

DECLASSIFIED¹
AS/Mon(2015)35
15 September 2015
amondoc35_2015
Or. Engl.

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Honouring of obligations and commitments by Albania

Information note by the co-rapporteurs on their fact-finding visit to Tirana (29 – 30 June 2015)

Co-rapporteurs: Mr Jonathan Evans (United Kingdom, European Conservatives Group), and Mr Andrej Hunko (Germany, Group of the Unified European Left)

1. Introduction

1. While Mr Evans has visited Albania in his capacity as rapporteur a number of times since his appointment in January 2013, this was the first fact-finding visit by Mr Hunko as the newly-appointed co-rapporteur on Albania. The main aim of this visit was to take stock of recent developments and assess progress in the implementation of the Assembly's Resolution 2199 (2014), adopted on 2 October 2014.

2. In its last resolution of 2 October 2014, the Assembly noted that despite the progress achieved in the honouring of Albania's membership obligations and accession commitments, serious concerns remained, in particular with regard to the politicisation of democratic institutions and the civil service, the independence of the judiciary and the fight against endemic corruption. It regretted that many important reforms had been delayed or otherwise negatively affected by the deep political crisis in the country following the 2009 parliamentary elections, which had led to a *de facto* two-year boycott of the work of the parliament by the opposition. The Assembly emphasised as a key issue that the many reforms and legislative packages that had been adopted must also be implemented in practice in order to effectively address these concerns.

3. Albania is a candidate country to the EU, but the country will need to undertake sustained efforts to implement reforms in key priority areas for the opening of accession negotiations. Particular focus needs to be put on public administration and judicial reform, the fight against corruption and organised crime and strengthening the protection of fundamental rights, issues also mentioned as key areas in Resolution 2199 (2014).

4. During our visit, we met the President of the Republic, the Prime Minister, the Speaker of the Assembly, the Minister of Justice and the Minister of State on Local Issues, the Chairman of the Democratic Party, the Albanian delegation to PACE and the Commission for Implementation of the December Agreement. We also had discussions with members of the Central Election Commission, the Ombudsman, representatives of civil society organisations as well as representatives of the international community. Discussions mainly focused on the follow-up to PACE Resolution 2199 (2014) – in particular with regard to the reform of the judiciary and the fight against corruption – as well as on the Administrative Territorial Reform, the outcome of the local elections, co-operation between the ruling majority and the opposition, and the implementation of the December agreements.

5. We would like to thank the Parliament of Albania as well as the Head of the Council of Europe Office in Tirana and his staff for the programme and kind assistance given to our delegation.

¹ Document declassifié par le Comité de suivi à sa réunion du 3 novembre 2015.

2. Political environment

6. Overall, the continuing and widespread political polarisation in the country has hampered the proper functioning of the parliament and political dialogue, but also the independence of the judiciary, freedom of the media and independence of the public administration. Relations between the ruling majority and opposition are an important issue - in particular in the electoral and post-electoral climate.

7. In this tense political environment, the polarisation between the main political parties at the national level has percolated to the local level, particularly in the context of the territorial administrative reform, which has led to increased political disputes around the local elections. The June 2015 elections took place in a fragile political climate, in particular following the controversial territorial administrative reform, seen by the opposition to be mostly focused on changing the administrative division of the country and less on the functional aspects of local self-government. It should be noted that similar concerns were raised by international actors, including the co-rapporteurs. Accusations of gerrymandering surrounded the political debate before and during the campaign.

8. Over recent years, the issue of personnel changes at all levels of the civil service following elections has been an indication of the politicisation of the civil service and attempts to bring it under party control. This politicisation of the public administration is also seen as an important source of corruption, which is an additional concern. The issue of the implementation of the Law on the Civil Service, which provides inter alia for strict merit-based rules for the hiring and dismissal of civil servants, is of utmost importance in the current political situation.

9. The local election results gave a clear victory to the majority coalition and are seen by the majority as a signal of citizens' trust and encouragement to continue the ongoing reforms. In our meeting, the Prime Minister stated that the local elections were the first step towards a drastic change in the country, as they mark a new organisation of governing levels. According to him, this new setup will help eradicate corruption at local level, by ensuring the accountability of local entities. He also insisted on the importance of the reform of the judiciary with regard to the fight against corruption and on the need for its actual implementation.

