. Although Albania has ratified a series of international agreements and protocols, carrying them out in practice is virtually impossible due to the lack of supporting legislation. In order to fill this void, the environmental legislative process during this period has focused on the drafting of several key proposals on the approval of the corresponding Community directives. Just as important a challenge is the strengthening of the administrative capacities and of the cooperation between the central and local governmental units remains but here the problem arises from the financial allocation that would enable such capacity enhancements

While the implementation of the environmental legislation must not clash with the country's economic development, holding back regional development, it must not be sidestepped and for this it is necessary that a series of measures be undertaken to raise the awareness, understanding and acceptance of this balance.

### **1.6.3 Industrial Policies, SMEs, Statistics, Energy and Transportation**

The major issues evidenced by the report in these fields are the following:

- The overall fulfillment of commitments on the drafting and approval of legislation on a horizontal level, although there is still no clear information platform on the opportunities and challenges to the various sectors of Albanian business on the road to the EU market.
- The need for the creation as soon as possible of a new Strategy for the Mining Industry and a new Law "On mining" to create a fair balance between the rights of concessionaries and the respect for labor conditions.
- The need to strengthen the SME sector not only through legislation but also through competitiveness enhancement and innovation encouragement in order to prepare them to take advantage of EU structural funds.
- Despite the almost fully complete legislation, the statistics sector still faces credibility problems. Its independence must be enhanced, and the methodology of data collection and analysis must be improved.
- A more cautious approach must be practiced in the energy and fossil fuel sectors. Situations arising from cases such as the D2 type diesel or that of the Electricity System Operator privatization must be managed in compliance with the obligations undertaken as part of the WTO and the SAA.
- Road transportation must preserve a fair balance between the quantity and quality of works performed per EU norms. The transformation of the General Directorate of Roads into a public entity must be completed as soon as possible.
- The need to fulfill the obligations stemming from the Paris Memorandum on the safety of Albanian flagged ships, and the modernization and strengthening of the port infrastructure as per the approved masterplans.



- Rail transport continues to present a problem for the Albanian Government which has announced its intention to include the national rail system in the international corridors such Corridor VIII or the High Performance Rail Network.

## **1.7 DOMESTIC AFFAIRS**

### **1.7.1 Personal data protection**

The approval of the Law “On the protection of personal data” represents an important milestone in the field of personal data protection. However the law does not contain transitory guidelines on the management of the citizens’ data until the supervisory authority, the Commissioner for the Protection of Personal Data, is selected and starts functioning. Up to the end of this monitoring period this institution has not yet been fully supplied with the necessary infrastructure and human resources. The provision of citizens with ID cards was started in January 2009 and by September a total of 1.7 million have applied and received them. Simultaneously, according to the Ministry of Interior, up to the beginning of September 2009 a total of 150.000 citizens have been provided with the new biometric passport.

### **1.7.2 Visa policy**

The structures of the Ministry of Foreign Affairs are not able to provide information with regards to the way this agreement is being implemented. Such a formal approach towards the implementation of the VLA together with the failure to draft an action plan or, minimally, to systemize of data for the categories of people that will benefit from the VLA have served to perpetuate wrong perceptions about this process. The new law on foreign citizens (in force since 01.12.2008) regulates the regime for the entrance, stay, employment, treatment and exit of foreigners into and from Albania. The law envisioned that within a four month period from its entrance into force the Council of Ministers and the other relevant institutions would be obliged to issue relevant by-laws pursuant to this law. However, during the monitoring period, only two CDMs were approved, namely the CDM dated 06.05.2009 “On the model and the specifications of travel documents for foreign citizens” and the CDM of the same date “On determining the security elements and the approval of the format of the residence permit.”

### **1.7.3 Asylum**

Administrative capacities dealing with the issue of asylum remain limited. The timeline for asylum procedures can now extend to 71 days compared to the 51 days envisioned by the previous law. While the state budget allocates a special fund each year for the financial support of asylum seekers, international financing remains an important asset to support their social integration and the provision of social assistance.

### **1.7.4 Migration**

Although the NPISAA foresees as series of by-laws pursuant to the laws on foreign citizens and on asylum, the majority have yet to be approved. Meanwhile, no progress has been noted in regards to the by-laws pursuant to the law on integration and family reunion of people that have been granted refugee status. Albania still lacks a national

emigrant registry. The support of Albanian emigrants and their reintegration continues to be limited in terms of planning measures such as awareness-raising campaigns, establishment of bi-lateral, consultative commissions, cooperation with emigration rights organizations in destination countries, etc.

### **1.7.5 Readmission**

The implementation of the Repatriation Agreement with the EC (in force since May 2006) carried out by the Albanian institutions during the monitoring period has encountered the same problems as in the previous year, especially with regard to administrative capacities. The level of implementation of the Repatriation Agreements with EU member states remains unchanged. Specific EU member countries continue to expatriate illegally residing Albanians in violation of the clauses and obligations that arise from the repatriation agreements.

### **1.7.6 Integrated Border Control**

During the monitoring period a number of preparations have been undertaken for the practical implementation of a series of measures foreseen in the NPISAA. Support for these is also being provided by the PAMECA III mission. Some of the measures included in the NIBMS and Action Plan have been addressed during 2008 and the beginning of 2009, nonetheless it is observed that progress is weaker on those measures where success is contingent upon the cooperation of several institutions such as the customs services, the Ministry of Labor (for the creation of an integrated database for foreign citizens), the Ministry of Foreign Affairs and the Ministry of Agriculture. Some positive developments have been noted with regard to improving management standards and conditions of the Port of Durrës and, to a lesser degree, of the Port of Vlora. The work for the second phase of the modernization and extension plan for the Mother Teresa International Airport, concluded in September 2009, and resulted in a double-fold increase of the airport's capacities. Also on February 19<sup>th</sup>, 2009 an agreement was signed for the establishment of Operational Cooperation with FRONTEX.

### **1.7.7 Organized crime and illegal trafficking**

The fight against trafficking and organized crime continues to be a disturbing problem for Albania. The efforts put forth by the Albanian government to address these problems are spread across the following three main dimensions: (a) the clear designation of each structure's responsibilities, reorganization as well as the strengthening of cooperation between them, (b) strengthening the usage of special investigative techniques and the improvement of human resources, and (c) the gathering and processing of data to help prevent criminal activities and illegal trafficking. The National Reference Mechanism must increase its collaboration with civil society organizations that deal with the rehabilitation of trafficked victims. The creation of Regional Committees on the Fight against Human Trafficking was not conceptualized on the basis of situational and needs assessment. The regional committees were established across all the nation's districts without referring to crucial data that would reveal the level of this phenomenon's prevalence in a given region.

### **1.7.7 The fight against drugs**

Albania continues to be considered as a transit point for drugs due to its favorable border control performance (especially mountain border crossings) for this illegal activity as well as depleted human resources, inter-institutional cooperation, and the infrastructure and technology used to operate the responsible structures in this context.

Based on the state police's data for 2008 an increase in the number of uncovered criminal acts in this field has been noted. Moreover, the number of apprehended criminals has risen compared to the year before and international cooperation in joint operations has continued to improve. Until now, the government has focused only on the aspect of tracking down and eliminating narcotic plants, but has not undertaken any specific action to offer development programs in zones that grow and cultivate narcotic plants. From the perspective of coordinating preventative measures, the need to launch awareness-raising activities regarding this phenomenon remains unaddressed. Meanwhile, a particularly problematic issue is the lack of institutions for the treatment and rehabilitation of individuals dependent on drugs.

#### **1.7.7 Prevention of Money Laundering**

Drafting a strategy within the context of the fight against money laundering and the financing of terrorism is not foreseen as a short-term priority in the NPISAA. During the period under review moderate progress in regards to the improvement of the legal framework was noted. Despite investments in these capacities of the responsible authorities there is still room for further improvements, especially in the sphere of inter-institutional collaboration and the financial aspects of their work.

#### **1.7.7 Fight against terrorism**

Albania does not have a national security strategy or even a special strategic document pertaining to the fight against terrorism. As a consequence, the eventual improvement of legislation continues to be conducted in a sporadic manner that lacks vision. Albanian legislation must be reviewed and subsequently aligned with international standards for terrorism prevention, including its definition. Collaboration with civil society actors that work in the field of homeland security problems comprises another necessity that should be examined not only by Albanian institutions but also by the European Commission.

#### **1.7.8 Police**

The general management of human resources in the State Police calls for further improvements. Cooperation with the prosecution bodies generally remained at its previous levels, while capacities for investigation have not visibly improved in either of these two institutions.

## **2. DEMOCRACY AND THE RULE OF LAW**

### **2.1 Parliamentary activity**

Parliamentary life has been relatively productive, as manifested by the laws that have been adopted. Amongst the most important include the Electoral Code, the law on the Organization and Functioning of the Prosecutor's Office, the amendments to the law "On vocational education and training in the Republic of Albania", the law "On the internal audit service of the Ministry of Interior Affairs", the law "On the State Advocacy", the law "On executing penal decisions", the law "On the private bailiff service", the law "On the penitentiary police", the law "On some additions and amendments to the Penal Code", the law "Law on the cleanliness of the figure of high functionaries of the public administration and elected persons of the Republic of Albania". The March – May 2009 period of parliamentary activity was particularly teeming with work: it was a period during which 52 laws were adopted, 18 of which are laws ratifying agreements with other countries.<sup>1</sup> During the same period, following a request submitted by the Attorney General, the Albanian Parliament authorized criminal proceedings against the Socialist Movement for Integration (SMI) Member of Parliament Mr. Sotirag Nëraxhi.

18 years after the fall of communism, the Parliament adopted the law "Law on the cleanliness of the figure of high functionaries of the public administration and elected persons of the Republic of Albania". This law included the penalization of specific categories of public officials, including judges and attorneys, who practiced their profession or held positions during communism. Despite concerns raised by the international community, the opposition and civil society regarding this initiative's unconstitutional nature, the majority was able to approve the law by using only its own votes. The President of the Republic provided no comments on the law and by his acquiescence allowed the law to automatically come into force. Independently, the association of prosecutors, a number of MPs from the opposition as well as the Albanian Helsinki Committee (AHC) filed a complaint to the Constitutional Court regarding this law. This complaint argued that the adopted law infringes upon many constitutional principles, including equality before the law, judicial security, the division of power and the presumption of innocence. On February 16<sup>th</sup>, 2009 the Constitutional Court decided to suspend the law's implementation.

In January 2009, the Albanian Parliament approved a resolution with the consensus of all political forces. This resolution "encourages the Government of the Republic of Albania to file for EU membership at the appropriate time and in consultation with EU member countries", and it was undertaken by the Albanian Government on April 28<sup>th</sup>, 2009 (Prague). It would be of considerable importance for the Parliament to take a step beyond

---

<sup>1</sup> Some of the most important laws which were approved are "Law No. 10033, dated 12.03.2009 "On the creation, organization and functioning of the civil society support agency"; Law No.10095, dated 12.03.2009 "On some amendments on law no. 9235 "On propriety return and compensation"; Law no. 10097, dated 19.03.2009 "On an amendment on law no. 8405, dated 17.09.1998 "On Urban Planning" amended; Law no. 10117,dated 23.04.2009 "On local tax system" amended; Law no. 10129, dated 11.05.2009 "On civil status" etc".

this expression of support and good will by setting out a clear agenda or work plan for the government, accompanied by concrete monitoring instruments.

It is worth emphasizing that the Parliament's previous legislature did not review a draft-law for amendments to the Parliamentary Regulations, to the status of the Member of Parliament or regarding the media. Despite the fact that the draft-law on the Administrative Court was discussed by the Law Commission, the law was not approved due to the relatively short time span for review as well as several contestations advanced by the opposition. On September 7<sup>th</sup>, 2009 the first parliamentary session of the XVIII legislature, resulting from the June 2009 elections, was held. The opposition (the Socialist Party), which opted for provisional participation in the Parliament's work, did not attend this meeting.

The Parliament continues to exhibit deficiencies in its administrative capacities to command the legislative process in regards to harmonizing national legislation with EU legislation. Only the European Integration Commission performs a formal check regarding whether legal initiatives proposed by the executive branch are accompanied by legislation alignment charts as well as the accompanying report, which is a requirement based on the Council of Ministers' regulations.

## **2.2 The Government**

The National Strategy for Development and Integration (NSDI) 2007-2014 is the Albanian Government's primary strategic document. It lays out the blueprint that the nation should follow to achieve further socio-economic development and European Union integration. This strategic framework embodies 23 approved strategies, 9 others in the approval process and 4 currently being drafted. However, it is worth emphasizing that Albania has suffered from shortcomings in implementation rather than from a shortage of strategic documents.

The NATO membership process was successfully completed on April 4<sup>th</sup>, 2009, through the fulfillment of the criteria set forth in the Membership Action Plan (MAP). These criteria involved the reform of the Albanian Armed Forces in order to meet NATO standards as well as the pre-condition of political stability. However, the Albanian government should focus on the fulfillment of obligations that arose from the signing of the SAA.

With the SAA coming into force on April 1<sup>st</sup> 2009, the inclusion of all obligations arising from the SAA within all of Albania's important strategic documents became imperative. The most important document is the National Strategy for Development and Integration (NSDI). The European integration process is treated as a special priority in the NSDI while in other specific strategies the SAA's various provisions are mentioned, but not expanded into clear strategic objectives.

The fact that the National Plan for the Implementation of the SAA (NPISAA) has been regarded with the same attention as other sectoral or subsectoral strategies has unjustifiably reduced this document's level of importance, thereby negatively influencing

its financing, implementation and monitoring. Regarding the subject areas that overlap in the NPISAA and NSDI, either they should be included in both documents or, based on the experiences of other countries involved in the European integration process, they should be incorporated into one single document.

For as long as the NSDI does not clearly predict the costs and measurable indices for its own implementation, challenges will arise regarding its relationship with the Mid-Term Budget Program (MTBP). This year's MTBP, which was designed for the 2009-2011 period, was slightly modified, but no considerable progress in addressing this issue was made. The allocation of funds to European integration process priorities laid out in the MTBP is in the hands of the ministers and specific institutions that designed it. It is not led by the specifications set forth in the NSDI or the NPISAA. The subsequent checks performed by the staff of the Department of Strategy and Donor Coordination (DSDC) and the Ministry of European Integration (MEI) on the progress of uniting these priorities demonstrate ineffectiveness due to the incompatibility between these two documents.

The NPISAA is a more complete strategic document that includes the objectives and obligations that Albania must meet in order to gain EU accession. This document is reviewed each year<sup>2</sup>; however, the period chosen to carry out the review is not optimal due to the lapse of time between the publication of the EC progress report for Albania every November and the completion of the review. This assessment document pinpoints the weaknesses and indicates the areas in which Albanian institutions must bolster their efforts. Hence, due to the time lapse, addressing these observed problems is delayed, which leads to the further postponement of the implementation of remedial activities. Furthermore, prior to the review, there is no analysis carried out regarding the level of the fulfillment of the predicted commitments in order to increase the document's effectiveness and thereby render it a more realistic assessment. In the majority of the cases, the unexecuted activities envisioned in the document are passed on from one review to the next with only a negligible change in the implementation deadline. Due to the fact that legislation harmonization is an integral part of this plan, the performance of a Gap Analysis on the current legislation and the degree to which it coincides with community legislation is indispensable.<sup>3</sup>

The process of reporting on the achievement of the Albanian Government's commitments is still riddled with problems and non-transparent. Defining which institutions are assigned the task of reporting as well as what subject matter they allegedly report about remains ambiguous. The request to report must be submitted to the Ministry of European Integration with an official note and the selection of the institutions that will report is also carried out by the same ministry. Many institutions that hold important information in this regard are excluded from reporting or only those structures that are institutionally subordinate to the Government are preferred. For instance, the Department of Public

---

<sup>2</sup> The reviewed NPISAA for this year was approved through a Council of Ministers' Decision no. 862, dated 22.07.2009

<sup>3</sup> In the 2008 EC Progress report, it is wrongly stated that such an analysis has been carried out before the review of NPISAA, (Government, pg. 7), while the plan was approved in September, 2008. On Chapter 3.27. "Gap Analysis" for the 35 Chapters of *Acquis Communautaire*" it was designated as a short term activity. (pg.806)

Administration (Ministry of Interior Affairs) reports, but the Commission on Civil Service does not; the Department of Interior Control (the Prime Ministry) reports, while the High Inspectorate for the Declaration and Audit of Assets (HIDAA) or the State Supreme Audit does not; the Directorate of Inspection (Ministry of Justice) reports, but the Inspectorate of the High Council of Justice does not.

There have been positive developments in establishing the Central Contracting and Financing Authority, as a directorate under the jurisdiction of the Ministry of Finance. The Authority is currently being staffed. In the meantime an EU-funded technical assistance project has been initiated under the auspices of the Instrument for Pre-Accession Assistance (IPA) 2007 aid program.

### **2.2.1. Ministry of European Integration**

As the chief institution responsible for Albania's integration process, the Ministry of European Integration (MEI) aims at achieving the following objectives: closing the gaps between national and European Union legislation, mapping out integration policies, coordinating financial aid, and keeping the public informed about the process.<sup>4</sup> Although progress was observed regarding the filling of existing vacancies in the Ministry, one problem was noted over a prolonged period of observation. Due to the high staff turnover rate observed at all ministerial levels, the role and importance of this institution did not expand within the nation's general institutional framework. The European Commission's latest report on Albania, which was released in November 2008, noted that: "The current coordination of European issues, especially regarding the Ministry of Integration, must be improved."<sup>5</sup>

The MEI continues to suffer from the instability of human resources. In regards to the absence of long-term staff, the Albanian government has not responded with stimulating policies, but rather with the recruitment of temporary contractors, a policy that is in conflict with civil service legislation.

The MEI continues to lack a special structure dedicated to the process of aligning Albanian legislation with the *acquis communautaire*. Consequently, the staff members assigned to check and identify the degree of progress made regarding this legislation are not required to have legal background even though one of the duties set out by their job description is to provide legal opinions.

During the review period, no institutionalized working group at the inter-ministerial level for the alignment of legislation has been established. Moreover, no institutional cooperation between the Ministry of European Integration, the Council of Ministers, the Parliament and the Official Publications Center has been established. This impedes the MEI's ability to obtain accurate information regarding the potential amendments made to the act during the Parliamentary meetings and to confirm the degree of consistency between them. The MEI does not have a database that accurately demonstrates the

---

<sup>4</sup> CMD no. 580, dated 10.09.2004 "On Ministry of European Integration's field of activity".

<sup>5</sup> European Commission Report on Albania, COM (2008) 674, page 8.

amount of national legislation that has been aligned with the *acquis* (a problem that is closely linked with the translation of said legislation). This database should be updated based on reports published by line intuitions, which should later be forwarded to the European Commission services. The MEI's failure to fulfill the leading and monitoring role in the legislation alignment process as well as the low-level implementation of the NPISAA puts into question the quality of the legislation alignment from the perspective of the implementation of the commitments arising from the SAA.

As per the Council of Ministers' Decision No. 119, passed on 7.3.2007 "On the specification of the translation procedures regarding the translation of European Union legislation into Albanian and the translation of Albanian legislation into one of the official European Union languages", the MEI was reconfirmed as the institution responsible for the translation of European Union legislation into Albanian and vice versa.

The Directorate of the Translation of European Legislation, which was equipped with the necessary staff by the end of 2008, set out a work calendar according to which approximately 10.000 pages of legislation must be translated during 2009. 8300 pages of this total would be translated from an EU language into Albanian and the remaining 1200 pages would be translated from Albanian into an EU language. Despite the fact that the translation process was foreseen to be executed on a monthly basis, it only started in the second half of 2009. The slow rate at which progress has been made in regards to this process risks repeating the situation that occurred during 2008, where the 40.000.000 Lekë that were allocated from the MEI's budget to translation were squandered as a result of unexecuted translations.

The coordination of community aid as well as the assurance of its effective use constitutes one of the MEI's principle duties. The fulfillment of this role is assigned to the Directorate of Institutional Support and the Integration Process, which is divided into four sectors: The Sector of Pre-accession Instruments, the Sector of Regional Cooperation, the Sector of Reporting and Translation Methodology and the Sector of Documentation and Public Relations. With the crucial job entrusted to this Directorate, two of its four sectors are not involved with community aid. The main problems observed in the functioning of the coordination system and the monitoring of community aid deal with the following:

- The broad scope of the responsibilities assigned to the Directorate of Institutional Support and the Integration Process, which simultaneously covers community aid, the reporting process as well as communication and information.
- Despite the ongoing requests for staff enlargement, these two sectors still suffer from insufficient administrative capacities (the budget foresees a total of 4 four staff members, 1 leader and 3 specialists each) and no changes have been in this regard.
- The absence of a database for projects currently in the implementation phase and for those that have been completed as well as the monitoring and evaluation of



completed projects, successful or not, in order to derive lessons from them and to make the most of the positive experiences in future endeavors.

In regards to the coordination of foreign aid and the avoidance of potential overlap during the process of prioritization and strategic planning, the coordinating roles of the Department of Strategy and Donor Coordination (DSDC) and the Ministry of European Integration must be clearly redefined. Coordination is necessary in order to avoid the past negative experiences of uncoordinated allocation of financial assistance from different donors that have self-identified priorities, which can leave strategic priorities unaddressed.

The provision of public information regarding the European integration process plays an integral role in ensuring the citizens' support for of process. The MEI's structure responsible for accomplishing this undertaking is the Sector of Documentation and Public Relations. This structure is very inactive. The MEI's European Documentation Center continues to be inaccessible to interested parties outside the Ministry. This center's webpage does not include the necessary information and is ineffectual for locating literature.

Informational activities are still not financially supported by the Ministry's budget and other donors have not been found to fund the Action Plan mapped out to achieve this goal. Meanwhile, this institution has failed to carry out research or research analysis as well as the publication of various informational materials regarding Albania's European integration process. Not one single informational or public relations activity is set out in the part of the NPISAA 2009-2014 that describes the MEI's key initiatives and activities.

### **2.2.2. Inter-institutional structures of the European Integration process**

Over this past year two new structures were created for the achievement of the commitments undertaken upon the SAA's<sup>6</sup> entering into force: the Inter-ministerial Committee for European Integration (ICEI) on the political level and the Inter-institutional Coordination Committee for European Integration (ICCEI) on the administrative and technical levels. These structures are responsible for leading, monitoring and coordinating the achievement of the commitments undertaken within the framework of the SAA.

