

**INTERVIEW OF THE HEAD OF THE OSCE PRESENCE IN ALBANIA,
AMBASSADOR ROBERT BOSCH, WITH KLAN MAGAZINE**

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Q: Mr. Bosch, it has been almost one year and a half that you have been in Albania as the Head of the OSCE Presence. What impressions have you collected of Albanian politics?

A: “You will appreciate that I certainly do not want to enter into the detailed debates between the political parties, not least because we are only months away from parliamentary elections. I was happy to see that during the period I am here parties started to talk and co-operate in order to make necessary reforms possible, that is a very positive development. What does surprise me still though are the often hard exchanges of words between political opponents. And to change the emphasis, politics here is still largely dominated by men with a few exceptions. Although I do not want to make a link here but still, what I don’t see at the moment is a critical mass of women in senior posts in the political arena. The fact that only ten out of 140 deputies are women is really not good. I believe that real opportunities for women to be represented in politics are a key parameter of any thriving modern democracy and thus an integral aspect of the evolving democratization process in this country. While it is clearly a good sign to see that a gender ‘incentive’ scheme is in place for these elections, but let’s now see how serious political parties really are in ‘stepping up to the mark’ in fulfilling their democratic and perhaps also their civil obligations, so that 50+% of the population finally get to have a real seat at the political table rather than being merely the waitresses collecting up the proverbial political crumbs. Let’s see if the quality of their actions matches their words. As party leaders prepare to draft their candidate lists, I would urge all political party leaders to make strenuous efforts to ensure that the many strong and capable women within each of their parties run as candidates and become MPs – and for sure, such women exist. The Presence has just initiated a project on women in governance. The project is funded by the Embassy of the Kingdom of the Netherlands and the Embassy of the Kingdom of Sweden and will last for three years. The project’s aim is to promote women leaders across the political spectrum and to provide a platform for mutually reinforcing networking and encourage the public authorities’ response to women’s issues.”

Q: Your predecessors have not had easy relationships with the Albanian politicians and they have had difficult situations and elections which were contested. How are your relationships with them now and why do you think there was such a dissatisfaction against the OSCE in the past?

A: “To be very honest, I am not so interested in talking about the past, although I do think you exaggerate here. All I can talk about is the ‘now’ and the future. As far as I am concerned, our relationships with senior national actors from all sides – both left and right - are extremely strong. We talk regularly and I like to think that we enjoy an open and highly convivial relationship. The only interest I have is in seeing Albania move forward in its reform process and, specifically over the next few months, in seeing parliamentary elections being held according to international standards so that Albania can finally close the chapter of poor elections.”

Q: There is an impression of the public opinion that often officials of the international community in Tirana exaggerate the problems of the country when they report to their superiors, with the aim to prolong their stay and salaries that would not be given in ‘normal’ countries. In deed how problematic or ‘dangerous’ is Albania?

A: “I would also doubt very much if this is the real public view of the international community. In fact, I have even heard the opposite at times – that we are often too “soft”. As an international organisation, we observe and assist and in our reports we commend the progress made but also state the areas that need more attention, and the latter gets mostly all the attention as praise is less ‘newsworthy’ than positive criticism. As to the question, how problematic or dangerous is Albania, I would say, first of all, that instead of ‘problems’ and ‘dangers’ we should be talking about challenges. I would say that in contrast to say 10-11 years ago it is self evident to say that Albania has moved forward in leaps and bounds. It’s a different country now and so full credit must be paid to all Governments during this period for restoring stability and for pushing forward the reform process. The main challenges are in further developing democratic institutions and in ensuring that a full separation of powers between the executive, legislative and judiciary are maintained and further strengthened.”

Q: We are less than four months ahead of the forthcoming 28 June elections. What more should the government do more in order to guarantee elections according to international standards?

A: “First of all, your readers will have just seen that an OSCE/ODIHR Needs Assessment Mission has visited Tirana and met with national actors in order to assess the pre election situation. In due course we will see a long-term ODIHR Mission arrive here and later we will see a large number of short-term observers. To be helpful to you, the wider Albanian media and the public at large, it is important to stress that specific questions relating to the preparations of the elections and the observation of these elections should be directed towards the OSCE-ODIHR and the forthcoming monitoring mission. So to answer your question in more general terms, I would say that both the Government and the Opposition together have an important role in ensuring that international standards are met in respect to the June elections – especially in terms of building public confidence in the process. I think the recently established cross party Ad Hoc Committee to monitor election preparations, is clearly a positive move in this respect. The best advice or let’s say encouragement that I can give, is for all national actors to follow the Electoral Code and to allow the Central Election Commission to get on with its job, without any political or other interference. For sure, they should look to abide by both the letter and the spirit of the Albanian Constitution, the Electoral Code, and other legislation that governs the holding of elections. Let me also say that this also means that political parties should resist the temptation to try and influence how you, the journalists, do your job.”

