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**Interview of Head of Presence of the OSCE Presence in Albania,  
Ambassador Robert Bosch**

**Q: Mr Ambassador, what is your opinion about the latest developments over the nominations to the High Court?**

**Ambassador Bosch:** “I think the International Community has already clearly expressed their concern about the Assembly Plenary vote last week, which seems to have been in the first place a political vote aimed at scoring a point over the President. We, of course, welcome the creation of the commission to review the procedure for selecting new candidates for the High Court and trust that this body will come up with a new list of suitably strong candidates and that these will not again be judged politically en bloc by the Assembly. We also note the common stand apparently being taken by the two main political parties about changing the Assembly’s Rules of Procedure, regarding the process for selecting judges. While we welcome any moves that make a political consensus possible – we believe that the Constitution is clear on this point – the President does not have to enter into prior consultation with the Assembly. The Assembly however can clarify in its own Rules what it may do relating to giving opinions on these nominations. Albania has to be very careful not to disrupt or be seen to disrupt the very fine constitutional balance of powers. A reading of the recent political history of this country should make it obvious to anyone of the need to tread carefully on this issue, however genuine the intent may be. I have heard about the idea of the Assembly holding public hearings and, in terms of creating further transparency in the process, this seems a laudable idea. All actors need to hurry up with the process, as the High Court is unable to function properly with all these vacancies outstanding and that cannot be good for the overall functioning of the judiciary. As the rule of law is a central plank upon which Albania’s Euro-Atlantic aspirations will be judged, one would expect the current difficulties to be overcome as soon as possible.”

**Q: Speaking about this issue, the judicial system, especially courts, continues to be seen as unreliable among the Albanians because of corruption. What needs to be done in order to restore trust in it?**

**Ambassador Bosch:** “I think it is well-accepted that the courts here are perceived as being often corrupt and unreliable. Public trust needs to be restored in the work of the lawyers, the prosecutors, the bailiffs and so on. It will be impossible to restore this trust by focusing only on one of the elements of the judicial system – the courts. There is a need to work on all fronts - and to improve notary services in order to prevent many civil disputes from reaching the courts. While certainly not all judges are corrupt, it does not take many corrupt judges to bring the entire system into disrepute. For that reason, it is vital that any allegations of corruption be reported and then thoroughly investigated. When the evidence in a specific case is strong, judges should not only be dismissed but should be prosecuted and, if guilty, face penal sentences in order to show that there will be ‘consequences’ for any level of corrupt behaviour. But I have to emphasize that such prosecutions must be based on legally gathered evidence of a sufficient quantity and quality. The proper gathering of legal evidence is important for two reasons. First of all, we have to be certain that judges have violated the Criminal Code before prosecuting them. Otherwise, one risks totally undermining the concept of judicial independence. This is because judges may start to fear

prosecutions and so act in compliance with the wishes of prosecutors or political actors rather than in accordance with the law. Secondly, if evidence is gathered properly, it may also be possible to identify guilty parties other than just the judges. In case of bribery, for example, one should prosecute not only the judge, but also those who paid the judge or arranged the payment. This may mean that some lawyers and prosecutors also face criminal charges. Yet one should not be looking only at punitive reactive measures. It is important that judges receive better training on judicial ethics so that they learn how to identify issues that may, on the surface, not seem to pose ethical problems. They must have a package of salaries and benefits that makes it possible for them to live reasonably well without needing to resort to corrupt practices. Of course, fighting corruption also means increasing transparency. Judicial decisions must be published, either electronically or in print form. Judges are expected by law to write decisions that address the claims raised by both parties in a trial - this expectation must be met in reality. Prosecutors must also present sufficient evidence for persons to be convicted - and lawyers must more vigorously challenge prosecutors without fear that there will be reprisals against them.”