As a result of the aforementioned order the non-functional Technical Working Committee for the Implementation of the SAA, which was established in April 2007 and had met only two times since its inception, was disbanded.

The ICEI is led by the Prime Minister and includes the ministers from nine selected ministries. One of this committee's important functions is to represent Albania on the Stabilization and Association Council. This committee is required to meet at least once every three months, but it remains unknown how fully this requirement will be

---

<sup>6</sup> Prime Minister's Order no. 46, dated 1.4.2009

implemented in light of past experience. The first meeting of this Committee occurred on September 18<sup>th</sup>, 2009.

The ICCIE is led by the Ministry of Integration and includes vice ministers or secretary generals as representatives. This committee, which serves a more technical purpose, will represent Albania on the Stabilization and Association Committee.

The ICCIE is also responsible for establishing subcommittees and inter-institutional working groups comprised of technical experts as per the relevant *acquis* chapters and will also represent Albania on the subcommittees forged by the Stabilization and Association Committee. Until now this committee has not held a meeting, while the subcommittees function as an extension of the working groups that were previously established. The inter-institutional working groups in accordance with the *acquis* chapters have yet to be established.

The creation of these new structures has not tangibly affected the functioning of the Inter-ministerial Committee for Integration, which was created as a result of Council of Minister's Decision No. 753, passed on 1.12.1998. This decision is still in force because a normative act has not yet been issued to repeal it. This committee has been endowed with similar functions as the ICEI and its reactivation last year created ambiguity regarding which of the two committees would act and would be more effective in implementing the almost identical duties assigned to them. The creation and functioning of the inter-institutional structures related to the integration process still remain uncoordinated and poorly organized.

### **2.2.3. European Integration Units**

The European Integration Units in the line institutions are coordinating bodies for ensuring the implementation of the commitments undertaken within the framework of the European integration process. At the same time, they serve as reinforcing units of the MEI, in order to coordinate the achievement of the obligations that derive from the SAA.

These units have exhibited weaknesses that are predominantly linked with the undersized staff and the units' low position in the institutional hierarchy. In order to address these shortcomings, a Council of Ministers' Decision<sup>7</sup> was passed in January 2009 in order to make amendments upon the previous decision that had brought the European integration units into being. These amendments brought the units up to the directorate level as special structures to be included in all the ministries and to be staffed by no less than three employees, as well as the delineation of the scope of each institution's work and the listing of criteria for the recruitment of staff in these units.

However, no practical changes accompanied these positive legislative developments, leaving the same situation in their wake. The ministries have delayed the implementation of this decision and many cases have been observed where the exact opposite of the

---

<sup>7</sup> CMD no. 17, dated 07.01.2009 on some amendments and additions on Decision no. 179, dated 22.2.2006 of the Council of Ministers "On Creating European Integration Units in Line Ministries".

anticipated change has occurred. For example, the Ministry of Justice, which had previously had a structure dedicated to European integration called the Directorate of International Relations and European Integration, actually relegated this Directorate to the sector level within another directorate with a broad scope of action and reduced the number of engaged personnel.

In order to achieve candidate country status Albania will have to submit an application that will require the Albanian administration's maximal level of engagement. Only answering the European Commission's questionnaire will require some months of time as well as thousands of pages of paperwork to demonstrate all of this administration's capacities. Given the current situation, without an immediate and energetic intervention, this administration will find it difficult to face the volume of work that awaits it during 2010 and even more so to successfully manage the negotiations that will follow after acquiring candidate status.

### **2.3 Electoral Reform**

The new Electoral Code was adopted on December 29<sup>th</sup>, 2008. The small political parties initially disputed its adoption on the grounds of the proportional regional electoral system it advocated and, later, due to the composition of the electoral commission. These concerns were primarily voiced by the Socialist Movement for Integration (SMI) and the Demo-Christian Party (DCP). Precisely for these reasons, some deputies from the small parties went on hunger strike within the Parliamentary walls, an action that did not stymie the adoption of the new Code.

The President of the Republic decreed that the Parliamentary elections would be held on June 28<sup>th</sup>, 2009. The new electoral system eliminated the "dushku" phenomenon, which had plagued earlier elections by allowing the transfer of votes and the distortion of the electorate's will. For the first time, the Code anticipated voting with a passport and/or an identity card, thereby eliminating the casting of ballots with personal identification certificates issued by the civil status office.

The Central Elections Committee has taken on a more active role in relation to the complaints and appeals process. For the first time, it was foreseen that the multi-name deputy candidate lists had to respect a gender balanced quota of at least 30%. Failure to implement this code would be accompanied with sanctions. Nonetheless, the new Electoral Code presents several shortcomings. For instance, the Code does not include a chapter on referendums. Moreover, two important recommendations made by OSCE/ODIR have not been taken into consideration. Specifically:

- a) Each of the representatives of the two Parliamentary parties in power and the two parties in opposition, which respectively have the highest number of Parliament mandates, "has the right to exclude one of the eight names randomly drawn from the pool of names." The request of exclusion includes only the name of the judge "without mentioning the reasons for exclusion." On April 23<sup>rd</sup>, 2004 the Venice Commission and OSCE/ODIHR recommended the abolishment of this practice

because it undermines the principle of the independence of the judiciary. Meanwhile, the OSCE/ODIHR's report, released on November 7<sup>th</sup>, 2005, stressed that every political party's influence on choosing the Electoral College judges should be eliminated.

- b) On April 23<sup>rd</sup>, 2004 the Venice Commission and the OSCE/ ODIHR released joint recommendations stating that: "In particular, it must be clarified that the composition of the electoral college should occur before rather than after the Parliamentary elections with the aim of training this body within the proper timeframe." Thus, it was recommended that Article 164 of the Electoral Code, which refers to this issue, should be reviewed. In fact, according to the Electoral Code, the electoral college of the Tirana Court of Appeals was chosen in January 2009. Hence, it was done before rather than after the Parliamentary elections of June 2009. The implementation of the Electoral Code began in January 2009. The first step was the selection of the Central Elections Committee (CEC). The fact that the continuation and transference of experience was taken into consideration in the selection of the CEC should be interpreted as a positive sign.

According to the new Electoral Code, the deadline for releasing the appropriate national lists was March 5<sup>th</sup>, 2009; this deadline was not respected. The CEC, based on the competences bestowed upon it by the code, carried out a series of necessary preparations to ensure a lawful electoral process. Equipping the electorate with identity cards proved to be a difficult process and even on Election Day a considerable number of non-passport holding voters still had not received identity cards. The Electoral Zones Commissions, the Central Voting Commission, as well as other groups dealing with counting votes were assembled late due to the delays in political parties' nominations. This led to their inadequate training. The electoral campaign was relatively calm, excluding several incidents. However, slander was not avoided. The campaign began much earlier than was specified in the Code, a fact that led to high expenditures that have still not been made transparent.

The elections on June 28<sup>th</sup> were monitored by both national and international observers. The OSCE/ODIHR mission published five interim reports before the elections. These reports presented the achievements within the legal framework and the technical-organizational measures undertaken by the CEC. However, it also highlighted violations and other concerns.

On August 21<sup>st</sup>, 2009 the CEC declared the final electoral results – DP with 68 Parliamentary seats, SP with 65, the RP with 1, the DIP with 1, the UHRP with 1 and SMI with 4. The coalition of the DP, RP and SMI with 74 mandates enabled the creation of the Government. The Socialist Party decided not to acknowledge the result of the election, stating that it had been manipulated in various ways. Thus, on September 2<sup>nd</sup>, 2009 the Socialist Party sent a letter to the President of the Republic that declared the various infringements on the law that had jeopardized the electoral process. The OSCE/ODIHR's final report was published on September 14<sup>th</sup>, 2009.

## 2.4 The Functioning of the Public Administration

Appointments in the public service sector continue to be politically assigned through non-transparent procedures. The most obvious problem is the process of hiring public service staff. Frequently, the state examination is administered fictitiously. It is evident that the number of cases has risen of individuals who, after working on a contractual basis for a certain period in a given institution, win the state examination for that very same position. The phenomenon of appointing individuals in the public administration on a temporary contractual basis is an issue of particular concern. It infringes upon the principle of professionalism and destabilizes the public administration, which are criteria sanctioned in the civil service legislation.

According to the Civil Service Commission (CSC): “The common problem of central and local administrations’ institutions remains the unlawful appointment of employees through contracts or appointment acts.”<sup>8</sup>

The most alarming example was the passing of a Council of Ministers’ Decision that approves the hiring of 2568 employees on a temporary contract basis in early 2009 in the main institutions.<sup>9</sup> The timing of this decision, coinciding with the June 2009 parliamentary elections, casts doubts on the motives of this initiative. Two other similar decisions have been approved, thereby converting the procedure of hiring on a contractual basis into a common working practice.<sup>10</sup>

The Department of Public Administration (DPA) as the main institution responsible for the supervision and implementation of civil service legislation continues to play a weak role in protecting and promoting the principles of civil service. As one of the institutions dependent on the Ministry of Interior Affairs, it is difficult to impose its will upon other institutions of a higher hierarchical level in regards to the implementation of the law “On the Status of the Civil Servant”.

This department’s commitments to the NPISAA include two initiatives of utmost importance: the approval of the Inter-sectoral Strategy to Reform the Public Administration and the review of the law “On the Status of the Civil Servant”. Both of these initiatives have still remained unimplemented, thereby impeding this tremendously important reform. During the meeting held in September of this year, the new Government committed itself to the approval of the strategy as well as to the initiation of the procedures for legislative amendments that require a qualitative majority in the Parliament, rendering its eventual approval more difficult to achieve. The failure to achieve this approval has thwarted many other activities closely connected to the strategy, the most important of which are as follows:

- Drafting the by-laws pursuant to the law “On the Status of the Civil Servant”;

---

<sup>8</sup> The CSC’s Annual Report presented to the Parliament, 13 March 2009.

<sup>9</sup> Decision no. 115, dated 2.2.2009, of the Council of Ministers, “On Determining the Number of Employees on a Temporary Contractual bases for 2009, in some Ministries and Central Institutions”.

<sup>10</sup> See Council of Ministers’ Decision dated 01.07.2009 and Decision dated 18.09.2009

- Designing the draft-decision that defines the procedures for the functioning of the central personnel register;
- The Complete Structural Reform of Employees' Payment in the Public Administration Sector;
- Drafting guidelines for the ad-hoc testing committee's activity and drafting manuals for the methods of test and subject design.
- Adapting the current structure of the Department of Public Administration to the amended provisions in the law "On the Status of the Civil Servant".

The Civil Service Commission is an institution established based on the law "On the Status of the Civil Servant". One of its functions is to settle complaints filed about civil servant hiring decisions, the trial period, promotion, parallel transfer, evaluation, disciplinary measures and civil servant rights. On the other hand, it also oversees the observance of the law in human resources management in all institutions. It assumes an important role specifically in light of the DPA's evident weakness in implementing civil service legislation.

Following a period of suspension due to the approval of the new members of this commission and the accompanying political interventions, the work process began to normalize in spite of the observed delays. However, as a result of the existing conflicts amongst its members, this institution still runs the risk of not fulfilling the tasks appointed to it by the law. In the report delivered to the Albanian Parliament these conflicts were publicly stated. These conflicts had been denounced by all of the members of this commission in its yearly report. Observing this situation, The Law Commission declared that it would evaluate the situation carefully and would eventually come up with the respective recommendations in a resolution that will be presented on the work of the Civil Service Commission. These recommendations may very well lead to the abrogation of this institution.

## **2.5 The Justice System**

Many issues linked to the reform of the justice system remain unaddressed in full. According to the recommendations of the CTF<sup>11</sup> the main problems plaguing the justice system remain its independence, its transparency, access to justice, the need to prepare a long-term reform strategy, the balance of the workload in different courts, and the inclusion of the preparation of a study on the number of judges and courts in the country. Although debates and documents addressing the main issues in the field of justice have not been lacking, Albania is still in need of a long-term strategy for justice reform. Political pressure, corruption, threats and limited resources often impede the functioning of the judicial system.<sup>12</sup>

The consensus achieved among political factions is limited to the adoption of 2 main laws of the system: law no. 9877, dated 18.02.2008, "On the Organization of the Judicial Power", as well as law no. 10.051, dated 29.12.2008 "On some additions and

<sup>11</sup> The 19<sup>th</sup> meeting of Albania Consultative Task force, held in Brussels on December 4<sup>th</sup>, 2008

<sup>12</sup> See American State Department Report.

amendments to law no. 8737, dated 12.02.2001, ‘On the organization and functioning of the Prosecutor’s Office of the Republic of Albania,’ amended.” Meanwhile, the Parliamentary sub-commission “On Justice Reform”<sup>13</sup> officially congregated only once. In this meeting the Joint Pact on justice reform was discussed.<sup>14</sup> Other important laws that were adopted by the Parliament were:

- Law no. 10.054, dated 29.12.2008 "On some additions and amendments to law no. 7905, dated 21.3.1995 ‘The Penal Procedures Code of the Republic of Albania’, amended”.
- Law no. 10.052, dated 29.12.2008 “On some amendments and additions to law no. 8116, dated 29.3.1996, ‘Civil Procedures Code of the Republic of Albania’ amended.”
- Law no. 10.047, dated 24.12.2008 “On some amendments and additions to law no. 9109, dated 17.7.2003 ‘On the profession of the attorney in the Republic of Albania’, amended”.
- Law no. 10.039, dated 22.12.2008 “On legal aid”.
- Law no. 10.034, dated 22.12.2008 “On the cleanliness of the figure of high functionaries of the public administration and elected persons of the Republic of Albania”.
- Law no. 10.032, dated 11.12.2008 “On the Penitentiary Police”.
- Law no. 10.031, dated 11.12.2008 “On the Private Bailiff Service”.
- Law no. 10.024, dated 27.11.2008 “On some amendments and additions to law no. 8331, dated 21.04.1998 “On the execution of penal decisions”
- Law no. 10.023, dated 27.11.2008 “On some amendments to law no. 7895, dated 27.1.1995 ‘The Penal Code of the Republic of Albania’, amended”.
- Law no. 10.018, dated 13.11.2008 “On the State Advocacy”.

On the other hand, the following draft-laws have still not been adopted by the Parliament: the draft-law “On the court administration”, the draft-law “On rulings on administrative conflicts and the organization of administrative justice” and the draft-law “On some additions and amendments to law no. 7829, dated 01.06.1994 ‘On the notary public’, amended.”

The draft-law for the court administration presented in the Parliament encountered strong objections from the court ranks because it did not properly resolve the status of the court administration. Moreover, it endowed the court chancellor with an increase in power as compared to the head of the court. Meanwhile, the National Association of Judges submitted a request to the Constitutional Court to declare some laws’ articles regarding the judge’s power as unconstitutional (Article 37/2 and 38/a and 38/b of the law).<sup>15</sup> As

---

<sup>13</sup> According to this decision, the commission is assisted by representatives of justice institutions as well as by representatives of international institutions.

<sup>14</sup> The National Pact for the reform in the justice system is a summary of special Pacts on justice proposed and drafted by the two major political forces, the Democratic Party and the Socialist Party.

<sup>15</sup> The National Association of Judges deposited the complaint for these articles of the law on 19 September 2008.

per the ruling by the Constitutional Court on July 9<sup>th</sup>, 2009 only a paragraph found in Article 38, which stipulated the chancellor's legal authority to appoint and dismiss court secretary personnel and administrative-technical personnel, was declared unconstitutional.<sup>16</sup> The other points in the request were rejected by the court. Consequently, there are now no legal regulations delineating the appointment and dismissal of the court's administrative personnel.

The Ministry of Justice has undertaken two legal initiatives regarding the court administration. The first is the court administration Regulations, which essentially delineates its duties. However, the status of the Regulations remains vague. Meanwhile, the second initiative is the Council of Ministers' Decision no. 20, dated 14.1.2009, "On the improvement of the structures and payment scale for the court administration employees of the District Courts and the Courts of Appeals." Legally advocating for a wage increase for the court administration employees is a commendable undertaking. Nonetheless, it would have been more logical to first approve the court administration law, which could have ultimately defined the status and categorization as well as the rights and duties of this administration.

Although the bulk of the draft-law on Administrative Justice was designed with international assistance and with the participation of local experts as well as discussions with business groups, it once again failed to obtain the support of the High Council of Justice and the opposition. The draft-law endeavored to increase the efficiency of the court by providing administrative justice through the foundation of specialized administrative courts or departments<sup>17</sup> as well as the shortening of court procedures and the enhancement of the judge's own role in executing the administrative judicial rulings. Despite its innovations the draft-law often dictates unrealistic situations that can hamper the practical implementation of the law.

The Ministry of Justice has initiated discussions regarding other important laws for the justice system – the law on the National Judicial Conference (NJC) and the law on the High Council of Justice (HCJ). Regarding the first law, the need to design a new law for the NJC came as a consequence of the Constitutional Court's repeal of the existing 2005 law on the NJC.<sup>18</sup> The first draft-law barely deviated from the repealed law and was discussed in the Ministry of Justice. Moreover, judges as well as representatives from international organizations contributed to this debate. Currently, however, the Ministry of Justice has not brought the second draft-law to the table. The five-year term served by some of the members of the HCJ, who had been appointed through the Conference, has

---

<sup>16</sup> See decision no. 20, dated 09.07.2009 of the Constitutional Court.

<sup>17</sup> The case whether there should be one or several administrative courts remains open. A lack in the number of cases that justify the establishment of several district courts and the accompanying costs, have led to disagreements about the proposed solutions

<sup>18</sup> Decision no.25, dated 05.12.2008 of the Constitutional Court which nullifies as incompatible with the Constitution Law no. 9399, dated 12. 05.2005 "On the organization and functioning of the National Judiciary Conference" because of the representative participation of judges in this Conference and because of the approval of the law with a simple majority while according to this decision, the law must foresee the participation of all judges in this Conference and this law should be approved with a qualitative majority since it regulates the activity of a constitutional body.



ended. Within this context, the law takes on a special importance for the fulfillment of one of the NJC's constitutional obligations and the reappointment of the members of the HCJ as provided by the Constitution as well as by the law on the HCJ.

### **2.5.1. The Organization of the Justice System**

The clear definition of a judicial body to adequately handle the workload in the courts is another concern raised by international organizations and various monitoring reports. The Ministry of Justice has proposed a draft decree to the High Council of Justice regarding the number of judges, which awaits approval from the Parliament in September 2009. This draft foresees the increase in the number of judges in some district courts and courts of appeals.

On May 13<sup>th</sup>, 2009 the HCJ decided to reopen the Court of Permet, which had been closed in 2007 as a result of reconfiguration, and it will include the Municipality of Leskovik under its jurisdiction. As per Decree No. 6201, dated 8.06.2009 on "The identification of the territorial jurisdiction of the courts and the central court", all of the courts nationwide are divided into 22 judicial districts. This decree came into force on 1.09.2009.

### **2.5.2. Access to the justice system and the transparency of judicial processes**

The transparency of judicial processes continues to be one of the most critical issues to resolve within the justice system. Despite the fact that the Law on Judicial Power places a special emphasis on the importance of transparency in judicial processes and the citizens' access to justice, many civil society actors have exercised pressure regarding the increase of transparency in judicial processes. Moreover, protracted judicial processes have proven to be a problem. Court sessions have been postponed due to the absence of the defense attorney or the prosecutor, exerting negative effects on the right to access to the justice system.<sup>19</sup>

In order to foster more transparency in the justice system, the HCJ adopted "The procedures of randomly distributing judicial cases" through Decision No. 238, dated 24.12.2008. It also approved the decision "On the solemnity of the verdict and the proper dress code for the judge". Moreover, through this decision, the HCJ changed the procedures of the professional system and the judges' ethics as well as the assessment criteria for judicial actions.

Another initiative introduced to increase judicial transparency is the signing of the Memorandum of Understanding regarding the implementation of reform measures in the courts for the increase in accountability, transparency and efficiency. The signatories include USAID, the HCJ, the Ministry of Justice, the National Judicial Conference, and the Administrative Office of the Judicial Budget. The main objective of this memorandum is the improvement of the courts' actions in general (10 pilot courts) with a

---

<sup>19</sup> The National Association of Judges has signed a cooperation memorandum with media representatives in order to give media more access in trial processes.

focus on the increase in accountability, transparency and efficiency through leaving the specification of duties in the judges' own hands. Through the HCJ's Decision No. 248, dated 22.06.2009, it was presented with a report published by representatives of USAID. Its focus is on the implementation of reform measures in these courts and evaluating the progress achieved.

In December 2008, the law "On legal aid"<sup>20</sup> was approved. This law enables access to the bodies of justice specifically for groups that have limited opportunities to safeguard their own rights within the judicial system. These groups include minorities, people of different sexual orientation, and people of a low economic status. They are entitled to free legal defense in penal, civil and administrative proceedings -- the adults in question must prove that they lack the financial means necessary to cover their own legal costs. People have the right to request assistance before, during and after the judicial process. Legal aid can be primary (as in information on rights, institutions, etc.) and secondary (legal representation and representation before the administrative bodies) and it is manifested in various forms. This law enables collaboration between the National Commission on Legal Aid and other organizations. Pursuant to this law, the HCJ, through a Decision it passed on 13.5.2009, identified its representative on the National Commission for Legal Aid based on Article 6 of the law "On legal aid."

Nonetheless, access to justice continues to remain a problem for several societal groups. Different civil society organizations<sup>21</sup> continue heeding this problem by monitoring the right to access and offering various services for vulnerable groups. Access to final judicial verdicts and other official documents still presents a formidable challenge.<sup>22</sup> The positive changes in legislation require the continuation of trainings for prosecutors and judges regarding the aspects that may limit or deny access to rights such as: lack of a translator in court sessions where the defendant may belong to a minority group or the failure to respect the rights of people of different sexual orientation.

### **2.5.3. The School for Magistrates and Trainings**

The school for Magistrates continues to contribute to their professional development. The school is primarily supported by the state budget, which has resulted in the insufficient addressing of needs. While the preliminary training is fully financed by the state budget ongoing trainings are predominantly financed by donors.

---

<sup>20</sup> See law no. 10 039, dated 22.12.2008 "On legal aid".

<sup>21</sup> The Albanian Helsinki Committee has monitored the citizens' access in the penal system of justice in the district courts of Tirana, Durrës, Shkodra and Vlora and in the Courts of Appeal of Tirana, Durrës and Vlora with the support of the Swedish Helsinki Committee. In the following months the findings of this monitoring will be made public through a round table where all the actors involved in this process will be invited. Other organizations such as TLAS, The Center for Legal and Civil Initiatives offer services for traffic female victims or other people living in poverty. The Center for Development and Democratic Institutions has monitored the citizens' information right regarding the procedures, judicial practices and financial expenses in nine pilot courts.

