

Monitoring the implementation of the SAA

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1. Foreword

The Network of Open Society in Albania (NOSA) undertook an initiative to monitor the process of completion of commitments undertaken from Albania in the context of the Stabilization and Association Agreement. The report prepared by NOSA covers the period from June 2006 until September 2007 and is based on Albania's commitments deriving from the below-listed documents:

- The Stabilization and Association Agreement;
- The European Partnership;
- The European Commission Annual Report for Albania (2006);
- The National Plan on SAA Implementation, approved by the Council of Ministers of the Republic of Albania in July 2006 as a response to the European Partnership document;
- The Joint Recommendations of the Consultative Task Force Meetings

The monitoring initiative derived as a sequence of Albania's transfer to a more advanced status of contractual relations with the EU, symbolized with the signature of the SAA and entry into effect of the Interim Agreement as of 1 December 2006. The monitoring process was not only aimed at identifying the shortcomings or non-fulfillment of a part of the commitments by the relevant authorities, but also at affecting government's responsibilities to ensure an open and transparent process to the public and a better participation of the civil society and interest groups in formulating and implementing government policies in the context of the European integration.

A year after signing the Stabilization and Association Agreement, Albania has made progress in a number of issues related to the political system, functioning of democracy and market economy. The government and the state institutions seem to have paid a more distinct attention to the ratification of the SAA than to the internal progress.

Despite the extraordinary support of the society for the European integration process, there still seems to be a gap between the agenda of internal reforms and the European integration¹. Sometimes the internal reforms and integration are considered as separate processes.

The report, a contribution of three NASO members – *Institute of International Studies, Albanian Helsinki Committee and the European Center* – describes and analyzes measures undertaken by local stakeholders in complying with the political and economic criteria that would get Albania closer to the European Union. Drafting of the report is based on a process of observation of the political developments and manner of reaction of political actors, economic developments and initiatives undertaken by the government and other stakeholders in complying with the requirements deriving from the implementation of the European standards.

Objectivity and impartiality are the key principles the monitoring process is based upon. The report is drafted based on and supported by the information received from the state and non-state institutions, interviews and round tables with local experts, including monitoring of the local press.

Albeit signing of a Memorandum of Understanding by the Open Society Foundation (SOROS) and the Ministry of Integration on 31 January 2007, which expressed the commitment of the Ministry to facilitate gathering of information

¹ The European integration process keeps enjoying a wide public support in Albania, while the European Union is assessed as one of the most strategic partners of the country. Over ninetytwo percent of Albanians would have voted in favour of the the country's membership in the EU if a referendum was held, while speaking of the importance the government has to cast to the European Union, it is in the forefront of a number of states and international institutions, including NATO, the United Nations, the USA, the neighbouring countries and the EU member countries. For more information see Maklen Misha, *Albania and the European Union: Review of the European Integration Process* Albanian Institute of International Studies. September 2007, in www.aiis-albania.org

for the monitoring process by the civil society, the process showed that there are not a few cases when line institutions hesitate to cooperate and deliver information on the progress of Albania in complying with the obligations emerging from the European integration process.

As delineated in this report, the completion of commitments by Albania has not been applied in the same pace. Fulfillment of the Copenhagen-set political criteria, such as the termination of the electoral reform, of the infrastructure and administrative reform in support of the electoral process, reformation of the civil service system, reformation of the address system, supply of the Albanian citizens with identity documents of a high level security, reformation of justice system, decentralization, reformation of the public administration, agricultural and environmental policies are some of the sectors where the required progress has not been achieved.

Meantime, there are other sectors, such as management of public finances, standards and certification, competition, state aid, intellectual and industrial property, where there is a positive and progressive tendency in complying with the commitments deriving from the SAA and the European Partnership document.

The non-satisfactory level of implementation of the required measures by the government in the national plan of the SAA implementation once again puts to the fore the need for a process of drafting strategies and policies involving a wide basis of the interest groups and the civil society, not limiting it only within the government spectrum. Furthermore, the progress reports of the Albanian government should undergo a thorough analysis prior to the approval by the Council of Ministers, limiting the hitherto practice, according to which the Ministry of European Integration is the last chain collecting and processing the line institutions inputs before they are reported to the European Commission.

In this manner, implementation of the European Partnership priorities should be considered as an organic process of the line ministries, not as an appendix to their daily work. Also, there is a need to strengthen the coordination and cooperation between state and local government institutions so that the undertaken initiatives do not remain fragmentized and not recognized, but become derivatives of one-another.

The periodic public information on the pace of progress of fulfillment of requirements by Albania remains limited. Although in the web page of the Albanian Ministry of European Integration there is a link on publication of progress reports, they are considered as internal information, and it was hard even for the experts involved to the monitoring process to get access to them. The use of this practice, aimed at ensuring a better processed and more complete information would enable the Assembly of the Republic of Albania, interest groups and the media to better understand what has been achieved, and, consequently, would lead them to affect a real impact on the European Integration process.

2. Democracy and the rule of law

Although progressive steps have been reached, democracy in Albania still keeps being fragile. During the reporting term, the political elite had at least two chances to show its political maturity: the local elections of 18 February 2007, as well as the elections for the President of the Republic in July 2007. In both cases, at the absence of a constructive cooperation, Albanian politics ended up in a deadlock (what was particularly expressed in the disagreements related to a number of issues for preparation of elections, setting of the election date, and the process of election of the President of the Republic).

Thanks to the mediation of the President of the Republic and the pressure exerted by the international community, local elections were held on 18 February 2007, but the incapacity of having the political stakeholders agree continues to reflect another fundamental feature of the Albanian democracy. The political disagreements and the lacking consensus was remarked even in the process of election of the President of the Republic. The logics of the game lost by all, overwhelming in the Albanian political transition mentality, accompanied this important event. Although the election of the President was made within the Constitutional context, the ruling parties and the opposition failed in ensuring a consensual process. On the contrary, the process was left to a spontaneous flow, which added to the risk of an unnecessary political crisis, which would have consequences to the progress of reforms to be undertaken by the country.

The government has set the priority of undertaking important reforms that affect functioning of the market economy, which are closely related to the modernization of the fiscal system, reduction of informal economy, facilitation of the business registration procedures, reduction of the corruption level, etc. However, the property issues are not still resolved, and keep being a serious impediment to the economic development, foreign investments, and social conflicts.

Despite the good intention of reforms, some laws approved by the Assembly of the Republic of Albania have been controversial seen from the viewpoint of the human rights, as stipulated in the Constitution of the Republic of Albania, and sometimes, have questioned the application of laws and the principles of the rule of law. Although the fight against corruption is considered vital to the development of the country, the means chosen to reach this aim, in some cases, have been disputable, regarding the respect of human rights. The Constitutional Court has declared some of these initiatives as anti-constitutional. On behalf of the fight against corruption and organized crime, there have been reciprocal accusations by the officials prior to having the case judged and investigated, continuously violating the principle of presumption of innocence.

The civil society stakeholders, the media and groups of interest representatives have given their assistance by submitting opinions and legal argumentation for various draft-laws by organizing round tables, press conferences, public declarations, open papers, hearing sessions in the parliamentary committees, etc. In some cases, the civil society has been successful in having an impact on the quality of laws and initiatives. Anyhow, the constitutional obligation to consult with the interest groups prior to undertaking an initiative still remains an initial practice in the Albanian public life.

Efforts to reform the justice system, despite the progress achieved in special cases, have been impaired by the lack of a clear strategy, accompanied by a gap of a climate of consensus and politicization of some key issues of this system.

2.1.1 Elections and other parliamentary issues

The parliamentary elections were held on 3 July 2005 and ended up with the right-wing coalition in power, led by the Democratic Party. The OSCE/ODIHR report, containing some recommendations to be taken into account for a further improvement of the electoral legislation, was issued in December 2005.

An *ad-hoc* Parliamentary Electoral Reform Committee was established in January of 2006. Due to the lack of the political will, no amendment was affected in the Electoral Code from January 2006 until 13 January, 2007, resulting in a negative impact to the development of a constructive debate and reach of a consensus between political parties, particularly between the two big ruling and opposition parties. Delays in amending the Electoral Code created practical problems in organization of local elections by the responsible institutions. Given that no political consensus was achieved, the President of the Republic, in respect of the constitutional obligation, determined 20 January as the election date.

The main issues that became a resource of disagreements, can be summarized as follows:

- Removal from the Electoral Code of legal provisions speaking about the temporary voter register and the birth certificates;
- Election of one CEC member from the right-wing, while the opposition claimed to have that representative from its own ranks;
- Adding of the CEC members from 7 to 9, which required for the amendment of Article 154 of the Constitution as well as adding of the number of election commission members and of the vote counting groups from 7 to 14.

On 13 January 2007, upon the initiative and intervention of the President of the Republic, the political parties accepted by consensus changes to the Electoral Code². The President did also amend the date of elections, setting 18 February 2007 as the Election Day. Some of the OSCE/ODHIR recommendations were part of the amendments. Among them we can mention:

² The newly-approved law contained additions and amendments in 40 Articles, three of which determined the special terms of local elections of 2007, transitory provisions related to the identification of election documents and some transitory provisions on preparation of the voter lists.

- Abrogation of the provisions speaking of the Temporary Register;
- Adding of the number of the CEC members from 7 to 9; change of the election commissioners and of the counting group members from 7 to 14;
- Improvement of the oversight procedures on the CEC issues, the Electoral College of the Appeals Court and of the Central Voting Committees on the identification of electors and procedures for proclamation of the preliminary and final voter lists, etc.

Inter alia, the elections of 18 February, 2007, showed that voting procedures with birth certificates, accompanied by two other documents, was complicated, and created problems; the electors did not have the sufficient time needed to get familiarized with the voter lists.

Adding of the CEC, of election commissions and of the counting groups members does not justify the aim; the interventions and the political dictatorship exerted in some cases was accompanied by a blocking of the electoral process. Due to the various complaints, and because of re-runs in some constituencies or delayed new elections, the election turnout was delayed³.

The country entered the 18 February 2007 elections with no complete and accurate voter register, supported in relevant addresses and with not identity document, obligations that should be met by the Albanian government in the quickest time possible.

The elections of 18 February 2007 stressed once again the emergent need to reform the electoral system and infrastructure. Establishment of a full, accurate and computerized National Fundamental Election Register, based on an accurate and controllable address system as well as the supply of the Albanian nationals with identity cards, ensuring the personal data protection, are necessary for this purpose.

For meeting the above-listed tasks, many declarations or preliminary plans have been made by the Albanian government in the National Plan on SAA Implementation, but, so far, they have not been respected. The Albanian government programme lists the national register and the identity cards issue

³ Final turnout of elections of 18 february 2007 was procliamed three months after the elections.

as a key priority of the government, but everything has remained in the status of declarations so far.

In case of lacking of a clear work plan, which should be made public so as it can allow relevant bodies to monitor it and ensure participation of all the interested stakeholders in the process, it might happen that citizens end up in the 2009 elections with no identity cards. As a consequence, there is a potential of a repetition of tense situations between various political actors regarding the documents the nationals should have in order to be able to vote, and non-progress in the achievement of required standards in the electoral field.

In May of 2007, the Assembly decided to establish an Ad-hoc Electoral reform Committee, which has already started discussions on the eventual change of the electoral system, which, in the case of Albania, is sanctioned by the Constitution. Apart from the electoral system discussion, it is highly important to duly discuss the issue of depolitization of electoral commissions by the CEC up to the lower level commissions, to review the complaining and appeal procedures, to study on whether to change the electoral threshold, and if so, decide up to what level the threshold can be changed.

At the same time, there is a need for a higher commitment of field experts to accurately make the technical-legal formulations that leave no space for equivocal interpretations, and for a systematic work of the Ad-hoc Parliamentary Committee, which should operate not only based on a full consensus for the important electoral reform issues, but also respecting concrete terms, in order to prepare for the due coming parliamentary elections.

In June 2007 the Assembly of Albania launched procedures for electing the President of the Republic, as a result of termination of the constitutional mandate of the proceeding President. The President election was accompanied by a tense political situation, with lots of pressure, numerous debates between the ruling majority and the opposition aiming at electing the consensual president, which would be above all parties. The civil society actors made a public appeal to all the public parliamentary groups to find a consensual candidate in the process, unconditional and outside party interests. Despite the lack of political consensus

accompanying the election of the President of the Republic, elections were held according the Constitutional provisions.

2.1.2 Judicial system

Reforms in the judiciary are decisive for the country's development; they serve as a guarantee to correctly implement the SAA and would be a push to the European integration process. These reforms, albeit the need imposed by the new development status of the country, have been slow and have not met the foreseen deadlines.

- The commitments mentioned in the European Partnership Document to improve the judiciary system are as follows:
- Increase of transparency of criminal and civil processes in the justice field;
- Nomination of judges and prosecutors via competitive exams;
- Strengthening of the status, independence and constitutional protection of judges;
- Establishment of objective and transparent rules in appointing cases to the judges;
- Establishment of a transparent merit system for assessing prosecutors;
- Improvement of coordination between the prosecution and the police;
- Respect of the international convention for establishment and leading of the penitentiary institutions;
- Guarantee of the necessary resources to ensure safe and reliable witness protection;
- Increase of the executed judicial decisions.

