

## THIRD SEMI ANNUAL PROGRESS REPORT

Covering 01 December 2015 – 31 May 2016

Final version 21.06.2016

Title of the action:	CONSOLIDATION OF THE JUSTICE SYSTEM IN ALBANIA (Euralius IV)
Location(s) of the action:	Albania
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Reference	IPA 2013 - BGUE-B2013-22.020200-C1-ELARG DELALB Reference: EuropeAid/135374/L/ACT/AL
EuropeAid ID	DE – 2007 – DOP - 2711221083
Ongoing contract/Legal Entity File Number (if available)	6000066345
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112. Proposal e-Tracking Service 2016-03-11 EN (Activity 1.2.4 and Activity 2.3.1)
113. Vacant Positions MoJ EN 2016 02 30 (Activity 1.2.5)
114. Vacant Positions MoJ AL 2016 02 30 (Activity 1.2.5)
115. Current Civil Servants MoJ AL 2016 05 23 EN AL (Activity 1.2.5)
116. Status of publications of court decisions (Activity 1.4.1)
117. Project Brief Unified Publication Service EN AL 2016 11 13 (Activity 1.4.1)
118. Comments on electronic communication to HJC EN 2015 12 16 (1.5)
119. Comments on electronic communication to HJC AL 2015 12 16 (1.5)

120. Gajus newspaper 26, Dhjetor 2015 AL (Activity 1.6.3)
121. Judicial map proposed by MoJ EN 2016 05 13 (Activity 1.7.1)
122. Judicial map proposed by MoJ AL 2016 05 13 (Activity 1.7.1)
123. International Cooperation Agreements EN\_AL 2016 05 26 (Activity 1.7.4)
124. Law on JRFA in Criminal Matters EN 2016 05 19 (Activity 1.7.4)
125. Commentary on the Law 10193/2009 EN (Activity 1.7.4)
126. Decision no. 3 of 2012 amended IDPC EN (Activity 1.7.4)
127. Decision no. 3 of 2012 amended IDPC AL (Activity 1.7.4)
128. Instruction no. 21 of 2012 amended IDPC EN (Activity 1.7.4)
129. Instruction no. 21 of 2012 amended IDPC AL (Activity 1.7.4)
130. Status of Publication of Laws 2016 04 28 (Activity 1.7.5)
131. Agenda training for the SoM on Eu *acquis* EN 2016 05 25 (Activity 2.1.2)
132. Agenda training for the SoM on Eu *acquis* AL 2016 05 25 (Activity 2.1.2)
133. Structure of the Training on *EU Acquis* to the SoM EN 2016 05 25 (Activity 2.1.2)
134. Structure of the Training on *EU Acquis* to the SoM AL 2016 05 25 (Activity 2.1.2)
135. Explanatory Note on the Civil procedure Code EN (Activity 2.2.3)
136. Explanatory Note on the Civil procedure Code AL (Activity 2.2.3)
137. Agenda on Round Table on ICMIS 16 02 29 EN (Activity 2.3.1)
138. List of participants ICMIS Round Table 2016 03 09 EN (Activity 2.3.1)
139. Report Resolution 22 Issues of ICMIS 09 05 2016 EN (Activity 2.3.1)
140. Statistics Reports in ICMIS - Shortcomings and Recommendations EN 2016 01 29  
(Activity 1.2.4 and Activity 2.3.1) EN AL
141. Test Plan ICMIS Statistics EN 2016 03 09 (Activity 2.3.1) EN AL
142. Analysis of ICMIS statistical module 2016 05 27 (Activity 2.3.1) EN AL
143. Action Plan Next Generation of ICMIS 2016 04 11 EN (Activity 2.3.2) EN AL
144. Concept Realization Next Generation of ICMIS EN 2016 05 23 (Activity 2.3.2) EN  
AL
145. Concept Software Services Next Generation of ICMIS AL 2016 05 23 (Activity 2.3.2)  
EN AL
146. Memorandum of Understanding with the Ministry of Justice and School of  
Magistrates AL 2015 (Activity 2.4.2) EN AL
147. Draft Criminal Code of the MoJ with explanatory EN 2016 04 14 (Activity 3.1.1)
148. Draft Criminal Code of the MoJ with explanatory AL 2016 04 14 (Activity 3.1.1)
149. Draft law on CPC proposal by Spiro Spiro AL 2016 05 20 (Activity 3.1.1)
150. Explanatory report for the amendments of the CPC EN 2016 05 14 (Activity 3.1.1)
151. Explanatory report for the amendments of the CPC AL 2016 05 14 (Activity 3.1.1)
152. USKOK model for Albanian Prosecutors Mission Report EN 2016 04 1 (Activity 3.2.1)
153. Case management System of Albanian prosecutor service ToRs Extension EN/AL  
2016 04 25 (Activity 3.2.4)

### List of abbreviations used in the report:

AC	Administrative Court
ALL	Albanian currency (lekë)
ARK-IT	Case management system developed by ARK IT company
ASP	Albanian State Police
CAMS	Case Management System of Albanian prosecutor service
CC	Constitutional Court
CCMIS	Court Case Management Information System, case management system of the courts, replaced by ICMIS
CCJE	Consultative Council of European Judges
CEPEJ	European Commission for the Efficiency of Justice (CoE)
CoE	Council of Europe
CoM	Council of the Ministers
COP	Centre for Official Publications
CPC	Albanian Criminal Procedure Code e.g. <i>exempli gratia</i> = for instance
EU	European Union
EUD	European Union Delegation to Albania
Euralius	This project (Euralius IV); Euralius I, II or III = previous projects
EUR-Lex	European Union Legislation
GHLE	Group of High Level Experts (Ad Hoc Parliamentary Committee)
GPO	General Prosecutor's Office
HC	High Court
HCJ	High Council of Justice
HIDAACI	High Inspectorate of Declaration and Audit of Assets and Conflict of Interest
ICMIS	Integrated Case Management Information System
INT	International long term expert (number = team)
IT	Information Technology
JUST	Albanian Justice Sector Strengthening Project (US Embassy)
JRFA	Jurisdictional Relations with Foreign Authorities
LTE	Albanian long term expert (number = team)
MLA	Mutual Legal Assistance
MoJ	Ministry of Justice
MTE	Mid-term expert
NAIS	National Agency for Information Society
NCA	National Chamber of Advocates
NCN	National Chamber of Notaries
NBI	National Bureau of Investigation
NGO	Non- Governmental Organization
NJC	National Judicial Conference

No.	Number
OAJB	Office for the Administration of the Judiciary Budget
OPDAT	Overseas Prosecutorial Development, Assistance and Training Program (United States of America)
OSCE	Organization for Security and Cooperation in Europe Presence in Albania
PAMECA	EU Project "Consolidation of Law Enforcement Capacities in Albania", PAMECA IV
PDIU	Partia Demokratike per Integrim dhe Unitet
SCLA	State Commission of Legal Aid
SCM	Euralius' Stakeholders Committee Meeting
SoM	School of Magistrates
SPAK	Struktura e Posaçme Anti Korrupsion- Special Anti-Corruption Structure
STE	Short Term Expert
TAIEX	Technical Assistance and Information Exchange instrument of the European Commission
TL	Team leader (acting as INT 1 at the same time)
ToR	Terms of Reference
UAJ	Union of Albanian Judges
USA	United States of America
USKOK	Uredu za Suzbijanje Korupcije i Organiziranog Kriminaliteta (Croatian department to fight corruption and organized crimes)
VC	Venice Commission
WG	Working group

## PART ONE: EXECUTIVE SUMMARY

The reform package has been delivered from the technical side. After the final opinion of the VC a technical draft on the constitution amendments and a version with political compromise options has been delivered. The ad-hoc committee voted in principle the draft and discussed it article by article. This has been the starting point for political discussions on the highest level.

**Activity 1.1.2** within the law packages following items and **other activities are delivered.**

Draft law on the Constitution (Activity 1.1.2)  
Draft law on the Constitutional Court (Activity 1.1.2)  
Draft law on the Institution of the President of the Republic of Albania (Activity 1.1.2)  
Draft law on the Legal Aid (Activity 1.3.3)  
Draft law on the Court Fees (Activity 1.3.3)  
Draft law on Status of Judges and Prosecutors (Result 1.5 / Activity 1.5.1)  
Draft law on the Court Organization (Result 1.5 / Activity 1.5.5)  
Draft law on the Governance institutions (Result 1.5 / Activity 1.5.5)  
Draft law on the State exam for lawyers (Activity 2.1.0)  
Draft law on the Notaries (Activity 2.6.1)  
Draft law on the Criminal Procedure Code (Activity 3.1.1)  
Draft law on the Criminal Code (Activity 3.1.1)  
Draft law on Anti-Mafia (Activity 3.1.2)  
Draft law on Anti-Terrorism (Activity 3.1.2)  
Draft law on the Judicial Police (Activity 3.1.2)  
Draft law on the Money Laundering (Activity 3.1.2)  
Draft law on Preventing Interceptions (Activity 3.1.2)  
Draft law on the Special Prosecution Anticorruption Office (Activity 3.1.2/ Activity 1.2.3.2)  
Draft law on the Witness protection (Activity 3.1.2)  
Draft law on the Prosecution Office (Activity 3.3.4)  
Draft law on the Civil Procedure Code (Activity 4.2.2)  
Draft law on the State Advocacy  
Draft law on the Re-evaluation of judges and prosecutors (Vetting law)  
Draft law on Asset declaration  
Draft law on the Whistle-blowers (Activity 3.1.2)

**Activity 1.1.3** Human resources and budgetary needs for funding the initiatives called for by the strategy are **delivered.**

**Activity 1.2.1** Assist the MoJ in the Codification and International Judicial Cooperation Department, first contacts have been established.



Activity 1.2.2 (budget training) is delivered. A coaching to the team of the OAJB helped to improve the annual budget request for 2017.

Activity 1.1.3.1 (Internal audit in MoJ) is delivered, audit system is in place.

Activity 1.2.3.2 A propose an independent structure of the prosecutor's office to fight corruption, has been delivered.

Activity 1.4.3 (court media training) is delivered. A legislative framework has been proposed. Training of trainers has been delivered.

Activity 1.5.1 Legislative rules have been delivered within the ongoing reform process of the reform the High Judicial Council

Activity 1.5.3 Assistance to the HCJ in the implementation of the evaluation system for judges and the inspection system, has been delivered.

Activity 1.5.2 New primary legislation governing the recruitment, appointment, promotion and transfer of judges has been delivered.

Activity 1.5.4 A draft new legislation within the reform process of the judiciary reviewing and amending the rules on disciplinary procedures has been delivered.

Activity 1.5.5 "Zero tolerance" policy regarding corruption in the HCJ in coordination with Government's overall anti-corruption policy has advanced.

Activity 1.6.1 Assistance to the High Court in improving its internal organisational structure has been delivered.

Activity 1.6.2 The appointment process of judges to the High Court is delivered.

Activity 1.6.3 Assistance to the High Court in implementing a comprehensive programme for disseminating information about the unification of judicial practice has been delivered.

Activity 1.7.1 A system for the implementing the courts' territorial reorganisation has been proposed.

Activity 1.7.2 (Support the implementation of the MoU between the MoJ and the HCJ inspectorates through the conduct of joint inspections) becomes redundant by the proposed legislation.

Activity 1.7.3 (trial monitoring system) is merged with activity 1.2.4 (statistics).

Activity 2.2.3 (framework for the court experts) is delivered.

Activities 2.3.1 and 2.3.2 are reformulated (new ICMIS generation).

Activity 2.3.3 Assistance to the MoJ in the use of electronic applications and tools in the judiciary such as audio recording has been delivered.

Activity 2.4.1 Assistance the MoJ in the review of the Law on the Judicial Administration is delivered

Activity 2.4.2.2 Legal framework which foresees comprehensive initial and continuous training to chancellors is delivered.

Activity 2.6.1 Support to the (NCN) regarding its internal organisation and functioning has been delivered.

Activity 2.6.2 Support the MoJ and the NCN in the implementation of a training program for notaries has been delivered.

Activity 3.1.1 Criminal Code and a new Criminal Procedure Code have been delivered

Activity 3.1.2 Amendments to reforms and modernisation of the Criminal Justice legal and Institutional Framework have been delivered.

Activity 3.3.1 Assistance the GPO and the Council of the Prosecutors in the implementation of the evaluation system for prosecutors has been delivered.

Activity 3.3.2 The proposed legislation can help establishing and implementing a true system of advancement in career.

Activity 3.3.4 A draft law on the Prosecution Office has been delivered.

Activity 4.1.2 (Selection and appointment procedures that took place for the new administrative court judges) is delivered.

Activity 4.2.2 Assistance the Codification Directorate to review the Civil Procedure Code has been delivered.

In addition to the monthly reports, reporting will be done every six months, being followed by a stakeholders' committee meeting:

	Reporting period	Steering committee
Inception Report	1.09.2014 - 31.11.2014	17.12.2014 approved
First Progress Report	1.12.2014 - 31.5.2015	3.6.2015 done
Second Progress Report	1.6.2015 - 30.11.2015	14.01.2015
Third Progress Report	1.12.2015 -31.5.2016	15.06.2016 this one
Forth Progress Report	1.6.2016 -30.11.2016	14.12.2016 (next one)
Fifth Progress Report	1.12.2016 - 31.5.2017	7.06.2017
Final Report and closing event	1.9.2014-31.12.2017	30.11.2017

## PJESA E PARË: PËRMBLEDHJE EKZEKUTIVE

Paketa e reformës është dorëzuar nga ana teknike. Pas mendimit përfundimtar të Komisionit të Venecias, është dorëzuar një draft teknik për ndryshimet e Kushtetutës dhe një version me opsione kompromisi politik. Komisioni i përkohshëm e votoi në parim draftin dhe e diskutoi atë nen për nen. Kjo ka qenë pika fillestare për diskutime politike në nivelin më të lartë.

Aktiviteti 1.1.2 brenda paketave ligjore në vijim të çështjeve dhe aktiviteteve të tjera është realizuar.

Projektligji për Kushtetutën (Aktiviteti 1.1.2)

Projektligji për Gjykatën Kushtetuese (Aktiviteti 1.1.2)

Projektligji për Institucionin e Presidentit të Republikës së Shqipërisë (Aktiviteti 1.1.2)

Projektligji për Ndihmën Juridike (Aktiviteti 1.3.3)

Projektligji për Tarifat Gjyqësore (Aktiviteti 1.3.3)

Projektligji për Statusin e Gjyqtarëve dhe Prokurorëve (Rezultati 1.5 / Aktiviteti 1.5.1)

Projektligji për Organizimin e Gjykatave (Rezultati 1.5 / Aktiviteti 1.5.5)

Projektligji për Organet e Qeverisjes së Sistemit të Drejtësisë (Rezultati 1.5 / Aktiviteti 1.5.5)

Projektligji për Provimin e Shtetit për Avokatët (Aktiviteti 2.1.0)

Projektligji për Noterinë (Aktiviteti 2.6.1)

Projektligji për Kodin e Procedurës Penale (Aktiviteti 3.1.1)

Projektligji për Kodin Penal (Aktiviteti 3.1.1)

Projektligji për Anti-Mafian (Aktiviteti 3.1.2)

Projektligji për Anti-Terrorizmin (Aktiviteti 3.1.2)

Projektligji për Policinë Gjyqësore (Aktiviteti 3.1.2)

Projektligji për Pastrimin e Parave (Aktiviteti 3.1.2)

Projektligji për Përgjimet Parandaluese (Aktiviteti 3.1.2)

Projektligji për Prokurorinë Speciale të Anti-Korrupsionit (Aktiviteti 3.1.2/ Aktiviteti 1.2.3.2)

Projektligji për Mbrojtjen e Dëshmitarëve (Aktiviteti 3.1.2)

Projektligji për Prokurorinë (Aktiviteti 3.3.4)

Projektligji për Kodin e Procedurës Civile (Aktiviteti 4.2.2)

Projektligji për Avokaturën e Shtetit

Projektligji për Ri-vlerësimin e Gjyqtarëve dhe Prokurorëve (Ligji për Vetting)

Projektligji për Deklarimin e Pasurive

Projektligji për Sinjalizuesit (Aktiviteti 3.1.2)

**Aktiviteti 1.1.3** Burimet njerëzore dhe nevojat buxhetore për financimin e iniciativave të kërkuara nga strategjia janë realizuar.

**Aktiviteti 1.2.1** Të ndihmojmë MD në Departamentin e Kodifikimit dhe Bashkëpunimit Gjyqësor Ndërkombëtar, kontaktet e para janë krijuar

**Aktiviteti 1.2.2 (trajnim mbi buxhetin)** është realizuar. Një trajnim për ekipin e ZABGJ ndihmoi në përmirësimin e kërkesës vjetore të buxhetit për vitin 2017.

Aktiviteti 1.1.3.1 (Auditimi i brendshëm në MD) është **realizuar**, sistemi i auditimit është ngritur.

Aktiviteti 1.2.3.2 Propozimi për një strukturë të pavarur të Prokurorisë për të luftuar korrupsionin, është realizuar.

Aktiviteti 1.4.3 (trajnim për mediat në gjykatë) është realizuar. Është propozuar një kuadër ligjor. Trajnimi i trajnuesëve është realizuar.

Aktiviteti 1.5.1 Rregullat ligjore janë **përgatitur** brenda procesit të vazhdueshëm të reformës për Këshillin e Lartë Gjyqësor.

Aktiviteti 1.5.3 Asistenca për KLD në zbatimin e sistemit të vlerësimit të gjyqtarëve dhe sistemit të inspektimit, është realizuar.

Aktiviteti 1.5.2 Legjislacioni i ri primar që rregullon rekrutimin, emërimin, promovimin dhe transferimin e gjyqtarëve është realizuar.

Aktiviteti 1.5.4 Një draft i ri ligjor në kuadër të procesit të reformës në gjyqësor për shqyrtimin dhe ndryshimin e rregullave për procedurat disiplinore është realizuar.

Aktiviteti 1.5.5 Politika me “Zero tolerancë” në lidhje me korrupsionin në KLD në koordinim me politikën e përgjithshme anti-korrupsion të Qeverisë ka përparuar.

Aktiviteti 1.6.1 Asistenca për Gjykatën e Lartë për përmirësimin e strukturës së saj të brendshme organizative është realizuar.

Aktiviteti 1.6.2 Procesi i emërimit të gjyqtarëve në Gjykatën e Lartë është realizuar.

Aktiviteti 1.6.3 Asistenca për Gjykatën e Lartë në zbatimin të një programi të plotë për shpërndarjen e informacionit në lidhje me unifikimin e praktikës gjyqësore është realizuar.

Aktiviteti 1.7.1 Një sistem për zbatimin e ri-organizimit territorial të gjykatave është realizuar.

Aktiviteti 1.7.2 (Mbështetja për zbatimin e MM ndërmjet MD dhe inspektorateve të KLD-së nëpërmjet kryerjes së inspektimeve të përbashkëta) bëhet e panevojshme në kuadër të legjislacionit të propozuar.

Aktiviteti 1.7.3 (sistemi i monitorimit të procesit gjyqësor) është shkruar me aktivitetin 1.2.4 (statistikat).

Aktiviteti 2.2.3 (kuadri ligjor për ekspertët e gjykatave) është realizuar.

Aktiviteti 2.3.1 dhe 2.3.2 janë riformuluar (gjenerata e re për ICMIS).

Aktiviteti 2.3.3 Asistenca për MD në përdorimin e aplikimeve dhe pajisjeve elektronike në gjyqësor, të tilla si regjistrimi audio është realizuar.

Aktiviteti 2.4.1 Asistenca për MD në rishikimin e ligjit për Administratën Gjyqësore është realizuar.

Aktiviteti 2.4.2.2 Kuadri ligjor i cili parashikon trajnimin gjithëpërfshirës fillestar dhe të vazhduar të kancelarëve është **realizuar**.

Aktiviteti 2.6.1 Mbështetja për (DHKN) në lidhje me organizimin e brendshëm dhe funksionimin e saj është realizuar.

Aktiviteti 2.6.2 Mbështetja për MD dhe DHKN në zbatimin e programit të trajnimit për noterët është **realizuar**.

Aktiviteti 3.1.1 Kodi Penal dhe Kodi I Procedurës Penale **janë realizuar**.

Aktiviteti 3.1.2 Ndryshimet për reformimin dhe modernizimin e kuadrit ligjor dhe institucional të Drejtësisë Penale **janë realizuar**.

Aktiviteti 3.3.1 Asistenca për Prokurorinë e Përgjithshme dhe Këshillin e Prokurorisë për zbatimin e sistemit të vlerësimit për prokurorët është **realizuar**.

Aktiviteti 3.3.2 Legjislacioni i propozuar mund të ndihmojë në ngritjen dhe zbatimin e një sistemi të vërtetë të përparimit në karrierë.

Aktiviteti 3.3.4 Projektligji për Prokurorinë është **realizuar**.

Aktiviteti 4.1.2 (Procedurat e përzgjedhjes dhe emërimit që u zhvilluan për gjyqtarët e rinj të gjykatës administrative) janë **realizuar**.

Aktiviteti 4.2.2 Asistenca për Drejtorinë e Kodifikimit në rishikimin e Kodit të Procedurës Civile është **realizuar**.



Përveç raporteve mujore, raportimi do të bëhet çdo gjashtë muaj, duke u ndjekur nga një mbledhje komitetit drejtues:

	Periudha e Raportimit	Komiteti Drejtues
Raporti Fillestar	1.09.2014 - 31.11.2014	17.12.2014 i aprovuar
Progres-Raporti i parë	1.12.2014 - 31.5.2015	3.6.2015
Progres-Raporti i dytë	1.6.2015 - 30.11.2015	14.01.2016
Progres-Raporti i tretë	1.12.2015 -31.5.2016	15.06.2016
Progres-Raporti i katërt	1.6.2016 -30.11.2016	14.12.2016 (tjetri)
Progres-Raporti i pestë	1.12.2016 - 31.5.2017	7.06.2017
Raporti përfundimtar dhe aktiviteti i mbylljes	1.9.2014-31.12.2017	30.11.2017

## PART TWO: RESULTS AND ACTIVITIES

Based on the decision of the SCM in December 2014 EURALIUS was requested to support the justice reform in Albania and to add the Assembly as one of the beneficiaries of EURALIUS. This engagement changed the focus of the activities to be implemented by EURALIUS dramatically. In the SCM of 14 January 2016 it was decided to reword the titles of several activities in order to bring them in compliance with the activities that are in fact carried out with the assistance of EURALIUS. In the following the report restates the title of the activities as referred to in the contract followed by the title of the activity as per the decision of the SCM on 14 January 2016.

As a result in this reporting period the implementation of the activities team 4 (ICMIS) needs to be updated.

Objective 1: To improve the independence, transparency, efficiency and effectiveness of the Albanian justice system pursuant to a clear and comprehensive reform strategy developed by the Albanian Ministry.

### Result 1.1: Justice System strategy with a concrete action plan

Previous description before implementation:

Activity 1.1.1: Support the relevant Albanian institutions in drafting a justice reform strategy accompanied with a concrete action plan for the period 2014 – 2017 streamlining the Cross-Cutting Justice Strategy covering the years 2011-2013 helping the institutions focus more directly on key reforms, including those aimed at enhancing the independence, accountability and professionalism of the judicial system in line with the EU acquis and best practices. Support for the drafting and adoption process of the new Cross-Cutting Justice Reform Strategy will be done through an inclusive and consultative process in which Albanian authorities will also engage with the Venice Commission and take into consideration the latter's findings.

Current implementation:

**Activity 1.1.1.1: Justice Reform strategy with a concrete action plan 2016-2020 of the Ministry of Justice**

EURALIUS assisted the Ministry of Justice to elaborate the cross sector-strategy 2016-2020. It includes a narrative part, the "Revenue Implication of the Strategy and the Action Plan" (see annexes). EURALIUS ensured that the strategy elaborated within the Assembly's justice reform and the strategic objectives included therein are reflected in the overall cross sector-strategy of the Ministry.

Furthermore EURALIUS gave input for the elaboration of the IT objectives of the sector-strategy, which are in particular the following:

- Establishing of an IT platform for operation of electronic systems of the judiciary
- Improving IT operations and support services for electronic systems in the judiciary
- Putting the case management system of courts (ICMIS) in full efficiency

- Enhancing the functionality of the case management system of the prosecutor service (CAMS) and adapting it to organizational changes of the institution
- Enhancing the efficiency of processing of Mutual Legal Assistance (MLA) cases
- Enhancing digital interactions between the general public and the judiciary (e-Justice)
- Improving the statistical information provided by court case management systems
- Enhancing the efficiency of operation of HJC, HPC, HIC, Disciplinary Tribunal and the Appointment Council with ICT
- Enhancing the electronic publication system of the Centre for Official Publications
- Enhancing the efficiency of operation of bailiffs, bankruptcy administrators, and notaries
- The development of the registry of legal professions of the Ministry of Justice, as well as bankruptcy administrators.
- Improvement of the functioning of the penitentiary system by assuring the necessary technology systems by 2020.

On 12 February 2016 a meeting with the EU Integration Minister Mrs Klajda Gjoshaj, representatives of EUD and the Minister of Justice Manjani was held to discuss the Cross - Sector Strategy of the Ministry of Justice 2016-2020. For the finalization of this document EUD suggested to the Albanian counterparts to wait for the results of reform process, as the multiannual strategy should be entirely coherent with the developments in Parliament. The Strategy and Action plan with annex are available in both languages prepared by EURALIUS. This activity is delivered. Until the end of the reporting period the reform has not passed. An update might focus immediately on the upcoming period 2017-2021.

#### Euralius experts and counterparts

Team 1, MoJ

#### Activities and timing

The envisaged public consultation was postponed. In the case political developments enable the MoJ to continue with the multiannual strategy, Euralius will support the upcoming consultation and finalization of the document (additional result).

#### Indicators for output

- Draft strategy of the MoJ with action plan and financing 2016-2020 (delivered)
- Updated Cross Sector Strategy 2017-2021 (additional result)

**Activity 1.1.1.2: "Strategy of the reform of the judiciary with the Ad-hoc committee in Parliament"**

The strategy is delivered.

Euralius experts and counterparts

Team 1

Activities and timing

Activity is delivered

Indicators for outputs

Strategy of the Justice System by Parliament's reform process (delivered)

#### Previous description before implementation:

Activity 1.1.2: Support the implementation and monitoring of the new Cross-Cutting Justice Reform Strategy and its action plan, i.e. among other things by assisting the MoJ in drafting or amending necessary laws and by-laws that are called for by the strategy. Ensure that these measures take into consideration relevant measures of the anti-corruption strategy.

Current implementation:

**Activity 1.1.2:** Support the implementation and monitoring of the new **Cross-Cutting Justice Reform Strategy** and its action plan, i.e. by assisting **the ongoing drafting and consulting process in Parliament** and the MoJ in drafting or amending necessary laws and by-laws that are called for by the strategy. Ensure that these measures take into consideration relevant measures of the anti-corruption strategy.

This activity is delivered. Main input has been given to all pieces of legislation. Particular attention has been given to the support the elaboration of changes to the Constitution needed for the Justice Reform. In the reporting period the round of Public Consultations on the constitutional draft amendments which were carried out between October to December 2015 was completed (in Vlora on 2.12.15) and Tirana on 3, 4, 7.12.2015). EURALIUS participated in all debates.



Final Public Consultation Round Table held in the School of Magistrates premises.

Several TV and media reported on the events and EURALIUS support:

<http://www.top-channel.tv/lajme/artikull.php?id=314774>

<http://www.gazeta-shqip.com/lajme/wp-content/uploads/2015/12/gazeta-SHQIP289.gif>

<http://www.top-channel.tv/lajme/artikull.php?id=314806#relin>

On 8 December 2015, the High Level Experts Group gave a press statement on the occasion of the finalization of the public consultation second round for the justice reform. Mr Kristaq Traja declared that HLEs will visit VC plenary session on 17-19 December 2015 for a preliminary consultation prior to the interim opinion.

<http://www.reformanedrejttesi.al/aktivitet/deklarate-e-perbashket-e-grupit-te-eksperteve-te-nivelit-te-larte-per-reformen-ne-0>

On 22 December 2015 EURALIUS participated at the Public Consultation round table “Justice Reform and Woman Rights”.

<http://lajmi.net/ambasadori-amerikan-te-fortet-e-blejne-drejtetesine-ndersa-grate-jane-viktima-te-saj/>

On 21 December 2015 the VC adopted the Interim Opinion on the draft constitutional amendments on the Judiciary of Albania, adopted by the VC at its 105th Plenary Session (Venice, 18-19 December 2015) Opinion No. 824 /2015.

EURALIUS continued to support the working group in charge of elaborating the constitutional amendments in order to incorporate the recommendations put forward by the VC.

The Democratic Party (DP) representatives re-joined the expert roundtables on 8.1.2016. The group, including EURALIUS experts, worked on Saturday and Sunday. The DP representatives abandoned on Sunday afternoon (10.01) the expert roundtable on the constitutional amendments related to the justice system reform. The DP is determined to secure a 2/3 qualified majority, which is the majority needed to change the constitution. The event was covered by media:

<http://top-channel.tv/lajme/artikull.php?id=316948>

The High Level Experts finalised the draft without further input from the opposition on 11.1.2016. Media coverage:

<http://www.top-channel.tv/lajme/artikull.php?id=317015#k1>

<http://shqiptarja.com/video/index.php?IDVideo=38192&IDCategoria=7>

In an Ad-Hoc Parliamentary Committee held on 15.1.2016 the revised draft constitutional amendments were presented by the HLE and the Committee decided to send the revised draft Constitution to the VC for a final opinion at its next plenary session.

The PDIU as well as the DP and LSI sent to VC their opinion for the constitutional amendments (see annexes).

EURALIUS continued to participate in technical consultations with representatives of several political parties in order to identify a political compromise.

