



**Ambasada
e Republikës së Shqipërisë**

Washington D.C.

**Embassy
of the Republic of Albania**

Washington D.C.

“Democracy in Albania: the Pace of Progress”

**Testimony of H.E. Mr. Gilbert Galanxhi
Ambassador of Albania to the U.S.A.**

**US Helsinki Commission
Washington, D.C., May 6th, 2013**

Distinguished Mr. Chairman,
Honorable Members of Congress,
Distinguished Participants,

Please allow me to extend my sincere thanks to the US Commission on Security and Cooperation in Europe, known as the US Helsinki Commission, for providing me with this opportunity to share with you and this very distinguished audience some thoughts on “the Pace of Progress of Albania”, including reflections on some of the achievements, developments and concerns that my country, Albania, has been experiencing recently.

I also want to thank all the previous speakers for their very well prepared and detailed presentations, which consider today’s topic

from different angles and viewpoints, but, I have to stress, with good intentions and the desire to see my country advance faster and better on the democratic path that it has definitely chosen.

Distinguished friends,

I sincerely consider myself to be amongst very good, principled and loyal friends today. It is an undeniable fact that Albania has made tremendous progress in the last two decades in every respect. What you and almost all western democracies have achieved in more than two hundred and fifty years, we have sought to achieve in less than twenty five years. We are conscious that we have to, because there is no other agenda, nor any better option for Albania than full integration into the European Union. We fully understand that this requires us to fully embrace the best standards and norms as enshrined in the Helsinki Final Act. Nobody has ever said that this will be easy. We are fully aware of that.

In 1992, we started from scratch. If you considered Yugoslavia to be a communist state, I sincerely don't know what adjective could properly be applied to Albania. We had to start building roads at the same time that we had to start building the state. By this I mean a Democratic State, with all its democratic structures and democratic institutions. Please, do not forget that "Rome was not built in one day". So, it would be quite naive and unrealistic to pretend that everything went well and is going perfectly well. That is why we are here today, trying to recognize the progress that has been achieved, while at the same time throwing light to the difficulties that we are

encountering, and most importantly, trying to find the best solutions for moving ahead. It is also important to understand, or better, not to forget, that Albania is no longer the self-isolated country it used to be just two decades ago. Albania actively and dynamically interacts with its neighbors, partners and friendly countries, bilaterally and in every international organization to which it belongs, but at the same time, it has also been affected by the multi-faceted problems and difficulties that the world's economy has been facing during the recent years.

Having said all this, we still have a long way to go in building and consolidating our democratic institutions, because this is a never-ending process, and obviously, we need and appreciate the good advice and assistance that comes from our best and principled friend, the United States of America.

It is relatively easy to build a very nice and modern, let's say, ministry building, even in difficult financial times; but it is much more difficult to fill this building with the right qualified and motivated human resources. I believe this is the key to success, something that very often is underestimated or not taken into account when we analyze dynamic developments and pivotal events in my country. I am fully convinced that it is in the interest of every individual, in the interest of each political party, as well as in the interest of all social groupings to have a consolidated democratic system in Albania based on the rule of law. Yet, when it comes to implementing these ideals, it becomes so difficult, as everywhere

else, I believe, because each grouping has its own program, its own interests, its own agenda, and what's even more important: its own people or human resources. As I mentioned in the very beginning, there has been tremendous progress in every field; in economy, trade, investments, public order, education, institution building, etc.

But, are We satisfied with that? Of course not. Are You satisfied with that? I believe, not.

If we take into consideration the four-year period, from the 2009 elections to those coming on June 23rd, things have moved up and down, sometimes very rapidly and sometimes with a normal flow. As is happens in every democracy, "you need two to tango". And even having two is not a guarantee of a good dance, because both need to perform well; each one its own part.

