

The Free Movement of Albanian Goods toward the European Union

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ABSTRACT

The free movement of goods is one of the most debatable topics for academics that are focused on European law. One of the four fundamental freedoms of the internal market with the potential to benefit consumers. Because of its complexities, it continues to be important and needs to be continuously studied and analyzed. Given this, the main goal of this paper is to prove if the free movement of Albanian goods toward the European Union is a positive indicator or not for the future. It will be an examination to better understand where we are as a country. To better understand the situation, the analysis will begin with a general overview of the free movement of goods and its significance, followed by a look at the opportunities and challenges that Albania will most likely face in the future. This study attempts to examine the progress of Albania in the area of the free movement of goods, as a country that aspires to be part of the European Union. It models such an analysis, which begins with the first agreement created for this purpose, such as the Stabilization and Association Agreement, and concludes with the most recent creation, The Open Balkan. The analysis conducted through this lens leads Albania to a better future if it adapts to European Union standards, but things cannot be that simple. The true challenges lie deeper and will be visible in the near future.

Keywords: European Commission, European Union, Free Movement of Goods, Stabilization and Association Agreement.

Published Online: April 18, 2023

ISSN: 2736-5522

DOI: 10.24018/ejsocial.2023.3.2.430

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I. INTRODUCTION

Albania is a small country located in the Balkan peninsula with a population of 2.7 million based on Worldometer's analysis of the most recent United Nations data and an upper-middle income economy by Western European standards, with a GDP per capita lower than all countries in the European Union (World-Data.info, 2021). Since World War II, Albania has been the most isolated country in Europe under the Communist regime. In 1990, Albania began a turbulent democratic transition. The early 1997 collapse of financial pyramid schemes that had attracted deposits from a significant portion of Albania's population, was the worst period for Albania. As a result, the GDP fell by 0.08% (The World Bank, 2021). During the 1997 crisis, the lekë lost up to half its value before recovering (New York Times, 1997). But years later, in 2009, Albania was the only country in Europe, to have economic growth of 3.7% (World Bank Group, 2019, p. 12). This demonstrates the difficulties and rollercoaster ride that Albania's economy has been over the last 30 years, despite numerous reforms. Now, it has the opportunity, with adequate international support, to break up with the past and accelerate its integration into the European Union (EU).

Albania applied for EU membership in April 2009 and was granted candidate status in 2014 after meeting all of the requirements. The European Union decided to open membership negotiations with Albania in March 2020, and it later held its first intergovernmental conference in July 2022. Albania's task in the coming years will be to move even faster to see a clear date when this entire process can be completed with Albania as a member of the European Union. But work is still required to get there.

The free movement of goods is one of the four fundamental freedoms of the European Union, together with services, capital, and also people. It ensures that many products can be freely traded across the EU based on common rules and procedures. This general principle is supplemented in several sectors by a harmonized regulatory framework in either the "old approach" (setting precise specifications on goods) or the "new approach" (setting general requirements on goods) (Ministry of Justice of Albania, 2022, p. 79).

Albania has signed the Trade and Cooperation Agreement and the Stabilization and Association Agreement (SAA) with the European Union as part of its integration into the European Union. The SAA was signed by Albania and the EU in 2006, and it went into effect in 2009. The agreement represents an

important step forward in Albania's EU integration and attempts to foster economic growth and development (European External Action Service, 2020). The Stabilization and Association Agreement imposes several obligations, including the creation of a free trade zone between the European Union and its Member States, as well as Albania. The establishment of a free trade zone between Albania and the EU is outlined in Article 86 of the SAA. According to the agreement, the free trade zone will be implemented in accordance with the World Trade Organization (WTO) Agreement and will cover trade in goods, services, and investment. The aims of this agreement can be seen in its first Article. An Association is hereby established to support the efforts of Albania to strengthen democracy and the rule of law, support the efforts of Albania to complete the transition into a functioning market economy to promote harmonious economic relations, to gradually develop a free trade area between the Community and Albania, etc (Stabilisation and Association Agreement with Albania, 2009). One advantage for Albania is that it has the necessary experience to implement it without having to be set as a condition by the European Union.

