



ALBANIA: WHEN A REFORM OF THE ELECTORAL CODE WEAKENS DEMOCRACY

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Nearly twenty years after the fall of Communism, the process of democratisation of Albania is once again under threat, this time, paradoxically, by a constitutional reform initiated by the two principal political parties of the country: the Democratic Party (DP) and the Socialist Party (SP).

In fact, in the spring of 2008, a consensus between the SP and DP – the dominant groupings on the local political scene – allowed the Albanian Parliament to adopt by a large majority a series of amendments modifying the constitution of the country. **The most important change concerns the transformation of the electoral system, which will henceforth favour the two principal national political forces to the detriment of many small parties.**

These changes must all the same be transposed in a new electoral code whose preparation is still unfinished and is presently the source of dissension between the two allies of convenience.

While Albania, which became a democracy in 1991 after the fall of Communism, has behind it a long history of electoral violence and irregularities, **one may wonder whether this new reform is not just a way for the two major parties to lock up the national political system and, by extension, Albanian democracy, by marginalising, even purely and simply eliminating, the ‘small’ parties.** This question is all the more important given that legislative elections are planned for June 2009. Hence, in order to determine the nature and extent of the threats these changes represent, one should present the main provisions of the reform, the motivations of the principal protagonists and the consequences of these amendments on the evolution of the process of democratisation that Albania has undergone since 1991.

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1) Main provisions of the reform of the electoral code

On 22 April 2008, the Albanian Parliament approved a set of amendments put forward to modify the Albanian constitution. The main change concerns the **electoral system**, which, besides being **proportional**, also becomes **regional**. According to the reform, the electoral districts should coincide with one of the administrative levels of the country. This means that the number of voters, of deputies, as well as the threshold allowing the election of a parliamentarian will vary from one electoral sector to another. Thus, in the most populous areas, the threshold for getting an elected official will be relatively low, while in areas where the density of population is less, it will be much higher. We can say that according to one of the amendments, parties not getting past a threshold of 10% of the votes, which in some regions can reach 20%, will be deprived of representation.

Moreover, **the voters will no longer be called upon to express their opinion on individuals, but on the parties**. The reform provides in fact for a 'depersonalisation' of the mode of voting, because the electoral ballots no longer carry the name of a candidate but only that of a party.²

It also provides that a party must present 140 candidates in order to be authorised to take part in an election. Similarly, a political group wishing to participate in the elections within the framework of a coalition must have at least 70 candidates. Parties not represented in Parliament will be constrained to name 70 candidates in the dozen Albanian electoral districts.³

Another element of this reform is the **removal of the Central Electoral Commission (CEC) as an independent organ**.⁴ The CEC will continue to exist but it will be deprived of its plurality and will become a bipartisan commission in which only the SP and PD will be represented. This also means that the other political parties will not be associated with organising the elections and monitoring the voting stations.

The constitutional amendments also reinforce the powers of the Prime Minister at the expense of the President. The latter can no longer dissolve Parliament. **This power henceforth belongs to the head of government**, all of which will greatly complicate voting on a motion of no confidence. Moreover, it also provides that the election of the President by the national representation no longer requires a three-fifths majority but only the votes of 71 deputies out of the 140 who constitute the assembly.⁵

2) A reform made for and by the SP and the DP

The reform adopted on 22 April by a vote of 115 for, 17 against and 3 abstentions was supported by the two main parties and by their leaders: **Sali Berisha**, the present Prime Minister, for the DP, and **Edi Rama**, for the SP. The influence of these two politicians, and in particular of the head of the government, is such that the local press spoke of a '*reform of the Constitution made to measure for Sali Berisha*'.⁶ The amendments approved **in effect strengthen the powers of the Prime Minister at the expense of those of the President**. The reduction of the majority needed to elect the President will also increase the

² 'Albania PM Pans Opposition on Poll Reforms', *BalkanInsight.com*, 30 June 2008.

<http://balkaninsight.com/en/main/news/11430>

³ 'Albania should hurry up for election reform', *The Journal of Turkish Weekly*, 7 October 2008.

⁴ Rozeta Rapushi, 'Albania: a reform of the Constitution made to measure for Sali Berisha', *Koha Jone*, 22 April 2008.

⁵ 'Albania Approves Constitutional Reforms', *BalkanInsight.com*, 22 April 2008.