In 2009 elections, Albania "met most OSCE commitments", including all key commitments (see Statement of OSCE/ODIHR spokesperson), yet, the result was not accepted by the losing party, which boycotted the Parliament for two successive years. A lot of opportunities were lost, especially with crucial reforms needed for speeding up the EU integration process. The fact of the matter is that Albania lost for three consecutive years the opportunity to achieve the Candidate Status for EU membership, because of this lack of participation in the Parliamentary life by the main opposition party, which prevented approval of important pieces of legislation which required two-thirds majority, which were essential

for moving ahead the reform process. Things gradually improved last year, following the November 2011 political agreement between the Democratic Party and the Socialist Party with regard to the approval of a number of laws that require consensus between the ruling majority and the opposition, including changes to the Constitution to limit the immunity from prosecution for members of parliament, government ministers, and judges. Also vitally important was the consensual Electoral Reform, which led to an improved Electoral Code, an improved climate of cooperation, as well as agreement on a very balanced Central Election Commission and regional and local election commissions, which is the core of the elections administration and responsible for the whole process.

I have to stress that since 2009, Albania possesses an electronic voters' list, accessible by every individual, and which is constantly updated by the Ministry of Interior. It is legally required that the final voters' list be published 45 days before the election day; with regards to the up-coming elections, it is going to be published on May 9th, just three days from now. I must stress as well that the only valid identification documents are either the biometric passport or the electronic chipped ID card, which have unique registry number, very high-tech security elements, and make it impossible for an individual to appear twice in the voters' list.

Until a month ago, the electoral process in Albania appeared to be unfolding smoothly. As always when a tight result is expected, the

climate was polarized, but we all know this is unavoidable, and I believe America experienced that, too, last year.

Quite unexpectedly, a month ago, the second biggest party of the governing majority, the Socialist Movement for Integration (LSI), after co-governing for 4 years, decided to pull out of the government and join the opposition. This was a legitimate political right of this party, but had enormous practical consequences for governing the country.

From that moment we had to live with this new political reality in Albania, which was reflected and will continue to be reflected in all levels of central government, of local government, of parliamentary bodies as well as in the election structures and institutions. We cannot ignore this new reality in offering prescriptions and making decisions with respect to very important issues, such as election administration.

Dear friends,

As you may have come to know during these recent days, there has been a very hot debate regarding the composition of the Central Election Commission (CEC), which is the main institution responsible for the preparation and conduct of elections in Albania.

There are two main elements that must be taken into consideration in order to understand this problem, but more importantly, to give a sound judgment with a long-term positive effect for my country:

1) Respect for the legal framework that has been in place in Albania since 2004,; and

2) Respect for the political consensus in favor of a politically balanced Central Election Commission, that was agreed to when the current government was in opposition and the current opposition was in power. Under this consensus, the governing majority has a 4-3 majority in the Commission, but the opposition is protected by the requirement of Art. 24 of the Electoral Code that the CEC can only act when “no less than 5 members have voted in favor”.

1. The legal question raised for this case was: “Did the Parliament have the authority to remove one member of the Central Election Commission who had been elected a few months previously with a six-year mandate, or not?”

The Parliament had all the legal bases to fix what seemed to be broken. The Electoral Code requires that the parliament establish the CEC in a politically balanced manner (Art. 14) and requires that it maintain that balance when vacancies arise (Art. 19). The parliament has the mandate to appoint and dismiss the CEC members (Art. 14 and 18). The Electoral Code stipulates that the six-year term is linked to the office and not to a specific member. Accordingly, when a vacancy is filled, the new member serves the remaining period of the term. This guarantees that six mandates, three of the ruling majority and three of the opposition, expire at the same time in order to ensure the balance is preserved. All these

provisions, designed to preserve the principle of political balance throughout the term of mandate of the CEC, implicitly authorize the Assembly to intervene to reestablish it, i.e. the political balance, when it is affected by changes in parliamentary coalitions. This follows not from specific criteria for dismissing a member for breach of law during the conduct of the work as provided in Art. 18, but it is based on the letter and the spirit of all the provisions regulating the formation and functioning of the CEC, as well as of all the election administration.

However, the Parliament acted to remove the representative of the Socialist Movement for Integration from the Central Election Commission not on the basis of its authority to maintain political balance within the CEC, but rather because his appointment had been made in violation to the law. Specifically, it was determined that he had given false testimony in his confirmation hearing session, hiding the fact that in 2003 he had been dismissed from duty of Public Prosecutor of Fier County by a Presidential Decree, upon the recommendation of the Prosecutor General of that time.