Due to the importance of the judicial system reformation as well as problems it encounters in practice, the European Commission Report for 2006, paid a special importance to this item, identifying the main shortcomings and problems, such as:

- Lack of transparency, organization and prolongation of judicial proceedings;
- Lack of the legal adjustment of the issue of independence and constitutional

protection of judges, increase of salaries and status of the judicial system, administrative staff (who are not civil servants) and appropriate division of powers between the judicial inspectorates of the High Council of Justice and the Ministry of Justice in the existing law “On the Organization of the Judicial Power”;

- Lack of a proper prosecutor appraisal system;
- Need of identifying objective legal rules for determining transparency of issues;
- Planned reconstruction of the courts in the judicial districts to improve the working efficiency;
- Weak cooperation between the police and judiciary bodies;
- Lack of new developments to guarantee nomination of judges and prosecutors through competitive rights;
- Non-completion of the legal framework on witness protection, where no progress has been achieved due to the lack of sufficient resources, the attention and the serious commitment in taking appropriate measures;
- Need of legal security as a precondition to realize a number of obligations deriving from the SAA and approval of efficient legal contexts, which are highly important to lead Albania’s integration process;
- Need of divided jurisdictions to treat juvenile issues in the courts.

Reformation of the judiciary on sound, professional and sustainable grounds requires by all means the review of some base legal acts. These laws include:

- Law on Organization of the Judicial Power;
- Law on Organization and Functioning of the High Council of Justice;
- Law on the Ministry of Justice;
- Law on Organization and Functioning of the High Court;
- Law on the Magistrate School;

The potential changes of the above laws shall indispensably be accompanied by the relevant changes to the Civil and Criminal Codes and the Civil and Criminal Procedure Codes.

Unfortunately, the initiatives for amending the Law on the High Council of Justice, Law on the Judicial Power, and Law on the Organization and Functioning of the Ministry of Justice⁴ have not only been detached in time, but have resulted to be incomplete in the problems they address⁵. At the same time, these initiatives are characterized by isolated processes, where the main actors or the technical assistance, from the country and abroad, is included in delayed phases of the process, impairing the aim of the initiatives and the quality of the expected outcome.

An index of an all-inclusive transparent process is the fact that even today the Law on Organization and Functioning of the Judicial Power has not been sent for approval to the Assembly. Given their importance, reforms in the judicial power should come as a result of a wide political consensus, as stipulated by the Constitution, and a wide consultation with lawyers and the international missions assisting Albania in this field.

Numerous problems have been identified during the implementation of the existing legislation, including:

- The judge career;
- Independence and the constitutional protection of the judge;
- Nomination and appraisal of judges;
- A clear division of competencies amid inspectors of the High Council of Justice and the Ministry of Justice;
- Court re-organization;
- Definition of the judicial administration court;

The draft-law approved by the Council of Ministers is aimed at giving a solution to the above issues, but only partially. The draft-law provides that the judge career starts only from the School of Magistrates, banning entry of people who have not been graduated from the School of Magistrates in the judicial system.

⁴ The Law approved in March of 2007 does simply eliminate the names of directorates in the organigramme of the Ministry and does not affect any other issue.

⁵ For instance, the initiative for amending the Law on the High Council of Justice was in essence aimed at only eliminating the conflict of interest, and not affect the other policies of this institutions.

But the draft-law does not foresee the necessary initiatives for promoting and guaranteeing the career in the judiciary.

Salary augmentation by 5% following a professional experience of 10 years cannot be considered as a sufficient measure. On the other hand, the non-intervention in the Law on the Organization and Functioning of the High Court, which allows nomination of judges in the High Court without having a career in the judiciary, not only limits the career system in the two trial levels, but also runs contrary to the novelty of the draft-law. Pursuant to the Law on the Organization and Functioning of the High Court, the High Court Judges, after ending the mandate, have the right to nomination in the Appeals Court. It should be emphasized that even the so-called concept of the waiting list cannot be considered as the key to the judicial system career issue.

With regards to independence and the constitutional protection of the judges, the draft-law creates problems of a constitutional character. For instance, the draft-law envisages that judges whose courts are closed down or are thrown out of the system become part of a wait list, receiving a salary of up to 80% of the normal salary. Such a provision runs contrary to the Constitution (Article 145/5), which stipulates for the constitutional protection of judges in case of a court re-organization and a non-reduction of the judge salary (Article 138).

The draft-law tries to determine some criteria for nomination of judges, which remain evasive and not clearly determined. Since May of 2006, the High Council of Justice has approved a professional appraisal and ethical system for judges, which has been drafted with the assistance of the Council of Europe. This system marks a step forward versus the system established in 1999, but practice is showing that the current appraisal system has difficulties in its implementation.

The draft-law improves the inspection procedures, recognizing the Minister of Justice the right to launch a proceeding based on the joint proposal of inspectors from the High Council of Justice and the Ministry of Justice. It is also necessary for the set provisions to regulate the obligation of the Minister to reason the refusal of a disciplinary proceeding. A Memorandum of Cooperation was signed between the Ministry of Justice and the High Council of Justice in the context of the CASALS

(USAID) project, based on which, the parties have agreed to cooperate on all issues related to inspection of courts.

The draft-law aims at giving a solution to the issues emerging from the court organization and its manner of operation, and does not clearly show the way the courts shall function, nor does it define a model of re-organization. In fact, the Ministry of Justice has proposed re-organization of the judiciary districts with no preliminary study, which questions the effectiveness of this initiative. Despite this fact, the President of the Republic decreed the organization of the judiciary districts following the proposal of the Minister of Justice, in consultation with the High Council of Justice.

The judicial administration status is not treated in the new draft-law on the judicial power. Meantime, there is a special draft-law proposed by the former Minister of Justice, Aldo Bumçi, on the status of the judicial administration employees. This effort has not been reconsidered by the current Minister of Justice, Mr. Ilir Rusmali. It is worth mentioning that, as per the various expert assessment at home and abroad, the draft-law does not realistically resolve the issue of the judicial administration status, because the ones engaged in its drafting are satisfied with cutting and pasting some of the criteria and principles contained in the Albanian civil service legislation.

It is important that efforts in determining the judicial administration status guarantee the sustainability and promotion of the staff, not necessarily copy the model applied for the civil servants. Also, determination of the judicial administration status should be extended to other institutions as the bailiffs' service, prisons and the School of Magistrates.

Annual inspection programmes from the prosecutor, annual programmes on the activity of the judiciary administration and the court inspections have been drafted over the reporting period. Although there is no approved plan of joint inspectors of the KLD and the Ministry of Justice⁶, some similar inspections have been made. Several requirements come from the parties for monitoring the judicial process. Work was also been done to build professional capacities of inspectors and set

⁶ There is only one case envisaged for a joint inspection with the HCJ – the general inspection of the court of the judicial district of Saranda.

a control methodology by organizing study tours or trainings offered from the School of Magistrates. The School of Magistrates kept playing an important role in training judges and prosecutors, but it is necessary for this school to be profiled as a resource center for all the judges, in order for it to offer academic support in specialized fields, as per the needs of judges and prosecutors.

No publication of the audit reports in courts has been issued so far. The responsible state institutions are not in favor of a full publication of this-type reports. Furthermore, no initiative has been undertaken so far to enable publication of the first instance and appeals court decisions, in function of an ongoing transparency⁷.

Speaking of implementation of an appraisal system for the prosecutors, there are two detailed documents with concrete recommendations drafted with the assistance of the Council of Europe and the EURALIUS Mission, which are still being discussed by the General Prosecutor's Office. Given that the offered systems are detailed, as in the case of judges, they create difficulties in being fully comprehended and implemented by the responsible institutions. Despite this all, the General Prosecutor's Office should norm an appraisal system.

The Ministry of Justice has recently undertaken legal initiatives aimed at improving functioning of the profession of the attorney and the notary. Speaking of the attorneys, there are two initiatives: the first originates from the Ministry of Justice, with the aim being to obligate attorneys and attorney offices to correctly reply to the fiscal obligations envisaged in the Albanian legislation. The second is an initiative undertaken by the National Bar Chamber, which aims at improving the rules related to disciplinary proceedings of attorneys that violate the law.

The initiative of the National Bar Chamber is in essence positive, but it complicates the disciplinary procedures. As a consequence, it does not allow for the penalization of those lawyers that often become an obstacle for the progress of the judicial processes. The initiatives undertaken by the National Bar Chamber has been submitted to the Assembly of the Republic of Albania by a group of MPs, as stipulated by the Constitution.

⁷ Despite the repeated requests for implementing a European standard in this field, only the judicial decisions of the High Court and of the Constitutional Court are published in the Official Journal.

In general, the reform on infrastructure improvement has encountered problems and is accompanied by several delays. There is still no real study showing on whether there is a need for an administrative court or not. The provision on the draft-law on the Judicial Power renders this court automatically operational. Remarkable delays are evident in establishing of a court for juveniles⁸, building of a serious courts facility and rehabilitation of courts as per the priorities determined in the Judicial System Infrastructure Master plan.

2.2 Human Rights and protection of minorities

2.2.1 Pre-detention institutions and prisons

Compliant to the European Partnership Document, the main priorities in the field of respect for the human rights are the pre-detention places and prisons in the Albanian state, including:

- Compatibility with the provisions of the Albanian Criminal Code and of the UN Convention Against Torture;
- Implementation of the 2004 masterplan on improving the detainee and prisoner conditions while waiting for trial;
- Implementation of the code of ethics for the prisons' system.

Furthermore, the main gaps identified during 2006 by the European Commission in its Annual Report on Albania are related to such issues as:

Lack of specific provisions in the criminal and civil codes to systematically give a legal status to the European Court of Human Rights;

Drawbacks regarding the implementation of the international agreement on human rights in such fields as prevention of torture, rights of detainees and the right to a fair trial. The Criminal Code of the Republic of Albania does not comply

⁸ Plans indicate that proceedings shall be over by October of 2008.

with the standards sanctioned in the UNO Convention Against Torture regarding the definition of torture. Speaking of the fight against non-sentence of the ones committing crimes, the criminal prosecution is made according to the criminal law and the code of ethics for the prisons system for the cases of maltreatment and torture by the order bodies in the prisons system.

- Lack of sanctioning by law of measures for sufficient compensation to the persons who suffer of maltreatment to the order bodies.
- Non-resolved problems of the free legal assistance in practice; free legal assistance is not always delivered in a real time and at a suitable level.
- Low progress in improving conditions in prisons and in the pre-detention places.
- Delays and several difficulties encountered in implementation of the Master Plan on Judicial Infrastructure and the pre-detention system.
- Lack of a correct respect of the Code of Ethics for the prisons system and insufficient measures for guaranteeing security of prisoners.
- Non-efficient and operational functioning of the Supervisory Committee on Execution of Prison Sentences while exerting its legal obligations.

The National Plan on SAA Implementation contains specific measures for realizing the reform on implementation of the international conventions for establishing and leading the penitentiary institutions; implementation of the 2004 masterplan for improving the conditions for the detainees and the prisoners waiting for the court decisions as well as the implementation of the Code of Ethics for the penitentiary system. The Plan has determined no priority for improving the work of the Supervisory Committee on Execution of Prison-Sentencing Decisions, and issuance of the legal status of the Strasbourg Court and improvement of the free legal assistance for people deprived of freedom.

The legal reform in the pre-detention and the prisons field was mainly focused in drafting of the by-laws rather than in legal improvements. Although a legal package has been prepared on the juvenile justice since 2005, part of which were some changes in the law “On the rights and treatment of the sentenced people”, and “Execution of the Criminal Decisions”, the package has not still been sent to

Parliament for approval. In May of 2007, the Ministry of Justice distributed the amendments to the Law “On the Rights and Treatment of the Persons sentenced with prison” to review and give opinions on them.

The situation in the pre-detention system, particularly in the pre-detention settlement depending on the Ministry of Interior, during the second half of 2006, continued to be grave and no improvement was remarked in the last year’s report. Meantime, the situation was better in the pre-detention settlement and prisons depending from the Ministry of Justice. The Rules on pre-detention were passed in May of 2006⁹. Prior to the approval, the Rules underwent an assessment process and opposition by the actors of the civil society. But, there are still no new rules adopted for the special centers of the pre-detention places.

Meantime, the transfer of the pre-detention system under the answerability of the Ministry of Justice should have ended in April of 2004¹⁰, while the overwhelming part of the pre-detention places continued to *de facto* be in the dependency of the Ministry of Interior as of February of 2007¹¹. Upon a joint order, bearing no 582/12, dated 26.2.2007 of the Minister of Justice and the Minister of Interior, the administration of the pre-detention system as of February of 2007 was transferred to the Ministry of Justice. The transfer of all the pre-detention settlements to the Ministry of Justice and the relevant hand-over process ended in July 2007.

Until February 2007, all the pre-detention centers that were under the dependency of the Ministry of Interior illegally continued to apply the Regulation no 1075 of the

Ministry of Order approved in 1999. Implementation of this Regulation is a serious violation of the Albanian legislation as it negates some of the fundamental rights of the pre-detainees.

9 The Pre-detention Rules, approved by the Decision of the Minister of Justice, with the prot number 3705/1, dated 11.05.2006.

10 Compliant to the decision of the Council of Ministers, no 327, dated 15.5.2003, “On the Transfer of the pre-detention system to the Dependency of the Ministry of Justice” and upon the joint order of the Minister of Order and the Minister of Justice, no 3750/1, dated 10.7.2003.

11 The pre-detentions no 313 and 302 of Tirana and the pre-detention of Vlora and Lezha were transferred to the Ministry of Justice until December of 2006.