Previous studies from Hoti and Bana (2015) have shown that continuous monitoring of EU developments is necessary for the country to prepare for future membership in the EU, and progress is still needed in several areas. A key point concluded by Canaj and Vasjari (2013) was the need to strengthen Albania's administrative capacity to effectively implement the SAA. But, while some studies have looked at how well Albania is doing at bringing its laws into line with EU regulations, it has consistently been found that more work needs to be done to fully adhere to the SAA's requirements (Popescu, 2018).

II. METHODOLOGY

The focus of this paper will be precisely on the free movement of goods as one of the four fundamental freedoms of the European Union. Albania has transposed the legislation of Chapter 1, which represents the bulk of the *acquis* under this chapter, including areas such as standardization, conformity assessment, accreditation, metrology, and market surveillance. This research involves statistics and EU law and involves researching, reading, analyzing, evaluating, and summarizing the European Union's free movement of goods collected data. The research question will be, "How is the current situation? Has there been progress in the area of the free movement of goods? How prepared are we (Albania)? All of this must be understood in the context of where we have been as a country and where we are now. Is it possible to do more? This study will reveal research gaps and problems by using qualitative research.

As is known, a qualitative research study based on secondary data sources necessitates a rigorous methodology to ensure the findings' validity and reliability. It is possible to define qualitative research as a type of scientific inquiry that looks for connections in all the collected data (because it is a method of gathering evidence methodically) and generates conclusions in an effort to provide answers to specific questions (Salma *et al.*, 2022).

III. IMPORTANCE OF FREE MOVEMENT OF GOODS

The realization of an internal market for products and production factors has always played an important role in the process of European integration. It has been the Court of Justice that has emphasized that the Treaty norms regarding the free movement of goods are essential provisions for the European Union and that any kind of impediment, no matter how minor, to these fundamental freedoms is prohibited (Cassis de Dijon, 1989). The European Court of Justice has stressed the importance of the free movement of goods in several cases. It has been stated that national laws and regulations that are equally applicable to all goods are not regarded as obstacles to the free movement of goods, even if they make selling those goods more challenging or expensive (Keck & Mithouard, 1993). Additionally, it was decided that prohibitions on the sale of imported beer, wine, and mineral water brands were unconstitutional because they discriminated against imports (Commission v. Italy, 1968). These cases demonstrate the EU's dedication to preserving the free movement of goods among its members. The Cassis de Dijon case established the mutual recognition principle, which aims to level the playing field for businesses throughout the EU. In the Keck and Mithouard case, it was made clear that national laws that apply equally to all goods should not be viewed as impediments to the free movement of goods, and in the Commission v. Italy and France cases, it was emphasized how crucial it is for member states to not discriminate against imported goods.

As mentioned at the beginning of this paper, the free movement of goods means that products must be traded freely from one member state of the European Union to another. The obligation to align Albanian legislation with Chapter 1 of European legislation originates from the Association Stabilization Agreement. It clearly states that:

"Albania shall endeavor to ensure that its existing laws and future legislation shall be gradually made compatible with the Community acquis. Albania shall ensure that existing and future legislation shall be properly implemented and enforced" (Stabilisation and Association Agreement with Albania, 2009).

Words like “gradually” and “future legislation”, make one understand that the agreement itself gives Albania time to adapt to the European legislation, thus requesting that this continue in time. Continuous monitoring of EU developments at this point is necessary.

The free movement of goods is critical to the internal market's growth and development. This principle is enshrined in the Articles of the Treaty on the Functioning of the European Union (TFEU). This treaty mentions that:

“Quantitative restrictions on imports and exports and all measures having equivalent effect shall be prohibited” (Consolidated version of the Treaty on the Functioning of the European Union, 2012).