Article 12, point 2, letter “ë”, of the Electoral Code is crystal clear on this point: “Any Albanian citizen with the right of vote may be appointed a member of the CEC provided that the candidate fulfills the following criteria: ... has not been dismissed from public administration or any other public function due to a violation.”
(See Annex 1: Presidential Decree).

I understand the immediate reaction of someone will be: - Why now and not before?

The very simple answer is: - The Parliament reacted as soon as the fact became known. I don't believe that a surgeon continues the operation with a dull-bladed razor only because he has started with it. It's easy to guess the result. I believe this Congress has elected and confirmed so many great leaders, but at the same time has impeached leaders when new facts have come up in surface.

Some have asked: - Was the Assembly entitled to make a decision directly, or was it supposed to act only upon a decision of the CEC to recommend the dismissal? The dismissal of the CEC member was made for the reason that his appointment had not been made in accordance with the law, and not for breaches of the law by the CEC member in the conduct of the duty as Art. 18 requires; therefore the Assembly acted directly. This article stipulates the grounds for dismissal of an incumbent during the term. But such grounds are related to his exercise of duty and not to the criteria for the appointment stipulated in Art. 12, which were the ground for the release from duty of the LSI member. Only the dismissal for reasons found in Art. 18 require a recommendation from the CEC, which is made by a qualified vote to protect minority members from the abuse of such CEC competence to their detriment. However, this is not a precondition. If the Assembly is informed of violations of the law of individual members, it can act and should act swiftly. For example, Art. 18 stipulates that a member is dismissed if

he/she has been convicted by a final court decision for having committed a crime. In such case, the Assembly has full right to dismiss the member without a recommendation from the CEC. A blocking minority cannot void an important provision of the law by blocking the recommendation.

From whatever angle you analyze this issue, one thing is quite obvious: the Parliament did the right thing, legally and morally, for re-establishing the integrity and ensuring the normal functioning of the Central Election Commission. I have to stress that the government has the responsibility for creating normal conditions and balanced mechanisms for having free and fair elections complying with the OSCE norms and standards, whereas the political parties have moral and political responsibility for playing according to these rules, norms and standards. I believe that Albania has all the pre-conditions to conduct free and fair elections, provided there is a good political will from all sides to do so.

- 2.** In May 2003 and October 2004, the two main political parties in Albania, the Socialist Party and the Democratic Party, concluded an agreement for having a politically balanced Central Election Commission: three members from the governing majority party/coalition, and three members from the opposition party/coalition. According to the agreement, the seventh member, i.e. the chair of the commission, should always belong to the governing majority, since the government has the administrative responsibility for the preparation of elections. This political

agreement was reconfirmed last year as well, when both, the governing majority and the opposition, agreed to format the new Central Election Commission according to the agreement. Based on this political agreement for having a politically balanced CEC, as well as on the Electoral Code, Article 12 (Composition of the CEC) two members belonged to the Democratic Party and one member to the Socialist Movement for Integration (governing coalition); two members belonged to the Socialist Party and one member to the Human Rights Party (opposition coalition); and the seventh member – the chairman, belonged to the governing majority; thus fully complying with the political agreement as well as with the legal provisions of the Electoral Code.

But as I have mentioned previously, since a month ago, we have quite another reality; we witnessed the move of the Socialist Movement for Integration from the governing majority to the opposition, misbalancing not only the Central Election Commission, but also all the subordinate commissions at the regional and local levels. Consequently, we had the opposition becoming ‘majority’ in CEC with 4 members, and the governing majority becoming ‘minority’ with 3 members.

According to the political agreement and the Electoral Code, 50% of all the regional election commissions should have a “4 to 3” ratio in favor of the opposition, and the other 50% a “4 to 3” ratio in favor of the governing majority, thus achieving a perfect balance as the main means of ensuring trust as well as a ‘fair and square’

performance. But, had the CEC remained unbalanced in favor of the opposition, the consequence would have been a distorted ratio within all the regional commissions, i.e. the opposition would control 50% of the regional commissions with a 4-3 majority, as well as the other 50% of the regional commissions with a 5-2 advantage, which would mean no blocking mechanism at all.

My question is: Would this be politically and legally Right and Fair? Are elections a democratic mechanism where the term “democracy” = “the will of the majority of people” is taken seriously to benefit the long term prosperity of the people, or are elections simply considered “a gambling game” where all acrobatic figures are allowed?

