



Organization for Security and Co-operation in Europe
OSCE Presence in Albania

Report to the Permanent Council
Ambassador Osmo Lipponen, Head of Presence
26 February 2004

Introduction

Negotiations to update the Presence's mandate concluded successfully at the end of 2003, according the Presence a firm basis for the continuation of its work in the country. The overall goal of the Presence in Albania remains in support of democratisation, rule of law and human rights. To fulfil this goal, the Presence is to provide expertise and assistance, particularly in the areas of legislative and judicial reform, including property reform, regional administrative reform, electoral reform, parliamentary capacity-building, anti-trafficking and anti-corruption, media development, civil society development and police assistance, namely in training border police.

The specific aspects of the mandate correspond to the activities already undertaken by the Presence or identified as important forthcoming initiatives. This is largely the result of the close dialogue held between the Presence and the government of Albania throughout the past summer and autumn, running parallel with the drafting of the Presence's 2004 programme outline and budget to ensure consistency and compatibility. With the approval of the new mandate, the Presence has been engaged in elaborating more specifically the projects in support of its programmatic themes in line with the delegations' suggestions, in particular those of the Albanian delegation, put forth during the budget discussions.

As foreseen, the Presence closed a further two of its field stations in the towns of Peshkopi and Elbasan in mid-December; three had been closed at the end of 2002. Four field stations presently remain in Shkodër, Kukës, Vlorë, Gjirokastër, and a liaison office for Durrës and Tiranë, in addition to the headquarters staff. The Presence currently has 29 international staff, nine of which are situated in field stations, and 82 national staff, eight of which are graded as national professionals.

The last report of the Presence delivered to the Permanent Council at the end of November focused heavily on the local government elections, held under a new Electoral Code and on property restitution and compensation. The Presence has continued to devote significant resources to these issues as several re-run elections were held, most notably in the capital Tiranë on 28 December, and the property restitution bill remained under examination by the Assembly's committees following the New Year recess. During this period, the Presence also completed its lengthy analysis of Albania's legal and judicial sector and initiated support to the Assembly for revising its Rules of Procedure.

Since the last report, the overall political situation of the country has remained fragile as a result of a breakdown in political will over the local government elections and an

unfavourable economic situation impacting the general public and small businesses. Rising public discontent and an increasingly hostile opposition, which has launched a series of anti-government protests, have increased the pressure. At the same time, a number of important reform processes, falling within the scope of the Presence mandate, are underway and will require broad political agreement in spite of the current confrontational situation. The continued role of the Presence as a facilitator of such processes remains critical.

General Situation

A year since the opening of negotiations with the European Union on a Stabilisation and Association Agreement (SAA), the political situation in Albania appears more fragile than before. The notion of consensus or political will is largely now forgotten. The government of Socialist Party (SP) leader Fatos Nano emerged at the New Year from a six month-period without a foreign minister and more than two months without a minister of public order following a successful cabinet re-shuffle that brought the third-largest political party, the Social Democrats, into the majority's "Government for Integration", after having been kept at arm's length for over a year and a half.

Mr Nano's skilful manoeuvring to prevent further stalemate in the Assembly over the approval of new ministers, which had risked forcing a vote of confidence, was largely due to his overwhelming victory¹ at the Socialist's quadrennial party congress of 12–13 December to retain the position of party chairman. The build-up to this event had already been evident in the selection of the socialist mayoral candidates for the local elections, who in turn became delegates to the congress to re-elect Mr Nano. While the party caucuses had already largely marginalised the supporters of former prime minister Ilir Meta, the amendments to the party statute approved at the congress further weakened this group within the party's structures and also threatened their positions within the socialist party group in the Assembly. With internal dissidents effectively sidelined, Mr Nano re-established firm control over the government.

Despite the appearances of having solved most of its immediate political difficulties, the government continues to find itself facing a number of challenges. Lingering resentment by the Democratic Party (DP) over the conduct of the local elections, in particular the problematic voter registers, has spurred the opposition into action in a public campaign against the government. Growing public dissatisfaction over economic issues has forced the government to adopt policies responsive to public opinion, a new and welcome development. Likewise, civil society groups discontent with both majority and opposition politics have recently come to the fore, having a direct impact on government decision-making in unprecedented ways.