Despite the repeated initiatives during the monitoring period, the draft-law “On Employment and Working Remuneration of the Sentenced People” was not finalized. During 2006, the Ministry of Justice established a working group for drafting this decision, which underwent a legal opposition by the various civil society stakeholders. So far, there is still no complete legal framework or by-laws to favor organization of the employment of the sentenced in prisons¹² as one of the main forms of re-socialization and re-integration of the sentenced people in the society. It is worth mentioning that almost all the prisons have completed their feasibility studies and have drafted special employment projects, compliant to the specificities of their institutions and the sentenced people.

The Ministry of Justice had planned to undertake legal initiatives for approving such acts as:

- The draft-rules “On functioning of the Supervisory Committee on Execution of the Criminal Decisions”;
- The draft-law “On Some Amendments and Additions to the Law no 8331, dated 21.4.1998 “On the execution of the criminal decisions”;
- The draft-law “On some Amendments and additions to the Law no 8328, dated 16.4.1998 “On the Rights and Treatment of the sentenced people “;
- The draft-law “On some Amendments and additions to the Law no 8678, “On the Organization and Functioning of the Ministry of Justice”;
- The draft-law “On some Amendments and Additions of the Law on the Prisons Police”.

These initiatives have not yet been approved.

In May of 2007, the Ministry of Justice submitted to the various civil society actors the draft-law “On some changes and additions on the Law no 8328, dated 16.4.1998 “On the Rights and Treatment of the Sentenced People”, in order to get some recommendations and a constructive opposition for its improvement. The High Council of Justice submitted its main suggestions on the draft-law to the Ministry

¹² The Albanian Helsinki Committee has organised two round tables on the Council of Minister’s draft-decision on employment of the sentenced people, offering recommendations on its improvement to the relevant institutions from the viewpoint of the Albanian and the international legislation.

of Justice, and recommended that other experts in the field as well as the staff of the penitentiary institutions, where the law is applied, should give opinions on the draft-law. In June 2007, the draft-law was submitted to the Laws Committee in the Assembly, but it has not yet been passed for approval.

The alternative sentences and the community services for people, who have committed crimes, are almost not applied at all. There is still no final form of the draft-law "On the Service of Proof for Applying Alternative Sentences".

The Albanian legislation recognized the right of the free legal assistance. This service keeps having problems, particularly in regards of request on the review of the judicial final decisions by the High Court. The Albanian criminal legislation has gaps because the possibility of having a free legal defense lawyer ensured by the state is recognized only in the first and second instance of trial, not in the trial in the high instance. Following the process in the High Court becomes almost impossible for that category of sentenced people who have no financial capacity to pay for a private lawyer; furthermore Albania has no legal clinic offering this service. Despite the repeated requirements, the state responsible institutions have still taken no measures to better legally treat this issue.

Another obvious concern is the non-functioning of the Supervisory Committee of Execution of Criminal Decisions with Imprisonment, established in the Ministry of Justice. Various stakeholders of the civil society have required the Ministry of Justice to adopt appropriate measures to make the Committee work efficient, offering concrete recommendations for a proper functioning of the committee, considering this issue from the viewpoint of human rights and international standards¹³.

In the context of the reform for building the professional capacities of the prisons administration and of the pre-detention institutions, several trainings are held with the support of the responsible state institutions and human rights organizations. Despite efforts, there are still shortcomings in strengthening of the Training Center of the General Prisons Directorate. The certificates issued by this Center have no status of recognition by the Ministry of Education.

¹³ Legal comments addressed to the Ministry of Justice by the Albanian Helsinki Committee refers to the official note with the prot no , 2006 and the note with the prot no. 296, dated 14.7.2006.

Draft-programmes have also been drafted for the qualification of the prisons police in the Police Academy, but they have not still been applied. To raise the awareness and ensure a better education on the legal rights and obligations, EURALIUS mission, in cooperation with the state relevant institutions, has worked for producing a summary of the penitentiary legislation in Albania, rights and obligations of the pre-detainees and the convicts. The summary was published in the first months of 2007. There is a high need to ensure the dissemination and familiarity of this summary by all the prison administration and the prevention service, the prisoners and the detainees in order to guarantee the desired effectiveness.

Speaking about the reform in infrastructure, the prisons of Burrel, Lezhë, Lushnjë and the pre-detention institution "Jordan Misja" in Tiranë were reconstructed in 2006. Meantime, during 2006 and 2007, a pre-detention center was built and reconstructed in Vlora, as well as the new prisons in Fushe-Kruje and Korce, which are expected to open and become operational during the second half of 2007. Building and reconstruction of these penitentiary institutions was realized in the context of the CARDS Programme. During 2007, work was done for completing the design of the new Re-education Institute for the Juveniles in the district of Kavaja, but nothing has yet been done to launch this project. Beyond the foreseen terms, no work has still been initiated for reconstructing the building for the mentally challenged people in Durres. Following several delays, bidding for building the institution in Durres was realized during the first half of 2007. In the context of implementation of the masterplan on pre-detention and new programming of the European Union, work is done to draft new projects in Fier and Elbasan. The Ministry of Justice is committed to find the construction sites based on a regional approach.

Despite efforts made, in June of 2007, the food quota of the pre-detainees and of the convicts was put in efficiency. Employment possibilities are limited. There are problems with the overpopulation and respect of human rights of the prisoners.

2.2.2. The Bailiff service

The reform in the bailiff's field has marked no progress. During the monitoring period, several important legal initiatives were planned, while they are still in the discussion process. These legal initiatives are aimed at improving the legal framework and at raising the number of execution of the court decisions, improving of the public image of the bailiff service in Albania by increasing effectiveness, transparency, professionalism, and the financial budget of this service. The European Commission Report of 2006 identified as the main non-efficient factor of the bailiffs service the fact that the execution of court decisions is hindered because of the lack of funds, non-clarity of the court decisions and refusal of many state bodies to comply with their obligations.

In improving the legal context for a higher effectiveness and a more qualitative bailiff service, more attention is given to drafting and changing the existing legislation. The Ministry of Justice and the Bailiffs General Directorate are working for drafting an amended draft-law of the Civil Procedure Code¹⁴, but there is still no approved version of the Code. A joint working group with participants from these two state institutions, with the assistance of the EURALIUS Mission, is working for the changes and amendments of the Law no 8730, "On the Organization and Functioning of the Legal Bailiff Service", a process which has not yet been completed, although the legal terms have been surpassed.

Drafting and approval of the draft-law "On Auction Development Procedures" and of the draft-order "On Setting and Applying Differentiated Fees for the Judicial Bailiffs Service" are also delayed. Also, there is no concrete initiative for drafting the law "On Sharing of Revenues, Criteria, Administration Procedures and their Distribution" and for drafting of an act-agreement for the General Construction Police Directorate.

The EURALIUS Mission in Albania is working on the review of forms that are used in the procedures of the judicial court execution. The aim is to connect the forms

¹⁴ The draft-law was approved by the Council of Ministers and is discussed in the parliamentary Committee on Legal Issues, Public Administration and Human Rights. This draft-law was once passed to the plenary for approval, but it did not get the necessary number of votes.

immediately to the programme, so as to have the database serve simultaneously for filling the forms.

Number of the executed court decisions keeps being low due to the impact of factors like the economic situation of debtors, impediments in finding the addresses of debtors, geographical structure of the territory of the country, professionalism of the bailiffs service, difficult working conditions, etc.

Some improvements have been achieved in building the professional activity of the bailiff service administration. With the support of EURALIUS Mission, training of the judicial bailiffs in some main cities of the country has been completed. Not much is done to raise transparency and reliability on the effectiveness of this service. The progress control computer system, effectiveness of the local bailiff office and the intranet connection for sharing the necessary information has not yet been realized. Although specific programmes are ready, they have not yet been installed. Training of the bailiff service staff on the basic computer and Internet skills is a must.

Despite efforts made to take ownership of the bailiff offices in districts and transfer their capitals, the process has encountered several obstacles and has been slow. This has negatively affected the infrastructure capacities of offices and their supply with the necessary electronic appliances. Almost all the bailiff services supervised by the HShH in the main cities of the country, as in Elbasan, Korçë, Fier, Shkodër and Gjirokastër lack electronic devices. Most of the observed local offices are settled in very small spaces that are insufficient to guarantee normal working conditions for all the bailiffs.

2.2.3. Minorities

Albania's commitments to respect the minority rights according to the European Partnership priorities are as follows:

- Improvement of the legal framework for minorities, so as to meet the requirements of the Framework Convention of the Council of Europe for protection of the national minorities and guarantee of its implementation in the entire country;

- Implementation of the National Roma Strategy as part of the government strategy to fight poverty and social exclusion, as well as insurance and accurate data on minority percentages in Albania.

The problems identified by the European Commission in the 2006 Report for Albania and the respect of the minority rights consists in these key issues:

- Implementation of the Framework Convention of the Council of Europe on National Minorities was accompanied with difficulties and shortcomings;
- Education in the respective minority languages has not yet been possible in the areas it is required;
- The administrative use of the minority languages, use of traditional names and the access of minorities to the media have not reached any progress;
- The Special State Minority Committee has not operated properly due to the lack of clear rules of its content and mandate;
- Albania has not still signed the European Charter on Regional and Minority Languages;
- Hindrance of development of policies for minority protection due to the lack of reliable statistical data on their population;
- Social and economic inequality of Roma versus the majority of the population is in the raise;
- Insufficiency of financial and human resources, which has affected the low level of implementation of the National Strategy on Roma Minority;
- Lack of public information on the existence and content of the strategy and of the knowledge of local authorities in 12 regions of Albania about the status of Roma minority.

In general, the Action Plan of the Albanian Government on the SAA Implementation does fairly reflect priorities and commitments to improve the status of respect of minority rights.

Speaking of standards in the minority field, progress remarked during the reporting period was limited. No initiative has been undertaken for amending

the Law no 8239, dated 3.9.1997 “On some Amendments to the Press Law”, with the aim of augmenting legal guarantees for facilitating minority access in media, compliant to the Framework Convention of the Council of Europe on Protection of National Minorities.

Also, the Electoral Code has not yet been amended and no additional provisions have been elaborated to allow for the use of the minority languages during the electoral campaigns in the areas of their habitation. In the context of rules on the rights of minorities to use the minority language in local names and other topographic indexes in the zones they live, memoranda of cooperation are signed between the prefects and the local government heads in some of the districts of the country¹⁵.

In February of 2007, The Assembly of Albania approved the Law no 9686, dated 26.02 2007 “On Some Changes and Amendments to the Criminal Code of the Republic of Albania”. According to these amendments, the crimes for racial motives are determined as a special figure of crime and are qualified as an aggravating circumstance when the criminal offence is encouraged by discriminatory motives. These provisions are considered a legal guarantee for preventing the various discrimination forms, racism and intolerance against the persons that belong to the national minorities.

Regional offices and various civil society stakeholders and representatives of the Roma minority, the Ministry of Labor, Social Affairs and Equal Opportunities,

with the support of the international organizations, has organized joint round tables in the 12 regions of the country with the aim of raising awareness and the commitment of the local government bodies in the process of implementation of the National Strategy on Roma Minority.

A concern remarked almost in all the monitored districts is the non-recognition of the National Strategy on Roma Minority by the local government units¹⁶. In

15 Përkatësisht në rrethet Korçë, Shkodër, Vlorë dhe Gjirokastrë.

16 The situation is slightly different in the local government bodies of Vlora and in the regional education directorate of Vlora and Gjirokastra.

order to try to cope with this problem, the OSCE presence in Albania launched an initiative to publish the National Strategy on Roma Minority in Albanian and in English and to disseminate it in all the regions of the country.

Building of the professional capacities of the National Strategy Monitoring Sector as an element affecting the monitoring and a proper implementation of this strategy keeps still being an unresolved issue. This is why dependency of this Sector should be considered in order to ensure a better implementation of the Strategy, because the current status under the State Social Service in the Ministry of Labor, Social Affairs and Equal Opportunities limits its scope of action and the budget.

A positive index is the inclusion in the composition of this structure of a Roma community representation, envisaged to have an impact on the outcomes of the work of the Sector on Monitoring the Strategy Implementation. Trainings to increase the professional capacities should continue in the future and should include all the responsible structures in the central and local government level.

The National Strategy on Roma Minority lacks measurable qualitative and quantitative indexes, creating problems for realistically measuring its implementation. This led to the need of drafting a project to ensure installment of a computer programme (Devinfo) that would serve to record the statistical data from all the line ministries and identify the central and local government indexes. This would also require training of staff to use these programmes. Anyhow, the implementation of the project has been rather delayed.

Implementation of the Strategy has undergone several difficulties and has been very slow. Achievements are a few and fragmented. Some of the main reasons that have hindered the fully efficient implementation of the Strategy are:

- Lack of full efficiency of state institutions to take relevant measures for realization of the defined objectives;
- Lack of inclusion of local government bodies in the Strategy implementation;
- Drafting based in non-real, clear and priority-based objectives of the Strategy;

- Lack of a concrete action plan with specified responsibilities for each responsible structure;
- Lack of an efficient cooperation and coordination between all the responsible stakeholders in the process;
- Lack of proper professional capacities in the Roma organizations;
- Lack of a close and efficient dialogue with the Roma community.

