

The Role of the Parliament of the Republic of Albania in the European Integration Process

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Abstract

The purpose of this article is to analyze the legal framework in force in the Republic of Albania on the parliamentary structure involved in the process of European integration. Through this analysis, it is intended to highlight the role that the Parliament of the Republic of Albania plays in the European integration process. In the Constitution, reference is made to the important principle of the check and balance, to understand that the Parliament - Government relationship in the process of European integration, is primarly based in the Constitution, as the highest act of the state. Regarding the legal framework, the Regulation of the Parliament and Law no. 15/2015 were analyzed to highlight the role of the Parliament in the process of European integration.

Keywords: Role, Parliament of the Republic of Albania, European Integration Process

1. Introduction

1.1 The role of the national parliament in the European integration process – general considerations

The process of a country's accession to the EU is primarily a task of the executive branch, which is powered with the right to conduct negotiations. Although the government is the main actor in the pre-accession phase, it is not the only one. The national parliamentarians themselves, in general, had considered the EU membership process as a matter of foreign policy, thus as a competence of the government. However, a national parliament's role in this process is considered important, regarding the constitutional framework of a country and the political consensus for the ongoing process.

The importance of the constitutional principle of check and balance² should be taken into consideration. First, in accordance with its legislative function, the adoption of any legal act aimed at approximation, and which will have to be in the form of law, directly involves the parliament. The stages of the legislative process at the national level are procedurally adopted to the requirements of the approximation of the legislation. Secondly, the role of the legislator is to control the executive as well as the latter is held responsible to the Parliament according to the Constitution of the Republic of Albania (hereinafter the Constitution). This control also extends to the Government's activity in the European integration process.

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¹ Nikaj, E., "Roli i parlamentit kombëtar në procesin e integrimit Evropian" Revista KUVENDI, nr.6/2016, pg. 64.

² Article 7 of the Constitution of the Republic of Albania.

In the comparative perspective, several models of the involvement of national parliaments in the process before EU membership can be observed. The Parliament of Slovenia was widely involved by approving the drafts of each negotiating position and thus taking the "authorship" of the negotiation process.³ The Slovenian model gave precedence to the Parliament and the Government could not act without its express approval. The Maltese parliament let the Government conduct all activities during the negotiations and only ratified the accession agreement at the end.⁴

Several other countries tried to strengthen Parliament's oversight role during the negotiations. One example is Hungary, which set up a special team of expert consultants to provide the Government with suggestions on the development of negotiations.⁵ In the Czech Republic, a special committee of the Senate held discussions on closed chapters and then held hearings with representatives of the executive power, experts, diplomats, etc.⁶

Another way to strengthen oversight of the negotiations process is to involve a broad range of stakeholders in the discussion on important matters within the accession process. An example is the specialised Committee for European Affairs of the Parliament of Estonia which occasionally took on the character of an open forum, bringing together representatives of the civil society, executive and legislature, and other interested parties. The government had to send the draft negotiating positions for review to the European Affairs Commission before approving them.

The Parliament of Cyprus, through the Committee on European Affairs, monitored the EU negotiations through regular executive reports on their progress and the accession process in general. In response to these reports, the Commission held positions which, as a rule, the Government took into consideration. 8

The duty of the national parliament to oversee the government stems from the constitution. On the way to EU membership, the relationship between the government and the parliament during negotiations and their respective roles in this process can be defined in more detail by agreement or in a separate act. This was the case in Croatia: the Parliament passed the special law Act "On cooperation in European affairs between the Croatian Parliament and the Government". The Parliament had an active role in the process of Croatia's accession to the EU, thanks to its two main functions, the legislative function and the one of political control of the Government in the integration process.⁹

In summary, the role of the national parliament in the European integration process can be either that of a legislature which approves the drafts of each negotiating position (Slovenian case) or to be in the control and supervision of the process and then it is the Government that has the final decision-making. In principle, the widest possible participation of the national parliament in the integration process helps the negotiation process with the EU because it ensures a wider consensus.

