

Constitution Watch

A country-by-country update on constitutional politics in Eastern Europe and the ex-USSR

Albania On June 24, Albania's parliament (the Assembly, or Kuvend) seemed to take a step away from 12 years of political deadlock when the ruling and opposition factions united long enough to elect a consensus candidate for president. The country's major political forces, including the ruling Socialist Party (SP) and the opposition Democratic Party (DP), led by Sali Berisha, compromised on Alfred Moisiu, a 72-year-old career military man. Moisiu succeeded Rexhep Meidani for a five-year term, which began on July 24. Moisiu was deputy minister of defense under Enver Hoxha in 1981–82 and also served as deputy minister of defense in 1994–97 in Berisha's DP government. His father, Spiro Moisiu, was chief of staff for Hoxha during World War II, and his grandfather died defending Albania's independence in 1913. His personal history and that of his family span the whole of Albania's military history in the twentieth century.

Moisiu, a strong supporter of Albania's integration into NATO, told RFE/RL: "I will focus mainly on stabilizing the Albanian justice system, because too many things depend on that—the fight against corruption, organized crime, illegal migration, and so on. What is crucial to me is the creation of a climate that will attract foreign investors and fight the unemployment that is forcing young people to leave Albania."

Moisiu's election, a rare example of political cooperation, followed strong international pressure and concerns about domestic political stability. Fatos Nano, SP's controversial chairman, had been a possible presidential candidate. Some observers feared that neither he nor any other candidate could obtain the necessary 84 votes (SP has 73 of 140 seats in parliament), possibly plunging the country into new elections and instability (according to Art. 87 of the Constitution, if parliament fails to elect a president after five attempts, it is dissolved, and new elections are called). Other students of the political scene worried that Nano would obtain the necessary votes, only to politicize an office that the Constitution had intended as apolitical. Under the requirements of Art. 89 of the Constitution, Nano

would have had to resign from SP if elected, but the fact that he has headed the fractious SP since its foundation in 1991 would have made it difficult to separate the presidency from the party.

The abrupt rapprochement between Nano and Berisha, both of whom have dominated Albanian politics for the last 12 years but whose first face-to-face meeting in a decade took place only in February 2002, did not pass without criticism, suspicion, and even a little levity in the face of this unexpected "love affair." A leading intellectual, writing in one of Tirana's major independent newspapers, commented that the reconciliation illustrates the lack of ideological differences between the two.

In any event, cooperation was short-lived, given the changes to come within SP. On July 25, Prime Minister Pandeli Majko resigned his post, and Nano was designated prime minister. Majko had only been in office a few months but evidently had lost support within SP. A little history is in order. When SP took power in 1997, Nano, recently released from prison, was the party's first prime minister (in the period following the collapse of the infamous pyramid schemes), but he was forced to resign after the attempted coup d'état of September 1998. Since then, the two SP prime ministers were Pandeli Majko, Ilir Meta, and, since February of this year, Majko again. (Majko, Meta, and Nano all have their own power bases within the quarrelsome party.) In 1999, when Nano first resigned from and then regained the SP chairmanship in the face of a challenge from Majko, Nano began to enforce a provision in the SP charter (Rule 16.2) that bars SP members from simultaneously serving in party-leadership bodies and the legislature or government.

The rule has been enforced many times since 1999. Nevertheless, Nano, who spent more than two years insisting on the rule, has reversed his position and called for it to be amended. On July 15, the Steering Committee of the governing Socialist Party (SP) voted to do so, paving the way for Nano to assume the

premiership. Nano's path, here, was smoothed by his rapprochement with Ilir Meta. (For more on the Nano–Meta schism, see Albania Update, *EECR*, Vol. 11, Nos. 1/2, Winter/Spring 2002.)

On July 29, President Moisiu approved Nano's proposed cabinet, and, on July 31, despite Berisha's opposition, parliament endorsed the new government, which was sworn in the following day. There were 81 votes for, 48 against, and 3 abstentions. Meta became deputy prime minister and foreign minister, and Majko, defense minister.



Spring saw the controversial dismissal of General Prosecutor Arben Rakipi. Majko, prime minister at the time, remained aloof from the case, but a number of deputies from Meta's group in SP allied with the opposition to force the removal of Rakipi on March 19; then-president Meidani signed his dismissal six days later.

Rakipi had been named general prosecutor in 1997 by the incoming SP government. DP had been dead set against him for some time, because an indictment of August 1998 (never pursued), of seven high DP officials relating to their alleged role in the riots and chaos that rocked Albania in 1997. DP had brought a motion in the prior parliament calling for his removal, but it was summarily rejected by the laws commission before it even reached the parliamentary floor. At the end of January, DP and a contemporary coalition Union for Victory submitted a revised motion. Drafted more carefully, the new motion listed four major justifications for his removal: his failure to deal with corruption, trafficking, and organized crime cases; persecution of the opposition; family, social, and work ties to a major drug-trafficking ring; and many failures of important prosecutions during his five-year tenure.

These allegations were backed by scant facts, but they did provide a point of departure for a more thorough investigation. A significant number of SP deputies from the Meta group supported the allegations as well, frustrated by the failure of the Office of the General Prosecutor to deal effectively with corruption cases.

On March 18, in a blitzkrieg that lasted until 2:30 A.M., the motion to recommend Rakipi's dismissal was debated in parliament. The debate did little to fill in the

general allegations made in the initial motion, which was finally approved by 78 votes, with 10 against, 5 abstentions, and 6 deputies present but not taking part in the voting; 28 deputies associated with Nano left parliament before the vote.