On 15 February 2015 Euralius organised a meeting with the High Level Experts of the Constitutional group in order to plan the ongoing drafting and establish an action plan with concrete steps on the short-term. In this meeting the following seven draft laws were



identified as laws that need priority attention, since they are needed in order to implement the Constitution:

1. Law on the re-evaluation (Vetting)
2. Law on HIDAACI (assets declaration)
3. Law on governance institutions (HJC, HPC, Disciplinary Tribunal, High Inspector of Justice, Justice Appointments Council)
4. Law on the status of judges and prosecutors
5. Law on the court system
6. Law on Prosecution office
7. Law on SPAK

On 23 February 2016, the Team Leader participated in a round table organized by the High Court in the frame of the process of the judicial reform. The High Court published a press release following the meeting with chief judges, EU and USA ambassadors: [http://www.gjykataelarte.gov.al/web/Kryetari\\_i\\_Gjykates\\_se\\_Larte\\_Z\\_Xhezair\\_Zaganjori\\_organizo\\_i\\_sot\\_nje\\_takim\\_me\\_anetare\\_te\\_Keshillit\\_Ekzekutiv\\_te\\_K\\_GJ\\_K\\_dhe\\_kryetare\\_te\\_gjyk\\_3434\\_1.php](http://www.gjykataelarte.gov.al/web/Kryetari_i_Gjykates_se_Larte_Z_Xhezair_Zaganjori_organizo_i_sot_nje_takim_me_anetare_te_Keshillit_Ekzekutiv_te_K_GJ_K_dhe_kryetare_te_gjyk_3434_1.php)

On 7 March 2016 EURALIUS participated in the Ad-Hoc Parliamentary Committee meeting to discuss the follow up of the draft interim VC (CDL-AD(2015)045) with the High Level Experts. The DP experts have presented the issues where DP's position deviates from the options proposed in the draft and which DP requested to be addressed in order to have a consensual draft:

1. DP is against the establishment, existence, and composition of the Appointments Council;
2. The opposition finds the judicial appointments' process as specified by the amendments as highly complicated, disregardful of checks & balances and not guaranteeing the system's independence;
3. The High Court should not be divided into two courts with the establishment of the Administrative High Court, and the High Court judges should not be recruited from out of the system;
4. DP is against the interruption of terms in office for the heads of constitutional bodies to be affected by justice reform;
5. While supporting the vetting of judges and prosecutors, the DP is against the model chosen for this purpose and the denial of their right to complain against vetting;
6. The DP is against the appointment procedures for the High Justice Inspectorate personnel and the functions of this body, and it fears that the way how High Justice Inspector is appointed will lead to the institution's politicisation.
7. DP is against the composition of the Disciplinary Tribunal, saying that it leaves room for the abuses and aids the system's re-corporatization;
8. DP is against the formula for the appointment of Constitutional Court judges;

9. DP is against the appointment as judges and prosecutors of jurists who are not graduates of the Magistrates School;

10. DP is against the procedures for electing the five members of the High Council of Prosecution and of the High Council of Judiciary coming from the politics ranks.

In the end of the meeting the DP MP Eduard Halimi, stressed that the political parties should reach consensus through political dialogue on the said points, and then the matter could be passed to the experts. This event was widely followed and reported in most of the national media in the country.



Mrs. Anastasi, Mr. Traja and Mr. Deville, High Level Experts of the Ad-Hoc Parliamentary committee in the meeting on 7 March 2016.

“Mapo” newspaper has reflected the Ad-Hoc Committee meeting in the following link, with the headline “*Justice Reform is stuck without already initiating. LSI excludes the political round*”: <http://www.mapo.al/2016/03/reforma-ngec-pa-nisur-lsi-sperjashton-tryezen-politike>

On 11 March 2016 the VC approved the final opinion for the constitutional amendments (see annex). EURALIUS participated in the meetings in Venice.



106th plenary session of the VC, hearing of the final opinion for the draft constitutional amendments.

On 18.03.2016 „Tema“ newspaper has reported a long analytical editorial describing namely "Political Debate on the justice reform as "Stone of Sisyphus":

<http://www.gazetatema.net/web/2016/03/18/debati-politik-per-reformen-si-guri-i-sizifit/>

On 23/24 March TL, participated in a marathon meeting of the Ad-Hoc Parliamentary Committee meeting. An agreement was reached for the NBI being under the Special Prosecution Service. Further agreements pending, since the members of the DP by the Ad-Hoc Parliamentary Committee and did not return to the table on 24.03.2016.

The Ad-Hoc Committee on the Justice Reform met again on Friday 15.04.2016 with the participation of the opposition members. In a joint press release, the EUD and the USA embassy welcomed the resumption of the dialogue in the Ad-Hoc Parliamentary Committee and encouraged the parties to approve the justice reform legislation before the Assembly's summer recess. Parties agreed on the future existence of the independent corruption-fighting unit SPAK, with the investigative tool NBI and on the vetting procedure.

In order to accelerate the negotiation process and to speed up the common dialogue with a view to approve the justice reform in the Parliament, EURALIUS and OPDAT were requested by the chair of the Ad-Hoc Committee to meet with the members of the Democratic Party and discuss questions raised by the Ad-Hoc Committee during the meetings in March 23 and April 15.

The meetings with the DP representatives took place on 19 and 22 of April 2016. EURALIUS and OPDAT prepared a technical document answering the questions raised by the previous Ad-Hoc reflecting the best international practises and the opinion of the VC. DP representatives focussed the discussion on three topics: on vetting, SPAK and NBI and were reluctant to discuss other important issues of the constitutional package such as High Justice Inspector, the Justice Appointment Council, High Administrative Court, Disciplinary Tribunal or the election modus (Mr Xhafaj proposed an *election modus document*; EURALIUS abstained from the decision (see annex)).

EURALIUS team has increased efforts for ensuring consistency among the laws, by translating law drafts, commenting on short notice on law drafts and co-ordination meetings. During the weekend from 23 to 24 April 2016 EURALIUS invited for a workshop in order to work intensively on a consistency checking of some of the "emergency" laws that need harmonization before submission to the parliament.

The meeting of the Ad-Hoc Commission for the Justice Reform on 25 April 2016 was not attended by the opposition members. The Democratic Party officially announced that the opposition will boycott all parliamentary commissions for ten following days, considering the Bureau of Assembly's decision to exclude the former Prime Minister, Sali Berisha, from Parliament for ten days.

On 4 May 2016 the Ad-Hoc Parliamentary Committee resumed its meetings. The USA and EU Ambassadors attended the meeting. Strong and clear messages were delivered to the Albanian parties, in regard to the approval of the Justice Reform, as a pre-condition to enter in the EU. The US Ambassador H.E Donald Lu praised the work done so far by EURALIUS and OPDAT. *“Non-approval of this Reform is the shame of the members of this committee”; Dr. Smibert and Dr. Deville are among the most remarkable professionals in Europe and USA. They both gave a valuable contribution to the draft as approved by the Venice Commissions` final opinion; I am proud that the draft is non-influenced and I fully support this constitutional amendments draft”* – said H.E Mr Donald Lu during the meeting. <http://www.oranews.tv/vendi/nese-reforma-ne-drejttesi-deshton-turperoni-veten-dhe-marredheniet-me-shba-e-be/>

On 4th of May 2016 a meeting of the High Level Experts Group was held. In preparation of this meeting the Technical Secretariat to the Ad-Hoc Committee had prepared which gave an overview over the laws to be elaborated or amended and the main findings identified by the analytic document for each of the justice reform laws, the methodology of the work which has been adopted in several working groups and an overview on the main interventions within each law (see annex). In this meeting a timetable for the deadline for submission of the draft laws, the Think Tank meetings and Public Consultation events was envisaged. EURALIUS highlighted that there is a need to check coherence and consistency among a substantial number of drafts and recommended to set up a task force equipped with the necessary resources which ensures the finalisation of the third phase of the reform. EURALIUS suggested that the Parliament opens on the web page of reforma.al or within the Parliament structure an intranet for coordination purposes. A webmaster should be responsible to update the databases every day. The latest version of every single draft should be available in Albanian and English. Without such a tool the final coordination might be difficult and not all parts of the huge package might reach legislative quality within the given deadlines. The Parliament has not followed these recommendations.



HLEs meeting on emerging of the justice reform processes on 4 May 201

13 consultations are planned for this third phase. In May the following consultations took place:

Date	Event	Law
6.05.2016	Think Tank	Constitutional Court (Tirana)
11.05.2016	Consultation	Judiciary (Tirana)
11.05.2016	Think Tank	Criminal justice (SPAK)
12.05.2016	Working group	Constitutional amendments
12.05.2016	Consultation	Prosecution Office (Durrës)
13.05.2016	Consultation	Prosecution Office (Tirana)
17.05.2016	Consultation	Judiciary (Vlora)
17.05.2016	Consultation	Constitutional Court (Tirana)
18.05.2016	Consultation	Legal Education (Tirana)
26.05.2016	Working group	President draft law

In the Ad-Hoc Committee on 5 May 2016 EURALIUS and OPDAT presented a potential draft of the constitutional amendments which now includes political options. The presented draft goes beyond the technical remarks and includes the proposals aiming at reaching a political agreement: in particular in regard to the Justice Appointment Council and Disciplinary Tribunal. The Justice Appointment Council in this draft is proposed to be partially selected annually by lot however in order to ensure its function as “expert body” as proposed by the Venice Commission members should come from various higher courts and prosecution offices. The members of the Disciplinary Tribunal of Justice are also proposed to be partially selected by lot while consisting of magistrates in order to comply with Article 6 ECHR requirements. With a random selection of judges and prosecutors to review these disciplinary violations, this alleviates the concern that a small group of judges will be controlling the discipline process (*In the later ad-hoc committee meeting on 20.5.2016 the Democratic Party disagreed with their own proposal*). The draft notes that from the technical and European perspective, it is possible not to separate the High Administrative Court from the High Court. Another question that needs to be decided politically is the role of the Minister of Justice. From the technical level, a State needs an authority above the Councils, in particular for decisions on IT matters. In the light of the judgments of the Constitutional Court, it is recommendable to clarify such a competence in the constitution.

All political parties in the Ad-Hoc Committee agreed that all judges and prosecutors in the system are assessed. It is an administrative procedure, called “vetting”, which has been elaborated for the very first time in such a detailed manner. The VC confirmed the necessity to adopt such a measure in Albania and approved the model. The vetting shall be conducted as quickly as possible, but at the same time, it has to guarantee the rule of law, the respect of fundamental rights and freedoms, a fair process, the right of appeal and a constitutional control. The changes in the draft resulted from the need for clarification, a shorter duration, requiring a larger number of first instance commissions, and the



placement of the appeal chamber directly at the constitutional court level, as this is the only way to guarantee constitutional control even for the members of the Constitutional Court.

On 9 May 2016 the Ad-Hoc Parliamentary Committee on Judicial Reform approved the draft of the constitutional amendments in principle. Following the meeting the Chair of the Ad-Hoc Parliamentary Committee on Justice System Reform, Fatmir Xhafaj stressed that there was a vote in principle on the constitutional project, adding that they should move forward quickly with the article-by-article review of the same.

The meeting of the Ad-Hoc Committee planned to take place on 11 May 2016 was postponed due to the non-attendance of the DP deputies.

On the same day the EU and the US Ambassadors, EURALIUS and OPDAT representatives held a meeting with members of Parliament of DP to urge them to vote in favour the judiciary reform. Ambassador Vlahutin made clear that in case the reform will not be approved soon, the accession negotiations will be blocked for at least three years and the EU will not provide any further assistance to Albania. On the other hand, Lulezim Basha stated that the reform in judiciary is difficult and has lasted and may last more. In the end what matters is the final product not the time, important for Mr Basha are the European standards.



US and EU ambassadors after the meeting with DP Party on 11 May 2016

Sources:

Top Channel: <http://top-channel.tv/lajme/artikull.php?id=326309>

Balkanweb: <http://www.balkanweb.com/site/takimi-i-pd-me-ambasadoret-shtyhet-mbledhja-e-komisionit-per-reformen-ne-drejtisi/>



Shqiptarja: <http://shqiptarja.com/politike/2732/ambasador-t-2-or--e-20-minuta--n--pd-lu-votoni-reform-n--355766.html#sthash.kbqrC3m4.dpuf>

On 11.05.2016 Mr Eduard Halimi has withdrawn from the position of the deputy chair of the Ad-Hoc parliamentary committee for personal issues-as reported by the media. Later he was replaced by Mr Oerd Bylykbashi.

The work at ad hoc Commission re-started on 13 May 2016 by discussing the draft article by article. The meetings have followed regularly in the Ad-Hoc commission with the presence of both political parties. Euralius has been represented in all the ad-hoc meetings. The constitutional amendments have been discussed article by article within the respective chapters, in the ad-hoc meetings held on 16, 18 May that followed.

On 18 May 2016 the DP presented a draft highlighting their new position towards the constitutional amendments. In their comments they referred to the draft constitution amendments of 4.05.2016. According to the DP they aim at a more simplified system. The DP stick to their position in regard to the nomination of the high level functionaries in the justice system with a qualified majority of 3/5 of the votes (see annex).

<http://www.syri.net/2016/05/08/reforma-ne-drejtisi-ja-kush-eshte-qendrimi-i-pd-per-draftin-e-ri/>

Ad hoc meetings followed on 20 and 23 May, and the ad-hoc commission passed the vetting chapter and the transitory provisions of the constitutional amendments. Euralius Team Leader answered technical questions of the members of the Parliament on the Venice's Commission Opinion and European standards related to the principle of re-evaluation of judges and prosecutors. No decision has been agreed so far.

The work at Ad-Hoc Commission meetings met continued (see annex chronology of the justice reform and members of the Ad-Hoc committee):

Date	Event	Chapter
9.05.2016	Ad-Hoc meeting	Approving the draft constitution in principle
10.05.2016	Ad-Hoc meeting	First chapter EU standards
13.05.2016	Ad-Hoc meeting	Constitutional Court
16.05.2016	Ad-Hoc meeting	Courts and Judiciary
18.05.2016	Ad-Hoc meeting	Prosecution offices
20.05.2016	Ad-Hoc meeting	Justice appointments council, transitory provisions
23.05.2016	Ad-Hoc meeting	Vetting

## Other laws implementing the Constitutional Changes and the Justice Reform

The working groups in charge of elaborating other laws continued their work during the whole reporting period (see also below, reporting under several EURALIUS activities). This encompasses the elaboration of the following new laws or amendments to existing laws (the laws where EURALIUS provided major input are put in italics):

### I. Package of the constitutional amendments

- 1.1 *Constitutional amendments for the justice system of the Republic of Albania*
- 1.2 *Constitutional amendments for other issues (EU, NATO, Decriminalization etc.)*
- 1.3 *Law no. 8577, date 10/02/2000 "On the organization and functioning of the Constitutional Court of the Republic of Albania"*
- 1.4 Organic Law on the Institution of the President of the Republic of Albania

### II. Legal package for the reform in judiciary

- 2.1 *Law no. 9877, dated 18/02/2008 on the "organization of the judicial power of the Republic of Albania"*
- 2.2 *Draft law on the "Status of Judges and Prosecutors in the Republic of Albania"*
- 2.3 *Draft law on the "Governance institution of the justice system of the Republic of Albania"*
- 2.4 *Law no. 49/2012 on the "Organization and functioning of administrative courts and the adjudication of administrative disputes of the Republic of Albania (amendments)"*
- 2.5 *Law no. 8678, dated 14/05/2001 on "Ministry of Justice of the Republic of Albania (amendments)"*
- 2.6 *Civil Procedure Code of the Republic of Albania, no. 7491, dated 29/04/1991, (amendments)*

### III. Legal package on criminal justice

- 3.1 *Law no. 8737, dated 12/02/2001 on "Organization and Functioning of the Prosecution Service in the Republic of Albania"*
- 3.2 *Law no. 8677, dated 2/11/2000 on "Organization and operation of judicial police and Law on national Bureau of Investigation of the Republic of Albania"*
- 3.3 *Law no. 7905, dated 21/03/1995 on "Criminal Procedure Code of the Republic of Albania"*
- 3.4 *Law no. 7895, dated 27/01/1995 on "Criminal Code of the Republic of Albania"*
- 3.5 *Law no. 9917, dated 19.05.2008 "On prevention of money laundering and financing of terrorism" (amendments)*

- 3.6 Law no 10173 dated 22.10.2009 "On witness protection and Justice collaborators" (amendments)
- 3.7 Law no 157 dated 10.10.2013 "On the measures against terrorism financing" (amendments)
- 3.8 *Code on Juveniles of the Republic of Albania*

#### IV. Package on anti-corruption legal measures

- 4.1 *Law on Organization and functioning of the Institutions for combating corruption and organized crime in the Republic of Albania (including NBI as a chapter in this draft.*
- 4.2 Law no.9049, dated 10.4.2003 "On declaration and Control of Assets and Financial duties of Elected persons and some public officials"
- 4.3 Draft amendments to the law no 9157 dated 4.12.2003 "On the interception of electronic communication" (amendments)
- 4.4 Draft amendments to the law 10192/2014 "On preventing and striking organized crime, trafficking and corruption through preventive measures against assets" Anti-mafia (amendments)
- 4.5 *Draft law on "Re-evaluation process of Judges and Prosecutors of the Republic of Albania"*

#### V. Package on legal training and legal education

- 5.1 *Law no. 9741, dated 21/05/2007 "on Higher Education of the Republic of Albania" (amendments)*
- 5.2 *Draft law on "State Exam of the Republic of Albania"*
- 5.3 *Law no. 8136 of 31/07/1996 on the "School of magistrates of the Republic of Albania"*
- 5.4 Draft law on "Legal education of citizens of the Republic of Albania"

#### VI. Package on free professions and legal services

- 6.1 *Law no. 9109, dated 17/07/2003 on "Profession of Advocate of the Republic of Albania"*
- 6.2. Law no. 10031, dated 11/12/2008 on "Private bailiffs of the Republic of Albania"
- 6.3. *Law no. 7829, dated 01/06/1994 on the "Notary of the Republic of Albania"*
- 6.4. Law no. 10385, dated 24/2/2011 on "Mediation in dispute resolution of the Republic of Albania"
- 6.5. *Law no. 10039, dated 22/12/2008 "On legal aid" of the Republic of Albania*
- 6.6. Law no. 10018, dated 13/11/2008 on "State's Advocate of the Republic of Albania"

## VII. Law package on financing

7.1 The draft law "On amendments and additions to the law no. 9936, dated 26/6/2008," on management of budgetary system in the Republic of Albania

7.2 Draft law on budget of the judiciary of the Republic of Albania (amendments)

7.3 *Draft law on court fees of the Republic of Albania (amendments)*

These are some summaries of selected legislative drafts (see annex laws package):

### I Constitution package

#### Constitution

The constitutional amendments reduce the political influence, introduce deadlock breaking mechanisms, check and balances, a career system for the High Court, a decision making role for the council of prosecutors, accountability tools and the very first time the ex-officio control of potential corrupted judges and prosecutors. Political decision need to steer how much of this program to be implemented in reality.

A problem occurred with the recent changes on decriminalization, which has not been consulted by Euralius. The VC criticized them as inappropriate, although this comment has not been asked.

#### Constitutional court draft

This law regulates in further details of the internal organization of the court such as the appointment of the chair. The different types of claims, in particular an extended individual claim of individuals against violations of constitutional rights is regulated. The problem of corporatism within small court remains, in particular if the new disciplinary control remains an internal exercise. The question to remove the constitutional control from the capital has not been discussed.

#### State President draft

In the new constitutional setting the functions of the state President in the judiciary are substantially reduced. Specific tasks in other areas, such as for the governor of the central bank, do not necessarily need to be regulated in the law of state President, which has not existed so far. A typical challenge is the tendency of the institutions to ensure as much financing options as possible despite the decision of the Parliament. Politics has to decide if such a law is needed at all.

### II Judiciary package

#### Status of judges and prosecutors draft

Criteria for the recruitment as magistrate are proposed, in particular the draft introduces the requirement that candidates need to have at least 3 years of relevant professional experience and as to undergo an asset screening.

The internship in the third year of initial training is clearly determined as training period. The draft foresees the training for mentor judges, criteria for designating mentor judges and ensuring quality in the mentoring activity.

The Councils are obligated to appoint magistrates within one month after termination of the initial training. Only judges obtaining a minimum scoring shall be appointed.

An open position shall as a rule always first be opened to lateral transfers, in order to ensure career development. Transfer procedures are competitive and are based on the evaluation results and only secondarily on seniority.

Promotion shall be based firstly on evaluation results and secondarily on seniority. Before a promotion an asset screening shall be carried out.

Transfer and promotion procedures shall be co-ordinated and carried out every three months.

#### Judicial power draft

The draft law on court organisation contains general provision on the organisation and functioning of the court system, competences and seize of the courts, internal organisation of courts, functioning of the court administration and the status of judicial civil servants.

Chapter V on the status of the judicial civil servants is mainly based on the draft law on judicial administration elaborated by the Ministry of Justice (*see above*).

Transitory provisions are foreseen in order to ensure tenure of incumbent chancellors, legal assistance, civil servants at the High Court and other incumbent employees at Courts, as much as possible. The draft foresees in particular the legal framework for the court reorganisation.

The draft determines the judicial map only for the highest level and for the SPAK, by stating that the High Court, High Administrative Court, Administrative Court of Appeal and the Anti-Corruption and Organized Crime Courts shall have the territorial competence over the whole territory of the Republic.

#### Governance draft law

EURALIUS had elaborated a sketch of the draft law on good governance already in the previous reporting period. In November 2015 the first meeting of the Think Tank group was held. Several members of the working group revised and enriched the first sketch of the law. The draft aims at providing a new legal basis in line with the constitutional amendments for organisation and functioning of the High Judicial Council, High Prosecutorial Council, High Justice Inspector, Disciplinary Tribunal and the Justice Appointments Council. The new High Justice Inspector would be in charge of investigating judges and prosecutors and of inspecting courts and prosecution offices. This would allow overcoming institutional

overlap between inspection by MoJ and the HCJ's Inspectorate and the inspection service at the GPO.

### III Criminal justice package

#### Criminal Procedure Code

The Ministry of Justice forward the CPC draft amendments (in EN and AL) to the Ad hoc committee supported by respective explanatory which was then distributed by the coordinator of Criminal Justice group to the high level experts (national and internationals) and technical secretariat.

The CPC amendments are being consulted from the beginning article per article in the Working Group with High Level Experts. The discussion in the Think Tank group of experts and the consultation process regarding Criminal Procedure Code was cancelled and it is not yet scheduled by Parliament. Therefore the draft amendments has not been finalized yet.

#### Criminal Code

The draft to amend CC is discussed in the Working Group in Parliament and has been improved. Draft amendments in AL under elaboration. They need to be translated afterwards. The draft amendments has not been finalized yet.

Think Tank meetings and public consultation roundtable to gather respective opinions from the relevant actors in order to improve it are yet to be scheduled.

#### Draft law on the Prosecution Office

EURALIUS participated regularly in all the meetings of the drafting Working Group on Law on Prosecutor's Office, in the Think tank meeting of experts to discuss this draft and in the public consultation process.

The Draft Law "On organisation and functioning of the prosecution office in the Republic of Albania" is based on the new constitutional amendments. It was elaborated during November 2015 to May 2016 by the working group of High Level Experts, EURALIUS and technical secretariat. This draft it is papered within Criminal Justice package in the course of Justice Reform. It reflects the provisions of other drafts prepared within the Justice Refom.

After the receiving the last version of the draft dated 27 March 2016 EURALIUS worked together continuously with high level experts and technical secretariat to finalize the complete it in order to be ready for consultation process during the whole April and beginning of May. EURALIUS also prepared the respective explanatory notes for this draft.

### SPAK draft law

EURALIUS provided several proposals on the draft “On the organization and functioning of institutions for combating corruption and organized crime” besides those prepared by OPDAT.

EURALIUS participated on 6, 11 and 12 May took place the Think Tank group of experts for the abovementioned draft. In these meetings participated prosecutors from General Prosecution Office, Serious Crimes Court, and Serious Crimes Prosecution Office, representatives from Ministry of Interior, PAMECA and Ministry of Justice. These meetings aimed at having the first impression of the experts after getting familiar with the first draft aiming at improving it. This draft has been finalized. It has been discussed within the working group, think tank and public consultation have been held on 12 and 13 May 2016, respectively in Tirana and Durres.

### Anti-Mafia draft law

The amendments of Law on Preventing and Striking at Organised Crime, Trafficking and Corruption through Preventive Measures against Assets proposed by PAMECA IV (see annex: draft amendments and explanatory report) were integrated by EURALIUS into the current existing law.

Additionally EURALIUS provided some explanatory notes for the amendments proposed besides the ones of PAMECA regarding article 3, paragraph 1, article 7 paragraph 1, article 12 paragraph 3, article 27/a and article 37, paragraph 1 and 2.

When analysing these amendments integrated in the existing Anti-mafia please refer to PAMECA IV draft amendment, together with the explanatory report and EURALIUS additional explanatory notes in order to avoid any possible confusion.

Amendments to the Law on Preventing and Striking at Organised Crime, Trafficking and Corruption through Preventive Measures against Assets aims at brining it in line with the entire package prepared in the course of Justice Reform. The amendments to this draft are provided in order to ensure a better understanding and enforcement of the Albanian law, particularly by taking into account the difficulties and problems encountered but also the experience gained during the implementation of the law. This draft is being discussed in the working group of high level experts and Think Tank and it is expected to be discussed also in the public consultation roundtable which it is not yet scheduled. The draft amendments has not been finalized yet.

### Judicial police

EURALIUS gave assistance in drafting some parts of the judicial police draft law. The proposals were discussed by OPDAT with which EURALIUS collaborated in this regard. The draft law is under the translation process and after that it will be discussed in the respective working group. The draft amendments have not been finalized yet.

#### IV Anti- corruption package

##### Vetting implementation draft

The vetting process needed to be extensively regulated in the constitutional annex. the implementation law decides the functioning of the internal partners. Due to the specific content this direct involvement was more appropriate than huge general think tank group meeting. The public consultation has to follow after the end of this reporting period.

This law comes together with an updated law on assets declaration, that includes assets abroad and sensitive control.

#### V Legal training and legal education package

##### State Exam for jurists

A draft for a new law on the state exam for jurists has been prepared by EURALIUS already in late fall 2015. Based on the input and comments received, a second draft has been elaborated which divided the substantial and the procedural issues and incorporated the different comments and inputs. This draft has been consulted within the drafting group and with the think tank. The content is agreed upon. A public consultation on this law draft took place on 23 May 2016 in Parliament

##### Law on the School of Magistrates

EURALIUS has constantly urged for a draft. The drafting has been postponed until the draft law on the status of the judges would become final. This has been forwarded to the drafter. In May a first draft become available, done by the Albanian working group.

##### Law on legal aid

A first draft of EURALIUS has been presented in late fall 2015. Since this draft has been widely criticized EURALIUS has undertaken a consultation in December 2015 with the involved NGOs and has organized in March 2016 a broad round table with all involved stakeholders (NGOs, MoJ, SCLA, NCA) and international parties (EUD and CCBE). Based on the outcome of these consultations EURALIUS and two EURALIUS STE are presently working on a new draft law on legal aid in close cooperation with the MoJ and the drafting group and think tank legal aid. This draft needs to be fed into the parliamentary process and publicly consulted.

##### Law on Private Bailiffs

In May 2016 a draft for a law on some additions and amendments to the law on the private bailiff has been forward by the National Chamber of Private Bailiffs. Comments from the technical secretariat and experts have also been handed in. This draft has been consulted



in a first round with the drafting group and the think tank. Since this is not a EURALIUS activity, so far no translation of the draft has been made. It is at present unclear what the content of this draft is and whether it is ripe for presentation and dissemination and/or public consulting. The bailiff system is under discussion for a long time and has been subject to review by a number of projects. It might be that this legislation does not necessarily become part of the reform package.

## VI Free professions legal services package

### State Advocacy draft

A draft for a law on some additions and amendments on the law on the state advocacy has been prepared by the state advocacy and has been consulted in the drafting group and think tank in weekly meetings in January and February 2016. Only in May 2016 the MoJ has finally commented on this law draft. In the meeting of the drafting group and think tank of 13 May 2016 the position of the MoJ has been clearly stated. Only in this meeting it became also clear what the position of the SoM on this law draft was. According to the present status essentially two issues have still to be solved. One issue relates to the question of whether the state advocacy should be transferred to the Prime Minister or whether it should stay with the MoJ. The other question relates to the training of state advocates at the School of Magistrates. Both questions need political decisions. Otherwise the draft seems to be generally accepted. Since the political questions need a previous solution a public consultation has so far not been scheduled.

### Law on Notary

Based on the discussions in a couple of meetings of the Drafting Group and on the strategy paper and on European standards and best practices EURALIUS has undertaken to draft a draft law on some additions and amendments to the law on the notary. This draft has been distributed on 19 April 2016. Some days later an Albanian translation has also been distributed. On 5 May 2016 and on 11 May 2016 proposals for reformulations of the draft have been transmitted by the National Chamber of Notaries. These have in the meantime been translated into English and analysed and this analysis shows partly massive discrepancies between the two versions.

On 15 May 2016 a compiled version of a draft has been transmitted by the President of the National Chamber of Notaries to the chair of the ad hoc Committee on Justice Reform. This last draft is still in the process of translation and can therefore at present not be commented. Already now it seems though – under the given circumstances – clear that the elaboration of a consolidated draft version would need a number of further meetings and/or discussions within the Drafting Group and would further presuppose that a couple of political questions – mainly with regard to the access to the profession and the organization of the profession – have been cleared. A possible way forward might be that you organize another

meeting of the Drafting Group to be able to discuss which issues might be bridged easily and which issues need a political decision.

Since the still open questions need a previous solution a public consultation has so far not been scheduled.

#### Law on Advocacy

Based on a draft of the NCA work of EURALIUS on a draft law on the advocacy has started in April 2016 and is still under way. Once this draft is finalized it will have to be first consulted with the NCA and could then be fed in into the process and publicly consulted.

#### Law on Mediation

Twinning Project on mediation supports the drafting process. A draft for amendments to the law on mediation has so far not been presented. This activity is steered by the special twinning on mediation.

### VII Financing of the judiciary package

#### The draft on court fees

The draft law on court fees has been proposed by Euralius. The working group upgraded the Albanian language. The main discussion is, if a substantial court fees should be proposed. Politics has to decide if this draft remains with the original Albanian approach of the percentage of a claimed amount and should be combined with the law on legal aid. The other drafts suggest a minimum percentage of the budget for the judiciary. This might become a political topic as well.