Q: The ID Cards process seems to be slower than foreseen. How does the OSCE view this process and are you confident that finally the Albanian people will put behind their back the problems with elections?

A: “As I said before, all I can do is hope that the Albanian public are finally able to put the problems of previous elections behind them. However, at the end of the day, clearly much depends on the ability of all the national actors involved in doing their job. Although we have not played any part in the ID card process nor do we have any responsibility for it, I feel that I can at least encourage all local actors to push the election administration process forward. All the national actors have a duty to make sure that the best decisions are now taken and that these forthcoming elections do not become yet another “missed opportunity”. The preconditions are still favourable to make these elections ‘landmark elections’ and I truly believe that all those involved are more than able to see that such elections will indeed take place. Let me be clear - there is still time for enough IDs and biometric passports to be produced, in order for the

elections to be held without problems of not having a valid document to vote. I am sure that the Government is working very closely with the company contracted to produce the ID-cards to ensure this. I am also confident that all local government units will be playing their full part, irrespective of political hue, in ensuring that the process runs smoothly. Apart from encouraging all Albanians in need of an ID to apply and get their ID card, what would I suggest in order to improve the process? It would be good to see a significant ‘stepping up’ of a public awareness campaign, so that we finally start to see the public applying even more actively and for their IDs. The citizens themselves should indeed also be more active in both applying for the ID’s and checking the provisional voters’ lists that are now published on the web site of the Ministry of Interior, at the Civil Status Offices/LGU’s and at the designated voting centres.”

Q: Meanwhile, during the adoption of the Electoral Code the political debates in the country fired up. The SMI and other smaller parties objected the DP-SP pact on the Code. How do you see this Electoral Code and will there be a need to review it? And if yes what would be these parts?

A: “There was a political debate amongst the national actors during which, I believe, I also made some public comments. However, at the end of the day, the Albanian Assembly took a decision that was then subsequently decreed by the President. That was the end of the matter as far as I was concerned. Having, I would say, a largely historical debate now so close to elections, would only serve to distract us from the important matters in hand – namely seeing that the elections are held fully in line with International standards. For the rest, I can refer to the assessment of the Council of Europe Venice Commission/ODIHR of the Code that will publish shortly. The SMI and all those smaller parties who feel disappointed by our position know full well that my door and that of the Presence is always open to them, as it is to all political parties.”

Q: Another important issue has been the lustration law, on which the OSCE spoke and had its remarks. According to you, why should this law be reviewed before adopted? What does it violate? How should the Government act in order to have a complete law on such a delicate issue?

A: “To put simply, I believe that the new Law does give rise to great concern both in terms of procedure and substance. For sure, far greater political and wider public consultation could have been conducted, prior to the approval of this law. That was why we encouraged the Government in the strongest possible terms, to review the Law’s legal and political ramifications and asked them to invite experts to have a look at it. As I have publicly stated on previous occasions, I do not oppose such a law, but it must be in compliance with the rule of law and the relevant provisions of the Constitution of Albania and accepted international standards must be fully observed. I would just like to remind everyone of the European Council Conclusion last December, where the EU stressed the importance of the rule of law and judicial independence as part of the political criteria for EU accession. We now know that the Constitutional Court has suspended the law until it takes a final position. I think the Court should be commended for taking such a stance. That said, I feel sure that all political actors will look to solemnly respect this court decision, as they will the Court’s final decision. Any public comment from national and international actors during this interim period can only be viewed as unnecessary and unwanted interference in the due legal process and, more importantly, in the constitutional separation of powers. I think everybody knows that the international community both here and in European capitals are following this particular issue very closely. Without prejudicing the Court’s decision, along with the Council of Europe and the EU, OSCE experts stand ready to provide advice and

assistance to the Albanian authorities in finding ways to achieve the legitimate objective of dealing with the past, in full compliance with the relevant current national and international standards.”

Q: Some months ago the Government created an ‘artificial’ problem with the Prosecution. In your opinion what were the causes of such a conflict? Does the Law on the Prosecution drafted by the Ministry of Justice, put limitations to the work of the prosecution?

A: “I am not sure that I want to enter into a detailed discussion as to whether an ‘artificial’ problem was created or not. This is your analysis, which of course, you are fully entitled to make. I would rather answer your question this way. I think the law made some improvements to the structure of the prosecution offices, while also raising some important questions about potential future interference of other branches of government on this essentially *judicial* institution. While many of the newly passed amendments may serve to improve the legal framework on the criminal prosecution, some amendments could still be subject to abuse by the Assembly and thus threaten the future independence of the prosecution. Another concern was the inadequate time that was allocated for public consultation on the final draft law, remembering that it was deposited in the Assembly on 10 December 2008 and approved on 29 December 2008. That said, criticism from prosecutors regarding the removal of their immunity and the appeals process for disciplinary measures, appear to be largely unjustified.”