<sup>22</sup> Index of Judicial Reform, Albania (ABAROL, December 2008), The American Lawyer Association.

In the beginning of October 2008, the enrollment examination was successfully administered for the Preliminary Training for judges and state prosecutors for the timeframe spanning from 2008-2011. 8 judge candidates and 6 state prosecutor candidates were accepted. Eight vacancies for magisterial candidates, with a judge profile, were filled for the new academic year 2009-2010 based on the HCJ's Decision no. 251, dated 29.07.2009. There will also be 4 vacancies for professionals fulfilling the state attorney profile. The entrance examination for the Magistrate School was administered during September, as per the rules defined by the Leading Committee of the Magistrate School.

#### **2.5.4. Witness Protection**

During June 2009, the Council of Ministers approved the draft-law "On witness and justice collaborators' protection", which is expected to be reviewed and approved by the new Parliament that has emerged from the June 28th elections. The drafting and the process that has accompanied the discussion of this draft-law should be appraised since it involved a wide array of actors who have contributed to this process mainly with the assistance of international bodies assisting the justice system. Continuous meetings have been held during this period by the work group of the International Consortium for witness protection during which this draft-law has been discussed.

The draft-law on witness protection aims at creating a more flexible legal regulation with the intention that all the needs and eventual cases are properly addressed. In the meantime, the draft-law is expected to yield a considerable degree of independence in decision-making and in the administration of the budget to the Directorate of Witness and Collaborators' Protection.

One of the recommendations that emerged from the CTF's 19<sup>th</sup> Meeting was the approval of the Witness Protection law and the creation of a cooperation agency between the Directorate Against Organized Crime and the Directorate of Witness and Collaborators' Protection as well as other institutions in Albania in order to organize trainings on this law and best practices.

In regards to the videoconferencing system, the equipment necessary to set up 3 such systems has been provided. The FBI has financially supported one of these systems, which was donated to the State Police. The installment of this system is still underway in the Directorate of Witness Protection, while two other ones, located in the Court of Felonies and in the Attorney General's office, have been installed and are functional.

#### **2.5.5. Juvenile Justice**

Despite considerable improvements, problems continue to plague the penal justice and juvenile penal justice systems. The appointment of judges dealing with juvenile justice should not be on rotation, which is a widely used practice in other justice sectors. Moreover, civil society actors' and state institutions' initiatives to improve the legislative framework should be better coordinated.

On November 27<sup>th</sup>, 2009, the Parole Board was established, as per the amendments made to the Penal Code through Law no.10024 as well as the amendments made to the law “On the execution of penal decisions” (law no. 10023). The range of alternative sentences was extended due to amendments made to the Penal Code. The alternative sentences for juvenile delinquents constitute parole as well as suspending the decision for imprisonment by placing juveniles on probation through house arrest. These new amendments are also applicable for individuals from 18–21 years old who have committed crimes punishable by up to two years or when the remaining part of the jail sentence is up to two years. In these cases, the court can rule in favor of house arrest or placement in a health care center.

A Council of Ministers’ Decision, dated 25/03/2009, on the “Regulation of the Parole Board” was approved, thereby defining this new structure’s regulations and means of organization and functioning.

The Parole Board functions on both the central and local levels. The General Directorate of the Parole Board, which has been placed under the jurisdiction of the Ministry of Justice, works on the central level. Meanwhile, the local parole board offices will function under the the judicial district courts. This service has already begun to function and currently there is a Central Directorate as well as local offices in the respective districts.

Despite these developments, much remains to be done for juvenile delinquents, since they are not all sentenced with alternative punishments, especially by the district courts.<sup>23</sup> A considerable number of juvenile delinquents are accused of larceny and a large number of these juveniles spend 3 to 6 months in detention centers.

Regardless of the fact that the law on legal aid has entered into force there is no defined category or training for juvenile defense attorneys, rendering this legal service unimproved.

Finally, through Presidential Decree no. 6128, dated 7.07.2009, “On the creation of juvenile penal divisions in district courts” an amendment has been made to Decree no. 5351 dated 11.06.2007 through the addition of the juvenile penal division in the District Court of Elbasan.

The Ministry of Justice, through Order no. 6325, dated 31.07.2009, has approved the Regulation “On the cooperation of the Parole Board with NGOs and the intermediary service”. However, the civil society actors with whom this collaboration will be forged have yet to be identified.

---

<sup>23</sup> According to information shared in different meetings with actors in this field, it results that the penal department for juveniles in the District Court of Tirana, in 42% of the cases. Meanwhile, the Parole Board until September this year has been in the process of supervising 31 juveniles serving alternative sentences.

## 2.6 Fight against corruption

Corruption remains one of the most ubiquitous problems for Albanian society. The Inter-Sectoral Strategy for Transparent Governance and the Prevention of and Fight against Corruption, 2008-2013 was approved on October 3<sup>rd</sup>, 2008 through the Council of Ministers' Decision no. 1561. This strategy only comprises the objectives that must be achieved. Hence, the inter-ministerial group responsible for its implementation approved an Action Plan that sets forth the concrete measures to be taken and specifies the responsible institutions, the deadlines and the success indicators. This document was drafted based on every ministry's special plans for the fight against corruption.

Although the problems observed in the previous years such as the lack of success indicators, deadlines and responsible institutions have been solved, one of the major issues -- designing the budget for every action taken -- remains unaddressed. In the Action Plan it is stated that these actions will be funded through each ministry's budget. However, concrete figures divided into budget lines have not been presented, thereby failing to guarantee the proper financial support for their implementation of these actions. The objectives addressed in this plan are organized according to different ministries and not according to the issues as predicted in the Strategy. Furthermore there is no a direct reference to the objectives of the strategy and only that part of the strategy that deals with the executive power, that is the line ministries and the institutions under their auspices, are addressed in the Action Plan.

The Strategy has omitted some issues of primary concern in the fight against corruption such as the judiciary, the Prosecutor's Office, the political parties' transparency, civil society and limitations placed on the high officials' immunity. Their omission raises doubts about the possibility of achieving the Strategy's objectives.

The fact that the Inter-ministerial Working Group<sup>24</sup> is only composed of representatives from the line ministries restricts the involvement of other important governmental and non-governmental bodies lying outside the executive branch, which are called upon by invitation only. This inefficiency circumscribes the results expected to ensue from this strategy's implementation. The Inter-ministerial working group is responsible for monitoring the implementation of the strategy. It congregates every 2 months; however, the absence of a technical structure that would continually monitor this strategy's progress and facilitate the involvement of other institutions as well as civil society actors limits its effectiveness.

Other elements that jeopardize the implementation of the strategy are:

- The lack of cooperation and coordination between the institutions responsible for carrying out the envisioned actions, even in regards to information exchange.
- The measures are too broadly defined and do not clearly specify the structures and people responsible for their execution.

---

<sup>24</sup> Prime Minister's Order no. 195, dated 14.08.2006.

Other bodies responsible for the implementation of the law work to prevent and stamp out corruption, but their actions remain widely uncoordinated. One of the measures that has successfully improved the cooperation and coordination in the field of anti-corruption is the establishment of the Economic Crimes and Corruption Joint Investigative Unit under the jurisdiction of the Prosecutor's Office of Tirana. This unit was created based on a common Memorandum of Understanding signed by the Minister of Interior, the Minister of Finance, the Attorney General and the head of the State Intelligence Service in May 2007. This unit brings together 7 state prosecutors, 24 officers of the judiciary police from the State Police, 4 tax officers and 4 customs officers. This unit has reaped positive and tangible results; hence, it is predicted to be extended to 6 offices in other districts. Such successful experiences should be utilized as paragons for the organization of governmental structures in the fight against corruption.

The level of public perception of corruption in the public service sector continues to be high. According to a poll conducted by USAID in the beginning of 2009, "almost half of the sample (48.5%) believes that corruption has increased in comparison to the previous year, while 38% think that it has remained the same".<sup>25</sup> Furthermore, trust in the major institutions remains low and the healthcare sector is reported as the most notorious for corruption.

One of the major objectives in the fight against corruption, which is reducing the number of officials who enjoy immunity, remains unaddressed. The Albanian Parliament has voted several times on stripping parliamentarians and ministers accused of corruption or other offenses of their immunity. However, a stable legal approach to this issue has not yet been undertaken. The new parliamentary majority emerging from the June 2009 elections has renewed its promise to establish important legal regulations on immunity.

During the period under review, there has been only one criminal proceeding against a high profile official: an ex-member of the Albanian Parliament accused of corruption and abuse of power by the judicial bodies.

## **2.7 Decentralization Reform**

The existence of the strategy for decentralization and the Law on the Organization and Functioning of the Local Government brought the second phase of Albania's decentralization process to a close. Together, this strategy and law, paved the way for fiscal decentralization as well as for the completion of the territorial reform process and the legal framework for decentralization. Albania has now embarked on the third phase of decentralization, which comprises the implementation of legislation and the transference of full responsibility to the local governments.

---

<sup>25</sup> Corruption in Albania, 2009 Pool, Institute for Development and Research Alternatives (IDRA) within the framework of the Rule of Law Project of USAID.

The decentralization reform, as set forth in the existing strategy on decentralization,<sup>26</sup> is focused on addressing the following two priorities:<sup>27</sup>

1. The completion of the normative and institutional framework for transferring the responsibilities regarding local taxes, the water supply and the sewage system to the municipalities;
2. The approval of the normative framework for local loans in order to facilitate the capital investments necessary for qualitative local services.

The government's fiscal policy for further delegating the collection of national level taxes to the local governmental units was not coordinated or accompanied by the requisite increase in the local governments' capacities for fiscal administration. This has led to a low tax collection turnout by the local government units, which have not procured the expected revenues.

In order to assist the local authorities in attaining revenues based on law no. 9869, dated 4.2.2008, "On local governmental loans" a manual "On local governmental loans" has been published. It summarizes all the legal acts in force regarding this process and presents a methodology that can be implemented to sustain local loans.

According to the government's predictions the consignment of public property to the Local Government Units is expected to be consummated within 2009. During the period under review several Council Of Ministers' decisions on property transfer to the Local Government Units were approved. Meanwhile, the process of consigning forest and grazing land has already been completed -- a total of 640.000 hectares of these lands are now under the ownership of the local government, through the approval of 315 Council of Ministers' decisions.

A more problematic issue is placing the water supply and sewage systems under the local government's administration. Although they were legally transferred to the local government units, these units have refused to assume their administration. This refusal has arisen due to a wide array of reasons, the most important of which are listed below:

- The water supply enterprises' difficult financial situations, which have arisen due the default debts they have incurred to third parties and the revenue deficit incurred at the end of every fiscal year
- The large gap between real costs and rates charged for potable water;
- The joint-stock companies that supply some local government units with potable water, sometimes beyond the limit of just one district, hinder the division of the systems and their transfer to the respective local government units, as well as

---

<sup>26</sup> Council of Ministers' Decision no. 651, dated 29 December 1999.

<sup>27</sup> A new strategy is being drafted in order to improve upon the Strategy approved in December 1999, by including more priorities. These priorities include all public services (not only utility services such as potable water supply) such as urban planning, environmental issues, fiscal decentralization, etc.

impede the preservation of the current status of these companies and the identification of new methods for their management.

Another concern is the fact that local government units are not included in the decision-making process for the determination of foreign aid priorities. This process is led by the central institutions, which determine the national priorities during negotiations but fail to refer to the specific local developments even though these developments are outlined in the regional strategies. The European Commission's most important document in relation to its funding in Albania (The Multi-Annual Indicative Planning Document for 2008-2010) states that: "All EC assistance must be interlocked with Albania's institutions' development and action plans. The aim is to designate assistance in relation to Albania's strategic plans, which should take the requirements of the EU integration process into account." This shows that the process of prioritization, negotiation and orientation of EU funding has not subsumed the needs and priorities of local development.



### 3. HUMAN RIGHTS AND THE PROTECTION OF MINORITIES

#### 3.1 Observation of International Law and Respecting Human Rights

Throughout the entire monitoring period, the European Court of Human Rights (ECHR) has ruled against Albania six times. It declared that Albania has violated the right to having a court hearing before an independent and unbiased court, the right to executing final decisions, the right to enjoy property, the right to not be subjected to torture, inhumane and degrading punishment or treatment and the principle of legal security.<sup>28</sup>

Although the ECHR represents a new avenue for seeking out justice for Albanian society, an increase in information and awareness has been noted as per the number of cases brought before the court. Despite the low number of rulings against the Albanian state, the problems evinced by our national system are very serious.

Beginning in January 2009, the office of the legal representative of the international human rights organizations was integrated into the State Advocacy, which is an institution under the jurisdiction of the Ministry of the Justice. As of yet there has been no progress made to establish a mechanism for the automatic implementation of the ECHR's verdicts at a national level.

#### 3.2 Civil and political rights

In spite of all the progress made to eliminate *torture and other forms of maltreatment*, they continue to present problems. Specialized institutions and organizations have contended cases of physical and psychological abuse in several police precincts, detention centers and prisons. In most cases, the accusations of exercising violence are brought against officials of the judicial police who deal with investigating criminal incidents. They often disregard the rights of the people who they detain or arrest, especially minors, and in some instances the methods used for questioning have been abusive.<sup>29</sup> The Ombudsman and the Albanian Helsinki Committee (AHC) have recommended taking extreme measures against the individuals responsible for these unlawful acts, as was the case in the penal proceeding brought against the accompanying transfer specialists of the General Directorate of Prisons for acts of maltreatment observed in the jail of Fushë Kruja.<sup>30</sup> Other reported cases include the violence exercised against two youngsters in the Precinct of Saranda who were stopped for illegally crossing the border, for the events that occurred in the precincts of Tepelena and Dibra, and for the violence reported in the jails and detention centers of Korca. Moreover, the results of the

---

<sup>28</sup> Case of Xheraj versus Albania, application no. 37959/02, dated 1.12.2008; Case of Dauti versus Albania, application no. 19206/05, dated 3.2.2009; Case of Hamzaraj versus Albania, application no. 45264/04, dated 6.7.2009; Case of Nuri versus Albania, application no. 12306/04, dated 6.7.2009; Case of Vriani and others versus Albania, application no. 2141/03, dated 6.7.2009; Case of Grori versus Albania, application no. 25336/04, dated 7.7.2009.

<sup>29</sup> For more information visit <http://www.avokatipopullit.gov.al/Korrespondenca/2009.htm> and <http://www.ahc.org.al>

<sup>30</sup> See recommendation, dated 28.10.2008, forwarded to the Kruja Prosecutor's Office "On initiating investigations against the accompanying transfer specialists in the General Directorate of Prisons for the penal charge of "Torture" in collaboration, Article 86 and 25 of the Penal Code.

polls conducted with the juveniles in detention center no. 313 in Tirana revealed further human rights infringements.<sup>31</sup>

The detention centers' infrastructure has improved, but the condition of the holding and detention cells in the police precincts have remained problematic in many cases.<sup>32</sup>

Legal reforms regarding the prison system have progressed with the adoption of law no. 10023, dated 24.11.2008, "On some amendments and additions to law no. 7895, dated 27.01.1995, amended", law no. 10024, dated 27.11.2008, "On the execution of penal decisions", and amendments to the law "On the penitentiary police". In March 2009 the Regulations "On standards and procedures of the supervision of the execution of alternative sentences as well as the organization and functioning of the Parole Board" were approved. The "General Regulations on Prisons" were also approved at this time. In the process of mapping out these legal amendments, the Ministry of Justice took the opinions of civil society actors and international bodies into account.

The Parole Board already offers supervisory services to people placed on parole and conducts interviews with sentenced individuals for their preparation to be reintegrated into society. The further strengthening of this service is needed and its collaboration with actors from local government bodies, the prison system and the NGO sector must be bolstered.

The functioning of the Supervisory Commission on the Execution of Prison Sentences remains inefficient. This Commission is not recognized by the prisoners. At the same time, the need for an effective internal inspection system within the prison system has arisen.

The staff recently selected to work in the new prisons, the management of prisons, the training programs for prisoners, the code of conduct for employees of the penitentiary system, the management of severe incidences in these institutions, and the complaint-request system have all been part of training programs provided by specialized institutions.<sup>33</sup>

---

<sup>31</sup> For more detailed information on the condition of detention institutions and prisons see the Ombudsman's recommendations at:  
<http://www.avokatipullit.gov.al/Rekomandime/Rekomandime/2009.htm>

<sup>32</sup> Problems were observed in the detention center's surroundings in the Vlora, Saranda, and Burrel Precincts (unventilated, damp, not well lit and without the necessary furnishing for accommodation). Another observed problem was the violation of exceeding the legal period of stay in the precinct setting. In the precinct houses of Elbasan, Librazhd, Vlora, Saranda, Delvina and in the police stations of Cërrik and Fushë-Kruja there are no special surroundings for women or juveniles, while in the precinct of Saranda there are no female employees. For more details see "The AHC report on the human rights conditions in the detention and penal decision execution centers, October-December 2008", [www.ahc.org.al/kshh/ARKIV/angraport\\_burgjet\\_tetor-dhjetor2008.pdf](http://www.ahc.org.al/kshh/ARKIV/angraport_burgjet_tetor-dhjetor2008.pdf)

<sup>33</sup> The program "Humane management of prisons" is being implemented by the AHC and HACI and has been financed by the EC. Moreover, the continuation of trainings for the prisons' administrative personnel remains a priority and, within the framework of this project, a great deal of work has been done to strengthen the prison administration's Training Center, to improve the selection procedures in the prison

Penal institutions in Fushë Kruja, Korça and Vlora are already fully functioning and normal. Their functioning is a step in the right direction regarding the proper treatment of prisoners. The building of the Center for the Reintegration of Juveniles in Kavaja has been completed, its division into departments with specific duties has been accomplished, and its personnel has been selected and trained. However, this institution has not started functioning.<sup>34</sup> In November 2008, the construction of the new detention center in Durrës was completed<sup>35</sup> and this institution is already functional. Moreover, the reconstruction of the psychiatric hospital (Durrës) has been completed, but it is not yet operative. As part of the implementation of the Master Plan 2004, detention centers will be constructed in Fier, Elbasan, Berat, Shkodra, Dibra and Gjirokastra.<sup>36</sup> Reconstructions have been carried out in the Central Penitentiary Hospital,<sup>37</sup> and in Burrel and Rrogozhine. Other investments covered by the state budget have already been reserved for reconstructions that will begin during 2009 in the penal institutions in Saranda, Berat, Kukes, Tropoja, and those of in Korca, Kruja, Fushe-Kruja, Kavaja, Peqin, Lezha and “Ali Demi”, Tirana.

Although efforts have been made, the infrastructural conditions of some detention centers in old police precincts and some prisons housed in old buildings still leave much to be desired.<sup>38</sup> The lack of 24-hour electricity and running water and the dilapidated and damp buildings negatively influence the prisoners’ health.

Overcrowding remains a disturbing issue for the Albanian penitentiary system. Despite the measures undertaken by the General Directorate of Prisons to ameliorate the situation, there continues to be a considerable number of prisoners above the allowed capacity in some penal institutions. In cases of overcrowding, it is difficult to guarantee special treatment for vulnerable groups such as detained and incarcerated minors and women.<sup>39</sup>

Regardless of the efforts made to achieve a fruitful cooperation between penal institutions and the regional directorates of health in order to offer specialized medical assistance to prisoners, much work still needs to be done in this regard. During the period under

---

system, to improve the basic program of training modules for the uniformed personnel that is selected to work in these institutions, to improve professional and leadership abilities of the prison high officials and to train local Albanian trainers to provide ongoing trainings in their institutions.

<sup>34</sup> As a result of technical issues, the Ministry of Justice has not yet taken over this institution.

<sup>35</sup> The detention institution of Durrës is the first structure in the penitentiary system to be financed by the state budget, with a sum of 157.621.000 Lekë.

<sup>36</sup> These building projects will be executed and financed within the framework of the IPA program 2007-2009.

<sup>37</sup> The setting up of the recuperation room was financed by the state budget for the Prison System.

<sup>38</sup> The AHC’s report on the human rights condition in the detention and penal decision execution centers, (October-December 2008).

<sup>39</sup> The Ombudsman and the AHC have frequently raised this concern to the attention of the state authorities. The AHC, in an official correspondence dated 18 November 2008, forwarded several concrete suggestions about this issue to the President (as the Head of the High Council of Justice), to the Prime Minister, the Head of the Parliament, the Attorney General, to the Minister of Justice and the General Director of Prisons to support the latter in regulating overcrowding in penal institutions and in taking the necessary measures within an all-inclusive prison system strategy.

review, the treatment of the mentally ill has remained an unresolved problem. Many individuals suffering from mental illnesses are housed in the Prison Hospital, spawning an artificial overpopulation problem in this hospital. Meanwhile, in light of the absence of specialized medical care, a considerable number stay in different detention centers and jails.

The detention center and prison personnel have reported higher levels of awareness regarding the importance of special treatment for juveniles. The social services employees working for the General Directorate of Prisons as well as those working for local penal institutions are specially trained to work with juveniles and other vulnerable groups. Moreover, civil society organizations and international penitentiary agencies have launched concrete initiatives, which facilitate the offering of best practices' models regarding the mapping out of an all-inclusive strategy for the treatment of vulnerable groups in the penal system.<sup>40</sup>

In December 2008 a memorandum of collaboration between the Ministry of Justice and the Ministry of Education and Science was reached. This collaboration specifies a commitment to the achievement of mandatory education in all detention centers and prisons. The experiences gained through some pilot programs launched in several institutions should be applied in all the detention centers and prisons nationwide.

The employment of prisoners remains a fragmented initiative in detention centers and jails. According to official statistics from the Ministry of Justice, in August 2009 685 prisoners were employed,<sup>41</sup> while vocational trainings for prisoners were carried out in two pilot institutions.<sup>42</sup> Nonetheless, general prison regulations that enable the achievement of prisoner employment as well as the allocation of appropriate jobs have come into force. However, the Permanent Commission on the Assessment of Work in Prisons will sign contracts with private entities for employment in prisons.