I strongly believe that the Albanian Parliament did the right thing, legally, politically, and morally, to bring back the legitimacy of a balanced Central Election Commission, as a guarantee for having a standardized process, as well as free and fair elections. It is of paramount importance that all the Election Commissions be constituted according to and in compliance with the existing legal framework, explicitly fixed in the Electoral Code provisions.

Lastly, I want to throw light on a very important aspect, not only for Albania, but also for the whole region. Much has been said and written about the so-called “nationalistic rhetoric” emanating from Albanian politics last year. I assure you that the Albanian

Government has been quite clear and transparent about this issue. In many occasions, formal and informal, the Prime Minister of Albania has clearly stated that Albania is against any change of borders in Balkans. It is an historic fact that Albanians live in many states in Balkans, but it is also indisputable that Albania's main goal is full EU integration and membership, which fortunately is the main goal of all the countries in our region. I take advantage of this opportunity to congratulate Serbia and Kosova for their recent agreement to normalize the relations, because we believe that Brussels is going to be our common capital city and the final destination of the democratic journey of the Balkan countries. This is the reason why we so strongly supported the Prishtina-Belgrade dialogue, and this is the reason why we continuously urge the Albanian political parties in Montenegro and Macedonia to actively participate and contribute to the integration processes of their countries.

Dear friends,

Last year was a very emotional year for Albanians; we celebrated the 100th anniversary of our Independence, and I cannot continue without expressing the deep gratitude and appreciation of generations of Albanians for President Wilson whose principled determination made possible the very existence of the Albanian state. With this, I intend to clarify that what was perceived as “nationalistic rhetoric” was nothing else but “Albanian patriotism”. I assure you that no threat will ever emanate from Albania against

our neighbors. On the contrary, we view the Albanians living in our neighboring states, and the minorities living in Albania, only as bridges of friendship and understanding.

Thank you.

Annex 1



REPUBLIKA E SHQIPERISE
PRESIDENTI

DEKRET

PËR SHKARKIM PROKURORI

Në mbështetje të nenit 149, pika 3, të Kushtetutës, si dhe të neneve 32 germa "b" dhe 33 germa "ç" të Ligjit Nr 8737 datë 12.02.2001 "Për organizimin dhe funksionimin e Prokurorisë në Republikën e Shqipërisë", me propozim të Prokurorit të Përgjithshëm,

Dekretoj

Neni 1

1. **Ilirian MUHO**, prokuror në Prokurorinë e Rrethit Fier, shkarkohet nga kjo detyrë.

Neni 2

Ky dekret hyn në fuqi menjëherë.

Tiranë, më 13.03.2003

Nr. Dekretit 3727

PRESIDENTI I REPUBLIKËS

ALFRED MOISIU

Republic of Albania

The President

DECREE

For the Dismissal of Prosecutor

Based on article 149, point 3 of the Constitution, as well as article 32 letter b and 33 letter ç of Law No. 8737 of 12.02.2001 “For the organization and Function of the Prosecution Office in the Republic of Albania”, with the proposal of the Prosecutor General,

I Decree

Article 1

1. Ilirian MUHO, a prosecutor in the Prosecutor’s Office of the County of Fier is dismissed from his duties.

Article 2

This decree enters into force immediately.

Tirana, 13.03.2003

Decree Nr. 3727

President of the Republic

Alfred Moisiu

(signature and seal)

Annex 2

THE ELECTORAL CODE OF THE REPUBLIC OF ALBANIA

(Approved by Law no. 10 019, dated 29 December 2008,
and amended by Law no. 74/2012, dated 19 July 2012)

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Article 12*

Composition of the CEC

(* Amended by Law no. 74/2012, dated 19 July 2012)

1. The Central Election Commission (CEC) shall be composed of 7 members.
2. Any Albanian citizen with the right to vote may be appointed a member of the CEC provided that the candidate fulfills the following criteria:
 - a) is older than 35 years old;
 - b) holds a higher education degree;
 - c) has a professional experience of no less than 10 years of work, in at least one of the following fields:
 - i. law;
 - ii. public administration;
 - iii. administration of elections;
 - iv. a director of non-profit organizations that have as an object of their activity the protection and promotion of human rights and freedoms, the conduct of democratic elections or public policy;
 - ç) has not been convicted of a crime;
 - d) has not been a member of any political party in the last 5 years;
 - dh) has not been elected a deputy of the Assembly in the last 5 years;
 - e) has not been a member of the State Police, Armed Forces and State Intelligence Service in the last 5 years;
 - ë) has not been dismissed from public administration or any other public function due to a violation.