2.3. Functioning of the public administration

Functioning of public administration based on the law-binding principles and criteria has not reached any progress. Some of the problems related to functioning of public administration are identified by the European Partnership document and the latest European Commission report. They can be summarized as follows:

- Lack of implementation of the civil service legislation on recruiting and dismissing of the civil servants;
- Elimination of nominations based on contracts, in violation with the civil service legislation;
- Elimination of political nominations in the public administration;
- Strengthening of capacities of the Public Administration Department;
- Implementation of the decisions of the Civil Service Commission and of the courts for the civil employees;
- Career development for the civil servants and enhancing of their capacities through the training courses;
- Development of information technologies in the field of e-government;
- Promotion of ethics in the public administration.

The legislative initiative envisaged in the National Plan on the SAA Implementation has not been fulfilled. The administrative and infrastructure measures remain

non-complete due to the non-implementation of the legislation that regulates the status of the civil servants in Albania.

The indexes of implementation of decisions of the Civil Service Commission and of the courts on civil servants keep being very low¹⁷. The Institute of Public Administration Training has continued its normal activities on training the public administration as a consequence of allocation of funds dedicated for this purpose.

To meet the priorities of the European Partnership, there is a need for a political willingness to implement the existing legislation and improve it. The implementability of decisions issued by the Civil Commissions and courts for the civil servants should be in higher levels. Also, setting of priorities of work within the Public Administration Department has been made possible, as well as envisaging of special financial funds in the budgetary for the public administration.

2.4. Decentralization reform

To meet the requirements deriving from the decentralization process, which in the SAA framework is reflected in Article 78 - Article 110, and the European Partnership document has envisaged a number of administrative and infrastructure measures. They are aimed at implementing the decentralization reform of the executive power, at ensuring more transparency and a wider participation of citizens and of communities in various working groups in governance, compliant to the European Charter of the Local and Regional Autonomy.

The hitherto slow progress in the process of decentralization is related to at least two conditional factors:

¹⁷ The World Bank office in Albania has signed a Memorandum of Understanding with the Albanian Government, according to which the latter is committed to implement the Civil Service and Court decisions on civil servants. The assistance offered by the World Bank to reform the public administration is conditioned by the implementability of decisions on civil servants.

- First, a more serious political commitment of the government on legal changes that regulate financial aspects of decentralization (for instance, the amendment of the law on the value added tax is more in favor of the local government, while the law on local finances as well as several other laws related to the legal regulations of urban planning and functioning of the regional councils are in the process of preparation).
- Second, the continuously growing pressure of the local government bodies to ask for competencies, which in fact are recognized by the law.

Despite the slowness in preparation and drafting of laws, the start of the decentralization process is hindered by other political factors as the relations between central government, controlled by one party, and the main local government units, mainly controlled by the opposition. This almost permanent characteristic of the Albanian tradition of politics has started to somehow fade away due to the legal changes and a greater commitment of local stakeholders.

3. Economic criteria

3.1. Free trade and regional cooperation agreements

Progress has been achieved in this field thanks to the entry into effect of the interim agreement and of the free trade agreement of the Central and Eastern European countries (CEFTA). Pursuant to the commitments deriving from the SAA, the Free Trade Agreement with Turkey has become effective. Despite these achievements, the process has lacked a wide-scale consultation with the interest groups, whereas the implementation of the fee obligations of the CEFTA 2006 in the practice of customs offices is not going with the same rhythm as the formal approval. Customs have problems in the correct implementation of the existing FTA (bilateral agreements), while the CEFTA 2006 schedules are still in an initial phase.

Albania keeps playing a constructive role as an active member of multilateral initiatives in southeastern Europe, including the Stability Pact, the cooperation process with the southeastern Europe, Central Europe Initiative, the Adriatic-Ionian Initiative, and the Initiative of Border Security and in the Black Sea Economic Cooperation Organization. Albania is committed to establish the Council on regional authorities. In 2006, Albania had the presidency and was the hosting country of summits of Central Europe and

of the Ionian-Adriatic Initiative. Albania is a party in the Energy Community Treaty, which entered into effect in July 2006. In June 2006 Albania signed the agreement on the Joint European Aviation Zone.

3.2. Free trade economy and the structural reform

The fundamental objectives of this sector in the National Plan for the SAA implementation are oriented by the protection of the macro-economic stability apart from the same-time acceleration of the fiscal reforms. Progress has been achieved in the budgeting process, legislation on public procurement, management of expenses and salary reform in the public sector. But the slowest progress is remarked in the structural reforms, mostly reflected in the privatization of the state sector and of the public entities.

Privatization

The National Plan on the SAA Implementation re-imposes the need for Albtelekom privatization as well as the continuation of the privatization in other sectors, particularly in the financial and energy domains. The government reports keep mentioning the preparatory measures, contracting of international advisers (IFC has undertaken a key role) or re-structuring, as is the case of the KESH Distribution Sector a. a., INSIG, ARMO and others.

The big privatizations are characterized by delays and non-efficient processes. Very meaningful is the case of Albtelekom a.a., as the almost two-year block of the sale to the foreign operator was accompanied by no financial advantage in the final re-negotiated contract of 2007. Whereas the privatization of INSIG (the insurance company with a majority state property), despite the fact that this market has been widely liberalized, is postponed from one year to another in a non-justifiable manner.

Restructuring of the three state-owned companies in the oil sector, upon the Decision of the Council of Ministers no 784, dated 15.09.2006 "On Restructuring of Commercial Companies of a State Capital Albpetrol a.a, "Servcom a.a" and "Transnafta ltd" has just started. There has been an Order of the Minister, bearing no 918, dated 26.12.2006 "On Changing the Albpetrol a.a. Patos capital through attraction of Servcom Sh.a. Fier and Transnafta ltd Patos". The re-assessment and privatization process of oil companies with a state capital (ARMO a.a. and SERVCOM a.a etc) is very slow and the progress is minimal.

4. European standards

4.1. Internal market

4.1.1. Free movement of goods

Standardization and certification

During the reporting period, 1557 European standards (EN) were adopted as Albanian Standards (AS). All the standards are adopted properly. The General Standardization Directorate has now a new web page, and updating of the electronic archive is in the process of inserting new standards and leaving out old standards. Twenty-one standards have been sold to four private sector clients and three state clients, and an Agreement of Understanding is signed between the General Standardization Department (GSD) and the Standardization Agency of Kosovo (SAK), where, inter alia, SAK is appointed by the GSD as an official sales agent of the Albanian standards in power. To improve the product quality and Albanian constructions, a list of some of the most frequent standards has been prepared in the field of construction.

Despite the achieved progress, GSD should work to further adopt the European Standards, increase the awareness of the economic operators with regards to the contemporary concepts of standardization and certification, ensure the administrative capacities for implementing the SAA, improve functioning of

responsible bodies for the standardization taking into account the community practices as well as the full-right membership in the European Standard Organizations.

Accreditation

In the light of implementation of the internal plan on membership in the European Organization of Accreditation (EA), the EA and the Accreditation Directorate have drafted and signed a cooperation agreement, marking a decisive step that paves the way to signing of multilateral accreditation agreements. New assessors of the required fields are selected and used to prepare new accreditation schemes as per the fields applied by the various labs. The contractual system of assessors as well as the system on confidentiality protection in the process of assessment via the use of the new system of the DA quality management has been improved. Also, an assessing visit for the chemical and physic-mechanical accreditation of the construction materials of the Construction Institute has been realized.

The first inter-laboratory comparison organized by DA, ended during the reporting period. The test in made in five laboratories, three in Albania and two in Kosova, in cooperation of the Kosova Accreditation Division for the cement chemical and physical-mechanical analysis. Meantime, the central laboratory of the armed forced, ALCEBO, the Laboratory of Adama Association, the Laboratory of the Textile Department of the Polytechnic University of Tirana were accredited during this period, while the laboratory of the Cement Factory of Elbasan is under process.

Implementation of the internal plan for membership in the EA is required as this is an objective determined in the SAA and in the European Partnership priorities to ensure Albania's membership in the European Accreditation Organization. There is also a need for an improved functioning, taking as a model the best practices of the European Community, and of the responsible bodies of accreditation.

Legal metrology

During the reporting period, relevant authorities drafted the strategy on monitoring the Metrological Supervision Directorate and a study on the development strategies of regional directorates for measuring devices was concluded. In the context of drafting the new law on metrology and re-organization of the General Metrology and Calibration Directorate or the deepening of extension of cooperation with other institutions from the country, the GMCD has approved the order “On the Organization and Functioning of the Technical Council” and the relevant rules. Meantime, the Ministry of Finance has launched procedures for an amendment of the Law no 8996 “On the measuring units and the control of the measuring devices (metrology)”, which is aimed at abrogating Article 8 of this Law that speaks of the organization and functioning of the Metrology Council; (the amendment required merging of this council), but this initiative runs contrary to the GMCD stance.

To implement the requirements deriving from Article 75 of the SAA, the Metrology and Calibration Directorate should take appropriate measures to gradually ensure the compatibility with the technical rules of the community and with the European procedures of metrology. For this purpose, the Albanian government should approve the national strategy on metrology and undertake appropriate measures for a new law on metrology, so as it allows the GMCD to develop a regulated system of metrology with an optimal use of resources to meet the national needs. Establishment and operation of a national suitable system able to ensure the transmission of measures in the international measuring system, SI, is required for operation. In the national level, there is a need for establishing an effective national system of metrology.

Antidumping

During June 2007, the legal package “On prevention of dishonest international trade” with the draft-law “On Antidumping and Anti-balancing Measures” and “On the Protection Measures in Imports” were considered and approved by the Council of Ministers. The main objective in the antidumping field is implementation of requirements deriving from Article 24 and 35 of the Interim

Agreement and Article 37 and 38 of the SAA, and insurance of the necessary legal and administrative basis for the implementation of the anti-dumping measures in protection of the domestic production industry.

4.1.2. Free movement of people, services and freedom of establishment

The Assembly of the Republic of Albania approved Law on the National Registration Center on 3 May 2007. This law sanctioned the establishment of the National Center of Business Registration (QKR), which functions since the beginning of September 2007 as the only registration center (one stop shop). The new law on normalization of the commercial register is a positive step in this field. Pursuant to this law, the following by-laws have been passed:

- On the Status of the National Registration Center;
- On the approval of fees and functional services of the National Registration Center;
- On the rules and names of commercial places;
- On the registration procedures and publications in the National Registration Center;
- On the staff number of the National Registration Center;
- On the approval of the structure and organigramme of the National Registration Center.

The company law legislation should be revised and approximated with the *acquis*. Simultaneously, a regulatory framework needs to be approved in order to lift the legal barriers for the natural and legal persons of the EU. There is still no clear distinction, as required by the SAA implementation, between the operators that give temporary services and the ones that offer services via a permanent settlement in Albania. The Law on the Postal Service has not still been brought in line with the *acquis*. An independent regulatory structure in the field of postal services has not yet been established.

4.1.3 Free movement of the capital

Although some progress has been realized, it is not sufficient in ratio with the realization of obligations coming from the SAA and the European Partnership document. Only the rules “On clearing development” have been approved in November of 2006. The lack of realization of most of the legal initiatives (four from five envisaged) shows that progress is still fragile.

The relative indexes of cash, measured as an index of cash versus M2 and M3, have changed from 32.9% versus M2, and 23.7% versus M3, in June 2006; 31.7% versus M2 and 22.0% versus M3 in June 2007. This movement, although positive, leaves the level of cash flow quite high. The important developments in the payment system, as the RTGS, AIPS and AECH systems as well as extension of the debit and credit cards infrastructure to make payments have brought various effects, but they are still far from the required standards in the SAA.

A deeper liberalization of the capital account, deriving from the requirements of the SAA, has been postponed even by the delays in drafting and approving of the Law “On the Exchange Rate Regime”, which aims at an adequate adjustment of the capital movement regime. Movement of the capital is accompanied by remarkable limitation in purchasing the immovable property by the foreigners, and in portfolio and long-term capital investments.

Progressive steps have been made in the field of the financial supervision by approval of the Law on the Financial Supervisory Authority (AMF), which currently realizes the supervision of the insurance companies of the social insurance system and of the securities market. To comply with the commitments related to the SAA during this period, the AMF has undertaken the legal initiative to change Article 89 of Law no 9267, dated 29.07.2004, “On the activity of insurance, re-insurance and mediation in insurance and re-insurance”, which enables meeting of conditions for establishing a guarantee fund as per the required standards. Another change of this law in Article 72 item 3, which ensures a prolongation of the term for report submission to the authorized accounting experts in AMF, thus avoiding the difficulties encountered by the insurance companies for drafting and handing the report to the AMF.

The AMF has created positive premises for developing the supervising the non-banking financial institutions. Anyhow, the results are still in the initial phase, and the current challenge is achievement of a real independence compliant to the legal independence, strengthening of capacities, approval of the by-laws for insuring an effective supervision, and completion of supervision as per the European standards levels.

4.1.4 Customs and Taxes

Customs

In regards to a further harmonization of the customs procedures with the *acquis*, it can be said that, with a delay of several months, the customs declaration system ASYCUDA++ and the data processing system is extended in four other customs points. Therefore, about 98% of all the customs transactions are now realized through this almost unified system. Meantime, there is an *on-line* communication of almost all the customs branches with the general directorate. For the customs offices outside the ASYCUDA++ (usually small offices, which in total realize only 2 percent of transactions) system, the information circulates with CDs, containing the relevant instructions for the SAA implementation, management of quotas, wine and agricultural products protocol, etc. The ASYCYDA++ system contains updates of preferential fees to implement the Interim Agreement.