<http://balkaninsight.com/en/main/news/9571>

⁶ Rozeta Rapushi, *op. cit.*

influence of the Prime Minister. **As another illustration of the state of mind reigning within the Party of Mr. Berisha, when he was questioned on the consequences of these changes on his relationship with President Bamir Topi, he spoke of the Albanian head of state as his ‘colleague.’**

The agreement between Berisha and Rama can be seen in the light of **mutual economic interests that the two leaders share**. The two men could indeed take advantage of their alliance to pass laws that advance their economic interests regarding civil engineering projects. For instance, it was reported that Mr. Berisha’s relatives are involved in the building of huge residential projects that would be boosted by a change of the law that would allow the conversion of public sports facilities into private property. Other instances regarding the construction of underground parking lots and residential area are well known by the Albanian public and would benefit both leaders. These shared interests also explain why opposition leader Rama has been rather silent on the issue of scandals where Berisha has been involved. **Both men have indeed traded favours** as underscored by the change of the General Prosecutor, which is said to have given guaranties to Mr. Rama that he would not be prosecuted for some violations of laws administering public funds while he served as Minister of Culture and Mayor of Tirana. Once the General Prosecutor was gone, Mr. Rama violated the agreement he had with other opposition parties and looked for an agreement with Mr. Berisha.

Moreover, the constitutional reform undeniably favours the Socialists and the Democrats. The objective of the two large parties is clearly to **create a system based on bipartisan power**. By adding a regional and proportional dimension, the amendments render it **quasi-impossible to elect legislative representatives coming from the small parties, as is presently the case**. One of the targets of this move appears to be Ilir Meta’s LSI Party which constitutes a challenge to Rama’s weak leadership of the opposition. Other political parties, like Dashamir Sehu’s Movement for National Development could also be damaged by the reform of the electoral system. Generally speaking, all the parties which are not pure satellites of the SP or Dp are under threat.

In addition, the provisions are in fact going to **prevent the small parties from forming coalitions**, thereby reinforcing the hold of the SP and the DP on Albanian political life. **The fact that the voters are called upon not to express an opinion on candidates but only on parties is another means by which the two main Albanian political forces will strengthen their electoral base**. The remaining parties will be less the subject of media interest and will thus be disadvantaged and finally excluded from the Parliament.

One also notes that **this reform has been carried out without discussion, not allowing the various political forces of the country to express their views** on a topic having crucial stakes for Albanian political life. The existing consensus between the two principal political parties enabled them to accelerate the examination of the amendments by the Albanian Parliament. The amendments indeed **were not the subject of any debate within the Parliamentary Commission on Electoral Reform, which was deliberately bypassed**.

The procedure employed by the SP and DP to have the amendments adopted was criticised by many observers, who reproached them for the **precipitate character and absence of dialogue**. Thus, Njazi Jaho, a first rank constitutionalist, believes that these changes *‘should have been made the subject of a much wider discussion’* including all the political forces of the country. *‘The constitution is not the monopoly of the two political parties and it is*

therefore necessary to consult some experts and society as a whole before such changes are made,'⁷ he indicated.

3) A risk of weakening Albanian democracy

By closing off the electoral system, the reform of the electoral code deals a blow to the cause of democracy in Albania. Contrary to statements by the SP and the DP, **these changes do not produce true proportional representation of voters but instead run the risk of excluding all the small parties from the Albanian political system.** The latter have strongly criticised this reform and the way in which it was conducted by Messrs. Berisha and Rama. If the small parties have just been excluded from Albanian political life, public discussion will be considerably weakened, given the **weak representative nature** of the main national political forces. It should be remembered that at the last election in 2007, **the DP and the SP between them only won 43% of the votes.**

Moreover, it must be pointed out that those constitutional amendments have **considerably altered of the balance of power in the Albanian system to the advantage of the Prime minister.** The system of checks and balances, which is a model for the governance of democratic states, has been affected and weakened by the reform championed by SP and DP.

It seems that this uneasiness over the change in the electoral system has been felt by the Albanian population, which has not greeted the reform favourably. **Many voters are indeed disoriented by the modifications resulting from the amendments and public opinion polls indicate that a growing number of Albanians are considering not voting during the next legislative elections in June 2009.** According to a recent investigation, the share of Albanian voters wishing to participate in the next election has dropped by 13% in a year.⁸

International observers who assisted Albania in its process of democratisation have shown themselves to be equally **concerned by the reform of the Albanian electoral system.** While the process of writing a new electoral law has been dragging on, some European political leaders have expressed the need for these problems to be resolved as quickly as possible in order for the legislative elections of 2009 to be held in a peaceful climate.⁹ For its part, though the OSCE (Organisation for Security and Cooperation in Europe) has welcomed initiatives intended to reform an electoral code that it largely criticised, it has since shown itself to be more cautious about the changes proposed. For Robert Bosch, the **OSCE official in Albania, problems linked to 'organisation and monitoring of the elections, to the procedures for appeal over the results, to financing the political parties and the participation of women have not been taken into account'**¹⁰ **by the constitutional amendments.** He also criticised the absence of any true debate involving 'civil society and the competent actors.'