10. During our meeting with the Head of the Democratic Party, he said that the country was in a terrible situation. He complained about the lack of political consensus over major reforms and strongly criticised the organisation of the local elections of June 2015.

11. Another important issue during recent months was the decriminalisation of the political sphere, and in particular the issue of persons with criminal records or under investigation, who hold or seek to be elected or appointed to public office (see below). In this context, on 10 July 2014, the Democratic Party parliamentary group decided to boycott the parliament, following a physical confrontation between majority and opposition MPs in parliament over the allegations of an MP's criminal record. The boycott was also a protest against an alleged lack of political will from the government to look for a consensus on important reforms. The boycott lasted for more than four months, in a climate of charged rhetoric between the opposition and governing parties.

12. Following mediation efforts by the European Parliament, a consensual parliamentary resolution was adopted on 24 December 2014 by the majority and opposition, following which the opposition ended their boycott of the work of the parliament. The basis of the agreement was that:

- The opposition would return to parliament
- The majority would refrain from using its 3/5 majority to bypass the opposition but would seek consensus
- Decisions of the Constitutional Court would be respected
- The rules on the functioning of the parliamentary inquiry committee would be reviewed
- Political forces would work jointly on the decriminalisation of the Assembly

13. An ad hoc Parliamentary Committee on the implementation of the issues of the resolution for the agreement between the majority and the opposition was set up in the parliament in February 2015 and is chaired by a member of the opposition – and member of our Assembly – Mr Oerd Bylykbashi. Although we requested to meet jointly the representatives of the majority and opposition in the ad hoc committee, we were disappointed that they refused to do so and asked to meet us separately, which was not a positive sign of cooperation.

14. During our discussions, both majority and opposition representatives clearly expressed their political determination to continue their mutual co-operation to fully implement the December 2014 agreement, which is of crucial importance for the political stability of the country

15. After our visit, on 2 July 2015, the deadline for the ad hoc Parliamentary Committee on Decriminalisation and other key points of the 24 December 2014 cross-party agreement was extended to 31 December 2015.

3. Territorial administrative reform

16. The implementation of a territorial administrative reform has been one of the main priorities of the current government. It initially focused mainly on producing a new administrative map for the country. The revised map of local government units, which was controversial, was approved by the majority in parliament (against the votes of the opposition), with 61 newly-formed municipalities replacing the former 373 municipalities and communes.

17. Although all political parties had agreed on the need to reduce the number of local government units, the opposition and several non-parliamentary parties had claimed that the reform process was not inclusive and that the redistricting had been done along partisan lines and had not taken into account the specifics of minority-populated areas. Accusations of gerrymandering have been repeatedly made by the opposition that has refused to participate in the reform process. Strong concerns have been expressed – including in our previous report - that the administrative territorial reform had mostly focused on the administrative division of the country and less on the functional aspects of local self-government, and especially the manner in which local authorities would obtain the necessary resources to implement the services that the law, and citizens, are expecting from them.

18. The opposition Democratic Party challenged the new division of municipalities in the Constitutional Court, which dismissed the appeal on 15 December 2014. In October-November 2014, citizen groups supported by the opposition Democratic Party requested the Central Election Commission (CEC) to hold 130 local referenda to oppose the reformed municipalities. The CEC granted the initiatives, but its decisions were appealed by the Socialist Party and cancelled by the Electoral College of the Court of Appeals of Tirana on 14 January 2015 in final instance.

19. During our visit, the issue of the map itself and the controversy it had created around its adoption was no longer raised by our interlocutors. On the other hand, some NGO representatives stressed that the territorial division had focused more on electoral purposes than on the decentralisation process itself. Worries were expressed with regard to the next steps foreseen for the territorial administrative reform, that is the implementation of the decentralisation strategy, in particular the functional aspects of local self-government, as well as the preparation of the organic Law on Local Government. Representatives of NGOs raised the budgetary issue and insisted on the remaining uncertainty in particular with regard to the functioning of the second level of local government units.