**Q: Much has been said recently about judicial reform. Is the OSCE providing expertise in this area, and, if yes, are you in favour of a fundamental reform of the system and changes to the power of specific bodies, or simply in favour of improvements to the existing legal framework?**

**Ambassador Bosch:** “The Presence continues to provide expertise in the area of judicial reform. When legislation is drafted and not rushed through, the Presence provides comments on the legislation and has also participated in working groups during the early drafting phases of new legislation. It has also prepared reports on the functioning of the court system, based on our court observation project. In these reports, we not only provide information on how the courts are functioning, but also include recommendations on how to make effective reforms. As for the second part of your question, I believe that both are absolutely necessary. One can change the powers of specific bodies and still not address the problems concerning how things are actually done. The reforms that have been ongoing for the past few years have focussed almost exclusively on changing what is known as ‘organic laws’. These state who has the power to do what, how various bodies are organized, etc. While reforms are needed in these areas, when a citizen is involved in a trial, the problems this person faces are not simply related to how the court's chairs are appointed or who has the right to issue disciplinary measures. Frequently they concern the procedures that have to be applied by the judges regardless of how they are appointed or to whom they report. So a real judicial reform requires looking carefully at the codes for civil, criminal and administrative procedure. When it comes to procedural reforms, the Presence has made many recommendations, which it hopes will be seriously considered. In addition, Albanian institutions such as the High Council of Justice with its White Book project, have gathered a significant body of suggestions. We would hope that this body of work will be put to good use in the near future. We do, however, hope that all reform measures will be duly discussed with all parties concerned.”

**Q: Mr Ambassador, do you have any opinions about the Assembly decision, due to be published shortly, recently lifting the parliamentary immunity of the former Minister of Defence, Fatmir Mediu?**

**Ambassador Bosch:** “First of all, the lifting of the immunity should be welcomed, however long in coming it was, after the initial request from the General Prosecutor. The investigation should be allowed to continue with its work without any political interference whatsoever in order for the

public and those most closely affected by the tragedy finally to know what exactly caused the incident. Lessons will have to be learnt also for future governments and other actors so that we never see such a disaster again. Can I comment about the safety of the area itself? It would appear that we still need to work with the Government and others to ensure that the 800 metre safety perimeter around the site is respected as an exclusion zone until it is certified as safe for people to resettle by international experts. The international community, the national political class and the media all have a responsibility to the people of this country to state publicly that at present, the area remains very unsafe. It is hugely worrying to hear of cases of people actually being allowed to return and build new homes. While one can understand the desire of the local community and the government for there to be a return to normality, when there is a real chance of further secondary explosions, it is highly questionable whether such returns ought to be permitted in the current conditions. At a recent donor conference with the Government, the entire international community made it clear that there could be no donor assistance within this 800 metre perimeter and nor should any individuals and families be allowed to return. When such statements are made in such a collective and public manner one must hope that such concerns are being listened to.”

**Q: You have mentioned legislation on organic structures of various institutions. What is your view of the restructuring of the public administration?**

**Ambassador Bosch:** “After the current government came to power in September 2005, there was significant turnover in various offices of public administration. The same phenomenon occurred during the tenure of the last Socialist led government. What we have seen in this area is rather disturbing. Many persons who have been dismissed from posts have complained, as provided by law, to the Civil Service Commission. Very many have won their cases there - and then won again during the court appeals process. Yet even now we are not aware of any cases where these persons have actually been reinstated. There may be some, but the numbers will certainly be low. Similarly, among the police, there have been numerous dismissals. Some of these may have been justified, but the procedures followed have not always been transparent. This is of concern to the international community as we are interested in Albania becoming a state based on the rule of law, which means that state institutions must be doubly careful in respecting the law. We are also concerned because large amounts of donor money has been spent training many hundreds of police officers and other public officials only to see them dismissed and replaced by new persons who then need to be trained from the very beginning. This is a waste of resources - and already our colleagues at ICITAP have announced that their training will no longer be repeated when needed due such personnel turnover. We would like to see all political parties work toward eliminating this political “rotation” in positions that should not be considered political.”