Meanwhile, the scepticism of the Albanian voters and international observers concerning the electoral reform also seems to worry some parliamentarians who all the same voted in April in favour of the amendments. Thus, Prec Zogaj, one of the oldest Albanian parliamentarians, **now considers his choice to have been an error, believing that this change is going to destroy the link that binds voters and their representatives.** According

⁷ Fatjona Mejdini, « Albania Uneasy over 'Hasty' Voting Reforms », *Koha Jone*, 27 mai 2008. <http://balkaninsight.com/en/main/analysis/10486>

⁸ *Ibid.*

⁹ 'Albania should hurry up for election reform,' *op. cit.*

¹⁰ *OSCE Presence welcomes progress made on Albanian electoral system*, OSCE Press Release, 22 April 2008. http://www.osce.org/albania/item_1_30810.html

Mr. Zogaj, this reform is going against Albanian tradition that dates from the fall of Communism in 1991 according to which *'the voters choose persons'* and not just parties.¹¹

4) Europe is attentive

Unfortunately, as a general rule, Europe is not too concerned about little Albania and seems to ignore the fact that its stability is one of the keys to security in the Balkans.

This time, however, a revealing hesitancy has taken place. **When the DP and the PS tried to neutralise all debate over their management of affairs within the European Parliament by exerting 'friendly pressure' on their allies within this assembly, six courageous parliamentarians, following the initiative of the Portuguese Socialist Paulo Casaca, broke the law of silence.**¹²

In an open letter sent at the start of July to the Presidents of the Council, of the Commission and to a variety of highly placed European officials, including Mr. Javier Solana, **these representatives of democratic Europe criticised the covert direction of the reforms that are being adopted in Tirana.**

A debate is thus now open within the European Parliament, and it will continue in the months to come.

5) The attempt to get around the judicial power

This reform, which would have as a consequence not merely to polarise the political game in Albania around the two parties but also to weaken the legislative power to the benefit of the executive power, and, more precisely, one of its elements, the Prime Minister, is not the only disturbing sign of the country's drift towards strong personal power that is outside control.

Mr. Sali Berisha also has the temptation to get around the judicial power whose existence and independence are, nonetheless, an indispensable corner stone of democracy.

While recently launching on television an 'anti-corruption campaign,' **the Prime Minister in fact appealed to his compatriots to personally bring to his attention cases of corruption which they might have witnessed or of which they were victims. This was a subtle way of playing the card of populism and demagoguery while purely and simply eliminating justice from the equation.**

This proposal– which tends to **make of Mr. Berisha the man who is needed and who is in fact above the laws** – is all the more surprising, not to say disturbing, given that the Prime Minister himself, certain members of his family and eminent members of his government have been regularly cited in affairs of corruption during recent years. The most recent is not the least, since it has to do with a gigantic trafficking in arms destined for Afghanistan. The affair was revealed in March during the catastrophic explosion that killed many dozens of persons at the warehouses of Gërdec where these arms were stored. In the final days of September, this obscure affair had a fantastic new development when one of the principal witnesses of the scandal was found dead in a particularly suspect car accident.

¹¹ Fatjona Mejdini, *op. cit.*

¹² Aside from Paulo Casaca (Portugal, PSE) himself, these parliamentarians are: Jean-Luc Bennaïmias (France, Verts), Victor Bostinaru (Romania, PSE), Erik Meijer (The Netherlands, European Unitarian Left), Frédérique Ries (Belgium, Alliance of Democrats and Liberals, ALDE) and Hannu Takkula (Finland, ALDE).

One may thus be permitted to wonder if the ‘anti-corruption’ initiative of Mr. Berisha aims at tracking down criminality or, on the contrary, better shuffling the cards by putting justice in a position where it cannot do its job.

6) Conclusion

Nearly six months after the adoption of constitutional amendments by the Albanian Parliament, the delay affecting the process of writing the new electoral code illustrates the **doubts inspired by the reform championed by Messrs Berisha and Rama**. If, in view of the difficulties Albania encountered in the past when it tried to organise elections without irregularities, a rewriting of the electoral code has appeared to be more than desirable, **the project from Albania’s two principal political forces seems to create more problems than it solves.**

By seeking to eliminate more than half of the political representation in Albania, **this reform can only be seen as a step backwards in the long and difficult process of democratisation which the country began in 1991**. The scepticism of Albanian voters and the circumspection of international observers have reinforced doubts over the harmful character of these constitutional amendments.

Given that Albania aspires to be integrated into the European Union and the Atlantic Alliance, the threats weighing on its process of democratisation should be treated with the greatest attention by the competent authorities, notably within the EU, in order that the pluralist and democratic nature of these institutions be preserved.

The solution of the Albanian electoral problem should thus appear to be a priority for the European authorities, because, in the words of Aleksander Meksi, former Prime Minister and actor of the only elections that were not contested, ‘Albania will not find calm so long as the will of voters is distorted and its governments do not translate it into their policies.’¹³

¹³ Lorenc Vangjeli, « Albanie : à quand une révolution électorale ? », *Revista Mapo*, 1^{er} mars 2008.