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RELEASED IN FULL

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ACTION EUR-01

INFO	LOG-00	AID-00	AMAD-01	CIAE-00	SMEC-00	INL-01	OASY-00
	DODE-00	SRPP-00	EB-01	FBIE-00	INLB-01	H-01	TEDE-00
	INR-00	IO-00	LAB-01	L-01	ADS-00	MOFM-04	MOF-03
	M-00	NSAE-00	NSCE-00	OIC-02	OMB-01	PA-00	PM-00
	PRS-00	P-00	SCT-00	SP-00	STR-00	TRSE-00	USIE-00
	SA-01	SNIS-00	NISC-00	PMB-00	PRM-10	PRME-01	DRL-09
	G-00	/039W					

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P 251315Z APR 96
FM AMEMBASSY TIRANA
TO SECSTATE WASHDC PRIORITY 9374
USEU BRUSSELS
USMISSION USVIENNA
AMCONSUL STRASBOURG

[REDACTED] SECTION 01 OF 03 TIRANA 000868

STATE FOR EUR/SCE AND DRL

STATE ALSO FOR G

USVIENNA FOR USDEL OSCE

E.O. 12958: DECL: 04/23/97
TAGS: PGOV, PHUM, AL
SUBJECT: U/S WIRTH'S MEETING WITH JUDICIARY

1. CLASSIFIED BY DRSMITH, CHARGE, EMBASSY TIRANA.

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REASON 1.5 B.

SUMMARY

2. (C) DURING A MEETING WITH U/S TIMOTHY WIRTH, CASSATION COURT CHIEF JUSTICE AVNI SHEHU AND TWO COLLEAGUES DESCRIBED ALBANIA'S SUCCESS TO DATE IN IMPLEMENTING JUDICIAL REFORMS WITH COE ASSISTANCE. SHEHU EXPLAINED HE HAS WRESTED ADMINISTRATION OF THE COURT BUDGET FROM THE JUSTICE MINISTRY AND TOGETHER WITH THE COE HAS PREPARED DRAFT LEGISLATION THAT WOULD REFORM THE HIGH JUDICIAL COUNCIL AND THE PROCEDURES OF THE CASSATION

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COURT. WITH REGARD TO ELECTIONS, SHEHU PROMISED EARLY DECISIONS FOR THOSE CANDIDATES APPEALING VETTING COMMISSION EXCLUSIONS. U/S WIRTH TOLD SHEHU THAT THE U.S. WAS FOLLOWING ELECTIONS VERY CLOSELY AND EXPECTED THEM TO BE FREE AND FAIR. END SUMMARY

MEETING WITH JUDICIARY

3. (U) UNDERSECRETARY FOR GLOBAL AFFAIRS TIMOTHY WIRTH LUNCHED 4/22 WITH CASSATION COURT CHAIRMAN AVNI SHEHU AND JUSTICE PETRIT PLLOCI AND JUDICIAL ACTIVIST PERIKLI POLLOSHI. ALSO PRESENT WERE ABA CEELI RULE OF LAW REP JOE CLOUGH, CHARGE, POL, AND PAO. SHEHU TOLD U/S WIRTH THAT THE GOA IS ACTIVELY REVIEWING ALL LEGISLATION HAVING TO DO WITH THE FUNCTIONING AND ADMINISTRATION OF THE JUDICIARY. WHILE BEING ASSISTED IN THIS PROCESS BY COUNCIL OF EUROPE EXPERTS, THE GOA IS LOOKING CLOSELY AT WHERE AND WHETHER U.S. JUDICIAL EXPERIENCE CAN BE APPLIED.

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FOUR AREAS FOR REFORM

4. (U) SHEHU SAID THAT THE GOVERNMENT IS FOCUSING ON FOUR PARTICULAR AREAS IN NEED OF REFORM TO ENSURE A TRULY INDEPENDENT JUDICIARY:

-- THE ROLE AND PROCEDURES OF THE HIGH JUDICIAL COUNCIL, SPECIFICALLY IN NOMINATING, FIRING, AND DISCIPLINING JUDGES;

-- THE DISCIPLINARY PROCEDURES APPLICABLE TO THE JUDICIARY;

-- THE ADMINISTRATION OF THE BUDGET OF THE COURTS; AND,

-- THE PROCEDURES OF THE CASSATION COURT ITSELF, AND ITS RELATION TO THE CONSTITUTIONAL COURT.