**Q: Mr. Ambassador, we are used to the name of the OSCE being often politically mentioned because of its direct involvement during the electoral reform, which has been redone several times. This time we see some co-ordination between the two large parties on this issue, and it seems like the OSCE has lost its role in the electoral reform. Is your office actually dealing with this reform?**

**Ambassador Bosch:** “First of all, it is clearly a step forward that we have seen a strong level of political consensus and co-ordination on electoral reform. You will remember that back in 2007, the Presence held a roundtable in Tirana where all the national political actors assembled to hear some presentations from a number of internationally respected election experts – from which a variation of the so called ‘Spanish model’ ultimately emerged. Since then my office and the OSCE-ODIHR

have been in constant touch with relevant political actors regarding the electoral reform process. As your readers will only be too aware, the Assembly's Ad Hoc Committee on Electoral Reform, according to me unfortunately rarely convened, due to some political disagreements amongst the political parties. Had this body met, we had significant funds available to support the Committee and also to provide technical expertise. In the forthcoming reform of the electoral code, we again are available to assist the process. Ultimately, the Presence, as is the case with all other international bodies, cannot, and in my view must not, dictate terms to the national political class. Our collective and individual responsibility is to offer and provide assistance when it is requested. Either way, the Presence will continue to provide both public and private advice when we feel the process could be further improved and in my time we have already done so on many occasions. We welcome the comments made by the Prime Minister last week and the two Chairs of the parliamentary groups of the main two parties about the need to kick start the process. The process should begin as soon as possible and, I would like to stress, with the widest level of consensus possible."

**Q: Thank you Ambassador, that brings me on to a related question. Have your experts prepared a concrete draft of proposals for the parties regarding this issue? If yes, which are your options for a new Electoral Code, which would not need to be abrogated each year?**

**Ambassador Bosch:** "No, as I have said, the Presence will not be putting forward any proposals as that is not our job. What we will continue to do is to offer advice and assistance in the development of the amendments – again, only when it is requested. Modestly speaking, we are here to help Albania have free and fair elections. However, if the political class here choose not to call upon us then there is nothing we can do. Until now, the Assembly structures have yet to meet in order to amend the Code despite all the protestations after the passing of the Constitutional amendments that the process would proceed without delay. As we know, there has been neither a meeting of the Assembly Laws Committee nor the Ad Hoc Committee on Electoral Reform. An Assembly committee must convene as soon as possible and a concrete agenda of work must be scheduled, discussed and completed. Time is moving on as we only have about 5 weeks before the Assembly moves into its summer recess. There is a lot to be done now and so we expect to see some results. Clearly the nearer we move to parliamentary elections without an agreed electoral code, the more difficult it will be to achieve an agreement between the political parties. The parallels with the political deadlock of end of 2006-2007 are obvious and one would imagine and hope that the political class will not want to repeat this again. As I have said, we wholly welcome the public statements of the past weeks. Let's see the politicians match these fine words with equally fine actions. We hear much about the legal experts from the two main parties putting together proposals. When the debate actually begins, we hope that we will see a real debate on the issues. In a democracy while the numerical majority has always to be respected and accepted, a better attempt really has to be made in terms of listening to those interests outside of the two largest parties whether within the Assembly or within civil society. Moreover, it is essential this time that the Electoral Code that is finally passed is one that will serve the test of time and is not one that will then continue to undergo enormous changes in subsequent elections. Such an approach will not bring about a consolidation of the electoral process or of wider democracy in Albania. In terms of the content of any reform, we would simply urge the political class to reflect on the recommendations of OSCE/ODIHR from the 2005 and 2007 elections."

"However, one issue that absolutely needs to be addressed and attacked by the political class is the abject representation of women in the Assembly. As Albania aspires to being part of the wider

European family then it needs to ensure that it has an Assembly that really reflects society at large. Of course, the “litmus test” for European structures will not be how many women are actually candidates but how many get elected. For sure, there are plenty of ‘top notch’ political women out there and so the argument that there are not any good quality women who are able to run is totally bogus. I recently looked up where Albania currently was on the Inter Parliamentary Union List of women MPs. It is interesting to note that Albania currently resides at No 116 immediately behind Congo and Kenya respectively. Given Albania’s Euro-Atlantic aspirations I think this figure offers some food for thought. Of course, Albania is not short of well crafted legal texts on a number of subjects. The main issue continues to be their actual implementation. Gender will remain a key issue for the OSCE and is in line with the OSCE Gender Equality Action Plan that is fully embraced by all OSCE Participating states, including Albania.”