2. The Role of the Parliament of the Republic of Albania in the European Integration Process

The parliamentary system in our country has as an inherent feature the right of the Parliament of the Republic of Albania (the Parliament) to approve the composition and program of the Government as well as to control its activity, which it exercises in various forms provided for in the Constitution. ¹⁰ The normative and institutional framework for the role of the Parliament in the European integration process is based on these general constitutional features of the position of the Parliament and its relationship with the executive power. In addition to the Constitution, the legal basis for the activity of the Parliament in this process is the Rules of Procedures of the Parliament and Law no. 15/2015, dated 05.03.2015 "On the role of the Parliament in the process of integration of the Republic of Albania into the European Union", amended in 2023 (Law no. 15/2015).

³ Marović, J., Sošić, M. "Parliament of Montenegro and the process of European integration: Just watching or taking part?", Podgorica 2012, pg. 9, në http://media.institut-alternativa.org/2012/10/institutealternative-parliament-of-montenegro-and-the-process-of-european-integration.pdf

⁴ Ibid.

⁵ Ibid.

⁶ Krcić, E. "The role of the Parliament of Montenegro in EU membership negotiations" European pulse, Electronic monthly magazine for European Integration – No 79, April 2012, pg. 6, ISSN 1800-7678.

⁷ Marović, J., Šošić, M. "Parliament of Montenegro and the process of European integration: Just watching or taking part?", Podgorica 2012, pg. 9, në http://media.institut-alternativa.org/2012/10/institutealternative-parliament-of-montenegro-and-the-process-of-european-integration.pdf

⁸ Ibid.

⁹ Marović, J., Sošić, M. "Parliament of Montenegro and the process of European integration: Just watching or taking part?", Podgorica 2012, fq. 9, në http://media.institut-alternativa.org/2012/10/institutealternative-parliament-of-montenegro-and-the-process-of-european-integration.pdf

Omari, L., Anastasi, A., "E drejta Kushtetuese", pg. 193.

2.1 The role of the Parliament based on Law no. 15/2015 - Parliamentary structures responsible for European integration.

2.1.1 National Council of European Integration

The National Council of European Integration (NCEI) was established on May 8, 2015. Its activity is based on Law no. 15/2015 and the NCEI Regulation. This Regulation was approved by Decision no. 67, dated 04.05.2016 of the Bureau of the Parliament "On the approval of the Regulation of the National Council of European Integration". The establishment of the NCEI was initiated in response to the recommendation of the EU-Albania High Level Dialogue, as a comprehensive structure of political forces, public institutions, and civil society as the highest national advisory structure for European integration. NCEI influences the development of a sustainable constructive political dialogue and the realization of reforms and membership obligations.

The membership and composition of NCEI is defined in Article 6 of Law No. 15/201511 and Article 4 of its Regulations. It is comprehensive with representatives from the Parliament, the Government, independent institutions, 12 civil society, the academic institutions, etc. The members of the NCEI can be categorized into permanent members and members who participate with the status of permanent guests. 13 Permanent members enjoy the right to vote. While members with the status of permanent quests do not have the right to vote, based on Article 4 of the NCEI Regulation. This model of NCEI is similar to that of other countries in the region, such as Croatia and Macedonia. The Croatian National Committee for European Integration functioned as a specialized body of the Croatian Parliament. This means, as in the case of Albania, that its external members do not have the right to vote. Such a model is also used in Macedonia. In contrast to this model, in the National Integration Council in Montenegro all members have voting rights.

The chairman of the Commission for European Affairs (CEA) is simultaneously the chairman of NCEI and belongs to the parliamentary opposition. The vice president is the head of the Albanian delegation in the Parliamentary Committee for Stabilization and Association (PCSA). The chairmanship of NCEI provides a link between it and two other parliamentary structures in the European integration process, CEA and PCSA. NCEI has a technical secretariat, which performs administrative and auxiliary functions.