On the eve of the debate, the deputies who were opposed to the motion asked the Constitutional Court to interpret Arts. 128, 140, and 149.2 of the Constitution, which deal, respectively, with parliament's role in discharging Constitutional Court judges, and High Court judges, and in recommending a general prosecutor's dismissal. Article 149.2 states that the general prosecutor may be dismissed by the president on parliament's proposal for "violations of the Constitution, mental or physical incapacity, or acts and conduct that seriously discredit the position and reputation of the prosecutor." The other two provisions give parliament itself the power to discharge, subject only to review by the Constitutional Court. The preliminary hearing on this case did not take place until March 25; Meidani had held off acting on parliament's recommendation, but he signed the dismissal that same day. Rakipi then lodged a complaint with the Constitutional Court. Nonetheless, the president named his 40-year-old legal adviser, Theodori Sollaku, to replace Rakipi. Under the requirement of Art. 149.1 of the Constitution, parliament approved the nomination on March 29, with 71 votes in favor out of the 107 deputies present.

On April 25, the Constitutional Court created a storm of controversy when, in Decision No. 76/2002, by a vote of eight to one, it ruled that parliament had acted illegally when it voted to fire Rakipi. The Court, however, did not order Rakipi's reinstatement. Sollaku was already installed as general prosecutor by the time of the ruling, and the decree appointing him was neither referred to nor affected. Sollaku has remained in office. Parliament, however, is supposed to revisit its procedures for removing individuals from the major offices. The most immediate result of the decision was the abrupt resignation, on April 29, of Namik Dokle, parliament's speaker, who had held the post for little more than eight months. He gave as his reason the wish to preserve "the dignity and morality of the Assembly" in the face of unwarranted judicial actions. Deputy Servet Pellumbi (SP) was elected speaker in his place.



On March 29, parliament rejected President Meidani's decree of June 14, 2001, which had returned the law on the organization and functioning of the High Council of Justice (HCJ) to the Assembly for review. The law, which was adopted on May 17, 2001, thus went into effect. According to Art. 85 of the Constitution, the president may return any law for review once; parliament may overturn such a decree by absolute majority.

The president's objections to the HCJ law centered on the provision that gave the minister of justice, who is only one of the HCJ's 15 members, control over the initiation and pursuit of disciplinary actions against district- and appellate-court judges. The president and others believed this to be unconstitutional, and, over the course of nearly a year, a compromise was worked out that would allow the minister a leading role, while giving additional scope for other HCJ members and the council's inspectorate. In order to rewrite the law to include the compromise, however, the votes of three-fifths of the deputies would be required, a high threshold, and one not easily met. The minister of justice indicated that he would continue to respect the agreement, and the government announced that it would try again to codify the agreement, rewriting the existing law.



On June 28, Leka Zog, the 63-year-old son of Albania's pre-World War II king, Zog I, returned to Albania to live, along with his 20-year-old son (also named Leka), the elder Zog's mother, Hungarian-born Queen Mother Geraldine, and his South African wife Susan. Leka Zog was only a few days old on April 7, 1939, when the Italian occupation caused King Zog, his family, and advisers to flee the country. Zog I, as the northern Albanian leader Ahmet Zog had proclaimed himself under Albania's 1928 Constitution, never returned to Albania; he died in exile in the early 1960s. His son visited Albania several times after the collapse of communism, most recently in 1997 when a referendum on whether Albania would restore its monarchy was defeated. In the aftermath of this decision, Leka led an armed assault on Tirana's Central Election Commission in which a bystander was killed. The

charges relating to this incident were recently dropped, facilitating the return of the royal family.

The family's return, however, was marred by the fact that numerous weapons, which had not been declared to customs, accompanied the royal family. They were confiscated at the airport in Tirana. Leka Zog, a former arms dealer, later claimed they were only his personal historical collection, but it appears that many may be of modern manufacture.

Belarus President Alyaksandr Lukashenka has found himself between a rock and a hard place. Russia's continued rapprochement with NATO and the US, as well as the rapidly deteriorating economic situation within Belarus, leave less and less room for Lukashenka's traditional anti-Western rhetoric and Soviet-style politics. Belarusian-Russian relations hit a record low in June. After meeting with Lukashenka, on June 11, Russian president Vladimir Putin delivered the strongest criticism to date of Lukashenka's vision of a Belarusian-Russian union. Putin said that the Belarusian leadership "cannot try to resurrect the USSR at the expense of Russia's economic interests, since this will strengthen centrifugal forces within the country and weaken Russia economically."

Putin rejected the drafting of a constitutional act, calling the Belarusian proposal for such an act "legalistic nonsense." Stating that he was against any "supranational [union] body with unclear functions," Putin said, "Our partners should make up their minds and decide what they want. We often hear that something along the lines of the Soviet Union would be desirable. But if it is along the lines of the Soviet Union, then why include in the draft-constitution act that the states will be sovereign, retain their territorial integrity, and have the right to veto all decisions? Let us not forget that the Belarusian economy amounts to 3 percent of the Russian economy." Instead, Putin offered that Belarus become part of the Russian state. Some Russian Duma deputies suggested that Belarus could join the Russian Federation as two regions of 5 million people each.

After several days of silence, Lukashenka declared that Belarus would never become a province of Russia. On June 22, Lukashenka complained that he and Belarus were being cast in the role of parasites on their giant neighbor. "We have been accused of being a burden on