

Developments in State aid control in Albania

Anduena Gjevori

ANDUENA.GJEVORI@UNIEL.EDU.AL.

Abstract

The Stabilisation and Association Agreement is the legal basis of the relations between Albania and European Union. It requires Albania, inter alia, to align with European Union standards State aid measures. In this framework, different governments have worked on introducing State aid legislation in line with European Union substantive and procedural State aid rules. Moreover, a State aid controlling authority has been established. The paper by analysing the legal and institutional framework with regard to State aid control will provide conclusions on the challenges and obstacles faced by Albania in the first phase of establishing an internal monitoring system of State aid as a precondition for its accession to European Union.

Keywords: Albania, State aid reforms, EU conditionality, State Aid Commission

Introduction

Article 107 of the Treaty on the Functioning of the European Union (TFEU) prohibits “any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods”.¹ The original rationale for including State aid control as a part of the Treaty of Rome 1957 was to avoid national protectionism and subsidy races between Member States that would

¹ Neni 107 (1) Treaty on the Functioning of the European Union [2012] OJ C326/47.

undermine free competition in the internal market.² The European Commission is entrusted with State aid control.³ However, the Europe Agreements concluded between EU and Central and Eastern European (CEE) countries introduced a ban on State aid and the establishment of national State aid monitoring authorities.⁴ The establishment of these authorities in CEE countries during the EU pre-accession phase was an exception to the supranational enforcement of State aid control by the European Commission.⁵ Following the example of the Eastern enlargement the European Commission introduced an internal system of State aid control also in the Stabilisation and Association Agreements (SAAs) concluded with the Western Balkan (WB) countries. All SAAs contain a general prohibition on State aid and the establishment of an “operationally independent authority” “entrusted with the powers necessary for the application” of the State aid rules.⁶

The Albanian Law on State aid has been adopted in 2005 and has entered into power in January 2006.⁷ The Law was amended in 2009⁸ and 2016⁹ in order to align it with the ever-changing EU rules on State aid. Furthermore, by-laws necessary for the implementation of the above-mentioned Law have been approved by subsequent Albanian governments. Additionally, related to the establishment of an “operationally independent” controlling State aid authority, the Albanian State aid Commission (SAC) has been established since 2006. The SAC is a decision-making body for State aid control, which evaluates and authorises State aid schemes and individual aid and may recover unlawful aid.¹⁰ In addition, the Law establishes a State Aid Department (SAD), as an administrative body, functioning under the ministry responsible for economy. Some of the competences of the SAD are to collect, prepare and investigate data about State aid, to collect notifications and prepare the decisions of the SAC.

The paper will first analyse the obligations deriving from the Stabilisation and Association Agreement between EU and Albania in introducing a State aid regime in Albania, exploring steps undertaken by subsequent governments in fulfilling these obligations. It will continue with an overview of the legislative and institutional framework on State aid in Albania, describing and analysing the main

² Bacon, *European Union Law of State Aid*, (Oxford University Press 2nd edition 2013) pg. 4.

³ Ehlerman, State aid control In EU: Success or Failure? Vol. 18 (4), *Fordham International Law Journal* 1994 pp. 1216.

⁴ Cremona, State Aid Control: Substance and Procedure in Europe Agreements and the Stabilisation and Association Agreements, Vol. 9, No. 3, *European Law Journal*, 2003, pp. 265-287.

⁵ Botta, State Aid Control in South-East Europe: The Endless Transition, Vol 1 *EStAL* 2013, pp. 83-94.

⁶ Schutterle, State Aid Control in the Western Balkan Countries and Turkey, Vol. 2 *EStAL*, 2005, pp. 255-263.

⁷ Law no. 9374, dated 21.4.2005 “On State aid”, Official Gazette no. 36, pg. 36.

⁸ Law no. 10 183, dated 29.10.2009 “On some changes and amendments in the law no. 9374, dated 21.4.2005 “On State aid”, Official Gazette no. 166, pg. 7342.

⁹ Law no.21/2016 “On some amendments to the law no. 9374, date 21.4.2005, “On State Aid” amended.” Official Gazette no. 47 pg. 3140.