The 9 January tragedy, in which over 20 smuggled Albanian migrants lost their lives at sea en route to Italy, has become the defining event for the year so far. Apart from provoking an outpouring of emotion and stirring Albanian national solidarity, the event brought into sharp relief many of the challenges confronting the country.

¹ Mr Nano won 81% of the votes of the congress's 566 delegates; former president Rexhep Meidani won 61 votes and Tirana Mayor Edi Rama 41. Secretary-General of the party Grmaoz Ruçi also retained his position with a 71% victory over challenger Petro Koçi, who had entered the race only two days prior to the congress.

Poverty and economic hardship, the prime factor motivating the migrants, could no longer be ignored as an issue of great concern. And although trans-Adriatic migrant smuggling to Italy had been largely stamped out, the arrests and confiscations made during Operation Iron Net launched in the aftermath of the tragedy showed that the infrastructure supporting trafficking and smuggling remained intact despite the well-publicised successes of earlier operations such as Mirage 2003.² Real progress in combating trafficking, smuggling and other forms of organised crime, however, does not derive solely from claiming massive arrests, but in achieving successful convictions and appropriate sentences.

The wide public support shown to the Mjaft! (Enough!) Movement, which led candlelight vigils and demonstrations in response to the tragedy, illustrated that political parties could no longer hold a monopoly over popular sentiment or expressions of public opinion.

At the same time, other economic issues beyond those that affected the illegal migrants, who had mostly come from the impoverished northern part of the country, have impacted the general public. The proposed increases in the prices of bread, electricity and telephone service, for example, stirred strongly negative reactions, which were captured by civil society groups such as Mjaft!, the Citizen's Advocacy Office, trade unions and business groups. The government responded to the success of these campaigns by rolling back some of these price increases. The prime minister's roundtable held with leading NGOs at the end of January signalled the growing influence of these groups as well as the government's willingness to take their opinions into account.

Trying to capitalise on this evident public disenchantment, the opposition launched its "Nano, go!" campaign aimed at forcing the resignation of the prime minister and early parliamentary elections. Protest rallies held on 7 and 21 February attracted crowds of thousands of demonstrators. The violence seen during the first rally, which had provoked warning shots from the security forces in front of the prime minister's office, was absent the second time around, as both the opposition and the government ensured that no incident should occur.

In roundtables held by the Democratic Party seeking to solidify the opposition by pulling together the smaller opposition parties, it has advocated a series of peaceful demonstrations alongside a more active parliamentary role for itself. It also has taken a new approach to widen its appeal to civil society groups and attract academics and professionals to support the development of its platform of alternatives. Likewise, the Socialist Party has inaugurated an "extended assembly" to put itself in touch with local public opinion. In this way, both major parties are having to confront their own internal democratic deficiencies to avoid stagnation and stimulate the formation of a platform of ideas attractive to the electorate. A major factor affecting this will be drafting legislation on the financing of political parties.

Despite the shortcomings in the conduct of the 12 October elections illustrated in the ODIHR *Final Report*, the recent initiatives of both the majority and opposition appear

² Mirage 2003 was a regional operation launched by the Southeast Europe Co-operative Initiative (SECI) in the autumn. Albania was recognised out of all the SECI members for having accomplished the highest numbers of arrests.

to reflect the lessons drawn from the clear expression of voter will at the local level and the increasingly influential voice of civil society organisations offering ideas not necessarily represented by the parties themselves. The Socialists' approximate 15 per cent loss³ in the nationwide aggregate proportional vote and the success of well-chosen DP candidates for mayor in a number of municipalities⁴ has prompted both parties to reassess their strategies with a view towards the next parliamentary elections due in June 2005.

Democratisation

Elections and Electoral Reform

Although the international community and the Albanian authorities themselves placed a great emphasis on the 12 October local government elections as a test for the country in the midst of negotiations with the EU, the ODIHR *Final Report*⁵ states that the elections were “a missed opportunity for significant progress towards compliance with OSCE commitments and other international standards for democratic elections.” While praise is given to the two main political parties for their role in the electoral reform process, criticism is again given to their failure “to demonstrate sufficient political will to ensure an effective and credible process.”