20. The Minister of State for Local Government of Albania and National Anti-Corruption Coordinator informed us that work had started to create the financial and administrative basis for new public entities in order to make them operational. The new decentralisation strategy that was being finalised and ready for adoption by the Council of Ministers (it was in the meantime adopted on 29 July 2015 by the Council of Ministers) foresees the strengthening of local government units and the increase of competences, in particular fire protection services, social services, forests and pastures, draining and irrigation systems. Elementary education and primary healthcare would be further decentralised. The transfer of powers would be accompanied by the transfer of budgets. A new law on local finances would be adopted and the local tax system would be reformed, which is expected to lead to an increase in local government budget from 2.7% of GDP in 2015 to more than 5% in 2020.

21. While noting progress in the implementation of the recent territorial administrative reform, with the new territorial structure in place, we strongly encourage the authorities to carry out the next phase, so as to provide local authorities with clear and concrete powers and functions of self-government and with the necessary means to implement them. It is of the utmost importance to provide the local government units with full capacity to exercise their functions, including adequate resources.

4. Local elections

22. The 21 June 2015 elections were the first elections in the 61 newly-formed municipalities, for the election of 61 mayors and 1 595 municipal councillors. Fifty-two political parties grouped in two coalitions² and eight political parties ran for the elections. In addition, fourteen independent candidates proposed by voters ran for mayor and twelve others for councillor.

23. In its Needs Assessment Mission Report, the OSCE/ODIHR noted that a high degree of polarisation and distrust among political parties remained and that this could have a negative impact on the conduct of the elections. The political environment was characterised as tense, due to the long-standing conflicts between the two major political forces, and a pervasive distrust between parties, which could negatively affect the conduct of the elections and the post-electoral period.

24. Local elections are primarily regulated by the Constitution, the Electoral Code, and CEC regulations. Secondary legislation includes the Law on Local Government, the Law on Territorial Divisions adopted in July 2014, the Law on Political Parties, the Law on Demonstrations, and provisions of the Code of Administrative Procedures and Criminal Code. The Electoral Code was significantly amended in 2012, following an inclusive process that was supported by the major parties. Technical amendments were made to the code in April 2015 to reflect the new division of local government units, without opposition support. Some previous recommendations have remained unaddressed with regard to the impartiality of the CEC, transparency of campaign financing, and effective dispute resolution.

25. The electoral campaign very much focused on the controversial territorial administrative reform and on decriminalisation of the political sphere, with, in particular, an opposition-proposed pact on decriminalisation for the local elections, which was not followed up by the ruling coalition. A number of our interlocutors welcomed the constructive behaviour of candidates in some of the big cities, notably in Tirana, where cooperation was promoted and dialogue was cordial and constructive, contrary to previous aggressive campaigns.

26. After our visit, on 10 August 2015, the final election results were certified by the Central Election Commission. The voter turnout was 47.6% nationwide. The candidates for mayor from the left-wing coalition led by the Socialist Party (SP), won in 45 municipalities, including 9 for the Socialist Movement for Integration (SMI). The candidates from the right-wing coalition led by the Democratic Party (DP) won in 15 municipalities. The Greek Ethnic Minority for the Future Party (MEGA) candidate won in Finiq municipality. The SP received 25.8% of votes, the DP 20.3% and the SMI 16.6% of votes. The SP-led coalition and the DP-led coalition received respectively 63.5% and 32.5% of the total votes for councillors.

27. The election results show a clear victory for the socialist-led coalition. The Socialist Movement for Integration (SMI) seems to have gained for the first time a solid local base in this election.

28. According to the preliminary findings of the Congress of Local and Regional Authorities, the OSCE/ODIHR and the EU Committee of Regions, while fundamental freedoms of expression and assembly were generally respected, the continued politicisation of State institutions undermined the effective administration of the electoral process. While the Central Election Commission (CEC) generally operated openly, the politicised nature of its discussions resulted in inconsistent decisions that undermined public confidence in the independence of the election administration. The campaign environment was peaceful, except for isolated incidents. Although the parties raised numerous allegations of campaign violations, few official complaints on such issues were filed. Election Day was peaceful throughout the country in general. There were widespread allegations of pressure on voters as well as vote-buying. Many cases of group voting were observed and concerns were noted about possible intimidation by groups of party activists in and around polling stations. The rules on campaign finance reporting were not comprehensive and should be strengthened to provide greater transparency. Despite the large number of media outlets, their affiliation with the main political parties, resulting from media owners' business interests, caused direct interference in editorial autonomy and self-censorship, and limited pluralism of viewpoints. The manner in which election commissions and courts dealt with electoral complaints often left stakeholders without effective redress. The closing and initial stages of counting were assessed positively, although the counting process was protracted.