The risk analysis system has remained in the same status as it was in May of 2006, and has not been extended belong the customs warehouses of Tirana and Durres, where it used to be operational. Speaking of the fees, the task of adopting the latest version of EU's CN 2007, planned for 2006, was delayed¹⁸. Extension of the value-net module serves for an improved management of the customs value and reference prices. After Tirana and Durresi, the module was extended in the customs branches of Lezha, Shkodra, Bajza, Hani i Hotit and Kakavi.

¹⁸ Law no 9715, "On Some Additions in the Law no 9461, dated 21.12.2005 "On the Goods Nomenclature and the Customs Fee" was passed on 16.04.2007.

Although the ASYCUDA++ system, according to the report, covers 98% of transactions, the few customs points that are not part of the system (despite the volume) do not eliminate the risk of evasion and smuggling.

Taxes

The National Plan on SAA Implementation does not contain concrete measures for taxes during the reporting period. The short-term priorities are described in a general level, while the initiatives to be undertaken shall be launched at the end of December 2007. Furthermore, setting of deadlines for concrete activities has not been done and this is why the progress assessment in this sector shall be based only in the factual development, compared to the short-term developments. Among the completed actions we can mention a further approximation of the tax legislation with the *acquis* and the work to guarantee compliance of the new tax measures with the principles of the tax business code of ethics. During the reporting period work was done on the draft-law on the VAT, revenue tax and tax procedures.

Cooperation with CAFAO, USAID and SIDA has been initiated for diagnosing, documenting and improving the Taxpayer Control and the investigation procedures. An extension of the tax computer system is at the same time remarked in the districts of Saranda, Gjirokastra and Pogradec. Work is underway for updating the procedural materials of registration and of the coercive measures.

The frequent change of customs and tax legislation as well as the lack of preliminary consultations with the business community keeps causing problems.

4.1.5. Competition

Competition

Pursuant to the plans envisaged in the National Plan on the SAA Implementation the Competition Authority has translated the Regulation no 139/2004, dated 20.01.2004, "On the Control of Concentrations between the Enterprises". The authority has launched a deepen investigation of the insurance market via the

Decision no 45, dated 19.01.2007. Based on this investigation, the Competition Authority sanctions fines to the companies that act in the insurance market; more concretely it issues a fine that reaches the value of 2% of the annual turnover of the proceeding year for each company that has violated the rules of competition. The Competition Authority also approved and announced merging of San Paolo Imi/Intessa with the American Bank of Albania.

After a monitoring process in the concrete-production market, upon the decision of the Competition Authority Secretary General, initial investigation procedures were aired in May on this sector. In June, the Competition Authority, based on the secretariat's report, approved the notification on the concentration realized through the transaction of 75.006% of shares of the People's Bank by Societe Generale S.A. and announced the concentration realized via the sale of 30% of shares of the Strabag SE company by the "Rasperia Trading Limited" company.

Hearing sessions were held with the Albanian Mobile Communication and Vodafone Albania companies, respectively on June 7 and 13, 2007 for the investigation of the Competition Authority in the mobile phone market, in implementation of Article 39 of the Law no 9121, dated 28.07.2003 "On the Competition Protection". The preliminary investigation procedures on the construction market and on the Agreement of the Union of Concrete Producers continued during June. Monitoring of the fuel market for the possible anti-competitive practices continued during June.

The new structure of the Competition authority was adopted upon the Assembly Decision, no 96, dated 30.04.2007 "On the Approval of the Structure and of the Organigramme of the Competition Authority". Pursuant to this Decision and according to the Law no 8549, dated 11.11.1999 "On the Civil Servants", the Competition Authority proclaimed competitions for all the vacancies in the Secretariat and is filling the other places in the structure.

Articles 40, 70, 71 of the SAA require protection of a competitive environment and promotion of an effective competition in the market, prohibition of the agreement for fixed prices or market division, of abuses with the dominating power and the concentrations that risk establishment of dominant positions in

the market. There is a need to guarantee the independence and strengthening of the role of regulatory entities in markets with specificities, with the aim of increasing a free and effective competition in the market. Compliant to the legal context in power, there is a need for transparency in exchange of information. Strengthening of the administrative capacities of the Competition Authority should be treated with priority.

State aid

The State Aid Directorate has concentrated its work in assessing the existing schemes, registered in the inventory, and in the plans for allocation of new aid. Relevant decisions have been taken on the existing schemes of railway subsidies; on the plan on the state aid delivery and funding measures; on the criteria of procedures of implementation of the programme of professional internships for the unemployed job-seekers who have completed higher education in the country or abroad, on the state aid plan for setting a grant for establishing the Albanian Competition Fund, on the programme of encouragement of employment of the unemployed via on-the-job training, programme of encouragement of employment via the institutional formation, programme of encouragement of employment for women job-seekers, etc.

The above decisions have been put at the disposal of the ones delivering aid and are published in the web site of the Ministry of Economy, and in the Official Journal.

It is necessary to rigorously implement the principle of transparency for all the measures undertaken by the central and local administration and the other institutions that operate on behalf of the state and are connected with the use of state resources. For this purpose, there is a need to prepare an inventory of the existing schemes of the state aid and assess them as per the European standards. Also, annual reports should be prepared for the state aid in Albania, so that a proper information is submitted to the European Commission, and, in cooperation with the experts of the European Commission, there is a need to classify the regions, based on the economic and social development indexes, and prepare regional maps.

4.1.6 Public procurement

The Council of Ministers approved in January Decision no 1, dated 10.01.2007 “Rules on Public Procurement” drafted based on and for the implementation of the new Law no 9643, dated 20.11.2006 “On Public Procurement”. Also, since January 2007, the Public Procurement Agency has approved the Bid Standard Documents, complying with the new legislation on public procurement.

Based on the Council of Ministers Decision no 244, dated 07.03.2007, “On Defining the Number of Staff of the Ministry and Central Institutions for 2007”, the staff of the Public Procurement Agency is added by 10 new members. Also, pursuant to the Prime Minister’s Order no 84, dated 10.05.2007, “On the Approval of the Structure and Organigramme of the Public Procurement Agency”, a new structure of this institution has been drafted in function of procurements and concessions.

Albania’s progress in the public procurement field is still limited, in particular in regards to its implementation aspect. Avoidances of the principle of the open bid as well as the lack of rigorous bidding procedures keep being problematic.

The increase of number of complaints examined during 2006 reaching the figure of 1023 out of 481¹⁹ in 2005, shows that, on one hand, the law is properly recognized by its implementers, but, on the other hand, it demonstrates the high frequency of law non-implementation. The data reported from the Public Procurement Agency at the end of 2006 confirm that the number of direct bids make up for only 0.1% of the procurement procedures; the procurement procedures for the open bid make up only for 35.2% of the total of procurements. If we consider that the “limited bid” procedures are applied in 1/3 of the total of procurements while the international bids have been realized in the amount of 0.8%, we can reach in the conclusion that the procurement process in Albania is still far from realizing the above-mentioned priorities.

The newly approved legislation has some shortcomings. Article 7 excludes from implementation of this law all the public service contracts dealing with purchases, rents or any other financial instrument of immovable property, or any right related

¹⁹ PPA Annual Report, 2006.

to them; in other words there are exclusions from the law in implementing a direct procurement. Stemming from the aim of the law and taking into account the practical cases being applied in practice, the gaps in the legal framework have enabled deviations from the general procedures foreseen in the law. Therefore, for the same purchase of objects there are many procedures that can be applied, and the title-holder is given the right to decision on the value of the sale of the bided object, bringing damage to the contractual authority, but also loosing the public trust. Violations are also remarked in the assessment practice of low-value bids, when the law stipulates that they should be assessed through the forms envisaged in the procurement rules.

Article 38 of the Law defines that the notification for participation in the bid are published in the international journal for sums of over ALL 600 million for public works and over ALL 100 million for services, what means that the international companies not headquartered in Albania are not informed on any kind of bid held in Albania below these limit values, but it is recognized that about 90% of the overall procurement value is realized with bids of a lower value. In the previous law, publication of bids in the international papers was made for sums of over ALL 200 million. Today, the limit value is three times higher than the first value, leading, consequently, to less transparency to international organizations, although this runs contrary to the priority of the Albanian Government to offer equal access of the community companies in the bidding procedures, a process which starts since the proclamation of the competition.

If establishment of the electronic procurement infrastructure including the obligation of the Contractual Authority to send publication of all the bidding documents and notifications related to the procurement procedures, since the publication of the invitation to take part in the bid, up to the contract signing to the APP web site, in the conditions of Albania the provisions of the new law to remove all bid publication from the press bodies would be considered a short-coming that seriously harms transparency. The situation gets even more serious if we count for the fact that the country in a total energy crisis and there is no Internet provisions for several hours in cities.

The so-far practice in implementing the new law shows that establishment of the Public Procurement Advocate has not yielded the desired outcomes, because not only the level of its independence is not sufficient, but even because of the fact that this authority has no executive powers. It has the right to monitor and investigate the administrative procedures of public procurement, and, at the end of the process, only recommend measures.

Highly evasive in implementation is Article 26 of the Law, which speaks of corruptive acts and conflicts of interests, because there are cases, when, because of lawful accuses and abuses companies are excluded from the competition, and, since this moment the bidder has been given no right to show and try the truth. Therefore, this Article of the Law is an instrument in the hands of the Contractual Authority to decide on the fate of the bidder at any moment.

4.1.7. Intellectual Property

Over the reporting period, the Albanian Office on the Copyright Monitoring got more staff in its structure, becoming a fully operational office. At the same time, upon the Decision of the Council of Ministers no. 343, dated 6.6.2007, fees of services offered by the Albanian Copyright Office were approved. Forms for the application of the copyright register, forms on the registration of the derivative work, forms on the registration of the copyright transfer, forms on application of the registration of the copyright collective administration agencies are drafted. In order to raise awareness of the public opinion and make it familiar with the content of the Law on the Copyright, with the USAID support, the Cassals & Associate Programme has realized TV spots and has enabled the publication of a summary of the Albanian legislation on the copyright and other rights related to it.

There is a need to extend the activity of the Copyright Office even in regional offices, to institutionalize co-operation with other state institutions in the benefit of the copyright protection, to increase effectiveness against piracy and false goods, protect intellectual property through strengthening legal and institutional mechanisms and through raising the awareness of economic operators using intellectual property.

Industrial property

During the reporting period, the Patents and the Trademark Directorate has got five new specialists. The project on improving the existing IT infrastructure with the USAID aid through CASAL Albania is over. The aim of this improvement is to ensure access of the interested institutions to the database administered by the Patents and Trademark Directorate. Also, the gazette of Patents and Trademarks published the applications on patents for the first time, enabling publication of applications, patents and claims as well as registration of designs in the national and international level. Various operators might come to know them through the web page and the publications in the Gazette. The Patent and Trademark Directorate has co-operated with the media and the business to promote industrial property.

Fulfillment of objectives determined in the SAA is closely related to the process of harmonization of the legislation with the *acquis* and with the TRIPS-it agreement, membership in the European Patent Convention, strengthening of the role of Patent and Trademark Directorate and establishment of a suitable administrative infrastructure as the main organization in the intellectual property protection system, achieving of a transparent cooperation between institutions and organizations included in the industrial property protection scheme.

4.2. Sector policies

4.2.1. Industry and SMEs

Industrial policies

The short-term priorities defined in the National Plan on the SAA Implementation are generally implemented. The measures foreseen for restructuring the iron and steel industry are realized, while privatization of public property is still on an on-going process.

In regards to the four legal initiatives that should be undertaken according to the Plan on SAA Implementation, only one of them was implemented: "The Order of

the Minister of Economy, Trade and Energy on Establishment of the Working Group on Restructuring of the Iron and Steel Industry”. Two of the initiatives have totally been removed from the Council of Ministers plan of action, with the argument that they were not needed (the draft-law “On Non-Food Industry” and the draft-decision on its implementation). Also, from the 5 short-term implementative activities that should have finished in the period of examination (a total of nine) only two of them are realized. The remaining part is in process, while one activity has not been realized at all.

Mine sector

Compliant to the delineations of the National Plan on the SAA implementation, the mine law has been amended and the Mine Industry Development Strategy was approved, based on the regional policies on effective management of mineral resources. The technical Central Inspectorate has also been established for creating the Mine Resources National Agency. Progress was made in the implementation of Protocol 1 of the Interim Agreement regarding the development policies on the iron and steel industry, privatization and restructuring of the metallurgic enterprises.

Small and Medium-sized enterprises

Progressive steps have been made during the reporting period on extending and improving the legal background of the financial support for the SMEs, on improving the institutional framework on development of this sector and drafting the New Strategic Programme on SME development²⁰. Important laws were passed during this period, such as the Law on Factoring, the Law on the Business Consultative Council, the Law on the National Registration Center, etc. Progress in improvement of finances of SMEs, which still remain fragile, apart from the legal

²⁰ The Strategic Programme of SME Development, encouragement of foreign investments, encouraging of production for exports have become an integral part of the sectorial strategy “On Development of Business and Investments, 2007-2013”, which final draft is being considered by donors and other interest groups.

support, appears in the institutional and financial strengthening of Albinvest,²¹ in the growth of the micro-credit funds, where donors from the financial non-banking institutions contribute in crediting SMEs.

Implementation of the fund use scheme for increasing competition of exports, aiming at funding companies to improve the competition of products and services offered to the market, and the “Regulation on Functioning of the Albanian Competition Fund” are already in place now.