***Freedom of expression***, including media freedom, is guaranteed under the Albanian constitution. Within the framework of aligning Albanian legislation with European standards, the drafting of a media law has been underway. However, the legal initiative for this law was tabled during the period covered by this monitoring report. Amendments to the articles regarding libel and slander in the Penal Code and the Civil Code also were not adopted during this period, even though these draft proposals have been presented to the Parliament since November 2004 and have passed all the phases of scrutiny in the Parliamentary commissions.

The Albanian Public Radio and Television operates as a national radio and television station, but doubts have been cast on this institution's professional standards regarding unbalanced media coverage of political events as well as the complete lack of

---

<sup>40</sup> The AHC, HACI and the Spanish Agency for International Cooperation for Development (AECID).

<sup>41</sup> The offenders are employed in cleaning, maintenance, cooking, and gardening and in other jobs depending on the specificities of every institution.

<sup>42</sup> I.E.V.P. Fushë Kruja and I.P Vlora.

investigative journalism. Further reforms of this public operator are in a state of stagnation. Moreover, the National Radio and Television Council (NRCT) continues to be accused of political partisanship. The NRCT is made up of five members and the appointment of the remaining two members is pending, thus preventing it to function in full capacity in accordance with the law.

Currently, more than 200 newspapers and magazines are published in Albania, including general and specialized publications.<sup>43</sup> The lack of legal regulations to enable the transparency of the media's financial resources favor the political and economic interests of their owners rather than the public's interests.

There have been complaints by the journalists themselves regarding direct or indirect censorship of articles by publishers and/or editors-in-chief in the cases where these articles are in conflict with the political or economic interests of the media outlets' owners. Many journalists have reported that the lack of legal work contracts with their employers have hindered their ability to pursue unbiased, objective reporting.<sup>44</sup> During the period covered by this monitoring report, there have been several cases reported by journalists who have been subjected to the pressure of public authority after having criticized state structures or high governmental authorities in relation to concrete cases of abuse.

During the monitoring of the media for the June 28<sup>th</sup> Parliamentary elections it was observed that small parties were not provided the electoral coverage by electronic broadcasters, as allotted by the Code. The Media Supervisory Board, an institution of the CEC, failed to carry out all its duties to assess whether broadcasters fulfilled their legal obligations regarding the "pluralism of information."

Investigative journalism in the print and electronic private media outlets has demonstrated positive developments. There have been denouncements of corruption cases and/or cases of abuse of power on the part of highly ranked public officials.

In general the relationship between the government and *civil society* has not demonstrated any visible progress during this period. In March 2009 law no. 10.093, dated 9.03.2009, "On the creation, organization and functioning of the agency for supporting civil society" was adopted. Despite positive developments, some governmental decisions and internal documents issued by the General Tax Directorate regarding NGOs' financial obligations have caused ambiguity. The Council of Ministers' Decision no. 1679, dated 24.12.2008, "On the criteria and procedures for determining the status of non-profit organizations for public benefit", includes ambiguities. It grants the Ministry of Finance the right to determine which organizations are of public interest and which are not as well as to determine the application procedures for this status and the consequences of the outcome.

---

<sup>43</sup> The National Library, periodicals section, October 2007. The list of individuals/enterprises licensed for transmission has many entries: 46 local radios, 2 private national radios, 3 private national TV stations, 2 private satellite stations other than the state television station, 63 private local TV stations, and 44 private cable TV stations.

<sup>44</sup> See United State's State Department report on human rights in Albania, pg. 8. February 2009.

There are ambiguities regarding the taxes on NGO grants and services. Civil society continues to suffer from dependence on the financial support of foreign donors.<sup>45</sup>

### 3.3 Economic and social rights

At the end of July 2009 during the Inter-ministerial Commission on Integration meeting, the Prime Minister affirmed that the Parliament would soon be presented with a draft-law against discrimination.<sup>46</sup> This draft-law places an emphasis on preventing and fighting overt and covert incidences of discrimination in the primary arenas of life. One of the issues that sparked media interest and general controversy was the legalization of same-sex marriages, which was also contested by religious communities.

The partial progress made in the field of *gender equality* is closely correlated with the failure to implement the Strategy for the Prevention of Domestic Violence, which was not accompanied by implementing mechanisms. Thanks to political will, but also to civil society's ongoing advocacy efforts, the Commission on Electoral Reform approved the inclusion of a minimal 30% quota of women candidates in the Electoral Code by general consensus. However, all of the political parties failed to fulfill this quota and, in many cases, women were ranked lowest on the parties' candidate lists. Currently, the number of female deputies is only 22 out of 140 members, comprising only 16% of Parliamentary membership.<sup>47</sup>

Pursuant to law no. 9970 "On gender equality in society" a group of experts supported by the OSCE and the UNDP concluded the drafting of the package of by-laws.<sup>48</sup> An Inter-institutional Advisory Working Group was created with the aim of obtaining gender statistics, determining gender indicators in support of the policies and monitoring of gender equality, in compliance with international and national commitments. This group will identify the indicators and will gather base line data by December 2009.<sup>49</sup>

By the Order of the Prime Minister No.3, dated 8.01.2009, the creation of the National Council on Gender Equality (NCGE) was approved and, at the same time, the Regulations for its functioning were also approved.<sup>50</sup> The procedure for the selection and the appointment of the three members of the NCGE, which will be representatives of civil society, is underway.

---

<sup>45</sup> In the state budget for 2008, 1.2 million Euros were allocated for civil society, but this money was not used due to the deficient legal and institutional frameworks.

<sup>46</sup> The draft-law was delineated by the Albanian Group of Human Rights and other civil society experts.

<sup>47</sup> See OSCE/ODIHR's Final Report, published on 15.9.2009 on the following webpage:

<http://www.osce.org/odihr-elections/documents.html>

<sup>48</sup> For this reason, in November 2008, MLSAEO with the support of OSCE organized a round table with representatives of the line ministries, NGOs as well as experts in gender issues.

<sup>49</sup> This group, led by the Vice Minister of Labor, was created as per a Minister's Order no. 2498, dated 16.12.2008. In January 2009 the first meeting of the GPNI was held -- the reference terms of the GPNI and the work plan for 2009 were discussed. They were approved by all members of this group.

<sup>50</sup> CMD, dated 2.02.2009.

The Report on the ILO Convention No. 183 “On the protection of motherhood” and the study on “Women and the Labor Market” have been completed. The latter deals with the place of women and young girls in the formal labor market. In terms of improving the professional capacities of the local administration staff that deal with aid programs and social services for vulnerable women and young girls, the UNFPA is supporting a series of trainings (2008-2009) for the employees of social services sectors on the regional and local levels in 8 districts.

In order to achieve an equal opportunity society for both genders, gender mainstreaming in programs, policies and strategies at the national and local levels remains a priority for the Albanian state. Institutions must ensure the *de facto* implementation of the existing legal framework and the policies for gender equality in Albania.

Various actors from civil society are contributing to improving the women’s rights situation in Albania. It is worth mentioning the initiatives undertaken by a network of non-profit organizations<sup>51</sup> that, in cooperation with the municipalities of Vlora, Pogradec, Shkodra, Rreshen and Berat, have managed to create inter-sectoral services and consistent referral services on a local level. Special attention has also been paid to the improvement of professional capacities of police officers in relation to different gender issues and the law “On measures against domestic violence”.<sup>52</sup>

In December 2008, the first Public Debate on Human Rights in Albania was organized. It included discussions on women’s rights.<sup>53</sup> However, it is necessary that the organizations dealing with this issue coordinate their efforts with state institutions in order to raise awareness about the implementation of the current legislation and policies. Information and awareness-raising must not only target the public opinion, but also professionals in relevant fields, public administration employees, as well as educational and justice institutions.

Compulsory preschool education was extended to other schools of pre-university education, mainly in Tirana. The number of children that attend vocational institutions is much lower compared to other OECD countries: in our country this figure is 19% while the average for OECD countries is 50%.<sup>54</sup> School dropout and nonattendance rates continue to be problematic. This problem is more evident among minority children, mainly Roma, and children from deep mountain areas or poor areas. As a result, about 1 in 2 Roma children between the ages of 6-16 have dropped out of school while 54% of them have never even completed a year of school. Even more problematic is the situation of Roma girls, whose drop out rate is 23% higher than boys of the same age.<sup>55</sup>

---

<sup>51</sup> The Albanian Network against Gender-Based Violence and Trafficking.

<sup>52</sup> This initiative was undertaken by the UNDP office in Albania in collaboration with the Ministry of Interior Affairs and the General Directorate of State Police, which have organized several trainings in which more than 600 police officers from all over the country participated.

<sup>53</sup> Organized by the Albanian Center for Children’s Rights in collaboration with the Albanian Group of Human Rights and the Center of Gender Alliance for Development.

<sup>54</sup> Data taken from the National Strategy for Pre-university Education 2009-2013.

<sup>55</sup> The National Strategy for Pre-university Education 2009-2013 (CMD no. 799, dated 22.7.2009. F.Z. no. 133/99)

A study conducted by Save the Children shows that violence against children is not only prevalent but it is even considered an appropriate method of education.<sup>56</sup> For the first time, with the support of UNICEF and the government, a national hotline was established to assist children (no. 116).<sup>57</sup> However, this hotline is not managed by the government and does not create favorable conditions for its institutionalization and the timely provision of aid.

Child labor continues to remain a problem. During this period, extreme cases have been reported such as the death of one child.<sup>58</sup> The Council of Ministers strengthened the regulations, according to which minors that enter into work relations must be subject to a periodical medical check-up. This obligation, as per the decision, must be fulfilled by the employer.<sup>59</sup> The draft-law on “Children’s Rights”, drafted by the government with the support of UNICEF, is still being reviewed on the governmental level. With the Decree of the President No. 6218, dated 7.7.2009, penal departments for juvenile justice were established within the District Court of Tirana, Durrës, Shkodra, Vlora and Korca. This decree entered into force starting September 1<sup>st</sup>, 2009. During this period, the Ombudsman has given a series of recommendations regarding the conditions of minors in detention centers or prisons.<sup>60</sup>

In regards to *socially vulnerable groups or people with disabilities*, the responsible state institutions have heightened their attention and have increased the state budget funds allocated to these categories. A considerable number of by-laws have been adopted that aim to improve the cash payments of people with disabilities and caretakers of paraplegic and quadriplegic individuals as well as to include the people from this category in the social schemes.<sup>61</sup> Moreover, following a period of merely formal existence, the National

---

<sup>56</sup> See <http://www.scalbania.org/punishment.pdf>

<sup>57</sup> See <http://www.unicef.org/albania/media.html>

<sup>58</sup> The case of Besmir Ujka who lost his life on a pile of garbage on the outskirts of Tirana.

<sup>59</sup> The Council of Ministers’ Decision no. 499, dated 6.5.2009.

<sup>60</sup> See <http://www.avokatipopullit.gov.al/Rekomandime/Rekomandime%202009.htm>

<sup>61</sup> More precisely the following decisions have been approved: CMD 336, dated 15.04.2009 “On the compensation of ID fees for vulnerable groups”; CMD no. 361, dated 1.4.2009 “On an amendment to CMD no 15, dated 14.1.2009 on the compensation of ID fees for vulnerable groups; CMD no 326-328, dated 12.3.2009 “On some amendments to Council of Ministers’ Decision no. 31, dated 20.1.2001, “On benefits from the paraplegic and quadriplegic status, amended”, “On an amendment to the decision on the measures, criteria and procedures of benefitting from a special hygeno-sanitary package for paraplegic and quadriplegic invalids”; On several additions to the CMD no. 618, dated 7.9.2006 “On defining the criteria, documentation and the payment scale for people with disabilities, amended”; CMD no. 1503, dated 19.11.2008 “On approving the Regulations on public space utilization by people with disabilities”; Guideline no. 2365, dated 26.11.2008, “On the implementation of the Council of Ministers’ Decision no. 277, dated 18.6.1997, ‘On blind status welfare’ amended”; CMD no. 1689, 17.12.2008 “On an amendment to CMD no. 31, dated 20.1.2001, ‘On paraplegic and quadriplegic status welfare’ amended”; CMD no. 1690, dated 17.12.2008 “On some amendments and changes to the CMD no. 618, dated 7.9.2006 ‘On defining the criteria, documentation and the payment scale for people with disabilities’”; CMD no. 1692, dated 17.12.2008, “On an amendment to CMD no. 723, dated 19.11.1998, ‘On the implementation of law no.7889, dated 14.12.1994 ‘On the status of work invalids’, amended.”



Council on the Issues of People with Disabilities has begun to perform its normal functions.

The UN Convention “On the rights of people with disabilities” has not yet been ratified. At the same time, the draft-law for the status of people with mental, physical and sensory disabilities has not yet been adopted.<sup>62</sup> Pursuant to the CMD No. 1104, dated 30.07.2008, the drafting of standards for caretakers’ services was mapped out and sent to the stakeholders for their review. Although delayed, law no. 10.0107, dated 30.03.2009 “On healthcare in the Republic of Albania” was approved.

In general, progress has been noted, even though a need for better coordination of public and non-public institutions is required in order to guarantee the social rights of vulnerable groups. The strengthening of the coordinating structures on the regional and local levels would facilitate the achievement of effective interventions and collaboration among responsible actors, social structures, stakeholders, and the non-governmental sector. The development of social policies requires accurate and detailed statistics. The institutionalization of the social worker’s role at every level of the justice system, as well as that of the educational and healthcare systems is very important. The monitoring instruments as well as the various inspectorates need to be more active and effective in fulfilling their obligations.

Respecting the rights of the mentally ill remains problematic. Despite efforts made, the situation found in psychiatric hospitals is disturbing. The infrastructural problems, the level of staff professionalism, and the funds made available to these institutions, as well as the failure to meet the general and special needs of these patients seriously infringe upon their rights and, in many cases, result in their inhumane treatment in violation of the standards set forth by Albanian and international legislation. Medical treatment has been given priority in dealing with mentally ill individuals, while deinstitutionalization and their reintegration into society have gone unaddressed. The lack of employment and rehabilitation programs is a concern for these categories of people.

In the decision no. 712, dated 23.06.2009, the Council of Ministers ordered the execution of the Verdict of the European Court of Human Rights in regards to the case ‘*Vrioni and others versus the Republic of Albania*’.<sup>63</sup> This case, at its core, involved a **land ownership** conflict and the Strausburg Court found the Republic of Albania guilty for the way in which the responsible institutions had acted. Albania was punished with a sum of 450,000 Euros to be awarded to the winning party, Vrioni and others. Other land ownership cases have been submitted to the Strausburg Court against Albania.

In June 2009, the criteria and regulations for the distribution of the compensation fund for land owners for 2009 were approved.<sup>64</sup> The registration process to submit a request to benefit from the 2009 fund was concluded in July 2009 and the fund for this year

---

<sup>62</sup> This initiative was prompted by the Ombudsman in collaboration with the Albanian Foundation for People with Disabilities and the parents’ organizations of children with mental disabilities.

<sup>63</sup> Published in the Official Gazette no. 115/2009.

<sup>64</sup> Council of Ministers’ Decision no. 487, dated 6.5.2009.

amounted to 600 million lekë. This fund is expected to be distributed by the Agency of the Return and Compensation of Property to about 163 subjects. Moreover, with the Council of Ministers' decision, a special fund for property compensation was created in June 2009.<sup>65</sup>

The real estate registration problem continues to persist. The initial registration has been extended to other areas of the country and the procedures for the initiation of this process in other areas have been approved. The legalization process continued to progress swiftly. During June 2009 various Council of Ministers' decisions granted land ownership to informal possessors in a considerable number of areas in various districts of the country such as Tirana, Durrës, Elbasan, Lezha, Berat, Fier, Kukes, etc.<sup>66</sup>

The Constitutional Court verdict No. 3, dated 2.02.2009<sup>67</sup> declared some of the articles of law no. 9895, dated 09.06.2008, "On some amendments and additions to law no. 9482, dated 03.04.2006 'On legalization, urbanization and integration of illegal constructions'",<sup>68</sup> as unconstitutional. In response, the Council of Ministers endowed the Agency for the Urbanization, Legalization and Integration of the Informal Areas/Constructions (ALUIZNI) with the authority to perform fact-finding activities as well as to review the informal buildings' ability to qualify for legalization, given that local governments do not perform these functions in a timely fashion.<sup>69</sup>

### **3.4 Minority rights, cultural rights and the protection of minorities**

In regards to cultural rights and the protection of minorities the current legislative framework is nearly complete and guarantees effective protection. The problem, however, lies in the implementation of the corresponding legislation, of the conventions and international documents ratified by the Parliament such as the Framework Convention for the Protection of National Minorities as well as the recommendations set forth by various international monitoring organizations.

Generally, there's an increase in the central and local government authority's awareness in regards to respecting minority rights as one of the main criteria of upholding human rights and maintaining the rule of law.

The National Minorities Committee continues to not function as an effective advisory organ in the protection of minority rights. This Committee's professional capacities need to be improved. Its engagement must become more productive and public with the goal

---

<sup>65</sup> Council of Ministers' Decision no. 616, dated 11.6.2009.

<sup>66</sup> Such decisions are: CMD no. 611, dated 11.6.2009, no.677, dated 18.6.2009, and no.706, dated 23.6.2009. Moreover, the owners of legalized properties benefitted from the compensation fund approved in CMD no. 616, dated 11.6.2009.

<sup>67</sup> Constitutional Court Decision no. 3, dated 02.02.2009. <http://www.gjk.gov.al/>

<sup>68</sup> Respectively, Article 3, point 8; 4; 5, point 2; 6; 7; 8; 10; 13; 14, point 3; 16; 17; 20, point 2; 23; 24; 26 and 28, point 2, of law no. 9895, dated 09.06.2008 "On some amendments and additions to law no. 9482, dated 03.04.2006 'On the legalization, urbanization and integration of illegal buildings'."

<sup>69</sup> Council of Ministers' Decision 515, dated 13.5.2009. Official Gazette 80/2009.

of guaranteeing a worthy representation of the problems affecting minorities and proposing solutions to the responsible state institutions.

Within the framework of Albania's membership in the "The Decade of Roma Inclusion", the Ministry of Work, Social Issues and Equal Opportunities is working to map out an Action Plan and to align it with the existing legislative framework, which is yet to be completed. After its completion, the Action Plan must be approved by the Council of Ministers and must be submitted to the Technical Secretariat of the Decade in Budapest.<sup>70</sup> It is necessary that this action plan is discussed at both the local and national level as well as in consultancy with the Roma interest groups, associations and organizations.

The National Strategy "For the improvement of the Roma's living conditions" remains a document in writing that has barely been implemented in practice. An initiative to establish a high-level working group under the auspices of the Ministry of Work has been undertaken.<sup>71</sup> Simultaneously, it is worth mentioning the initiatives undertaken by the UNDP Office in Albania. In partnership with UNICEF, UNFPA and IOM as well as the Office of the UN Resident Coordinator, the UNDP is contributing towards establishing a monitoring and reporting mechanism for the National Strategy for the Roma. This initiative aims at supporting the staff that works in the Technical Secretariat for Monitoring the Roma Strategy within the Ministry of Work, in order to review the strategy indicators and to prepare a methodology for the development of studies regarding the Roma, which will aim to gather data and measure the indicators.

The Roma minority and the Egyptian community continue to face many economic and social problems. In spite of the fact that some positive initiatives have been undertaken, their lack of coordination and paucity in number remain evident, especially when compared to the great number of problems that the communities in question face. Unemployment, harsh economic conditions, low education levels, minimal access to state institutions, discrimination, housing and the lack of representation in the public administration are some of the most severe issues that influence their integration into Albanian society. The state institutions must work harder in order to find the most satisfactory and effective mechanisms for the implementation of the policies and existing legal provisions, as well as the strengthening of the dialogue and effective collaboration between these communities and the central and local state institutions.

It is worth stressing that different actors from civil society, local and foreign organizations are implementing initiatives to improve the living conditions of these communities in several districts.<sup>72</sup> During this period there have been initiatives for the encouragement and support of community-based Roma organizations in regards to their management of micro-projects for the improvement of infrastructure and creation of local

---

<sup>70</sup> Based on information provided by representatives of the Ministry of Labor, Social Issues and Equal Opportunities.

<sup>71</sup> The Work Group was created as per a Council of Ministers' Order no. 37, dated 9.3.2009.

<sup>72</sup> Many projects are being implemented to improve the infrastructure of the neighborhoods inhabited by the Roma and Egyptian communities as well as projects for awareness-raising campaigns on legal rights, education, vocational training, and health.

partnership networks and regional coordinating committees in Tirana, Elbasan and Fier. Moreover, a contribution has been offered for the improvement of the professional capacities of the municipality administrations, the state police employees, and the educational directorates in some districts. Trainings on the national and international legal frameworks in the field of minority rights have been conducted. Meanwhile, there have been attempts to establish collaboration between Roma representatives and the local institutions. However, shortcomings from the lack of coordinating structures on the local and regional level have been observed.

Despite the positive will of state institutions to consider the Egyptian community as a community in need, nothing has been done to acknowledge them as a minority. This issue is not only a request stemming from this community, but it is simultaneously a recommendation that the European Commission against Racism and Intolerance (ECRI) has addressed to the Albanian government.<sup>73</sup> The outlining of a strategic document or action plan for the improvement of the Egyptian community's living conditions is seen as a necessary step. This plan should address the community's grievances with concrete and effective steps that must be undertaken by the appropriate state institutions.

In March 2009, the National Museum of History opened a special wing dedicated to the promotion of Roma culture.

---

<sup>73</sup> For more information see the ECRI's Third Report on Albania, December 2005.

## **4. ECONOMIC CRITERIA**

### **4.1 The existence of a functional economic market**

#### **4.1.1 Economic Policies and Macroeconomic Stability**

Generally speaking, the Albanian economy was not greatly affected by the global economic crisis over the course of 2008. This economic immunity has supported the creation of “optimistic” economic policies, the effect of which was noticed in the beginning of 2008. During the end of 2008 and the beginning of 2009 a slowdown of economic activity was observed. This brought to light the need for the redesign of the optimistic fiscal and monetary policies in order to maintain the country’s macroeconomic stability.

The country’s economic activity during the second half of 2008 and the beginning of 2009 generally developed with sustainable macroeconomic balance, which was in line with the predictions made. Nonetheless, during the third quarter of 2008 and the beginning of 2009 a slowdown of economic growth was observed, especially in regards to the balance of payments indicators. The decrease in foreign demand and the increase in unemployment, especially in neighboring member-states of the Eurozone, influenced the decrease of both exports and remittances from emigrants, resulting in a shrinking domestic demand for consumption, which was partially compensated by public investment expenditures.