Recognition is given to the improvements in the Electoral Code, the complaints and appeals process, and the performance of the electronic media and police. The calm atmosphere of the election campaign itself and the substantive level of debate among candidates are commended. However, the delays in releasing public funding to the campaigns, procedural errors in completing the results protocols and, most particularly, the problems of the voter registers are also criticised.

The report characterises the elections in Tiranë, which were re-run on 28 December, as “protracted, litigious, fragmented and uncertain”, a description ODIHR also used to describe the lengthy five rounds of voting occurring in the 2001 parliamentary elections. These were the most critical of the repeat elections that took place, where 118 polling stations in the capital were re-run, representing one-third of the total. With the last election not finishing until 29 January 2004 in Vau i Dejës commune, the Central Election Commission (CEC) could not announce the nationwide results until 20 February, over four months after the original date of the elections.

The ODIHR report recommends numerous amendments to be made to the new Electoral Code to clarify procedures and correct inconsistencies. The main recommendation in this regard is to address the significant problems associated with the appointment of election commissioners at all levels, including the CEC, to safeguard against political advantage and deliberate obstructionism and to ensure independent, impartial and professional commissions. ODIHR and the Venice

³ As compared to the nationwide aggregate for the 2000 local elections. Source: Central Election Commission.

⁴ In a speech before the SP Executive Body on 18 February 2004, Mr Nano recognised the quality of these mayors.

⁵ OSCE Office for Democratic Institutions and Human Rights Election Observation Mission, *Republic of Albania Local Government Elections (12 October 2003–25 January 2004) Final Report*, Warsaw, 26 February 2004.

Commission will soon release a joint assessment of the Electoral Code itself, which will provide more specific recommendations for amendments.

Key issues requiring attention in election administration concern the preparation of voter registers, the publishing of accurate maps of polling units and electoral zones, provision of guidelines to improve the counting and tabulation procedures. Attention is also given to increasing the participation of women in the electoral process, which has seen a steady decline of female candidates and where the continued practice of group and family voting deny women their constitutional right to vote.

Given the amount of resources dedicated to over a year's worth of electoral reform and the success of the bipartisan committee process in overcoming past complaints and controversies, it is unfortunate that these elections did not achieve the desired result in terms of meeting international standards. The recommendations contained within the *Final Report* should therefore be accepted as a roadmap for further reform. Both the SP and DP have already committed themselves to continuing the process of electoral reform through their joint protocols signed at the close of negotiations on the Electoral Code amendments.

Having left aside important issues on the electoral system, electoral zone boundaries and campaign financing, and recognising that additional attention would be needed to correct any deficiencies experienced in implementing the new code, the parties had already planned for a new negotiation process in preparation for the 2005 parliamentary elections. This commitment has since been reaffirmed. The Presence is prepared to continue its role in facilitating the political process needed to implement these latest ODIHR recommendations and will begin working with the political parties to establish a new appropriate mechanism for negotiations.

Territorial administrative reform

Another major area of reform with significant political implications is territorial administrative reform, recently relaunched by the government after having been postponed until the completion of the local elections. This reform envisions the redrawing of the internal administrative boundaries of the municipalities and communes over the course of the next three years. This has become necessary due to internal demographic changes occurring over the past several years and to guarantee a sufficient level of financial and human resources for meeting the new demands placed on local government as a result of the ongoing process of decentralisation.

As emphasised in previous reports, the Presence supports a transparent and consultative process for redrawing the administrative boundaries open to broad political participation to avoid undue unilateral decision-making. The role of the Assembly in this process should also be guaranteed.

This large-scale reform impacts on a number of other initiatives such as the reform of the civil status offices, now responsible for drawing up the next voter registers, the establishment of a system of addresses and the process of property restitution, compensation and registration. It is also directly related to the definition of polling unit boundaries and electoral zone boundaries. In observing how this reform is linked to decentralisation, the Presence would like to see greater clarity over the role of government-appointed prefects and the role of the regional councils.

Parliamentary Support

The Presence's support project to the Albanian Assembly has been mainly focusing on issues of budgetary reform and oversight to increase the Assembly's role in the annual state budget process, by primarily working with the parliamentary Committee on Economy, Finance and Privatisation. This collaboration, aimed at amending the Organic Budget Law and establishing a new unit responsible for budgetary analysis, will continue throughout 2004, but will be expanded to include support to the committees on defence and on public order through a joint project with the Geneva Centre for the Democratic Control of the Armed Forces (DCAF). Earlier co-operation established with the committee on foreign affairs, European integration,⁶ laws, and media will also continue.