¹⁰ See Article 17 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

obstacles. The analysis will provide that the Albanian legislative framework in the field of State aid shows the willingness of the Albanian governments to align it with the EU State aid *acquis*, although to a certain degree. Further, the paper explores one of the main weaknesses with regard to Albanian State aid control namely, the State Aid Commission. Although the State aid Law provides that the State Aid Commission is independent while performing its duties, the independence of the SAC has shown some limitations. The later is significantly dependent on the Ministry of Finance and other State aid grantors.

Stabilisation and Association Agreement with Albania: State aid obligations and the first implementation steps

State aid control is enriched in Title VI, “Approximation of laws, law enforcement and competition rules” of the Stabilisation and Association Agreement (SAA). Article 71 of the SAA provides that the following shall be incompatible with the proper functioning of this Agreement, insofar as they may affect trade between the Community and Albania: (i) all agreements between undertakings, decisions by Associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition; (ii) abuse by one or more undertakings of a dominant position in the territories of the Community or of Albania as a whole or in a substantial part thereof; (iii) any State aid which distorts or threatens to distort competition by favouring certain undertakings or certain products. The SAA further provides that any practices involving State aid or competition issues shall be assessed on the basis of the criteria arising from the application of Articles 81, 82, 86, 87 of the Treaty establishing the European Community¹¹ and also the interpretative instruments adopted by the Community Institutions.¹² The application of Union derived criteria in the enforcement of State aid, include both present and future hard law and soft law and also judgements of the Union Courts.¹³

Pursuant to the SAA, Albania should establish an operationally independent public body with the powers necessary for the full application of paragraph 1(i) and (ii) of Article 71 mentioned-above, regarding private and public undertakings and undertakings to which special rights have been granted. This obligation has been fulfilled by Albania with the introduction of the Competition Authority in 2004.¹⁴ In addition, the SAA

¹¹ The Stabilisation and Association Agreement refers to the numbers of Articles according to the EC Treaty, as it was signed before the entrance into power of the Lisbon Treaty.

¹² See Article 71 point 2 of the SAA.

¹³ *Cremona*, State Aid Control: Substance and Procedure in Europe Agreements and the Stabilisation and Association Agreements, Vol. 9, No. 3, *European Law Journal*, 2003, pp. 265-287.

¹⁴ See website: <http://www.caa.gov.al/about>.

requires Albania to establish an operationally independent authority which would apply the provisions on State aid according to the SAA. This authority, pursuant to the SAA shall have, *inter alia*, the powers to authorise State aid schemes and individual grants as well as the powers to order recovery of State aid that has been unlawfully granted. The State Aid Commission was introduced in 2006¹⁵ and will be analysed below.

Albania is requested to create an inventory of aid schemes within a period of no more than four years from the date of entry into force of the SAA. In practice, the fulfilment of this condition is not easy, especially within a short time of period.¹⁶ A report on the inventory of existing State aid schemes in Albania was issued in January 2008 and it includes data on State aid granted since 2000.¹⁷ Further, in order to ensure State aid transparency annual reports following the methodology of the European Union on the total amount and the distribution of the aid granted and by providing upon request information on particular individual cases of public aid, are submitted to the European Commission.¹⁸ Annual reports on State aid have been submitted to the European Commission from the Albanian Government starting from 2008 reporting State aid given during 2007.¹⁹

Another obligation under the terms of the SAA for Albania is to assess regional aid taking into account that the whole territory will be regarded as eligible under the criteria of Article 87(3)(a) TEC (now Article 107(3)(a) TFEU)²⁰ during the ten first years after the entry into force of the SAA. Within five years from the date of entry into force of the SAA on the basis of the Albanian GDP's per capita figures, harmonised at NUTS II level the Albanian State Aid Commission and EU Commission will jointly

¹⁵ Article 107/3 of the Treaty on the Functioning of the European Union provides: "The following may be considered to be compatible with the internal market: (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation; (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State; (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest; (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest; (e) such other categories of aid as may be specified by decision of the Council on a proposal from the Commission.