² (1) The "Alliance for European Albania" (AEA) formed by the two largest governing parties, the Socialist Party (SP) and the Socialist Movement for Integration (SMI), as well as 35 other parties;

(2) The "People's Alliance for Work and Dignity" (PAWD) formed by the Democratic Party (DP) alongside the Republican Party (RP), and 13 other parties.

29. As was the case in previous elections, regrettably, the lack of political will among the main political stakeholders to implement the Electoral Code in good faith and to refrain from politicising the electoral process was at the origin of the shortcomings noted during the elections. Changes to the Election Code alone are not sufficient to resolve the recurrent shortcomings and to ensure the conduct of democratic elections in line with international standards. Equally important are a change in the attitude and practices of the main political stakeholders. Such a political will by all political stakeholders is essential for the consolidation of a robust and genuinely democratic electoral process in Albania.

30. In our meetings, representatives of the opposition claimed that there had been numerous problems with the local elections, in particular vote buying, misuse of administrative resources, pressure on opposition candidates as well as multiple voting. The Chair of the Democratic Party referred to a large number of candidates with criminal records on the side of the majority and threats and violence against DP voters. He stated that there had been manipulation of voters' lists, and that the CEC was taking decisions with double standards in violation of the law. NGOs representatives welcomed the progress made in the electoral process but also denounced some remaining shortcomings and irregularities, including allegations of vote buying, intimidation and irregularities in the counting process (including last minute replacement of commissioners, prolongation and delays in the counting process). The issue of the politicisation of the election administration was raised by NGOs representatives and by representatives of the international community but also by members of the Central Election Commission themselves who stressed that the appointment of commissioners and the counting teams should not be done by political parties.

31. We reiterate that it is important that the shortcomings identified in the June 2015 elections are properly and rapidly addressed in a spirit of co-operation between the political parties. We agree that the politicisation of the process from the very beginning has certainly contributed to undermining the situation which should be addressed jointly by political parties. It is nevertheless important to recall that changes to the Election Code are not in themselves sufficient to resolve the recurrent shortcomings in the electoral process, but all political stakeholders need to demonstrate the commensurate political will to put in place all of its provisions in good faith.

5. Justice reform

32. In its last resolution, the Assembly expressed concerns over the independence and impartiality of the judiciary and in particular political pressure and interference. It stated that further comprehensive consensual reforms, including changes to the Constitution, to ensure the independence of the judiciary and an efficient administration of justice, were urgently needed and should be a priority for the authorities. The Assembly expressed its concern about the widespread and systemic corruption at all levels of the judiciary, and encouraged the authorities to reform the Supreme Court and High Council of Justice in line with the recommendations of the Venice Commission, especially with regard to disciplinary and appointment procedures. It also urged the authorities to revise appointment and disciplinary procedures with a view to reducing their vulnerability to politicisation and political interference.

33. An ad hoc parliamentary committee on the judicial reform was established and held its first meeting on 23 January 2015, with a pool of local and international experts including the Venice Commission at its disposal. The absence of participation by the opposition in the ad hoc committee's work has been deplored. In June 2015, the ad hoc Committee on the Justice Reform and the High Level Group of Experts produced an "Analysis of the justice system in Albania - 2015" which aims to provide comprehensive description of the way the judiciary is organised and functions in Albania and identifies the problems and difficulties. This description includes various components, ranging from the organisation of the courts and the prosecution, their tasks, "governance" of the judiciary and prosecution, the status of judges and prosecutors, the administration of judicial and prosecutorial services, the financing system, legal aid and implementation of courts' decisions. This analysis is expected to serve as a basis for what the government has announced as a holistic justice reform process. A full assessment of this analysis is beyond the scope of the present information note and will be dealt with on a future occasion. After our visit, on 7 July 2015, the DP put an end to its 7-month boycott of the Committee on Justice Reform. Since then, the Analytical Document on the Justice System in the Republic of Albania as well as the Strategy of the Justice System Reform, and the Action Plan which is related to it, have been under consideration within the committee.