The powers and responsibilities of NCEI are defined in Article 7 of Law No. 15/2015 and in Article 3 of its Regulation. Among others, these powers include: cooperation between political forces, state and independent institutions and civil society, continuous discussion of European integration policies, implemented by state institutions, with civil society and other interested actors; monitors the implementation of obligations during the process of membership negotiations Republic of Albania in the EU, gives the relevant recommendations for the issues of examined at the responsible institutions and informs CEA for the findings of the monitoring; organizes meetings with interest groups and civil society representatives for related issues with the obligations for opening and closing chapters of negotiations; reports once a year to the Parliament for its work, etc. 14 As the highest advisory structure, at the end of its meetings, NCEI approves recommendations, which are forwarded to the institutions according to the field to which the addressed issue belongs.

2.1.2 Commission for European Affairs (CEA)15

CEA was created in 2002 as an ad hoc commission, by Parliament's Decision no. 37, dated 16.05.2002. In 2004, with the approval of the new Rules of Procedures of the Parliament, at that time the Commission of European Integration,

¹¹ Article 6 was amended by Law no. 19/2023, For some additions and changes in Law no. 15/2015 "Për Rolin e Kuvendit në Procesin e Integrimit të Republikës së Shqipërisë në Bashkimin Europian", Official Journal no. 59, 2023.

¹² With the changes of Law 15/2015 in 2023 there were also included: the Ombudsman, the General Prosecutor, the Head of the Special Prosecution Against of Corruption and Organized Crime, the Chairman of the High Judicial Council, the High Prosecution Council, the High Inspector of Justice.

¹³See also Article 14 of Law no. 15/2015, in its paragraph (a), it is defined as the responsibility of CEA to examine draft laws related to the approximation of legislation with that of the EU. Only after the preliminary review by CEA, the draft law can be passed for review to other parliamentary committees according to their area of responsibility. In addition, based on Article 38, point 5, of the Rules of Procedures of the Parliament, the responsible committee has the obligation to review the CEA Report before the full approval of the draft law. Article 6 of Law No. 15/2015 and Article 4 of the NCEI Regulation.

¹⁴ Article 7, Law no. 15/2015.

¹⁵ With article 9 of Law no. 19/2023, For some additions and changes in Law no. 15/2015 "On the Role of the Parliament in the Process of Integration of the Republic of Albania in the European Union" the Commission for European Integration has now changed to Commission for European Affairs.

received the status of a permanent parliamentary committee. The legal basis of its activity is the Rules of Procedures of the Parliament and Law no. 15/2015. His areas of responsibility will include issues of European integration, alignment of Albanian legislation with EU legislation, monitoring the implementation of the criteria during the negotiation process, the resulting commitments from the negotiation framework, the Stabilization and Association Agreement (SAA), as well as financial assistance of the EU for the Republic of Albania. This wording of Article 10 of Law no. 15/2015 is approached with article 19, point 2 of the Rules of Procedures of the Parliament. The functions of CEA can be summarized in three types: a) legislative function b) supervisory function c) inter-parliamentary cooperation.

a. Legislative function

One of the main issues raised in the framework of the admission of a new Member State to the EU is the alignment and harmonization of national legislation with the EU acquis. The fulfillment of this commitment means that countries, from the moment of their admission to the EU, must ensure the full compliance of the national legislation with the acquis. Compliance is required not only with respect to secondary EU legislation, but also with primary law of EU, principles from CJEU jurisprudence, international agreements concluded by the EU and general principles of the acquis. This is a legal prerequisite for EU membership approved since 1993 at the Copenhagen summit of the European Council (EC), otherwise known as the Copenhagen criteria. The EC's Madrid Summit further reinforced this criterion by adding the requirement for the effective implementation of the acquis through appropriate administrative and judicial structures.

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At the moment a draft law is sent to the Parliament.

"The draft laws must be drafted in the form of a normative act and be accompanied by a report, which must contain...harmonization with the legislation of the EU...". 16 According to Law no. 15/2015: "The draft laws presented by the Council of Ministers are accompanied by a table that analyzes the degree of compatibility with EU law, in accordance with the criteria provided by the legislation in force for the instruments of approximation of domestic legislation with that of the EU." 17

In case of deficiencies in the required documentation, the bodies of the Parliament have the right to return the draft law to the Council of Ministers. The latter must resend the completed draft law to the Parliament within 15 days. Based on Article 68 of the Rules of Procedures of the Parliament, the Chair of the Parliament, accompanied by the reasoning, can return the submitted draft laws to the initiator, in case they do not fulfill the requirements provided for in point 2 of this article. So, apart from the Government which proposes legal initiatives, the Parliament as a legislative body plays a very important role in the process of approximation of legislation.