¹⁶ *Bieguriski*, Sensitivity of sectors and the need of State aid reforms in economies in transition. Issue 4 *EstAL*. 2008, pg. 671.

¹⁷ Council Minister's Decision no. 45 dated 16.01.2008 "On the approval of the report on inventory of existing state aid schemes in Albania", Official Gazette no. 9, pg. 9. See also Commission Staff Working Document – Albania 2006 Progress Report, COM (2006) 649 final, pg. 27. Commission Staff Working Document – Albania 2008 Progress Report, Accompanying the Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2008-2009 (COM (2008) 674) pg. 30.

¹⁸ See Article 71 point 5 of the SAA.

¹⁹ Decision of the Council of the Ministers no. 1023 dated 9.7.2008 "On the approval of the annual report "About State aid during 2007" Official Gazette no. 131, dated 31.7.2008 pg. 5277.

²⁰ *Supra* note 17.

evaluate the eligibility of the regions as well as the maximum aid intensities in order to prepare the regional aid map.²¹ The regional State aid map has been adopted in 2012 by a decision²² of the Albanian State Aid Commission, based on the NUTS II division of the country and is in line with the *acquis*.²³

Protocol 1 to the SAA on Iron and Steel Products²⁴ requires the parties to “address promptly the structural weakness of its iron and steel sector and to ensure the global competitiveness of its industry”. Therefore Albania should establish, within three years the necessary restructuring and conversion programme to achieve availability of this sector under normal market conditions.²⁵ In addition, to State aid rules Article 71 of the SAA provides that any specific EU rules for the iron and steel sector should be applied in order to assess aid. According to this Protocol Albania may during the five years after the entry into force of the SAA “exceptionally grant aid for restructuring purposes provided that: (a) it leads to the viability of the benefiting firms under normal market conditions at the end of the restructuring period, and (b) the amount and the intensity of such aid are strictly limited to what is absolutely necessary in order to restore such viability and are progressively reduced, and (b) the restructuring programme is linked to a global rationalization and compensatory measures to counter the distorting effect of the aid granted in Albania.” Protocol 1 requires transparency which will be achieved by exchanging information including details of restructuring plans and its implementation. The Stabilisation and Association Council is the monitoring authority according to the SAA. Albania has confirmed in 2007 its intention not to provide any aid for the restructuring of the iron and steel industry.²⁶

The Albanian law on State aid transposition of EU state aid *acquis*

The Albanian Law on State Aid entered into force on 1 January 2006.²⁷ The Law correctly transposes the rules of the SAA into the national legislation. The objective

²¹ See Article 71, point 7 of the SAA.

²² Decision, No. 43, dated 11.09.2012, of the Albanian State Aid Commission “On the approval of the regional map of State aid”, Official Gazette no. 131, pg.131.

²³ Commission Staff Working Document – Albania 2012 Progress Report, accompanying the document from the Commission to the European Parliament and the Council enlargement strategy and main challenges 2012-2013 COM (2012) 600 at pg. 37. http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf. Accessed April 2018.

²⁴ Protocol 1, of the SAA, “On iron and steel products”.

²⁵ Article 5 of the Protocol 1, “On iron and steel products” of the SAA.

²⁶ Commission Staff Working Document – Albania 2009 Progress Report, accompanying the document from the Commission to the European Parliament and the Council enlargement strategy and main challenges 2009-2010 COM (2009) 533, at pg. 30. http://ec.europa.eu/enlargement/pdf/key_documents/2009/al_rapport_2009_en.pdf. Accessed April 2018.

²⁷ Law no. 9374, dated 21.4.2005 “On State aid”, Official Gazette no. 36, pg. 36.

of the Law is to regulate principles and procedures regarding State aid control in order to support the economic and social development of the country. Further, the Law aims to fulfil obligations of Albania undertaken in the framework of international agreements which contain dispositions on State aid.²⁸ The Law does not apply to fishery and agriculture sectors.²⁹ This is in line with the SAA which excludes agricultural and fishery products from the application of State aid rules.