34. In the light of the above, it can be concluded that a process of reform of the justice system has started but has already been subject to delays. A national consensus is needed for an inclusive and holistic reform of the justice system. It should be noted that, again, the process seems to have focussed more on the production of roadmaps and strategy papers rather than actual implementation of reforms.

35. It is worth noting that the parliament recently adopted a new law "on the system of evaluation of judges", taking into account most of the recommendations of Council of Europe experts. It aims, *inter alia*, to review the process of the evaluation of the professional performance of judges.

36. Concerning disciplinary proceedings, the Minister of Justice informed us that he had initiated proceedings against 30 judges, out of which two had been dismissed and two convicted in court for corruption. In addition, four judges had been arrested and charged with corruption and their case was currently before the court

37. NGO representatives considered that the reform of the judiciary had not yet gone very far and they insisted that constitutional changes were needed. They alleged that while the government had made a number of public accusations of corruption against members of the judiciary, the Minister of Justice had not initiated disciplinary proceedings against all of them, which showed a discrepancy between announcements and actual action. It should be noted that only the Minister of Justice can start disciplinary proceedings against judges, which allows political interference in the justice system. They stressed that the prosecutor's office was accountable to no-one and that the institution lacked transparency. They also pointed to the corruption and inefficiency of the police.

38. In September 2014, the parliament established an "inquiry committee to investigate the lawfulness of omissions and commissions based on the alleged information, facts and circumstances and conclude whether or not there was sufficient ground to discharge Mr Elvis Cefa and Mr Luzim Lelçaj from the office of member of the High Council of Justice to which they had been elected by the Assembly". In October 2014, the inquiry committee issued a 93-page report according to which "with their commissions and omissions during the exercise of their constitutional and legal office with the institution, they committed and allowed serious violations of the law", which resulted in their discharge from office. This process has raised major questions with regard to the rule of law and the independence of judiciary from political interference.

6. Fight against corruption

39. In its last resolution, the Assembly regretted that, despite a recent increase in prosecutions, corruption had actually increased and not diminished in recent years, which showed the limited results achieved so far by measures and strategies to fight corruption. It called on all the political forces in Albania to show the commensurate political will to fully and effectively implement a coherent and effective anti-corruption strategy, and to make sufficient resources available for its implementation.

40. The fight against corruption remains a key priority for the government. The legislative framework and policy coordination and monitoring have been strengthened, including through adoption of the anti-corruption strategy and action plan in March 2014. The most important part is now the action plan's effective implementation, as well as its monitoring, in order to show concrete results. Establishing a solid track record of proactive investigations, prosecutions and convictions of corruption cases at all levels remains a key issue.

41. The Minister of State for Local Government of Albania and National Anti-Corruption Coordinator informed us that there had been an increase in the number of cases reported to the prosecution. Between October 2013 and the end of March 2015, corruption cases concerning 619 public officials were sent to prosecution. According to him, annual statistical data show that, during 2014, the prosecution recorded three prosecutions for corruption offences in the private sector, three for the offence of passive corruption of senior State and locally elected officials, eight cases of offences of active and passive corruption of judges, prosecutors and other judicial functionaries and three of these cases were sent to trial. The prosecution had started prosecution of 104 cases relating to corruption offences by persons exercising public functions, and 32 cases had been sent to trial. In the first half of 2015, there were five cases of offences of active and passive corruption of judges, prosecutors and other judicial functionaries. The statistics provided do not allow for assessment of the conviction rate for corruption cases, including high level officials, as they mainly concern charges filed and do not show final sentencing.

42. The High Inspectorate of Declaration and Audit of Assets (HIDAA) is a key instrument in the fight against corruption: all elected officials, judges and high-level civil servants must declare their assets, as well as those of their spouses, children and cohabitating persons to the HIDAA. Since April 2014, all declarations must be audited. In its last resolution, the Assembly regretted that the HIDAA was understaffed and under-resourced in comparison with its workload and the importance of its task. Concerns were raised over the indications that the findings of the HIDAA were not followed up by the Prosecutor General's Office. In our meeting with HIDAACI, we were informed that their staff had increased from 53 to 57 between 2013 and 2015, and its budget had increased by 15%. However, this minimal increase in resources does not seem

sufficient for HIDAACI to carry out its mandate properly, especially given the increase in workload as a result of the 2014 changes in the law on declaration of assets (which is likely to increase even more if the draft law on protection of whistle blowers is adopted.)³ According to HIDAACI, they referred 148 cases to the prosecution office during 2014-2015 - 74 in 2014 and 74 during the first six months of 2015. In 2015, a number of high-ranking public officials were reportedly referred to the prosecution office. HIDAACI considers that the prosecution office has been applying double standards: while cases related to mid- and low-level officials were sent to trial, no proper follow-up was given to cases involving high-level officials. This concern about lack of follow-up by the prosecution was further confirmed by the Minister of State for Local Government of Albania and National Anti-Corruption Coordinator.