#### Law on amendments of the Civil Procedure Code

The drafting group has not been active. EURALIUS has therefore initiated a drafting process in the Directorate of Codification in the MoJ for the production of a first draft. This first draft has then been further elaborated by EURALIUS STEs. A first draft law on some additions and amendments to the Civil Procedure Code has been presented and disseminated on 19 May 2016. During May several consultations with the drafting group members and the think tank took place. It is at present unclear whether this draft is ripe for further dissemination and/or public consulting. Details are reported in activity 4.2.2.

#### Euralius experts and counterparts

EURALIUS TEAM 1,2,3,5

#### Activities and timing

Euralius follows the ad-hoc approach of the Parliament without a planned time-table. The Albanian counterparts develop from now on the Albanian details and wordings and ensure coherence with the system. Euralius is available to check the final result.

Indicators for output

Draft legislation available (delivered).

Additional result: drafts proposed to the Parliament, updated

Additional result: implementation seminars (after adoption)

**Previous description before implementation:**

Activity 1.1.3: Assist the MoJ in assessing and planning relevant human resources and budgetary needs for funding the initiatives called for by the strategy. In particular, assist the MoJ in implementing and monitoring the new Cross-Cutting Justice Reform Strategy.

Current implementation:

**Activity 1.1.3: Assist the MoJ in assessing and planning relevant human resources and budgetary needs for funding the initiatives called for by the strategy.**

A first human and financial impact assessment of the justice reform is included in the cross-sector strategy 2016 to 2020 of the Ministry of Justice. This assessment is considered to implement the activity. The activity is therefore delivered.

The draft status law foresees a more detailed framework for the investigation of disciplinary misconducts and for imposing of disciplinary measures, inter alia on the following:

- Statute of limitations, clearer provisions for complaints, admissibility of complaints and ex officio investigations
- Rights and obligations of judges and prosecutors during the investigation phase
- Appeals against decisions to close the investigation
- General rules on the investigation procedure
- Time periods for the disciplinary proceedings
- More disciplinary measures
- More detailed provisions on disciplinary misconducts
- Clearer framework for the suspension of judges and prosecutors

The clinic will operate at the Ministry of Justice with a special entry in the central facade. The ministry has established desks and computers for carrying out the missions of the legal clinic. For maintaining the database the MoJ will establish a record of the data and the type of information provided to citizens. The Ministry of Justice will prepare informative brochures presenting the mission of the Legal Clinic.

Minister Manjani said during the inauguration: *What I have done today is a public promise to open an official legal clinic in the ministry of Justice premises, with the money of the state budget that are already allocated to the existing state committee for free legal aid. In such clinic we have also offered free mediation services with the assistance of the chamber of mediators! All services offered are free and for all citizens that are entitled by law. The clinic is not supposed to provide free legal aid to the court services! This will be part of the court decision. The clinic provides only non-court legal advice.*

<http://www.balkanweb.com/site/hapet-klinika-ligjore-manjani-informacion-e-keshillim-ligjor-falas-per-qtetaret/>

### Euralius experts and counterparts

Team 1

### Activities and timing

EURALIUS will continue to support the Albanian institutions in case the justice reform is approved.

A more realistic and concrete assessment of human and financial resource impact of the reform will have to be evaluated if and once the constitutional reform package is defined politically.

### Indicators for output

Strategy and action plan 2016 to 2020 of the MoJ with budget proposal (delivered)

Updated strategy 2017-2021 (additional result)

## **Result 1.2: Professionalism and accountability of the services of the MoJ and subordinate authorities are enhanced.**

### **Previous description before implementation:**

Activity 1.2.1: Assist the MoJ in strengthening and adding a core team of experts in the Codification and International Judicial Cooperation Department.

Current implementation:

**Activity 1.2.1: Assist the MoJ in strengthening and adding a core team of experts in the Codification and International Judicial Cooperation Department.**

The codification department is involved in the drafting of the civil procedure code and the criminal code.

The previous involvement in drafting the legislation on legal aid and court fees was a starting point. For the latest involvements the codification department included a prosecutor for the draft of the criminal code. The contacted senior experts remained more or less invisible. As a first assessment the codification department and its structure has been put in question. A sustainable improvement requires a different organization of the ministry of justice. The minister might assess options after the reform.

The draft Law on the Status of Judges and Prosecutors foresees the possibility of 'secondments' of judges and prosecutors to justice institutions. This possibility was already foreseen in the Albanian legislation and had attracted some judges and prosecutors to hold positions mainly in the codification department of the Ministry in the past. The contribution of these judges and prosecutors in the codification department is still generally perceived as a good practice and a high contribution to the codification activity in previous years. The readiness for being seconded however ceased immediately as the return to the judge' or prosecutor's positions was not ensured in practice. Thus the draft now contains a separate section on secondments, with special rules on the right to return to previous positions and some incentives in order to attract well-prepared judges and prosecutors to the secondment positions in the Ministry. The structure implemented in Parliament (specialized, small drafting groups and larger think tank groups of a number of stakeholders) is a proven concept that worked in Albania. However, it requests the financing for the experts on a flexible basis.

EURALIUS will continue any follow up in this regard.

### Euralius experts and counterparts

Team 1, MoJ

### Activities and timing

The new model on civil procedure code (9-12.2016)

Assessment after the finalization of the reform

Indicators for output

Law draft (delivered) options identified

Assessment of the department (2017)

#### **Previous description before implementation:**

Activity 1.2.2: Organise and deliver trainings on budget planning, budget allocation and resources management to the Office for the Administration of the Judiciary Budget (OAJB).

Current implementation:

**Activity 1.2.2:** Organise and deliver **trainings on budget planning**, budget allocation and resources management to the relevant institution (e.g High Council of Justice), as competences might change within the reform process.

This activity is delivered.

In February 2016 the Team Leader met the Director of the Office of the Administration of the Judicial Budget (OABJ) Mrs. Luljeta Laze. This meeting had two main objectives:

- to further strengthen the collaboration with the OAJB and plan the activities in regard to a training and coach the office for budget management;
- to request input for the amendments on the Law on OAJB in the view of the constitutional amendments, future role under the umbrella of the High Judiciary Council. This request was made by the Team Leader in his quality as the coordinator of the drafting phase for the ongoing Justice Reform.

On 23 March 2016 EURALIUS organized a round table to provide support to the Ministry of Justice and the Office for the Administration of the Judiciary Budget at Rogner Hotel (see annex). The objective of this round table was to bring together all stakeholders involved in proposing, implementing and monitoring the judicial budget, such as the Director of the Office for Administration of Judicial Budget (OAJB) Mrs. Luljeta Laze, Head of Steering Board of the OAJB, Mr. Xhezair Zaganjori, Deputy Minister of Justice, Mr. Eridian Salianji, EURALIUS Team Leader, Dr. Rainer Deville, EURALIUS. Representatives of the OAJB presented their challenges and the training needs based on their daily tasks with a view to achieving an enhanced budget planning and inclusion of the financial needs to the judiciary in the state budget funds. As a result, the planned training has been replaced by the coaching the OAJB staff during the elaboration of the current budget request for 2017.



Round Table on “Training Needs Assessment for the Office for Administration of Judicial Budget” on 23.03.2016



The representatives of the OAJB highlighted the necessity to increase the number of the current staff and financial means and to improve recruitment and dismissal of the staff based on objective criteria.

On 18.04.2016 EURALIUS facilitated a joint meeting of experts of the twinning project “Implementation of a modern Financial Management and Control System and Public Financial Inspection in Albania” Mr Thomas Schmidt RTA, Mr Philipp Otto, and Mr Bernhard Lechleitner, with Mrs Luljeta Laze Director of OAJB. The meeting was held with the aim to provide assistance in improving the current budget planning skills and the skill to present, reason and defend the proposed budget. In the end of the meeting it was agreed that:

The draft Cross Sector Strategy of the MoJ 2015-2020, its action plan with a detailed budget forecast for the whole justice sector and the revenue implications, as prepared by Euralius should be attached to the draft annual budget plan of OAJB. These drafts are very reform oriented and this will help the OAJB to plan the budget accordingly in the light of the upcoming justice reform.

On Monday 25<sup>th</sup> of April Euralius received the draft medium term annual budget plan prepared by the OAJB. Two STEs Mr Philipp Otto and Bernhard Lechleitner coached and assisted the OAJB in revision of the annual budget plan of the Judiciary 2017-2019 during the mission in Albania on 10-12 May 2016. Euralius consulted some new negotiations tools and strategies when it comes to the budget negotiations with the representatives of the Ministry of Finance. All colleagues elaborated a new revised budget proposal in the end of the training to OAJB (see annex). In the discussions between the Euralius STEs and OAJB staff there were given instructions on how to use negotiations tactics and strategies (win-win strategy) during the negotiations with the representatives of the Ministry of Finance.

The upgraded budget plan was submitted to the Ministry of Finance in accordance with the Financing Justice Strategy document prepared by Euralius. As an additional result other missions will follow from the STE. The missions shall upgrade the excel sheets in use and shall assist the negotiations with the Ministry of Finance and the distribution.

### Euralius experts and counterparts

Team 1, OAJB

### Activities and timing

Summer 2016: upgrade of excel tools (additional result)

Autumn 2016: coaching after the approval of the budget (additional result)

2017: study visit (additional result)

### Indicators for output

Upgraded Budget request 2017 (delivered), excel tools, higher budget is granted,

Study visit agenda

#### **Previous description before implementation:**

Activity 1.2.3: Support the "zero tolerance" policy regarding corruption and /or misuse of funds inside the MoJ and implement internal control standards, assuring coordination with the Government's overall anti-corruption strategy.

Current implementation:

**Activity 1.2.3.1: Support the "zero tolerance" policy regarding corruption and /or misuse of funds inside the MoJ and implement internal control standards, assuring coordination with the Government's overall anti-corruption strategy.**

#### **Activity delivered**

In February 2016 the Team Leader met with the internal audit director of the MoJ Mr. Tomorr Kapllani. Mr Kapllani explained that the Inspections Directorate of the Ministry is audited by this unit only in regard to formal procedural aspects and not content wise in regard to the decision-making process. The internal audit activity is supervised in parallel by the Central Harmonization Unit of Internal Audit, located in the Ministry of Finance and by the Minister of Justice. Mr. Kapllani explained that audit work is based on the approved internal control standards in the audit law no 114/2015 "On the internal audit of the public sector" and the "Internal Audit manual" approved by the Minister of Finance (see annex).

#### **Existing Audit Standards**

There are three types of audits, such as financial audit, performance audit, and compatibility audit, which are carried out every year. The Minister of Justice issues an internal order to approve the annual audit programme that is based on three documents of the internal audit directorate, the "strategic annual plan" the "annual audit plan" and the "risk analysis document". The annual audit plan is then executed based on the risk analysis factors and the highest risk evaluated for a certain department. In addition the internal audit directorate applies the approved international audit standards while executing the audit activity such as the "International Auditing and Assurance Standards Handbook". Audits are performed by well-qualified staff certified as internal auditor in the public sector. All planned audit visits are carried out as approved in the annual programme. However based on public complaints additional audit verification visits may be required. The audit unit, reports and provides proposals to the minister following any on-site audit verification.

The annual report 2015 presents the methodology, assessments of the internal control systems, findings and recommendations and final conclusions of all 29 audit visits that have been carried out. Three unplanned visits have been carried out in addition upon a formal complaint received from the citizens.

In 2015, the fields and systems there have been identified problems which have reflected the clear situation of non-functioning of the system, resulting in negative consequences on the efficient use, economy and effectiveness of public funds:

The human resource management system, referring to the findings from the audit conducted in above-mentioned institutions, (points out problems in definition of categories of salaries, changes to the number of the organizational structure, shortcomings in the main register of employees, etc)

The system of budget programming and implementation, referring to the findings on budget implementation points out irregularities in enforcement of the legislation in force

The payment system, during the audit points out irregularities in payment for extra work, financial treatment of employees who are posted abroad for work purposes etc.

The procurement system, referring to audit findings in the procurement system, (points out irregularities in documentation, missing documentation in the bids dossiers which must administer the bidding documents and inventories, failure to follow properly the phases of procurement procedures, failure to make the procurements foreseen in the register for small value purchases etc).

The Information Technology and Communication system, referring to the audit findings point out problems in the sector of the Archive and Secretary Office.

According to the report findings in the financial management field and the value of the economic damage found by the internal audit department is ALL 168 339. During 2015 the auditors gave 162 organisational and indemnification recommendations for the observed findings. Infringements with financial effects are observed in Central Immovable Property Office, and 2 recommendations for compensation are made, but still the fulfilment of recommendations has not been verified.

The Internal Audit Strategic Audit plan for 2016-2020 gives:

For the upcoming period of 2016-2020 special attention has been paid to these audits which concern important financial issues or which serve as a criterion for risk assessment (administrative operations beyond individual cases). Following fields been evaluated as high priority and will be considered in the abovementioned period of time:

1. Manage the remand and criminal sentence execution system;
2. Manage the system of civil decisions and executive titles enforcement;
3. Manage the activity of the Official Publications Centre;
4. Manage unified statistical service in the justice field;
5. Keep the register of criminal records and issue certificates based on this registration;
6. Manage and control the legal-administrative services which concern, or are implemented by the justice system;
7. Support, the organization and functioning of the profession of the lawyer, notary public, arbitrator, mediator, bankruptcy administration and other liberal professions related to the justice system;

8. Manage the legal expertise service; conduct the methodical management of services and immovable property registration;
9. Conduct the methodical management of legal offices of ministries and other central institutions;
10. Perform other functions and activities in line with the law.

The Ministry of Justice, as part of the cross-sector strategy against corruption, is in charge to implement the objective no A. 7 “*Improving the efficiency of internal audit and inspection and systematic use of risk analysis*” of the overall anti-corruption document “*Cross-sector strategy against corruption, March 2015*.”

Following complaints from citizens on the notaries’ exam published in the newspapers EURALIUS the Team Leader held a meeting with the head of the internal audit, Mr Kapllani, in order to learn whether the Directorate is planning the initiation of an audit procedure. Upon Euralius request the audit procedure initiated in April focusing on the public notary’s exam process (see annex).

#### Euralius experts and counterparts

Team 1, MoJ

#### Activities and timing

The activity is delivered. The Ministry of Justice is a line ministry which takes part in the funds control system. Sensitiveness has been shown in a concrete corruption report. The ministry is not focusing on general prevention of corruption, although some areas might be identified. This activity might be taken on by the upcoming special twinning project. A new Twinning Project with the title ‘Support to the formulation, coordination and implementation of anti-corruption policies’ is upcoming. The aim of this project is to improve mechanisms for the formulation, coordination and implementation of anti-corruption policies in line with international standards, best practices and EU integration priorities.

Legal basis and the internal documentation needed for the auditing (annual programme, strategic annual plan, annual audit plan, risk analysis) (delivered)

Review the upcoming annual audit plan of 2017 and priority directorates, during October - November 2017 (if applicable, additional result)

Collaboration with regard to the assessment of an event on anti-corruption in the MoJ, during implementation of 2017 annual audit programme (if applicable)

#### Indicators for output

The assessment of the legal basis (Law no 114/2015 for the ‘Internal Audit in the Public Sector’ (see annexes)

The Annual program of 2015 of the internal audit that was executed and (approved by the Minister of Justice) (see annexes)

The Strategic Plan 2016-2020 (see annexes)

**Activity 1.2.3.2: Propose and consult within the ongoing reform process a more independent structure of the prosecutor's office to fight corruption (e.g. similar to the Croatian and Romanian model)**

This activity is delivered.

**Corruption in the prosecution system**

On 2.12.2015 prosecutor Haxhi Giu was arrested for corruption on 2 December 2015 following the prosecutor Petrit Vukaj in Fier arrested on Friday 27 November 2015.

Haxhi Giu Prosecutor at Kruja District Prosecution Office is accused of offenses "Passive corruption" (Article 319 ç) and "Abuse of power" (Article 248). Task Force Unit of the Serious Crimes Prosecutor's Office has arrested him in flagrante. Haxhi Giu is accused to have received 29 000 Euros to reduce the punishment of a detainee, changing the charge from drug trafficking into failure to report the crime. The amount of money has been seized by the Serious Crimes Prosecutor's Office in the quality of "material evidence", after being investigated for some time. According to information, the prosecutor of Kruja has been kept under observation for several months on this issue. Haxhi Giu is known as the prosecutor who led the investigation for the murder of the deceased former deputy Azem Hajdari. On 15.04.2016 after two postponed sessions, the Serious Crimes Court implemented the accelerated trial for the former Prosecutor of Kruja, Haxhi Giu. Giu had requested to be released for health problems. The court established a group of experts to verify this claim. On 15.05.2016 the Serious Crimes Court rejected the request made by the former prosecutor of Kruja Haxhi Giu to change the security measure due to his health problems. The prosecution has requested 4 years of imprisonment for former prosecutor Haxhi Giu. The lawyer requested not to leave in prison his client due to health problems.

This claim has been verified by two experts of forensic medicine. After the verification such a claim has been turned down as at the end of this verification it came out that the former prosecutor suffers from a decease, but being in prison under these conditions does not pose any risk for his life. Finally he has been sentenced to three years on accelerate trial, meaning a reduction applies to 2 years and 4 months of imprisonment.

<http://top-channel.tv/lajme/english/artikull.php?id=16830#.VxEu2CxGTxo>  
<http://www.oranews.tv/vendi/gjykim-te-shkurtuar-per-prokurorin-haxhi-giu/>  
<http://www.sot.com.al/aktualitet/k%C3%ABrkoi-29-mij%C3%AB-%E2%82%AC-p%C3%ABr-ulje-d%C3%ABnimi-arrestohet-prokurori-i-kruj%C3%ABsgiu>  
<http://www.shekulli.com.al/p.php?id=427913>

**Corruption in judiciary**

In the evening of 02.05.2016 Tirana's District Court judge Ibrahim Hoxha, was arrested in flagrante suspected of criminal offense "*Passive corruption of a judge* ", provided for by article 319/ç of the Criminal Code. His son, as well as two other citizens were arrested in flagrante along with the judge.

He is accused because the judge was dealing with a civil property case, where one of the citizens arrested was one of the parties. The latter, in order to have the decision in his favor, contacted the other citizen who knew the judge Ibrahim Hoxha, claims the Serious Crimes Prosecution Office.

The police performed surveillances and kept under observation the movements. From the control performed in the car of the judge's son there were found 600 000 ALL (new) were found. He was arrested in flagrante, as a person suspected of exerting undue influence. The two other citizens were arrested for committing respectively criminal offences of exerting undue influence and active corruption.

[http://www.pp.gov.al/web/Arrestohet\\_gjyqtari\\_Ibrahim\\_Hoxha\\_i\\_dyshuar\\_per\\_korrupsion\\_pasiv\\_946\\_1.php#.VzWxr\\_I96Uk](http://www.pp.gov.al/web/Arrestohet_gjyqtari_Ibrahim_Hoxha_i_dyshuar_per_korrupsion_pasiv_946_1.php#.VzWxr_I96Uk)

<http://top-channel.tv/lajme/artikull.php?id=325626>

The Serious Crimes Court has changed the security measure for judge Ibrahim Hoxha, from 30 days in prison, into arrest in prison without deadline on 25 May 2016.

The Serious Crimes Prosecution appealed the decision to the security measure given for 30-day deadline for the Tirana Court judge, accused of passive corruption, requesting to impose the security measures "arrest in prison".

In the file sent for appeal by prosecution there are footage used by judicial police officers who have followed the actions and movements of judge Hoxha and where it appears that he takes money.

<http://top-channel.tv/lajme/artikull.php?id=327457>

[http://www.gazetainfopress.com/aktualitete/26792/burg\\_pa\\_afat\\_per\\_gjyqtarin\\_e\\_tiranes\\_ibrahim\\_hoxha](http://www.gazetainfopress.com/aktualitete/26792/burg_pa_afat_per_gjyqtarin_e_tiranes_ibrahim_hoxha)

<http://www.gazetatema.net/web/2016/05/25/ryshfeti-6-mln-leke-burg-pa-afat-per-gjyqtarin-ibrahim-hoxha/>

Anti-corruption unit at serious crimes prosecution office reinforced

At the beginning of January, General Prosecutor Mr. Adriatik Llalla decided to restructure/reorganize the Anti-Corruption Task Force Unit at the Serious Crimes Prosecutor's Office due to the end of the period of secondment of four prosecutors attached to this structure in September 2015 as well as due to the fact that the workload of this Unit has not been high as there were no referrals on corruption among high-level officials in recent months by the institutions charged by law.

Pursuant to the General Prosecutor's Order, the prosecutors who were seconded at this Unit in September 2015 returned to their previous positions. The current Task Force Unit of the Serious Crimes Prosecutor's Office is now composed by the prosecutors who were before at this structure jointly with some prosecutors who will conduct investigations on terrorist criminal offences. In total the restructured Unit will be composed of 7 prosecutors.

The seconded prosecutors who left the Anti-Corruption Unit and returned back to their previous positions are: *Mr. Dritan Rreshka, Acting Head of Anti-corruption Unit, Mr. Armand Gurakuqi, Mrs. Anisa Qilimi and Mrs. Enkeleda Millonai.*

[http://www.pp.gov.al/web/Ristrukturohet\\_organika\\_e\\_Prokurorise\\_per\\_Krime\\_te\\_Renda\\_880\\_1.php#.VpY7bfkrKUk](http://www.pp.gov.al/web/Ristrukturohet_organika_e_Prokurorise_per_Krime_te_Renda_880_1.php#.VpY7bfkrKUk)

Currently at the Anti-Corruption and Assets Investigation Unit at the Serious Crimes Prosecution Office are assigned the following prosecutors:

1. Mr. Arens Çela – Head of Unit
2. Mrs. Pranvera Pustina
3. Mrs. Sonila Muhametaj
4. Mr. Klodian Braho
5. Mrs. Manjola Kajana
6. Mr. Gentian Trenova
7. Mrs. Dolores Musabelliu

Mr. Besim Hajdarmataj, currently deputy head of the Serious Crimes Court Prosecution office, is seconded head of this structure, replacing Blerim Tominaj.

Draft law “on the organization and functioning of institutions for combating corruption and organized crime”

EURALIUS provided some draft proposals also on the draft “On the organization and functioning of institutions for combating corruption and organized crime”.

Several meetings were established with High Level Experts, Mr. Artan Hoxha, Mr. Arben Rakipi and Jon Smibert, Resident Legal Advisor from OPDAT in order to discuss and improve the draft. On 6, 11 and 12 May EURALIUS participated in the Think Tank group of experts of prosecutors from General Prosecution Office, Serious Crimes Court, and Serious Crimes Prosecution Office, representatives from Ministry of Interior, PAMECA and Ministry of Justice.

#### Euralius experts and counterparts

Team 1 and 3. Counterpart MoJ and the Parliament

#### Activities and timing

Assessment of further assistance needs, in the consultation process or after the adoption of draft constitutional amendments and draft law “On organization and functioning of institutions to combat corruption and organized crime”.

The concrete assistance regarding the implementation will be identified the results of the reform process.

Indicators for output

SPAK and other draft laws (delivered)

Reports on corruption implementation (delivered)



#### **Previous description before implementation:**

Activity 1.2.4: With the aim of establishing a clear track record of investigations, prosecutions and convictions, support the capacities of the MoJ to elaborate statistics and improve the reporting system in coordination with the GPO, Ministry of Interior, and the Albanian State Police (ASP).

Current implementation:

**Activity 1.2.4: With the aim of establishing a clear track record of investigations, prosecutions and convictions, support the capacities of the courts and the MoJ to elaborate statistics and improve the reporting system in coordination with the GPO. Upgrade in the framework of the existing computer systems with the available limited resources for IT services. Support the specification of a new generation IT system if financing becomes available. PAMECA handles the Ministry of Interior, the Albanian State Police.**

It is proposed to change the phrasing of this Activity to:

Activity 1.2.4: With the aim of establishing a clear track record of investigations, prosecutions and convictions, support the capacities of the courts and the MoJ to elaborate track record statistics and improve the track record reporting in coordination with the GPO. PAMECA handles the Ministry of Interior, the Albanian State Police.

Currently, the information needed for keeping the track record of investigations, prosecutions and convictions are gathered manually from the paper registers of GPO and the courts. This data collection process is labour intensive, time consuming and prone to errors. For this reason, no satisfactory results have been obtained so far. A solution to facilitate this work could be to include and configure the track records data within the case management systems in MoJ (ICMIS) and GPO (CAMS) in order to be processed and collected automatically.

During his mission to Albania in March 2016, MTE Van Nigtevecht prepared the draft of the concept of an e-Tracking system which would allow Albanian Judiciary to follow cases throughout the chain of justice (police, prosecution, first instance court, serious crime court, court of appeal, high court, etc.) and to derive performance indicators for the evaluation of the efficiency of the Albanian Justice system. This is strongly linked to introduction of a unique identifier for a case throughout the chain of justice. The unique identifier should allow for the correlation of the cases at different stages, in the different parts of the chain of justice. The concept for e-Tracking Service is included as annex.

Throughout this reporting period, a considerable number of actions were taken on improving the operation of ICMIS statistical module. These actions are described in detail under Activity 2.3.1.

#### Euralius experts and counterparts

Team 4 with contribution of Team 3, MTE, STE

MoJ: Mr Eris Adhami, IT Director,

Mr Lysien Ali, Chief of Sector of IT and Statistics,  
Ms Tatjana Janku, Statistics Specialist  
GPO: Mr Skender Baca, IT Director GPO,  
Ms Ornela Xhembulla, Head of Statistics Department

#### Activities and timing

Preparation of project proposal for e-Tracking Service (Delivered)

High level investigation of shortcomings of ICMIS statistics module, performed within Activity 2.3.1 (Delivered)

Identification and detailed specification of shortcomings of ICMIS statistics module providing sufficient technical information for the maintenance company for their resolution under maintenance contract, action performed within Activity 2.3.1 (partially delivered, expected completion Dec.'16)

Identification and detailed specification of shortcomings of statistics module of case management system of prosecutor service providing sufficient technical information for the maintenance company for their resolution under maintenance contract, action performed within Activity 3.2.4 (Dec.'16)

Harmonisation of track record reporting between GPO and MoJ (Dec.'16)

#### Indicators for output

Project proposal for e-Tracking Service (Delivered)

High level investigation of shortcomings of ICMIS statistics module (Delivered)

Track record statistics provided by ICMIS court case management system (as indicated by testing report)

Track record statistics provided by case management system of prosecutor service (as indicated by testing report)

Track record reporting harmonised between MoJ and GPO (as indicated by consolidated track record report)

**Previous description before implementation:**

Activity 1.2.5: Improve the human resource management in the MoJ regarding appointment and the transfer of personnel based on close consultation, meritocracy and clear and pre-defined criteria, carefully following developments with and implementation of the new Law on the Civil Servant.

Current implementation:

**Activity 1.2.5: Improve the human resource management in the MoJ regarding appointment and the transfer of personnel based on close consultation, meritocracy and clear and pre-defined criteria, carefully following developments with and implementation of the new Law on the Civil Servant.**

As per February 2016, 14 vacancies were announced by the MoJ, different departments and different job positions (*high management level, politic level and executive positions*).

On 15 February 2016 EURALIUS Team Leader met with the Director of Department of Public Administration (DoPA) in Albania, Mrs. Albana Koçiu to discuss on recruitment criteria, human resource management, vacancies, transfer and recruitment procedures in the public administration, in particular to the Minister of Justice.

Ministries have their role during the recruitment process. From the very beginning the line ministries and the MoJ define the criteria for the vacant positions, prepare the job description and later the DoPA reviews and continues with the announcing and electronically publishing the vacancy.



Meeting on 15.02.15 with Dr. Deville and the Head of DoPA on HR management in the MoJ

On 19 February 2016, Mrs Albana Kociu sent to EURALIUS a list of the overall positions of the MoJ (129, including vacant positions), a separate list of all civil servants staff (currently 89 incumbent civil servants) and a separate list of current vacant positions (14) in the ministry (see annex).

The twinning project “Support to Albanian Civil Service Reform” is currently reviewing during March-June 2016 job descriptions and the salaries categories of all line ministries. EURALIUS is following this activity in close collaboration with the twinning and the MoJ.

During May Euralius held several meetings to assist the MoJ HR department staff, in revising the generic job descriptions, prepared by the twinning assistance. Regarding the generic job descriptions Euralius recommends that the specialists in the EU/IPA departments shall have certified proof of an EU language proficiency.

With regard to the introduction of the specific criteria in the current vacant job descriptions in the MoJ Euralius suggested:

- the general Director of Codification is advisable to be a seconded judge or prosecutor and the wage category should remain the same as a judge/prosecutor (in line with the new status of judges draft) (see vacant position no 1)
- the MoJ should wait until the reform passes to recruit the Inspector/specialist (see vacant position no 9). This recommendation comes in line with the reform proposal that the MoJ will not carry out any more the inspections of courts and prosecution offices.

The twinning project will organize a training for a group of 3-4 employees from the Permanent Selection Committee members of the MoJ. The training will be held in the Albanian School of Public Administration in cooperation with the twinning respective expert. The training is about to get acquainted in better with the recruitment procedures, appointment and transfer criteria of the personnel. The training will be held end of May.

#### Euralius experts and counterparts

Team 1, DoPA, Twinning project, MoJ – Human Recourses department

#### Activities and timing

The appointment and the transfer of staff is regulated by the new Law no 152 /2013 “On the Civil Servant”. EURALIUS will assist DoPA for the following:

- Revision of the list of the current MoJ staff and list of vacant positions which will be sent by DoPA to Euralius, during March (see annex);
- Assistance in upcoming recruitment procedures in 2016 of the HR in the Ministry of Justice, March until June 2016;
- Review of the evaluation/assessment procedure and job descriptions for the IPA Units` and HR; Units` staff of the MoJ, July-October 2016;

In June the Twinning Project and DoPA are planning a workshop with all HR of the Public Administration Institutions, to get them acquainted for the methodology, in an integrated manner.

#### Indicators for output

Law on governance (delivered)

Job descriptions updated

Human resources selected according to standards

**Previous description before implementation:**

Activity 1.2.6: Support the Budget and Finance Directorate of the MoJ in procurement proceedings and optimal allocation of resources.

Current implementation:

**Activity 1.2.6 is delivered upon request only:** Support the Budget and Finance Directorate of the MoJ in **procurement** proceedings and optimal allocation of resources.

**Activity changed**

The second Steering Committee on 3 June 2015, amended this activity to be delivered upon request of the MoJ only.

It might be that a tender of a new ICMIS system can be supported by Euralius (if it becomes available within the project duration). So far no request has been made.