RE-INVENTING THE HIGH JUDICIAL COUNCIL

5. (C) WITH REGARD TO THE ROLE OF THE HIGH JUDICIAL COUNCIL, CURRENTLY CHAIRED BY THE PRESIDENT AND DOMINATED BY EXECUTIVE BRANCH MEMBERS, SHEHU SAID HE IS PUSHING FOR THE EXCLUSION OF THE MINISTER OF JUSTICE FROM THE COUNCIL, OR AT LEAST REMOVING HIS VOTING STATUS. SECONDLY, SHEHU SAID HE BELIEVES THAT JUDGES AFFECTED BY DISCIPLINARY DECISIONS OF THE COUNCIL SHOULD HAVE THE RIGHT TO APPEAL, PERHAPS EVEN TO THE CONSTITUTIONAL

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COURT. THIRDLY, HIGH JUDICIAL COUNCIL PROCEDINGS SHOULD BE MORE TRANSPARENT AND INCLUDE JUDGES HAVING THE RIGHT TO BE HEARD. FINALLY, IN SHEHU'S VIEW, JUDGES SHOULD

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HAVE THE SAME PROTECTIONS AND IMMUNITIES AFFORDED TO GOVERNMENT MINISTERS, WITH COMPARABLE SALARIES AS WELL.

INDEPENDENT BUDGET FOR COURTS

6. (C) SHEHU SAID THAT HE HAS HAD SIGNIFICANT SUCCESS SO FAR IN DETACHING CONTROL OF THE BUDGET OF THE COURTS FROM THE MINISTRY OF JUSTICE. LATE LAST YEAR, HE WON GOVERNMENT APPROVAL FOR THE COURTS, RATHER THAN THE MINISTRY OF JUSTICE, TO ADMINISTER THEIR OWN BUDGET, ONCE IT IS APPROVED BY THE COUNCIL OF MINISTERS AND PASSED BY THE PARLIAMENT. THE CHIEF JUSTICE POINTED OUT, HOWEVER, THAT LOCAL COURTS ARE CURRENTLY NOT STAFFED OR TRAINED WITH THE EXPERTISE TO MANAGE THEIR INDIVIDUAL BUDGETS. WITH THIS IN MIND, HE IS CONSIDERING THE CREATION OF A CENTRAL MANAGEMENT AUTHORITY, DIRECTED BY A BOARD COMPRISING REPRESENTATIVES FROM ALL COURT LEVELS, TO ADMINISTER THE JUDICIAL BUDGET. SHEHU RELATED IN A HUMOROUS VEIN THAT, WHEN HE INFORMED COE ADVISORS THAT HE HAD WON BUDGETARY INDEPENDENCE, THEY WERE TAKEN BY SURPRISE. THEIR FIRST REACTION WAS TO ADVISE SHEHU TO RECONSIDER THAT STEP, AS COURTS IN MANY EUROPEAN COUNTRIES STILL HAVE THEIR BUDGETS ADMINISTERED BY THE JUSTICE MINISTRY. SHEHU SAID THE COE REACTION WAS

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	SA-01	SNIS-00	NISC-00	PMB-00	PRM-10	PRME-01	DRL-09
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TO SECSTATE WASHDC PRIORITY 9375
USEU BRUSSELS
USMISSION USVIENNA
AMCONSUL STRASBOURG

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STATE FOR EUR/SCE AND DRL

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E.O. 12958: DECL: 04/23/97

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TYPICAL OF THE NATURE OF THE ADVICE HE GETS FROM EUROPEAN

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EXPERTS, WHICH IS OFTEN BASED MORE ON EUROPEAN TRADITIONS
THAN A LOGICAL APPROACH TO ALBANIA'S SPECIFIC NEEDS AND
CONTEXT. (COMMENT. WE HAVE HEARD THIS STORY BEFORE. IT
IS PART OF THE REASON WE RECOMMENDED SHEHU FOR USIA
VOLVIS TREATMENT IN JANUARY.)

EXECUTIVE SUPPORT

7. (C) U/S WIRTH ASKED SHEHU IF THE EXECUTIVE ARM OF
THE GOVERNMENT WAS SUPPORTING HIS EFFORTS IN THESE
DIRECTIONS. SHEHU ADMITTED THAT HE WAS NOT SURE OF THIS
WHEN HE TOOK THE JOB AFTER BROZI'S OUSTER, BUT THAT HIS
PROGRESS WITH THE BUDGET ISSUE AND ON NEW DRAFT LAWS FOR
THE HIGH JUDICIAL COUNCIL HAVE NOW CONVINCED HIM THAT
PRESIDENT BERISHA AND THE COUNCIL OF MINISTERS ARE
COMMITTED TO THE NECESSARY REFORMS.

NEW CONSTITUTION NEEDED

8. (U) JUSTICE POLLOSHI INTERJECTED TO POINT OUT THAT,
ULTIMATELY, THE REFORMS MUST BE ENSHRINED IN A NEW
CONSTITUTION OR IN LAWS OF A CONSTITUTIONAL DIMENSION,
I.E. PASSED BY A TWO-THIRDS PARLIAMENTARY MAJORITY.