The Law is largely compatible with Article 107 Treaty on the Functioning of the European Union (TFEU). Article 107 of the TFEU (ex Article 87 TEC), does not define State aid.³⁰ This Article lays down the test for State aid.³¹ It covers both aids given to public undertakings and aid given to private firms. The first paragraph of Article 107 TFEU provides the general principle according to which State aid is not compatible with the internal market; the second paragraph provides the exceptions for the situations when State aid may be deemed compatible with the internal market and the third paragraph provides certain types of aid when it may be deemed to be compatible with the internal market.³² In the same line Article 4 of the Albanian Law on State aid establishes the general ban of State aid, so any State aid given through state sources in any form which directly or indirectly distorts or threatens to distort competition by favouring certain undertakings or production of certain products, will not be allowed save as otherwise provided in the Law. Moreover, Article 7 of the Law provides aid, which is compatible.³³ Finally, Article 13 of the Law provides aid, which may be deemed compatible.³⁴

The Albanian legislator has chosen to include in the Law the key elements by Commission block exemptions for SMEs, R&D, employment, training and *de minimis* aid. It also provides the main criteria for regional as well as restructuring and rescue aid. These issues are regulated by EU secondary legislation. There have been many

²⁸ Article 1 of the law no. 9374, dated 21.4.2005 "On State aid", amended.

²⁹ Article 1 of the law no. 9374, dated 21.4.2005 "On State aid", amended.

³⁰ Baudenbacher C. (1997), *A Brief Guide to European State Aid Law*, Netherlands, Kluwer Law International, pg. 6.

³¹ De Burca P. (2008). *EU law text, cases and materials*. Oxford University Press, pg. 1086.

³² *Ibid* pg. 1086.

³³ Article 7 of the law no. 9374, dated 21.4.2005 "On State aid", amended provides: "State aid permitted is: (a) aid having social character granted to individual consumers provided that such aid is granted without discrimination related to the origin of the products concerned (b) and aid to make good the damage caused by natural disasters or exceptional occurrences".

³⁴ Article 13 of the law no. 9374, dated 21.4.2005 "On State aid", amended, provides: "State aid may be permitted if it: (a) promotes economic development of the areas of the Republic of Albania where the standard of living is abnormally low or where there is serious underemployment; (b) promotes the execution of an important project of the Republic of Albania or to remedy a serious disturbance in the economy of the country; (c) it facilitates the development of certain economic activities or of certain economic areas, where such aid is in compliance with the obligations undertaken by the Republic of Albania through international agreements ratified by the Republic of Albania; (ç) it promotes culture and heritage conservation where such aid does not affect trading conditions and competition; (d) it is in compliance with the provisions of the Law and other normative acts".

reforms of EU State aid control, the most important of which have been the State Aid Action Plan (SAAP), the reform of State Aid Rules for Services of General Economic Interest (SGEI) and the State Aid Modernisation (SAM). During these reforms a lot of secondary legislation for State aid control has been adopted by EU. Consequently, the Albanian Law on State aid has been amended in 2009³⁵ and 2016³⁶ in order to align it with the developments of EU rules on State aid. The amendments of 2009, introduced rules on State aid for risk capital and for the environmental protection. The amendments of 2016 introduced rules on services of general economic interest, *de minimis* aid and other categories of horizontal aid. However, this time the legislator has authorised the Council of Ministers to provide, through its decisions, the conditions, criteria on intensity of aid as well as authorisation procedures.

The State aid Law contains also detailed procedural provisions approximating it with Articles 108-109 TFEU. According to the Law, the State aid grantor should notify the State Aid Department of any plan to grant new aid, independently of its form and its beneficiaries.³⁷ State aid grantor as defined by the Law includes organs of central and local government, any other entity acting on behalf of the State which is or might be authorized to give State aid.³⁸ The Law provides both *ex-ante* and *ex-post* control.

An *ex ante* control is started upon receipt of a complete State aid notification.³⁹ The Law provides that it is the State Aid Department which receives all the notifications.⁴⁰ Pursuant to Article 20/3 of the Law a notification should contain all the necessary information permitting the SAC to evaluate the compatibility of State aid. In case of incomplete information, the State Aid Department can request further information.⁴¹ Unfortunately, the number of the notifications by the Government remains low and there have been no notifications by regional or local authorities.⁴²

The SAC can take “a positive decision” declaring that the measure is no aid or that aid is compatible. Further, SAC may attach conditions to a positive decision

³⁵ Law no. 10 183, dated 29.10.2009 “On some changes and amendments in the law no. 9374, dated 21.4.2005 “On State aid”, Official Gazette no. 166, pg. 7342.

