



Compatibility of Albanian Legislation with European Union – Eu Legislation

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Abstract

EU membership would be an event with a great impact on Albanian society, on the functioning of institutions, on the economic economy and on the well-being of the people, which being a great driving force would give a variety of positive results. The desire to have the rule of law, the rule of law, the protection of fundamental rights and freedoms, the economy, the state and well-being, which are seen as distinct elements for the member states of the European Union, are a strong driving force, as a way out this EU membership for the realization of the essential factors. They should aim for membership in the European Union, we should align their domestic legislation with the legislation of the European Union and implement it effectively. The obligation of the Republic of Albania for the approximation of its legislation with the EU *acquis* derives from the Stabilization and Association Agreement EU - Albania, which was signed on 12 June 2006 and entered into force on 1 April 2009. Article 70 of the SAA - For Albania, it would like to ensure that its existing laws and future legislation gradually go hand in hand with the EU *acquis*. This approximation started on the date of signing the SAA and will be gradually extended to all elements of the EU *acquis* required by this Agreement within a transitional period of up to 10 years, divided into two phases. During the first phase of the transitional period (which has manifested itself with the entry into force of the SAA) the approximation focused on the essential elements of the Internal Market *acquis*, during the second phases of Albania, to become a remaining part of the *acquis*.

Keywords: European Union, Stabilization and Association Agreement, approximation of laws, Agreement, Membership, Unity

1. Introduction

The EU has always been conceived as a project of peace and stability for the European continent. Over time, these aspirations have convinced an increasing number of countries, which have joined the original core of six founding members. Today the EU has 28 Member States and its doors are open to other European countries that wish to join and engage in the promotion of peace, democracy, stability and prosperity.

The European Union is the union of 27 member countries, which was formed in order to strengthen the political, economic and social union. Membership requires that the candidate country has achieved the stability of institutions that guarantee democracy, the rule of law, human rights, respect and protection of minorities, the existence of a functioning market economy as well as the ability to withstand competitive pressure and market forces. within the Union. The first condition actually consists in the fact that the candidate must be a state, because only states can submit the request for accession to the European Union.

The second condition consists in the geographical character. This means that only European countries can submit the application for EU membership. In 1993, at the Copenhagen European Council, the EU took an important step forward in the enlargement process by declaring that "the associated countries of Central and Eastern Europe that wish to become EU Members, will succeed in becoming Like that." In this way, the expansion process was not a question related to the issue of "if" the expansion would succeed, but "when" this process would be carried out. So, a country can become a member if it meets the membership criteria and conditions which are defined by the EU leaders during the summit, which was held in Copenhagen in 1993.

The Copenhagen criteria refer to the general criteria that applicant countries must meet as a prerequisite for becoming a member of the European Union were defined in general terms by the Copenhagen European Council in June 1993. The Copenhagen criteria require: the stability of institutions that guarantee democracy, the rule of law, human rights and respect and protection of minorities; the existence of a functioning market economy, as well as the ability to withstand competitive pressure and market forces within the EU; and the ability to undertake membership obligations, including adherence to the goals of political union, as well as Economic and Monetary Union (EMU). The criteria which were defined by the European Council in Copenhagen in 1993 and which criteria were then applied in 1995 are:

1. Political criterion: stable institutions that guarantee democracy, rule of law, human rights and respect and protection of minorities.
2. Economic criterion: functional market economy and capacity to cope with competition and market forces in the EU.
3. The capacity to accept membership obligations, including supporting the goals of the political, economic and monetary union.
4. The adoption of an entire European legislative body and the effective implementation of this legislation through appropriate administrative and legal structures.

2. Approximation of Legislation as a Condition for EU Membership

It is a unique obligation of membership in the European Union, for the states that want to accede or join it to approximate their national laws, procedures and rules in order to give effect to the body of EU law. , including that of the *Acquis Communautaire*. Directives, regulations and decisions adopted on the basis of various EU Treaties are included in the *Acquis Communautaire*, which Treaties together constitute the primary law of the EU.

There are three main elements for the alignment of local legislation with that of the EU:

1. First, adopt or amend national laws, regulations and procedures so that the requirements of the relevant EU law are fully incorporated into the national legal order. This process is known as *Shipping*. Although countries have considerable discretion in choosing the most appropriate national mechanism to reflect the Union's environmental obligations, this discretion is limited in some respects by general principles of Union law. In most cases it will be necessary to adopt national legislation approved by Parliament or in some countries by Presidential or Governmental Decree.
2. Second, to provide the necessary institutions and budgets for the implementation of laws and regulations (known as 'Implementation' or 'Practical Implementation' of the directive).
3. Third, to provide the controls and penalties necessary to ensure that the law is being fully and properly implemented (Enforcement).