43. We were informed that the draft law on protection of whistle blowers had been finalised and would be sent to the Council of Ministers for adoption. According to the draft, the HIDAACI would become the overseeing body.

44. The Minister of Justice announced that an online web-portal, where citizens can lodge complaints and denounce corruption cases, was launched in February 2015 by the government. Citizens are also invited to assess, by SMS messages to the National Anti-Corruption Coordinator, the quality of any services delivered. However from the 800 complaints received, only 14 had been forwarded to the Prosecutor General for investigation, which seems a relatively low number in the context of the persistent corruption in the country. This adds to the number of interlocutors that have noted that in many cases complaints about corruption and misdoings by officials are not acted on correctly by the prosecution service. This hinders a comprehensive judicial response to the widespread corruption in the country.

45. In April 2015, following the request by one-fifth of the Democratic Party MPs, the Constitutional Court quashed the creation of the National Bureau of Investigation (NBI) by ruling it to be in violation of the Constitution.. Part of the government's plan to fight corruption and organised crime, the NBI was meant to be a special structure to investigate serious crimes and high level corruption. During our discussions, the authorities had not yet decided what the concrete consequence of this decision would be (as the written judgement had not yet been issued by the Constitutional Court). They remained convinced that there was a need to change the structure with regard to the prosecution and investigation of corruption cases but they needed to find a way to modify the structure in order to take into account the findings of the Constitutional Court. According to the Minister of State for Local Government of Albania and National Anti-Corruption Coordinator, Albania would follow the Croatian model.

46. In our meeting with representatives of NGOs they stressed that the efforts of the government to digitalise services were not sufficient to drastically change the perception of corruption and state capture. They insisted on the need for proper repression of high level corruption. It is obvious that the measures taken by the government will require proper handling and follow-up of cases. The most important thing remains the fight against impunity.

47. During our meetings, we raised the issue of the effectiveness of the fight against organised crime and in particular the follow up to the operation carried by the army in Lazarat last year. Here again, the information and data provided by the authorities are rather unclear and seem to confirm that, despite the number of people arrested and charged, there has been no actual conviction until now with regard to these events. This corroborates our worries about the lack of visible results achieved so far in the implementation of the anti-corruption and anti-organised crime strategy, despite strong declarations of intention.

7. Other issues raised during the visit

a. Exclusion of offenders from parliament

48. In its last report, the Assembly urged the authorities to swiftly adopt all further implementing legislation needed to efficiently enforce the constitutional amendments that limit the immunity of members of the government, MPs, judges and high-level State officials.

49. The issue of the decriminalisation of the parliament has been high on the political agenda over the last year. The December 2014 agreement between the political forces foresees in particular that the issue of the exclusion of offenders from parliament needs to be addressed, possibly through legislative reform introducing a new cause of ineligibility to be elected. On 22 April 2015, the Chairman of the Special Committee set up in the parliament to implement the agreement between the ruling majority and the opposition, asked the Venice Commission for co-operation in addressing the issue of people with criminal

³ See paragraph 43.

records who hold or seek to be elected or appointed to a public office. As a basis for this cooperation, the Venice Commission prepared a report including comparative data on the issue and focusing on access to parliament, which was adopted by the Venice Commission on 19 June 2015.

50. During our meetings, we heard allegations from members of the opposition, including the chairman of the DP that the majority refuses to decriminalise parliament. They denounced the fact that majority sitting Members of Parliament have prior convictions for crimes. They also raised the issue of persons with criminal records who ran for local office in the last elections on the side of the majority coalition and the refusal of the majority to address this issue before the elections despite the calls by the opposition to do so.