³⁶ Law no.21/2016 “On some amendments to the law no. 9374, date 21.4.2005, “On State Aid” amended.” Official Gazette no. 47 pg. 3140.

³⁷ Article 3 of the Council Ministers’ Decision no. 817, dated 28.12.2005 “On the approval of the regulation laying down procedures and notification form”

³⁸ Article 3 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

³⁹ Article 69 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

⁴⁰ Article 20 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

⁴¹ Article 7 of the Council Ministers’ Decision no. 817, dated 28.12.2005 “On the approval of the regulation laying down procedures and notification form”

⁴² Commission Staff Working Document – Albania 2014 Progress Report, accompanying the document from the Commission to the European Parliament and the Council enlargement strategy and main challenges 2014-2015 COM (2014) 700 final, at pg. 26. https://ec.europa.eu/neighbourhoodenlargement/sites/near/files/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf. Accessed April 2018.

on compatible aid. Finally, SAC can make a “negative decision” declaring that the measure is incompatible and cannot be implemented. The Albanian legislator provides for a deadline of 60 days from the receipt of a complete notification within which the SAC should take one of the above-mentioned decisions. The Law expressly obliges SAC to publish its decisions in the Official Gazette of the Republic of Albania, contributing to transparency of State aid control regime.⁴³ The notified aid cannot be implemented before the SAC has reached a decision which approves State aid. This is in line with the standstill obligation provided by Article 108/3 TFEU according to which Members States cannot implement State aid during the period in which the Commission reviews State aid.⁴⁴ The SAC has approved almost all notified aid schemes.

The Law also establishes the *ex-post* control. The State aid Commission or the State aid Directory based on information about illegal aid, shall request additional information to the State aid grantor.⁴⁵ According to the Law illegal aid is any aid granted and implemented without the approval of the State aid Commission or any aid which has been notified but not approved by the SAC.⁴⁶ The SAC can take a decision requiring the aid grantor to suspend the aid until it has reached a decision on its compatibility.

The SAC may order recovery of any illegal aid. In these cases the SAC should order its repayment from the beneficiary together with the interests as provided by the Law. This is in line with the reasoning of the ECJ according to which illegal State aids should be repaid, this being the logical consequence of a finding that the aid was unlawful.⁴⁷ However, the SAC has not taken any decisions considering an aid scheme unlawful and thus ordering for its recovery.⁴⁸

The Albanian State Aid Commission – at the core of the gap implementation

The Albanian Law on State Aid establishes the State Aid Commission (SAC) as the decision-making body.⁴⁹ The SAC is a collegial body composed of five members.⁵⁰ It evaluates and authorises State aid schemes and individual aid and may recover

⁴³ See Article 31 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

⁴⁴ Supra note 32 at pg. 1100.

⁴⁵ Article 25 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

⁴⁶ See Article 3 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

⁴⁷ Supra note 32 at pg. 1105.

⁴⁸ Commission Staff Working Document – Albania 2016 Progress Report, COM (2016) 715 final, at pg. 41. https://ec.europa.eu/neighbourhoodenlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf Accessed April 2018.

⁴⁹ See Article 16, paragraph 1 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

⁵⁰ See Article 16, paragraph 1 of the law no. 9374, dated 21.4.2005 “On State aid”, amended.

unlawful aid. Article 17 of the Law on State aid provides also for the competence of SAC to monitor the use made of State aid and its economic benefits.⁵¹ In addition, the Law establishes a State Aid Department (SAD), as an administrative body, functioning under the ministry responsible for economy.⁵² This structure is entrusted with the competence to carry out investigations and prepare proposals for State aid decisions taken by the SAC.