Q: There is said a lot on the reforms in the judiciary but not much it has been done. What is the help the OSCE offers in this regard and how do you see the performance of the government with regard to the progresses made in this reforming process?

A: “Let us be clear from the start, the future success of the judicial reform process, is about a number of sectors in society playing a full and active role. That is why it is just not helpful to talk about whether this institution or that institution has or has not, performed well. It seems clear to me, that the judicial reform process has not yet been completed, and it now seems unlikely that this will happen before the elections. I think the European Commission’s 2008 Progress Report on Albania, made it clear to all national actors here that “Judicial procedures have remained slow and lack transparency”. So the message is clear. Indeed, measures like the much discussed Lustration Law could be seen to have the potential to threaten judicial and prosecutorial independence. Many other elements of the judicial reform process remain to be tackled, in order to make justice fairer and more transparent. For example, corruption within the judiciary must be dealt with swiftly and conclusively. Let me say again, that real and meaningful judicial reform is not simply about rewriting the so-called organic legislation on judicial bodies. What is more important is to look at how these bodies actually function. In other words, to what extent are the procedural laws actually being applied? To what extent is it even possible to apply them? I would say that if the laws are not being applied, then either the laws themselves need to be changed, or judges, prosecutors and others must be given a heavy prod, so that they start applying them properly. And again, this is not simply a matter of changing the organizational structures within these bodies. To see it in these terms is to misunderstand the whole reform process. The real problem with the courts and the prosecutors is not about the individuals in these bodies and who supervises them, but how they actually behave during trials and trial preparations. Simply adopting the ‘box ticking’ approach that has been prevalent in previous years is now no longer enough. So my simple message would be, ‘implementation, implementation, and implementation’.

The main goal of our judicial reform work is to assist the national authorities to encourage the proper functioning of the legal system. For example, we have issued a comprehensive report on the national legal sector that includes recommendations for reform and how we might assist in developing the legal institutions, especially the courts, prosecution offices, notaries, bailiffs and advocates. To improve the understanding and enforceability of standards of judicial ethics, we launched a number of targeted projects. A Fair Trial Development Project followed and analyses the work of the courts and the public prosecutors, as well as of the police, to the extent that it relates to arrests and criminal investigations. The analysis was made from the perspective of both domestic and international fair trial standards and was later published in reports containing concrete recommendations on how to improve the process. So, in short, I believe that the Presence is working hard, along with other international institutions, to assist the country in the judicial reform process.”

Q: Lastly, the Venice Commission has concluded an opinion on the changes to the Constitution on 21 April 2008, considering them as according to the law. What is your opinion on it?

A: “It is not the normal convention to publicly comment on another international body’s report. The Venice Commission, as everyone knows, has been a hugely respected part of the Council of Europe’s structures and we have full confidence that they will always come up with a sound legal opinion. Nevertheless, it is worth reminding everybody that the Venice Commission simply declared that the Constitutional changes were not violations of European standards. They did, however, express concern about the speed of the process and on some of the changes especially regarding Article 149 on the Prosecutor General.”

Q: Besides elections and the judiciary, your organization deals with media issues. What would you specify with regard to the situation of the media in the country and what is happening to the media market today?

A: “I believe that the Government and other state institutions are responsible for guaranteeing a legal framework in line with international standards and then to allow the market to define their share and weight in it. For this purpose, Albania will have to update its legal framework on television and radio and bring it up to EU Standards. At the same time, the main logistical challenge will be for the country to prepare for the ‘switch over’ from analogue to digital broadcasting. So what’s happened so far. The National Council on Radio and Television has drafted a strategy, this draft was then consulted with the media community with our support, while the Office of the OSCE Representative on Freedom of Media provided written comments. While I think it is a good and solid first draft, still more work needs to be done to it and the media, the public and other related experts should be consulted even more. The topics of a law and a strategy are interlinked as far as I am concerned. It makes little sense to draft a new media law that does not contain a framework for digitalisation. Recently, the NCRT and the Presence conducted a workshop with important national stakeholders, where it was agreed to establish a Task Force to push forward the digitalisation process. For the process to work, there will need to be continual commitment from the Government and the Assembly to indeed push this process but also a concrete commitment to pick up the financial bill that will derive from such an ambitious project. Only then, can digitalisation really enhance pluralism and media freedom. I also feel that it is important that the public service broadcaster is put into a position to fulfil its mandate independently. This too, must be reflected in any new legislation and when drafting the strategy.”

E.o.T.