



**Policy brief**  
**EU conditionality as a transformative power in the case of the Albanian**  
**Public Administration**

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## Introduction

'The future of the Balkans is within the European Union'<sup>1</sup>, is the main message given during most of the speeches of EU representatives and national politicians in the enlargement countries. This region experienced devastating civil wars fought along ethnic lines after the fall of respective countries' communist regimes and is now undergoing a transition to consolidated democracy. Therefore, the region was and still remains dependent on EU support to implement EU reforms meeting the political, economic and social conditions introduced by Brussels, which aims to influence by the means of a 'transfer of given EU rules and their adoption by non-member states'<sup>2</sup>.

The Western Balkan countries are not performing well regarding the implementation of the requested reforms. In Albania, for example, the belated transformation of the country may be caused by different factors, such as the burdens of the communist past, the scarce capacity of central institutions, and the absence of policy entrepreneurs.<sup>3</sup>

The domestic institutions of Albania suffer from democratic illegitimacy and clientelism which lead to the incomplete fulfillment of the Copenhagen Criteria that every country which aspires to EU membership should fulfill. The Copenhagen Criteria comprise the political and economic criteria and the institutional and administrative capacity to implement the *acquis*<sup>4</sup>. The experience of the Western Balkans shows that the lack of complete statehood, a politicized and corrupt administration, a clientelist system and the absence of policy entrepreneurs prevents the necessary reforms driven by the transformative power of the EU through the principle of conditionality.<sup>5</sup>

The reform of the public administration in Albania is crucial in the fulfillment of EU demands. It has been one of the main conditions to obtain candidate status and it is part of the five key priorities for the opening of accession negotiations with the EU.

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<sup>1</sup>European Council, *EU-Western Balkans Summit Declaration*, Thessaloniki, 21 June 2003.

<sup>2</sup>Schimmelfenning & U. Sedelmeier, 'Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe', p.661.

<sup>3</sup>O. Anastakis, 'The Europeanization of the Balkans', p.84.

<sup>4</sup>Conditions for membership, [http://ec.europa.eu/enlargement/policy/conditions-membership/index\\_en.htm](http://ec.europa.eu/enlargement/policy/conditions-membership/index_en.htm).

<sup>5</sup>T. Borzel, *When Europeanization hits limited statehood- The Western Balkans as a test case for the transformative power of Europe*, [http://www.polsoz.fu-berlin.de/en/v/transfomeurope/publications/working\\_paper/WP\\_30\\_B\\_\\_rzel1.pdf?1367706591](http://www.polsoz.fu-berlin.de/en/v/transfomeurope/publications/working_paper/WP_30_B__rzel1.pdf?1367706591).

Public administration reform remains one of the most important EU conditions for Albania, since one of the prime reasons for limited compliance with EU requirements is the limited capacity of the public administration, due to clientelism and corruption. EU conditionality encounters limits in an environment where the actors are not fully committed to reform and where the institutional capacities constrain the effectiveness of the required reforms.

In order to better understand the effectiveness of EU conditionality in the Albanian reform process, we will study the case of the reform of Albanian public administration, in light of the EU integration process of the country. In this regard, the question that arises is whether EU conditionality is working in the case of the Albanian public administration reform.

According to Schimmelfenning: "The dominant logic underpinning EU conditionality is a bargaining strategy of reinforcement by reward, under which the

EU conditionality encounters limits in an environment where the actors are not fully committed to reform and where the institutional capacities constrain the effectiveness of the required reforms

EU provides external incentives for a target government to comply with its conditions".<sup>6</sup> The first part of the paper reviews the initiatives undertaken as regards Albanian public administration reform. The second part studies the case of the adoption of the new Civil Service Law, a key factor in this reform. The paper concludes by giving a number of concrete policy recommendations for the actors involved in the Albanian public administration reform.

## **The reform of the public administration, a key to open the EU doors**

The reform of the Albanian public administration is one of the five key priorities to open accession negotiations with the EU.<sup>7</sup>

Reform of public administration was requested since the signing of the agreement between Albania and the EU that assured the European future of the country, the Stabilization and Association Agreement. Article 111 of this agreement says that an accountable public

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<sup>6</sup>Schimmelfenning & U. Sedelmeier, Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe, p.662.