**Result 1.3: For the achievement of Expected Result 1.3, i.e. access to courts is open to anyone, i.e. there are no barriers for example for indigent people and/or members of minorities, the following activities shall be implemented:**

**Previous description before implementation:**

Activity 1.3.1: Provide support to the State Commission of Legal Aid and the implementation of recent amendments to the Law on Legal Aid, providing for more support to vulnerable groups at the local level. This includes the provision of support regarding the necessary budget allocation to set up local offices in order to encourage development of efficient legal aid services at local level.

Current implementation:

**Activity 1.3.1: Propose a new law on legal aid providing more support to vulnerable groups at the local level. This includes the provision of support regarding the necessary budget allocation.**

This activity has been delivered. Additional results have been produced. A large consultation has been ensured.

EURALIUS has already started in April 2015 to carefully analyse the legal and factual situation of legal aid in Albania and the different positions and problems with regard to legal aid and to the State Commission of Legal Aid. In June 2015 EURALIUS and the EURALIUS MTE Dace Lutens-Thuemmel intensified and broadened this analysis and conducted intensive fact finding and consultation meetings with stakeholders and the major NGO involved in this area (Tirana Legal Aid). Since the analysis and the consultation with stakeholders in this area and Tirana Legal Aid have clearly shown that an improvement of the present – unsatisfactory – situation would require

- (i) more financial resources from the state budget for legal aid and
- (ii) a reorganisation of the whole area of legal aid in Albania,

EURALIUS has – on the one hand – connected the work on this activity with the work on activity 1.3.3 and – on the other hand – broadened the scope in accordance with the aims and focus of the ongoing justice reform process.

EURALIUS elaborated a (new) draft law on legal aid which aims to solve the above indicated issues (together with a (new) draft law on court fees; activity 1.3.3). The (new) draft law on legal aid aims at shifting the competence from the State Commission of Legal Aid to the competent courts, to install an easily applicable and effective system of legal aid and to secure proper funding for legal aid.

In October 2015 the EURALIUS (new) draft law on legal aid and its explanatory note have been delivered by EURALIUS to the MoJ and in November 2015 the EURALIUS (new) draft law on legal aid and its explanatory note have been presented by EURALIUS to the Parliament and to the Drafting Group Legal Professions of the ad hoc Group on Justice Reform which is mandated to draft, hold consultations and expert meetings on and present

a new law on legal aid to the Parliament as part of the planned justice reform.

EURALIUS has organized a Conference on “*Necessary Strategic Decisions for a Functioning and Financially Sound System of Legal Aid in Albania*” which took place in Tirana on 16 March 2016.

The objective of this conference was to bring together all stakeholders in this field such as the Minister of Justice, Ylli Manjani, representatives of the State Commission for Legal Aid, the President of the National Chamber of Advocacy, Mr Maksim Haxhia, representatives of NGOs, international experts and representatives of the European Delegation to Albania, Mr Jan Rudolph to discuss the status quo of the current system of legal aid in Albania and to define and decide on the way forward towards an effective and functioning system that secures access to justice for all citizens when and where they need it. Spanish, Italian and Czech models on the respective legal aid system and the challenges encountered were also presented by experts from the Council of Bars and Law Societies in EU (CCBE).

With regard to the necessary strategic decisions to be taken for a functioning and financially sound system of legal aid, all involved participants agreed that a system change is necessary. Though concerns have been raised with regard to the financing of the system of legal aid widespread consensus has been reached with regard to the basics of a new system – access to legal aid to be decided by courts – and with regard to the financing of a new system over increased court fees.

As a result the current legal aid commission, which has been ineffective, shall cease to have effect.

The conference was closed with the common agreement that the EURALIUS draft proposals on the law on legal aid and court fees will be taken as a basis for further consideration by further elaborating both pieces of legislation in the ongoing justice reform.

According to the actual planning, this (new) draft law on legal aid is expected to be consulted within the framework of the justice reform process and should be part of the package of justice reform laws to be passed by the Parliament (annex).

#### EURALIUS experts and counterparts

Team 5, input from Team 1, NGOs, drafting Teams in the Parliament and MoJ

#### Activities and timing

Euralius supports the law drafting and consultations

Following the adoption of the (new) law on legal aid which is at present scheduled to take place in summer 2016, EURALIUS will – if required and necessary – support the MoJ and the other stakeholders in this area in the implementation of the (new) law on legal aid (additional result)



### Indicators for output

First Law Draft for a (new) Law on Legal Aid (delivered)

Second Law Draft for an amended and redrafted (new) Law on Legal Aid (delivered)

Report(s) on the required/delivered support of EURALIUS in the implementation phase of the (new) Law on Legal Aid (additional result)

**Previous description before implementation:**

Activity 1.3.2: Support Albanian civil society institutions in their efforts to provide legal aid, in coordination with the SCLA and NCA.

Current implementation:

**Activity 1.3.2: Support Albanian civil society institutions in their efforts to provide legal aid, in coordination with the SCLA and NCA.**

Activity is cancelled (and will be considered in 1.3.1)

On 16 December 2015, EURALIUS organized a meeting with all NGOs that provide legal aid with the subject “Strategy for the Legal Aid”. There were representatives from “Legal Citizens Initiative”, “Tirana Legal Aid”, “Res Publica”, “Albanian Helsinki Committee”, “SOROS” and “Civil Rights Defenders Foundation”. All the participants welcomed the new approach proposed by EURALIUS in the Legal Aid draft law, which brings legal aid close to EU standards.

The NGO representatives basically agreed to remove the “State Commission for Legal Aid” from the system because it has not operated efficiently and to send comments and suggestions to EURALIUS by 10 January 2016 for further improvements of the (new) draft law on legal aid.

EURALIUS has supported the further elaboration of a (new) draft law on legal aid within the justice reform process by contracting two local representatives of NGOs (Anisa Metalla and Sidita Fortuzi) who supported the redrafting process of the draft law on legal aid in May 2016.

#### **Previous description before implementation:**

Activity 1.3.3: Review the existing judicial fee structure with a view to ensuring simplified and efficient access to justice for all parts of the Albanian society including underprivileged people.

Current implementation:

**Activity 1.3.3: Review the existing judicial fee structure with a view to ensuring simplified and efficient access to justice for all parts of the Albanian society including underprivileged people. A new law on court fees is has been proposed.**

Activity is delivered

EURALIUS continues to support the discussions in the working group in charge of elaborating a court fee law. As an additional result consultations have been supported.

The working group in the Parliament and the Team Leader of Euralius discussed the court fees draft law. The proposed draft might be advanced for the Albanian public. A simplified version might be easy understandable. Albanian members proposed in the meeting to increase the court fees over the years. The members agreed that the fee of 200 Lek for the second and third instance is not a sufficient contribution to the costs nor a convincing filter for the higher instances. The working group proposed the following option:

The court fees for the first instance are 1 % .... (current wording)

The court fees for the second instance are 1 %. From 1.1.2018 onwards the court fees increase by 0,1 % every first January of a year until 2 % are reached.

The court fees for the third instance are 1 %. From 1.1.2018 onwards the court fees increase by 0,1 % every first January of a year until 3 % are reached.

Relevant is the date when a case arrives in the instance.

The maximum amount of a court fee per instance is .....(there must be an end).

Still a provision is needed about the standard value for cases without an explicit amount of money and we have to have the other fees as well. In this way there could be established a short and long term perspective income for the judiciary. Still this is a wise idea to combine the law on legal aid and the court fees as a second book in the law on legal aid. The involvement of the Ministry of Finance in the consultation processes is upcoming. The group chaired by Prof. Panda did not meet in May again

#### Euralius experts and counterparts

Team 1, WG in the Parliament

#### Activities and timing

Activity delivered. Euralius supports the final drafting and consultation. The timing depends on the political process. After adoption, training needs might occur (additional result: trainings, public information, and implementation).

### Indicators for outputs

Draft law on legal aid (delivered)

Draft law on court fees (delivered)

**Result 1.4: The transparency of judicial proceedings is enhanced and the general public has better information about court activities, enhancing their trust, the following activities shall be implemented:**

Previous description before implementation:

Activity 1.4.1: Support the systematic publication of courts' decisions taking into account all necessary aspects relating to the protection of personal data.

Current implementation:

**Activity 1.4.1: Support the systematic publication of courts' decisions** taking into account all necessary aspects relating to the protection of personal data.

In May 2016, Team 4 updated the review of the current status of publications of court decisions, in particular with respect to compliance with the law on data protection. The results are included as annex to this Report (see annex-publications of court decisions).

The general conclusion was that the published decisions were not anonymised and hence the publications were not compliant to the law of data protection. Team 4, investigated whether the instruction of the minister of justice regulating the protection of personal data for publications of courts' decisions, has entered into force. The process of preparation of this instruction was started in March 2015.

Administrative courts remain not connected to the central publication portal of Albanian courts ([www.gjykata.gov.al](http://www.gjykata.gov.al)) and they are not able to publish any court decisions on web pages. A possible solution would be to purchase the connection of these courts by direct extension of the maintenance contract for ICMIS system used in this courts. This option was investigated together with Ms Llambriola Misto, General Director, MoJ. The extension would be feasible in the second half of 2016, subject to availability of funds.

Work was continued on centralization of publication of all court decisions, a feasible option being using for this purpose the future publication service of the Center of Official Publication (please see the description of the status of activity 1.7.5.)

Euralius experts and counterparts

Team 4, MTE

MoJ: Mr Eris Adhami, IT Director,  
Mr Lysien Ali, Chief of Sector of IT and Statistics,  
COP: Ms Ardita Buna, General Director  
Courts: Members of Working Group on New Generation ICMIS

### Activities and timing

Study of the current status of publications of court decisions (Delivered)

Preparation of the concept for Unified Publication Service for Court Decisions (Delivered)

Identification of shortcomings of ICMIS publication module preventing publication of court decisions on [www.gjykata.gov.al](http://www.gjykata.gov.al) web pages. Action performed within Activity 2.3.1 (Delivered)

Assistance to MoJ in resolution of shortcomings of ICMIS publication module preventing publication of court decisions on [www.gjykata.gov.al](http://www.gjykata.gov.al) web pages. Action performed within Activity 2.3.1 (ongoing, Dec. 2017)

Analysis of the changes to legislation that would be necessary to enable the Centre for Official Publications to publish court decisions (June '16)

Support to Ministry of Justice in enforcing removal of personal data that is protected under the Data Protection Law from court decisions published by all Albanian courts (High Court, Tirana District Court, appeal courts, first instance courts, administrative courts) (partially delivered, expected completion Dec.'16)

Enabling administrative courts to publish court decisions through ICMIS court decision publication module (subject to availability of financing, expected completion Dec.'16)

### Indicators for output

Study of the current status of publications of court decisions (see annex) (Delivered)

Project concept for Unified Publications Service (see annex) (Delivered)

Administrative courts are able to publish their decisions on [www.gjykata.gov.al](http://www.gjykata.gov.al) web pages

Decisions published by all Albanian courts (High Court, Tirana District Court, appeal courts, first instance courts, administrative courts) are compliant with data protection law.

**Previous description before implementation:**

Activity 1.4.2: Support and the Judicial Documentation Centre among other measures in updating the electronic database and promoting its use among relevant judicial staff; explore the status of other electronic data bases at the SoM, MoJ and elsewhere assisting in planning for expansion and coordination of them.

Current implementation:

**Activity 1.4.2:** Support the Judicial Documentation Centre among other measures in updating the electronic database and promoting its use among relevant judicial staff; explore the status of other electronic data bases at the SoM, MoJ and elsewhere assisting in planning for expansion and coordination of them.

Activity is delivered (as per decision of the 3<sup>rd</sup> Stakeholders' Committee Meeting)

The Centre is not the relevant institution, the relevant ones are covered by other activities.

#### **Previous description before implementation:**

Activity 1.4.3: Improve the public relations of courts with the general public, working among others with the National Judicial Conference (NJC) and its relevant commission, the NJC Executive Council and the Union of Albanian Judges (UAJ).

Current implementation:

**Activity 1.4.3:** Improve the **public relations of courts with the general public**, by providing the needed legislative framework which at list identifies responsible persons in the court system to inform and handle media about court decisions and train a group of five trainers for media training.

This activity is delivered

EURALIUS co-organized on 26 January 2016 in cooperation with the Joint European Union/Council of Europe (EU/CoE) project “Support to the Efficiency of Justice” a Round Table on “Improving the Relationships between the Courts and the Media in Albania”.

The aim of this Round Table was to present the main findings on the relations between the courts and the media resulting from a number of missions to Albania of EURALIUS STE Dr. Hans Rathgeb and the CoE experts Mr. Cedric Visart de Bocarmé and Mr. Gerhard Reissner. EURALIUS was represented by the Deputy Team Leader, Dr. Agnes Bernhard and the International Expert on legal professions, Dr. Richard Regner.

Dr. Regner presented the findings of the EURALIUS STE Dr. Hans Rathgeb by emphasizing the importance of drafting clear guidelines on the relationship between the courts and the media and the necessity of training of a pool of potential court media speakers for a future system change.

Dr. Bernhard gave a presentation on the proposal legislative framework on media relations within the framework of the justice reform by highlighting the role of the High Judiciary Council in ensuring access to justice and strengthening public trust in the judiciary.

The proposed draft laws under the judiciary, such status law and governance law and court organization are the legislative basis to assist the improvement of the public relations of courts with the general public. The proposed draft law on judicial power foresees:

The public relations services shall take care of informing the public and media regarding the activities of the court, as well as specific judicial issues in compliance with the rules established by the High Judicial Council in order to:

- a) provide the media with factual information about court decisions and to rectify possible factual errors in reports on certain cases;
- b) communicate summaries of court decisions to the media in cases of public interest;
- c) liaise with the media in relation to hearings in cases of particular public interest;



- ç) provide information in accordance with the law on the competences of the coordinator for the right of information to interested parties in particular in regard to cases pending at the court and the judicial administration;
- d) publish the court decisions in compliance with the law.

The public relation services are performed based on the principles of the right to access to information, taking into consideration the protection of human dignity, privacy and personal data, reputation and presumption of innocence.

The public relations service shall liaise and cooperate with the High Judicial Council on the progress of public relations at the courts and request its opinion when deemed appropriate. The Court Council shall designate a judicial civil servant of the public relation service as coordinator in accordance with the law on the competences of the coordinator for the right of information.

In March the Minister of Justice, Mr. Ylli Manjani, approached EURALIUS for legal advice and recommendation on the German legal framework with regard to the “guarantee of the freedom of expression through the right to give media interviews for the prisoners” situation.

In reply to the abovementioned request EURALIUS provided information about the German law on the execution of prison sentences (Strafvollzugsgesetz) regulates the principle. The prisoner is – according to the German law – entitled to have contact with persons outside of the prison, but the contact can be controlled. Media and interviews of prisoners to media do not appear on the legislative level, but in an order (*Ref: Justizverwaltungsvorschriften-Online “Richtlinien für die Zusammenarbeit mit den Medien AV d. JM vom 12. November 2007 (1271 - II. 2) - JMBL. NRW 2008 S. 2 - in der Fassung vom 28. Juli 2015 - JMBL. NRW S. 329*). Journalists in prisons are regulated in the general provision about media cooperation in Art. 14 – 21 of the German Strafvollzugsgesetz. Every visit (interview) needs to be permitted and the permission is rejected in specific cases, e.g. if the security is in question, if the interview can jeopardize the socialization of the prisoner or the requests block the capacity of the prison. The principle applies for other types of detention like pre-trial detention accordingly.

In April EURALIUS organized a training session for potential court media speakers with magistrates and judges in Saranda.

Ten magistrates and judges from different Albanian courts have been trained between 25 and 28 April 2016 by the two EURALIUS experts Dr. Johann Rathgeb (President of the Regional Court of Salzburg) and Mag. Harald Palzer (President of the District Court of St. Johann im Pongau, Austria) how to handle successfully court – media relations and which organizational and structural measures must be taken in this respect.

The Albanian magistrates and judges got acquainted with the basic elements of professional contacts of judges as court media speakers with regard to the different media and have been made aware of the benefits of introducing and maintaining a pro-active media policy through working on case studies based on concrete events.

Attendees showed massive interest in the presented Austrian model of managing successfully court – media relations and in the question how these practices could be introduced and implemented in Albania with the final aim of strengthening the trust of Albanian citizens in the judiciary as a whole.

This activity is delivered (legislative framework and training delivered).



A training session during the Court Media Training in Saranda on 25-28.04.2016

### EURALIUS experts and counterparts

Team 1, input from Team 5 (media training)

### Activities and timing

Euralius is working on an additional result. Since the training session for Albanian judges and magistrates has been very appreciated, a further training session for court presidents on proactive media work and proactive court media relations is planned to take place in fall 2016. This can involve the trained trainers.

### Indicators for output

Training session for Albanian judges training of trainers as potential court media speakers (delivered)

Legislative framework proposed (delivered)

Training session for court presidents on proactive media work and court media relations

## **Result 1.5: Decisions taken by the HCJ regarding the status of judges are taken on objective and transparent criteria in line with EU standards.**

### State of affairs at the HCJ:

#### Vacancy of vice chair position

The position of the vice chair at the HCJ is still vacant. By now the President did not propose a candidate.

Questions on who shall substitute the vice chair are arising since the position is vacant and continue to be problematic, in particular in regard to the appointment of inspectors and in case where a report of the appointment commission is needed. In these cases the HCJ Law assigns some specific tasks to the vice chair, for example the proposal for appointment of inspectors or chairing the recruitment commission.

#### Election of new members following end of term of sitting members

On 14 December 2015, four judges from the District Court of Tirana, Mr Petrit Çomo, Mrs Eneida Civici, Mrs Brunilda Kadi and Mr Gerd Hoxha were elected members of the High Council of Justice, by the National Judicial Conference succeeding the members Dritan Hallunaj, Flamur Kapllani, Ilir Mustafaj and Tritan Hamitaj. On 21 March 2016 the National Judicial Conference in fulfilment of the constitutional duties elected judge Ridvan Hado (Tirana Appeal Court) and Neritan Cena (Tirana District Court) as new members of the HCJ since the mandate of Dritan Caka and Hysen Saliko terminated on 8 April 2016.

Since December 2015 the HCJ has three female members.

#### New laws to be expected within the justice reform

EURALIUS continued to support the work on the draft law on self-governing bodies and on the status of judges and prosecutors.

#### Composition of Working Group

The drafting group is composed of Agnes Bernhard (EURALIUS), Ardian Dvorani (HC), Marsida Xhaferllari (HCJ), Tritan Hamitaj (former member of the HCJ), Brunilda Kadi (HCJ), Henrik Ligor (GPO- for the part on the prosecution).

Erida Skëndaj (Parliament), Etilda Saliu (Ombudsman), Besmir Beja (Insurance Company), Daniela Sulaj (prosecutor), Manjola Xhaxho (legal advisor at HC), Erton Karagjozi and Klodiana Vogli (EURALIUS) assisted the working group as Technical Secretariat.

#### Meetings and Contributions to the Draft

EURALIUS had prepared a first sketch of the draft law, which was based on the analysis of the justice reform, the policy paper, a draft elaborated by the Union of Judges, and the

draft law on the evaluation of the ethical and professional performance of judges elaborated by a working group of the Ministry of Justice at the beginning of 2015. The working group discussed the draft article by article.

From end of October 2015 to December 2015, 15 meetings of the drafting group took place every Tuesday and Thursday, along with two meetings of the Think Tank group (composed of opposition experts, MoJ representatives, judges, prosecutors, lawyers etc). The first draft was sent out for comments at the beginning of January 2016. By end of January 2016 the group received a wide range of comments from DP experts, Union of Judges, experts of the Ministry of Justice, judges and prosecutors. In February and March six further working group meetings and two full days conferences (on 4 and 14 March 2016) of the working group were held, in order to revise the draft law in the light of the comments. Additional meetings were held with the Chief Inspector, other inspectors of the HCJ for clarifying specific issues of the investigation and disciplinary proceeding, with representatives of the School of Magistrates in order to discuss issues relating to the recruitment phase and the initial training period of judges and prosecutors as well as with representatives of the GPO for having the opinion of prosecutors on the draft law.

On 11 and 17 May 2016 two public consultation events on the main new laws for the judiciary, including the draft SL, were held in Tirana and Vlora with the participation of judges, prosecutors, representatives from law professions and civil society.

### Scope of the draft

The draft aims at providing a legal framework for determining rights and obligations of judges and prosecutors, the recruitment, appointment, assignment to positions, evaluation, transfer, promotion and disciplinary liability of judges and prosecutors. The aim is to ensure that criteria and procedure for the decision on the career development of judges and prosecutors are laid down more clearly in the law, are merit based, transparent and judges and prosecutors are incentivized throughout their career to improve the performance. The career system proposed in this draft allows more flexibility, in particular by secondments to justice institutions or unpaid leaves and clearer rules for the right to return to previous positions or to be assigned a position at a certain level. Furthermore the draft proposes a salary increase of about three times of the current salaries and other benefits for magistrates.

Draft law on good governance in justice sector

### Composition of Working Group

The drafting group is composed of Genti Ibrahimi (HLE), Ilir Panda (HLE), Marsida Xhaferllari (HCJ), Brunilda Kadi (HCJ) replacing former member of the HCJ Tritan Hamitaj, Agnes Bernhard (EURALIUS).

The working group is supported by the Technical Secretariat composed of Ama Kraja (OSCE), Klodiana Vogli (EURALIUS), Etilda Salii (Ombudsman), Alma Kodraliu (HC).

### Meetings and Contributions to the Draft

EURALIUS had elaborated a sketch of the draft law on good governance already in the previous reporting period. In November 2015 the first meeting of the Think Tank group was held. Several members of the working group revised and enriched the first sketch of the law:

Genti Ibrahim (procedures of selecting members of the HJC and acts and decision making of the HJC)

Ilir Panda (functions of the HJC)

Marsida Xhaferllari (High Justice Inspector)

Tritan Hamitaj, Brunilda Kadi and Genti Ibrahim (Disciplinary Tribunal)

Genti Ibrahim (Justice Appointments Council)

From November 2015 until May 2016, 27 meetings of the working groups have taken place (23 meetings of the drafting group and 4 meetings of the Think Tank group), as follows:

November 2015: 4 meetings of the drafting group and 1 meeting of the Think Tank group

December 2015: 6 meetings of the drafting group and 1 meeting of the Think Tank group

January 2016: 2 meetings of the drafting group

February 2016: 7 meetings of the drafting group and 1 meeting of the Think Tank group

April 4 meetings of the drafting group and 1 meeting of the Think Tank group

On 11 and 17 May 2016 two public consultation events on the main new laws for the judiciary, including the draft GL, were held in Tirana and Vlore with the participation of judges, prosecutors, representatives from law professions and civil society.

Following the consultations the comments received were compiled and prepared for the working group, which will analyse them and decide on whether and how to reflect them in the draft. This draft law depends widely on the constitutional amendments. Thus a final revision will need to ensure consistency with the final version of the constitutional amendments.

### Scope of the draft

The draft aims at providing a new legal basis in line with the constitutional amendments for organisation and functioning of the High Judicial Council, High Prosecutorial Council, High Justice Inspector, Disciplinary Tribunal and the Justice Appointments Council. The new High Justice Inspector would be in charge of investigating judges and prosecutors and of inspecting courts and prosecution offices. This would allow overcoming institutional overlap

between inspection by MoJ and the HCJ's Inspectorate and the inspection service at the GPO.

#### **Previous description before implementation:**

Activity 1.5.1: Assist the HCJ in the implementation of its internal rules in order to reduce discretion and improve transparency of the decisions; assist the MoJ and the HCJ in evaluating amendments to the 2001 Law on the HCJ to further these principles as well as resolve other problems that have been shown to exist.

Current implementation:

**Activity 1.5.1: Create legislative rules within the ongoing reform process of the reform the High Judicial Council in order to reduce discretion and improve transparency of the decisions (draft of constitutional amendments and legislation to organise the HCJ)**

The draft governance law foresees the following elements in order to reduce discretion and improve transparency: The HJC shall

- Hold open meetings
- establish and publish minutes of its meetings.
- report annually to the public and Assembly
- create and maintain an electronic web portal in order to provide adequate information on access to justice and publish its decisions and administrative acts

Furthermore, the decisions of the HJC may be appealed.

The draft SL foresees more detailed criteria and procedure for the decision making on all aspects related to the career of judges: appointment, assignment to a position, transfer, promotion, secondments, return after limited mandates, evaluation of the performance, investigation into disciplinary misconducts, imposing disciplinary measures, suspension and end of appointment.

If applied accordingly, this legal frame will reduce discretion significantly. The activity is delivered.

#### EURALIUS experts and counterparts

Team 2

#### Activities and timing

Additional results:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

Indicators for output

Proposed legislation (delivered)

Plan for implementation of laws elaborated and first implementation activities carried out.  
(Additional result after adoption)



#### **Previous description before implementation:**

Activity 1.5.2: Assist the HCJ in implementing the new secondary legislation governing the promotion and transfer of judges according to objective criteria.

Current implementation:

**Activity 1.5.2:** Assists the working groups in Parliament within the reform process of the judiciary in elaboration the new **primary legislation governing the recruitment, appointment, promotion and transfer of judges** according to the objective criteria.

#### Current state of affairs: Appointment, transfer and promotion practice at the HCJ:

The practice of promotions by the HCJ continues to be a concern. The HCJ continues to appoint judges as chairpersons and inspectors who do not fulfil the requirement of having had two very good evaluations.

Furthermore it is doubtful to which extent objective and merit based criteria are on the basis of promotion and transfer decisions:

The Recruitment Committee of the HCJ is ranking candidates for open positions based on a decision of the HCJ. This decision puts high weight on the seniority, which is a questionable criterion. However, in practice the ranking has no relevance as the members vote in secret ballots, do not follow the ranking and do not justify their decisions.

In March 2016 the HCJ promoted Hysni Demiraj as chairperson of the Tirana Appeal Court. Mr. Demiraj is one of the judges 'graduated' by the 6 months course in early 1990. Together with judge Gjin Gjoni he was member of the adjudicating panel on a Turkish citizen case (accused of international trafficking of narcotics), whereby was issued change of the security measure from Detention on remand to Home arrest. Following such decision, the Turkish citizen then escaped. Demiraj chaired the adjudicating panel that issued the release of the guards accused of murder in the protest of 21 January 2011, and rendered the security measure of "Obligation to appear before judicial police".

In the same plenary meeting in March 2016 the HCJ proposed 6 new judges for appointment to the Administrative Court of Appeal out of the waiting list established by the School of Magistrates after the exams carried out for the selection of judges at the administrative courts some years ago. In total there are 33 judges at the waiting list. In the secret voting the judges who were selected were ranked on 6<sup>th</sup>, 11<sup>th</sup>, 19<sup>th</sup>, 24<sup>th</sup> and 30<sup>th</sup> place.

In the plenary meeting of the HCJ of 11 April 2016 the HCJ proposed Hajrie Muçmataj (inspector) and Aleks Nikolli (judge at Shkodra District Court) to be appointed by a decree of the President as judges at Shkodra Appeal Court.

In the same plenary meeting the High Council of Justice proposed Anita Mici (judge at District Court of Durres) and Arben Vrioni (Chair of Elbasani District Court) to be decreed by the President, as judges in Durres Appeal Court.

In the meeting on 25 April 2016 the HCJ upon proposal of the Minister of Justice opened the appointment procedure of judges who have graduated in 2015 from the School of Magistrates. These magistrates are paid from the state budget and still waiting for being included in the system.

The HCJ postponed a decision on the number of magistrates to be recruited for the academic year 2016/17 at the School of Magistrates.

#### EURALIUS team and counterpart

Team 2

#### Activities and timing

Activity is delivered.

Additional results:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

#### Indicators for output

Draft status law delivered

Plan for implementation of laws elaborated and first implementation activities carried out  
Additional results.

#### **Previous description before implementation:**

Activity 1.5.3: Assist the HCJ in the implementation and/or review of the evaluation system for judges. Assist the further development of the inspection system taking into account international best practice and EU standards and with a view to a long-term solution (beyond the current MoU) for the overlapping inspectorates.

Current implementation:

**Activity 1.5.3: Assist the HCJ in the implementation and/or review of the evaluation system for judges. Assist the further development of the inspection system taking into account international best practice and EU standards and with a view to a long-term solution (beyond the current MoU) for the overlapping inspectorates.**

This activity has been delivered.

The draft law on the evaluation of the performance elaborated in February 2015 by the Ministry is incorporated in the draft SL.

The HCJ has finished the second round of evaluation for the years 2007-2009 and started the third round for the evaluation period of 2010 to 2012.

#### EURALISUS experts and counterparts

Team 2, counterparts: HCJ, MoJ, Inspectorates of the HCJ and MoJ, Assembly.

#### Activities and timing

Additional results:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

#### Indicators for output

Draft status law revised (additional result, delivered)

Plan for implementation of laws elaborated and first implementation activities carried out (additional result)

#### **Previous description before implementation:**

Activity 1.5.4: Assist the HCJ in reviewing and amending the rules on disciplinary procedures against judges according to EU standards.

Current implementation:

**Activity 1.5.4:** Assist the HCJ or draft new legislation within the reform process of the judiciary reviewing and amending the **rules on disciplinary procedures against judges** according to EU standards.

#### State of affairs at the HJC

##### Dismissal of judge Albano Çepele

The HCJ dismissed from duty the judge of Shkodra District Court, Albano Çepele, who due a disease were not able to comply fully with a full time judge position.

##### Dismissal of Judge Parashqevi Ademi

Judge Ademi was arrested on 11.6.2015 (in flagrante) and convicted with imprisonment for 2 years, for committing a criminal offence pursuant to Article 319/ç "Passive corruption of the judges, prosecutors and other justice officials" and Article 25 "Meaning of complicity" of the Criminal Code and Article 406 of the CPC "Decision". This conviction was confirmed by a decision of the Appeal Serious Crime Court on her imprisonment which became final on 14.12.2015.

##### Suspension of disciplinary proceeding against judge Enkeleda Doda

Judge Doda is assumed to have made false declaration of assets, fictitious loan contracts, being in a conflict of interest position as her spouse is judge in the same court etc. The disciplinary proceedings is suspended until the conclusions in the criminal proceedings, with the saving clause that the lapse of time for the disciplinary proceedings be also suspended.