Non-launching of the Italian 3-year programme “On development of the Private Sector via an Credit Assistance for SME Support and Allocation of Technical Assistance for Them”, worth Euro 30 million, keeps being problematic. Despite progress in procedures for establishment of a guarantee fund for SMEs, materialized in the government decision of July 2007 on establishment of a reserve fund of a value of Lek 200 million, it is not reflected in the budget; the fund inclusion in the budget keeps being delayed and non-functional.

The government-business dialogue is institutionalized through approval of the Law on the Business Consultative Council, no 9607, dated 11.09.2006 in order to improve the business climate. The Business Consultative Council was established on this legal basis, while the action plan on the regulatory reform, reviewed for 2007, has also been defined. Despite the progress in the implementation of the European Charter for emphasizing the entrepreneur culture and removing the administrative barriers for investments, there are still delays and shortcomings in improving the licensing system and drafting the e-signature²² law.

The situation keeps being problematic in terms of public administration, lack of cooperation between central government and local government on small business, lack of assessment and monitoring of the impact of changes, business legal improvements and fluctuations that accompany business consultations.

21 This agency has a staff of 31 persons and a budget of Euro 693,500 for 2007 (including the fund on competitiveness of Euro 203 thousand) and a considerable increase of fund from the budget of three agencies for 2006 was about Euro 354,300.

22 Progress in implementation of the European Charter on small enterprises has relatively been slow, particularly in regards to the inclusion of enterprenuarships in the education and professional systems and in improving curricula by involving enterprenuarships in them.

4.2.2 Agriculture and fishing

Agriculture

Agriculture contributes with about 21.5% of the GDP, but receives only 1.5% of the state budget. The agricultural production augmentation is by 3% per annum; the productivity increase is low, insufficient and/or unsustainable. Albania imports about Euro 430 million worth of unprocessed and processed agricultural products, but exports only Euro 58 million. The main reasons are the low productivity and low quality of our products. There are sufficient reasons to have the development of agricultural imports as one of the important objectives of the national strategy for development and integration. Agriculture employees over half of the active force of the country and 60% of the population makes their living on agriculture.

Re-structuring of six Institutes of Agricultural Research via establishment of five technology transfer centers in districts can have a positive impact agriculture by providing an indirect support to it. The fundamental mission of these centers is a better orientation of the agricultural research towards the market needs, definition of regional priorities in the benefit of a sustainable development and an advisory public service to the production organizations.

The Technology Transfer Centers, although formally established, are not efficient due to some shortcomings and practical obstacles²³. This questions the expected result from these centers, the accurate definition of priorities, the observation and scientific measuring of the impact of the research work in increasing the competitiveness and the agricultural productivity. An efficient road for good results would be encouragement of cooperation and of partnership between the centers, the university, advisory public and private services, and the producers themselves.

The issues of food safety and approximation of the legislation in the customer protection field cover a key place in adopting the standards and requirements for the European integration. The main short-term objective of the National Plan on

²³ The budget compared to the regional countries is limited and there is a lack of logistics and a need for qualified staff.

SAA Implementation of the full food safety system and of the control systems related to it is a must.

Meantime, the level of implementation keeps being low. Among the commitments, it is worth mentioning a new Law on Food, an Order by the Minister and 10 Rules on Protection and Verification of the food safety parameters, compliant to the community norms.

The aim of the draft-law on food is to reduce, eliminate or prevent threats to the customer health via analyzing the three main components – risk assessment, risk management and risk communication as well as other measures that guarantee health of nationals. Special orders and rules would complete the process by guaranteeing the prevention and fight against the phenomenon of falsifications remarked particularly in the food industry, as it has a wide consumption level. The new draft-law on food²⁴, although prepared in time and discussed several times by the interested parties, has not still received the approval of the Council of Ministers, as there are contentions by some line ministries.

Out of 10 regulations planned to be adopted as per the National Plan on the SAA Implementation, only two have been realized so far (Regulation “On the criteria of clarity of food additives other than colors and sweeteners”, Regulation “On the control of the cleanness criteria on some authorized food additives”²⁵).

It seems like the Ministry of Agriculture, Food and Customer Protection does not have a clear agenda for meeting the short-term priorities in the field of food safety. They are either delayed in time (Law on Food) or are neglected.

Competitiveness in agriculture and food

Productivity and effectiveness of the agricultural and dairy products is still low, and, consequently, Albania has considerable difficulties in facing the competition of products coming from abroad (from exports) in the internal market (as a substitute of imports). In 2006 the agriculture and agro-processing exports increased by 17

²⁴ Envisaged to enter into effect in December 2006.

²⁵ Approved respectively by Orders 4 and 5 of the Ministry of Agriculture, dated 09.01.2007.

percent, while imports increased by 19 percent. Therefore, there is a worsening of the situation of the trade terms, at a time when the contrary situation is true for the industrial products: exports increased quicker than the imports. The small farm dimensions and the shortcomings in the distribution network, infrastructure deficiencies, insufficient recognition of the market, low technology and the weak financial support are the key factors of this situation. Consequently, there is a need for a complete study on the possibilities of the increase of this sector, by identifying and supporting the comparative advantages.

Agro-processing and marketing

The role of domestic industry in promoting the agricultural growth, although it has had a quicker growth compared to the primary agriculture, has been limited. Some activities undertaken in the context of the national plan on the SAA Implementation have not been realized, with the claim that they are conditioned by the overall termination of the legislation on the wine. This is what happened with the draft-regulation “On functioning of the Regulatory Committee of defining the Wine Origin”, “On the establishment of the office for keeping the cadastra of viniculture and wines” and “On the establishment of the regulatory committee of setting the wine origin”. Meantime, the working groups “On nomination and protection of the origin of agricultural and food products” has been established and has become operational.

Animal farming

None of the four legal initiatives that should have end in the reporting period has been fully implemented. The task for drafting the regulation “On the certification of animals with racial values in the market” has partially been realized. A working group has been established and keeps working for this purpose. This task, together with the Regulation “On the re-production of the farm animals and production and trading of racial animals” should have been concluded in December of 2006.

Veterinary services

The list of planned measures in the National Plan on the SAA Implementation in this sector is long and measures are complex. They comprise clarification of competencies and empowering of the persons working in the veterinary service, and drafting of 17 new regulations compliant to the community norms. Sixteen regulations have been drafted and have entered into effect -- that is only one of them has not still been realized. Meantime, there is work to be done for respecting the commitments on tracing and identification of deceases and vaccination of farm animals.

Meantime, the tasks for improving the laboratories and ensuring the technical base is difficult to be realized in the conditions of a very low budget determined for the agriculture and food sector (only 1.5% of the state budget). The non-clarity of the competencies of the veterinary services keeps being problematic, staff capacities are weak and the control systems are not consolidated.

Plant production and protection

Albania became a member of the international community on protection of the new food variants (UPOV) in October 2005. In the plant protection field, the National Plan on the SAA Implementation has not given details of timeframes, being limited in the continuity of the qualification of the staff of the Plant Protection Inspectorate.

The commitments for the plant production are mainly short-term and long-term. Only measures on improving the legislation on viniculture and wine with the aim of harmonizing them with the community legislation are short-term. The three determined tasks planned to end in December of 2006²⁶ were postponed for the subsequent months.

²⁶ Ordinance on organization and maintenance of the cadastra of viniculture and wine, improvement of the law on viniculture and wine, and improvement of the regulation on implementation of the law on viniculture and wine.

Progress has been limited in the phytosanitary control. Some by-laws have been prepared, but they shall be applied only following the amendment of the law on the plant protection service. With regards to the administrative capacities, the obvious improvement of the laboratory infrastructure, particularly in equipment and training, has been encouraging. Anyhow, the technical staff is not in the required level of expertise and not able to implement the EU legislation.

Rural development and agricultural structures

The Order on “Establishment of the Inter-ministerial Working Group responsible for preparing, drafting, and implementing the inter-sector strategy of rural development in the context of the national strategy on development and integration” led to the establishment of this coordinating body of rural development national policies. It guarantees inter-institutional communication and harmonization. A technical group has in the meantime been established for drafting the rural development strategy.

Fishing

Albania is a participant of the General Fishing Committee of FAO for the Mediterranean zone and has undertaken commitments for applying FAO recommendations. The progress in meeting the community norms is small. Meantime, the damage of the fishing stock through fishing by illegal means continues. There is an improvement of cooperation with the police for inspection in the sea, which, however, remains not sufficient. Progress in the fishing field is fundamental to profit from the liberalized trade regime. There are no reports for the sanitary and veterinary standards compliant to the EU, even for the ones with a powerful exporting potential, as for instance molusqet dyflegëshe.

4.2.3 Environment

In all the aspects of environment protection and development in Albania, including water, air and nature in general, progress can be regarded as not sufficient, but attention has been cast in completing the legal framework, in taking administrative acts and in performing monitoring activities, but the impact of these activities in the daily reality has not been felt.

In the field of *horizontal legislation* progress is limited. During this period, the first part of the Assessment Methodology on the Environment Impact was approved, providing the relevant legal framework²⁷. In a joint project with SEPA, experts drafted the sector methodologies on the environment impact assessment as per the requirements of Article 4/2 and of Article 5 of the Directive 85/337 EEC, amended by the Directive 97/11/EC and 2003/35/EC, which were reflected in a normative act, published in the Official Journal no 152/2006. In implementation of and compliant to the internationally-ratified agreements in the field of environment, as the Espoo and Aarhus Convention, the Assembly approved the Law no 9700, dated 26.03.2007 “On Protection of the Environment from the Inter-border Impacts”.

The Council of Ministers passed the Decision no 147, dated 21.03.2007 “On the Approval of the Quality of the Combustible Materials of Benzine and Diesel” to improve the public health in the field of air quality. It does partially reflect the Directive 98/70/EC, dated 13.10.1998, which amended the Directive 93/12/EEC, amended by the Directive 2000/17/EC, dated 7.11 2000, and Directive 2003/17/EC, dated 29.09.2003. Also, the Fuel and Residues Directives have been translated in Albanian. In the field of management of residues, regulation no 1, dated 15.03.2006 “On Prevention of Negative Impacts of Construction Activities in the Health and in Environment” was approved. Regulations, forms and registers for the implementation of the Hazardous Wastes Law were drafted during December 2006, aimed at increasing the scale of implementation of the law approved in May 2006 “On the Administration of the Hazardous Wastes”.

²⁷ Ordinance no 6, dated 27.12.2006 “On approval of the preliminary assessment methodology of impacts of activities on the environment”; Law no 9700, dated 26. 03. 2007 “On environmental protection and inter-border impacts”.

Strengthening of the administrative capacities in the national level and in the local government level is necessary and the key to the success, particularly in regards to implementing the existing legislation on environmental protection and to execution of sanctions compliant to this legislation in power. The increase of effectiveness of the implemented actions, raise of awareness of stakeholders to strengthen relevant structures in each level, establishment of other specific groups, apart from the intensification of the activity of the responsible authorities for the integrated planning of programmes and the environment impact assessment, are necessary and should be carried out compliant to the qualitative criteria.

The air quality monitoring performed²⁸ for 2006 showed that the air quality in 15 selected spots of the main seven cities of the country is not good. The observation shows that there is a prevailing high level of dust in our urban atmosphere, which means that Albania is very delayed, is applying relevant Directives and no progress has still been reached.

The number of the water supply and sewage enterprises that are included in the process of the *water quality monitoring*, is in the rise, while there is an on-going effort to inventory the water-supply and sewage systems in the rural areas for the purpose of establishing a national database, to render identification of all the technical indexes for all the water-supply utilities more identifiable.

Adoption of measures to penalize subjects that pollute the environment keeps being far from desired parameters, and this is why legal measures and sanctions on water protection from the various interventions that damage its quality are considered necessary.

In the field of *waste management* there is an insufficient progress from the legislative and the infrastructure approach. This situation does not help implementation of development policies of this sector. Feasibility studies carried out over these years with foreign finances, mainly for regional landfills such as those of Shkodra, Vlora, Korça, Tirana or even special landfills, so far have not started to be implemented. Following the approval of the Law “On the Management of Hazardous Wastes”,

²⁸ Observation was carried out from the Institute of Public Health, Institute of Environment, Institute of Hydro-meteorology and the Institute of Nuclear Physics.

the Regulation “On Management of the Construction Wastes” was approved in April 2007. A national conference on waste re-cycling was organized to raise public opinion during the reporting period, while in regards to the CARDS 2002 project “A Feasibility Study and the Design of a Hazardous Wastes Landfill” remained only in the study phase, as the projection phase was suspended due to the lack of finding a proper spot for the plant. The project is not expected to be realized within the foreseen deadline – that is December 2007.

The quick construction of at least a landfill for the urban waste would make up for the first model to encourage building of other landfills, disblocking this process, in which projects are delayed and postponed in years.

The high level of *industrial pollution* and the risk that threatens areas it occurs into show that Albania is still in initial phases of protection from the industrial pollution. A serious problem is the lack of the existing legislation in this field; in particular, the lack of legal sanctions against many subjects that cause the industrial pollution of the environment are evident. Upon the support of the CARDS programme, on April 1, 2007, the “Royal Haskoning” Company started implementing a project, which aim is to assess and give priority to the environment impacts in the oil-retaining area of Patos-Marinzë and in a wider surrounding zone. Undertaking of measures for implementing legal sanctions against entities that pollute the environment in the construction phase and during operational phase of the industrial objects is indispensable.