Article 14
Election of CEC members

1. The Assembly of Albania elects the CEC members in accordance with the following procedure:

- a) 2 members are proposed by the party that has the largest number of seats among the parties of the parliamentary majority and 2 members by the party of the parliamentary opposition that has the largest number of seats in the Assembly of Albania;
- b) the proposing subjects, during the selection phase, present no less than two candidacies for each vacancy. The chairs of the parliamentary groups of the proposing subjects select, collegially, 4 candidacies in accordance with the criteria provided for in letter “a” of this point. The proposing subjects of letter “a” select one candidacy of each gender;
- c) candidacies selected in accordance with letter “b” of this point are submitted to the Assembly for approval;
- ç) the fifth member of the CEC is elected from among the candidacies proposed by groupings of deputies of parliamentary majority parties other than the largest party of the majority grouping. The sixth member of the CEC is elected from among the candidacies proposed by groupings of deputies of the parliamentary opposition parties, with the exception of the largest party of the opposition. The proposing grouping presents a list with no less than two candidacies for the respective vacancy.

The list of candidates that has accumulated the highest number of supporting signatures from deputies of the respective parliamentary groups of the parliamentary majority and opposition, including also the deputies of the two largest parties from each grouping, is presented to the Assembly for a vote. If two or more lists have accumulated the same number of supporting signatures, all the candidacies included in these lists are presented for a vote. 13

2. Voting to elect the CEC members in accordance with this article is carried out on one single day.

Article 18

Early termination of the mandate of a CEC member

1. The mandate of a CEC member and of the Chair shall end before its expiry when he/she:
 - a) engages in political activity at the same time he/she exercises the duty of a CEC member;
 - b) reaches the age of retirement;
 - c) dies;
 - ç) resigns from office;
 - d) is found guilty by a final court decision for the commitment of a crime;
 - dh) by acting or failing to act, he/she seriously places at risk the activity of the CEC concerning the preparation, supervision, direction and verification of all aspects that pertain to elections and referenda, as well as to the declaration of their results;
 - e) is absent, without a reasonable cause, at two consecutive CEC meetings or, in an election period, for more than 5 days.

2. The discharge of a CEC member is done by a decision of the Assembly, upon the proposal of the CEC for the reasons provided for in letters “a”, “d”, “dh” and “e” of point 1 of this article. The CEC is required to start its procedure for a discharge proposal no later than 5 days from having been informed of the cause. In other cases of point 1 of this article, the CEC member is released by a decision of the Assembly, after it has been notified by the CEC.

Article 19*

Replacement of CEC members

(* Amended by Law no. 74/2012, dated 19 July 2012)

1. The new members of the CEC are elected no later than 30 days from the date of the end of the mandate of the outgoing members. The new members assume their duty on the day following the end of the mandate of the outgoing members or after taking the oath, in case of the early termination of a mandate.

2. In case of the early termination of a mandate of a member of the CEC, the Assembly is to appoint a replacement member within 30 days from the date the vacancy was announced by the CEC in accordance with letters “b”, “c”, and “ç” of point 1 of article 18 of this Code, or from the moment of dismissal. The same political subject that had proposed the candidate whose mandate ended has the right to propose the candidacies, if this subject fulfills the criteria specified in point 1 of article 14 of this Code. Otherwise, the candidacies are proposed by the political party that meets the criteria of ranking and affiliation. In case the Chair is replaced, the same voting procedure according to article 15 of this Code is carried out.
3. If the mandate of a member of the CEC ends prematurely during an electoral period, he/she is replaced by the Assembly as soon as possible, but no later than 48 hours after the creation of the vacancy.
4. The replacement member remains in office until the end of the deadline of the legal mandate enjoyed in accordance with the election act by the outgoing member whose mandate was prematurely terminated.

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