<sup>7</sup>Albania Progress Report, October 2014, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-albania-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf).

administration is necessary to support the implementation of the rule of law and the proper functioning of the Albanian institutions.<sup>8</sup>

To this end, different measures have been taken in the legal and institutional framework regarding the reform of Albanian public administration. For example, the adoption of the law on Civil Service in 2013 is seen by the Minister of Innovation and Public Administration as transformative to the public administration sector since it allows employees of government-dependent institutions and local authorities to have the status of civil servant, bringing the number of the administration employees having the civil servant status from 6,000 to 20,000 starting from April 2014.<sup>9</sup> This law is relevant to the reform because it gives the possibility to civil servants to be recruited based on meritocracy and will depoliticize the civil service recruiting process.

The legal framework has included many other measures, such as the adoption of the law on general administrative procedures and laws that are necessary for the implementation of the law 'On the organization and the functioning of the public administration'. This law establishes the general framework for the creation, the functioning, and the internal organization of the institutions of the public administration.<sup>10</sup>

According to Albanian officials, more steps will be taken to base the appointment and recruitment procedures on meritocracy, and to promote and expand the Human Resources Information and Management System which should be functional in the sixteen ministries and the Council of Ministers.<sup>11</sup>

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<sup>8</sup>Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, p.95, .

<sup>9</sup>Speech of the Minister of Innovation and Public Administration, November 2013, <http://www.inovacioni.gov.al/al/newsroom/lajme/ministrja-harito-ligji-i-nepunesit-civil-forcim-i-parimit-te-merites-dhe-karrieres&page=12>.

<sup>10</sup> Crosscutting Public Administration Reform Strategy 2015-2020, p.10, [http://www.dap.gov.al/images/PAR\\_Strategy\\_2015-2020\\_English.pdf](http://www.dap.gov.al/images/PAR_Strategy_2015-2020_English.pdf).

<sup>11</sup>Speech of the Minister of Innovation and Public Administration, November 2013, <http://www.inovacioni.gov.al/al/newsroom/lajme/ministrja-harito-ligji-i-nepunesit-civil-forcim-i-parimit-te-merites-dhe-karrieres&page=12>.

Besides the legal reforms, the Albanian public administration has undergone institutional reforms as well. A ministry for Innovation and Public Administration was established and it is working to unify the resources and track the priorities and key measures required for the reform, such as the review and the approval of the Inter-Sectoral Strategy for Public Administration Reform 2015-2020. This strategy aims to create a sustainable public administration able to face the challenges of EU integration by planning and monitoring the reform processes. According to the strategy, the Albanian public administration will “offer innovative governance in terms of the professionalism of its staff, improvement of the policymaking and legislative drafting process, efficient organization setups, and enhancement of civil servants’ accountability, transparency of activities and in terms of improved services for the public”. The strategy targets four objectives: the delivery of services to citizens; the increase of the accountability of public officials; more delegation in decision-making and promotion of professionalism in the civil service; and merit in recruitment processes.<sup>12</sup>

“Inter-Sectoral Strategy for Public Administration Reform 2015-2020”:

1. delivery of services to citizens;
2. increase of the accountability of public officials;
3. more delegation in decision-making and promotion of professionalism in the civil service;
4. merit in recruitment processes.

The objectives mentioned above will be achieved through different activities, including building the capacity of the public administration, an electronic evaluation system, monitoring of the civil service reform, creation of the necessary conditions for strengthening transparency and objectivity of career promotion, strengthening the Albanian School of Public Administration, and the functioning of the Civil Service Commissioner.<sup>13</sup>

In addition, the Civil Service Commissioner, appointed in October 2014, has replaced the Civil Service Commission and the institution is under consolidation. The role of the Civil Commissioner is to monitor, at its own initiative or at the request of other institutions, law

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<sup>12</sup>Crosscutting Public Administration Reform Strategy 2015-2020, p.10, [http://www.dap.gov.al/images/PAR\\_Strategy\\_2015-2020\\_English.pdf](http://www.dap.gov.al/images/PAR_Strategy_2015-2020_English.pdf).