Monitoring the process of legal approximation is the competence of CEA. Following the opening of negotiations with the EU, it will be necessary for the Parliament to further improve the legislative procedures for the approximation of legislation to ensure the quantitative and qualitative compatibility of the laws aligned with the EU *acquis*. Thus, CEA should play an important role in this direction. This requires the expansion of the parliamentary technical staff, even as a special structure at the CEA. The creation of this structure must be stable and remain unaffected by political changes. In full transparency of the alignment process, it is recommended to create a database in the Parliament on the compatibility tables of the laws, for example a parliamentary platform, as well as to complete the existing data on the laws already harmonised.

b. Monitoring function

The monitoring function of CEA is exercised in relation to the Government. In general terms, this responsibility of CEA is defined in Article 14 of Law no. 15/2015. Based on paragraphs (b) to (d) CEA is required to: monitor the Council of Ministers/ministry responsible for integration issues for the implementation of obligations arising from the EU membership process; urges the ministry responsible for European integration issues to draft and update the national plan for European integration, as well as monitor its implementation; to monitor the general framework of membership negotiations; to monitor, together with other permanent commissions, the implementation of the Albanian legislation aligned with the EU legislation.

¹⁶ Based on Article 68, point 2 of the Rules of Procedures of the Parliament.

¹⁷ Article 17, Law no. 15/2015.

In accordance with paragraph (d) of Article 14, Law No. 15/2015 defines in Article 21 the obligation of CEA to coordinate with the permanent committees of the Parliament the process of supervising the applicability of the normative framework, which aims at the approximation of legislation, according to the main areas of European integration. In the following, the permanent Committees of the Parliament, at the end of each parliamentary session, ask the line ministries to prepare a report regarding the degree of applicability of the normative framework aimed at the approximation of legislation. The report, with the evaluations of the responsible commission, is sent to CEA to prepare evaluation analyses.

With Law No. 19/2023 which amends Law 15/2015 was added the new Article 14/1, which provides for the procedure for reviewing negotiating positions. This article defines the important position that CEA should play after that Albania moved from the status of a candidate country to a negotiating country with the EU in July 2022.

Article 19 of Law no. 15/2015 defines a specific obligation for the Minister responsible for European integration and the minister responsible for negotiations with the EU to submit a report to CEA at the end of every 3 months. The report must be drawn up in detail in relation to: a. the updated list of draft laws related to European integration issues, which will be submitted to the Parliament for consideration in the following period; b. the progress of the membership negotiations process; c. the reports submitted to the structures of the European Commission or joint structures, the positions on the issues discussed, as well as the conclusions and recommendations reached from these meetings; c. the agenda of the joint meetings of the structures of the EU and the Republic of Albania set up under the SAA, as well as the agenda of the negotiation meetings. ¹⁸

A reinforcing aspect of its monitoring function towards the executive is also found in the composition formula of CEA. According to an already consolidated parliamentary tradition, the chairman of CEA belongs to the parliamentary opposition. This is a good practice, considering his controlling role towards the government. The responsible minister, based on article 19, point 2, is called by CEA to provide information on any issue related to the coordination of the EU membership process. Although this function of control is exercised in relation to the Government, Law no. 15/2015 also provides for the possibility that CEA (but also the responsible commissions) extends this function to other independent constitutional institutions created by law. It does this through the instrument of reporting and information.

c. Inter-parliamentary cooperation

According to Article 14, the issue of inter-parliamentary cooperation at national and EU level is under the responsibility of the CEA. At national level, it concerns the cooperation with the permanent parliamentary committees. According to the Rules of Procedures of the Parliament, the CEA report is mandatory to be reviewed by the responsible committee before the full approval of a draft law. At the EU level, CEA coordinates the work with SAPC to maintain cooperative relations with the structures of the European Parliament and with the national parliaments of the EU member states.

