



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

## HEAD OF PRESENCE'S INTERVIEW WITH *PANORAMA* NEWSPAPER

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*Interviewed by: Mariglen Kume*

**Q:** Earlier this year, the OSCE, together with the parliamentary committee on electoral reform, held a roundtable on electoral reform issues. The opposition was present as well. Afterwards, the parties continued working separately. Dialogue is still missing. Does the OSCE plan to make the parties sit together?

**Ambassador Borchardt:** The – now extra parliamentary - opposition has indeed contributed to this crucial reform process until the end of last year, in the context of the Ad Hoc Assembly Committee. A commendable contribution, I must say. It is unfortunate that this contribution stopped when the DP and the LSI mass resigned from the Assembly in February this year. Ever since then, the OSCE has invited all parties to sit together and discuss this crucial reform on many occasions. The OSCE Secretary General Thomas Greminger has reiterated this message also when he met the opposition leaders last month, during the days of the Mediterranean Conference, concretely asking them to attend our party financing technical workshop, which takes place on 19 November, jointly organized with the Council of Europe and the NDI. But, as SG Greminger rightly pointed out on that occasion, the OSCE cannot force any political party to engage in dialogue with other parties on crucial reform processes against their own will. We continue to invite the extra parliamentary opposition to attend all our electoral reform facilitation events. I take this opportunity to commend the decision of the Democratic Party to send an expert to attend our electoral reform conference organized in September with all political parties in the country. I hope they will continue to be involved in these facilitation events.

**Q:** Have you asked the parties to finalize their electoral reform proposals by a certain deadline?

**Ambassador Borchardt:** The OSCE Presence is not setting deadlines for political entities, we are not in that position. Just like the rest of the international community, we have stressed time and again the reform should be finalized as soon as possible, it is crucial to implement all OSCE/ODIHR recommendations pending unaddressed electoral cycle after electoral cycle. Let us not forget that this reform is for the benefit of the country and its citizens, not for the benefit of the international community. It is the only condition among the EU accession negotiation conditions that is either yes or no, meaning that if not finalized, Albania's chances of opening up accession negotiations are harmed. But that is not our aim, it should be the aim of your politicians across all political parties that can make a difference through meaningful and substantive proposals. Our aim is to support the process with technical expertise and dialogue

facilitation. We are not driving the process, we support it according to our mandate. The Albanian political parties are, or should be, the drivers of this crucial process.

**Q:** Prime Minister Edi Rama and other ruling majority officials, after failing to reach an agreement with the opposition, have stated that they will approve the electoral reform with the new opposition MPs. Would such reform be recognized by the OSCE and how comprehensive would that be?

**Ambassador Borchardt:** I must stress once again that the OSCE is not in the position to “recognize” important legislative initiatives of any member country. The maximum that we can do once a sovereign participating country passes a law in its Parliament is to say whether or not that piece of legislation is aligned to international standards. It is the prerogative of sovereign nations to pass their own legislation driven by the policy makers concern with the well being of their citizens. Nobody can infringe with that. If the reformed legislation will reflect the recommendations of OSCE/ODIHR that will already be a serious improvement compared to today.

**Q:** How would such an action influence the political climate? Would it make it worse?

**Ambassador Borchardt:** Reformed legislation that brings electoral administration closer to democratic standards will surely improve the political climate by eliminating the causes of allegations of electoral fraud, electoral mismanagement, abusive use of media, underrepresentation of women in elections, etc. The OSCE Presence offered all political parties the opportunity to contribute, by attending our conferences and working workshops and put on the table their proposals. In addition, the extra parliamentary opposition has a reserved seat in the Ad Hoc Committee, with veto rights equal to the Co-Chairs of the Committee; this is an important venue to contribute and has not been used until now. I believe there is still time to have electoral legislation reformed with input from all political parties and therefore have a final approval that will take the country forward, not worsen the political climate. Nobody should miss the opportunity to have their voice heard. We are more than willing to facilitate a dialogue in flexible formats all sides can agree on. We would always support such a dialogue with our expertise.

**Q:** The ruling majority published some time ago an electoral reform package. To what extent were the OSCE/ODIHR recommendations reflected in that draft?

**Ambassador Borchardt:** Some were reflected, some not. This is the reason the work continues until those recommendations will be reflected more accurately in the final draft law that will be voted on in the Assembly. We commend the continuation of this important effort and we will continue to support it according to our mandate.

**Q:** The parliamentary committee's experts published a memo on the dissolution of the CEC and the depoliticization of electoral administration. Have you seen it? How do you consider it?