<sup>13</sup>Idem.

enforcement in the civil service administration and in all institutions that employ civil servants.<sup>14</sup>

The independence of the public administration can also be ensured by strengthening the independence and improving the capacity of different monitoring and evaluation institutions such as the Civil Service Commissioner, the Ombudsman and the Supreme State Control through the adoption of the law ‘On State Supreme audit’, which will strengthen the external audit.

The Albanian School of Public Administration (ASPA) that will provide professional training was established in February 2013. One of the focuses of the reform of the Albanian public administration is the well-functioning of the Albanian School of Public Administration with the necessary human and financial resources as well as proper planning.<sup>15</sup>

The creation of a database of all human resources that aim to be employed in public administration will increase the participation in competition and will reduce the possibility of abuse in the process of selection of candidates. Hundreds of candidates will be automatically alerted for the opening of any vacant position.<sup>16</sup>

Moreover, the adoption of the law on Civil Service in 2013 and its entering into force on first October 2013, represents a significant step forward towards the professionalization of the public administration and a blow to the politicization, incompetence, and corruption in the public sector. In addition, legal acts necessary to the implementation of the Civil Service law have been adopted after an intensive consultation process, with the support of SIGMA<sup>17</sup> and the Council of Europe.

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<sup>14</sup>Idem.

<sup>15</sup>Speech of the Minister of Innovation and Public Administration, November 2013, <http://www.inovacioni.gov.al/al/newsroom/lajme/ministrja-harito-ligji-i-nepunesit-civil-forcim-i-parimit-termerites-dhe-karrieres&page=12>.

<sup>16</sup>Idem.

<sup>17</sup>SIGMA (Support for Improvement in Governance and Management) is a joint initiative of the European Union and the OECD. Its key objective is to strengthen the foundations for improved public governance, and hence support socio-economic development through building the capacities of the public sector, enhancing horizontal governance and improving the design and implementation of public administration reforms, including proper prioritization, sequencing and budgeting.

In order to better understand the reform of public administration in Albania, we will use as a case study the adoption of the new Civil Service Law and the problems encountered during the process. By taking this law as a case study, we aim to determine the reasons the EU conditionality is not fully efficient in the case of implementation of EU reforms’.

## **The Albanian saga of the new Civil Service Law**

The Civil Service Law is one major aspect of the reform of the Albanian public administration. The reform of the civil service became part of the government agenda for the first time in 1996, with the first Civil Service Law, which it did not adopt. International actors, such as SIGMA, World Bank and OSCE helped drafting a new Civil Service Law, which was adopted in 1999. The progress and the implementation of the civil service reform proved to be difficult, despite some moderate progress made at the beginning. The main and most frequent problems identified were related to the recruitment not based in merit, polarization between the two major parties, instability and weak management and control of the general provisions of the civil service law<sup>18</sup>.

The government itself pointed out the necessity of a professional and efficient civil service that can carry out the tasks of the EU integration process of the country. Therefore, the crosscutting Public Administration Strategy of 2009-2013 identifies the need for the adoption of a new law on the civil service in order to have a civil service according to European standards. This law should: strengthen the unity and the homogeneity of the civil service, strengthen the merit principle during recruitment processes, increase the mobility and the career development and improve the training system of the civil servants.<sup>19</sup>

The status of civil servants was regulated by the Civil Service Law of 1999, until the adoption of the new Law on October 2013. Even though the European Commission noted that “the general administrative law framework and the civil service system are mostly in line with European principles and standards, although some gaps exist,” in its progress report of 2010, it requests to the country to make amendments to the civil service law.<sup>20</sup> This request was submitted by the European Commission in its Opinion on Albania’s application for

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<sup>18</sup>Draft-Dokument konceptual mbi nje ligj te ri per sherbimin civil ne Shqiperi, pp. 5-6, [http://www.dap.gov.al/images/Arkiva/Dokument\\_Koncepti\\_mbi\\_ligjin\\_per\\_SherbiminCivil.pdf](http://www.dap.gov.al/images/Arkiva/Dokument_Koncepti_mbi_ligjin_per_SherbiminCivil.pdf).

<sup>19</sup>Idem.