So, TFEU prohibits member states from imposing or maintaining unjustified trade barriers within the EU. Also, there are internal and external dimensions to the free movement of goods. This indicates that whereas goods coming from within the European Union have the freedom to move freely among its members, goods coming from outside the EU can only do so after paying common customs duties. Another point of view from the European Court of Justice case law on the free movement of goods illustrates the importance of properly aligning (potential) candidate countries' existing legislation with that of the EU, as well as effective implementation of the former in one of the Stabilization and Association Agreement's key operational areas (Canaj & Vasjari, 2013).

In the end, is Albania ready to lose its sovereignty? In the context of the free movement of goods, this is debatable and complex. For example, if we analyze the fish production potential in Albania and the improvement of the market, things can get tough. Albanian fish marketing is still informal; its chill chain is insufficient; and it does not meet hygiene standards (Jimenez, 2015). European regulation requires a formal market referring to food safety and consumer health before exporting into the EU. This situation demonstrates that Albania isn't ready in the aspect of informality and safety coming from hygiene. To add more, based on the Institute of Statistics (INSTAT) statistics, agriculture, and fishing occupy a good percentage of contributors to the economy of Albania. In Albania, fishing is an important sector, particularly for coastal communities. Fishing has long been a significant source of income along Albania's extensive coastline along the Adriatic and Ionian Seas (Food and Agriculture Organization of the United Nations, 2006). To fully benefit from the free movement of goods within the EU, Albania will need to improve its fishing industry and ensure compliance with EU food safety and hygiene standards. This will necessitate significant infrastructure investment, including the establishment of formal markets. By doing this, Albania can solidify its standing as a trustworthy and reliable trading partner, which may create more chances for foreign investment and trade.

Another strong reason that shows that Albania is not yet ready for the European Union is closely related to the infrastructure, which is determined as well as one of the main reasons why it was denied twice the EU membership. Even in the October 2022 report of the European Commission, Albania did not escape criticism regarding the infrastructure and the recommendation for alignment with the acquis of the European Union relevant to the quality of infrastructure. Except here, the Albanian legislation regarding air transport, which according to the annual reports published by the Ministry of Infrastructure of Albania, it is mainly by the European Union acquis. Following the statistics of the main problems from INSTAT, it is necessary to develop an action plan for a road safety strategy. If every aspect of the free movement of goods is prioritized and every good is examined, it is almost certain that there is still room for improvement. As a result, to stay ahead of reality, we must accept Albania's positive effort to join the European Union by changing its legislation in advance to conform to the EU acquis.

IV. CHALLENGES TO IMPROVING THE FREE MOVEMENT OF GOODS

In the conclusions of 2022 for the case of Albania, the European Commission emphasized that Albania is moderately prepared in the majority of internal market areas, like free movement of goods, services, capital, company law, and competition policy (Commission, 2022). But there is still a lot of work to do. What remains the main challenge for the future perspective has to do with the challenges of harmonization and implementation of Chapter 1. Albania is moderately prepared in the field of the free movement of goods. The annual report for the European Integration of Albania shows that about 55% (30 acts) of the acts under this chapter are partially harmonized, whereas 45% are not harmonized yet (Ministry of Justice of Albania, 2022, p. 83).

What should be appreciated is the effort of the Albanian government in recent years to fill the gaps. Regarding the non-harmonized field and the application of the principles provided for by articles 34-36 of the Treaty on the Functioning of the European Union, Albania is taking measures to draw up an action plan for the removal of measures with an effect equivalent to quantitative restrictions on trade in goods (Ministry of Justice of Albania, 2022, p. 89). The Albanian government should also prioritize the lack of specialized staff that directs the process of harmonizing Chapter 1 legislation. The Albanian government should also make an effort to recruit and keep professionals with knowledge of EU rules and regulations.