The Presence is currently working on structuring a transparent and inclusive process for party groups for revising the Assembly's Rules of Procedure, for which the Presence has been invited to provide assistance. This year will also see the implementation of the outreach component of the project to strengthen deputies' relations with their constituents. A number of initiatives to strengthen the capacity of the administrative staff are also underway. In this regard, the Presence is developing a partnership with the Portuguese Assembleia da República as a means of exchanging experience.

Media Development

Support to the Albanian media remains a priority for the Presence. The media sector would benefit from improving professional skills and addressing inadequate legislation and underdeveloped institutions. The main objectives of the Presence in 2004 are to work towards further developing the Albanian media institutions and legislation, harmonising the local media standards with European standards, strengthening independent media and media institutions, cultivating responsible media freedom and supporting good journalistic practice.

In order to achieve these overall objectives, the Presence will facilitate the establishment of a viable, self-sustainable consultative media council which, among others priorities, would redraft and support implementation of the Code of Ethics for Journalists. It is also foreseen to assist the parliamentary media committee in harmonising Albanian media legislation with western international standards, through provision of expert advice in the process of amending and adopting media legislation, in close co-operation with the Office of the OSCE Representative on Freedom of the Media (RFOM). Continued support will be given to building the capacity of the National Council of Radio and Television (NCRT), through assistance to the regulatory body in creating and implementing a Development Strategy and Frequency Plan for the Albanian electronic media, in co-operation with the European Radiocommunications Office (ERO) and USAID-supported IREX. The Presence will also explore possibilities for mediation in the process of recomposing the NCRT.

⁶ This is an ad hoc committee on European Integration and the Stability Pact, rather than a standing committee.

Civil Society Development

Over the past three years, the Presence's National Network of Civil Society Development Centres (CSDCs) have successfully established themselves in their communities and gradually expanded the range of services available to NGOs and other civil society groups. The Presence recently opened a new CSDC in Shkodër and has plans to add an additional centre in Gjirokastrë. A few of the centres have begun the process of becoming self-sustainable by generating some revenue as project consultants and implementers.

In 2004, the centres will expand their co-operation with local governments and promote the incorporation of civil society and local governments into the National Strategy for Socio-Economic Development (NSSD) planning process. The centres have also planned cross-border initiatives with the National Network for Development (NND) in Kosovo and, together, they will launch a platform for a civil society in the Western Balkans. The Presence is also supporting the completion and implementation of the National Strategy for People with Disabilities in concert with Albanian civil society and state institutions.

Economics and Environment

In the economics and environment field, the Presence is focusing on a variety of projects built around the themes of anti-corruption, youth entrepreneurship, poverty reduction, promoting government-business dialogue, and environmental awareness. It is currently implementing a project of assistance to the Department of Co-ordinating the Fight against Money Laundering in the Ministry of Finance for establishing of a data base software system. On 26–27 January, the Presence, together with the Ministry of Finance, organised a regional conference for Financial Intelligence Units from all countries in Southeast Europe. As follow-up to the successful 2003 YES program, further entrepreneurship seminars will be organised for empowering women with a component concentrated on re-integration strategies for trafficking victims.

Gender

Gender equality will serve as a cross-cutting theme running through all of the Presence projects. An internal working group has been established to define gender policy within the Presence and to ensure inclusion of a gender perspective to all of its work. In terms of specific initiatives, the Presence will support the National Committee for Equal Opportunities to create and support a national gender machinery through drafting a national gender action plan and reviving the gender focal points in municipal and prefecture administrations. The Presence is also seeking to enlarge the network of women's counselling centres and legal aid offices by establishing additional centres in the North and the South of the country.

Rule of Law and Human Rights

Property restitution and compensation

The draft law on property restitution and compensation is now in its final stages of committee debate before being presented for vote in the plenary. The Committee on Economy, Finance and Privatisation and the Committee on Agriculture and Food have already made amendments to the original text proposed by the Presence-led Technical Experts Group (TEG), although discrepancies exist between these texts.