THE COURT AND ELECTIONS

9. (U) U/S WIRTH QUERIED THE JUSTICES ON THE CASSATION
COURT'S ROLE IN THE UPCOMING ELECTIONS. SHEHU SAID THAT
THE COURT IS NOW REVIEWING THE APPEALS OF PARTY NOMINEES

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WHOSE CANDIDATURES WERE REFUSED BY THE "GENOCIDE" LAW'S
VETTING COMMISSION. OF OVER 60 INDIVIDUALS EXCLUDED BY

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THE VETTING COMMISSION, 31 HAVE FILED APPEALS, ACCORDING
TO THE JUSTICES. THEY SAID THAT ONE IS FROM THE
REPUBLICAN PARTY, SIX OR SEVEN FROM THE DEMOCRATIC
ALLIANCE, AND THE REST (23-24) ARE FROM THE SOCIALISTS.

DECISIONS PROMISED AHEAD OF SCHEDULE

10. (C) SHEHU PROMISED THAT CASSATION COURT REVIEWS OF
THESE APPEALS WILL BE CONCLUDED BY APRIL 25, WELL WITHIN
THE 15 DAYS SPECIFIED IN THE LAW, GIVING THOSE CANDIDATES
WHO WIN THEIR APPEALS THE FULL 30 DAYS REQUIRED BY LAW TO
REGISTER AND CAMPAIGN. HE ASSURED WIRTH THAT AFFECTED
CANDIDATES WILL BE ABLE TO CONFRONT THE MATERIALS USED IN
THE COMMISSION'S DECISION AND WILL BE FREE TO PRESENT
MATERIALS IN THEIR DEFENSE. POLOFF ASKED SHEHU PRIVATELY
WHETHER THE CASSATION COURT HEARINGS WOULD BE OPEN TO THE
PUBLIC. HE REPLIED THAT THE PROCEEDINGS WOULD NOT BE
WIDELY ACCESSIBLE, AS THE SUBJECT MATTER - JUDGING
WHETHER POLITICAL PERSONALITIES WERE SIGURIMI
COLLABORATORS, FALSE WITNESSES OR SNITCHES - IS EXTREMELY
DELICATE AND THE PRIVACY OF THOSE INVOLVED MUST BE
PROTECTED.

U.S. EXPECTATIONS

11. (U) U/S WIRTH CONCLUDED THE CONVERSATION WITH THE
JUSTICES BY EMPHASIZING THE IMPORTANCE THE U.S. PLACES ON
FREE AND FAIR ELECTIONS. THESE ELECTIONS ARE CRITICAL
FOR ALBANIA. WIRTH TOLD THE JUSTICES THAT THE U.S.
WOULD WATCH THE CONDUCT OF THE ELECTIONS VERY CAREFULLY.
HE BELIEVED IT WAS GOOD THAT THE COURT WOULD BEAT THE

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DEADLINES FOR DECIDING VETTING COMMISSION APPEALS. HE
WARNED AGAINST THE COMMON POLITICAL PHENOMENON DESCRIBED
AS THE "ARROGANCE OF POWER," WHEREBY SUCCESSFUL
POLITICIANS LOSE THEIR SENSE OF RESPONSIBILITY TO THE
ELECTORATE AND LOSE THEIR COMMITMENT TO DEMOCRATIC
PRACTICES.

COMMENT

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12. (C) SHEHU STRIKES US AS SINCERE AND COMMITTED TO JUDICIAL REFORM. HE HAS MADE PROGRESS IN WRESTING CONTROL OF THE JUDICIAL BUDGET AWAY FROM THE JUSTICE MINISTRY AND IN REDUCING KEY COE RECOMMENDATIONS FOR JUDICIAL REFORM TO DRAFT LAWS. SHEHU SEEMS TO UNDERSTAND THE LIMITATIONS OF EUROPEAN MODELS IN THE ALBANIAN SETTING AND EMPHASIZED HIS INTEREST IN ASPECTS OF THE U.S. PARADIGM. IT IS UNFORTUNATE WE HAVE BEEN UNABLE TO RESPOND. IN HIS USUAL SELF-EFFACING MANNER, HE DID NOT REPEAT HIS REQUEST TO VISIT THE U.S., BUT EXPRESSED INTEREST IN WHAT U.S. EXPERIENCE, INFORMATION, AND ADVICE COULD BE MADE AVAILABLE TO HIM IN ALBANIA.

13. (C) SHEHU'S PROMISE TO DECIDE QUICKLY ON VETTING COMMISSION APPEALS, IF CARRIED OUT, WILL GO A LONG WAY TO

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	G-00	/039W					

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ADDRESS THE COMPLAINTS OF OPPOSITION FIGURES THAT THEY

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WILL NOT HAVE ENOUGH TIME TO REGISTER AND CAMPAIGN BEFORE
THE MAY 26 ELECTION DAY.

14. (U) U/S WIRTH WAS NOT ABLE TO CLEAR THIS CABLE
BEFORE DEPARTING TIRANA.

SMITH

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