The global crisis and its impact on the Albanian economy have been part of political discussions. Generally, the opposition has articulated repeated accusations against the government for its failure to devise a plan to ease the effects of the crisis in Albania. In response, the Albanian government has brought counter-arguments against the opposition’s claims throughout this time. This divergence was reflected in the debate on Albania’s level of economic growth for 2008. While the governmental statistics reflected a double-digit economic growth rate, the rate accepted by the IMF for 2008 remained within the range of 5.5-6%. The largest contributors to economic growth have been the telecommunications, transport, industry and trade sectors as well as the service sector (tourism, financial-banking sector and insurance sector).

The factors that may have supported economic growth in Albania for the first half of 2008, such as an incoming flux of capital through remittances and foreign investments, exports and credit stock issued by the banking system, seem to have suffered at the hands of the global crisis. As a result, a discernable slowdown in the rhythm of Albania’s economic growth, especially in regards to the last quarter of 2008, has even undermined the perspective of economic growth for 2009, with expectations of a real rate of growth that varies from 3.4-1%.<sup>74</sup>

---

<sup>74</sup> The 3.4% economic growth was the International Monetary Fund’s initial prediction; however, a second review predicted an economic growth of 1%, as per the slowed progress observed in regards to Albania’s economic parameters coupled with the considerable deterioration of the European economies.

Opinion polls conducted to measure the confidence level that businesses and consumers have in the stability of the Albanian market show a decline in their confidence and readjustments in their behavior, which indicate less investments, lower employment and a decline in purchasing power. This behavior jeopardizes the main two factors that have contributed to 2008's economic growth.

Annual rates of the consumer price index growth, during the third quarter of 2008 and the beginning of 2009, have marked a down-sloping trajectory, reflecting the dynamics of global market prices for commodities as well as the trends of domestic demand. During 2008 inflation remained within the targets of monetary policies. For this reason, the monetary authority remained neutral in setting the interest rates, which remained unchanged at 6.25%.

The level of liquidity on the Albanian bank market was positively affected by the monetary authority's interventions through a series of instruments such as the injection of long-term funds, the expansion of the treasury bills base, the broadening of the use of bank reserves and the narrowing of the difference between the base interest rate and overnight credit rate from 1.75 percentage points to 0.75 percentage points. At the end of the year, the amount of funds injected by the Bank of Albania was approximately 24.5 billion lekë versus 2.65 billion at the end of the first half of the year. On the foreign currency exchange market, the fluctuations of exchange rates between Albanian lekë and foreign currencies reflected the domestic situation of supply and demand as well as developments on the international market.

The domestic currency remained stable through the end of 2008. The situation changed in the beginning of this year when the domestic currency incurred a significant depreciation against the two main foreign currencies: the Euro and the dollar. Besides seasonal factors and those related to the supply and demand for foreign currency, the situation also reflected a fluctuation in the foreign currency equilibrium in the domestic market due to the decline of incoming foreign currency from emigrants and an increase in imports.

#### **4.1.2 Fiscal Policies**

The fiscal policy contributed to steady economic growth during 2008. Meanwhile, the expansionist nature and fiscal stimuli predicted for 2009 may encounter difficulties due to a drop in domestic demand as well as the need to secure additional financial resources both on the local and foreign markets. During 2008, the overall budget income was evaluated at 290.1 billion Lekë, which was 97.3% of the predicted amount. Meanwhile, the general expenditures, which were evaluated at 350.3 billion Lekë, reached 98.7% of the anticipated amount.

The fiscal deficit incurred during 2008 was evaluated at 60.2 billion Lekë, approximately 5.7% of the GDP for 2008. Domestic reserves, in the amount of 24.5 billion Lekë, were used to partially compensate for this shortfall, whereas foreign resources were used to compensate for the remaining 35.7 billion Lekë. On the other hand, the planned budget deficit for 2009 is forecasted to be 4.2% of the GDP. The foreign financing predicted by

the government to cover this deficit is expected to bring a considerable cash flow to the local economy through foreign currency liquidity.

### **4.1.3 The Banking Sector**

The performance of the banking sector during the last quarter of 2008 was characterized by a discernibly slowed growth in public deposits. At the end of 2008, the activities of the banking sector amounted to 834.1 billion Lekë, making up for approximately 86% of the GDP, which is 12.3% higher than it was at the end of 2007. The annual growth of the banking sector deposits for all of 2008 was 2%, compared to 20% in 2007. The instability of the deposits' annual growth also influenced the intermediary activities of the banking sector, which were marked by the accompanying downtrend in credit growth. Nonetheless, the banking sector remained well-capitalized and liquid. At the end of December 2008, credit accounted for approximately 43% of the total activities of the banking sector, rising to 37% of the GDP.

During both the last quarter of 2008 and the beginning of this year, several regulatory actions were undertaken by the finance authority, which aim to strengthen the supervisory process and to maintain the liquidity levels of the banking sector. Therefore, the Bank of Albania, in collaboration with the Ministry of Finance and the Deposit Insurance Agency, has prepared proposals for the amendment of the law "For Deposit Insurance". Amongst other things these proposals predict the increase of deposit insurance and compensation value up to the sum of 2.5 million Lekë, as well as the elimination of the compensation value's escalation. This measure will contribute to the strengthening of the banking sector's stability and it will offer the Albanian depositor a standard that approaches the one applied in the countries of the European Union.

Moreover, through a special regulatory act, the Bank of Albania has requested the banking sector not to distribute the profits of 2008 in dividends. In this way, the banking operation's capital is strengthened, offering one guarantee further for the financial health of the upcoming banking sector.

During the last quarter of 2008 and the first quarter of this year, the Supervisory Council of the Bank of Albania approved some regulations and amended some of the existing regulations.<sup>75</sup> These by-laws have been prepared for the implementation of the law "On the Bank of Albania" no. 9662, dated 18.12.2006, and other laws, such as the law "On traders and commercial companies" and the law "On the National Registration Center".

---

<sup>75</sup> Some amendments to the regulation "On risk management of large bank exposure", approved with Decision no. 31, dated 30.04.2008 of the Supervisory Council of the Bank of Albania. Regulation "On minimal technical and safety conditions in environments where financial and banking activities are performed". This regulation was drafted pursuant to law no. 9662, dated 18.12.2006, "On banks in the Republic of Albania" and substitutes the order "On minimal technical and safety conditions in the working environments of subjects licensed by the Bank of Albania". Regulation "On licensing and performing banking activities and the branches of foreign banks in the Republic of Albania", Decision no. 88, dated 11.03.2009.

The goal of these laws is to regulate different aspects of banking and non-banking institutions' activities.

On February 25, 2009, the Supervisory Council of the Bank of Albania approved "The document on licensing policies of banking entities". By approving this document, the Bank of Albania aims to support the entrance of sound and stable banking entities into the market that are supported by powerful shareholders who have experience in the banking industry; that implement the best accountability standards in management; that carry out balanced activity with well-managed risks; that support the country's economic development and that offer high quality and efficient services and bank products to the public in a transparent manner.

#### **4.1.4 Non-Banking Financial Sector**

##### **The Insurance Market**

2008 revealed a change in the structure of the insurance market. The issued gross premiums of voluntary insurance made up 44% of the market, while mandatory insurance comprised 56% of the market. Comparatively, in the two previous years, issued gross premiums of mandatory insurance comprised 65% and 70% of the market, respectively. However, it is worth mentioning that the development of this sector is far from the potential that the country offers as well as the development levels of the other countries of the region. Despite the growth reflected in life insurance, 93% of the premiums were generated from non-Life insurance. In 2008 around 692.000 insurance contracts were signed, which is 27% more than in 2007.

##### **The Bond Market**

The bonds market continues to be dominated by trade in the primary and secondary market of the Government's debt (treasury bills and obligations), while the stock market continues to be underdeveloped and mainly limited to the informal market of the shares of companies registered at the Share Registration Center.

##### **The Pension Market**

During 2008, the development scale was the same as during 2007. Only three private institutions continued their activity in the market -- American Institute of Supplementary Private Pensions (AISPP), Capital and Sigma IPP with a total number of 3,861 contributors and accumulated investments of 53.1 million Lekë.

#### **4.1.5 Regulatory Framework and Legal Initiatives in the Non-Banking Sector**

The Board of Directors of the Financial Supervisory Authority has approved a series of legal acts and ordinances to regulate the activity of the non-banking sector. Prominent amongst these feature:

- the "Regulation on the information and updating of the orders and transactions register", which outlines the contents and the process for updating the register to be maintained by intermediary companies on equities transactions;



- the “Regulation on licensing and supervising of equity exchanges”, which regulates the licensing process and improves many other aspects of the organizations of the stock market;
- the “Regulation on the licensing of broker/dealer, advisory, brokering and investment counseling companies”, which outlines the documentation that must accompany a licensing request, as well as the additional criteria for the permission of activity in equity trading and investment advising, the content and procedure of review for a license application, the approval procedure on the statute of companies established to practice trade and advisory service in titles, as well as changes in these acts and the documentation for the approval of the leading board members and the principle leader of the broker and investment advisory company.
- The Regulation “on Preventing Conflict of Interests in Holding Public Functions at the Financial Supervisory Authority,” aims to guarantee an independent and transparent decision-making process, to the public’s best interest, from the officials of the FSA, through the definition of rules on the various interests that might give rise to cases of conflicts of interests as well as the measures to be taken to curtail them.

Additional legislative modifications were provided through the approval of the Council of Ministers’ Decision “On some amendments to CMD no. 96, dated 03.08.2008, ‘On assets eligible for use in covering the technical and mathematical provisions, and the investment thereof by insurance companies’.” The aim of these amendments to CMD no. 96, dated 03.08.2008, is to increase the ceiling for investing technical and mathematical provisions in real estate and construction to 30% due to the limited investment opportunities in the country.

## **4.2 Competition and State Aid**

### **4.2.1 Competition**

Ensuring a competitive environment and promoting effective free market competition is considered a main objective of the competition policies in the NPISAA 2007-2012, as set forth in the requirements of Articles 40, 70, and 71 of the SAA (Articles 23 and 37 of the Interim Agreement).

The activity for ensuring a competitive environment and promoting free competition is based on Law no. 9121 “On Competition”, dated 28.07.2003 as amended by Law no. 9499, dated 3.04.2006. The institution responsible for the implementation of the Law “On Competition” is the Competition Authority, an independent, public institution, comprised of the Commission on Competition as its decision-making body and the Secretariat as its executive body. The Commission on Competition, which operates as a permanent collegial body, is composed of 5 members elected by the Parliament for a five-year

term.<sup>76</sup> The 2008 annual report prepared by the Competition Authority was discussed in the Parliament in March 2009.

The Competition Authority is engaged in the process of completing the by-laws and reviewing the law “On Competition” to facilitate its complete harmonization with the relevant European Commission regulations. The review process, which is being conducted with assistance from experts supported by GTZ and has been discussed by interest groups,<sup>77</sup> is near completion and is expected to pass onto the approval process.

During the period under review, the Competition Authority has undergone a series of activities pursuant to the Law “On Competition” in the following three areas:

*Abuse with Market Dominance:* As per decision no. 94, dated 10.12.2008, the Commission on Competition decided to close the investigations of the telecommunications market, but simultaneously suggested taking some measures to protect competition regarding transmission and interconnection on the electronic communications market. The Commission on Competition also decided to continue monitoring this market. Regarding the fines placed on AMC and Vodafone by the Commission on Competition in November 2007 “For abuse with market dominance in the mobile telephone market”, the process is ongoing in the judicial system. Meanwhile, the District Court of Tirana has rejected the law suit request filed by AMC and Vodafone. In the banking market, thorough investigations continue regarding Raiffeisen’s potential abuse with market dominance in the primary and secondary treasury bills market.

*Prohibited Agreements:* A number of markets are under investigation by the Competition Authority (CA). Based on the Commission on Competition’s decision in October 2008, the CA’s Secretariat has pursued thorough investigations of the grain import and flour production market and is working to draft a final report. The CA has conducted a general investigation of the energy sector and a thorough investigation of the fuel market. Moreover, the Commission on Competition has made some recommendations for legal acts and by-laws that influence the level of competition in the wholesale fuel market. Additional information is requested from special companies that operate in this market. In regards to the insurance market, the Commission on Competition decided to close the investigations on the “green card” product, whereas for the ‘internal Third Party Liability (TPL) product it issued recommendations on the strengthening of competition in this market.

*Merger and Concentration control:* During the period October 2008-September 2009, the Commission on Competition authorized a number of mergers and is currently reviewing others. The Commission authorized the merger achieved through the buying and selling of 85% of the shares of ARMO sh.a. to the company Anika Merkuria Refinery

---

<sup>76</sup> The fifth member was selected only in the beginning of March 2009; For a period of several years (starting from July 2005) the commission had only been composed of 4 members.

<sup>77</sup> In July 2009, with the assistance of GTZ, the Competition Authority organized a round table on the discussion of changes proposed to the law as well as the two draft-regulations (respectively on fines and on agreements of a minor importance).

Association. Another merger was achieved through the acquisition of the Volkswagen AG Company by the Porsche SE Company. It also decided not to classify several announcements of property buying and selling or change of property ownership as mergers.

With decision no. 99, dated 30.12.2008, the Commission on Competition recommended the abrogation of the Council of Ministers' Decision no. 1110, dated 30.07.2008 "On the quality of combustible fuel produced by the refinement of local crude oil." It was considered a decision that constrains market competition, due to the application of different conditions on trade regarding local and imported products. Other recommendations were forwarded to the Ministry of Economy, Trade and Energy, the Institute of Healthcare Insurance, the Supervisory Finance Authority, etc.

Generally, the Competition Authority has made serious efforts and considerable progress to achieve the goals and objectives outlined by the NPISAA. Nonetheless, more efforts are needed for the timely implementation of all the envisioned measures. Moreover, despite all the programs and considerable training activities, more attention must be placed on the results of these trainings and on the staff's capacity to carry out the respective analysis and evaluation.<sup>78</sup> Specifically, the analysis and monitoring sector must be strengthened.

#### **4.2.2 Governmental Aid**

In the NPISAA, state aid is addressed a priority field for the integration process. Some of the SAA requests (Article 71) regarding state aid include the following: the harmonization of local and EU legislation, the establishment of an independent structure to control state and individual financial aid schemes, and the insurance of transparency in the use of public funds through preparing an inventory of existing schemes and annual state aid reports.

The legislation on state aid in Albania is generally compliant with the respective EU legislation. However, the law "On State Aid"<sup>79</sup> is currently being amended principally as a result of the changes that the relevant EU legislation has undergone. As per a Council of Ministers' Decision, dated 11.06.2009, the draft-law for the amendment of the law "On State Aid" has been approved. This decision included a series of changes regarding the field of implementation, the conditions necessary for offering state aid in specific cases, etc. Since January 2006, the regulations pursuant to the law came into force, as approved by the Decision of the Council of Ministers.<sup>80</sup> Meanwhile, the Commission on State Aid (CSA) has issued several guidelines pursuant to the law on state aid.

---

<sup>78</sup> The existing staff, especially the new members, have participated in training activities both in the country and abroad organized by OECD, ICN, TAIEX and the parallel authorities in other countries including those in the region, Public Administration Training Institute, etc.

<sup>79</sup> Law no. 9374, dated 21.04.2005.

<sup>80</sup> On December 28<sup>th</sup>, 2005, three CMDs were approved regarding the conditions and procedures in providing regional aid, the conditions and procedures in providing rescue and reconstruction aid, and the procedures for the announcement form, which are all based upon the guidelines and respective regulations of the European Community.

During 2008, the CSA issued two new guidelines. The first guideline<sup>81</sup> identifies the conditions and criteria necessary regarding the allocation of state aid for services of a general economic interest. The second guideline<sup>82</sup> delineates the state aid criteria in the area of securing export credit. In April 2009<sup>83</sup>, the 2009 interest rates for the return of state aid that was illegally allocated were defined.

The institutions directly connected with state aid are the Directorate of State Aid (DSA), which is under the jurisdiction of the METE, and the CSA. During October 2008-September 2009, attention was limited to the training of the DSA staff, within the framework of the CARDS 2005 program for “capacity-building in the state aid sector.” Within this program foreign experts facilitated staff training and qualification in reference to tangible cases of state aid and individual schemes. They brought European experiences to the table regarding the resolution of similar cases.

In the beginning of 2008 the evaluation of all the country’s existing state aid schemes was completed and, after being approved by the Council of Ministers,<sup>84</sup> a summary report on the Inventory of the Existing Schemes was sent to the European Commission. Although the largest portion of these schemes was in compliance with the relevant European regulations, some of them were non-compliant. As a result the DSA is preparing a summary report with relevant recommendations regarding these exceptions. In June 2009 the Council of Ministers approved the Annual Report on State Aid for 2008.<sup>85</sup>

During 2008, two new state aid schemes were discussed and approved. The first dealt with the reimbursement of the excise tax on the combustible fuel used in heated greenhouses for the production of industrial and agro-industrial products that are used for fulfill technological needs of production. The second scheme dealt with exemption from the excise tax on combustible fuel used for the production of electrical energy in thermo-power plants that exceed 5MW.<sup>86</sup> In September 2008, a guideline<sup>87</sup> was approved for the analytical methodology for the costs of state aid in the form of short-term export credit insurance. The possibility of offering subsidies to the iron and steel industry was discussed, but it was decided not to implement these types of schemes. In May 2009 the CSA approved the plan for the allocation of state aid to areas that have the free economic zone status in Vlora.<sup>88</sup>

In April 2009, in response to both Article 72 of the SAA and to the NPISAA as well as with the assistance of foreign experts, the Commission on State Aid approved the state

---

<sup>81</sup> Approved through Decision no. 26, dated 17.06.2008.

<sup>82</sup> Approved through Decision no. 28 dated 25.09.2008.

<sup>83</sup> Decision of the Commission on State Aid no. 29, dated 08.04.2009.

<sup>84</sup> CMD no. 45, dated 16.1.2008.

<sup>85</sup> Approved through a CMD no. 630, dated 11.06.2009.

<sup>86</sup> These aid schemes were approved by the Commission on State Aid, respectively through decision no. 24, dated 2.5.2008 (amended by decision no. 27, dated 18.8.2008), and no. 25, dated 2.5.2008.

<sup>87</sup> Decision no. 28, dated 25.09.2008.

<sup>88</sup> Decision no.31, dated 06.05.2009.

aid map, which will serve as a basis for determining the destination and quantity of state aid allocated to different regions in the country. In the absence of the per capita GDP indicators for every region, indicators of the level of unemployment, the level of poverty, access to services, etc., which were acquired from INSTAT, were used to prepare the map.

In general, visible progress in regards to state aid has been noted and the measures envisioned in the NPISAA were achieved; in several aspects progress has even gone beyond what was originally planned. However, a number of governmental acts regarding measures that might deform the relevant market structures are not evaluated by the DSA's competent filter. An expected increase in the volume of work and the complexity of the cases reviewed will require the further strengthening of capacities for analysis, evaluation and monitoring of state aid.

## 5. EUROPEAN STANDARDS

### 5.1 Public Procurement

Legislation alignment in the field of public procurement should be achieved during the first five years of the SAA's implementation (article 70).<sup>89</sup> Among others, Article 74 of the SAA highlights the need to put community legislation into practice in the public procurement field as well as the Community's obligation to periodically review Albania's implementation of this legislation, and the parties' commitment to have open public contracts based on the principles of non-discrimination and reciprocity.

Public procurement procedures and the relevant institutions' activity are based on law no. 9463, dated 20.11.2006, "On Public Procurement", and amendments (not fundamental) that were made to this law through law no. 9800, dated 10.09.2007 and through law no. 9855, dated 26.11.2007.<sup>90</sup> The review process of the law "On Public Procurement" has continued throughout this period and it has focused upon two targets: procurement in the utility sectors (supplying potable water, electricity, transport, and postal services) and the grievances review system. According to the prepared draft-law, the reviews will not be under the jurisdiction of the "Public Procurement Agency", but rather they will be handled by a collegial body under the auspices of the Prime Minister. The amendments to the law "On Public Procurement" were discussed by the Council of Ministers in July 2009 and the draft-law is expected to swiftly pass onto the Parliament. The Council of Ministers' Decision no. 659, dated 03.10.2007, "On the regulations for carrying out public procurement procedures through electronic means"<sup>91</sup> paved the way for electronic public procurement. In January 2009, the Council of Ministers decided that all public procurement procedures would be conducted electronically.<sup>92</sup> In January 2009 the Council of Ministers issued the decision<sup>93</sup> "On some amendments and additions to Decision no. 1, dated 10.01.2007, 'On approving public procurement regulations'", which dealt with concentrated procurement and the central purchasing authority, the adjustment of monetary constraints and the setting of the regulations for using electronic means in the public procurement process. In December 2008, the Council of Ministers approved the public auction regulations.<sup>94</sup> The law regarding public procurement only ensures a partial harmonization with the *acquis*<sup>95</sup>, while the harmonization process has progressed slower than predicted.

---

<sup>89</sup> Meaning within 5 years before the implementation of the Interim Agreement, since public procurement is part of this agreement, which came into force in December 2006.

<sup>90</sup> The first change is linked with the procurement procedures in case of extreme urgency, while the second with the energy trade allowing procedures without previous publication and the use of framework agreement.

<sup>91</sup> This decision was amended in September 2009 by the Council of Ministers, which aims to complete the system and the security of the public procurement procedures.

<sup>92</sup> CMD no. 45, dated 21.01.2009, "On conducting public procurement procedures electronically".

<sup>93</sup> CMD no.46, dated 21.01.2009.

<sup>94</sup> CDM no. 1719, dated 17.12.2008.

<sup>95</sup> Directives 2004/18/EC and 2004/17/EC.

The institutions responsible for the implementation of the legislation in force in the field of public procurement are the Public Procurement Agency (PPA), the Procurement Attorney and Contracting Authorities. During the period October 2008 – September 2009 training and qualification activities have continued. However, the need for training, for knowledge of legislative requirements and on public procurement procedures continue to remain abundant, especially in regards to the electronic procurement procedures.

In the report submitted to the Albanian Parliament on 04.03.2009, the Procurement Attorney raised a number of concerns regarding public procurement, based on complaints of interested parties and the results of the respective investigations.<sup>96</sup> These concerns were related to the noted shortcomings in tender documents and procedures, with the placement of discriminating criteria, the favoring of operators that did not fulfill the defined criteria, the protracting of tender procedures or complaint reviews, the failure to respect the regulations in cases when administrative investigation was underway, etc.