**Ambassador Borchardt:** You rightly said a “memo”, an expert opinion, a proposal made by Experts. The moment when this expert opinion will be discussed and actually considered for debate and voting, following the regular course of parliamentary debate, ODIHR will most likely express a view. This is the mandated OSCE institution to deal with electoral reform matters such as legislation analysis and recommendations. We perform our role here in the country according to our mandate by monitoring and reporting on the development of this topical legislation.

**Q:** DP Chair Basha, but also ruling majority officials, often say that the current electoral law is good and, if there is political will, elections that meet the standards could be held with the current law. Do you share the same opinion?

**Ambassador Borchardt:** These are important nuances. I will try to make them more clear. Albania has held internationally recognized elections for many years now, based on the current legislation, this is true. But those elections were marred by fraud accusations, misuse of media, underrepresentation of women, lack of opportunities for diaspora to vote, etc. The issue here is, does Albania want to improve electoral legislation that allows for all these negative outcomes electoral cycle after electoral cycle, or does Albania want to continue to receive negative evaluations of its electoral administration process? This last option is clearly not desirable for a country that will hold the OSCE Chairmanship next year and aspires to a higher status in the international community, including the opening up of accession negotiations with the European Union. So, it does not really matter that the current legislation enables for the organization of internationally recognized elections as long as it opens the door to critical remarks as you find them in the ODIHR reports about elections since 2013. I do not think Albania can continue like this and the electoral legislation should be reformed swiftly and thoroughly. Things are going in the right direction.

**Q:** Mr. Borchardt, one of the mayors elected in the 30 June elections resigned before taking the oath, another one was dismissed by the CEC, and a third one is accused of being subject of the decriminalization law. After all this, do you think that the 30 June are still legitimate?

**Ambassador Borchardt:** Only the Constitutional Court can pass a normative judgement on the legality and constitutionality of the 30 June elections, once it will be assembled and functional, which we hope to see soon. The issue with the problematic mayors is a relevant one though, with all three of them under the suspicion of being in breach of the decriminalization law. Where these accusations are proved correct they took away the legitimacy of these mayors. They had to resign. I commend the swift reactions of institutions, which are doing their job the right way when it comes to such alleged illegalities. The political consequences of these three cases might be the concern of the Socialist Party, but as I could see recently, the party that

nominated them is aware of the actions that it has to take to redress the situation and avoid such occurrences in the future.

**Q:** What amendments could be done to the Code to avoid what happened with the two resigned/dismissed mayors?

**Ambassador Borchardt:** The electoral Code regulates the administrative organization of elections, including democratically relevant issues such as equal participation, media coverage, or legally relevant issues such as illegal occurrences during the electoral process; for example vote buying or family voting. From the perspective of these mayors who are now contested for not disclosing their alleged past wrongdoings, the decriminalization law provides the legal remedy. It is a good law and should be upheld more systematically, in addition to improved internal party checks. Political parties themselves should make sure their candidates are above any suspicion of criminal activity by obliging them to disclose information about their past. If parties do not live up to this political obligation to the voters, then the law comes into action. I have to commend the fact that these newly elected mayors had been revealed as possibly in breach of the decriminalization law. This is already an important achievement and they should face the consequences if they have infringed with the law. I am sure the application of the law will set an important example so that in the future parties and candidates will not end up the same way.

**Q:** Mr. Ambassador, how is the OSCE Presence co-operation with the Democratic Party and its allies?

**Ambassador Borchardt:** The OSCE Presence works equally with all institutions and all political actors, according to our mandate. We met a few times to discuss important issues, such as electoral reform, we have always invited them to take part in our events and projects, equally as any other political actor. We consider that the Presence has co-operated with the Democratic Party and its allies openly and equally as with any other political party. Dialogue with all is a trademark of the OSCE.

**Q:** Important DP exponents have often said that they are unsatisfied with your work in Albania. They claim that you have been biased. How true is this? Why this DP “clash” with you?

**Ambassador Borchardt:** I personally do not see myself in a “clash” with them. I sincerely regret this perception, if it is indeed true. Maybe you should ask them if you say they are the ones to complain about me. I have to reiterate my previous answer: we as an organization and myself as the Head of the Presence have openly invited all parties to take part in our activities, to dialogue, to enable us to better address the problems of the country, once these problems are identified by them. In this respect, our door has been open and remains open.

**Q:** Have you been in favour of the ruling majority in your statements?

**Ambassador Borchardt:** The OSCE Presence in Albania has always been in favour of democratic process, rule of law, institutionalism and public order. Our work is not about parties or individuals, but about institutions and legality. We react according to our mandate when the democratic process is undermined, when public order is disturbed through violent acts and when institutional process is derailed towards extra-institutional approaches. These are not acceptable and it is the obligation of our Presence to react according to our mandate and our role here. We have never commended the ruling majority, as we have never blamed the opposition. This allegation of favouritism is simply biased political interpretation based on political interests.

