

# German Bundestag

## 19th electoral term

### Decision

The German Bundestag, at its 115th sitting, held on 26 September 2019, acting on the basis of Bundestag printed paper 19/13509, has adopted the following decision:

#### **Establishing agreement between the Bundestag and the Federal Government on the application of the Republic of Albania for accession to the European Union and on the recommendation made by the European Commission and the High Representative on 29 May 2019 that accession negotiations be opened**

I. The Heads of State or Government of the European Union (EU), at their summit meeting with the States of the Western Balkans on 21 June 2003, offered the Balkan States the prospect of accession to the EU if they fulfilled the conditions for membership. On 28 April 2009, Albania applied for accession to the EU in accordance with Article 49 of the Treaty on European Union (TEU). In June 2014, the European Council, having duly consulted the European Commission, granted Albania candidate status.

On 29 May 2019, the Commission presented a report on Albania's progress towards fulfilment of the conditions for the opening of accession negotiations. In that report, the Commission recommends that accession negotiations be opened with Albania. On 20 June 2019, the European Council agreed to reach a substantive decision as soon as possible and no later than October 2019 to open accession negotiations with Albania.

In a letter dated 6 September 2019, the Federal Government notified the Bundestag that Albania's progress was to be assessed and a decision taken on the opening of accession negotiations with Albania by the General Affairs Council on 15 October 2019 and by the European Council at its meeting of 17 and 18 October 2019. The Federal Government referred to the right of the Bundestag to deliver an opinion on decisions relating to the opening of negotiations on any country's accession to the EU. Under section 9 of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union, the Federal Government is to reach agreement with the Bundestag before consenting to accession negotiations.

In its report to the European Parliament and the Council on Albania's progress towards attaining the required level of fulfilment of the accession criteria, the Commission concluded that Albania was making steady progress in implementing reforms in key aspects of administration and the judicial system, in the fight against corruption and organised crime and in the realm of human rights. In June 2018, the Council, in its conclusions, had undertaken to make a decision in 2019 on the opening of accession talks on the basis of the progress achieved by then,

subject to fulfilment of the specified key criteria. Since then Albania has continued to press ahead with its reform efforts and has made progress on the key criteria. While acknowledging the progress made in implementing reforms, the Commission also calls for improvement of the political climate.

The Bundestag supports Albania's prospective membership of the EU and acknowledges the country's reform efforts, notwithstanding all shortcomings. The accession process is a crucial driving force for reform and stability in the region. Germany and the EU have a special interest in stabilisation and good neighbourly relations in the region. Albania, which is already a member of NATO, attaches very high priority to the process of convergence with the EU, and the aim of accession to the EU elicits a high approval rating from its population. In recent years the country has initiated political reforms, some of them very substantial, with a view to meeting the conditions for the opening of accession negotiations. Implementation of comprehensive reform of the judicial system is already under way.

Although success has been achieved in meeting some of the key priorities, the Bundestag also notes that numerous shortcomings still persist. While the new judicial self-governance institutions have been established, they are not yet fit for purpose. Through their establishment, steps have been taken to reinforce judicial independence and accountability. It is now time to fill the vacant posts in the Constitutional Court and the High Court. It is also important to establish a system of basic and in-service training so as to ensure the future supply of suitably qualified and independent judges and prosecutors.

Perceptible progress has already been made in combating cannabis-growing. In close cooperation with Italian authorities, numerous reconnaissance flights have been made to identify plantations. The total area under cultivation has been sharply reduced. The quantity of cannabis seized in Italy, which is an indicator of the quantity being grown, plummeted by 81% within a year from 34.72 tonnes in 2017 to 6.59 tonnes in 2018. Close cooperation also takes place with German authorities. Nevertheless, Albania remains a nerve centre of drug trafficking for the European market. Traffic in narcotic drugs has increased significantly.

In its efforts to reform the public administration, Albania has also made progress towards efficient and transparent public services. This progress must be consolidated so that a more efficient, depoliticised and professional public administration can be established.

Besides the five key priorities for fulfilment of the conditions for the opening of accession negotiations, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission of the Council of Europe set out recommendations for electoral law reform in 2013 and 2015. Even though these are not part of the European catalogue of requirements, the Bundestag considers that these recommendations must be implemented without delay. A bill was presented to that end in December 2018, but it has not yet been adopted.