The Procurement Attorney (PA) also raised concerns regarding electronic procurement. Electronic procurement not only offers the possibility to cut costs but also to expedite the tender procedures. Moreover, it presents the opportunity to apply the principles of transparency and equality of operators as well as the increase of competition and the enhancement of products or services offered. The increased efficiency of the PA's interventions would not only require the implementing and reviewing public procurement authorities to reflect upon the problems presented by the new system, but also to clarify the competences of the institutions responsible for implementing public procurement legislation.<sup>97</sup>

Aside from the principles of transparency, of equality in the tender process and of encouraging competition, it is important to keep in mind that the effectiveness of public procurement procedures also depends upon respecting product or service quality as well as the their timely delivery. As their main responsibility, the relevant institutions must require clarification and formalization of product quality as well as quality review services during and after the implementation of the tender contracts.

## **5.2 Education and Scientific Research**

A number of requirements and obligations arise from the Stabilization and Association Agreement (Article 100) in regards to Albania's education system and scientific research. During the period from October 2008–September 2009 progress has been noted in the achievement of several objectives and in the undertaking of legal and institutional

---

<sup>96</sup> According to the report, during 2008, 354 grievances were sent to the Procurement Attorney, of which 210 underwent administrative investigation. Administrative examination was carried out has been in regards to 144 of these cases and due recommendations were issued. For 53 of these cases the procedure monitoring process began with the initiative of the Procurement Attorney and relevant recommendations were issued. In 102 of the cases the recommendation issued was procedure cancellation due to observed infringements (irregularities in the bid documentation or incomplete procurement procedures).

<sup>97</sup> In the Annual 2008 Report on the APP, the cooperation with the Procurement Attorney was reviewed positively; however, the report reservedly states a number of remarks and recommendations regarding the responsibilities of the Agency.

initiatives envisioned in the National Plan for the Implementation of the SAA in the areas of pre-university education, vocational training and education, higher education, and scientific research.

The program “Quality and Equality in Education”<sup>98</sup> has fleshed out the development of *pre-university education*. Among the most important developments in basic education for the academic year 2008-2009 has been the inclusion of the 9<sup>th</sup> grade as well as the functioning of preschool for children of 5-6 years of age who have not attended kindergarten. Changes have also been made to the university curricula in the pedagogy faculties. In July 2009 the Council of Ministers approved<sup>99</sup> the National Strategy for Pre-university Education for the period 2009-2013.

Developments have been noted in the vocational education and training field (VET). At the end of October 2008 Law no. 8872, dated 29.03.2002 “On vocational education and training in the Republic of Albania” was amended in regards to the time span of Vocational and Technical Education, which will be adapted to the new pre-university educational structure (the inclusion of the 9<sup>th</sup> grade as compulsory). Meanwhile, priority is being given to the full alignment of this law with the requirements of European legislation with the help of international experts.

Based on the requirements of the National Plan for the Implementation of the SAA in the field of vocational education and training, the Ministry of Education and Science, in cooperation with the National Agency for Vocational Education and Training (NAVET), has supported the process of reforming the vocational education and training regarding the following matters: the establishment of a unique, national system for vocational qualifications to be recognized on a national and international level; the drafting of the national list of professions<sup>100</sup>; the drafting and review of the draft curricula for professional qualifications; the identification of criteria and standards for the accreditation of the institutions offering vocational education and the standards for the evaluation and certification of vocational education and training programs. At the end of May 2009, the Council of Ministers issued a decision to adopt the draft-law “On the Albanian qualifications framework”, which corresponds to the European Qualifications framework. In June-July 2009 a new structure was created for vocational and technical education and was based on the new planned programs and draft-curricula<sup>101</sup>.

An important institutional development in the field of vocational education and training was the creation of the National Council for Vocational Education and Training

---

<sup>98</sup> The program “Quality and Equality in Education” is supported from the World Bank and other donors. The four priority fields of the Program include: (i) government – the reformation and strengthening of the administrative capacities, (ii) the improvement of the teaching and learning process quality, (iii) financing the pre-university education, and (iv) increase in capacities and developing human resources.

<sup>99</sup> CMD no. 799, dated 22.07.2009

<sup>100</sup> Approved through a CMD no. 627, dated 11.6.2009

<sup>101</sup> The duration of the professional education will be scaled in  $2+1+1 = 4$  years; for technical education, information and communication technology and business will be  $2+2 = 4$  years, and for technical education in veterinary and geodesy, 4 un-scaled years.



(NCVET) as an advisory body to the government, the Ministry of Education and Science, and the Ministry of Work, Social Issues and Equal Opportunities. It will enable the incorporation of the social partners' perspectives in the decision-making process for the development of VET.

Developments in *higher education* are also in general correspondence with the requirements of the NPISAA. As part of the implementation of the law on higher education<sup>102</sup>, a package of by-laws were drafted regarding the organization of studies into three higher education levels as well as the guaranteeing of standards to ensure quality and the competent management of universities. The National Strategy on Higher Education which aims, among other things, to reform the system of higher education as such that it will be in harmony with the Bologna Process was approved by a Council of Ministers' Decision in July 2008.<sup>103</sup> The contributions towards the Excellence Fund within the framework of the "Brain Gain" Program were increased for 2008. In August 2009, regarding the issue of diploma accreditation, the Council of Ministers approved the draft-law "On licensed professions", which is expected to swiftly pass onto the Parliament.

During the period under review, the opening of a number of private institutions (not public) and new academic programs, where a specific place was reserved for second-level diploma programs (SLD) as well as first and second level masters programs and PhD programs, was approved through a CMD. The already initiated process of internal quality evaluation conducted by the Institutions of Higher Education (IHE) as well as external evaluation conducted by the Public Agency for the Accreditation of Higher Education (PAAHE) and certified international institutions is expected to contribute to the fulfillment of quality standards.

The scaling and specialization of the IHE, as an expected result of the accreditation process (quality evaluation), would contribute to the increase of quality and the consolidation of the undergraduate and graduate level education in Albania. The experience drawn from the pilot project in the Faculty of Integrated Practice and Studies at the University of Durrës can serve as an example for expediting the specialization and scaling process. Moreover, the introduction of the state license exams for a series of important professions will bring forth positive results.<sup>104</sup> Focusing on the increase of human resources and infrastructural capacities in the pedagogical process, in placing more attention on the needs and trends of the labor market, and in the encouragement of competition among the IHE regarding their internal quality systems, will also contribute positively towards the fulfillment of the quality standards of higher education in Albania.

Developments regarding scientific research have been noted. The Ministry of Education and Science (MES), through the Directorate of Scientific Research (DSR), has

---

<sup>102</sup> Law no. 9741, dated 21.05.2007, amended through Law no. 9832, dated 12.11.2007.

<sup>103</sup> CMD no. 1509, dated 30.7. 2000, "On the approval of the national strategy of higher education 2008-2013".

<sup>104</sup> As per the draft-law "On regulated professions in the Republic of Albania, approved by the Council of Ministers on 26.08.2009.

undertaken a series of important steps towards integrating the Albanian scientific research system with the European one. These steps aim to open up new areas for international collaboration and to boost Albanian institutions' participation in the network of European scientific research programs. In December 2007, Albania signed a Memorandum of Understanding with the European Commission for its participation in The Seventh Framework Program for research and technological development (FP7)<sup>105</sup> which was launched on January 1<sup>st</sup>, 2008. During all of 2008 bilateral programs of scientific and technological cooperation have continued. Examples of these collaborations include programs with Italy within the framework of the 2008-2010 project based on the Third Executive Program, as well as programs with Macedonia and with Slovenia. In July 2009, the Council of Ministers approved the Science, Technology and Innovation Strategy, while in August 2009 it approved the establishment of the Agency for Research, Technology and Innovation.<sup>106</sup>

The Directorate of Scientific Research has monitored all the IHE and has offered its aid regarding the implementation procedures of scientific-research projects. It has recommended actions to be taken within the framework of FP7 applications and has requested the preparation of universities' strategies for research activities as well as the establishment of offices for scientific research.

Besides all these positive developments, research work has yet to be integrated as an indispensable dimension of higher education. Its integration as such and the increase in research quality are foreseen as long-term goals. In a considerable number of cases, university staff's commitment to undertake research is sporadic or supported on an individual basis. However, regarding the academic year 2008-2009, an intensification of scientific work organized on a project basis has been noted in some cases.

### **5.3 Employment and Social Policies**

Regarding *employment*, the NPISAA (referring to Articles 46, 47, 48, 77 and 99 of the SAA) stipulates its main objectives as (i) the achievement of compatibility with community instruments in force in the Community member countries regarding workers' mobility, (ii) the creation of facilities for access to employment for Albanian citizens within the framework of bilateral agreements with member countries, (iii) the implementation of reforms in the field of employment and the undertaking of the relevant policies, (iv) the adjustment of Albanian legislation regarding working conditions and equal opportunities for women, and (v) the boosting of the general academic and vocational training levels.

Based on the NPISAA and the Sectoral Strategy for Employment 2007-2013,<sup>107</sup> during the period under review, progress has been noted regarding the fulfillment and harmonization of the legal framework, policies encouraging employment, and vocational

---

<sup>105</sup> The Seventh Framework Program is the main instrument of the European Union for financing research and development, with a duration of 7 years (2007-2013), with a budget of over 50 billion Euros.

<sup>106</sup> Respectively through CMD no. 863, dated 29.07.2009 and CMD no. 903, dated 26.8.2009.

<sup>107</sup> Reviewed (completed) through a Council of Ministers' Decision, dated 6.5.2009.

education and training. The review process of law no. 8872, dated 29.03.2002, “On Vocational Education and Training” is almost complete. Meanwhile, the drafting of the Council of Ministers’ Decision “On the organization and functioning of the National Council of Vocational Education and Training” and “On the procedures for professional business internships for students attending vocational education and training institutions as well as the means of state support” is underway. In May 2009 the draft-law “On the Albanian Qualification Framework” was approved by the Council of Ministers. Although a partial legislation harmonization in this field was predicted for the short-term period of 2008-2009, it has been delayed.

During the period under review, several measures were taken to improve the employment service infrastructure. Setting up a software information system for the General Directorate of National Employment Service as well as for the regional employment offices in Tirana and Korça has been completed. Efforts are being made to digitalize and reconstruct other regional and local offices. With the support of the “AlbVET” project financed by the Swiss government, a mobile vocational training center for the north-eastern region has been set up. This center offers computer classes and foreign language courses. There have been increased efforts to expand the network of public vocational training centers funded by the state budget (in Elbasan, Fier, Durrës, Gjirokastra and Korça).

In the field of *social protection*, the main objective of the NPISAA is the adaptation of the social insurance and social protection systems to the new economic and social requirements consistent with Article 98 of the SAA (and with the requirements of a series of other international, European, and national documents, including the Sectoral Strategy for Employment 2008-2013). Moreover the NPISAA foresees the implementation of a system of social protection and standards that combat social exclusion and discrimination.

The activity in the field of social protection is regulated by law no. 9355, dated 10.03.2005, “On Social Aid and Social Services” and the pursuant by-laws. Based on this legal framework a series of social protection programs were developed such as the Economic Aid Scheme, Welfare Payments for Persons with Disabilities and the Program of Social Care Services. Pursuant to the Sectoral Strategy on Social Protection, the Council of Ministers approved the “Development Document for the Elderly 2009-2013” in June 2009, which aims at building instruments to support the elderly. During the period under review, a number of legal initiatives envisioned in the NPISAA or other relevant strategies have been undertaken. These include the outlining of a draft-CMD regarding custody standards as well as a draft-CMD for the improvement of CMD no. 564 “On the licensing of social service providers”. In June 2009 the guidelines on licensing procedures of social service providers were approved, as per the Council of Ministers’ Decision “On the licenses and permits administered by or through the National Licensing Center.”<sup>108</sup>

---

<sup>108</sup> Guideline no. 1456, dated 28.7.2009; CMD no. 538, dated 26.05.2009.

Procedures for making some improvements on law no. 9355, dated 10.03.2005, “On Social Aid and Social Services” have been initiated. These improvements will include new categories of people under the umbrella of welfare services. A study was conducted to evaluate People with Disabilities’ (PwD) level of impairment and the gathering of feedback is an ongoing process within the framework of “The Status of People with Mental, Physical and Sensory Disabilities”, as per the Strategy for PwD.

While the minimal unemployment benefits have risen,<sup>109</sup> efforts have been made to increase economic aid payments<sup>110</sup> by placing the condition of partaking in voluntary community work as a prerequisite for aid,<sup>111</sup> thereby guaranteeing social inclusion.<sup>112</sup> However, not only is there a need to improve social protection programs, but also to ensure better implementation of these programs. Parallel to the enforcement of the Social Service Inspectorate’ role, a more inclusive monitoring and evaluation process regarding social protection schemes is required, as well as more complete and concrete analysis of poverty and social exclusion. Statistical surveys such as the Living Standards Measurement Study (LSMS) provide indicators that should be utilized in a budget planning, but they are not sufficient for the drafting, expansion and adaptation of social protection schemes as per the given circumstances. The effects of the global economic crisis, which continue to influence the country’s economy, require increased awareness about vulnerable social groups as well as the increased utilization of schemes to promote employment and social support.

#### **5.4 Commitments due to the World Trade Organization membership**

The Stabilization-Association Agreement envisions Albania’s fulfillment of the rigid responsibilities that stem from its World Trade Organization (WTO)<sup>113</sup> membership as one of the country’s most crucial obligations. Emphasis has been placed on its implementation of Article XXIV of the General Agreement on Tariffs and Trade (GATT) 1994. In July 2009, the Council of Ministers issued a decision<sup>114</sup> “On the notifications pursuant to the WTO agreements on technical trade barriers as well as on sanitation and phyto-sanitary measures”. Albania continues to contribute to negotiations in Geneva within the framework of the Doha Agenda for Development, which deals with access to the agricultural goods market, the non-agriculture goods market (Non-Agriculture Market Access -- NAMA) and the services market. In these negotiations Albania has been placed in the *Recently Acceding Countries* (RAC) group, aiming to maintain its current status (it’s classified as a *Small Vulnerable Economy* – an SVE country) in the market liberalization process.

---

<sup>109</sup> Up to 6.340 Lekë per month, in line with CMD no.631, dated 11.06.2009.

<sup>110</sup> The funds for Economic Aid (EA) in 2008 were 34% higher than in 2007, reaching 3.5 billion Lekë. For the first time, in July 2008, EA was indexed at 10%. The average economic aid measure in 2009 is predicted to reach 4.000 Lekë, compared to 3.000 Lekë of year 2008 and 1.800 Lekë in 2007.

<sup>111</sup> Participating part-time in community work (several times a month) is a legal obligation for all members able to work of the families included in the EA scheme. In municipalities/communes with sufficient income, community work projects with full-time participation are also implemented.

<sup>112</sup> In 2009, 120 thousand disabled people are treated, compared to 105 thousand in 2007.

<sup>113</sup> Marrakesh Agreement which established WTO, 1995.

<sup>114</sup> Decision no. 789, dated 22.07.2009.

During 2008 the WTO completed its evaluation of the Interim Agreement between Albania and the European Community. Although the Interim Agreement fully respected the WTO's relevant requirements, its implementation in practice requires more consideration. The current liberalization of tariffs substantially exceeds the nation's commitments to the WTO in this area, most prominently as a result of the implementation of the Interim Agreement. Moreover, it was impacted by the regional market liberalization agreement – the Central European Free Trade Agreement (CEFTA) 2006. On the other hand, problems implementing the agreement have been observed in the following areas: non-tariff liberalization, upholding the principles of non-discrimination, free market competition, state aid, public procurement, the services market, and intellectual property. During 2008, a debate was sparked among representatives of interest groups regarding a number of cases that reflected discriminatory stances against businesses. The exemption from Value Added Tax (VAT) of the local printing presses that produce school texts was deemed a violation of the WTO's principle of nondiscrimination.

The General Policy Directorate (The Sector for Relations with the WTO and Economic Integration), which is under the jurisdiction of the Ministry of Economy, Trade, and Energy (METE), is responsible for monitoring the implementation of the obligations that derive from Albania's WTO membership. The Directorate of Trade Policies has approved an action plan regarding “the administrative capacities for coordinating and administering trade policies in Albania”. During the monitoring period the staff qualification process has been ongoing.

Following a proposal from the Directorate of Trade Policies, the Albanian Parliament adopted amendments to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), which had been discussed during the Doha Negotiations Round. The Sector for Relations with the WTO and Economic Integration, in cooperation with the Public Procurement Agency, is drafting the negotiation strategy for Albania's admission into the WTO's Public Procurement Agreement. In October 2008 a self-evaluation process was carried out regarding trade facilitation, which included the relevant institutions and representatives of the business community. Moreover, the preparation of the “Trade Policies Magazine” is foreseen.<sup>115</sup>

---

<sup>115</sup> ‘Trade Policy Review’ an evaluation that a member country prepares and presents at WTO.

## 6. SECTORAL POLICIES

### 6.1 Agriculture

Among one of the key objectives that will guarantee tangible benefits from the SAA is the modernization of the agriculture and agribusiness sectors. The legislation harmonization requirements in the areas of food product safety, the health and well-being of animals, plant health, environmental protection, the control and inspection system, and the development of administrative infrastructure are set out in Articles 76 and 70 (3) of the SAA. According to the Document of Partnership the priorities in this sector are closely linked with measurable markers such as the following: the drafting and implementation of legislation and the strengthening of capacities in the areas of food safety as well as phyto-sanitary and veterinary control, the preparation of a clear strategy for the agribusiness sector, including the establishment of a national payment agency for farmers, the drafting of a clear strategy for land use and rural development, and the modernization and raising of standards in the fishing sector.

The implementation of the law no. 9863, dated 28.01.2008, “On food” continues to be problematic. The foremost problem regarding its implementation remains the limited financial means for the establishment of the needed physical and administrative infrastructure. The Albanian government has sought assistance from the EU and it foresees using these funds to further support the establishment of a food safety system during the period 2010-2011. The majority of this law is in line with European legislation, but some special elements still need to be adopted, which will require a transitional period.

During the period under review, the Ministry of Agriculture and Consumer Protection (MACP) approved several orders and a Council of Ministers’ Decision for Product Labelling.<sup>116</sup> The other portion of legislation, which was approved in the form of Ministry of Agriculture orders, is connected with a series of regulations that affect the production and selling of food products such as jam, meat and milk as well as the requirements that must be met in order to harmonize legislation and guarantee food safety.<sup>117</sup>

---

<sup>116</sup> CMD no. 1344, dated 10.10. 2008 “On labelling food products”.

<sup>117</sup> Order no. 427 dated 01.10.2008 “On the approval of the Regulation “On specific rules of the trichinella official check on meat”. Order no. 438, dated 01.10.2008 “On the approval of the Regulation “On public health requirements and veterinary certificate in exporting technologically treated milk, dairy products and untreated milk for human consumption in the Community”. Order no. 439, dated 01.10.2008 “On the approval of the Regulation “On public health requirements and certificate model for the import of specific meat and treated stomach and intestine products for human consumption in third countries”. Minister’s Order no.1, dated 26.01.2009 “Regulation on aromas used or specifically used for food.” Minister’s Order no.33, dated 26.01.2009. “Regulation on an inventory or the sources of materials and items used in aromas’ preparation. Regulation “On sampling methods for the official check of pesticides in plant or animal derived products” approved through a Minister’s Order no.9, dated 18.08.2009. Regulation on health rules that cover the production, distribution and import of animal based products for human consumption” is

Parallel to addressing the legal aspects, other measures have been taken, which tackle building human resources capacities and raising public awareness about product safety. Under the auspices of the Technical Assistance and Information Exchange (TAIEX) program European experts have assisted local staff and have helped them implement legislation in the area of food safety. Specifically, they have helped them initiate the evaluation process for the agro-food establishment as well as offered assistance regarding European legislation for new food products and Genetically Modified Organisms (GMOs).

In order to raise the standards in the veterinary field and to narrow the gap with EU legislation in this area some legal and administrative measures have been taken. In January 2009 the Ministry of Agriculture Order no. 4, dated 12.01.2009, “Regulation including a claiming document and veterinary check-up for all animals that enter the EC from third countries” was approved.

## **6.2 Agribusiness and the Agro-Processing Industry**

The agricultural and agro-processing sectors require essential changes aimed at increasing productivity and competitiveness in the local market as well as the EU market. This can be achieved through the development and support of private initiatives and the increase in efficiency of the state sectors in support of these initiatives (Article 95 in the SAA). Besides the approval of the Ministry of Agriculture’s Strategy for 2007-2013 this institution has only taken minor legal and administrative measures to improve the agribusiness sector. One of the most important initiatives to be undertaken in the field of agro-processing is the drafting and adoption of the regulation for determining and protecting the origins of agricultural products.

A project for the Creation of a Cadastre of Albanian Wines (2007-2009) was made possible through financing from the CARDS program and the EU. The objective of the project is its interrelation with the implementation of the SAA, with the fulfillment of the recommendations of European Partnership as well as with the Sectoral/National Strategy. Within the framework of this project two draft-laws were prepared for the viticulture field.<sup>118</sup> The Albanian government has undertaken measures for the establishment and functioning of a national payment agency for farmers.<sup>119</sup> After the legal foundations had been laid for the creation of this agency steps were taken to select its staff and to commence its work.

Law no. 9948, dated 7.7.2008, “On the legal validity of issuing title deeds for agricultural land” marks a step forward in the completion of the Land Reform in Albania. However,

---

approved through a Minister of Agriculture’s Order no.3 dated 30.04.2009. Regulation on microbiological criteria was approved with a Minister of Agriculture’s Order no. 4 dated 30.04.2009.

<sup>118</sup> Draft-law “On wine-viticulture cadastre” and the Draft-law “On determining the origins and geographical indications of wine and grape by-products”.

<sup>119</sup> CMD no. 1443, dated 31.10.2008 “On Establishing the Payment Agency”.

during the period under review, the only legal measure taken regarding this reform is the legal basis for the creation of the national payment agency.

Meanwhile, there has not been a lack of trainings and seminars with representatives from the Albanian government and international and European bodies that provide assistance in this area. However, the absence of a long-term strategy for rural development in Albania once again remains a priority that the Albanian government must address.