The inter-parliamentary cooperation is important to gain expertise and experience in the field of EU legislation. For this reason, the completion of "twinning projects" with the parliaments of the Member States in the EU implemented by the Parliament of Albania in cooperation with the national parliaments of the Member States constitutes a good practice. This can also serve as preparatory work for our Parliament to function as a national parliament of a Member State in the EU.

The definitions in Law 15/2015 and the Rules of Procedures of the Parliament on inter-parliamentary cooperation are of a very general nature compared to the role given to this cooperation at the level of the EU and its Member States. Therefore, I think that an indicator of the will to expand inter-parliamentary cooperation should be a further regulation in the Rules of Procedures of the Parliament, in the form of a special chapter entitled "Inter-parliamentary Cooperation". Cooperation with the parliaments of the Member States with the European Parliament is crucial for exercising the powers of the Parliament in the process of European integration. It will be valuable, at the end of an inter-parliamentary level cooperation, the obligation of the head of the relevant delegation or of each individual Member of the Parliament who has conducted an official visit for this purpose to submit a report to the CEA after the end of the visit.

Interparliamentary cooperation is one of the important pillars on which the EU, even with the Treaty of Lisbon, relies to increase the role of national parliaments in EU affairs. To fulfill this commitment, familiarity with parliamentary procedures at the EU level and EU legislation in general will be appropriate. Seminars for continuous training of members of the Parliament on EU issues or special workshops organized by the Parliament on European integration issues with experts or professors in the field can be developed for this purpose. Such organizations are also in function of increasing the quality and strengthening of parliamentary action on European integration issues.

¹⁸ Article 19, Law no.15/2015.

2.1.3 Stabilisation and Association Parliamentary Committee

Since 1992, the interparliamentary relations between the EU and the Parliament have been continuously developed through parliamentary meetings and exchanges. These relations were institutionalized with the establishment of the EU-Albania Stabilization and Association Parliamentary Committee (SAPC) after the entry into force of the SAA. SAPC EU-Albania was established in 2010 in implementation of the decision of the European Parliament (EP) and the Albanian Parliament. It is the forum of members of the Parliament of Albania and the EP, in which political dialogue takes place at parliamentary level and all aspects of political and economic relations between the EU and Albania are discussed, with a special focus on the implementation of the SAA. ¹⁹

SAPC is a consultative body, which focuses on all aspects of bilateral relations, political cooperation, and aims to serve as a catalyst to improve political dialogue on reform processes. ²⁰ According to Article 122 of the SAA, the SAPC serves as a forum for bilateral meetings and exchange of views between members of parliamentary delegations. As such, the SAPC offers opportunities to exercise parliamentary oversight over Albania's integration process. Whereas the EP, having a consolidated practice in setting up inter-parliamentary delegations with third countries, aims to shape the external relations of the Union. ²¹

SAPC meetings are public, except when it decides otherwise. SAPC organizes systematic meetings, twice a year, with rotation, in Tirana and at the headquarters of the EP in Brussels or Strasbourg. The first meeting was held on 3-4 March 2010 in Brussels. Since this first meeting, 13 more meetings have been held until 23-24 February 2022. In conclusion, the SAPC, as a rule, approves the joint statement and recommendations, which are sent to the Albanian institutions (the Albanian Parliament and Government) and those of the EU (the EP, the EU Council of Ministers, and the European Commission). The recommendations are considered approved if they receive the support of the majority of the members of the delegation of the EP and of the delegation of the Parliament of Albania. ²²

An observation of Table 1 shows that out of 14 meetings that SAPC EU-Albania has held, only 8 recommendations have been adopted and in 6 other cases they have not been adopted. This report is indicative of the lack of consensus in the ranks of the Albanian parliamentary delegation in the issues of the EU membership process. SAPC should serve as an interparliamentary forum where Albanian parliamentarians can influence their colleagues in the EP for Albania's EU membership process.