The first SAC in Albania was established in March 2006.⁵³ Until March 2016, the SAC was composed of five members proposed by the Government upon proposal of the minister of finance, minister of economy, minister of justice and one member from the civil society.⁵⁴ The 2016 amendments to the 2005 Law on State aid provided that one of the members of the SAC will be proposed by the Ministry of European Integration instead of the Ministry of Economy.⁵⁵

The minister responsible for economy is the chairman of the commission. The members of the SAC should be professionals who have experience in the field of economy. Their mandate is of four years.

Although the State aid Law provides that the State Aid Commission is independent while performing its duties, the independence of the SAC has shown weaknesses. The SAC is chaired by the Minister responsible for economy one of the biggest grantors of State, which raises questions about the conflict of interests.⁵⁶ Moreover, the State Aid Commission has no separate budget. The remuneration of the members of SAC is financed by the budget of the ministry responsible for the economy. Further, SAC has limited administrative capacities. Its four members, are working only part-time for the SAC as they are usually civil servants working for the ministries who proposes them or for other institutions. On the other hand, the State Aid Department within the ministry responsible for economic issues depends personally, organisationally and financially from it. Moreover, this department has been most of the time understaffed operating even with two civil servants.

The operational independence of the State aid State aid enforcement authority in Albania has been criticised in subsequent progress reports of the European Commission. Thus, the Commission Opinion on Albania's application for

⁵¹ See Article 17 of the law no. 9374, dated 21.4.2005 "On State aid", amended.

⁵² Article 18 of the law no. 9374, dated 21.4.2005 "On State aid", amended.

⁵³ Commission Staff Working Document – Albania 2006 Progress Report, COM (2006) 649 final, at pg 22. http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/al_sec_1383_en.pdf. Accessed April 2016.

⁵⁴ Article 16, paragraph 2 of the law no. 9374, dated 21.4.2005 "On State aid", amended.

⁵⁵ Law no.21/2016 "On some amendments to the law no. 9374, date 21.4.2005, "On State Aid" amended." Official Gazette no. 47 pg. 3140.

⁵⁶ Bieguriski L (2012), Forms of State aid authorities in associated countries of Central and Eastern Europe, EStAL 3 pg. 567-572.

membership of the European Union⁵⁷ provided that Albania should guarantee the operational and administrative capacity of the State aid enforcement authority so that it can enforce the legislation effectively. Additionally, the latest Progress Report of the Commission of the European Union of 2018 requires Albania “to ensure the operational independence of the State Aid Commission (SAC) and strengthen the capacity of the State Aid Unit”.⁵⁸ The Albanian authorities should rethink the link between the Government and State Aid Commission in order to guarantee the independence of the Albanian State aid monitoring authority. The independence of this controlling institution is important for the effectiveness of the State aid system.

Conclusions

In establishing a State aid regime as one of the requirements of the Stabilisation and Association Agreement, Albania has introduced a Law on State aid as well as secondary legislation. Moreover, Albania has confirmed its intention not to provide any aid for the restructuring of the iron and steel industry. A State aid inventory was compiled in January 2008. Followed, by the regional State aid map has, based on the NUTS II division of the country and is in line with the *acquis*. The legal framework correctly transposes the obligations of the SAA and is broadly in line with *acquis*. Moreover, the 2009 and 2016 amendments to the 2005 Law on State aid approximated it with the State aid secondary legislation approved in the framework of reforms of EU State aid control, the most important of which have been the State Aid Action Plan (SAAP), the reform of State Aid Rules for Services of General Economic Interest (SGEI) and the State Aid Modernisation (SAM). Although progress has been made related to the legal framework for the State aid control in Albania, additional efforts are required to bring it into line with the *acquis*.

With regard to the institutional framework about State aid control in Albania, the SAA provides the establishment of an “independent operational body” entrusted with the power to implement State aid rules. Although the State aid Law provides that the State Aid Commission is independent while performing its duties, the independence of the SAC has shown some limitations. The State Aid Commission is significantly dependent on the Ministry of Finance and other State aid grantors.

⁵⁷ Commission Staff Working Document – Commission Opinion on Albania’s application for membership of the European Union (COM (2010) 680) final at pg. 64. https://www.parlament.al/wp-content/uploads/2015/10/al_analytical_report_2010_en_23390_1.pdf. Accessed April 2016.