<sup>20</sup>Albania Analytical Report, November 2010, p.17.

membership of the European Union. In this Opinion, the EU Commission asked the country to fulfill twelve key priorities in order to obtain candidate status. Among these priorities, the reform of public administration was listed sixth, and it included the updating of the Civil Service Law.<sup>21</sup>

During one year, after the request of the EU Commission, the Albanian government adopted a policy paper presenting various changes to be made by means of a Civil Service new law. However, the adoption was pending because of the continuous political deadlock.<sup>22</sup>

In 2012, the draft Law on the Civil Service was approved by the government and it required the adoption by the parliament with a qualified majority. Also, in its Progress Report, the European Commission states that: “it is now essential to adopt the amendments to the Civil Service Law”.<sup>23</sup> We see that the European Union was pushing for the adoption of the new Service Law, as a condition to the progress of the European future of the country.

Besides pushing for the reform of the public administration the EU has been supporting the reform through different projects in the framework of the IPA fund that aims to strengthen the efficiency of the public sector and to professionalize the civil service.

However, the adoption of this law, together with two other laws related to the High Court and the rules of procedure of Parliament was an odyssey through Albanian political life. The opposition did not vote on these three laws, not because of their content, but for other political reasons. In 2012, non-adoption of these three laws was a political game in order to obtain other demands related to electoral reform for the leader of the opposition, Edi Rama, who is now the Prime Minister of the country.

In the end of 2012, when Albania was refused the candidate status for the third time, the government accused the opposition which did not vote on the three laws, seeing it as the only obstacle for not gaining the candidate status in 2012.<sup>24</sup>

As the UK Ambassador in Tirana confirmed in one of his speeches, the vote on the three laws had played a role in the advancement of the EU integration process of the country. He stated that: “These have sometimes been portrayed as in some way central to Albania’s continued accession process. Clearly in terms of their substance they are not. While the structures of the High Court and Civil Service are in need of improvement, they are already functioning with a

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<sup>21</sup>Commission Opinion on Albania’s application for membership of the European Union, November 2010, p.11.

<sup>22</sup>Albania Progress Report, October 2011, p.9.

<sup>23</sup>Albania Progress Report, October 2012, p.11.

<sup>24</sup>Berisha’s promises of EU cash for Albania ‘False’, Balkan Insight, May 2013, <http://www.balkaninsight.com/en/article/jibes-on-albania-s-eu-funds-miss-the-point>.

reasonable level of efficiency. Parliament seems to have no difficulty in conducting debates comparable to those of EU Member States, even if there is room for improvement. Instead, the three laws are a litmus test of the ability of the Albanian political class to put aside party political debates in the wider interest of the country's accession process, by voting through laws which they promised the European Commission they would deal with".<sup>25</sup>

This law was applauded by many international bodies, including the EU Institutions.<sup>26</sup> In its report of October 2013, the EU Commission says that the adoption of the Civil Service law, which is one of the key priorities for obtaining the candidate status, is a

On the 30th of May 2013, the Civil Service Law was adopted in the Parliament and entered into force in October 2013.

path toward the reform and the depolarization of the Albanian public administration. This law will build an effective, professional and merit-based public administration.<sup>27</sup>

However, the Civil Service saga did not come to an end. The adoption of the secondary legislation and a proper implementation of the law were still necessary. Therefore, on the 30<sup>th</sup> of September 2013, the date of entering into force of the law nr.152 / 2013 "On the Civil Servant" was extended by six months, despite the fact that the Law foresees the entering into force on the first October 2013, in its article 72. According to the new government, the reason behind this extension was to create a proper regulatory framework to make possible the implementation of the law. Meanwhile, the old Civil Service Law of 1999 remained in force until the implementation of the new Law.

The Constitutional Court on 5<sup>th</sup> of February 2014 repealed the normative act which extended the entering into force of the new Civil Service Law, citing it as incompatible with the Albanian Constitution.<sup>28</sup> Therefore, the effectiveness of the law "On Civil Service" was valid from October 2013, as it was foreseen in its article 72.