##### Lifting of immunity for judge Ismail Hoxha

In the meeting of 3 May the HCJ endorsed the arrest warrant issued against Tirana District Court Judge Ismail Hoxha. Hoxha was caught together with his son in the act of pocketing an ALL 600,000 bribe for issuing a favourable ruling to one of the parties involved in a judicial case he was sitting on.

##### Case Osman Aliu

Osman Aliu was suspected of refusal to justify cash liquidations in 2013, unjustified net incomes, unjustified failure to declare assets, unjustified transfer abroad of 10.200 Euro, etc. The Minister of Justice requested disciplinary proceedings for judge Aliu for serious violations and acts discrediting the position and image of the judge, and dismissal from

duty. The HCJ dismissed the request for disciplinary proceeding of Judge Aliu (7 members voted against- 5, members voted in favour of the initiation of proceedings).

#### Case Artan Gjermeni

According to media reports as of 18 January 2016 Judge Artan Gjermeni from Tirana District Court was accepted at the hospital and found intentionally injured. The police suspects that the wounds were not self-inflicted but are a consequence of an attack by other people. The Police stated that during the control of the car "SMART", 20.000 Euros were found, the source of whose judge Gjermeni did not declare. In these circumstances, the police has sequestered the car and the amount of money. Durres Prosecution Office in mid-April closed the investigations due to the lack of evidence.

#### EURALISUS experts and counterparts

Team 2, HCJ, MoJ, Inspectorates of the HCJ and MoJ, Assembly

Activities and timing. This activity is delivered (draft law).

Additional results:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2016)

#### Indicators for output

Draft status law revised with the updated disciplinary sections (delivered)

Status law adopted if constitutional amendments are in place

Plan for implementation of laws elaborated and first implementation activities carried out (additional result)

#### **Previous description before implementation:**

Activity 1.5.5: Support the "zero tolerance" policy regarding corruption in the HCJ and work with the HCJ to extend similar policy to the courts, assisting in the development and implementation of internal control standards and assuring coordination with the Government's overall anti-corruption strategy.

Current implementation:

**Activity 1.5.5: Support the "zero tolerance" policy regarding corruption in the HCJ and work with the HCJ to extend similar policy to the courts, assisting in the development and implementation of internal control standards and assuring coordination with the Government's overall anti-corruption strategy.**

EURALIUS team liaised with the Twinning Project assisting the Ministry of Finance in the development and implementation of internal control standards.

Furthermore, a new Twinning Project with the title 'Support to the formulation, coordination and implementation of anti-corruption policies' is upcoming. The aim of this project is to improve mechanisms for the formulation, coordination and implementation of anti-corruption policies in line with international standards, best practices and EU integration priorities. A close co-operation of a shift of tasks will have to be clarified once the project starts. The draft governance law contains an obligation to establish a unit for internal auditing.

#### EURALISUS experts and counterparts

Team 2, input from Team 3, counterpart: HCJ, courts

#### Activities and timing

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017).

Coordination with the upcoming twinning project, which might take over a part of the future upgrade of the institutions.

#### Indicators for output

Draft governance law revised (delivered)

Number of disciplinary decisions (in cases of MoJ)

Plan for implementation of laws elaborated and first implementation activities carried out (Additional results)

#### **Previous description before implementation:**

Activity 1.6.1: Provide assistance to the High Court in improving its internal organisational structure, among other things as to reduce the backlog of cases in line with the latest amendments to the law, and also with special attention to the changes necessitated by the introduction of a new administrative chamber.

Current implementation:

**Activity 1.6.1: Provide assistance to the High Court in improving its internal organisational structure, among other things as to reduce the backlog of cases in line with the latest amendments to the law, and also with special attention to the changes necessitated by the introduction of a new administrative chamber.**

This activity is delivered

Within the framework of the justice reform further measures are under way which aim at introducing filters for cases that shall be reviewed at the level of the High Court. EURALIUS assisted in elaborating a new Criminal Procedure Code and amendments to the Civil Procedure Code and the Administrative Court law. The efficiency provisions in these laws foresee inter alia the following:

#### **Proposed amendments to the Criminal Procedure Code**

The draft Criminal Procedure Code foresees the following measures in order to filter cases which shall be reviewed by the High Court:

Firstly, the draft removes the competence on original jurisdiction of the HC for the adjudication of cases involving high state officials.

Secondly, a new provision is foreseen which sets out the limits for recourses to the High Court, and allow them only in the interest of the law:

According to this provision a recourse to the High Court may be done against all decisions issued by the court of appeal, except for the following:

- Decision to suspend or extend the execution of the decision;
- cancellation of the decision and dismissal in cases which do not permit the initiation and the continuation of the proceedings or when the guilt of the defendant is not verified
- Decisions to overrule the court decisions and return acts in certain cases
- remand order decisions
- decisions to issue release on parole
- decisions to replace a prison sentence by another measures while serving of the sentence
- decisions which are disputed during the execution stage of a final criminal decisions
- decisions related to conservative and preventive seizure

- decisions on the appeal against the extension of the time limit for the preliminary investigations

Proposed amendments to the Civil Procedure Code: A strict filter is proposed accompanied by a reasonable court fee for the third instance.

See activity 4.2.2 and activity 1.3.3

#### Proposed Amendments to the Law on Administrative Courts

Within the justice reform an amendment to the Law on Administrative Courts is proposed, which aim at reducing the caseload at the administrative chamber of the High Court, by

- Limiting the access to administrative courts in civil cases, where one party is the state, for example labour contracts with employees in the public service or rent or purchase contracts of the state
- Deleting the recourse where there are serious procedural violations that have visibly affected the rendering of the decision (maintaining only the recourses where there are serious violations of the procedural norms, with the consequence of invalidity of the decision or the trial procedure)

#### EURALISUS experts and counterparts

Teams 2, 3 and 5; counterparts: HC and the Assembly (for potential legal amendments)

#### Activities and timing

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July 2015, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

#### Indicators for output

Draft governance law revised (delivered) Procedures Codes checked (amendments proposed delivered), court fees proposed for the third instance proposed (delivered)

Plan for implementation of laws elaborated and first implementation activities carried out, depending on legislative framework (additional result)



### **Previous description before implementation:**

Activity 1.6.2: Assist the MoJ and other relevant institutions including Parliament in considering changes to the appointment process of judges to the High Court with a view to make the High Court more independent and impartial, in particular assisting the MoJ in the drafting of appropriate legislative and/or constitutional changes.

Current implementation:

**Activity 1.6.2:** Assist the MoJ and other relevant institutions including Parliament in considering changes to the **appointment process of judges to the High Court** with a view to make the High Court more independent and impartial, in particular assisting the MoJ in the drafting of appropriate legislative and/or constitutional changes.

The constitutional amendments foresee a new appointment scheme for judges of the High Court, whereby the judges shall be on one hand career judges and on the other hand may be appointed from very renowned lawyers with a special expertise.

In compliance with this the draft SL foresees the inclusion of judges of the High Court under the umbrella of the High Judicial Council. The draft law aims at establishing clear cut restrictive criteria for the appointment of judges.

This framework will end with the appointment of judges by the Assembly in cooperation with the President and will terminate the stalemate situation which was created for the appointment of HC judges.

This activity is delivered.

### EURALIUS experts and counterparts

Team 2, counterpart: HC, Assembly

### Activities and timing

Legislative changes (constitution implementing law) are proposed. Additional results:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

### Indicators for output

Draft constitutional amendments and draft status law revised (delivered)

Plan for implementation of laws elaborated and first implementation activities carried out (additional result)

#### **Previous description before implementation:**

Activity 1.6.3: Provide assistance to the High Court in preparing and implementing a comprehensive programme for disseminating information about the unification of judicial practice and analysing its legal precedents (case law) to date with a view to including them in the dissemination programme.

Current implementation:

**Activity 1.6.3: Provide assistance to the High Court in preparing and implementing a comprehensive programme for disseminating information about the unification of judicial practice and analysing its legal precedents (case law) to date with a view to including them in the dissemination programme.**

Activity is delivered- decision of second Steering committee 3 June 2015

The Dutch Embassy finances the second stage of GAIUS project. The Centre for Research and Information Team Legal (Legal Information and Study Team - L.I.S.T.) provided periodically electronic numbers of an online Journal of Jurisprudence English (GAJUS) to review the civil decisions, administrative and criminal cases of the Supreme Court, the decision of the Constitutional Court and the decisions of selected European Court of Human Rights. The interested people and professionals could search in the e-address [gajus.qendra-list.org](http://gajus.qendra-list.org) to find the summary of each number launched. This could enable fast access to summaries of recent decisions of the Court (see annex).

#### Euralius team and counterparts

Team 4 and Team 1

#### Activities and timing

Check for additional publication options (2017, additional result)

#### Indicators for outputs

Unified decision published (delivered)

**Result 1.7: issues pertaining to judicial cooperation among stakeholders of the Albanian justice system and international partners are managed in a more coherent manner, the following activities shall be implemented:**

**Previous description before implementation:**

Activity 1.7.1: Provide assistance to the MoJ, in collaboration with the HCJ in implementing the courts' territorial reorganisation, determining the number of judges and organising the transfer and redistribution of judges; the territorial reorganisation must be carried out in collaboration with the GPO, ASP and all other relevant justice system and law enforcement bodies.

Current implementation:

**Activity 1.7.1: Provide assistance to the MoJ, in collaboration with the HCJ in implementing the courts' territorial reorganisation, determining the number of judges and organising the transfer and redistribution of judges; the territorial reorganisation must be carried out in collaboration with the GPO, ASP and all other relevant justice system and law enforcement bodies.**

This activity is delivered.

A new law draft on the court organisation will provide rules on the judicial map which will aim at establishing a framework for a more equal distribution of the workload among the Albanian courts to make the judicial system more efficient.

Composition of the working group:

Agnes Bernhard- EURALIUS, Marsida Xhaferllari- Chief Inspector, HCJ, Brunilda Kadi- Member of the HCJ, Ardian Dvorani- Judge at the HC, Sokol Pasho - MoJ, Manjola Xhaxho- Legal Advisor at the HC, Klodiana Vogli- EURALIUS, Etilda Saliu - Technical Secretariat.

Meetings of the Working Group:

The working group in charge of elaborating a new JP Law started its activity in January 2016. EURALIUS prepared a first sketch of the law by based on the draft law on judicial administration as elaborated by a Working Group established in January 2015 by the Ministry of Justice involving also 2 court chairs and 1 chancellor. The working group also gathered comments in other meetings with interested stakeholders. The School of Magistrates, the Ministry of Justice and Office for Administration of Judicial Budget have submitted comments in written.

On 11 and 17 May 2017 two public consultation events on the main new laws for the judiciary, including the draft JP Law, were held in Tirana and Vlore with the participation of judges, prosecutors, representatives from law professions and civil society.

Scope of the draft

The draft law on court organisation contains general provision on the organisation and functioning of the court system, competences and seize of the courts, internal organisation of courts, functioning of the court administration and the status of judicial civil servants.

Chapter V on the status of the judicial civil servants is mainly based on the draft law on judicial administration elaborated by the Ministry of Justice (*see above*).

Transitory provisions are foreseen in order to ensure tenure of incumbent chancellors, legal assistance, civil servants at the High Court and other incumbent employees at Courts, as much as possible. The draft foresees in particular the legal framework for the court reorganisation.

The draft determines the judicial map only for the highest level and for the SPAK, by stating that the High Court, High Administrative Court, Administrative Court of Appeal and the Anti-Corruption and Organized Crime Courts shall have the territorial competence over the whole territory of the Republic.

For all other courts the draft law determines the criteria and the procedure for the design of the judicial map. By this it shall allow a graduated reduction of the number of courts in compliance with the results of a CEPEJ study that concludes that courts with a minimum of 40 to 100 judges are most efficient and to allow further a long hand planning of investments. In order to counterbalance the efficiency objective the draft also foresees the possibility to establish exceptionally here and there court branches aiming at ensuring the access to justice in dislocated and badly connected areas of Albania.

The HJC is proposed to be competent to propose the judicial map and is obligated to co-operate with other justice institutions.

It was not considered appropriate to determine the judicial map by a 3/5 majority law, as the judicial map is an issue that will need to be adapted over the years to the demographic, socio-economic and infrastructural and other developments.

#### Other activities

On 27.4.2016 the Minister of Justice put forward an alternative proposal for the design of the judicial map (see annex), which has the same aim. According to the proposal the judicial map in Albania could be organized in 12 district courts of first instance that correspond to 12 territory districts of regions. In each municipality within the region where the court extends the territorial jurisdiction the courts shall have a court branch to which judges are assigned by lot. The courts of appeal should be reduced from 6 to 4:

- one court of appeal that will cover the North of Albania based in Shkodra,
- one court of appeal that will cover middle Albania based in Tirana,
- one court of appeal that will cover the south based in Fier
- one court of appeal that will cover south-west based in Korca.

Representatives of the Ministry were present in the consultation events on 11 and 17 May 2016 and presented there the alternative proposal. As a result the Ministry cancelled the separate consultation event.

The future territorial map will develop step by step in the upcoming years, depending on the development in Albania. This flexible approach delivers this activity.

#### EURALIUS experts and counterparts

Team 1, input from team 4 and team 2; counterpart: MoJ, HCJ, GPO and ASP.

#### Activities and timing

Additional results:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

#### Indicators for output

Draft constitutional amendments and draft judicial power law revised (delivered)

Proposed of judicial pam MoJ (delivered)

Plan for implementation of laws elaborated and fist implementation activities carried out (Additional result)

#### **Previous description before implementation:**

Activity 1.7.2: Support the implementation of the Memorandum of Understanding (MoU) between the MoJ and the HCJ inspectorates through the conduct of joint inspections.

Current implementation:

**Activity 1.7.2: Support the implementation of the Memorandum of Understanding (Memorandum of understanding) between the MoJ and the HCJ inspectorates through the conduct of joint inspections.**

This activity is delivered.

The constitutional draft foresees a new institution: a High Justice Inspector to carry out all inspections and to eliminate the double competence for the inspection of courts. Thus the adoption of such provision would make this activity obsolete.

The draft GL will provide the legal framework for the organisation and functioning of the unique inspectorate (High Justice Inspector) in charge for investigating into disciplinary misconducts of judges and prosecutors and to carry out thematic inspections for courts and prosecution offices. The system does not require joint inspections of several institutions anymore (activity delivered).

#### EURALIUS experts and counterparts

Team 2

#### Activities and timing

Additional result:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

#### Indicators for output

Draft constitutional amendments and draft governance law revised (delivered)

Plan for implementation of laws elaborated and first implementation activities carried out (Additional result)

#### **Previous description before implementation:**

Activity 1.7.3: Support to MoJ, HCJ and the High Court in policy analysis and reporting through the establishment of a trial monitoring system of the most relevant judicial cases.

Current implementation:

**Activity 1.7.3: Support to HCJ and the High Court in policy analysis and reporting through the establishment of a trial monitoring system of the most relevant judicial cases.**

This activity delivered.

The remaining rest is merged with activity 1.2.4 since the provision of statistical information necessary for trial monitoring is already covered by EURALIUS Activities 1.2.4 and 2.3.1 and 2.3.2.

Aspects of trial monitoring are covered by the joint EU and CoE project “Support to Efficiency in Justice” and by the OSCE project “Justice without Delays”. The future American project for JUST continuous with the individual monitoring of the courts. In 2013 the OSCE Presence and the USAID /JuST project joined forces to initiate the “*Justice Without Delays*” Initiative. Following the practical recommendations contained in the OSCE Presence’s *Towards Justice* Report, and the USAID/JuST Project’s country-wide programs on the use of courtrooms and the implementation of Digital Audio Recording (DAR) it was determined that significant reductions in the number of hearings and the length of proceedings could be achieved with practical solutions at the Court level and which did not require legislative changes or reforms. The new JUST project runs five years and continues to support the justice developed initiative. It started during the reporting period and selected the court of Shkodra. In order to coordinate Euralius assists on demand.

#### Euralius experts and counterparts

TL (coordination)

#### Activities and timing

Regular cooperation with JUST and OSCE

#### Indicators for outputs

Trial monitoring system in place

#### **Previous description before implementation:**

Activity 1.7.4: Assist the MoJ, the GPO and the courts in the implementation of international instruments for judicial cooperation, including the new cooperation agreement with EUROJUST, and the adoption of additional international instruments that may be necessary or desirable for such cooperation.

Current implementation:

**Activity 1.7.4: Assist the relevant institutions (MoJ, the GPO) and the courts in the implementation of international instruments for judicial cooperation, including the new cooperation agreement with EUROJUST, and the adoption of additional international instruments that may be necessary or desirable for such cooperation. This activity assists also the implementation of the case management system for processing MLA cases.**

#### **CASE MANAGEMENT**

On 3.12. 2016, together with the Chief of IT and Statistics Sector of the MoJ, INT 4 organised with the vendor the presentation of the M-Files Document Management System of Mutual Legal Assistance Cases, handled by the Directorate for Foreign Jurisdictional Affairs in the MoJ. The aim of the presentation was to verify whether this system could be a building block for the future integrated case management system for processing Mutual Legal Assistance Cases of both MoJ and GPO.

Team 4 participated in 2 presentations of prototypes of case management systems for processing Mutual Legal Assistance Cases within MoJ with the aim to assess the advances in system development and to verify whether the new system could be integrated with the international cooperation department of GPO. Upon review of the Directorate for Foreign Jurisdictional Affairs in the MoJ (Case management system for processing Mutual Legal Assistance Cases within MoJ system), team 4 made the following recommendations:

As the current system it is an “open system” it allows users to download information and data from the internal repository, thus posing a threat to security of information (which in some cases is classified by law) and to personal data and privacy. The option of moving the content to any kind of external storage (such as USB pen drive and external hard-drive) should be disabled; For security reasons the system should not be accessible from the web outside of the premises of the MoJ;

It is recommended that the data and information managed so far, for all cases in mutual legal assistance, be added over time to the new system. This obviously requires time, resources, but having the entire database on documentation on mutual legal assistance will facilitate the follow up on historical cases by the beneficiary institutions.

The last presentation and review of the final version of case management system for processing Mutual Legal Assistance Cases by the Directorate for Foreign Jurisdictional Affairs in the MoJ, took place on the 8<sup>th</sup> of April 2016. Team 4 organized and participated in this presentation. The system was found to be well adapted to the needs of Directorate for Foreign Jurisdictional Affairs in the MoJ and it was expected to have a very positive impact on the efficiency of operation of the department. The system has been already installed on MoJ servers and has been put to production in the last week of May 2016.



On 18<sup>th</sup> April 2016, Team 4 together with the Directorate for Foreign Jurisdictional Affairs in the MoJ organised a presentation of the case management system for processing of MLA cases to the representatives of Department of Foreign Jurisdictional Relations, GPO. The representatives of GPO were concerned with the fact that their work procedures were different from MoJ: The approval hierarchy was more flat, the workflows were simpler and far less formal, GPO was not planning to scan the document into the system, there were some differences in statistics, etc. INT 4 was of opinion that technically the system of MoJ was flexible enough to be adapted to the needs of GPO. The GPO was also concerned about having to fully rely on MoJ for the operation of the system of crucial importance for the daily work of its Department of Foreign Jurisdictional Relations. This also meant that the institutions would have to agree on how to share the yearly costs of maintenance and of introduction of new functionalities, which could also be a challenge in the current political setup. A feasible solution, could be to have a distributed system, with the GPO part being a “clone” of MoJ system, adapted to the needs of GPO, running on GPO servers and administered by GPO IT Department. Both parts of the system will be very tightly integrated. They would be based on the same document management platform, they will be developed and maintained by the same company. It was agreed during the presentation that the GPO would need to examine the system in real-life operation before coming to the final conclusion.

#### INTERNATIONAL COOPERATION IN CRIMINAL MATTERS (see annex)

Within this reporting period Team 4 contributed to the review of current legislation and practice and recent developments in the field of mutual legal assistance:

In regard to the long list of international treaties, Albania has adhered to various CoE conventions (including additional protocols), UN Conventions and bilateral Agreements with EU and non EU States. Albania has also entered into an agreement with UK and Northern Ireland on the transfer of sentenced persons, following three agreements with Kosovo on mutual legal assistance, extradition and transfer of convicted persons, which entered into force in 2014. Based on Article 122 (2) of the Constitution, international treaties and agreements have direct effect and can be applied without implementation into the national legislation.

Since the Fourth Additional Protocol (CETS 212) to the European Convention on Extradition entered into force in June 2014, it is demanding for the Albanian authorities to further modernize a number of provisions and supplement the legislation in certain respects in regard to extradition, nevertheless the fact that the protocol to the convention is directly applicable. Assessment of their legal bases in regard to further simplification of extradition procedures (since entry into force of the third additional protocol to the Extradition Convention), can still be in light of the European Arrest Warrant (Council Framework Decision [2002/584/JHA](#) of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended), which replaces the extradition system,

as well as case law of European Human Rights Court and European Court of Justice. This EU *Acquis* is supported by Directive [2010/64/EU](#) on the right to translation and interpretation in criminal proceedings, Directive [2012/13/EU](#) on the right of subjects to be informed of their rights, Directive [2013/48/EU](#) on the right to have access to a lawyer and the right of persons in custody to communicate with family members and employers, as rules to ensure procedural rights in arrest-warrant proceedings in EU members states, defining the frame based on which the scale of approximation is to be evaluated.

The legislation on mutual legal assistance in criminal matters of Albania has a particularity the co-existence of two sets of rules on mutual legal assistance in criminal matters. Both the Code of Criminal Procedure, Articles 488-523 “Jurisdictional relations with foreign authorities” and Law No. 10 193, dated 3.12.2009. “On jurisdictional relations with foreign authorities in criminal matters”, as amended, are applicable. Nevertheless the fact over the years the Albanian authorities have provided assistance in all forms of international cooperation at all stages of criminal proceedings to their European counterparts and internationally worldwide, it has become recommendable to give absolute priority to bringing the provisions applicable to international cooperation in criminal matters into one piece of legislation.

Albanian authorities have reported some problems in practice and in the applicability of legal acts, such as conflict of provisions among different legislation, timely implementation of multilateral instruments (this due also to non-defining clearly who is the authority to supply and finance the translation of documents during different procedures), concerns in regard to extradition cases when a guarantee to an automatic right of retrial is required by the requested state, lack of national legislation on special investigative techniques and police cooperation, grounds for refusing an extradition, as well as a demand for a greater institutional capacity. Some of these issues have been reiterated also in the last Progress Report (SWD(2015) 213 final) on Albania.

MoJ and the General Prosecution Office following the study of Mr. Andre Klip, (study among countries of Western Balkans under IPA 2010 and GIZ on “Facilitating MLA in the Western Balkans”), have scheduled various issues in a booklet, issued in March 2014 (see annex). The study reflects the concerns raised by the Albanian authorities at the time it was conducted.

In regard to the special regulation on protection of personal data in the GPO, Information and Data Protection Commission has given legal opinion on the amending draft prepared by the GPO, in compliance with the proposals of EUROJUST. Representatives of the GPO informed that the order of the General Prosecutor, amending the existing regulation has been sent to EUROJUST for review and will be approved shortly after.

On 1st of January 2016 in the premises of the MoJ a joint meeting of MoJ, Information and Data Protection Commission, as well as with the representatives of GPO took place, gathered to discuss measures in regard to full compliance with the requirements and recommendations of EUROJUST, in regard to: special regulation on data protection to be

approved by GPO, review and amendments to Decision no. 3/2012 (see annex), “On defining states with adequate level of data protection and Instruction no. 21/2012 (see annex) “On defining rules for personal data security processed by major size data controllers of Information and Data Protection Commission”, as well as review of the Law no. 8457, dated 11.02.1999 “On information classified as state secret”. In this regard Information and Data Protection Commission amended abovementioned acts, the decision and the instruction, which are published in the official gazette since February 2016 (see annex law on JRFA in Criminal matters).

#### Euralius experts and counterparts

Team 4 with contribution of team 1, 3 and 5 (content), STE

MoJ: Mr Eris Adhami, IT Director,  
Mr Lysien Ali, Chief of Sector of IT and Statistics,  
Ms Odeta Thëngjilli, Director of Department of Foreign Jurisdictional Cooperation  
Ms Diana Stilo, Chief of Sector of Foreign Jurisdictional Relations  
GPO: Mr Skender Baca, IT Director GPO  
Ms Roven Gashi, Director, Foreign Jurisdictional Directory  
Office of Albanian Information and Data Protection Commissioner  
EU Project "International Cooperation in Criminal Justice: the Prosecutors' Network of the Western Balkans": Mr Eduard C. Güroff, Seconded Prosecutor,

#### Activities and timing

There were two different ideas on this matter presented respectively by both projects. EURALIUS presented since the beginning the idea to organise these seminars mainly focusing on Eurojust procedures and to spread the knowledge in a audience covering prosecutors from different cities. While Prosecutors' Network of the Western Balkans Project' representatives presented the idea to organise the seminars mostly focusing in Data Protection Procedures within Eurojust.

At the end the Prosecutors' Network of the Western Balkans Project they took over the task to handle themselves with the Data Protection Upcoming seminar planned to be held at the end of May.

The EU Project „International Cooperation in Criminal Justice: Prosecutors' Network in the Western Balkans”, indicated that this project could support financially the inclusion of the GPO to the above mentioned system. If successful, newly developed system would provide comprehensive IT support for Mutual Legal Assistance Cases, processing for both GPO and MoJ.

As for the recommendations of EUROJUST in regard to necessary amendments to the Law no. 8457, dated 11.02.1999 “On information classified as state secret” still needs actions to be taken by the authority who have the right to initiate a legal initiative to amend the said

law. The MoJ and the Albanian National Security Authority (under the Council of Ministers) have to inform the Prime Minister's Office on the need to amend the law following the recommendations of EUROJUST and then, in this case, it is the Prime Minister who have the right to initiate a legal initiative. Also, MoJ has yet to appoint a contact person to EUROJUST, after Ermonela Xhafa, formal Director General of Implementation of Priorities, Foreign Jurisdictional Relations and Integration, left MoJ. The Eurojust accession project is coordinated within the regional project and shall have these activities:

STE/MTE international expert to support the process and to participate in the meeting with this structure and the Directorate of Codification on 29<sup>th</sup> June 2016.

Ongoing assistance in implementation of MLA case management system within MoJ (partially delivered, the system is expected to go in production in June'16)

Facilitation of agreement between MoJ and GPO on inclusion of GPO in the MLA case management system (Dec.'16)

Assistance in specification, procurement and implementation of system extensions needed to include GPO in MoJ's MLA case management system (subject to an agreement reached by GPO and MoJ)

Revision and amending legislation of mutual legal assistance (May '17)

Timetable of the status of Albania to EUROJUST (December 2016)

Workshops on how to facilitate exchanging information on prosecution with foreign prosecutor's office within the framework of Eurojust (October 2016).

Everything regarding the performance of this activity will depend on the developments of Justice Reform.

Following the developments on Justice Reform and the adoption process if needed.

In case of adoption, assistance will be provided in the implementation

#### Indicators for output

MoJ's MLA case management system operational (partially delivered, the system is expected to go in production in June'16)

GPO included in MoJ's MLA case management system (subject to an agreement reached by GPO and MoJ) (Nov. '17)

Albania worked with Eurojust (May '17)

#### **Previous description before implementation:**

Activity 1.7.5: Assist the provision of universal access to international legal data bases (e.g. Lawtel, Westlaw, etc) via internet to all judges, prosecutors, the SoM, the MoJ and law enforcement bodies or assist in the development of reasonable lower cost alternatives.

Current implementation:

**Activity 1.7.5: Assists the access to national and international legal data basis via internet to all judges, prosecutors, the SoM, the MoJ.**

Some additional data basis tools become available.

On 2 February 2016 Euralius sent officially a letter to all the beneficiaries informing them about the federal German Constitutional Court website, available in English. The following link belongs to the English translation of the Court` website and needs to be subscribe in order to obtain the databases and the decisions:

[http://www.bundesverfassungsgericht.de/EN/Service/Newsletter/Entscheidungen/newsletter\\_bestellen\\_node.html](http://www.bundesverfassungsgericht.de/EN/Service/Newsletter/Entscheidungen/newsletter_bestellen_node.html)

Access to international legal databases – beck online in Germany is delivered for European law, civil law and criminal law. This legal database is available via the Ministry of Justice. The databases operates in German language. After the change of the minister this tool has not been used much.

In cooperation with the MoJ, in May 2016, International instruments on mutual legal assistance, both civil and criminal matters, as well as the Law No. 10 193, dated 3.12.2009. “On jurisdictional relations with foreign authorities in criminal matters”, are published on EURALIUS web page (<http://www.euralius.eu/en/albanian-legislation/send/84-law-on-jurisdictional-relations-with-foreign-authorities-in-criminal-matters/170-law-on-jurisdictional-relations-with-foreign-authorities-in-criminal-matters-en>) and (<http://www.euralius.eu/en/library/international-cooperation>). Not all international instruments are published in both English and Albanian language, due to the non-availability of both versions.

Team 4 investigated the current status of publication of Albanian laws on the Internet (see annex status of publications of laws).

During meetings with the Centre of Official Publication, the Director on technical aspects of publication of Albanian legal acts and court decisions contacted Mr. Marius Roth from Swiss Zentrum für Rechtsinformation (ZRI) who could provide a short term solution for such publications. Moreover, an option of French financing the project definition phase was evaluated with COP Director, Ms. Ardita Buna and with Advisor to the Minister of Justice regarding Foreign Relations and Projects. Ms. Elda Spasse. A sustainable financing is not available yet. Representatives of the Swiss Embassy reiterated that the justice field will be shortly assessed for further decisions to be taken whether Swiss Government will consider to invest in the justice sector, particularly with the view of the ongoing process of justice reform in Albania.