Offering competitive pay, offering chances for professional growth, and fostering an environment that supports innovation and creativity are ways to achieve this. By prioritizing the development of specialized staff to lead the harmonization process, the Albanian government can accelerate the pace of harmonization and increase the country's chances of successfully joining the EU. This will not only improve the free movement of goods but will also benefit Albania's economy and society as a whole. After all, important development decisions must be made from the ground up. The increased volume of trade between Albania and the European Union, particularly Albanian exports, demonstrates that the Stabilization and Association Agreement is working and, without a doubt, has a very positive impact on the economy, with the highest percentage in the last year compared to the past ones (Directorate-General for Trade, 2022).

One of the points that Albania seems to have neglected is the Market Surveillance Inspectorate. The establishment of this institution for supervision was one of the main recommended points in the European Commission's progress reports for 2015 and 2016 (Directorate-General, 2023). The fact that it has only been restructured (2020) for a short time does not justify its slow progress. After much discussion about various evidence of a lack of safety in children's products (Sahitaj, 2020), the Market Supervision Inspectorate took the biggest hit in recent years. But if one analyzes the continuous reports of the European Commission, it remains in focus.

An obvious problem encountered during this research was the inability to find the annual reports on the official website of the Inspectorate (Inspectorate, 2023). The main highlight of the European Commission 2022 Report was the further strengthening of the enforcement capacity of the Market Surveillance Inspectorate, demonstrating that it still needs to be in Albanian focus for the future (European Commission, 2022). This can be accomplished through increased investment in the inspectorate, improved inspector training, and, of course, improved coordination with other regulatory bodies. In this case, Albania can demonstrate its commitment to regulatory compliance and product safety by improving the effectiveness of the Market Surveillance Inspectorate.

It should be mentioned that Albania has faced a bigger challenge compared to other countries. This comes after two consecutive shocks, such as the November 2019 earthquake and the COVID-19 pandemic. The severe earthquake that resulted in the destruction of homes and the loss of many people's lives made the Market Surveillance Inspectorate devote maximum focus to the supervision of elevators, a product that has a high risk for the life and health of citizens, by touching and accepting the standards of the EU. From the one-by-one inspections of the elevators, it was determined that the elevators were one of the most problematic points in Albania, this was also stated by the director of this institution (Sahitaj, 2020). This is what makes the Albanian government focus on the implementation of the technical conditions and legislation in force for this category of installations and try to follow the implementation of Chapter 1.

Another important point to look at is corruption, as long as it continues to be a significant issue in Albania (European Commission, 2022). It can impede the free movement of goods by adding additional bureaucratic hurdles and delays. To facilitate the free movement of goods, Albania must continue to combat corruption and improve transparency in its customs procedures. Albania can also collaborate with other countries in the region to improve customs cooperation and combat corruption. This can include sharing best practices and coordinating anti-corruption investigations. By taking these steps, Albania can promote economic growth and, of course, attract foreign investment. When goods can move freely in and out of the country, Albania becomes a more appealing destination for foreign investors. This can lead to new job opportunities, higher tax revenue, and overall economic growth.

V. OPEN BALKAN: WE ARE EUROPEANS, AND OUR FUTURE IS IN EUROPE

The Open Balkan ('Ballkani i Hapur' in Albanian), often referred to as "Mini-Schengen", is a Balkan economic and political zone composed of three member states: Albania, North Macedonia, and Serbia. The idea was brought by Edi Rama, the prime minister of Albania, to Berlin, where he discussed it with the interested nations. By the end of 2020, these nations promised to create a single market with 12 million people without borders.

In a conference, Vučić *et al.* (2021) stated:

We are aware that only through joint work and by endorsing regional cooperation within different regional initiatives, such as a single market, a regional Schengen, green corridors, or the Berlin Process, can we bring our economies closer, improve the well-being of our people, and attract major investments, which otherwise would not be possible for any of the countries individually (EURACTIV.rs, 2021).