For a *sustainable management of chemicals* relevant authorities are working for establishing the office of chemicals, initiated in the National Action Plan to eliminate the sustainable organic pollutions, and have submitted several materials to the Secretariat of the Stockholm Convention for its review. The hitherto activity in the legislative and in the implementation context of this field shows that Albania has taken some steps forward.

Albania is in the initial stage for monitoring and undertaking measures on reduction of *noises* in the environment. Over this period, in the context of environmental monitoring, monitoring of noises for 2006 was put to an end. It reconfirmed the high level of noise during the daytime (particularly in Tirana).

The noise of generators massively used in all the service units and institutions due to the continuous electricity curtailments makes up for a lot of noise, particularly in the urban environment and in the main cities. There is a need for immediate efficient measures to improve the situation.

In particular, strengthening of cooperation of local government with the local government bodies is highly recommended in order to impose coercive measures against subjects that do not apply the relevant standards for the elimination or minimization of noises.

In the field of *weather changes*, Albania, even in the context of commitments deriving from the SAA, should draft and approximate its legal framework with the EU acquis in order to mitigate the rhythm of increase of concentration of the greenhouse gases in its territory and adoption against the expected climate changes. This objective is an integral part of some strategic sector documents such as the national environmental action plan and the national energy strategy, as the main sector that discharges above 60% of the greenhouse gases in the territory of Albania.

An initial draft has been prepared for the inventory of gas greenhouses to initiate an alternative process as well as a draft on the scenario of changes of the weather in the cascade of the River Drin. It is important to establish the market of the solar panels for heating water, accompanied by the relevant (planned) designs in the building system, based on a legislation that sanctions the obligation of use of solar energy as a source of heating of high ecologic parameters for new constructions. This maneuver shall facilitate the hydro-energy crisis and would resolve the heating problems.

4.2.4 Transport

In the field of transport policies, there is an insufficient progress in regards to the legal initiatives that allow implementation of the programmed activities. The policy-making and strategic planning processes for the sector development as per the instructions and recommendations of the National Transport Plan are

still not fully consolidated and not effective, particularly the ones related to the institutional changes and realization of investments. Despite the participation in the regional transport network and in the transport observatory in Southeastern Europe (SEETO), there is still a slow progress of Albania in the field. Moreover, the transfer of the traffic and Albanian transport data in this regional network is not complete.

The study on recognition of the commentary legislation in the field of road transport, foreseen to end in December of 2006 as per the National Plan on the SAA Implementation, still keeps being in the process. Training of the control institutions staff on implementation of the road legislation, expected to be completed in February-May 2007, is postponed for a later period, after issuance of the main legal acts pursuant to the *acquis*.

Amendments to the Law “On Road Transport”, compliant to the Directive no 96/26/KE “On professional acceptance of road transport operators and reciprocal recognition of diplomas and certificates”, have been concluded and are approved.

In development of projects *on the road infrastructure* there are a lot of non-realizations regarding the progress of proceedings, bidding and funding of objects²⁹, which harm the main governance priorities related in particular with the need of the East-West Corridor (Corridor 8), Corridor North – South, and of the Durrës – Kukës – Morinë Corridor.

Road maintenance covers approximately 10% of the total expenditure budget of internal resources of the national road networks, but, anyhow, a little is done and the maintenance quality keeps being low. It can somehow be said that the

²⁹ This is also happening with the Fier – Vlorë, Lushnjë – Fier, Qafë Thanë – Pogradec – Korçë, Fier (Levan) – Tepelenë, Milot – Rrëshen road segments. Proceedings in the segment Shkodër – Hani i Hotit, part of this corridor, programmed for December 2007, is expected to be launched soon. In Tepelenë – Gjirokastrë segment, the rhythms of proceedings show that this segment can end by the end of 2007 (according to the programme). Work has also been done in the Vlorë – Himarë – Sarandë road segments and in the so-called Vlora Trans-Balkan Road. The Kalimash – Kukës – Morinë segment, planned to be concluded in December 2008, is under proceedings in the 7 lots financed by the Albanian government, while funding of the 8th lot (Kalimash – Rexhepaj approximately 6 km) is still not resolved as negotiations have just started with the Islamic Bank for Development. Work is underway in the tunnels in the Rrëshen – Kalimash segment, composed of 3 lots. There are a lot of debates about the very high pre-payment amount allocated by the Albanian government to the winning company.

chronicle decrease of non-maintenance of roads has appeared again. The efforts for the review and preparation of technical manual on road construction as well as standard contracts on routine and periodical maintenance through local private contractors are encouraging, but the continuous abusive and political interventions should be limited and eliminated while defining priorities in the field of road maintenance. A programme on digitalization of the water system with the aim of including it in the road assets management system for preventing the further demilioration of the bridge-type structures, particularly the big bridges, has been concluded.

There is a high need to implement a specialized inspection for ensuring the quality of the road maintenance so as to put a ban to the low quality proceedings and the lack of road maintenance. On the other hand, there is a need for studies and projects on constructing and transforming the roads rehabilitated so far in the east-west (corridor 8) and north-south corridors in modern roads, compliant to the envisages of Article 106 of the SAA and Article 106 of the SAA and its Protocol no 5.

Progress in the field of *road safety* is very limited although the expenditure made during 2006 on road signaling, completion of 14 technical control centers and other road safety elements was considerable. It included the measures for improving the test methods for issuing licenses for candidates for drivers of motoric vehicles. The investment projects for 2007 in the field of road signals, construction of metallic barriers, improvement of roundabouts and crossways as well as the lighting systems are still in the bidding process, although the Albanian government has allocated additional funds. Measures taken so far to control implementation of the traffic rules by drivers are not sufficient and effective; quality of road maintenance and rehabilitation of the road network is still low and lacking, and signaling has almost been not visible.

A priority is imposition of a rigorous discipline in the activity of the technical control centers for testing the constructive and ecologic parameters, compliant to the European standards.

A continuous improvement of the legal framework to reach a full compliance with the European system, improvement of the economic performance management, reduction of operative costs, reduction of subsidies, improvement of the *railway infrastructure* as well as the overall renovation of the motoric vehicles, giving priority to the import of regional trains, considered as short-term priorities for the development of the railway transport, are amongst some of the priorities of the sector.

Unfortunately, the situation in this sector has deteriorated due to the difficult railway and aiding infrastructure, coming as a consequence of the lacking investments, programmes of fundamental re-structuring and modernization of the Albanian railway.

Over this period, an insufficient progress has been remarked in the development programmes of *the maritime transport* and particularly on extension of the port capacities. However, there have been some achievements in improving the naval safety conditions, in completing the legal and administrative context and in disciplining exploitation of ports. The Law “On Establishment of the Naval Administration” has not still been approved, and this has affected the non-establishment of the Port State Control, Naval Administration and the Project Implementation Unit (PIU) in the Ministry of Public Works, Transports and Telecommunications.

The decision “On proclamation of the Bay of Raguza 1 and 2 as refugio ports” was approved during the reporting time. These bays shall serve for sheltering the seized naval means, naval means at risk due to the extra-ordinary events, and the naval vessels that are depreciated. Measures are also taken for approving security plans for the port of Saranda, Vlora and Shëngjini, and for defining the structure, status, elective criteria for the staff, uniforms and the financial treatment of the ship security force, envisaged to be concluded by December of 2007.

Programs on capacity development and extension, building of new infrastructure and rehabilitation of the existing infrastructure according to a suitable destination, particularly in the ports of Durres and Vlora, are slow and insufficient. Meantime, the approval of the Law “On Tourist Ports” by the Assembly has paved the way to construction of tourist ports by the Albanian and foreign companies.

With regards to the *air transport*, observations show that progress has been made in preparing the draft-law “On the Air Code of the Republic of Albania” pursuant to the *acquis*. The draft-law is based on the Agreement on the European Common Aviation Space (ECAA) approved by the Assembly by Law no 9658, dated 18.12.2006. The draft-law has been submitted to other Ministries for comments, and an action plan has been compiled for its implementation, waiting for a prior endorsement of the draft-law by the Assembly. A ministerial order for the requirements and procedures of the air traffic security compliant to the ICAO and EUROCONTROL parameters has been issued, while a full package of instructions is re-programmed for after the approval of the draft-law “On the Air Code in the Republic of Albania”. Directives to be approximated in this field have already been identified and translated. Completion of the air traffic regulatory requirements’ package is still in the process.

4.2.5 Energy

Energy Sector

Over the reporting period, a considerable work has been dedicated to the preparation of the National Energy Strategy, which has been submitted for approval to the Council of Ministers, following consultations with the interest groups, civil society and the political parties. A slow progress is remarked in completion of obligations Albania has in the context of the Treaty of Establishment of the Energy Community. The draft of the Electric Energy Market Model, supported by the USAID, has concluded and is undergoing a consultation process by the donors and the interest groups. This shall be followed by the improvement of the secondary legal framework, including the Market Rules, the Transmission Code, the Distribution Code and the Measuring Code.

KESH (Albanian Electricity Corporation) restructuring is an important direction in the energy sector, which consists in its full division according to the production, transmission and distribution activities. Over this phase, division of the financial

calculations of the OST is realized. “*Establishment of the Energy Distribution System Operator*” is realized upon the Decision of the Council of Ministers no 863, dated 20.12.2006, and this marks a step forward in the distribution activity and the privatization of KESH a. a. Work is being carried out for the Law “On privatization of the electricity production sector”.

The Law no 9072, dated 22.05.2003 “On the Electric Energy Sector“ was approved. Another step ahead in support of the energy sector development is the Law no 9663, dated 18.12.2006 “*On Concessions*”³⁰. The Law “On Procurement of the Electric Energy” is in the process of consideration”. Despite the obvious progress in completion of legal measures³¹ for KESH restructuring and review of the national energy strategy, the energy sector keeps being in a seriously problematic stage, and, the progress is, thereof, insignificant. After some improvements in the energy situation of the country, following the crisis of the last quarter of 2005 and during January of 2006, the country encountered an even more serious energy crisis over the summer of 2007, causing great problems in the household and business costumers. After the remarkable increase of losses and thefts of the electric energy and following a reduction of the billing collection percentage during 2006³², the first half of 2007 seemed more promising, but seems like these results shall not last for long.

Trying to make a brief analysis of the energy crisis factors, we can mention the regional crisis, and internal factors like the non-justifiable postponing of important projects of construction of the Vlora heat power station (TEC), the non effective exploitation of energy resources by KESH, abuse of human resources due to removals based on unmotivated professional criteria³³, lack of energy meters for the customers (for about 30% of customers), lack of a political willingness

30 In implementation of this Law, there have been about 50 requirements for building hydro power stations of all dimensions only for the period of January-April 2007.

31 Some non-realizations were remarked in the legally envisaged initiatives as the Decision of the Council of Ministers on the Regional Energy Agencies, while AKE is involved in the AKBN, and in fulfilling the requirements of the Directive 92/75/EC.

32 The technical and non-technical losses of electricity in the distribution network for 2006 were planned for 32.5%, while in fact they result to be 38.73%, whereas the overall losses, including the transmission losses, are calculated at 41.3%.

33 Over 2500 employees, some of them experts of a 10-20-year experience in the field, have been made redundant over the last years, while 3200 other people, most of them with no qualification or KESH experience, have been hired in the same sector.

to consider resolution of the problem as a national challenge not as a routine challenge of the government, non-functioning of the low-income customer subsidy schemes, tolerating relations of KESH with public institutions that are the main category of debtors, etc.

Sector of hydrocarbons

“The Development Strategy on the Hydrocarbon Sector”, as well as the draft-decision “On Approval in Principle of the Three-party Convention on the Trans-Balkan Pipeline between the Republic of Albania, Republic of Bulgaria and the Republic of Macedonia”³⁴ was approved during the reporting time. Under the pressure of the energy crisis, in order to diversify the oil and its by-product supply resources, several measures are adopted, such as the approval of the study “On the possibility of the construction of the liquefied natural gas terminals (GLN) and of the relevant infrastructure in the coast of the Region of Fier” or the order “On practices of supply or re-supply of the joint stock companies with “an authorization” for the continuity of procedures to receive the concessionaire permissions for the construction and use of coastal installations for the transport, depositing and trading of oil, gas and its by-products”. A masterplan on the mid-term settlement of terminals has been proposed to the KRRTRSH (Regulatory Territorial Council of the Republic of Albania).

Law no 8450, dated 24.02.1999 “On the processing, transport and trading of oil, gas and its by-products”, amended, was passed in October of 2006. Its aim was to reflect the structural changes of institutions that manage the hydrocarbon sector. Issues of guarantee of supply and of the product quality are respectively treated by the Decision of the Council of Ministers no 808, dated 5.11.2004 “On protection and management of the safety serve for the oil, gas and its by-products” as well as a draft to define the content of sulphur in benzene and diesel, to be used for the movable means. The amendment of the Council of Minister’s Decision no 808, dated 5.11.2004 is part of the mid-term plan.

³⁴ This project was approved by the Council of Ministers (Council of Ministers Decisio no 7, dated 06.01.2007).

Law no 9663, dated 18.12.2006 “On Concenssions”, although envisaged in the packages of measures in this sector, is expected to have a positive impact on all the branches based in the economization of natural resources – including hydrocarbons.