### Euralius experts and counterparts

Team 4, MTE

MoJ: Mr Eris Adhami, IT Director,  
Ms Elda Spasse, Advisor to the Minister of Justice regarding Foreign Relations and Projects

COP: Ms Ardita Buna, General Director

Courts: Members of Working Group on New Generation ICMIS

SoM: Mr Ador Koleka, Chief of Professional Training Sector

### Activities and timing

Assistance to MoJ and OAJB on improvement of the quality and security of Internet access for courts through establishing dedicated data transmission network (Dec.'17)

Feasibility study on using the future publication system of COP for the purpose of publishing international legal information applicable to Albanian context (till 30/05/2016)

Possibility of financing from the Swiss government discussed (10` 2016)

Upgrade the electronic library (Dec 2017)

### Indicators for output

Internet connections to courts improved (subject to availability of financing)

Report on better access and content via internet to legal data bases for judges, prosecutors, the SoM, the MoJ and law enforcement bodies is established

**Objective 2: To improve the organizational, administrative, technical and resource management capacities, as well as the case management capabilities of the judiciary in order to improve the efficiency of courts and their transparency.**

**Result 2.1: The SoM will continue to be the central institution to ensure high-quality education of judges and prosecutors on the basis of a solid financial basis and refined training curricula, the following activities shall be implemented:**

EURALIUS is with regard to the activities concerning the School of Magistrates – constantly – in close contact with the Director of the School of Magistrates and the permanent academic staff of the School of Magistrates as well as with the administration staff of the School of Magistrates.

The School of Magistrates is also affected by the ongoing judicial reform process.

The School of Magistrates shall – according to the strategic discussions so far - stay the focal point for the initial and continuous training of judges and prosecutors in the Republic of Albania. The judicial reform will not change this position of the School of Magistrates.

**Activity 2.1.0:** Provide assistance to the **law on State Exam**, guaranteeing a high level of professionalism of the candidates coming from the university. A draft is proposed

EURALIUS has already in 2015 delivered a draft law on the state exam for jurists within the framework of the ad hoc Committee on Justice Reform. Further development see activity 1.1.2.

#### EURALIUS experts and counterparts

Team 5

#### Activities and timing

This activity is delivered.

In case further consultation rounds or other technical input is required EURALIUS will assist.

#### Indicators for output

Draft law on state exam for jurists (delivered)

Consultation of the draft and eventual revision (delivered)

Revised draft law on state exam for jurists (delivered)



#### **Previous description before implementation:**

Activity 2.1.1: Provide assistance to the SoM in developing and delivering training to judges in improving the reasoning and quality of decisions and management of trials.

Current implementation:

**Activity 2.1.1: Provide assistance to the SoM in developing and delivering training to judges in improving the reasoning and quality of decisions and management of trials.**

Since this activity was to be carried out in close coordination with the EU/CoE project to avoid any overlapping and eventual contradictory or conflicting approach EURALIUS was in close contact with the Eu/CoE project manager and was following the project implementation as the initial and continuous training offered by the SoM was falling within the sphere of the EU/CoE project insofar as it was connected with the overall project aim of efficiency and effectiveness of justice.

Since there exists also some minor overlapping with the activities of the Lord Slynn Foundation, EURALIUS has established also close contact with the Lord Slynn Foundation to secure coordination.

#### EURALIUS experts and counterparts

Team 5, input from Team 1

#### Activities and timing

The training content will be influenced by the proposed amendments to the procedure codes. Thereof the training will be delivered after it becomes clear, if legislative amendments shall occur.

EURALIUS will collect and start the review of the existing training materials in so far as the improvement of the knowledge and skills of judges in writing well-reasoned decisions and judgments and efficient handling of court proceedings is concerned and carry out a training needs assessment both for judges in general as well as for inspectors of the HCJ in the second half of 2016.

#### Indicators for output

Training materials collected

Training needs analysis carried out

Training programs and curricula revised

Training modules delivered (legal reasoning/management of trials)

**Previous description before implementation:**

Activity 2.1.2: Provide assistance to the SoM in developing and delivering training to judges in improving the reasoning and quality of decisions and management of trials.

Current implementation:

**Activity 2.1.2: Provide assistance to the SoM to further develop the continuous training for judges and prosecutors, stressing introducing the recent adopted national legislation as well as international legislation and case law (including the European Court of Justice).**

EURALIUS has discussed in September 2015 with the scientific staff of the SoM - based on the Continuous Training Program of the SoM – the eventual necessities or requests of the SoM to EURALIUS with regard to activity 2.1.2. In this meeting EURALIUS has been informed that the SoM has already a rather sophisticated continuous training program for judges and prosecutors in place. No immediate need of the SoM for EURALIUS support in this respect has thus been identified. It has nevertheless been agreed to discuss this issue further and in more detail at a later point of time.

Following a specific request of the SoM EURALIUS INT 5 has prepared and delivered a lecture to the students of the School of Magistrates of the entry year 2015 on 23 March 2016 about the Preliminary Ruling Procedure of the European Court of Justice.

The lecture consisted of an introductory power point presentation on the basics of the preliminary ruling procedure and an introduction into and presentation of the 'Recommendations of the ECJ to national courts and tribunals in relation to the initiation of preliminary ruling proceedings'. In a following group exercise the participants were then divided into four groups and these groups were required to try to formulate the question for a request for a preliminary ruling based on the facts of the cases C-120/95 (Decker) and C-281/98 (Angonese) which have been handed out to the students together with the provisions of Union Law at stake in these proceedings. After the presentation of the draft questions for a request for a preliminary ruling, these drafts and the issues at stake in these cases relevant for the formulation of a request for a preliminary ruling have been discussed with the participants and the judgments of the ECJ in these cases have been handed out to the students to compare their draft formulation of questions to the ECJ with the one's asked by the national courts in these cases.

Following a further specific request of the School of Magistrates EURALIUS INT 1, INT 2 and INT 5 have prepared and delivered lectures to judges and prosecutors in the framework of the continuous training program of the School of Magistrates together with Professor Zaganjori on 30 and 31 May 2016. The aim of this training session was to deliver insight into different subjects of the '*acquis communautaire*' (see annex agenda of the training and bullet points of the training).



Training in the SoM about the EU aquis on 30-31.05.2016

### EURALIUS experts and counterparts

#### Team 5

One international MTE (4 weeks for training programs on international legislation)

Additional MTE or STE to provide trainings of the trainers and to assist in trainings on specific subjects

### Activities and timing

Depending on the output of the reform, in particular the criminal procedure and civil procedure code, the trainings might be updated. SoM had no urgent requests to assist in this topic.

### Indicators for output

- Training on preliminary ruling (delivered)
- Training on EU Aquis (delivered)
- Training materials collected (- 2016)
- Training needs analysis carried out (- 2016)
- Training programs and curricula revised (- 2017)
- Training modules delivered (- 2017)

**Previous description before implementation:**

Activity 2.1.3: Monitor the procedures followed by the SoM in selecting the curricula, professors and organising transparent and clear selection procedures.

Current implementation:

**Activity 2.1.3: Monitor the procedures followed by the SoM in selecting the curricula, professors and organizing transparent and clear selection procedures.**

In January 2016 EURALIUS has started its research for and the preparation of an assessment report on procedures for selection and revision of curricula with regard to its transparency and clearness. Based on the close co-ordination and co-operation with the EU/CoE project, EURALIUS has though become aware that previous research and reporting – also – on this issue has been already done by the EU/CoE project. An in-depth examination and counterchecking of the EU/CoE project report ‘A provisional assessment of possible developments in judicial and prosecutorial training in Albania’ which has been made available to EURALIUS at the beginning of February 2016 has shown that all elements of the planned and already drafted EURALIUS report on the selection and revision of curricula at the School of Magistrates have already been carefully examined in this – provisional – EU/CoE project report and that the EU/CoE project experts have come to the same assessment and conclusions as EURALIUS. EURALIUS has therefore stopped its work on the draft report to avoid overlapping and duplication of work.

Since EURALIUS could nevertheless identify some elements of information and documentation which were in fact missing in the present – provisional – EU/CoE project report and which might be of relevance for the final report of the EU/CoE project, EURALIUS has – based on the research done on these issues – forwarded this information and documentation to the EU/CoE project for inclusion in the final report. It has been agreed that EURALIUS will receive the final report for a final countercheck.

Also in January 2016 EURALIUS has started its research for and the preparation of an assessment report on the process of the selection of professors with regard to its transparency and clearness. A first draft has been established, but so far not finalized since the project team had – on the one hand – to prioritize its work for the ongoing justice reform and had – on the other hand – to take into consideration that eventual amendments to the law on the School of Magistrates might create a different situation with regard to this issue.

**EURALIUS experts and counterparts**

Team 5, input of Team 3. In these activities the team is liaising with the French Embassy in order to ensure donor coordination.

**Activities and timing**

The project team will assess in the second half of 2016 the process of the selection of professors with regard to its transparency and clearness, assist in the eventual improvement of selection procedures and monitor eventual selection processes.

### Indicators for output

Assessment and monitoring report on the development and potential improvement of the first mental and psychological health testing of candidates for the SoM (delivered)

Eventually: Assessment and monitoring report(s) on the further development and improvement of the mental and psychological health testing of candidates for the SoM

Assessment report on procedures for selection and revision of curricula with regard to its transparency and clearness with eventual proposals for improvement (delivered)

Assessment report on the procedures of the selection of professors of the SoM with regard to its transparency and clearness with eventual proposals for improvement

Eventually: Monitoring reports on the selection of professors of the SoM with regard to its transparency and clearness

Eventually: Monitoring reports on the selection and revision of curricula with regard to its transparency and clearness.

#### **Previous description before implementation:**

Activity 2.1.4: Assist in ensuring the necessary financial means for the SoM to facilitate contemporary training methods and attract highly qualified trainers.

Current implementation:

**Activity 2.1.4: Assist in ensuring the necessary financial means for the SoM to facilitate contemporary training methods and attract highly qualified trainers.**

EURALIUS is – within the justice reform process – also participating in the Working Group dealing with financial implications of the justice reform. In this context EURALIUS is also trying to secure – inter alia – sufficient means for the SoM. Within the activity 1.2.2 the budget proposal 2017 has included the needed financing for the SoM.

Should EURALIUS be successful to secure sufficient funding for the SoM within the framework of the justice reform, this activity is delivered.

Otherwise it will have to be delivered in the second half of 2016 and in 2017.

#### EURALIUS experts and counterparts

Team 5, input from team 1

#### Activities and timing

The budgetary needs to ensure necessary financial means to facilitate initial and continuous training in line with EU standards and performance of the SoM, the donor coordination activities and the donor activities will – if still necessary – be evaluated in the second half of 2016 and the SoM will – if still necessary – be supported in ensuring necessary financial means to facilitate initial and continuous training in line with EU standards and supported in ensuring sufficient budget (second half of 2016 and 2017)

The SoM will – if still necessary – be assisted in elaborating a comprehensive donor coordination strategy and supported in ensuring sufficient budget (second half of 2016 and 2017).

#### Indicators for output upgraded budget request (delivered)

Eventually: Report on the budgetary needs and performance of the SoM, the donor coordination activities and the donor activities

Eventually: Donor coordination strategy developed

Eventually: SoM's own budget increases, donor contribution decreases (sustainable approach)

#### **Previous description before implementation:**

Activity 2.1.5: Support the "zero tolerance" policy of the SoM regarding corruption inside the SoM and implement internal control standards, assuring coordination with the Government's overall anti-corruption strategy.

Current implementation:

**Activity 2.1.5: The introduction of a psychological test and amendments to the School of Magistrates are included. Establishing a claim to administrative courts against the evaluation of the entry exam is not a deliverable.**

As the monitoring of the first mental and psychological health testing has shown that further improvement of this testing is advisable, EURALIUS was offering the SoM in December 2015 to assist the SoM in 2016 in the improvement and monitoring of this test for the next entry exam in fall 2016. The SoM was gratefully accepting this offer, but has so far not requested any concrete support for 2016.

In this meeting EURALIUS was further on also offering its support for the monitoring of the next entry exam in fall 2016 if requested. The SoM was also gratefully accepting this offer, but has so far not requested any concrete support for 2016.

The Ministry of Justice has presented in February 2016 a draft law on some additions and amendments to the Law on the School of Magistrates, which was foreseeing a repeal of the competition exam for the admission to the School, and the access of Albanian citizens who have studied in EU MS and the US as well as the access to the School for Albanians who have finished an Albanian university with a 'Golden Medal'. In a transition period a shorter duration of the initial training of only 1 year was foreseen.

Since these proposed changes are in flagrant contradiction to the system the law on the School of Magistrates is foreseeing at present, EURALIUS was preparing a draft comment on this draft law in which these contradictions have been clearly stated and which came to the conclusion that this draft should be revisited. This draft comment has been forwarded to EUD. On the intervention of EUD this draft has in the meantime been withdrawn by the MoJ. In March and April 2016 EURALIUS met with the Twinning Project assisting the Ministry of Finance in the development and implementation of internal control standards and discussed possible co-operation in the delivery of this activity.

#### EURALIUS experts and counterparts

Team 5, input team 3

#### Activities and timing

As the monitoring of the first mental and psychological health testing has shown that further improvement of this testing is advisable, EURALIUS will – upon request of the SoM – assist in this improvement for future tests and monitor them in 2016 and 2017.

In case monitoring support is requested by the SoM for the entry exams 2016 and 2017, EURALIUS will again undertake to support the SoM in this respect.

EURALIUS will in the second half of 2016 analyse the status quo of the anti-corruption policy and the existing internal control standards and assess the eventually missing and still necessary measures. Based on the outcome of this analysis and assessment EURALIUS will then propose eventually missing and necessary measures and monitor in 2017 their implementation. This activity might be taken by the upcoming twinning project on preventive anti-corruption activities.

#### Indicators for output

Monitoring report with regard to mental and psychological health testing (delivered for 2015)

Monitoring Reports with regard to Entry Exam (delivered for 2015)

Status report on the actual “zero tolerance” policy measures of the SoM and the existing internal control measures and identification of eventual gaps in this respect

Eventually: subsequent report with proposals on eventually missing and necessary measures

Eventually: subsequent implementation monitoring report



**Result 2.2: Court proceedings are held in a more efficient and transparent manner facilitating a reduction of trial durations and thereby the backlog of court cases, the following activities shall be implemented:**

**Previous description before implementation:**

Activity 2.2.1: Based on the existing procedural framework assist judges in working out methods for a more efficient management of court trials in civil, criminal and administrative matters.

Current implementation:

**Activity 2.2.1: Based on the existing procedural framework assist judges in working out methods for a more efficient management of court trials** in civil, criminal and administrative matters.

This activity is delivered together with Activity 1.6.1 (procedural framework) and 2.1.1 (training) and 2.3.1 (IT management systems)

EURALIUS experts and counterparts

Team 5, input from Team 1 and Team 4

Activities and timing

This activity is implemented in close co-ordination with the EU/CoE project, the follow up EU/CoE project and the Lord Slynn Foundation.

EURALIUS will collect and start the review of the existing training materials in so far as the improvement of the knowledge and skills of judges and prosecutors on methods for a more efficient management of court trials in civil, criminal and administrative matters are concerned and carry out a training needs assessment both for judges and prosecutors in the second half of 2016.

EURALIUS will then revise the training curricula for judges and prosecutors in the second half of 2016 and deliver the necessary training modules in 2017.

Indicators for output

Training materials collected

Training needs analysis carried out

Training programs and curricula revised

Training modules delivered

#### **Previous description before implementation:**

Activity 2.2.2: Assist in empowering judges to effectively use their procedural rights to improve proceedings, among other things by taking disciplinary actions against lawyers and witnesses for unjustified absence in proceedings (including coordination with the NCA on this issue).

Current implementation:

**Activity 2.2.2: Assist in empowering judges to effectively use their procedural rights to improve proceedings, among other things by taking disciplinary actions against lawyers and witnesses for unjustified absence in proceedings (including coordination with the NCA on this issue).**

Since this Activity is closely connected with Activity 4.2.2 and can – logically – only be delivered in the framework of the revision of certain parts of the Civil Procedure Code in connection with the efforts on a justice reform, it is delivered together with Activity 4.2.2.

The process foreseen for the third phase of the justice reform has installed a Drafting Group Civil Procedure Code. EURALIUS INT 5 is co-chair of this Drafting Group and has – in this function – prepared and disseminated an assessment paper on the necessary amendments to the Civil Procedure Code.

EURALIUS has initiated a working group in the MoJ for the drafting of a first draft on necessary additions and amendments to the Civil Procedure Code.

Based on this first draft EURALIUS further on supported the law drafting process with the help of the international STE Professor Dr. Ulrike Frauenberger and Mag. Michael Kumpl. A draft law containing the necessary amendments to the Civil Procedure Code has been presented by in May 2016 and has been fed into the justice reform process.

This draft has been consulted with the Drafting Group Civil Procedure Code and disseminated to the members of the think tank. Instead of disciplinary actions against lawyers the upgrade of the judgment on default is the more appropriate measure in civil cases.

#### EURALIUS experts and counterparts

Team 5. Two international STE

#### Activities and timing

The draft law on some additions and amendments to the Civil Procedure Code is still to be consulted in a consultation process and should then be adopted by the Parliament together with the other parts of the justice reform. Any training needs will be assessed later with the training institutions.

### Indicators for output

Assessment paper on the needed short term interventions and the needed midterm interventions into the Civil Procedure Code (delivered)

Draft Law on some additions and amendments to the Civil Procedure Code (delivered)

Draft law on the criminal procedure code

**Previous description before implementation:**

Activity 2.2.3: Assist in establishing a functional and efficient framework for court experts.

Current implementation:

**Activity 2.2.3: Assist in establishing a functional and efficient framework for court experts.**

The activity is delivered

The revision of the civil procedure code includes this aspect. The explanatory note describes the discussed options and the selected solution (see annex). This framework can be applied for all procedures.

EURALIUS experts and counterparts

Team 5

Activities and timing

Training 2017,

Implementation after legislation 2017

Additional result: training (2017), implementation of IT tools

Indicators for Outputs

Draft (delivered)

Training Agenda

Website of the MoJ

## Result 2.3: A country-wide implementation of the ICMIS:

Previous description before implementation:

Activity 2.3.1: Assist the MoJ and the OAJB on the unification of the case management system in all the courts in Albania, in particular by incorporating the courts in Tirana into the ICMIS.

Current implementation:

**Activity 2.3.1: Assist the MoJ and the OAJB on the unification of the case management system in all the courts in Albania, in particular by incorporating the courts in Tirana into the ICMIS.**

Further to the agreement made during the Round-Table on the Future of ICMIS on 9th March 2016, this Activity becomes:

Activity 2.3.1: Assist the MoJ and the OAJB in keeping ICMIS case management system in the best possible condition with the aim of providing the courts with at least basic case management functionalities until the arrival of the new integrated case management system. This Activity includes assistance in identification and in resolution of ICMIS shortcomings falling under the current maintenance contracts and assistance in specification and in implementation of small functional improvements that may be implemented with the available financing.

The current version of ICMIS used in Albanian courts presents a number of serious deficiencies and missing functionalities, rendering it useless for support of a number of critical areas of operations of the courts, such as generation of statistical information or presentation of information to the public.

At present, the Integrated Case Management Information System (ICMIS) is in use in all Albanian courts with the exception of Tirana District Court. It is based on distributed system architecture model. Each court is running locally its own instance of the system and is operating on a local case database. For the majority of courts, information from local case is a databases aggregated in the central ICMIS database in Tirana. This information is used for the publication of information to the public on the central portal of Albanian courts (<http://gjykata.gov.al>). This integration is not available to administrative courts and to the High Court.

Currently, ICMIS presents a number of serious malfunctions and technical deficiencies and fails to provide adequate support the processing of court cases.

The systems in individual courts are maintained through separate maintenance contracts. Two contracts are run by the MoJ, one is covering the administrative courts and one is covering all remaining first instance and appeal courts, and one contract is run by the High Court and is covering the version of ICMIS used by this court. Clearly, the level of support provided by these contracts is not sufficient for removing of all system deficiencies.

ICMIS is already 10 years old. It is based on outdated IT technology and the system architecture is ill-adapted to the current needs of Albanian judiciary. For these reasons introducing significant changes and improvements in the present system is costly and time consuming.

In January 2016, Team 4 the president of Tirana District court decided to discontinue testing of ICMIS in the family section of the court. The decision was taken due to the large number of technical problems and missing functionalities that were not resolved during the 9 months testing period.

Team 4 prepared an assessment presenting ICMIS deficiencies that need to be rectified in order for the system to be adequate for operation in this court. The assessment also presented information on the importance of the given issue for the operation of the court, the effort needed to rectify the problem and information whether it could be rectified under the current maintenance contract without the need for additional financing. As of January 2016, out of 47 requests raised by Tirana District Court during the testing period, only 2 were completed and 7 have been partially completed by the support company.

This assessment was then extended with the shortcomings reported by Serious Crimes Court, Tirana Administrative Court and the shortcomings impairing the automatic generation of statistical reports as reported. Over 84 shortcomings were identified, mainly in the areas of case registration, random allocation of judges to cases (lottery), publication list of court decisions and provision of statistical information.

On 9<sup>th</sup> March 2016, EURALIUS organized a conference on the “The Future of Integrated Case Management Information System (ICMIS)” in the Albanian courts. The objective of the meeting was to discuss the shortcomings of the current system and to decide upon the steps that need to be taken, in order to arrive to a fully functional integrated case management system for Albanian courts.

This conference gathered high-level officials from beneficiary institutions of EURALIUS project, such as the Minister of Justice, Mr. Ylli Manjani, Chairs of Courts, representatives of the international community and European projects such as the Joint Council of Europe and European Union Project “Support to Efficiency of Justice – SEJ”. The Delegation of the European Union to Albania was represented by the Head of Political, Economic and Information Section, Mr. Jan Rudolph (see annex).

EURALIUS experts gave an in depth presentation of current shortcomings of ICMIS system, the necessary improvements and recommended actions in short and long-run. The conference was concluded by a common understanding that due to the multitude of malfunctions and shortcomings, the current system is inadequate for supporting the operation of Albanian courts. As there are numerous technological and organizational constraints connected to extending of the current system, the participants agreed that the preferred approach for the future would be to invest in a new system which would encompass the technical advances in Information Technology and bring together the best features of case management systems presently in use in Albanian judiciary.



Mr Nigteveght, Mr Deville, Mr Manjani, Mr Rudolph and Mr Giembicki during the Conference of the “Future of ICMIS” on 9 March 2016

During the same event the media reported the Minister of Justice Mr Ylli Manjani remarks toward the electronic management of the lots system in all the courts in Albania. Minister Manjani stressed that unfortunately there`s no transparency in handling the electronic lot by the courts for the cases of the citizens. *“Without even initiation of the case in the district court, it is already known the Appeal Judge that is going to adjudicate the case”*- said Mr Manjani. *“My appeal is for the judges and the cancellers of the courts to put in use ICMIS, because at least guarantees an impartial lot system”*.

Media event obtained media visibility: <http://top-channel.tv/lajme/artikull.php?id=321361>

Further to the common understanding in the conference, the work concentrated on assisting the MoJ and the OAJB in keeping ICMIS case management system in the best possible condition with the aim of providing the courts with at least basic case management functionalities until the arrival of the new integrated case management system.

EURALIUS assisted in the identification and prioritisation of 22 issues, not connected to statistics, that could be solved under the current maintenance contract. LTE4 was deeply involved in monitoring of the process of fixing of these issues. All of these issues were successfully resolved (see annex report on resolution of 22 issues). On 27th May, during a testing session in MoJ premises, the representatives of MoJ and EURALIUS verified that all of the 22 issues were resolved correctly.





Verification of resolution of 22 ICMIS issues

Particular attention was given to solving of malfunctions of ICMIS statistical module. 13 deficits on statistics were identified (see annex statistical report on ICMIS).

Team 4 prepared a test plan describing the process of comprehensive testing of the statistics module in the current ICMIS (see annex test plan). The testing process aims to pinpoint all the malfunctions and deficiencies in the system with regards to production of statistical reports. This information is critical for directing the maintenance company to repair statistics under the current maintenance contract. It also provides understanding which statistical indicators can be generated by the current ICMIS (after all the bug fixing is done) and which can be done only through investing into the new system. The started in April 2016. The activities prepared for the expert were in-line with current Activities 1.2.4. and 2.3.2. and contribute to the efforts for keeping ICMIS in best possible condition until the new system is ready for operation. Moreover, the results of testing are expected to be re-used for creation of technical specification for the next generation court case management system.

A detailed specification of all shortcomings of the ICMIS statistics module providing sufficient technical information for the maintenance company on the malfunctions that needs to be resolved is included in the report (see annex analysis it ICMIS statistical module).



## Euralius experts and counterparts

Team 4, MTE, STE

### Activities and timing

Obtaining and installing of an evaluation version of ICMIS for testing purposes (Delivered)

Assistance to MoJ on establishing of an Application Integration Server for integrating the court management system with the state registries and with IT systems of other judiciary institutions (Delivered)

Assistance to MoJ in identification and resolution of ICMIS malfunctions falling under maintenance contract (ongoing, until end of 2017)

Assistance to MoJ in specification and in implementation of small functional improvements that may be implemented with the available financing (ongoing, until end of 2017)

High level investigation of ICMIS statistics module (Delivered)

Verification of correctness of implementation of the legal requirements by ICMIS statistics module and related ICMIS data entry functions (ongoing, expected completion July '16)

Identification and specification of shortcomings of ICMIS statistics module providing sufficient technical information for the maintenance company for their resolution under maintenance contract (partially delivered, expected completion July '16)

Assistance in identification, specification, procurement and implementation of small functional improvements that may be implemented with the available financing (ongoing, until end of 2017, subject to availability of financing)

### Indicators for output

Application Integration Server set-up and operational (delivered)

Malfunctions falling under maintenance contracts identified and resolved (as indicated by testing report)

Small functional improvements that may be implemented with the available financing implemented and operational (as indicated by testing report)

**Previous description before implementation:**

Activity 2.3.2: Support the MoJ in the full application of a computerised management system and random allocation of cases in all courts.

Current implementation:

**Activity 2.3.2: Support the MoJ in the full application of a computerised management system and random allocation of cases in all courts.**

Further to the agreement made during the Round-Table on the Future of ICMIS on 9th March 2016, this Activity becomes:

Activity 2.3.2: Assist MoJ in specification and procurement of new integrated case management system supporting case processing in all Albanian courts.

As indicated during the conference on the “The Future of Integrated Case Management Information System (ICMIS)” described under Activity 2.3.1 above, the ICMIS system needs significant improvements both at the hardware and software level. This includes development and deployment of a number of new software applications at the database, business logic and presentation layers, establishing of a centralized data processing facility and creating of secure high performance wide area network connecting all courts. Moreover, significant investments in human resources are necessary since a number full time employees will be indispensable for system administration and for provision of first level of support for IT software and hardware.

Further to the agreement made during the conference, the work under this Activity was concentrated on assisting MoJ in specification and procurement of new integrated case management system supporting case processing in all Albanian courts (Next Generation ICMIS).

INT4 and MTE on IT in Judiciary, Mr. Ernst Jan van Nigtevecht, worked on the draft implementation plan for Next Generation ICMIS (see annexes). As part of the requirements gathering phase for the next generation ICMIS, Team 4 prepared two brainstorming sessions. The goal of the brainstorm was to get the beneficiaries involved, to have them express their needs and to discuss the setup of the ICMIS working groups.

The following participants were invited for the brainstorming sessions: Joana Qeleshi, Durrësi District Court, Fatri Islamaj, Tirana District Court, Vojsava Osmanaj, Inspector of the HCJ Inspectorate, Lysien Ali, IT Head of Unit in MoJ, Fehmi Petku, Serious Crime Court of Appeal, Kastriot Selita, Administrative Court of Appeal, Hysni Demiraj, Tirana Court of Appeal, Sandër Simoni, Serious Crime Court, Eriol Roshi, Tirana Administrative Court.



Brainstorming session on the New Generation Court Case Management System on 26.05.2016

The establishment of a new court management system will require significant financing. Indicative budget needs in that respect are presented under Goal 5 in the Action Plan to the Justice Sector Strategy for 2016-2020 prepared by EURALIUS under Activity 1.1.1.1.

#### Euralius experts and counterparts

Euralius Experts:

Team 4, MTE, STE

Counterparts:

MoJ: Mr Eris Adhami, IT Director, Mr Lysien Ali, Chief of Sector of IT and Statistics,  
Ms Tatjana Janku, Statistics Specialist (statistics and reporting)

Courts Members of Working Group on New Generation ICMIS

HCJ: Ms Marsida Xhaferllari, Chief Inspector, Ms Vojsava Osmanaj, Inspector (statistics and reporting)

GPO: Mr Skender Baca, IT Director (integration with case management system of Albanian prosecutor service)

Ms Ornela Xhembulla, Head of Statistics Department (statistics and reporting)

OAJB: Ms Luljeta Laze, Director General, General Director

AKSHI: e-Government Department, E-Albania Department, Infrastructure Department

### Activities and timing

Preparation of the concept of realization of the next generation ICMIS and the concept of necessary software services (Delivered)

Project Initiation (Setup of the management structure, Setup of the technical working groups) (ongoing)

Assistance in securing of financing (Identification of potential donors, Preparation of Project Brief & Presentation material, Estimation of project budget) (ongoing)

Setting up the environment (Setting up of the Solutions Centre, Legal Adjustments, Court Preparation) (ongoing)

Gathering European best practices (ongoing)

Refining information on applicable IT technologies (ongoing)

Inventory of IT infrastructure currently in use (ongoing)

Specification of IT Infrastructure (Dec.'16)

Specification of Software Services (Dec.'16)

Specification of Maintenance Requirements (Dec.'16)

Preparation of Terms of Reference for new system (June'17)

Support during the procurement process (Dec.'17) (*A more detailed action plan for this Activity is included as annex to this Report*)

### Indicators for output

Concept of realization of the next generation ICMIS and concept of necessary software services (Delivered)

Report on improvements of the current system under available financing (improvements partly delivered)

Specification for new system completed (as indicated by System Specification Report)

Terms of Reference for the new system prepared (as indicated by tender technical specification)

**Previous description before implementation:**

Activity 2.3.3: Assist the MoJ in the further extension of the use of electronic applications and tools in the judiciary such as audio recording with a view to making court proceedings more efficient, effective and transparent.

Current implementation:

**Activity 2.3.3: Assist the MoJ in the further extension of the use of electronic applications and tools in the judiciary such as audio recording with a view to making court proceedings more efficient, effective and transparent.**

Activity delivered (as per decision of the 3<sup>rd</sup> Stakeholders' Committee Meeting)

E-mail mailboxes for courts are already setup and ready for use, audio recording is introduced in all courts.