Albania, Serbia, and North Macedonia signed several agreements on the exchange of food products, energy, cinematography, and emergency assistance. All this seeks to tell people from these countries that:

Things are changing, and so we are moving ahead with programs that create opportunities for each other (Macedonia, 2021).

As a region that needs interconnectivity, everything is considered the same as in an area between three countries of the European Union. The results are already quite tangible in the first steps, mentioning the number of exports in these 3 countries, which is converted into 57.6 million euros for the first months of 2022, an increase that was considered double the growth rate by Prime Minister Rama (Ohrid Open Balkans Summit, 2022). The countries also agreed to expand their cooperation and reduce tensions in the Balkans. It is expected that this initiative will soon be joined by three other countries, such as Kosovo, Bosnia and Herzegovina, and Montenegro.

All this is seen as an initiative by these countries, inspired by the Berlin Process, to ease trade in the Balkans, thus using the philosophy of the European Union for free trade. In this way, it shows Europe the willingness of these countries to adapt to the standards of the European Union and the spirit of cooperation by encouraging the free movement of goods, people, and economic development between countries. The initiative has the potential to improve the free movement of Albanian goods within the EU. The Open Balkan initiative can help to increase the competitiveness of Albanian goods and make them more appealing to EU markets by improving trade relations and promoting economic integration. This can give Albanian businesses access to new markets, technologies, and resources, boosting their competitiveness and ability to meet EU standards. Additionally, greater coordination and integration among the Western Balkan nations can assist in lowering regulatory barriers and improving infrastructure, which will ultimately benefit the free movement of goods throughout the EU. This will make it simpler for goods to move across borders.

VI. CONCLUSIONS

In light of the current situation, the free movement of goods remains a substantial topic and is of particular interest to the general public and interest groups, which makes it a long-term case study. The importance that Albania has given to its membership in the European Union has been quite obvious. It has always tried to establish European standards in every field. The approximation of these standards in the field of the free movement of goods has come gradually, which makes one think that this has come as a result of the need for adaptation by the public administration as well as for the beneficiaries themselves.

An important focus should be given to the Market Surveillance Inspectorate as the European Commission in recent years has recommended it in every annual report. The Inspectorate should prioritize transparency with the public by posting all annual reports and relevant information on their website. This can help to increase public trust and credibility.

Albania's legislative alignment with the EU *acquis* remains both a strength and a weakness. As this is a very positive indicator that changes are occurring without being forced by the EU, the slowness of this adaptation remains a problem. If we are to see the analysis made from the latest reports and documents about the situation in Albania, using her as a perspective the studies done before about the situation of the free movement of goods, not much has been done. However, it must be acknowledged that the premises are good, as long as Albania is still working to implement EU standards.

Completing the European standards will increase the possibilities of economic growth for Albania since the statistics show that exports to the EU are always increasing. It will also awaken the possibility of investments in Albania. The analysis made in this prism leads Albania to a better future if it adapts to EU standards, but of course, things cannot be that simple. The real challenges lie deeper and will be seen in the near future, especially in the area of inspection and control. Albania should also continue with the two ways of harmonizing product legislation in the European Union, the old and new approach so it can improve the standardization to achieve consistent application of European legislation and equal protection for all citizens.

To conclude, the latest move from Albania, Open Balkan, is an optimistic reaction and the best opportunity to show Europe the spirit of cooperation, the desire to work for greater economic development, and the increase of opportunities between European countries. To the question of where we stand as a country, one cannot deny that the free movement of Albanian goods toward the European Union is a positive indicator for the future, even though it has made slower progress in the last few years than expected.

CONFLICT OF INTEREST

As the authors of this paper, we declare that we have no personal, financial, or other interests that could potentially influence or bias the research or its results. As a result, no conflicts of interest can be declared for this research paper. We affirm that this research was conducted objectively and impartially and that all findings and conclusions presented in the paper are solely based on the research results.

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