**Q: Let us talk about the latest constitutional reform carried out by the Assembly. The Central Election Commission will no longer be a constitutional institution and no one yet knows its destiny as to whether it will turn into a bipolar institution, i.e., composed of members proposed only by the two large parties, or whether a new procedure will be followed, i.e. have elections run by the Ministry of Interior experts. What would the OSCE prefer, considering its experience in other countries?**

**Ambassador Bosch:** “The role and function of the Central Elections Commission will clearly be a key plank of any electoral reform process. Although we notice that a range of possibilities exist, I think much will depend on the time available before elections are actually held. The idea of moving towards a fully professional non-partisan CEC has a lot of merits, I must say, and is a system adopted in many other modern democracies. I am sure the Assembly will discuss whether there is now enough time to adopt such a measure. Given the recent political history of this country, whether an election process run solely under the Ministry of Interior is one that will be politically acceptable is one I will leave for the political class to sort out. Although constituted as an impartial legal entity, if the CEC remains what is at present, a politically partisan body both at the national and local level, then it will be important to strike a sensible balance between manageability of a smaller body on the one hand and the need to offer political confidence to the process by not limiting the breadth of political representation on the other.”

**Q: Mr. Bosch, your office supported and commended the consensus reached by the two large parties on constitutional reform, where the most essential amendment was related to the electoral system. The truth however, is that the public at large is not clear about the regional proportional system. Do you think that this system will lead to a fair representation of people’s vote in the Assembly?**

**Ambassador Bosch:** “Although I am not sure how you are gauging public opinion, I think much of the detail will come out when the debate on the Electoral Code begins and that this should assist general public awareness efforts. You talk about a “fair representation of the people’s vote”. This is a hugely loaded statement, as I am sure you are aware. You need to decide what fair actually means. Does it mean a system that delivers an election result broadly proportionally to the votes cast or one that results in a stable government? Only once you have made a decision on this, you can then answer the question. I hope the debate on the Electoral Code will deliver some answers to this key question. Evidently the introduction of a unified ballot, with voters now only needing to cast one vote instead of the previous two (candidate and party) will clearly reduce the possibility of a distortion between votes cast and seats won – the Dushk phenomenon. However, given that the high

level of the thresholds in some regions, it is theoretically possible for some parties' votes not to be reflected in the Assembly. This may cause a distortion in the ratio of votes cast to seats won – the level of which I just don't know.”

**Q: Mr. Ambassador, one of the most important requirements that our country should meet in order to, in turn, meet the international standards, is the identity cards. You have closely followed this process. Is there any hope for ID cards to be issued in 2009, as the Government has promised?**

**Ambassador Bosch:** “First of all, we need to be clear that the Presence is not directly involved in the ID card process. From what we can see, the Government has publicly said that the first ID cards will start to be distributed to citizens in early January and given the very open manner in which this was stated, I would think it would be nearly unimaginable that this would not be the case. The challenge ahead, which, I am sure, is well understood by those involved, is that if the political consensus is to have parliamentary elections in June, then you clearly have a period of say 5 months up to May to cover the entire territory and the Albanian Diaspora who are also entitled to vote. This means making sure that there are enough ID card machines available to produce the cards in order for them to be distributed by May. Pending the possible debate over how the Albanian emigrants will be able to vote in this election, you basically have five months to get out some 4 million cards. If the ‘Diaspora vote’ is not involved, then the figure will be some 1 million less. Given that these calculations will have been well understood, there should be no reasons why elections cannot be held under normal conditions. Albania cannot afford another contentious pre-election period that is dominated by such issues as ‘birth certificates’. However, the ID cards will only ever be as good as the data they contain. With substantial funding from the European Commission, the Presence is implementing a technical assistance project to improve civil registry assistance system. The first phase of the project was to computerise the existing fundamental register books and create a national civil registry database. This task is on schedule to finish on time in order that the data collected from this process can be available for the ID cards. The project will enable a preliminary voter list to be extracted, thus hopefully putting an end to the perennial problems associated with the production of a voter list.”