Email addresses for all judges

Following EURALIUS advice, the OAJB applied to AKSHI for e-mail accounts for all judges at all courts. The mailboxes have been already set-up and are fully operational. All the courts received technical information about the use of the e-mail system, however judges are not using this e-mail system yet as they seem to be waiting for an official order from HCJ prohibiting them from using private e-mail for any official correspondence. The administration of the HCJ was informed and invited to prepare a respective draft for decision making in the HCJ. Euralius commented (see annex) on the draft decision, however the HCJ by now did not adopt the decision. Audio recording is followed for the next five years by JUST program.

Euralius experts and counterparts

Team 4, one Int MTE, counterparts: MoJ, Courts, GPO

Activities and timing

Activity delivered

Indicators for outputs

E-mail addresses for all courts

**Result 2.4: The performance of the administrative court staff has improved**

The draft law on court organisation includes also the legal framework for the judicial administration by providing rules on the internal functioning of courts, the competences of different actors at courts and the cooperation with the High Judicial Council (see also above 1.7.1).

### **Previous description before implementation:**

Activity 2.4.1: Assist the MoJ in the review of the Law on the Judicial Administration with a view to establish a "Judicial Civil Service" in line with EU standards and promote a broad consultation process for the revisions to the law needed in light of the Constitutional Court decision repealing the law of April 2013.

Current implementation:

**Activity 2.4.1: Assist the MoJ in the review of the Law on the Judicial Administration with a view to establish a "Judicial Civil Service" in line with EU standards and promote a broad consultation process for the revisions to the law needed in light of the Constitutional Court decision repealing the law of April 2013.**

This activity has been delivered, decision taken by the first steering committee. A draft law on Judicial Administration has been elaborated. EURALIUS continues to support within the reform process of the judiciary (law draft on the court organisation might include this topic). The draft JP law contains a separate chapter on the status of court employees which shall be equal to the status of civil servants. The chapter refers widely to the civil servant law regime, however makes sure that the decision on the recruitment, transfer, promotion and discipline of judicial civil servants is conferred to organs within the court organization. The main competences are conferred to a body which shall be newly created: court councils composed of the chairperson, the chancellor and the deputy chairperson of the court.

### EURALIUS experts and counterparts

Team 2, input from team 4 in regard to the implementation

### Activities and timing

Additional results:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

### Indicators for output

Draft constitutional amendments and draft judicial power law revised (revised)

Plan for implementation of laws elaborated and first implementation activities carried out (additional result)

**Previous description before implementation:**

Activity 2.4.2: Assist the SoM in developing and delivering training to chancellors, court officers and other judicial administrators following up on the Council of Europe project implemented several years ago.

Current implementation:

**Activity 2.4.2.1: Assist the institution becoming responsible for the training of chancellors in developing and delivering training to chancellors, court officers and other senior administrative staff in Courts, as far as not covered by the joint CoE/EU CEPEC project or other donors.**

EURALIUS organized at the beginning of 2015 a meeting with the Director of the SoM, Mr. Sadushi, focusing on the possibility of offering training to chancellors, court officers and other judicial administrators. It was identified in this meeting that this training activity of the SoM requires the collaboration of the MoJ. According to the Law on the SoM, the MoJ has to request the collaboration of the SoM in this regard with a memorandum of understanding.

The necessary memorandum of understanding between the MoJ and the SoM has been concluded in November 2015 (see annex).

Based on this now existing legal basis, EURALIUS has discussed the question of assistance of EURALIUS with the SoM and it has been agreed with the Director of the SoM that EURALIUS will assist – if requested – the SoM in the necessary training needs assessment, the development of curricula and the delivery of the first training modules.

So far no request for support has been addressed by the SoM.

EURALIUS experts and counterparts

Team 5 and Team 2

Activities and timing

EURALIUS will carry out – as far as requested by the SoM – a first training needs assessment in cooperation with the SoM and support the SoM – as far as requested by the SoM – in the development of a first curriculum and the first training modules for the implementation of this curriculum.

Depending on the needs of the SoM and the experiences of the first training sessions, EURALIUS will further on support the SoM during the second half of 2016 and the first half of 2017 in a deepened training needs analysis and the development of the curricula and the different modules as well as in the delivery of the training curricula.

Indicators for output

If requested by the SoM: Training needs analysis carried out

If requested by the SoM: Training programs and curricula developed



If requested by the SoM: Training delivered (Indicators: List of participants, agenda, assessments)

**Activity 2.4.2.2:** Assist the within the reform process to establish a legal framework which foresees comprehensive initial and continuous **training to chancellors**, court officers and other judicial administrators and identify the institution (e.G. SoM, School for Public Administration or other) to implement the training.

Activity is delivered

The draft JP law requires initial and continuous training for court employees and chancellors.

The chancellors shall be trained by the School of Magistrates which shall offer an initial training course of at least 6 months. The results of the training shall be the criterion for the appointment of chancellors by the HJC. Chancellors are obligated to attend continuous training.

All other categories of judicial civil servants shall also have to attend initial and continuous training programmes ensured by the HJC.

#### EURALIUS experts and counterparts

Team 5 and Team 2

#### Activities and timing

Additional result:

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

#### Indicators for output

Draft constitutional amendments and draft judicial power law revised (delivered)

Plan for implementation of laws elaborated and first implementation activities carried out  
(Additional result)

#### **Previous description before implementation:**

Activity 2.4.3: Assist the MoJ in other measures (e.g. in drafting internal rules and manuals) to strengthen the managerial capacities of administrative court staff; encourage broad consultation with the HCJ, the courts, the Union of Albanian Judges and other stakeholders in supporting and implementing the measures.

Current implementation:

**Activity 2.4.3: Assist the MoJ in other measures (e.g. in drafting internal rules and manuals) to strengthen the managerial capacities of administrative court staff; encourage broad consultation with the HCJ, the courts, the Union of Albanian Judges and other stakeholders in supporting and implementing the measures.**

In case the reform laws will be adopted the competence and obligation to train the chancellor will be for the School of Magistrates.

For all other judicial civil servants such a training program will have to be developed and ensured by the HJC.

The implementation of this activity is planned to be started once the laws are adopted.

#### EURALIUS experts and counterparts

Team 2

#### Activities and timing

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2017)

#### Indicators for output

Draft constitutional amendments and draft judicial power law revised (delivered)

Internal rules and manual drafted

Training delivered

## **Result 2.5: Professionalism of Albanian lawyers involved in judicial proceedings has improved:**

In the framework of the ongoing third phase of the justice reform process the advocates – as part of the legal professions – are also in the focus of this reform process.

EURALIUS has in the foregoing second phase of the justice reform in June and July 2015 actively participated and supported massively the drafting and consultation process of the strategic documents with regard to legal professions. Since it became clear in the second phase of the justice reform process that the NCA is aiming for a completely new legal basis for the Albanian advocates, EURALIUS has done in July and August 2015 extensive research on the present legal situation, the necessities for a new draft Law on Advocacy and the international standards and best practices. The NCA has also prepared its own draft for a new law on advocacy which has been handed out to EURALIUS and has been carefully analysed by EURALIUS in August 2015 in preparation for the upcoming law drafting exercise. Based on the results of the second phase of the justice reform and the previous research, EURALIUS has prepared in October 2015 a comprehensive assessment paper containing an outline for the drafting of a new law on the profession of advocate in the Republic of Albania. This assessment paper has been disseminated to the co-chairs of the Drafting Group Legal Professions and the Drafting Group Law on Advocacy and is agreed to form the basis for the law drafting. EURALIUS has started to elaborate – based on the assessment paper and the draft of the NCA – a draft for a draft law on the profession of advocate in April 2016. The work on this draft has also been pursued in May 2016. It has been agreed with the NCA that this draft will be first consulted with the NCA and then disseminated and consulted with the other stakeholders and the members of the Drafting Group Advocates and the members of the think tank.

The new draft Law on Advocacy is – at present – scheduled to be passed by Parliament together with the other parts of the law reform in 2016.

#### **Previous description before implementation:**

Activity 2.5.1: Support the MoJ and the National Chamber of Advocacy (NCA) in the implementation of the Law on the profession of lawyers, the new disciplinary procedures for lawyers and the new requirements for professional liability insurance.

#### **Current implementation:**

**Activity 2.5.1: Support the Parliament and the National Chamber of Advocacy (NCA) in the implementation of the Law on the profession of lawyers, the new disciplinary procedures for lawyers and the new requirements for professional liability insurance.**

Based on the development of the strategic document with regard to the necessary measures for the advocacy in the second phase of the justice reform (June and July 2015), the in-depth research on the legal bases of Albanian advocacy and the necessities for reform of these legal bases in August 2015 and the assessment paper developed by EURALIUS for the third phase of the justice reform in October 2015, EURALIUS is at present – in close coordination with the President of the NCA and the staff of the NCA – preparing a new draft law on advocacy (also above under 2.5).

This new draft law shall – inter alia – insert rules for the improvement of the preparation of candidate advocates for the profession, insert rules for the increase of the professionalism of advocates, insert rules for the strengthening of the disciplinary structures and the increase of the transparency of disciplinary proceedings against advocates, insert new mandatory rules on the professional insurance of advocates and insert rules to secure the fulfilment of fiscal obligations and to impede tax evasion.

The agreed aim of these legal interventions is to enable the NCA and the Albanian advocacy to move forward massively and catch up with the European standards for this profession.

The work of the Drafting Group Law on Advocacy is – at present – expected to be concluded in June 2016.

#### EURALIUS experts and counterparts

Team 5

#### Activities and timing

EURALIUS will further on massively support the finalization of a new draft Law on Advocacy through the elaboration of a law draft which is expected to be finalized in June 2016.

EURALIUS will also further on massively support the parallel and consecutive consultation of this law draft until it is delivered to the Parliament for adoption in 2016.

In case the new law on advocacy is passed by Parliament in 2016, EURALIUS will monitor and support the following implementation of the provisions of this new law in the second half of 2016 and in 2017.

Indicators for output

Monitoring and assessment study on the status quo and the gaps to be closed with regard to the disciplinary proceedings of the NCA (delivered)

Strategic document for the legal profession of advocate (delivered)

Comprehensive assessment paper containing an outline for the drafting of a new law on the profession of advocate in the Republic of Albania (delivered)

Draft of new Law on Advocacy in Albania

Eventually: Report on the implementation of the new Law on Advocacy in Albania

### **Previous description before implementation:**

Activity 2.5.2: Support the NCA in further improving the School for Lawyers and in developing and implementing a training program for lawyers and lawyer candidates (initial and continuous training). Assist the NCA in others issues related to the setting up and putting into operation the new School of Lawyers.

Current implementation:

**Activity 2.5.2: Support the NCA in further improving the School for Lawyers and in developing and implementing a training program for lawyers and lawyer candidates (initial and continuous training). Assist the NCA in others issues related to the setting up and putting into operation the new School of Lawyers.**

EURALIUS has established close ties with the Director of the School of Advocacy and is – in close cooperation and coordination with the SoA on a permanent basis.

Based on the intensive previous assessment activities of EURALIUS with regard to the SoA and the day to day discussions with the Director of the SoA, the new draft law on advocacy is – inter alia – also aiming at inserting rules for the improvement of the preparation of candidate advocates for the profession which will – in various and manifold aspects – affect the SoA and the training programs of the SoA. The draft law on a State Exam for Lawyers developed by EURALIUS (above under 2.1.0) will heavily influence the legal landscape in which the SoA operates.

In preparation of the drafting of a new law on advocacy EURALIUS has – based on intensive previous research and multiple meetings with representatives of the NCA and the SoA in December and January 2016 – finalized and presented in February 2016 a report on the management structure and the composition, the recruitment and the profile of the teaching staff of the National School of Advocacy.

In this report the legal framework on which the SoA is operating has been summarized and the present management structure, the logistical situation and the composition, recruitment and profile of the teaching staff of the SoA has been analysed and described. Based on an in depth examination and comparison of the European standards for professional training of advocates, summarizing conclusions and recommendations for the further development of the SoA have been put forward. The draft report has been intensively discussed with representatives of the NCA and of the SoA. The final version reflects these discussions and the additional input from the NCA and the SoA.

### EURALIUS experts and counterparts

Team 5, input team 1. Additional STE might be needed. Eventually study visit to EU MS advocate training institution (training curricula for advocates, sustainable and financially sound organisation model and ongoing adaptation of training based on law developments and market necessities)

### Activities and timing

Based on the passing of the new law on advocacy in 2016, the SoA should then operate in a new legal landscape.

In the second half of 2016 Training Need Assessments (for initial and continuous training) will be organized.

Based on that propositions for the necessary amendments to the curricula for the initial training will be developed (second half of 2016) and assistance for the preparation of training material and the structure and content of the – eventually newly introduced – exams at the SoA delivered (second half of 2016 and 2017).

Support for the development of curricula for continuous training will be elaborated based also – if applicable – on the new law on advocacy, which the SoA should offer for all lawyers in all districts of Albania (second half of 2016 and 2017).

### Indicators for output

Report on the management structure and the composition, recruitment and profile of the teaching staff (delivered)

Draft Law on Advocacy

Training Needs Assessment Reports for initial and continuous training

Curricula for initial and continuous training revised and/or developed

Trainings delivered



#### **Previous description before implementation:**

Activity 2.5.3: Support the NCA in the implementation of the Lawyer's Code of Ethics.

Current implementation:

**Activity 2.5.3: Support the NCA in the implementation of the Lawyer's Code of Ethics.** If a new law on advocates is upcoming within the reform process, it is welcome to incorporate the Code of Ethics into the law.

EURALIUS has conducted in depth research – inter alia – into the quality and the question of implementation of the Code of Ethics of the NCA. As a result of this research the comprehensive assessment paper containing an outline for the drafting of a new law on the profession of advocate in the Republic of Albania which has been drafted in October 2015 foresees the incorporation of the Code of Ethics into a new draft law on advocacy.

Based on the outcome of the drafting and consultation exercise the legal quality of the code of ethics will – eventually – change and the implementation will have to be seen in a completely new light.

#### EURALIUS experts and counterparts

Team 5, One Albanian MTE 2 weeks

#### Activities and timing

Based on the outcome of the drafting and consultation exercise the legal quality of the code of ethics will – eventually – change completely and the implementation will have to be seen thus in a completely new light (until September 2017).

Following the eventual passing of the new law on advocacy in 2016, guidelines or a manual on the new legal provisions on ethical behaviour of Albanian advocates and on the new procedural rules for disciplinary proceedings will be developed in the second half of 2016 together with practical cases for the illustration of the meaning of these provisions and references to international standards (especially the CCBE Code).

EURALIUS will support the parallel introduction of these guidelines or manual into the initial and continuous training program of the SoA (2017).

Eventually in the framework of the SoA EURALIUS will offer support in the organization of seminars for the training in and the propagation of the new provisions on professional ethics and the new disciplinary proceedings. These activities will take place in the second half of 2016 and in 2017.

EURALIUS will also support the NCA and its disciplinary structures in the implementation of the new provisions on professional ethics.

### Indicators for output

Draft law on advocacy (integrating the present code of ethics)

Eventually: Guidelines or manual on the new legal provisions on ethical behaviour of Albanian advocates and on the new procedural rules for disciplinary proceedings

Eventually: Report on the integration and propagation of the new legal provisions on ethical behaviour of Albanian advocates and on the new procedural rules for disciplinary proceedings in the framework of the SoA

Eventually: Report(s) on seminars on the new legal provisions on ethical behaviour of Albanian advocates and on the new procedural rules for disciplinary proceedings

## **Result 2.6: Professionalism of Albanian notaries involved in judicial proceedings and otherwise has improved.**

In the framework of the third phase of the justice reform process the notaries – as part of the legal professions – were also in the focus of this reform process. EURALIUS has in the foregoing second phase of the justice reform in June and July 2015 actively participated and supported massively the drafting and consultation process of the strategic documents with regard to legal professions. Based on the results of the second phase of the justice reform and the previous research, EURALIUS has prepared in October 2015 a comprehensive assessment paper containing an outline for the drafting of a new law on the profession of notary in the Republic of Albania. This assessment paper has been disseminated to the co-chairs of the Drafting Group Legal Professions and the Drafting Group Law on Notaries and has formed the basis for the discussions within the Drafting Group Notaries and the drafting of a law draft in this area.

In January, February and March 2016 weekly meetings of the Drafting Group Notaries and experts from the think tank group have taken place for the discussion of the details of a law draft. Contrary to the previous discussions the majority of the involved stakeholders has come to the conclusion that the law on the notary should only be amended and not completely redrafted. Since the only draft proposal presented in the Drafting Group by an Albanian High Level Expert was not a sufficient basis for the necessary amendments, EURALIUS has undertaken to elaborate a draft law on some additions and amendments on the law on the notary. This draft has been elaborated in March and April 2016 and is based on the outcome of the multiple discussions within the framework of the Drafting Group Notaries and with the members of the think tank, a thorough analysis of the existing legal framework and its problems and an in-depth analysis of the European best practice and standards in this area.

In April and May 2016 the draft of a draft law on some additions and amendments on the law on the notary has been disseminated in its original English version and an Albanian translation. Since partly massive interventions into the existing law on the notary are proposed, EURALIUS has also undertaken – for easing the discussions on the draft – to elaborate consolidated versions integrating the proposed text into the unchanged provisions and comparative versions. The draft for a draft law on some additions and amendments on the law on the notary has been consulted in May 2016 in the framework of the Drafting Group Notaries and with the members of the think tank group. During this consultation it became evident that the NCN is massively opposed to this draft. The NCN has therefore elaborated its own draft which has been presented to the ad hoc Committee on Justice Reform on 15 May 2016.

A first analysis of this draft through EURALIUS has shown that – besides technical deficiencies of the draft – this draft of the NCN has watered down essential requirements of European best practices and standards, does not solve satisfactorily the issues of a clear, transparent and democratic organisation of the NCN and does not solve satisfactorily

also the identified problems with regard to the disciplinary rules and procedures for the notaries. With regard to the necessary improvement of the initial and continuous professional education of notaries the draft of the NCN is following in many aspects the proposals of EURALIUS. Nevertheless a couple of inconsistencies and deviations of European standards seem to exist also with regard to this issue.

EURALIUS will undertake in June 2016 to try to bridge the existing gaps and to correct the established deficiencies and inconsistencies in the framework of the ongoing justice reform process and thus to establish a consolidated draft for a draft law on some additions and amendments on the law on the notary which could then be adopted by Parliament in the framework of the ongoing justice reform process. Whether this exercise will though be successful – especially with regard to the necessary upkeep of best European standards and practices – will depend on the will and cooperation of the other stakeholders, especially the NCN, to accept the necessary measures for an overall improvement of the rules on the access to the profession, the exercise of the profession and the organisation of the profession of notary.

#### **Previous description before implementation:**

Activity 2.6.1: Provide support to the National Chambers of Notaries (NCN) regarding its internal organisation and functioning, especially also with regard to the disciplinary procedures for notaries.

Current implementation:

**Activity 2.6.1: Provide support to the National Chambers of Notaries (NCN) regarding its internal organisation and functioning, especially also with regard to the disciplinary procedures for notaries. A new law on notaries, drafted within the reform process, is part of the activity.**

This activity is delivered

A draft for a draft law on some additions and amendments on the law on the notary has been elaborated and presented by EURALIUS which aims – inter alia – for a reorganization of the NCN tackling all identified issues and problems of the internal organisation and the financing of the activities of the NCN and for a reorganization of the disciplinary competencies, rules and procedures to create a clear, transparent and fair disciplinary regime for the profession of notary.

The proposed amendments and changes to the existing system and organisation of the profession which aim to enable the NCN and the Albanian notaries to move forward massively and catch up with European standards and best practices for this profession meet at present still with opposition from different stakeholders, especially the NCN (cf. above under 2.6).

EURALIUS has further on supported the NCN in March and April 2016 in the preparation of a TAIEX application for a study visit to the Notary Institute in Würzburg, Germany. This study visit is planned to take place in December 2016. Its aim is to help the NCN in the approximation to best European practices and European standards. In May 2016 this TAIEX application has been approved.

#### EURALIUS experts and counterparts

Team 5, eventually more STE might be needed, study visit (notaries).

#### Activities and timing

EURALIUS will undertake in June 2016 to try to bridge the existing gaps and to correct the established deficiencies and inconsistencies in the framework of the ongoing justice reform process and thus to establish a consolidated draft for a draft law on some additions and amendments on the law on the notary which could then be adopted by Parliament in the framework of the ongoing justice reform process.

In case the new law on notaries is passed by Parliament in 2016, EURALIUS will monitor and support the following implementation of the provisions of this new law in the second half of 2016 and in 2017.

A study visit of the NCN will take place in December at the 2016 Notary Institute in Wuerzburg, Germany. EURALIUS will assist in preparing the agenda and the details of this study visit.

#### Indicators for output

Comprehensive assessment paper containing an outline for the drafting of a new law on the profession of notaries in the Republic of Albania (delivered)

Draft law on some additions and amendments on the law on the notary (delivered)

Eventually: Report on the implementation of the amended Law on the Notary

Report on the carried out study visit

#### **Previous description before implementation:**

Activity 2.6.2: Support the Ministry of Justice and the NCN in the implementation of a training program for notaries and notary' candidates.

Current implementation:

**Activity 2.6.2: Support the Ministry of Justice and the NCN in the implementation of a training program for notaries and notary' candidates.**

This activity is delivered. A more sustainable support needs a different environment and financing.

A draft for a draft law on some additions and amendments on the law on the notary has been elaborated and presented by EURALIUS in April and May 2016 which aims for an improvement of the initial and continuous training of notaries, the introduction of a notary qualification exam, a reorganization of the competition foreseen for new notary positions and the establishment of a Vocational Training Centre for Notaries as training institution.

The proposed amendments and changes to the existing system and organisation of the education of notaries which aim to enable Albanian notaries to move forward massively and catch up with European standards and best practices for the training of this profession are – basically – supported by the NCN and the MoJ. Nevertheless a couple of inconsistencies and deviations of European standards seem to exist and should still be corrected. One major concern in this context relates also to the necessary financing of planned Vocational Training Centre for Notaries which closely depends on the still contested reorganisation of the structures and the financing rules of the NCN (cf. above under 2.6).

#### EURALIUS experts and counterparts

Team 5. Eventually more STE might be needed.

#### Activities and timing

Additional activities:

EURALIUS will undertake in June 2016 to try to bridge the existing gaps and to correct the established deficiencies and inconsistencies in the framework of the ongoing justice reform process and thus to establish a consolidated draft for a draft law on some additions and amendments on the law on the notary which could then be adopted by Parliament in the framework of the ongoing justice reform process.

EURALIUS would support the NCN and the MoJ in the second half of 2016 in the setup and making operational of the new notary examination and the Notary Examination Board, if the new legislation becomes available.

EURALIUS would also support the NCN in the second half of 2016 in the financial and material setup and making operational of the new training institution for notaries and – eventually already parallel to it – would organize Training Need Assessments (for initial and continuous training), taking into consideration also the new legal provisions for notaries. This would take place also in the second half of 2016. Based on that propositions for the necessary content of the curricula for the initial training would be developed (second half of 2016) and assistance for the preparation of training material and the structure and content of the exams at the training institution for notaries delivered (second half of 2016 and 2017). Further on support for the development of curricula for continuous training which the new training institution for notaries should offer for notaries in all districts of Albania would be elaborated by EURALIUS (second half of 2016 and 2017).

#### Indicators for output

Comprehensive assessment paper containing an outline for the drafting of a new law on the profession of notaries in the Republic of Albania (delivered)

Draft law on some additions and amendments on the law on the notary (foreseeing – inter alia – the creation of a new training institution for notaries) (delivered)

Eventually: Report on the setup and functioning of the new training institution for notaries

Eventually: Training Needs Assessment Reports for initial and continuous training

Eventually: Curricula for initial training elaborated and training implemented

Eventually: Curricula for continuous training elaborated and training implemented.



**Previous description before implementation:**

Activity 2.6.3: Support the MoJ and the NCN in the further implementation of the immovable property registration scheme initiated several years ago that simplifies the registration through the notaries' office and electronic registration.

Current implementation:

**Activity 2.6.3: Support the MoJ and the NCN in the further implementation of the immovable property registration scheme** initiated several years ago that simplifies the registration through the notaries' office and electronic registration.

EURALIUS has in January 2016 undertaken an analysis of the situation with regard to the implementation of the immovable property registration scheme and the registration of properties through the offices of notaries.

This analysis has shown that the existing system of electronic registration of properties is working sufficiently well for the areas of Tirana and Durres and that it does not work for all other areas of Albania. The analysis has further on also shown that the reason for the non-functionality for all areas outside of Tirana and Durres lies with the fact that no digital maps exist for these areas which is a precondition for the functioning of the electronic registration. It could thus be identified that the main issue at stake in this context is a technical problem which has to be solved before any other or further intervention on the legal field can be undertaken. The solution of this technical precondition lies outside the scope of the activities of EURALIUS.

This activity is thus considered as delivered.

In January 2016 EURALIUS has – following up the developments in this area – identified that the MoJ has – in collaboration with the Central Office for Property Registration – decided to allocate some services (services offered so far to citizens by the Central Office for Property Registration) to be delivered in the future by notaries.

Concretely 27 services shall – according to the relevant order of the MoJ – be delivered in the future by notaries. The notaries will be allowed to charge a fee for these services. The amount of the fee will be decided by an order of the MoJ after consultation with the MoF.

For the implementation of the above described legal changes it is foreseen that the MoJ will – in collaboration with the Central Office for Property Registration – offer training to notaries (explanation of the new competencies, in particular the technical aspects of the online registration process), issue a joint instruction with the Central Office for Property Registration and the NCN (instruction of all stakeholders on the concrete procedural rules) and issue an amendment of the Order No. 279 of 14 June 2012 (description of the 27 services and the applicable fees).

### EURALIUS experts and counterparts

Team 5.

### Activities and timing

Since this activity is delivered, EURALIUS will only monitor the further developments in this area.

### Indicators for output

Analysis of the implementation of the electronic registration of property with a view of identification of problems for the long duration and of options for solutions (delivered)

### **Objective 3: To align the Albanian criminal justice system to EU standards**

#### **Result 3.1: The legislative framework in criminal matters including international cooperation has been aligned to EU and Council of Europe standards:**

Previous description before implementation:

Activity 3.1.1: Assist the MoJ (in particular the Codification Department) in reviewing the Criminal Code and Criminal Procedure Code, in particular finalising the work of the “Task Force” and working group on the Criminal Procedure Code over the last two years, in accordance with EU and Council of Europe standards and in particular with regard to the implementation of the 2012 constitutional reform limiting the immunity of judges and deputies.

Current implementation:

**Activity 3.1.1:** Assist the MoJ (in particular the Codification Department) in reviewing the **Criminal Code and Criminal Procedure Code**, in particular finalising the work of the “Task Force” and working group on the Criminal Procedure Code over the last two years, in accordance with EU and Council of Europe standards and in particular with regard to the implementation of the 2012 constitutional reform limiting the immunity of judges and deputies.

This activity is delivered.

EURALIUS continued to follow and assisting continuously and regularly in the working groups in Parliament regarding the drafting of the respective laws on Criminal Justice within the Justice Reform.

Minister of Justice Mr. Ylli Manjani with an official letter dated 28 December 2015, addressed to EURALIUS and requested the legal support *inter alia* regarding Criminal Code, Criminal Procedure Code and Law on Criminal Investigations. Currently in Albania does not and has never existed such a law. However the ideas of the Ministry is to introduce “investigators” instead of judicial police. EU countries as Germany and Croatia have the provisions on investigator included in Criminal Procedure Code and in Law on State Police but not in a special law. It needs to be seen further which is the concrete purpose and idea of this law in order to give the respective opinion on this matter.

#### **CRIMINAL PROCEDURE CODE**

The meetings held with former Deputy Minister Ildir Peçi on the revision of the Criminal Procedure Code draft prepared by the Working Group of the Ministry of Justice with the assistance of EURALIUS. Its revision article per article continued to take place almost daily for several months. This process was deep and took time as it was focused on detailed revision of the articles aiming at ensuring consistency in terminology and meaning. A stringent time table was prepared and drafted in collaboration with former Deputy Minister of Justice Mr. Ildir Peçi in order to organise further the work to finalise the revision of Criminal Procedure Code article per article on time. Explanatory notes including the

arguments on amendments of articles were prepared and updated by EURALIUS accordingly per each article revised. In the explanatory notes there are given respective reasons and arguments on the proposal of the respective amendments of the CPC draft.

Several meetings were held with Mr. Arqilea Koça, prosecutor at General Prosecutor's Office and also member of the Working Group of Criminal Procedure Code to ask his opinion on some technical aspects on investigations part.

According to the latest Government changes, Mr Ildir Peçi, left his position as Deputy Minister of Justice and has been appointed as Deputy Minister of Defence in early March 2016. However as the process on CPC revision was approaching its later phase Mr Peçi continued his work to finalise this draft upon his agreement reached with Minister of Justice Mr. Ylli Manjani.

EURALIUS delivered officially on 13.04.2016 to the Ministry of Justice the CPC draft in English and Albanian supported by respective explanatory notes in English. Explanatory notes in Albanian also followed. This draft is a product prepared by the Ministry of Justice with the continuous assistance of EURALIUS and falls under the ownership of the Ministry of Justice as one of the main beneficiaries of the project. The Criminal Procedure Code is included also in the Criminal Justice package within the Justice Reform. The proposed amendments to the draft Criminal Procedure Code aims at bringing it in line with and reflect the best international standards: EU Conventions, EU Directives, ECtHR and to avoid the current problems faced in practice.

This draft is based and reflects the proposed Constitutional Amendments and other draft laws that are currently elaborated in parallel within the Justice Reform. Therefore amendments to the CPC reflects; amendments of the Constitution, draft law "On organisation and functioning of Prosecution Office", draft law on judicial police, draft law on SPAK, Law on International Corporation in the criminal matters and all the draft laws that belong to the legal package discussed and agreed to be amended in the High Level Group of experts.

The Ministry of Justice delivered officially the CPC draft to the Parliament supported by respective explanatory which was then distributed by the coordinator of Criminal Justice group to the high level experts (national and internationals) and technical secretariat. The CPC amendments are being consulted article per article in the Working Group with High Level Experts and in the Think Tank group of experts in order to get respective opinion and views on the amendments provided. The consultation process regarding Criminal Procedure Code it is not yet scheduled by Parliament but is proposed to take place in June.