⁵⁸ Commission Staff Working Document – Albania 2018 Progress Report, SWD (2018) 151 final, at pg 22. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>. Assessed April 2018.

Moreover, it lacks human and financial resources to apply effectively and efficiently the legal framework on State aid. The reform of institutional aspects of State aid regime in Albania is crucial in fulfilling one of the EU conditions related to State aid control. However, the 2009 and 2016 amendments to the 2005 Law on State Aid are a missed opportunity.

About the author

Anduena Gjevori Ph.D. is a lawyer educated in Albania and Holland. She is currently a lecturer of European Union Law at the University of Elbasan. Anduena's research focuses on State aid law and policy and she is the author of several articles published in international journals.

Bibliography

- Baudenbacher C. (1997), *A Brief Guide to European State Aid Law*, Netherlands, Kluwer Law International.
- Bieguriski L. (2008), Sensitivity of sectors and the need of State aid reforms in economies in transition, *EStAL* 4, pg. 659-683.
- Bieguriski L. (2012) Forms of State aid authorities in associated countries of Central and Eastern Europe, *EStAL* 3 pg. 567-572.
- Botta M. (2013), State aid control in South-East countries: the endless transition, *EStAL*, 1, 83-94.
- Bacon K., (2013), *European Union Law of State Aid*, Oxford University Press 2nd edition.
- Cremona M. (2003), State Aid Control: Substance and Procedure in Europe Agreements and the Stabilisation and Association Agreements, Vol. 9, No. 3, *European Law Journal*, pg. 265-287.
- De Burca P. (2008), *EU Law Text, Cases and Materials*, Oxford University Press.
- Dajkovic I (2010), Comments on the new State aid law in Serbia in the Context of Serbia's Accession to the EU, *EStAL*, 2, 347-360.
- Ehlerman K. (1994), State aid control in EU: Success or Failure? *Fordham International Law Journal*, 18 (4), 1212-1229.
- European Commission, (1999), *Competition law in the European Communities Volume IIA Rules Applicable to State Aid*, Italy, Office for Official Publications of the European Union.
- Jones A. & Sufrin B. (2013), *EU Competition Law, Text, Cases and Materials*, Oxford University Press.
- Schutterle P. (2005) State aid control in the Western Balkans and Turkey, *EStAL* 2 pg. 255 – 263.

Legal acts and European Commission Reports:

- Consolidated version of the Treaty on the Functioning of the European Union, OJ L. 326/47-326/390; 26.10.2012.
- Commission of the European Communities. (2005) *Albania Progress Report* [online]: http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1421_final_progress_report_al_en.pdf

- Commission of the European Communities. (2006) *Albania Progress Report* [online]: http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/al_sec_1383_en.pdf
- Commission of the European Communities. (2008) *Albania Progress Report* [online]: http://ec.europa.eu/enlargement/pdf/press_corner/keydocuments/reports_nov_2008/albania_progress_report_en.pdf
- Commission of the European Communities. (2009) *Albania Progress Report* [online]: http://ec.europa.eu/enlargement/pdf/key_documents/2009/al_rapport_2009_en.pdf
- Commission of the European Communities. (2010) *Albania Progress Report* [online]: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/al_rapport_2010_en.pdf
- Commission of the European Communities. (2012) *Albania Progress Report* [online]: http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/al_rapport_2012_en.pdf
- Commission of the European Communities. (2013) *Albania Progress Report* [online]: http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/al_rapport_2013.pdf
- Commission of the European Communities. (2016) *Albania Progress Report* [online]: https://ec.europa.eu/neighbourhoodenlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf
- Commission of the European Communities. (2018) *Albania Progress Report* [online]: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>
- Law no. 9374, dated 21.4.2005 “On State aid” Official Gazette no. 36, pg. 36.
- Law no. 10 183, dated 29.10.2009 “On some changes and amendments in the law no. 9374, dated 21.4.2005 “On State aid” Official Gazette no. 166, pg. 7342.
- Stabilisation and Association Agreement between Albania, European Communities and its Member States OJ 2009 L 107/166.