**Q: Mr. Ambassador, your predecessors have been heavily involved in political debate and they held frequent meetings with heads of political parties, giving them advice. They have often not been spared by political attacks. You have been more reserved in this aspect. Is this a tactic of yours in order to give the OSCE role a new dimension?**

**Ambassador Bosch:** “Look, every head of an international mission will bring his or her own qualities to the job. I am not sure I would use the word ‘tactic’ but I would say that I have had many meetings with political party leaders. So far, I have tried to direct my comments with those who have a direct influence on the policy process and so I don't think that I have been that reserved. I have deliberately chosen not to speak publicly so often. I did so far not consider it necessary to address the Government or Opposition through the media but chose direct contact. When I have something to say I will and have already done so. In terms of a new dimension, your term and not mine, then maybe it is a personal objection to the idea of trying to arrange political deals. Under my leadership, the Presence will continue to make public statements when necessary. After that, it will be up to the political class to take the decisions. The cobbling together of political deals may have been appropriate in the past but they are not for now. If this serves to reduce the level of political attacks against us, then so be it, but it is not something that has or will drive my policy. At the end

of the day you have to take a relaxed attitude to all of this. If you get too involved you get criticised for micro-management, while if you don't, you get accused of being either irrelevant, standoffish or even both. So you can't win it would seem."

**Q: When is the next report of the OSCE Presence going to be issued? Will it contain more criticism or praise this time?**

**Ambassador Bosch:** "Well, the OSCE Presence does not have a public reporting schedule in the ways that say the European Commission or say the Council of Europe has. However, in early October this year I will be presenting the Presence's main annual report in front of the Permanent Council of the OSCE in Vienna. Forgive me if I refrain from giving you any scoop on what my report may or may not say. All I will mention at this point is that it will be a thorough and accurate account of the progress made in the country in all the areas covered by our mandate. Reports such as these are never about 'absolutes' – whether its critical or positive – its usually far more complex and nuanced than that – however disappointing it is to the media who are of course always looking for that media sound bite. Moreover, we are some 3 months away – so there is plenty of time to go – which means plenty of opportunities for the national actors to move forward with the reform agenda!"

**Q: There have been discussions about the mandate of the OSCE Presence in Tirana, as its mission has certainly changed a lot since the Presence was established in Albania. For how much longer do you think that the assistance of the OSCE will be needed, and in what fields should it be focused?**

**Ambassador Bosch:** "The Albanian Foreign Ministry have written to the Finnish Chair of the OSCE asking for a renegotiation of the mandate. Ultimately the duration of OSCE assistance to the Albanian authorities will be decided by the OSCE Permanent Council. However, it is worth noting that in my last official visit to Vienna in May I received a very positive reception from OSCE Ambassadors regarding the work we are doing and I was gratified to hear of the support that existed for the continuance of the current mandate. For me, the current mandate provides enough flexibility for further strong collaboration to continue with the national authorities. In contrast with many other OSCE missions in the region, some people here appear to see the OSCE as a political *black spot* for the country instead of seeing it as an instrument to help the country move forward in its reform agenda. Our physical presence in four Project Offices, in Shkodra, Kukës, Vlora and Gjirokastra allows us the unique capacity to deliver project activities based on the local reality 'on the ground' but also serves to assist other international partners in their work. While much progress has been made over the last 11 years since we first opened our office in Tirana, I believe there is still much work to be done. Let's just reflect upon what we have already talked together about so far. Judicial and legal reform has a long way to go. Corruption remains very high and so our programmes look to assist the national authorities to establish best practice. On elections, the 2009 parliamentary elections will be the big test for this country and that is why the current reform of the electoral code is so critical. The trafficking of human beings remains a continual concern, as the latest US State Department report confirmed. On the issue of gender, this country has a long way to go in order for the gender imbalance to be better addressed. Other than a few NGOs, civil society remains uncoordinated and under developed. The media has been a continual concern for the international community in terms of media freedom and media ethics.

Looking ahead, the Presence will look to further refocus programmes in order to prioritize assistance to the host country in the reform process. The Presence aims to continue its work in its currently mandated areas, with the main themes being electoral, legislative and judicial reform, media development, good governance and border management, with emphasis on fighting corruption and the promotion of gender equality. We will continue to strive to find new and innovative ways to achieve the key goals of this organization and to use the money we spend in the most targeted and effective manner possible. I believe that the Presence has been and will continue to represent ‘good value for money’.”

**E.o.T.**