3. Administrative Reforms

In accordance with the Stabilization-Association Agreement, Albania must progressively adopt clearly defined or implicit material and procedural reforms. Thus, in accordance with an obligation clearly stipulated in the SAA, Albania must create administrative bodies that better manage the public interest, are efficient and responsible, as well as open to everyone and professional.

Expressly N. 111 of the SAA foresees the development of 'an efficient and responsible public administration in Albania, which supports in particular the implementation of the rule of law, the proper functioning of state institutions for the benefit of the Albanian population as a whole and the normal development of relations between the EU and Albania' as well as 'institution building, including the development and implementation of transparent and impartial recruitment procedures, human resource management, career development in the public service, continuous training and promotion of ethics in public administration and electronic government.' Although article 111 is the only one that explicitly refers in

the title to the need for such adaptations to create a public administration sufficiently suitable for membership, the SAA in its entirety foresees some obligations for Albania in relation to the administration.

4. Legal Reforms

An important issue related to the special functioning of the administration is the one related to the legal aspects. Article 70 of the SAA requires the realization of the process of approximation of the legislation with the *acquis* of the EU, and expressly that:

The parties recognize the importance of aligning the existing Albanian legislation with that of the Community and its effective implementation. Albania will endeavor to ensure that its existing laws and future legislation gradually move towards compliance with the Community *acquis*. Albania will ensure that existing and future legislation is properly implemented and enforced.

According to this article, the approximation of legislation is placed under the obligation of ensuring the gradual progress towards compliance with the *acquis* of the Community, considering equally important the proper imposition of this legislation. The second paragraph of this article states that the alignment of legislation begins with the signing of the SAA in June 2006, gradually extending to all elements of the Community *acquis* mentioned in the SAA until 2016,25 divided into two phases, 2006 - 2011 and 2011 – 2016. The main aim of the approximation of legislation throughout the 10-year period is the creation of the necessary legal and institutional framework, which would create the opportunity for the Albanian market to gradually integrate into the European internal market. The third paragraph of Article 70 of the SAA states that during the first period, alignment will focus on the essential elements of the Internal Market *acquis* as well as on other important areas such as competition, intellectual property rights, public procurement, services financial, consumer protection, law on commercial companies, others. In the second phase, Albania will focus on the remaining parts of the *acquis*.

5. Difficulties and Achievements

Legal approximation is a demanding and complex process that requires proper planning of policies, division of tasks, transfer techniques and implementation in practice and is an essential process during EU Integration and for which a trained and capable administration is needed. as well as strong political support. Public administration, without the necessary political support, cannot do the work by itself. In this aspect, we are working to create the necessary conditions in infrastructure and what is most important in human resources for the realization of this vital process for our country.

6. Conclusions

Finally, we accept that the Republic of Albania is working on fulfilling the conditions in terms of integration into the European Union, especially the basic condition for entering the EU, which was also the main topic of this paper. So, Albania, even with its unresolved status, is trying to meet the conditions set by the European Institutions. In recent years, we have had a progress to be evaluated towards the path of the European Union.

References

- 1 Europe, 2019. Guide to the Approximation of European Union Environmental Legislation.
- BBC News. (2019, 10 18). BBC News. Gjetur në <https://www.bbc.com/news/world-europe-50100201>
- Biberaj, E. (2011). Shqipëria në tranzicion : Rruga e veshit drejt demokracisë 1990 - 2010.
- Canaj, E., & Bana, S. (2011). "E drejta e Bashkimit Evropian".
- Demetropoulou Leeda, "Europe and the Balkans: Membership Aspiration, EU Involvement and Europeanization Capacity in South Eastern Europe - Evropa dhe Ballkani: Aspirimi për Anëtarësim, Kapaciteti për Përfshirjen në Bashkimin Evropian dhe Evropianizim në Evropën Juglindore ", "Southeast, European Politics – Politikët e Evropës Juglindore", Vol. III, No. 2-3, Nëntor 2002, faqe 87-106.
- European Commission. (2015). "Progres-Raporti 2015 i Komisionit Evropian për Shqipërinë
- European Commission. (2018). "Progres-Raporti 2018 i Komisionit Evropian për Shqipërinë".
- European Movement in Albania. (2009). "Manuali i Procesit të Integritimit Evropian, Roli dhe rëndësia e institucioneve". Tirane.
- kuvendi. (2006). Ligji nr.9590, dt 27.7.2006 Për ratifikimin e "Marrëveshjes së Stabilizimit Asocimit midis Komuniteteve Europiane dhe Republikës së Shqipërisë".
- OECD. (2013). Copenhagen criteria.

Ugo Draetta, "Elementi di diritto dell'Unione Europea – Parte Istituzionale, Ordinamento e struttura dell'Unione Europea – Elementi te se Drejtes se Bashkimit European, Pjesa Institucionale, Klasifikimi dhe Struktura e Bashkimit European", Botimi i 5-të, Giuffrè, Milano, Itali, 2009
Zajmi, I. (2010). E drejta europiane.