### **6.3 Animal Products, Plant Protection**

In regards to the NPISAA framework and the commitments arising from the SAA (Article 70) for the harmonization of the legislation in the area of animal products, several legal initiatives have been drafted:

- CMD no. 1708, dated 29.12.2008, “On the implementation of programs for the *in-situ* protection of indigenous species of cattle”
- CMD no.1555, dated 12.11.2008, “On the approval of the regulation and assessment criteria of the Products for the Protection of Plants (PPP)”, a decision that is in the process of being approved by the line Ministries
- Minister Order no.187, dated 11.06.2009, “On the animal health regulations regarding cattle trade”
- Minister Order no. 235, dated 27.07.2009 “On biosecurity measures for the reduction of the transmission risks of highly pathogenic Avian Influenza (HPAI)”
- Minister Order no. 196, dated 11.06.2009, “On the approval of the diagnostic manual for the Avian Influenza”
- Minister Order no. 236, dated 27.07.2009, “On several protection measures regarding type H5N1 of the HPAI in wildfowl”

The majority of the aforementioned by-laws are compliant with European legislation. Within the framework of legislation harmonization in the area of plant protection there has not been further progress noted during the period under review.<sup>120</sup>

The necessary funds have been allocated to the creation and operation of a quality analysis laboratory at the Institute of Veterinary and Food Safety and, which will deal with animal protection products and the traces these products leave in plants. The tender process for this project is nearing its conclusion, and the announcement of the winning company is expected. Until now the MAFCP funds have helped treat all highly infested areas invaded by locusts, fruit flies, field mice and olive flies in the coastal lowlands.

### **6.4 The Fishing Sector**

Legislation harmonization and bilateral cooperation are the foundations of the requirements deriving from the SAA regarding the fishing sector (Article 96). The two

---

<sup>120</sup> The most recent measures in this field are Law no. 9908, dated 24.04.2008 “On some amendments and additions on law no. 9362, dated 24.03.2005 “On the Plant Protection service” and CMD no. 1188, dated 20.08.2008 “On approving regulations on plant protection products’ import, trading, preservation, use and dispose of”.



main goals are to ensure the stable development of the fishing sector in order to optimally increase production without destroying the relevant ecosystems as well as to support the managerial and co-managerial processes by rehabilitating the infrastructure, development, and licensing of fishing enterprises.

Although at a slow pace, the Albanian institutions are working towards improving this sector's legal and institutional frameworks. Currently, the Council of Ministers' draft-decision "On the Fishing Inspectorate and the establishment of a monitoring system for the implementation of fishing managerial policies" is underway.

From the general analysis performed on this sector during the period under review, it was noted that the following issues continue to be problematic: the lack of sufficient financial means to implement the policies approved for this sector, the lack of administrative capacities needed for the implementation of these policies, and the lack of planned measures and concrete implementable steps congruent with this sector's current capacities. These factors cause the relevant actors to exhibit indifference towards the process of policy drafting and the decision-making process, which ultimately affects the progressive development of this sector.

## **6.5 The Environment**

The environmental protection sector encompasses several areas including the following: accelerating the relevant legislation harmonization process, increasing capacities and forging cooperation amongst the relevant institutions on the local and central levels, addressing the priorities and undertaking measures for the enhanced protection of several problematic areas in Albania, as well as applying the international conventions in this field.

The legal framework regarding environmental protection comprises several important laws that reflect the European legislation standards to a considerable degree. These include Law no. 8934, dated 05.09.2002, "On Environmental Protection", Law no. 9700, dated 26.03.2007, "On protecting the environment from cross-border influences", and Law no.8990, dated 23.01.2003, "On environmental impact assessment".

One of the basic requirements of the SAA is the drafting and implementation of the horizontal legislation needed to provide integrated environmental protection and to ensure the use of sustainable natural resources. Parallel to the completion of the legal framework, the following steps must also be taken: the designation of environmental impact assessment, the approval of environmental licensing as well as the strengthening of local structures and capacities for the implementation of the horizontal legislation. Moreover, increased public involvement in the process of environmental impact assessment, increased public access to environmental information as well as increased public and NGO sector participation in the decision-making process regarding environmental issues represent another integral cluster of SAA requirements.<sup>121</sup>

---

<sup>121</sup> In order to achieve public engagement CMD no. 994, dated 2.07.2008 "On public engagement in the decision making process", was approved.

In October 2008, as per a Council of Ministers' Decision, the Report on Environmental Conditions in Albania for the 2005-2007 period was approved. Moreover, the decision "On regulations and procedures of projects that assess activities with a negative environmental impact in neighboring countries" was also approved. This act is in accordance with the relevant EU directives (Directive 97/11/EC and 2003/35/EC). During this period, the guidelines are being drafted on communication between Albania and neighboring countries' authorities for activities that exert a negative environmental impact as well as for the expenditures list, and the methodological criteria for cross-border procedures of the Environmental Impact Assessment (EIA). Within the framework of environmental protection, the draft-law "On protecting wild fauna" has been outlined. It provides for a partial harmonization with the EU directive on birds (79/4009EC) as well as designates several areas, including Shrebenik Jabllanicë Park and Bredhi i Hotovës Park, as national parks.

Several trainings have been organized for the regional environmental agencies regarding the enhanced measures undertaken on a cross-border level for environmental protection. These trainings will continue throughout 2009. During the period under review, most of the planned inspections were carried out as well as some impromptu inspections. Within the framework of pollution elimination and the development of a transfer register, the environmental inspectorate, in collaboration with regional environmental agencies, has designed a list of industrial activities that exert a negative impact upon the environment. The inspectorate has undertaken administrative measures such as fines and activity suspension to punish companies that breach environmental standards.

Regarding the management and decontamination of problematic environmental hotspots, the Ministry of Environment has taken several measures during the period under review for the decontamination of the Bajzë area, well-known for its toxic residue contamination, the Oil Refinery of Ballsh, the arsenic residues in Fier, the area of Patos Merinez, Tubik, and PCV Vlora, as well as Porto Romano in Durrës. The rehabilitation and recuperation of all these areas is being carried out within the framework of different projects, the majority of which are supported by EU funds. Due to the fact that the drafting and implementation of projects regarding environmental problems in hotspot areas require a series of bureaucratic procedures, tangible results in environmental rehabilitation are very modest.

No considerable measures have been taken regarding the local government's cooperation in the fight to protect the environment.

## **6.6 Industrial Policies**

The Albanian government's major priority regarding the industrial policy sector is the strengthening of programs and projects that stimulate investments in technology, and that increase competition, modernization, diversity and specialization in the open market. More specifically, the priorities address the requirements that have arisen from articles 70 and 92 as well as the V-Protocol of the SAA in regards to drafting a new restructuring

program for the steel and iron industry. This restructuring is also based on the Non-food Industry Development Strategy.<sup>122</sup>

Until September 15<sup>th</sup>, 2009 the Albanian government had completed a series of steps mainly regarding the adoption of draft-laws that align legislation in this sector with the *acquis* in compliance with the NPISAA. Meanwhile, within the framework of short-term obligations, the draft-law “On the integrated prevention and control of pollution”, which should be in partial compliance with the Directive 96/61EC (amended) and the Regulation No. 1882/2003, has not yet been drafted. This takes on singular importance given the debates that specifically arose regarding the construction of energy and industrial parks in the priority touristic zones of Vlora and Durrës. In relation to the mining sector as a part of industrial policy, the Albanian government and the Ministry of Economy, Trade and Energy have yet to fulfill a series of obligations linked to the supervision of concessionary contracts, particularly in the mining sector. A string of deadly accidents during the execution of concessionary contracts in the Bulqiza mine as well as concerns raised about respecting environmental standards in regards to the approval of the latest projects in the energy sector remain unaddressed. At the same time, a Strategy for the Mining Industry as well as the draft-law that will regulate the relationship between the state and juridical persons regarding mining rights and activities have not yet been drafted.

### **6.7 Small and Medium-Sized Enterprises (SMEs)**

The expedited improvement of the business and investments milieu (Articles 70, 91, and 93 in the SAA) require the government to prioritize policies that stimulate the increase of SMEs’ competition, the attraction of foreign investment in Albania and the stimulation of Albanian exports on the regional and global markets.<sup>123</sup> During the period under review, the Albanian government has generally demonstrated a satisfactory pace in accomplishing the legislative initiatives and in implementing measures regarding the short-term priorities (2007-2008) of the NPISAA. Therefore, the creation of the National Registration Center (NRC) and the establishment of the “One-stop-shop” for business licensing reflected an improvement in the regulatory framework in the field of SMEs, which make up the largest number of enterprises in the country.<sup>124</sup> Meanwhile, the creation of the Albinvest Agency and the approval of the export guarantee fund marked a decisive step in the promotion of SMEs’ export activity.<sup>125</sup> However, in regards to this

---

<sup>122</sup> CMD no. 269, dated 23/04/2004 “On approving the Non-food Industry Development Strategy in the Republic of Albania” (Official Gazette no. 28, 2004, page 2431).

<sup>123</sup> CMD no. 795, dated 11/07/2007 “On the approval of Business and Investment Development Strategy 2007-2013” (Official Gazette no. 170, 2007, page 5109).

<sup>124</sup> Law no. 9723, dated 03/05/2007 “On the National Registration Center (NRC) (Official Gazette no. 60, 2007, page 1604); CMD no. 503, dated, 01/08/2007 “On approving tariffs for the functioning services of NRC” (Official Gazette no. 113, 2007, page 3221); CMD no. 505, dated 01/08/2007 “On approving the NRC status” (Official Gazette no. 113, 2007, page 3222); CMD no. 506, dated 01/08/2007 “On registering and publishing procedures of NRC” (Official Gazette no. 113, 2007, page 3228).

<sup>125</sup> Law no. 9497, dated 20/03/2006 “On the establishment of the Albanian Business and Investment Agency (Official Gazette no. 26, 2006, page 869); CMD no. 112, dated 21/02/2007 “On establishing the Albanian Competition Fund (Official Gazette no. 26, 2007, page 479); CMD no. 489, dated 25/07/2007 “On the Export Credit Guarantee Fund” (Official Gazette no. 109, 2007, page 3164).

sector, another important aspect includes the implementation and the facilitation of procedures for acquiring credit guarantee funds for export by the National Investment Agency. This will boost the economic growth of sectors that face the pressure of competition from European economies.

## 6.8 Statistics

Establishing a new reliable system for national statistics remains one of the main challenges facing the Albanian state regarding the fulfillment of SAA requirements. The recent debates regarding the accuracy of determining the country's economic growth have once again showcased INSTAT's data gathering and processing problems. This phenomenon is also frequently correlated with the institution's partiality.

The main obligation regarding the development of statistics in Albania arises from Article 88 of the SAA on "Statistical Cooperation", which sets forth the precondition that cooperation between involved parties should be mainly concentrated on *acquis* areas. The statistical system should fulfill the basic principles of statistical issues as defined by the UN and the European Statistics Code of Practice. On the other hand, Article 71 of the SAA predicts that Albania will submit *the GDP data per capita harmonized based on Level NUTS II* to the European Commission within a 5 year period from when the SAA came into force.<sup>126</sup>

Based on the above recommendations, the major fields of focus regarding the strategic development of official statistics in Albania are: the creation and strengthening of the identity of the system and the image of official statistics; the development of a statistics culture in Albania; the public administration's increased application of statistical methodology to data-gathering; the harmonization of the statistical information methodologies pursuant to European and international recommendations; and the insurance of statistical cooperation among all operating statistics agencies in Albania.

In addition to law no. 9180, dated 05/02/2004, "On official statistics",<sup>127</sup> which is partially in compliance with the *acquis*, INSTAT has signed some other memorandums with institutions such as the Ministry of Finance, the Ministry of Agriculture, Food and Consumer Protection, the Ministry of Labor, Social Issues and Equal Opportunities, the Bank of Albania. However, there is no other initiative aimed at addressing the aforementioned priorities. Furthermore, the designation of a tangible action plan for Albania's regional reorganization based on level NUTS II, which is directly linked with reporting of statistics on a regional level for Albania, has not been carried out.

---

<sup>126</sup> The authority referred in paragraph 4 and the Commission will jointly evaluate the validity of Albanian regions as well as the aid maximal intensity in order to delineate the regional aid help based on the Community's guidelines.

<sup>127</sup> Law no. 9180, dated 05/02/2004 "On Official Statistics", CMD no. 704, dated 16/11/2005 "On approving the members' representative, election, appointment and discharging criteria and the functioning rules of the Statistics Council".

## 6.9 Energy

The liberalization of the energy market and its integration in the regional markets remains a priority for the Albanian Government, especially following the signing of the Energy Community Treaty.<sup>128</sup> The privatization of the Albanian Energy Corporation (AEC) is part of this objective. The division of the AEC into different companies such as production, transition, and electric energy distribution, is completed and the process of privatizing the Distribution System Operator (DSO) has also been concluded.<sup>129</sup> The Albanian government has received financial support in the energy field by way of different projects funded by foreign organizations such as the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), the World Bank, the German and Spanish governments, and the Japanese grant.

Although the division of the AEC into three companies and the privatization of the DSO are expected to bring forth a new situation in the market, caution is necessary due to the possible emergence of an OCIM (Operator with a Considerable Influence in the Market). This situation may arise because DSO currently operates as a monopoly. For this reason the Albanian government should strengthen regulatory institutions such as the Energy Regulatory Entity (ERE) as well as encourage new operators, so that it can maintain the role of an impartial arbitrator in the liberalized energy market.<sup>130</sup> Problems linked with the administration of the AEC are still current and, according to INSTAT's report for the last quarter of 2008, losses in the network have been up to 32%.

Regarding the sector of **hydrocarbons** the government's short-term priorities include securing a guaranteed supply of hydrocarbon energy resources for the economy through the diversification (variety, abundance and enlargement) of the oil supply resources, gas and its by-products, as well as the increase of crude oil domestic production by 10% a year. Another objective is also the reconstruction and privatization of companies in the hydrocarbons sector, where the state is the owner.<sup>131</sup>

---

<sup>128</sup> Law no. 9501, dated 03/04/2006 "On the ratification of the Energy Community Treaty", Law no.9560, dated 12/06/2006 "On the ratification of the amendment on dispositions regarding trade of the Energy Card Treaty".

<sup>129</sup> CMD no. 1430, dated 29/10/2008 "On the approval of the DSO privatisation offers evaluation report" On 11 March 2009 METE signed the selling contract of 76% of DSO's shares to the Czech CEZ with the price of 102 million EURO (See [www.mete.gov.al/news/11\\_Mars\\_2009](http://www.mete.gov.al/news/11_Mars_2009)).

<sup>130</sup> Parliament's Decision no. 181, dated 05/05/2008 "On the approval of the ERE structure".

<sup>131</sup> Following the privatization of ARMO – the Albanian government provoked the reaction of the hydrocarbon operators allowing only ARMO trade D2 oil until early 2010, which was considered as an infringement of the SAA dispositions. See CMD no. 52, dated 14/01/2009. On the Quality of gasoil (diesel) as a product of oil refinement, extracted in the territory of the Republic of Albania and traded for vehicles and power generators (Official Gazette no.5, 2009, page 82); Guideline of MF & METE, no. 9, dated 29/01/2009 On the execution of CMD no. 52, dated 14/01/2009 On the Quality of gasoil (diesel) as a product of oil refinement, extracted in the territory of the Republic of Albania and traded for vehicles and power generators (Official Gazette no. 5, 2009, page 83) The Decision of CC no. 24/07/2009 (Official Gazette no. 119, 2009, page 5713) to ban this act illustrates the consequences arising in cases of acting in contradiction with international agreements such as SAA and WTO.

## 6.10 Road Transportation

Albania has inherited an outdated infrastructure, which has caused a large number of measures to be undertaken regarding all kinds of transportation. These measures aim at improving the Albanian transport system for its integration into the Trans-European Transport Network (TEN).

The Albanian Government has set the construction of the Durrës-Kukës-Morinë road as well as the completion of North-South and East-West Corridor (Corridor 8) as major priorities. Meanwhile, building road-branches connecting corridors and other national axes, the improvement and development of cross-border and touristic roads, as well as the improvement of the administration system of road infrastructure maintenance, also remain important priorities. The major goal for achieving the aforementioned priorities is developing a road infrastructure that integrates our country within the region and Europe.

Although the work faced in this sector is considerably large, the greatest effort has been put into completing the Durrës-Kukës road, while delays have impeded the construction of the approved road segments that comprise part of the North-South Corridor (i.e. Levan-Tepelena, Fier-Vlora or Shkodra-Han i Hotit). In achieving its goals in the field of road infrastructure, the Government has been supported by several foreign donors as well as by EU funds. The construction of the Lushnja-Fier segment (21.5 km, part of the East-West Corridor, Corridor 8) has been supported by the Italian Cooperation in the sum of 2 952 000 Lekë. The European Investment Bank (EIB) has supported the construction of the Tepelena-Gjirokastra segment (23 km, part of the North-South Corridor) with a sum of 3 456 300 Lekë. The EIB is also expected to offer assistance in the construction of the Fier (Levan) – Tepelena and Fier (Levan) – Vlora segments (43 km, part of the Corridor 8). This assistance will be offered in cooperation with the European Bank for Reconstruction and Development and the value will be approximately 14 760 000 Lekë.<sup>132</sup> For the construction of Shkodra-Hani i Hotit segment (35 km, part of the North-South Corridor), the Italian Government will offer its assistance.

Part of the government's policies for the road transport sector also includes measures undertaken to facilitate the entry of transporters onto the market by guaranteeing fair competition and high standards. The transformation of the General Road Directorate into a public entity is one of these undertaken measures.<sup>133</sup> However, much work remains regarding the completion of the legal framework such as the draft-law "On standards for road projects and construction" following the EU Directives.

---

<sup>132</sup> Law no. 9709, dated 10/04/2007 "On the ratification of the Loan Agreement between the Council of Ministers of the Republic of Albania and the European Bank for Reconstruction and Development (EBRD) on financing the Fier (Levan) – Tepelena road project; Law no. 9849, dated 26/12/2007 "On the ratification of the Loan Agreement between the Council of Ministers of the Republic of Albania and the European Bank for Reconstruction and Development (EBRD) on financing the Levan-Vlora road project.

<sup>133</sup> CMD no. 341, dated 27/02/2008 On the approval of the Action Plan according to the final report for institutional capacity reform and transforming the General Road Directorate in a Public Entity (Official Gazette no. 51, 2008, page 2273)

The implementation of quality standards in infrastructure work as well as road safety for transport vehicles still remains a problem. Albania has a high rate of accidents because of poor road infrastructure, the fact that the roads are not well-lit, illegal buildings and inadequate road signs.<sup>134</sup> Other priorities include the determination of key elements of transportation such as speed and commodity of movement versus negative environmental impact and safety.

Financial support in the field of road safety was obtained through the “Road Safety Project” as a component of a World Bank Project called “Road Maintenance”. On the other hand, a new system of reporting of accidents will be created in accordance with Directive 93/704/KE in cooperation and with the assistance of the World Bank.

### **6.11 Railway Transportation**

The reconstruction of the Albanian railway system is a forgotten priority of the Albanian government. During the transition period, the railway sector lost its previous importance in nation’s transport system and its infrastructure is highly damaged and its administration is inefficient. The legal framework consists only of Law no. 9317, dated 18/1/2004, “The Railway Code of the Republic of Albania” and during this period there have been no other legal initiatives aimed at fulfilling the legal framework and its harmonization with the *acquis*.

### **6.12 Sea Transport**

The Transport Sectoral Strategy of 2008<sup>135</sup> and the NPISAA are the basic documents that define the development trends in the field of transportation, under the umbrella of which sea transportation is included. In regards to sea transport, the National Implementation Plan of the SAA<sup>136</sup> sets forth the development and rehabilitation of ports, the implementation of economic reforms, increased income through a tax and price policy, as well as the creation of a regulatory and legal system in accordance with European standards. These measures will guarantee an optimal operation of transport services based on higher levels of competition.

The process of rehabilitation and modernization of ports (Durrës and Vlora) has progressed slowly. Following the signing of the Paris Memorandum of Understanding, Albania still suffers from a high number of blocked ships that do not fulfill the security standards to dock in other ports. Different donors, amongst which the EU, have offered their support in developing and modernizing ports in the country. For instance, for the development of the port of Vlora, an agreement has been signed with *Cooperazione Italiana* to finance the completion of phases 1 and 2 and part of phase 3 with a sum of 15,

---

<sup>134</sup> The problem of road infrastructural and safety conditions was stated by Mr. Jonathan Scheele, DG Transport and Energy Director during the preparation of the negotiations for the Transport Community Treaty between the EU and the Western Balkans. (Source: [www.delalb.ec.europa.eu](http://www.delalb.ec.europa.eu) 26 March 2009).

<sup>135</sup> CMD no. 1214, dated 03/09/2008 “On the approval of Transport Sectoral Strategy”.

<sup>136</sup> National Plan for SAA implementation, 2007, page 201-220.

4 million Euro. Meanwhile, although works have begun for the rehabilitation of the ferry terminal at the Port of Durrës, efforts are still needed to increase its capacities.<sup>137</sup>

### **6.13 Air Transport**

The SAA delineates the gradual creation of a unique airspace that will connect the air traffic on a national as well as regional level. In regards to this initiative, the Albanian Government has set forth the effective implementation of airport projects as a priority in order to increase the capacities of air traffic and enhance methods of private capital attraction to these services. The approval of the Air Code<sup>138</sup> marks the beginning of a new development stage of air transport. The government is taking the necessary measures for the implementation of the “Horizontal Agreement with EU Member Countries”. This agreement sets forth norms, criteria and common standards of operation in the field of air transport.<sup>139</sup> Meanwhile, the multi-lateral agreement “European Common Aviation Area Agreement between Albania and other EU countries”<sup>140</sup> has been ratified.

---

<sup>137</sup> Law no. 9691, dated 08/03/2007 “On the ratification of the Financial Agreement between the CM of the Republic of Albania and EIB on financing “Construction of the Ferry Terminal and platforms around Durrës Port” project.

<sup>138</sup> Law no. 10040, dated 22/12/2008 Republic of Albania Air Code”.

<sup>139</sup> Law no. 9586, dated 22/07/2007 “On the ratification of the Agreement between the Council of Ministers of the Republic of Albania and the European Community on specific aspects of the air services”.

<sup>140</sup> Law no. 9658, dated 18/12/2007 “On the ratification of the Multilateral Agreement between the European Community and the Member States, Republic of Albania, Bosnia Herzegovina, Republic of Bulgaria, Republic of Croatia, Republic of Macedonia, Republic of Island, Republic of Montenegro, the Kingdom of Norway, Rumania, Republic of Serbia and the Interim UN Administrative Mission in Kosovo for the creation of European Common Aviation Area, 2006.