51. We welcome the assurance we received both from the majority and the opposition that they would continue working towards the decriminalisation of elected officials.

b. The functions of the Ombudsman

52. During our meeting with the Ombudsman, he stated that the recent amendments to the law on the Ombudsman and to the law on access to information went in the wrong direction and that the amendments to the Ombudsman law had not been sent to the Venice Commission for opinion prior to adoption. He raised in particular the issue of the appointment of his deputies that would affect the independence of the institution. He referred to the Commissioner for Human Rights' statement in November 2014 urging the Albanian authorities to seek the opinion of the Venice Commission before proceeding, due to the risks of weakening the ombudsman's independence inherent in some of the proposed changes. The Ombudsman claimed that his requests for information from the government often remained unanswered and that the state of implementation of his recommendations had worsened over the first six months of 2015.

53. He also expressed concern about cases of obstruction of his functions as the National Prevention Mechanism against Torture (which he reiterated after our visit in a press release by the Institution on 24 July 2015).

8. Conclusions

54. We welcome the clearly-expressed political determination of both the majority and the opposition to continue their mutual co-operation to fully implement the December 2014 agreement, which is of crucial importance for the political stability of the country.

55. Referring to the preliminary findings of the international observers, according to whom the fundamental freedoms of assembly and expression had been generally respected in the 21 June 2015 local elections, we note the serious shortcomings encountered by them in the electoral process, which will need to be properly and rapidly addressed in a spirit of co-operation between the political parties. Changes to the election code are not in themselves sufficient to resolve the recurrent shortcomings in the electoral process: all the political stakeholders need to demonstrate the commensurate political will to hold genuinely democratic elections and to implement the election code fully and in good faith.

56. While taking due note of the implementation of the recent territorial administrative reform, we reiterate that that this should now lead to the next phase, the devolution of powers and means, which is important for the effective and efficient democratic development of the country. Now that the new territorial structure is in place, local authorities will need to be given clear and concrete powers and functions of self-government and the necessary means to implement them.

57. We welcome the emphasis given by the government to the fight against corruption and organised crime, but stress that that concrete results in terms of prosecutions and convictions need to be achieved. It must be clearly demonstrated that there cannot be any impunity for corruption at any level within the government, the police, the judiciary or the prosecution service. We reiterate the importance of reform of the judiciary and in particular of the prosecution service, whilst ensuring that the fundamental principle of the independence of the judiciary is respected. The reform process should proceed on an inclusive basis and it is important that all political forces fully participate in the work of the *ad hoc* parliamentary committee on judicial reform.

58. We would like to thank the Speaker of Parliament for his invitation to hold a meeting of the Monitoring Committee in Albania in 2016, which was welcomed and accepted by the committee at its meeting on 3 September 2015.

APPENDIX

Programme of the fact-finding visit to Albania (29-30 June 2015)

Mr Jonathan EVANS, United Kingdom, European Conservative
Mr Andrej HUNKO, Germany, Group of the Unified European Left

Monday 29 June 2015

- 10:30 Meeting with the Speaker of the Assembly, **H.E. Mr Ilir META**
- 11:15 Meeting with Albanian Permanent Delegation to the PACE
- 12:00 Meeting with the Commission for Implementation of the December Agreement
- 14:15 Meeting with the Minister of Justice, **Mr Nasip NAÇO**
- 15:15 Meeting with the Minister of State on Local Issues, **Mr Bledi CUCI**
- 16:15 Meeting with Ombudsman **Mr Igli TOTOZANI**
- 17:15 Meeting with the Chairman of the Democratic Party, **Mr Lulzim BASHA**
- 18:15 Meeting with the OSCE and EU Heads of Mission
- 20:00 Official dinner hosted by the Assembly Delegation to the PACE

Tuesday 30 June 2015

- 09:30 Meeting with the Head of the High Inspectorate for the Declaration and Audit of Assets, **Mr Shkëlqim Ganaj**
- 10:00 Meeting with the Prime Minister, **H.E. Mr Edi RAMA**
- 11:00 Meeting with the President, **H.E. Mr Bujar NISHANI**
- 12:00 Meeting with the Central Election Commission
- 14:30 NGO Roundtable on Local Government reform and local elections
- 15:40 NGO Roundtable on fight against corruption and judiciary
- 17:00 Meeting with Council of Europe Ambassadors