4.3. Other policies

4.3.1. Education and Science

Pre-university education

During June, organization, realization and follow-up of the high school state exams was the focus of the pre-university education. A novelty in this field is piloting of the standardized and unified high school final exams in Kruja and in Kavaja, under the responsibility of AVA. Another important commitment of the Ministry of Education and Science during June is realization of the second phase of the textbooks reform, named “ALTERETEKST 2”. The aim of this reform is the consolidation of the liberalization process of texts and approximation with the market rules. This reform has conditioned the entire process in the country.

Education and the vocational training

Measures are required to be taken for enabling students of vocational and technical schools and the ones attending studies in the vocational formation centers to have internships in various utilities.

Non-discrimination

The Ministry of Education and Science has started piloting the establishment of integrated schools and kindergartens since the beginning of this academic year -- that is June 2006. There are about 25 schools and 21 integrated kindergartens in cities that are regional centers, where universities are located, from 12 schools

and kindergartens planned in the Strategy. The Ministry of Education and Science has issued the Order no 410, dated 08.11.2006, on the fight against illiteracy, where a special place of the platform, in implementation of this Order, is covered by the identification and attendance of schools and kindergartens from the Roma community children.

Higher Education

During the reporting period, the attention is concentrated in naming the titles of diplomas for the first circle of studies and in the new acceptances in universities for the full-time, part-time and distant learning studies. Diplomas and their proper names for the University of Durres, in the branch of Economy, the Higher Professional Teaching School, as well as academic structures and division of study branches in the University of Shkodra, Gjirokastra, Korça and the University of Vlora have been decided upon. These are diplomas of a “Bachelor” level and of a non-university level for the high vocational school in the University of Durres.

4.3.2. Telecommunication

The telecommunication market in Albania has extended. Termination of the privatization process of the former state-owned landline telephone company Albtelekom and the activation of the third operator “Eagle Mobile” after Albtelekom’s privatization are expected to add the power of the existing structure of the telecommunications and facilitate the market competition structure, composed of the mobile telephone companies of AMC and Vodafone Albania, and 55 operators acting in the rural areas, etc. However, another concerning problem in this field are the high fees of the mobile telephone service, which, despite a reduction a short time ago, were still far from the European average level. In the telecommunication field, work was done to approve the Law no 8618, dated 14.06.2000 “On Telecommunications in the Republic of Albania”, and work is continuing on improving the regulatory framework for licensing new operators in an entirely liberalized market.

4.4. Justice, freedom, security

4.4.1. Visa regime, the migration policies, asylum and border management

Number of the foreign citizens who “legally”³⁵ use Albania as a transit country to migrate to other European countries has fallen considerably, almost becoming inexistent³⁶. This situation is due to, first, a better border control, because of the application of a different visa procedure for the citizens of those countries Albania has a visa regime with. The Albanian consulate offices do not release stamps to enable entry of foreign nationals in Albania, but do instead issues visas containing several safety elements.

Progress has been achieved in the border management control over the last year and safer procedures are formulated for the institutions and agencies issuing state documents or passports or certificates. Nonetheless, there is still no structural approach, which would give a full guarantee for the safety of documents such as passports or certificates.

The issue of movement of Albanian citizens, particularly in the EU member countries, is complex and problematic. As in all the other Western Balkans³⁷ countries the citizens conceive the border of the EU countries as a new wall, which although virtual is still an unsurpassable obstacle. With the aim of facilitating the new movement of people, on September 18, 2007, Albania and the European Commission signed a visa facilitation agreement.

The government is currently committed in preparing the identity cards of high security elements, but if the process shall not be preceded by a national registration system, the additional security elements in documents shall not improve the current situation. The ID preparation (ID) based in an integrated national register

³⁵ Through possession of an entry visa in Albania.

³⁶ Source: Ministry of Interior, Ministry of Foreign Affairs.

³⁷ See “Report of the International Balkans Commission”, Center for the liberal Strategy, Sophie, 2005.

shall serve not only to the free movement of citizens, but also to the internal reforms related to the electoral processes, often contested due to the electoral lists and identification documents.

Migration policies

The government and the state institutions have not supported the voluntary return of the Albanian migrants, remarked over the last two years. There are still no programmes based on encouraging stimulus that would enable the integration of the repatriated immigrants. Work has been coordinated between institutions to build a chain system of encouragement of return of emigrants and their integration in the country.

Although the government has envisaged ties of cooperation with local and regional authorities, particularly in Greece and Italy, where the migration influxes have been more intensive, no substantial steps forward have been launched during this year. Some ideas to modernize the regional employment offices via computerization and establishment of a national integrated system have simply remained in the level of ideas, because no appropriate funds have been planned for this purpose.

Asylum

With regards to the asylum, work has particularly been concentrated in the field of implementation of the internal legislation, as per the Geneva Convention Standards of 1951 and the New Protocol of 1967 to ensure implementation of the non-defilement principle, and of the right of asylum-seekers and refugees. The government envisaged the amendment of the Law of 1998 on Asylum in the Republic of Albania since the first half of 2006, but the process has been postponed and the amendment is expected to be realized by the end of this year (2007).

Borders Management

Borders management and security constitutes a commitment of the Albanian Government vis-à-vis the legal, political and national security obligations, as well as vis-à-vis the international relations, with particular regard to the process of integration into the Euro-Atlantic structures, aiming to build trust with neighboring countries and further, and to contribute in the fight against organized crime.

In this context, taking in consideration also the need to enhance inter-institutional cooperation between national Institutions (with particular regard to customs, border police, phyto-sanitation, etc.) in order for border crossings to be more efficient regarding the influx of goods and persons, and the control of inter-border criminal activities, from the information received it is noticed that the legislative measures foreseen in the National Plan for the SAA implementation are not met because it is expected the adoption of the law “On Foreigners” and the law “On borders control and monitoring”, which is still under procedure.

4.4.2 Money laundering

In order to prevent use of regional financial systems for laundering of money from criminal activities, in general, as well as use of these systems to finance terrorism, the Government had foreseen in the National Plan for SAA implementation building of a computer system for all border crossings, which is still an ongoing process.

4.4.3 Fight against corruption

Fight against corruption has been one of Government’s proclaimed priorities. During the monitoring period, the Government has continued to undertake a series of measures through which it aims at reforming and modernizing the fiscal system and the justice institutions. There is slow progress if the above-mentioned measures are compared to the measures foreseen by the National Plan on SAA

implementation for the fight against corruption. But, on the other hand, high quotas of corruption, at least perception quotas, have started to lower. According to Transparency International, Albania shows improvements, although it continues to be classified among the countries with high corruption quotas.³⁸.

The Government continues to use the same high rhetoric of fight against corruption, but punishing measures or trials against corruption cases have been missing or were peripheral. In September this year, Albanian authorities arrested nine senior officials, among which a deputy Minister, charged with involvement in corruption. This is the first case recorded in two years, since the Democratic Party came into power, that senior officials of its administration are accused of corruption.

4.4.4. Fight against drugs

Measures foreseen in the National Plan on SAA implementation related to fight against drugs are based on principles that comply with the European Strategy on Drugs, as well as with the Conventions and other international instruments in this field. The three legislative measures foreseen in this section require cooperation of the Ministry of Interior with the Ministry of Agriculture, Food and Consumer's Protection, the Ministry of Health and the respective structures of the Council of Ministers. The slow proceeding of these institutions for the implementation of the foreseen measures, is a consequence of the missing coordination between them and of the lack of a clear sharing of duties and responsibilities.

4.4.5. Police

Regarding police reforms, the principal engagement of the Albanian state in compliance with the Document of the European Partnership are:

- Guarantee for the full implementation of the law according to ranks.
- Improvement of the State Police management and improvement in managing its resources independently.

³⁸ See Transparency International, Albania, 2007.

- Enhancement of the Police Unit for Internal Affairs and penal prosecution of police officers in case of violation of laws.
- Raise of awareness in all police structures regarding their duties, in order to guarantee full respect of human rights in compliance with the international conventions ratified by Albania, especially with the European Convention of Human Rights.
- Acceleration of efforts to reach an agreement with Europol.
- Definiton of a consolidated manual of procedures for all incriminated police officers.
- Strenghtening of community's conscience for cooperation with police.

Meanwhile, for 2006, the European Commission report notes that with regards to Albanian police functioning, attention should focus on these problems:

- Shortcomings in the adoption and implementation of the strategy of community policing with the aim to curb criminality;
- Shortcomings in fulfilling the standards required for the sistem of cases management;
- Weak and inefficient coordination between police structures and the Procesution;
- Non-transferring of human, financial and material resources from the Ministry of Interior to State Police.
- Needs for constant training of police officers and for infrastructure improvement;
- Needs to supply all police officers with a manual of procedures;
- Strengthening the structures of management, particularly the internal control;
- Missing of a strategic agreement between Albania and Europol on the enhancement of police cooperation.

As regards the progress recorded during the monitoring period in the police sector, an important legal initiatives was the amendment of Law no. 8553, date

25.11.1999 “On the State Police”, adopted in June 2007 by the Parliament of Albania, beyond the legal deadline. Adoption of the bill “On State Police” was the result of a long drafting and rewriting process. In November 2006, actors of the civil society and the Ombudsman³⁹, demanded revision of the bill sent in Parliament in order for it to comply with the international standards and the Albanian legal frame. According to them, the bill evidenced problems of compatibility with the Constitution and the Code of Penal Procedure, as well as evidenced technical legislative shortcomings. Part of these remarks were taken in consideration from the work-group of the National Security Committee in the Parliament of Albania.

Although the law is relevant not only to police functioning, but also to respect of citizens rights, it was not subject of a preparatory debate with groups of interest, experts of the justice system, prosecution and human rights. Also, the bill was not discussed in the Law Affairs, Public Administration and Human Rights Committee. Delays in approving the law “On State Police” influenced in breaching the deadline foreseen for the approval of the new Police State structure and of some other measures regarding police management.

Progress was recorded in improving the image of police in the community. The State Police in cooperation with international missions assisting police and with actors of the civil society drafted the Strategy of Community Policing. It is now expected to be established whether it will be used as a strategy or as a “Mid-term Action Plan for Community Policing”. Besides that, work has been carried out in drafting the Action Plan for the implementation of the Strategy of Community Policing.

Although progress has been made in improving community policing, a greater work is needed from the State Police to increase public trust and strengthen close cooperation between community and police structures, through preservation of confidentiality, guaranteeing citizens rights and freedoms. Various programs must

³⁹ Some non-lucrative organizations of the civil society, such as SOROS Foundation, the Albanian Helsinki Committee, the Institute for Democracy and Mediation, the Albanian Group for Human Rights, the Albanian Center for Human Rights and the Ombudsman Office, organized a hearing session in the Parliamentary National Security Committee and a round table to oppose the bill, and to suggest improvements from the legal and legislative technique point of view.

be drafted to inform and raise awareness of the public opinion. With the adoption of the law “On State Police”, a structure for community policing is planned to be established in 12 District Police Directorates, which must strengthen connections and trust of the public opinion.

There is progress also in the field of international cooperation between the Albanian police and Europol. In this direction, the Strategic Agreement with Europol was ratified by the Parliament of Albania in March 2007.

Restructuring of the State Police building, installment of generators for the creation and functioning of the data-base net, improvement of the Police Academy infrastructure, the Parking and the Central Garage of the Ministry of Interior, were still under process during the reporting period. Also, premises for the communication of police with the public are being reconstructed with support of the UNDP. Meanwhile, little has been done as regards the improvement of the road police infrastructure, in order to increase roads security. In the meantime, work has started to build the computerized system of the State Police as well as for the training of the police staff to use it.

As regards enhancement of professional capacities of police staff, training have been carried out in cooperation with the Police Academy, OSCE, UNHCR, Red Cross. Although much more work was needed, during this period very little has been done towards improving the managing system of the State Police resources, in order to increase police efficiency and transparency.

4.4.6. Fight against organized crime and terrorism

The commitments undertaken and the objectives defined in PKZMSA in the framework of fight against organized crime and illegal traffics, comply with obligations deriving from the Stabilization-Association Agreement (articles 4, 78, 81 and 85). These commitments that are related to fight against organized crime, illegal migration and trafficking, including particularly trafficking in human beings, smuggling, illegal trafficking in weapons and cars, etc., constitute a key factor for the development of cooperation relations between Albania and other countries, as well as contribute directly to the regional stability.

The three measures related to this section foreseen in the National Plan for the SAA implementation (administrative, legislative and infrastructural), are in under process within the deadline foreseen for their implementation.

Fight against terrorism constitutes an obligation for the Albanian Government in the framework of engagements deriving from the implementation of the Stabilization-Association Agreement (paragraph 9 of the Preamble, articles 5 dhe 82). In order to fulfill such obligation, Albania has committed to give the proper importance to the fight against terrorism, supported also in the statement of the European Conference of 20 October 2001.

The measures regarding this section foreseen in the National Plan for the SAA implementation, are under process of completion, which also constitutes one of the elements or assessing criteria of Albania's cooperation with various international actors (organizations or states). Anyway, it is noted that reporting for the completion of these measures becomes difficult as a consequence of their general formulation and lacking of monitoring indicators.

4.4.7. Mine clearing

In compliance with the obligations deriving from the membership in the International Conventions covering this field, the Albanian Government has drafted the Action Plan against Mines, which aim to clear all areas that identified as polluted by mines and unexploded ammunition. One of the primary objectives of this program is building the national capacities to clear mined zones. The main goal in this direction is to clear landmines and then deliver them to communities as secure areas.