**Q:** Mr. Ambassador, you had an incident with some protesters. Following that gesture, they have asked for your departure. Have you ever considered their calls?

**Ambassador Borchardt:** Thank you for this question. It gives me the opportunity to point out a few relevant elements. I was out for a walk with my wife that evening, not being aware a demonstration was ongoing in front of the Police HQ, least of all what the demonstration was about. Suddenly, we were approached by several mature men, people shouted abuse at us and behaved aggressively. I must emphasize, mature men, not women or children, as some media are now alleging. Myself and my wife were completely taken by surprise and my wife was rightfully scared. When you see her terrified face on the video clip which was widely distributed – then you know what happened. We did not understand what that was about, we felt threatened directly and got disorientated. I thought it were the same abusers who terrorised us in our apartment on the 12<sup>th</sup> floor at midnight in May 2019 and I lost emotional control over the time span of a few seconds. I have regretted it and apologized for it right away, understanding that I might have offended other people, those who were protesting in front of the Police HQ and of whose grievances I was not aware of. I still regret it and I still hold to that public apology that I made. I see now the political spin some media outlets put on this incident. This misinterpretation is done on bad faith and it is politically motivated.

**Q:** Let's talk about another topic. The anti-defamation law is back to parliament. Does Albania need such a law?

**Ambassador Borchardt:** We see a flurry of media outlets, many so-called journalistic websites, which do spread rumours, defamation and politically biased information. Freedom of expression does not mean anyone can say anything about pretty much everyone. Public figures across all walks of life, not only politics, are faced with defamatory statements, unsubstantiated accusations, personal attacks on themselves and on their family members. Public trust in public life is undermined. The readers and viewers will disengage eventually, if exposed to such practices. Is this right? If no, how should Albania go about solving this serious problem? Penal punishment should be eliminated, civil court resolution is preferable and even more preferable is media self-regulation. But how is that transposed into practice?

Well, the Government came up with concrete proposals, which the OSCE Representative on Freedom of the Media found as not in line with international standards. The Experts of his

Office are now working with the Government to improve these legislative proposals. I am sure the result of their joint effort will be in line with international standards if the Government fully takes on the advice and expertise made available by this important OSCE institution. Albania will hold the Chairmanship of the OSCE next year. A good law could become a model for the whole region and beyond – and a great success of the Albanian Chairmanship.

The OSCE Presence in Albania advocated and promoted for many years media self-regulation as an alternative to Government regulations. Did the Albanian media do anything to self-regulate? I understand from my colleagues, there is a body called the Media Council that attempts to uphold self-regulation, a Media Ethics Code, but without much progress, at least not publicly known. Furthermore, I had no direct experience with the process, but my colleagues in the Presence briefed me and so I found out that one self-regulatory association was established with the support of our Presence and with EU funding some years ago. It was called the Albanian Media Club. It was tailored using a similar media self-regulatory model in Romania. It was set up with support from experts from Germany, United Kingdom, Belgium and the Netherlands. Unfortunately it was comprised of regional media only. Important media based in Tirana refused to join it despite being offered the opportunity, under various explanations. Some media owners expressed their scepticism saying that media self-regulation is still a form of regulation and they cannot accept it. Others did not want to join an organization in which regional media was also a part of.

Of course media self-regulation is preferable to any form of regulation. But it will not happen if it is not an organic process in which all media across the country join in. On the content side we are underlining our view that defamation should be decriminalised. But – people who are object of slander or defamation must have a right to defend themselves. If media self-regulation does not help this should be possible through civil law means, not through the criminal law. And actions should be taken by a court, not by an administrative body.

**Q:** The OSCE has been engaged to provide recommendations on the anti-defamation law. Have these recommendations been reflected in the draft law?

**Ambassador Borchardt:** I have already been clear about this issue on other public appearances. This is a very good question but I feel the need to make some clarifications first. Often media in Albania uses the general label OSCE, which includes many institutions or structures, among which field offices, such as the Presence here in Albania. The OSCE institution that works with the Government of Albania to align the proposed anti-defamation legislation to international standards is called the Office of the OSCE Representative on Freedom of the Media. It is based in Vienna and it is monitoring the freedom of media and freedom of expression throughout the OSCE area, while also offering support to promote them. The OSCE Presence in Albania is not part of the legislation improvement process, we only monitor and report.

The recommendations of the Office of the OSCE Representative on Freedom of the Media are public and available online, valid for July 2019. Their recommendations were not fully reflected into the draft anti-defamation law package, but the Government continued to work on

the texts since then. The public statement and the legal reviews provided by the OSCE Representative on Freedom of the Media are very clear and they are underlining exactly what is acceptable and what is not. This leading international institution, part of the OSCE system, will surely have an evaluation of the final drafts and they will make it public.

**Ends**