## **7. DOMESTIC AFFAIRS**

### **7.1 Personal Data Protection**

The adoption of the law “On the protection of personal data” constitutes an important achievement in the area of personal data protection. Although the State Budget for 2009<sup>141</sup> foresees a total of 51 million lekë allocated to the office of the Commissioner for Data Protection, during the monitoring period this institution has not been fully equipped with the necessary infrastructure and human resources. According to the budget, the latter will comprise about 30 employees divided into a number of directorates such as the investigation and inspection inspectorate and the directorate for legal affairs.<sup>142</sup> Meanwhile, a fund of 2 million lekë was approved in December 2008, which will be dedicated to the operation of the office for data protection.<sup>143</sup> In September 2009 the Council of Ministers approved a decision for determining which states uphold adequate levels of personal data protection (CMD, dated September 2<sup>nd</sup>, 2009). These include EU countries as well as countries where personal data can be transferred in compliance with a European Commission decision, countries in the European Economic Area (EEA), and members of the 108 Convention, signed in 1981, “On the protection of individuals from automatic processing of personal data”, as well as its additional protocol. This decision appoints the Commissioner for Data Protection with the duty of drafting the by-laws pursuant to this Convention.

Equipping the citizens with identification documents began in January 2009. Up until September 2009 the number of applications for identity cards amounted to about 1.7 million. According to the Ministry of Interior Affairs more than 150,000 citizens have been issued new biometric passports up to the beginning of September 2009.

The law on data protection does not include temporary provisions regarding the management of citizens’ data as well as the establishment and full operation of the supervisory authority. The failure to include the Commissioner for Data Protection since the inception phase of the process of issuing identification documents undermines the process of collecting and processing Albanian citizens’ biometric data in compliance with the principles and regulations for personal data protection.

### **7.2 Visa Policy**

The Visa Liberalization Agreement (VLA) between the European Community and Albania entered into force on January 1<sup>st</sup>, 2008. This agreement envisions the facilitation

---

<sup>141</sup> Law no. 10025, dated 27.11.2008 (Official Gazette no. 182, 2008, page, 9217, dated 22.12.2008)

<sup>142</sup> Through a special decision, a structure of 30 employees and the structure of the Commissioner’s Office for Personal Data Protection 2008-2009 were approved. However, the activity and the complete exercise of power of this institution during its first year of functioning were limited not only for this reason but also for objective reasons regarding the challenges of a new institution. Only in the first months of 2009 this institution has recorded its first public or inter-institutional activities. In May 2009 with a joint request of the Commissioner, the Ombudsman, has presented his suggestions regarding the Law for personal Data Protection (Official document recorded in the Protocol of the Ombudsman no. 94/1 Prot. Dated, 22.05.2009).

<sup>143</sup> CMD for financing the Office for Personal Data Protection, 2008 (10 December, 22.05.2009).

of visa procedures for 18 categories that are considered “exchange factors”. It also sets forth the maintenance of the current visa fee for Albanian citizens and the exemption from this obligation for other categories.

The structures of the Ministry of Foreign Affairs are not able to provide information with regards to the way this agreement is being implemented. Such a formal approach towards the implementation of the VLA together with the failure to draft an action plan or, minimally, to systemize of data for the categories of people that will benefit from the VLA have served to perpetuate wrong perceptions about this process. During the monitoring period no progress has been noted with regards to the establishment of the National Visa Center (NVC) and the information network necessary for its operation.

Albania has ratified Agreements for visa liberalization with the Kingdom of Norway (Law no. 10009, dated 30.10.2008) and with Iceland (Law no. 10014, dated 06.11.2008). A similar agreement between Albania and the Swiss Confederation was approved in principle by the Council of Ministers on 19.02.2009. The Council of Ministers has also approved a mutual agreement for free movement of citizens with Bosnia Herzegovina (CDM, dated 13.05.2009), as well as an agreement with Turkey for the elimination of visas for both Albanian and Turkish citizens (approved in principle, CDM dated 19.08.2009).<sup>144</sup>

The new law on foreign citizens (in force since 01.12.2008) regulates the regime for the entrance, stay, employment, treatment and exit of foreigners into and from Albania. The law envisioned that within a four month period from its entrance into force the Council of Ministers and the other relevant institutions would be obliged to issue relevant by-laws pursuant to this law. However, during the monitoring period, only two CDMs were approved, namely the CDM dated 06.05.2009 “On the model and the specifications of travel documents for foreign citizens” and the CDM of the same date “On determining the security elements and the approval of the format of the residence permit.”

### **7.3 Asylum**

At the end of February 2009 law no. 10060, “On some amendments to Law no. 8432 on Asylum” entered into force. This law foresees amendments and additions to provisions regarding the temporary protection, discharge, removal or exemption from asylum rights, obligations of asylum seekers who were granted asylum rights or temporary protection rights. Among other things, it also envisions the structure and the management of the Directorate on Citizenship and Refugees (the Ministry of Interior Affairs) as well as the asylum application procedure.

Administrative capacities dealing with the issue of asylum remain limited. Currently, the selection of foreigners is carried out by Border and Migration Police while further processing of asylum applications is administered by the Directorate on Refugees’

---

<sup>144</sup> The Parliament is expected to review the draft-law proposed by the Council of Ministers (CMD, 08.08.2009) “On the ratification of the agreement for visa procedures simplification for truck professional drivers from the member countries of the Organization of the Black Sea Economic Cooperation”.

Citizenship (MIA). The latter is only the first step. Other asylum seekers should seek out further assistance from the National Commission on Refugees and the district courts (with regard to administrative acts of responsible authorities). The timeline for asylum procedures can now extend to 71 days compared to the 51 days envisioned by the previous law. The National Asylum Seekers Center can host 200 people, while a grant funded by the CARDS 2003 program enabled the creation of hosting facilities for asylum seekers at 11 border entry points.

While the state budget allocates a special fund each year for the financial support of asylum seekers, international financing remains an important asset to support their social integration and the provision of social assistance. The Office of the United Nations High Commissioner for Refugees (UNHCR) has continually provided legal, social and environmental assistance and, based on the Agreement (November 2007) with the Ministry of Interior Affairs, the UNHCR also offers annual assistance for sheltering asylum seekers, their healthcare and their children's education (the total sum allocated by UNHCR for 2008 was approximately 27 million leek).

#### **7.4 Migration**

Although the NPISAA foresees a series of by-laws pursuant to the laws on foreign citizens and on asylum, the majority have yet to be approved. Meanwhile, no progress has been noted in regards to the by-laws pursuant to the law on integration and family reunion of people that have been granted refugee status.

Based on the laws on Foreign Citizens and on State Border Control, the Border and Migration Police is responsible for fighting against illegal immigration. The identified number of cases of illegal border trespassing has increased from 12.704 in 2007 to 16.032 people in 2008. The installation of the TIMS system at 18 Border Entry Points out of 25 and at 8 Regional Directorates has increased the processing capacities regarding border movement.<sup>145</sup> An increasing number of Border and Migration Police employees have been trained in the recent years (about 800 employees in 2008), while an increase in the number of employees for this structure is envisioned for 2009. However, illegal border trespassing, especially at the border with Greece, remains a serious problem for the relevant structures.<sup>146</sup>

Albania still lacks a national emigrant registry. The support of Albanian emigrants and their reintegration continues to be limited in terms of planning measures such as awareness-raising campaigns, establishment of bi-lateral, consultative commissions, cooperation with emigration rights organizations in destination countries, etc.<sup>147</sup>

---

<sup>145</sup> Report on the State Police activity for 2008.

<sup>146</sup> Based on an analysis of data on illegal immigrants in EU countries, the Commission ranks Albania in the three top countries of illegal immigrant source. See Commission Staff working document "Third annual report on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders, and the return of illegal residents", SEC(2009) 320 final - Brussels, 9.3.2009. Source: <http://www.statewatch.org/news/2009/mar/eu-com-illegal-imm-sec-320-09.pdf>.

<sup>147</sup> In April 2009 the Council of Ministers has requested the Minister of Labor and Social Affairs the establishment of a technical commission for migration (CMD dated 01.04.2009) on work coordination for the implementation of the national action plan for the national migration strategy. These members of this

## 7.5 Repatriation

Since 1998 Albania has signed a series of repatriation agreements with the majority of European states that have received considerable influxes of illegal immigrants from Albania, or countries whose citizens utilize Albania as a transit route to enter the European Union area.

Albania has signed Repatriation Agreements and the respective Protocols of Implementation with Italy, Belgium, Germany, the United Kingdom, Austria, Switzerland, Bulgaria, Romania, Croatia, Macedonia, and Denmark. Moreover, the Council of Ministers approved in principle the protocols for the implementation of this agreement with Malta (CDM, dated 12.08.2009), Hungary (CDM, dated 29.07.2009) and France (CDM, dated 8.04.2009). During the period under review, repatriation agreements have been signed with Iceland (Law no. 10015, dated 06.11.2008) and Norway (Law no. 10010, dated 30.10.2008). Meanwhile, it is expected that the Parliament will approve the draft-law submitted by the Council of Ministers (CDM, dated 28.05.2009) “On the ratification of the agreement, between the Council of Ministers of the Republic of Albania and the Council of Ministers of Bosnia Herzegovina, for the repatriation of persons with illegal residence”. Repatriation Agreements have been approved in principle with the Republic of Kosova (CDM, dated 8.07.2009) and Montenegro (CDM, dated 2.09.2009). While negotiations with other countries for repatriation agreements (Turkey, Moldova) or protocols for the implementation of the repatriation agreement with the European Union (Slovenia, Slovakia) are underway, it is worth mentioning that there is a slow progress with regard to the signing of repatriation agreements with the countries of origin whose citizens have illegally entered the EU through Albania.<sup>148</sup>

The primary institutions responsible for the implementation of the repatriation agreements are: the Directorate of Migration and Repatriation (comprised of the repatriation and migration sectors) as the central structure, which coordinates the implementation processes of all the agreements, and the Police Precinct Houses on the border crossing points, which take the repatriated individuals into custody and verify their identities. Within the framework of implementing the obligations in this field 10 transitional acceptance centers are operating on the local level either at border crossing points or at the respective police precincts.

The implementation of the Repatriation Agreement with the EC (in force since May 2006) carried out by the Albanian institutions during the monitoring period has encountered the same problems as in the previous year, especially with regard to administrative capacities. The level of implementation of the Repatriation Agreements with EU member states remains unchanged. Specific EU member countries continue to

---

commission are high ranking representatives of the ministries and institutions responsible for the implementation of this plan.

<sup>148</sup> The NPISAA delineates as short-term priorities the signing of the implementation protocols of the Repatriation Agreement EC – Albania, Czech Republic, Italy, Greece etc, and other such agreements with countries of origins or transit such as Moldavia.

expatriate illegally residing Albanians in violation of the clauses and obligations that arise from the repatriation agreements.

## **7.6 Integrated Border Management**

The main concerns in the field of integrated border management are related to:

- The strengthening of institutional capacities that deal with border management
- Illegal emigration continues to be problematic, especially with Greece
- The enhancement of financial and human resources in addressing human trafficking and illegal emigration
- The harmonization of border management standards with international standards at the International Airport of Tirana, the Ports of Durrës and Vlora, as well as the need for further investments in border crossing points
- The improvement of inter-institutional cooperation among state authorities that operate with state borders

The reduction of border police staff following the ongoing institutional restructuring continues to be a serious problem. During the period under review, a series of practical preparation processes have been undertaken to address a part of the aforementioned measures, the framework of which includes support provided by the PAMECA III Mission.

In the context of the efforts made to strengthen international cooperation of Border and Migration Police, an agreement for Operational Cooperation with FRONTEX was signed on February 19<sup>th</sup>, 2009. The agreement is foreseen to play an important role in the war against illegal migration as well as inter-border crime; it specifically aims to improve operational cooperation between the parties responsible for border management, exchange of information between the FRONTEX's Risk Analysis Unit and the Department of Borders and Migration, as well as the conducting of risk analysis.

With respect to inter-institutional cooperation of the responsible bodies in this field, the attention was mainly focused upon border police and custom authorities, while less attention was placed on phyto-sanitary and veterinary services. The Integrated Border Management Strategy is guided by the need to ensure a better inter-institutional cooperation with other agencies responsible for border administration, which not only include custom and border police but also other services. Although a high level of awareness among the authorities has been noted in relation to this cooperation axis (one of the three main pillars of the Strategy) more efficient coordination of central institutions is needed in order to finalize the full framework of by-laws. Out of 25 border crossing points (BCP) phyto-sanitary services are permanent in only 14 and, upon request, they are deployed to an additional 11. Meanwhile, veterinary services are permanent at 17 BCPs and can be deployed upon request to an additional 8.

The new National Integrated Border Management Strategy (NIBMS) and the respective Action Plan provide a wide range of instruments and measures that should be able to ensure a better performance of the institutions responsible for border control. Some of the measures included in the NIBMS and Action Plan have been addressed during 2008 and

the beginning of 2009 including: investments in the BCPs' infrastructure (adaptation of facilities, control and surveillance equipment), identification of shortcomings in terms of the cooperation among relevant agencies, risk analysis sector, the drafting of an interagency communications manual, and trainings for the identification of counterfeit documents. However, it is clear that the progress is very slow especially with regard to those measures where the implementation requires the engagement of a larger number of institutions such as customs services, the Ministry of Labor (for the creation of an integrated database for foreign citizens), the Ministry of Foreign Affairs and the Ministry of Agriculture. During the period under review some positive developments have been noted with regard to improving management standards and conditions of the Port of Durrës and, to a lesser degree, of the Port of Vlora. The work for the second phase of the modernization and extension plan for the Mother Teresa International Airport, concluded in September 2009, and resulted in a double-fold increase of the airport's capacities.

### **7.7 Organized Crime and Illegal Trafficking**

The fight against trafficking and organized crime continues to be a disturbing problem for Albania. This situation is conditioned by a series of factors such as: problems of cooperation between the police and prosecutors, especially at the operational level, the absence of concrete measures in the implementation of the legal framework for witness protection, the lack of staff in the anti-trafficking police unit, the absence of a planned database for following victims' cases.<sup>149</sup>

The efforts put forth by the Albanian government to address these problems are spread across the following three main dimensions: (a) the clear designation of each structure's responsibilities, reorganization as well as the strengthening of cooperation between them, (b) strengthening the usage of special investigative techniques and the improvement of human resources, and (c) the gathering and processing of data to help prevent criminal activities and illegal trafficking.

The National Reference Mechanism must increase its collaboration with civil society organizations that deal with the rehabilitation of trafficked victims. Meanwhile, it is worth mentioning that the main problem facing this last issue remains financing their activity.<sup>150</sup>

The creation of Regional Committees on the Fight against Human Trafficking was not conceptualized on the basis of situational and needs assessment. The regional committees were established across all the nation's districts without referring to crucial data that would reveal the level of this phenomenon's prevalence in a given region. The establishment of a large number of identical committees for districts with different figures of criminal incidences does not only comprise a non-optimal choice regarding the

---

<sup>149</sup> The Council of Ministers has approved draft-law proposed by the Ministry of Justice On Witness Protection and other justice collaborators (CMD dated 11.06.2009) which is expected to come into parliamentary procedure in the new elected Parliament (following the June 2009 elections).

<sup>150</sup> This concern was raised by several organizations (such as Vatra Organization in Vlora) which require a more active support by the state funds.

engagement of scarce human resources, but in specific cases it also reveals counter-productivity.

### **7.8 The Fight against Drugs**

Albania continues to be considered as a transit point for drugs due to its favorable border control performance (especially mountain border crossings) for this illegal activity as well as depleted human resources, inter-institutional cooperation, and the infrastructure and technology used to operate the responsible structures in this context.

Based on the state police's data for 2008 an increase in the number of uncovered criminal acts in this field has been noted. Moreover, the number of apprehended criminals has risen compared to the year before (10% more organized crime groups have been captured) and international cooperation in joint operations (with Italy, Turkey, Germany, the US, etc.) have continued to improve.<sup>151</sup> Until now, the government has focused only on the aspect of tracking down and eliminating narcotic plants, but has not undertaken any specific action to offer development programs in zones that grow and cultivate narcotic plants.

Progress in the fight against drugs and specifically in the performance stability and reaping of positive results considerably depend upon tackling the aforementioned priorities. The incomplete implementation of the Anti-Drug Action Plan and recommendations from the Mini-Group of Dublin is connected to the lack of collaboration among the state structures, the level of institutional capacities in the fight against this type of trafficking and the failure to implement reinforcing strategic measures and legal initiatives.

From the perspective of coordinating preventative measures, the need to launch awareness-raising activities regarding this phenomenon remains unaddressed. Meanwhile, a particularly problematic issue is the lack of institutions for the treatment and rehabilitation of individuals dependent on drugs.<sup>152</sup>

### **7.9 Prevention of Money Laundering**

Although the fight against money laundering is considered one of the Albanian Government's primary priorities to fulfill the obligations arising from the SAA, the dominance of a cash economy, the shortcomings of the law "On money laundering", the non-compliance of the provisions outlined in the Penal Code and the Customs Code, the limited public administration capacities and the lack of collaboration among the

---

<sup>151</sup> See the State Department Report (2009 International Narcotics Control Strategy Report) on Albania, dated 27.02.2009 (<http://www.state.gov/p/inl/rls/nrcrpt/2009/vol1/116520.htm>). The same evaluations in this context are also made in the UN Office report on drugs (UNODC).

<sup>152</sup> Although there are no correct data on the number of drug abusers in the country, it is worth mentioning that the Military Hospital in the last few years reports an average of 2000 patients a year with substance abuse problems where 80% of these result heavy drugs abusers (mainly heroine addicts). The Toxicological Clinic in this hospital treats only overdose cases.

institutions included in the fight against money laundering have substantially influenced the weak institutional performance in this domain.

Drafting a strategy within the context of the fight against money laundering and the financing of terrorism is not foreseen as a short-term priority in the NPISAA. During the period under review moderate progress in regards to the improvement of the legal framework was noted.<sup>153</sup>

Alongside the Economic Crimes and Corruption Joint Investigative Unit, which was established in 2007 under the jurisdiction of the Attorney General's office, Sections against Money laundering were created within the Regional Police Directorates. However, the level of expertise remains insufficient. The Sector for the Fight against Money Laundering and Economic and Financial Crime in the Ministry of Interior has been reorganized through the creation of the Directorate of Economic Crime. The Financial Intelligence Unit remains still dependent upon the Ministry of Finance as regards to financial and human resources.

The General Directorate for the Prevention of Money laundering, which is under the jurisdiction of the Ministry of Finance, has not yet completed the signing process of memorandums of understanding with all the Egmont Group members. Despite investments in these structures' capacities there is still room for further improvements, especially in the sphere of inter-institutional collaboration (with the Central Office of immobile property registration, the prosecutor's office and other bodies responsible for implementing the law) and the financial (budget) aspects of their work.

### **7.10 Fight against Terrorism**

The fight against terrorism also comprises a field of priority that warranted mention in the SAA. Within the context of the fight against terrorism concrete measures placed within a well-defined strategic framework are necessary. These measures will facilitate a more coordinated approach in the improvement of legislation and institutional collaboration.

---

<sup>153</sup> In February 2009 the Ministry of Finance has approved the following by-laws: Guideline no. 11 (dated, 5.2.2009) for the reporting procedures of free non-financial professions; Guideline (no. 12, dated 5.2.2009) on reporting methods and procedures of reporting subjects of law no.9917 "On preventing money laundering and terrorist financing", as well as Guideline (no. 15, dated 16.2.2009) On preventing money laundering and terrorist financing in the customs system which defines the procedures and methods of reporting for the customs authorities, as well as information exchange between the General Customs Directorate and the General Money Laundering Prevention Directorate (GMLPD). A similar guideline has been approved by the same ministry regarding the reporting procedures from the Tax Administration and the information exchange between the General Tax Directorate and the GMLPD (Guideline no.16, dated 16.2.2009). In April 2009, the Council of Ministers approved the CMD no. 343 (08.04.2009) "On the reporting procedures and methods of the licensing and/or financial supervisory authorities". The alignment of Law. 9917 on preventing money laundering with EU standards and the approval of the strategy is yet to be addressed.



Albania does not have a national security strategy or even a special strategic document pertaining to the fight against terrorism.<sup>154</sup> As a consequence, the eventual improvement of legislation continues to be conducted in a sporadic manner that lacks vision. The same logic applies to the changes made to the legal framework on communication interception, which places the Service of Internal Audit under the jurisdiction of the Ministry of Interior Affairs as an additional operator in the management of telephone communications interceptions.<sup>155</sup>

Albanian legislation must be reviewed and subsequently aligned with international standards for terrorism prevention, including its definition. The lack of cooperation between the state structures, especially between the judicial and police authorities, as well as the absence of a coherent and coordinated system for gathering and processing data arises as another issue that hinders the thorough tackling of this problem. Collaboration with civil society actors that work in the field of homeland security problems comprises another necessity that should be examined not only by Albanian institutions but also by the European Commission.

### **7.11 The Police**

The general management of human resources in the State Police calls for further improvements. The Ministry of Interior Affairs' appointment of the General Director of the State Police can heighten the risk of political control over this structure. There continue to be cases of trained staff being transferred from one sector within the State Police to another, which also influences the level of their performance.<sup>156</sup> Cooperation with the prosecution bodies generally remained at its previous levels, while capacities for investigation have not visibly improved in either of these two institutions.

The philosophy of community patrolling has already been part of the state police's work for the past several years. Many activities have been undertaken in order to strengthen the state police's capacities. Despite the progress made in this sphere, close cooperation with the communities as well as collaboration with local institutions continue to present a challenge. Although this relationship remains essential for the state police, attention to this field should also be shown by other institutions.

---

<sup>154</sup> The national security document was supposed to have been approved within 2007. The work group has not yet drafted this document, despite the awareness raising campaigns organized by civil society actors such as the Institution for Democracy and Mediation which in September 2007 initiated a national conference on this obligation of the Albanian institutions. For more see : "<http://www.idmalbania.org>"

<sup>155</sup> Law no. 9885, dated 03.03.2008 "On some additions and changes on law no. 9157 dated 04.12.2003 on tapping telecommunications.

<sup>156</sup> It is worth mentioning the correct and professional role of the State Police in the Parliamentary elections as stated by the major actors of the process.