Table 1: EU-Albania SAPC meetings

No	Location	Date	Recommendation's status
1	Brussels	3-4 May 2010	Not Adopted ²³
2	Tirana	4-5 Novermber 2010	Not Adopted 24
3	Brussels	14-15 June 2011	Not Adopted 25
4	Tirana	9 December 2011	Adopted ²⁶
5	Brussels	11-12 July 2012	Adopted ²⁷
6	Tirana	28-29 October 2013	Adopted ²⁸
7	Strasbourg	12-13 March 2014	Not Adopted 29
8	Tirana	16-17 March 2015	Not Adopted 30
9	Brussels	9-10 November 2015	Not Adopted 31

¹⁹ www.parlament.al

²⁰ Madhi. G., "Kërkohet dialog: Eksperienca e Bashkëpunimit Ndërparlamentar BE-Shqipëri", EU Policy Hub, http://www.eupolicyhub.eu, 28 April 2017, pg. 1.

²¹ Ibid.

²² Nikaj. E., "Roli i parlamentit kombëtar në procesin e integrimit europian", Revista KUVENDI, no.6/2016, pg. 65.

²³ http://www.europarl.europa.eu/cmsdata/120919/1st%20EU Albania%20SAPC%20minutes.pdf

²⁴ http://www.europarl.europa.eu/cmsdata/120916/2nd%20EU Albania%20SAPC%20minutes.pdf

²⁵ http://www.europarl.europa.eu/cmsdata/147443/20111212ATT33770EN.pdf

²⁶ http://www.europarl.europa.eu/cmsdata/120913/4th%20EU Albania%20SAPC%20minutes.pdf

²⁷ http://www.europarl.europa.eu/cmsdata/120910/5th%20EU_Albania%20SAPC%20minutes.pdf

http://www.europarl.europa.eu/cmsdata/120908/6th%20EU_Albania%20SAPC%20minutes.pdf

²⁹ http://www.europarl.europa.eu/cmsdata/120906/7th%20EU_Albania%20SAPC%20minutes.pdf

³⁰ http://www.europarl.europa.eu/cmsdata/126102/Recommendations%20at%20the%208th%20EU.pdf

³¹ http://www.europarl.europa.eu/cmsdata/126103/Recommendations%20at%20the%209th%20EU.pdf

No	Location	Date	Recommendation's status
10	Tirana	19-20 May 2016	Adopted 32
11	Brussels	7-8 November 2016	Adopted 33
12	Tirana	12-13 February 2018	Adopted 34
13	Brussels	15 October 2018	Adopted 35
14	Tirana	23-24 February 2022	Adopted 36

Data's Source: http://www.europarl.europa.eu/

3. Conclusion

As stated above in this paper, the main responsibility for EU membership is on the Government, because it determines the priorities and prepares draft laws for the harmonization of domestic law with that of the EU. The role of the Parliament is first to supervise this process through CEA. Secondly, the Parliament is also involved in the approximation of legislation through the legislative process and the adoption of laws aimed at harmonization.

The Republic of Albania already has a normative and institutional parliamentary framework that ensures the involvement of the Parliament in the EU membership process. This normative framework gives the opportunity to the Parliament to be part of the ranks of those national parliaments that play an active role in the EU membership process of a country.

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³² http://www.europarl.europa.eu/cmsdata/120901/10th EU-Albania SAPC Recommendations.pdf

³³ http://www.europarl.europa.eu/cmsdata/120902/11th_EU-Albania_SAPC_Recommendations.pdf

 $^{^{34} \} http://www.europarl.europa.eu/RegData/delegations/d-al/document_travail/2018/02-12/D-AL_DT(2018)02-12_XL.pdf$

³⁵ http://www.europarl.europa.eu/RegData/delegations/d-al/document_travail/2018/10-15/D-AL_DT(2018)10-15_XL.pdf

³⁶https://www.europarl.europa.eu/cmsdata/245320/24022022_Recommendations%20adopted%2014th%20EU-Albania%20SAPC_EN.pdf