Once the law is approved, former owners will be able to present their requests for the recognition, restitution and compensation of property beginning on 1 May 2004. A special fund will be established within the state budget for a period of ten years beginning in 2005 to provide for eventual compensation, if restitution is impossible.

The Presence's lead role in addressing the issue of property restitution and compensation both politically and technically will continue in 2004 with the objective of reaching a sustainable solution for establishing clear ownership of immovable property. This would mean correcting past injustices through a just regulation of the issues of property rights that have arisen from expropriation, nationalisation or confiscation, while at the same time maintaining social and economic stability.

The Presence will continue to provide assistance to the Assembly with the legal review process and implementation once the property law has been approved. Other related activities will include assistance in drafting sub-statutory acts and instructions, capacity-building for the state institutions responsible for implementation of the law, and dissemination of public information.

Judicial reform

The Presence launched on 19 February its much-anticipated *Legal Sector Report*, which describes the legislative framework, organisational structure, activities and challenges faced by Albanian legal and judicial institutions. In identifying areas requiring further attention, the report is meant to aid development of a comprehensive strategy for institutional reform with the goal of strengthening the judicial system and related structures.

In researching the report, it became clear that the public does not trust the courts, prosecutors or judicial police, a situation that could be improved with greater transparency. There is also a need to fight corruption and inefficiency in sectors such as bailiffs, advocates and notaries by more rational control mechanisms and the development of better skills. After analysing the various actors in the legal sector, the Presence has made wide-ranging recommendations in the report, some of which form the basis of a series of new projects in this field.

Based around the theme of transparency, these judicial reform projects include increasing public participation in the legislative drafting process, promoting the regular publication of appellate and lower court decisions, ensuring transparent case assignment for judges and prosecutors and instituting control mechanisms over notaries.

Fair trial development

The Presence's fair trial development project is to follow the compliance of the judiciary with domestic and international human rights standards. It also seeks to evaluate the work performance of judges and prosecutors and to provide background information for further judicial reform activities. Initially, the project has begun to follow the cases brought before the newly established Court for Serious Crimes and will later expand to look at cases related to human rights or other cases of importance for democratic development.

Witness protection

As a part of the Task Force on Witness Protection, composed of both international and national actors, the Presence will continue to deal with sensitive cases of witness protection until a proper legislative and functional system of protection is put into place. Assistance will be given for the implementation of the new legislation once approved by the Assembly. The Presence also foresees training government shelter social workers on counselling trafficking victims that are witnesses and providing information about the legal framework, court proceedings, standards and requirements of witness protection.

Human rights

There is a continuing need for raising standards of protection and promotion of human rights in Albania and for fostering awareness of human rights concepts. The Presence has long supported the work of the People's Advocate, or Ombudsman's Office, and will continue this co-operation. The office has functioned well to answer the concerns of aggrieved parties. One component of the Presence's human rights projects will be to increase the respect for the rights of people held in custody, or pre-trial detention, by closely following the transfer of the responsibilities over pre-trial detention sites from the Ministry of Public Order to the Ministry of Justice to ensure that the minimum standards of treatment are respected. Additional human rights-related projects in 2004 will focus on minority rights, in particular Roma rights, worker's rights and juvenile justice, as part of the National Strategy on Children.

Security Co-operation

Anti-trafficking

In order to better support the government's National Strategy on Trafficking in Human Beings as well as its other commitments to combat all forms of trafficking, the Presence will analyse the current level of implementation together with the Minister of State responsible for these issues to identify priorities. The Presence is currently implementing pre-screening procedures for irregular foreigners detained in Albania by facilitating a referral process within the context of the new Memorandum of Understanding signed by the Presence, IOM, UNHCR and the ministries of public order and local government.

The Presence is also currently implementing the second phase of the Women's Rights and Anti-Trafficking Education (WRATE) project, which provides training on issues related to human rights, women's rights, domestic violence and trafficking. This phase of the project targets specific at-risk groups such as high school students, rural women, and Roma that may have little or no access to this type of information.

Border management

After having worked towards expanding the Presence's border co-operation model in accordance with its responsibilities under the Way Forward Document concluded at the Ohrid Conference, the Presence will assess the achievements of the government's Strategic Integrated Border Management Plan to find greater clarity of its further role on border issues alongside other partner organisations.