The attempt by the new government to extend the date of the law's entry to force was seen by the opposition, the Democratic Party (which lost the election in June 2013) as a mechanism to

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<sup>25</sup>Speech on EU enlargement by the British Ambassador to Albania, February 2013, <https://www.gov.uk/government/speeches/speech-on-eu-enlargement-by-the-british-ambassador-to-albania>.

<sup>26</sup>Albania parties pass laws to work on EU candidate status, Reuters, 30 May 2013, <http://www.reuters.com/article/2013/05/30/eu-albania-laws-idUSL5N0EB34Z20130530>.

<sup>27</sup>Albania Progress Report, October 2013, p.7.

<sup>28</sup>Albania Progress Report, October 2014, p.6.

be used by the government to ‘clean’ the public administration from the previous employees and hire the Socialist Party supporters<sup>29</sup>.

This accusation was strongly refuted by the new government, saying that the only reason for the extension was the secondary legislations that are necessary for the implementation of the Civil Service Law of 2013.<sup>30</sup>

Albania Progress Report of 2014: “following the elections, around 13% of staff in the central government institutions was dismissed”

However, according to the Albania Progress Report of 2014 “following the elections, around 13% of staff in the central government institutions was dismissed”.<sup>31</sup> This fact shows that the concerns of the Democratic Party were not only opposition accusations and that the new government tried to extend the entering into force of the law to have the possibility to recruit its own supporters.

## Conclusion

As seen above, in the case of the reform of the Albanian public administration, the transformative power of the European Union through the principle of conditionality is not successful when domestic factors become an obstacle to the reforms. In this case, even though the adoption of a new Civil Service Law was requested explicitly by the European Union in its Opinion of 2010, the Albanian side took three years to adopt this law because of political deadlock. The reasons behind this stagnation were not related to the content of the law, but to other internal political concerns which were not related specifically to the law itself. This shows that the political class can be an obstacle to the reforms requested by the EU, if their personal political interests are not met.

Still, this external push serves as catalyst for the implementation of the reforms in Albania and other Western Balkan countries. There is a risk that the politicians might not initiate or implement different reforms if they are not constrained by the EU conditionality<sup>32</sup>.

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<sup>29</sup>Shtyhet votimi i Aktit Normativ, <http://top-channel.tv/lajme/artikull.php?id=265399>.

<sup>30</sup>Speech of Minister of Innovation and Public Administration, February 2014, <http://www.inovacioni.gov.al/al/newsroom/intervista/harito-nepunesi-civil-synojme-zbatimin-e-ligjit-nga-administrata-jane-larguar-vetem-260-persona&page=1>.

<sup>31</sup>Albania Progress Report, October 2014, p.9.

## **Recommendations**

- Consensus between the leading parties is very important in the regard of the public administration. They have to agree not to intervene in the hiring or dismissal of civil service personnel when the government changes. The role of the EU in reaching a consensus between parties is important. The EU should use its “stick policy” by making clear that a step back in the reform of the public administration is a step back in the EU integration process of the country.
- The EU should declare the reform of the public administration and the well-functioning of the Civil Service Law as a non-negotiable accession condition for the country. The EU should keep the reform of the public administration as a key priority of the EU accession process.
- The EU should have a more strict monitoring system regarding the reform of the public administration in Albania. This will leave little space to politicized and non-meritocratic recruitment and it will strengthen the effectiveness of the implementation of the reform by the Albanian authorities.
- The role of Civil Society Organizations should be strengthened. This can be done through systematic institutionalized consultations between the CSOs and the government. This can also help to make the politicians accountable for their actions. For example, in the Civil Service Law case, if the politicians were accountable to their citizens, the process of the adoption of the new Civil Service Law would have not been dragged.
- The EU should make clearer the rewards for complying with EU conditionality. There is an accession fatigue among the countries of Western Balkans, therefore more explicit and concrete rewards in the framework of short term results are necessary in order to give incentives to these countries to comply with the EU conditionality.
- A better follow-up from EU and a stricter position with conditions under which funds are provided. This will be an incentive for the Western Balkan countries to implement the reforms, since the EU funds are very important for the EU integration process of each regional country.

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<sup>32</sup>O.Anastakis, ‘The EU’s political conditionality in the Western Balkans: towards a more pragmatic approach’, p.365.