Albania is caught up in a serious internal political crisis. The Bundestag emphatically urges all democratic forces in Albania to make every effort now to ensure that this crisis is resolved as soon as possible through political dialogue, because the course of accession negotiations will otherwise be seriously hampered.

## II. The Bundestag notes:

- All 57 of the prioritised judges and prosecutors of the highest courts and prosecution services have undergone vetting. Those who failed the vetting process have been removed from office.

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- A bill on the reform of electoral law that fulfils the OSCE ODHIR recommendations and provides for transparent party and campaign funding has been presented but has yet to be adopted.
  - Criminal proceedings have been instituted against some judges and prosecutors charged with criminal offences as a result of the vetting process. Other indictments must follow.
  - All judges of the Constitutional Court have been vetted, and all those with blemished records have been dismissed. Consequently, the Constitutional Court has only one member at the present time, when a large number of cases are pending. The Constitutional Court is likely to be able to function in the coming months with five of its full quota of nine members.
  - The High Court currently comprises only one presiding judge and two delegated judges. The vetting of candidates has not yet been completed. On account of the lengthy vetting process, the High Court is unlikely to be operational before the end of 2019.
  - The post of Prosecutor-General is only held by an interim incumbent and must be filled as quickly as possible.
  - SPAK – the Special Anti-Corruption and Organised Crime Structure – has been created, as requested, as a special tribunal to combat organised crime and corruption. In the SPAK framework, Albania is cooperating closely *in situ* with experts from Germany, Austria and other Member States and has concluded a cooperation agreement with Eurojust. So far 15 candidates for appointment to SPAK have been approved by the High Prosecutorial Council. SPAK is expected to be operational by the end of 2019.
  - The High Prosecutorial Council has launched investigations into accusations of vote-buying; to date, however, no arrest warrants have been issued. Criminal proceedings must be launched without delay and concluded quickly once firm evidence of an offence emerges.
  - The local elections of 30 June 2019 were conducted in a largely peaceful manner, but a decision on their legality is still pending. There is an urgent need for the Constitutional Court to rule on the legality of those elections.
  - Although there are proactive investigations, prosecutions and convictions in cases of corruption and organised crime, they must be pursued rapidly and vigorously against perpetrators at all levels, including high-ranking officials and politicians.
  - Progress has also been made on administrative reform. For example, legal provisions governing the civil service have been adopted, and structures have been created for the training and recruitment of professional administrators. Implementation, however, is advancing sluggishly.
  - The fight against drug trafficking and the cultivation of narcotic plants has been stepped up. Thanks to joint investigation teams with Italy and Germany, criminal rings have been arrested in Italy. Narcotic plant cultivation has been curbed, but conversely the importance of Albania in the drug-trafficking chain has increased.
  - The political statements and aspirations of those who would unite the Albanian populations of Albania, Kosovo and Macedonia into a Greater Albania have the potential to lead to inestimable conflicts in the Western Balkans. Such aspirations must be given up immediately, because they would be incompatible with accession to the EU and would inevitably lead to the breakdown of accession negotiations.

- III. In accordance with section 9 of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union, the Bundestag declares its agreement that the Federal Government should consent to a decision of the European Council that negotiations be opened on Albania's accession to the EU. At the same time, it expresses the expectation that a subsequent decision on accession to the EU will not only depend on fulfilment of the accession criteria but will also be taken with due consideration of the absorption capacity of the EU.

In addition, the Bundestag calls on the Federal Government:

1. to make its consent in the European Council on 17 and 18 October 2019 subject, as a matter of principle, to the following prerequisites:
  - (a) that the first accession conference does not take place before the Federal Government has established that Albania has fulfilled the following conditions:
    - has ensured that the Constitutional Court and the High Court are able to operate and perform their respective functions by providing them with a sufficient number of vetted judges and prosecutors;
    - has adopted electoral law reforms that fully accord with the recommendations of the OSCE ODIHR, has ensured that the funding of political parties and electoral campaigns is transparent and has acted on the findings of the *ad hoc* parliamentary committee on electoral reform; the review of the committee draft should take place in an open and inclusive dialogue involving all political forces, as recommended in the ODIHR report of 5 September 2019;
  - (b) that the second accession conference and the negotiations on the first chapter do not take place before the Federal Government has established that Albania has fulfilled the following conditions:
    - has implemented the law enshrining the initiated electoral reforms;
    - has instituted criminal proceedings against judges and prosecutors accused in the vetting process of criminal conduct;
    - has initiated investigations by the prosecution service and, where appropriate, judicial proceedings against persons connected with vote-buying in elections, and has ensured that the proceedings are conducted rigorously and expeditiously;
    - has commissioned the Special Anti-Corruption and Organised Crime Structure and has ensured that it can function properly;
    - has made sound progress towards establishing a track record of fighting corruption and organised crime at every level, including the institution of proceedings against high-ranking officials and politicians and the completion of the first cases; these efforts include proactive investigations and, where appropriate, criminal prosecutions and convictions in cases of corruption and organised crime;
    - has made tangible progress in administrative reform, including a review of the attitudes of high-ranking officials and directors, taking due account of alleged irregularities;
    - has made, in the Constitutional Court, a final decision on the legality of the local elections of 30 June 2019; if the Court orders a re-run of the elections, they must be conducted on the basis of the new electoral law;

2. to ensure that the negotiating framework is structured in such a way as to guarantee that Albania will pursue its reform course systematically and, in particular, that adopted reforms will be implemented; if, after the opening of negotiations, Albania delays, suspends or reneges on the fulfilment of obligations, the accession negotiations are to be stayed and, in case of doubt, discontinued; the opening and closure of negotiations on individual chapters must be subject to clear criteria;
3. to make it clear that Albania still has considerable additional efforts to make if it is to meet the accession criteria, especially in the following areas:
  - the rule of law, i.e. continuation of the process of vetting judges and prosecutors and creating new judicial structures, and
  - the fight against corruption and organised crime, including measures to strengthen and interlink institutions and the establishment of a sound track record of uncovering and seizing finances obtained by means of corrupt practices at every level;
4. to ensure that the Commission and the European External Action Service provide regular information on reform measures during the accession negotiations, particularly on measures relating to the aforementioned key areas;
5. to ensure that the discussion of these chapters, particularly Chapter 23 (Judiciary and fundamental rights) and Chapter 24 (Justice, freedom and security), takes place at the start of the negotiations and is not concluded until the end of the negotiations; the plans of action proposed by the Commission for these chapters must specify clear time limits and targets, compliance with which is the prerequisite for the opening of new chapters; negotiations must not be opened on any other chapter until this condition has been met; the Commission must report regularly on the implementation of the plans of action in addition to presenting annual progress reports; the opening and closure of more chapters must depend on substantive progress in these areas;

the Bundestag reserves the right to exercise its general entitlement to deliver an opinion under section 8 of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union if it concludes that the conditions for the opening of negotiations on new chapters have not been fulfilled;

6. to ensure that the following subjects are prioritised during the accession negotiations:
  - functioning democratic institutions,
  - reform of the public administration,
  - economic development and competitiveness,
  - good neighbourly relations and regional cooperation,
  - freedom of the press and media,
  - rights of the most vulnerable groups and of members of minorities, and
  - a vibrant civil society;
7. to ensure that Albania fully meets the political and economic criteria if it accedes to the European Union; strict fulfilment of the Copenhagen Criteria remains the prerequisite for accession; there must be no element of automatism such as setting an accession date before the negotiations have been completed;
8. to endeavour to ensure that convergence with the *acquis communautaire* involves agreement on the fewest possible transitional arrangements and exemptions; Albania wishes to accede to the EU and must accept that the *acquis* is not open to dilution by negotiation;
9. to endeavour to ensure that Albania already subjects itself to the provisions of the

European Stability and Growth Pact in the negotiating process and that, if and when it accedes to the Union, it fulfils the stability criteria set out in the Maastricht Treaty before it is able to sign up officially to monetary union;

10. to keep the Bundestag continuously informed of the state of the accession negotiations in accordance with sections 3 to 6 of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union and, in so doing, to make its own position clear; progress towards accession should not be assessed by the Commission alone but also by the Federal Government on a regular basis in consultation with its diplomatic missions.