EURALIUS recruited Mr. Spiro Spiro, a retired prosecutor and High Court Judge but still active as professor on Criminal Procedure Law. Mr. Spiro Spiro provided a revision (proof –reading) of the draft in Albanian and checked the consistency of the wording within the draft and with other Albanian legislation. Some new amendments were also proposed (see annex). The work focused on providing a clear wording which avoids opportunities for

misunderstanding and misusing and an appropriate selection of legislative language in Albanian. A new Criminal Procedure Code has been elaborated (activity delivered).

## CRIMINAL CODE

In December, Minister of Justice published his intent to rewrite the Criminal Code from scratch, as the frequent amendments to this basic law have led to a discordant mixture of provisions.

Additionally, separate meetings were held with former Deputy Minister Peçi in order to discuss generally on Criminal Code and Juvenile Code whether these two codes can be prepared in the upcoming months according to the findings of Strategic Documents and Action Plan. In the meeting on Criminal Code Mr Arben Rakipi High Level Expert in the Criminal Justice Working Group also participated. According to the division of drafting working groups on Criminal Justice Package, Mr Rakipi is one of the members on Criminal Code Working Group. The meeting aimed at discussing on very general idea in the respect of the pre-organization of the process and involvement of other capacities from Ministry of Justice.

EURALIUS, assisted Ministry of Justice to prepare the policy paper on new Criminal Code. Meetings with MoJ representatives Mrs. Katrin Treska, Acting General Director of Codification and Director of Legal Drafting and Analysis and Mr. Sokol Pasho, former General Director of Strategic Planning and Inspection of Judicial Matters Directory have been set up and took place on this purpose.

This policy paper aims at bringing in line Albanian Criminal Code with the required EU best standards, inter alia modernising and improving the general part of the Criminal Code by providing clear definitions of certain legal terms, amending provisions of prescription period, strengthening guarantees for victims, improving application of alternatives sentences for petty criminal offences, harmonisation of sentences per respective criminal offences committed etc.

On 13 April 2016 Euralius delivered to the Ministry of Justice the draft with urgent changes that need an immediate attention to the draft Criminal Code of the Republic of Albania. The Ministry of Justice is working on some amendments for the Criminal Code (see annex).

On 27 April Euralius received a copy of the draft law on Criminal Code with current amendments done so far by the Ministry of Justice and the explanatory report attached (see annex). The Ministry of Justice elaborated several articles that need urgent intervention. In the explanatory note it is explained that these amendments are elaborated because of two main reasons. First, because the Code aims at correcting the legal gap for the abolishment of two paragraphs of article 278 of the Code by the Constitutional Court (decision no. 9, date 26.2.2016) and secondly, the draft aims to give priority to the rehabilitation of offenders less risky instead of imprisonment in order to contribute to the reduction of overcrowding in prisons and to make the connection between the provisions of the Criminal Code in force with the probation upon parole. This draft is sent to Parliament and distributed by Parliament to the high level experts (national and internationals) and technical secretariat. The draft to amend CC has been discussed in the Working Group,

Think Tank and in public consultation roundtable to gather respective opinions from the relevant actors in order to improve it. This draft has been decided without coordination with Euralius and has been prepared without taking into account the Euralius version proposals. The MoJ draft that is distribute to the Parliament has not foreseen the EU Aquis. Euralius strongly recommends that EU Aquis should be taken into consideration and the Criminal Code should be further elaborated. As the justice reform is ongoing the minister of justice is revising entirely the criminal code. As e result of the ongoing work within the MoJ with the Criminal Code there are expected long term amendments and the work within the MoJ for drafting the Code is foreseen to be finalized within a year time, including a Juvenile Code. The actual Plan of the MoJ for the new Criminal Code

#### WORK PLAN

DRAFT LAW ON SOME ADDITIONS AND AMENDMENTS TO LAW NO. 7895, DATED  
27.01.1995,

DATED 21.03.1995 ON “CRIMINAL CODE OF THE REPUBLIC OF ALBANIA”, AMENDED

No.	Activities	Deadlines
1.	- Legal analysis of unifying decisions of the Supreme Court and the Constitutional Court concerning the specific provisions of the Criminal Code. - Sending a request for the identification of problems encountered in practice.	30 April – 20 May 2016
2.	Collection, review and analysis of materials forwarded by local and international experts who have identified specific issues for further improvement of the provisions of the criminal code. Comparative analysis of the provisions of the German Criminal code.	20 May – 30 May 2016
3.	Drafting of the general part.	30 May– 30 June 2016
4.	Identification of the special section that must be preserved.	30 June – 30 July 2016
5.	Drafting of the special section.	30 July – 20 September 2016
6.	Drafting of an explanatory.	30 September – 30 October 2016
7.	Revise the draft in general.	30 October – 30 November 2016
8.	Consultation draft law.	15 November – 15 December 2016

Missing of the EU Aquis, is a politically a risky signal, so Eu Aquis should be foreseen and adapted within the current amendments and eventually in the new code. Euralius shared

this draft via e-mail with the working group that is currently working in the Parliament for the same subject.

This activity (amendments to the criminal code) is delivered. As an additional result, Euralius might assist the MoJ within the entire review of the criminal code.

#### Euralius experts and counterparts

Team 3, MoJ, GPO, Serious Crime Court, Parliament

#### Activities and timing

Activity delivered

Additional results:

The proposals for amendments to Criminal Procedure Code and Criminal Code are prepared.

The issue on Juvenile Code still needs to be clarified.

EURALIUS will follow the developments regarding CPC and CC draft amendments

Ad-Hoc assistance when required

#### Indicators for output

Criminal Procedure Code draft amendments in Albanian and English (Delivered)

Criminal Code amendments in Albania and English (Delivered)

Explanatory Notes regarding Criminal Procedure Code in Albanian and English( Delivered).

Delivering letter regarding Criminal Procedure Code amendments (Delivered)

Criminal Procedure Code draft revised and proof-read by STE Spiro Spiro (Delivered)

#### **Previous description before implementation:**

Activity 3.1.2: Support the further reform and modernisation of the Criminal Justice legal and Institutional Framework, among other things by reviewing the other criminal legislation (e.g. the civil forfeiture or “anti-mafia” law) in particular those elements of the legislation relating to anti-corruption measures.

Current implementation:

**Activity 3.1.2: Support the further reform and modernisation of the Criminal Justice legal and Institutional Framework, among other things by reviewing the other criminal legislation** (e.g. the civil forfeiture or “anti-mafia” law) in particular those elements of the legislation relating to anti-corruption measures.

Euralius supported several drafts (activity delivered).

EURALIUS continued to follow and assisting continuously and regularly in the working groups in Parliament regarding the drafting of the respective laws on Criminal Justice within the Justice Reform.

#### **JUSTICE REFORM**

On 2<sup>nd</sup> December, at the premises of Ismail Qemali University in Vlora the Public Consultation Roundtable of the Constitutional Changes under the moderation of Mrs. Koraljka Bumci EURALIUS LTE on Criminal Justice took place. In this roundtable there were held presentations on the novelties of the Constitutional amendments regarding judiciary and prosecution system.

EURALIUS participated in the Think tank group of experts on the draft law on judicial police. Verbally comments were made to improve the draft suchlike: including NBI judicial police officers within SPAK jurisdiction, functioning of the judicial police etc.

EURALIUS gave assistance in drafting some parts of the judicial police draft. The proposals were discussed by OPDAT with which EURALIUS collaborated in this regard.

The amendments on National Bureau of Investigation (NBI) were drafted with the assistance of ICITAP and sent for approval to Council of Ministers. (This draft has been approved on Wednesday 10<sup>th</sup> of February by the Council of Ministers). The NBI amendments were provided as part of Albanian State Police Law. Currently NBI is included as special chapter of draft law “On the organization and functioning of institutions for combating corruption and organized crime” as it will be a permanent investigatory structure that will support the Special Prosecution Office in the investigation of corruption and organised crime.

EURALIUS provides some draft proposals also on the draft “On the organization and functioning of institutions for combating corruption and organized crime” which were then sent to OPDAT.

EURALIUS participated on 6, 11 and 12 May took place the Think Tank group of experts for the abovementioned draft. In these meetings participated prosecutors from General



Prosecution Office, Serious Crimes Court, and Serious Crimes Prosecution Office, representatives from Ministry of Interior, PAMECA and Ministry of Justice. These meetings aimed at having the first impression of the experts after getting familiar with the first draft aiming at improving it.

EURALIUS contributed in the process of checking and aligning the following draft laws within the criminal package with other Albanian laws in order to reflect the new provisions and to ensure consistency.

Law no. 9157, dated 04/12/2003 "On interception of electronic communication"( based on PAMECA report). Additional amendments were provided by EURALIUS

Law no.157, dated 10.10.2013 'On measures against terrorism financing".

Law no.10173, dated 22.10.2009 'On whiteness protection and justice collaborators" as amended.

Law no. 9917, dated 19.05.2008 "On prevention on Money Laundering and Terrorism Financing.

Law no. 10192 dated 3.12.2009 "On prevention and striking and organised crime, trafficking and corruption through preventive measures against property" as amended. (Based on PAMECA report). Additional amendments were provided by EURALIUS.

## WHISTLE-BLOWER DRAFT LAW

EURALIUS was involved in providing assistance on the proposed legislation on whistle-blowers. The main weaknesses of the new proposed legislation is the lack of a possibility for whistle-blower to denounce facts to the press and to be protected by the Law itself which can discourage whistleblowing of dubious corruption conduct or practice, having in mind tied political circles in Albania and trust of the public into the institutions. This weakness is shown in the definition of whistle-blower, which is very limited. According to the draft provisions whistleblowing is defined only as a reporting on information to the responsible unit within the HIDAACI which directly excludes any other way of reporting or denouncing the facts regarding corruption (such as reporting to the press or NGOs). By excluding it, a whistleblower may not be legally protected from certain types of retaliation according to the provisions of the Draft Law. It was recommended therefore to maintain either the previous definition (in the Draft law that has been commented by EURALIUS on 26 August 2015 sent officially to the Ministry of Justice) of the whistleblowing which was much broader and is completely in line with the recommended draft principles for whistleblowing legislation done by the Transparency international.

Regarding to the burden of proof for challenging this good faith in the proposed draft law falls under the whistle blower himself, which is the opposite to the earlier version of the draft law where the burden of proof for malicious intent of whistle-blower had fallen under public authority or private entity. It is important to point out that reversed burden of proof is one of

recommended draft principles for whistleblowing legislation done by the Transparency International.

Secondly, if the whistle-blower is considered to have acted on the bases of reasonable grounds, there is no provision (in the current draft version) that will protect the whistle-blower. This (together with the previous mentioned before - burden of proof) weakness his position and prevents his possibility to be protected under the draft law as such. Therefore, again this is not in line with the recommendation done by Transparency international which provides that there should be no sanctions for misguided reporting ("...the law shall protect any disclosure that is made in honest error").

According to the presented draft there is no anonymous reports accepted and the confidentiality of the identity of whistle-blower has been only respected partly. Protection of identity according to the draft principles for whistleblowing legislation done by the Transparency international is very important which should be provided for anonymous disclosure as well. This is also in line with the Recommendation of the Committee of Ministers Rec(2014), saying that "The national framework should foster an environment that encourages reporting or disclosure in an open manner. Individuals should feel safe to freely raise public interest concerns". The draft law does not protect the anonymity of sources of the information while the previous draft did.

All what has been reiterated as above was highlighted in *the Non paper dated 2016 02 23 "Draft Law on protection of whistle-blowers" prepared by EURALIUS which was sent to EUD.*

On 7<sup>th</sup> of March, EURALIUS and *Delegation of European Union to Albania* attended a hearing session by the Legal Commission at the Parliament, to discuss about the "Whistle-blowers" draft law.

EURALIUS provided a second paper with comments regarding the draft law "On whistle-blower protection" which has been sent officially to EUD. This paper is a follow up of the *Non paper dated 2016 02 23 "Draft Law on protection of whistle-blowers"* (see annex) by providing a Comparison between old draft on whistle-blowers and was prepared based on the table containing the proposal for amendments and comments given different stakeholders. The paper with comments of EURALIUS reflects the standards and recommendations of Transparency International and CoE *Recommendation CM/Rec (2014)7* regarding reporting and disclosure, anonymity, principle of retaliation etc.

Even though there is no EU acquis regarding whistle-blower, EURALIUS supports the idea that one main weaknesses of the proposed legislation is the lack of possibility for whistle-blower to denounce facts to the press and/or NGO-s. Secondly, the draft law does not protect the anonymity of sources of the information entirely which is not in line with the Transparency international recommendation and Recommendation CM/Rec(2014)7.

EURALIUS continued to be involved and providing assistance regarding the whistle blower draft law which is under discussion at Law Commission. In this regard it was held a meeting

with Mrs. Erisa Proko, Chief of Cabinet of Ministry of Local Government and Mrs. Iva Nathanaili Legal Advisor in order to discuss the draft.

EURALIUS provided respective comments which were delivered to EUD on 12 May (see annex).

In these comments EURALIUS reiterates positively Albania's efforts in recognizing the role of whistleblowing in fighting corruption.

In these comments EURALIUS points out that the most important role of the whistle-blower laws can be summarized into three provisions, which form the basis of whistle-blower protection: Freedom of expression which includes anonymity, protection from unjustified dismissal and a right to effective remedies. International standards of Council of Europe and Transparency International pointed out in the previous non papers provided by EURALIUS in this regard have been highlighted again in order to ensure the consistency and the conformity of this draft with the these international standards.

EURALIUS made comments particularly on two articles. For the *article 7* it should be paid attention to offer protection in two directions on anonymity: protection of persons who report and denounce corruption acts and practices and not disclosing the personal data of the whistle-blower and as accepting anonymous whistle-blower reporting.

For *the article 25* of this draft, it is suggested to provide the entering into force of this draft in two different moments/dates having in mind that this Law establishes some instruments in regard to private sectors in Albania. The reporting to the internal whistleblowing process becomes operational later (meaning that respective articles of the Law will come into force in regard to the objective criteria that have to be followed in order to set up respective institutions) while in regard to the reporting to HIDAACI respective provisions enter into force as soon as possible.

### Euralius experts and counterparts

Team 3, GPO, MoJ,

### Activities and timing

Activity delivered

Euralius will be involved in providing assistance regarding the draft laws within the Criminal Justice as part of Justice Reform.

Additional result: assistance to the juvenile code

### Indicators for output

Proposals on the draft law "On organisation and functioning of Judicial Police" (Delivered).

Proposals on the draft law "On organisation and functioning of institutions to combat corruption and organised crime) (Delivered).

Draft law on some amendments to Ant- Mafia based on PAMECA Report and combined with some slight EURALIUS suggestions (Delivered)

Draft law on some amendments on electronic communications based on PAMECA Report and combined with EURALIUS suggestions. (Delivered)

First non-paper “On the draft law on protection whistle-blowers”, dated 26 February 2016 (Delivered)

Second paper with bullet points “On the draft law on protection whistle-blowers”, dated 7 April (Delivered)

Comments “On the draft law on protection whistle-blowers”, dated 12 May 2016 (Delivered)

Law no. 9157, dated 04/12/2003 “On interception of electronic communication”( based on PAMECA report). (Delivered)

Law no.157, dated 10.10.2013 ‘On measures against terrorism financing’. (Delivered)

Law no.10173, dated 22.10.2009 ‘On whiteness protection and justice collaborators” as amended. (Delivered)

Law no. 10192 dated 3.12.2009 "On prevention and striking and organised crime, trafficking and corruption through preventive measures against property” as amended. (Based on PAMECA report). (Delivered)

Additional result: Juvenile Justice Code draft

**Previous description before implementation:**

Activity 3.1.3: Support the implementation of the existing legislation in international cooperation in criminal matters and develop, in coordination with the SoM, GPO or other stakeholders, training programs to increase familiarity with the procedures of such legislation.

Current implementation:

**Activity 3.1.3: Support the implementation of the existing legislation in international cooperation in criminal matters and develop, in coordination with the SoM, GPO or other stakeholders, training programs to increase familiarity with the procedures of such legislation.**

Team 4 contributed to the review of current legislation and practice and recent developments in the field of mutual legal assistance:

In regard to the long list of international treaties, Albania has adhered to various CoE conventions (including additional protocols), UN Conventions and bilateral Agreements with EU and non EU States. Albania has also entered into an agreement with UK and Northern Ireland on the transfer of sentenced persons, following three agreements with Kosovo on mutual legal assistance, extradition and transfer of convicted persons, which entered into force in 2014. Based on Article 122 (2) of the Constitution, international treaties and agreements have direct effect and can be applied without implementation into the national legislation.

Since the Fourth Additional Protocol (CETS 212) to the European Convention on Extradition entered into force in June 2014, it is demanding for the Albanian authorities to further modernize a number of provisions and supplement the legislation in certain respects in regard to extradition, nevertheless the fact that the protocol to the convention is directly applicable. Assessment of their legal bases in regard to further simplification of extradition procedures (since entry into force of the third additional protocol to the Extradition Convention), can still be in light of the European Arrest Warrant (Council Framework Decision [2002/584/JHA](#) of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended), which replaces the extradition system, as well as case law of European Human Rights Court and European Court of Justice. This EU *Acquis* is supported by Directive [2010/64/EU](#) on the right to translation and interpretation in criminal proceedings, Directive [2012/13/EU](#) on the right of subjects to be informed of their rights, Directive [2013/48/EU](#) on the right to have access to a lawyer and the right of persons in custody to communicate with family members and employers, as rules to ensure procedural rights in arrest-warrant proceedings in EU members states, defining the frame based on which the scale of approximation is to be evaluated.

The legislation on mutual legal assistance in criminal matters of Albania has a particularity the co-existence of two sets of rules on mutual legal assistance in criminal matters. Both the Code of Criminal Procedure, Title X, Articles 488-523 “Jurisdictional relations with foreign authorities” and Law No. 10 193, dated 3.12.2009. “On jurisdictional relations with

foreign authorities in criminal matters”, as amended, are applicable. Nevertheless the fact over the years the Albanian authorities have provided assistance in all forms of international cooperation at all stages of criminal proceedings to their European counterparts and internationally worldwide, it has become recommendable to give absolute priority to bringing the provisions applicable to international cooperation in criminal matters into one piece of legislation.

Albanian authorities have reported some problems in practice and in the applicability of legal acts, such as conflict of provisions among different legislation, timely implementation of multilateral instruments (this due also to non-defining clearly who is the authority to supply and finance the translation of documents during different procedures), concerns in regard to extradition cases when a guarantee to an automatic right of retrial is required by the requested state, lack of national legislation on special investigative techniques and police cooperation, grounds for refusing an extradition, as well as a demand for a greater institutional capacity. Some of these issues have been reiterated also in the last Progress Report (SWD(2015) 213 final) on Albania.

Euralius proposed to add for discussion at the Criminal Justice Working Group (Concretely at the Criminal Procedure Code Working Group), within the Justice Reform also the amendments to Law 10193/2009 “Law on Jurisdictional Relations with Foreign Authorities in Criminal Matters” as amended by Law 100/2013. This proposal has been made paying attention that the jurisdictional relations with foreign authorities are practically regulated in two instruments: In the CPC (articles 488-523) and in the Law 10193/2009 “Law on Jurisdictional Relations with Foreign Authorities in Criminal Matters” as amended by Law 100/2013.

This has caused confusion on which law shall have priority in case of discrepancies of the provisions and which law can be considered as most applicable in this context.

EURALIS in the amendment made to the CPC draft proposed that the most logical approach could be to place all the provisions on jurisdictional relations with foreign authorities in criminal matters in the existing separate law for the following reasons:

1. As the Albanian “Law on Jurisdictional Relations with Foreign Authorities in Criminal Matters”, dates back in 2009 and amended in 2013, it is more updated including important provisions and principles derived from Conventions Albanian is part of.
2. International judicial cooperation practically involve two or more countries and are characterized by many developments what makes this field of cooperation very lively and changeable.
3. It is easier to amend a Law based on necessities than to amend the Criminal Procedure Code.

EURALIUS proposed to repeal the articles 488-523 in order to have a comprehensive and a complete legal framework. Therefore the Law on Jurisdictional Relations with Foreign Authorities in Criminal Matters should be amended in order to secure the full procedural rules in this field. Provision on Eurojust should be also included in this mentioned Law.

In case the proposal as above could not be accepted, then the amendments made to these articles in CPC according to the proposals made by GPO regarding to this part should be taken into consideration.

#### Euralius experts and counterparts

Team 3, Team 4, GPO, MOJ and Parliament

#### Activities and timing

Decision to be taken to amend the Law on jurisdictional relations with foreign authorities in criminal matters within the package of criminal laws in the Justice Reform (until June 2016)

Development of training programs (2017)

EURALIUS will continue to follow up the developments on the Justice Reform and the adoption process if needed.

In case of adoption, assistance will be provided in the implementation

#### Indicators for output

Assessment of legislation in force (delivered)

Draft amendments to legislation (delivered)

Assessment (summer 2016)

Training delivered (2017)

**Result 3.2: Criminal investigations, in particular regarding specialized areas of criminal activity, are handled in a more efficient and effective way.**

Minister Manjani during the annual report at the Legal Commission in the Parliament has reported on inspections for the Prosecution Office by the MoJ in 2015. He stated that 2000 criminal indictments have been registered by the Prosecution Office. Also some disciplinary measures have started against prosecutors based on the findings of the regular control by the MoJ. According to Minister Manjani the prosecution system is a “lazy” one and this is a consequence of the entire system. There have been complains against the prosecution service, which reflect the low public trust towards this service. According to the minister the main problem lies with non-indictments for corruption cases. There are problems with the investigation procedures, cooperation with the judicial police and the minister has requested a review of the criminal procedure Code.



#### Previous description before implementation:

Activity 3.2.1: Assist the General Prosecution Office in upgrading technical skills of the prosecution service regarding specialised areas such as white-collar crime (e.g. financial investigations) and cybercrime, also supporting the joint investigative units in Tirana and other districts on economic and financial crime.

**Activity 3.2.1: Assist the General Prosecution Office in upgrading technical skills of the prosecution service regarding specialised areas such as white-collar crime (e.g. financial investigations) and cybercrime, also supporting the joint investigative units in Tirana and other districts on economic and financial crime;**

Activity is delivered

#### WORKSHOPS ON CORRUPTION AND USKOK MODEL HELD IN TIRANA AND VLORA

The workshops on *“Introduction of Croatian Prosecutor’s Office for the Suppression of Corruption and Organized Crime (USKOK)- Assets confiscation and Financial Investigation - Investigation and prosecution of corruption cases in Croatia”*. were held in Tirana at the School of Magistrates on 30<sup>th</sup> of March and in the following day on 31<sup>st</sup> of March in Vlora. Three high level prosecutors: Mrs. Tamara Laptoš, Head of USKOK, Mrs. Nataša Djurović, Deputy Head of USKOK and Mrs. Marija Vučko, Deputy Head of USKOK, from Zagreb shared with the Albanian counterparts’ details on the structure and functioning of this Office. During their short term mission held several high level meetings with the Albanian counterparts in exchanging the views and further discussions on the matter. The expertise provided during the mission was focused on introducing the functioning of Croatian Prosecutor’s Office for the Suppression of Corruption and Organised Crime (USKOK) and its competences, combined with additional technical and practical overview of assets confiscation, financial investigations and investigation and prosecution of corruption cases in Croatia. The workshops intended to bring the Croatian experience in the fight against corruption and organized crime and share this experience with Albanian prosecutors.

The experience brought by Croatian prosecutors was considered valuable for Albanian prosecutors given the successful efforts of Croatia in the prosecution of corruption.

In both workshops, after presentations, participants were actively involved in discussions and asked questions referring to the topics of held presentations. Questions were raised mainly regarding the relations between USKOK and General Prosecution Office whether USKOK is an independent or autonomous structure and relations with police. Prosecutors showed interest in knowing the subject matter competence of USKOK regarding the prosecution of High State Officials and who belongs to this category considering the fact that in Albania there is no definition of High State Officials. They raised up also technical questions like who investigates and prosecutes USKOK prosecutors if they commit a criminal offence; how and when investigations start; how are data for investigation collected, etc. Interest was shown also in getting familiar with verification procedure for prosecutors.

Concrete cases were brought by the Croatian Short Term Experts to the Albanian peers in regard to the prosecution of the corruption cases in Croatia, such as “Fimi Media Case” and “Sabo Case”. The first case referred to the “extraction” of money from public companies

and ministries for the needs of the ruling political party and natural persons including the former Prime Minister of the Republic of Croatia, while “Sabo Case” refers to the prosecution of corruption in local level (case against a mayor of a Croatian city). (See annex).

This activity is implemented by PAMECA (training on financial investigations) and by American mission OPDAT (implementation of a national bureau of investigation and technical skills). This activity is linked to activity 1.2.3.2 and 3.1.2. The delivered workshops in Tirana and Vlora on 30 and 31st of March 2016 covered the topic on investigation and prosecution of high level and local corruption, which is linked with the white collar crime. Financial investigation was included in the workshop as well through the presentation of respective case studies (See activities 1.2.3.2 and 3.1.2).

## STUDY VISIT ON INTERCEPTIONS

In the course of day to day collaboration and contacts with General Prosecutor’s Office as one of the main beneficiaries of the project it was requested the assistance of EURALIUS for the Interception Department to organise and finance (entirely or cost sharing) a Study visit in Zagreb/Croatia.

Albanian homologues have some problems with the performance of preventive interceptions which are regulated by the specific law 9157 dated 04.12.2003 “On Interception of Electronic Communications in Albania” as amended.

The request from General Prosecutor’s Office come as a necessity to ameliorate the interception performance by looking at other EU examples and experiences in this regard. Croatia served as the best example being the newest EU MS. Albanian colleagues wanted to get acquainted with the Croatian experience in performing interception focusing mainly on legislative framework combined with the operational aspects.

EURALIUS leased with Croatian authorities at National Police Office for Suppression of Corruption and Organized Crime (PNUSKOK), to prepare an agenda with respective meetings and contact points. Availability and commitment to provide the assistance required has been ensured. A meeting with the Head of PNUSKOK Mr. Mario Bertina took place on February 1<sup>st</sup> at PNUSKOK to discuss about the possibility to organize this study visit and the respective meetings to be held. A confirmation to hold the study visit on the respective date at the premises of PNUSKON was received and a draft agenda was prepared by PNUSKOK. EURALIUS covered the flight, translation and per diems for participants.

The study visit was held on 7 March 2016, at the premises of the Office of Suppression and Organized Crime (PNUSKOK) in Zagreb. In the study visit participated Mr. Thoma Jano, Prosecutor/Head of Interception Department and Mr. Gerti Loli, Judicial Police at GPO performing technically the interceptions.

The overall objective of this study visit was to get familiar with the:

1. Standards provided by law in Croatia for the interceptions

2. Criminal offences for which an interception of electronic communication can be conducted
3. Restrictions provided by law

This study visit served as an opportunity to share and exchange of the experience having in mind the differences in the legislation between two countries and best practises. The study visit was characterized by interactivity conversations followed by exchanging of opinions.

### Euralius experts and counterparts

Team 3, GPO, prosecutor's offices

### Activities and timing

Activity delivered

EURALIUS will continue to follow up the developments on the Justice Reform and adoption process and provide ad hoc assistance when required by the beneficiaries.

Depending on requests of GPO, Euralius is willing to assist in any upcoming needs (additional result)

### Indicators for output

Workshop "*Introduction of Croatian Prosecutor's\Office for the Suppression of Corruption and Organized Crime (USKOK). Assets confiscation and Financial Investigation and prosecution of corruption cases in Croatia*" held in Tirana and Vlora.

40 prosecutors and 10 judicial police participated in both workshops.

Draft Law "On organisation and functioning of the institution to combat organised crime and corruption" (delivered)

Study visit to get familiar with Croatian experience regarding the performance of preventive interceptions organised and financed by EURALIUS

Paper "Need for improvements in the Law no. 9157 dated 04.12.2003 "On the interception of Electronic Communications" prepared by GPO

Agenda of the Study Visit on Interceptions (Prepared in collaboration with PNUSKOK)

Mission Report on Study Visit on Interceptions (delivered)

Mission Report of USKOK prosecutors prepared on the workshops held in Tirana and Vlora on 30<sup>th</sup> and 31<sup>st</sup> March 2016 covers the topic of financial investigations (delivered).

Agenda of the workshops held in Tirana and Vlora on 30<sup>th</sup> and 31<sup>st</sup> March 2016 on "*Introduction of Croatian Prosecutor's\Office for the Suppression of Corruption and*

*Organized Crime (USKOK). Assets confiscation and Financial Investigation - Prosecution of corruption cases in Croatia”.*

#### **Previous description before implementation:**

Activity 3.2.2: Assist the General Prosecution Office in the implementation of the existing legislation, in particular regarding measures for fighting organised crime (e.g. asset confiscation).

Current implementation:

**Activity 3.2.2: Assist the General Prosecution Office in the implementation of the existing legislation, in particular regarding measures for fighting organised crime (e.g. asset confiscation).**

EURALIUS continued to follow and assisting continuously and regularly in the working groups in Parliament regarding the drafting of the respective laws on Criminal Justice within the Justice Reform.

EURALIUS liaised and worked together with High Level Experts, Technical Secretariat and OPDAT to provide assistance in drafting in order to prepare the draft laws ready to be consulted in the Think Tank group of experts and consultation roundtables before the voting.

For the time being PAMECA plays an important role as well.

#### Euralius experts and counterparts

Team 3, GPO

#### Activities and timing

The concrete assistance regarding this activity will be identified after the end of the legislative measures and results of the reform process and in coordination with other donors as soon as institutions to combat corruption and organised crime as Special Prosecution Office, First Instance and Appeal Courts on Anti-Corruption and Organised Crime and National Bureau of Investigation will be in place. (Implementation 2017).

EURALIUS will continue to give assistance in revising the draft law “On organisation and functioning of institutions to combat corruption and organised crime”, and follow the developments of this draft until the voting process. (Second half of 2016)\

Organization of separate workshops introducing only Croatian Model. ( the ones that were organized on 30 and 31 st of March funded by EURALIUS project) and on the other hand a big workshop funded by TAIEX where experts from other EU members States and not only from Croatia will be invited to share their experience on fighting corruption and organized crime with a broader audience. This workshop is planned to take place possibly in September – bannering of October with the participation of Albanian prosecutors and expected to be funded by TAIEX on corruption and organised crime as suggested by TAIEX's feedback last year and this year. TAIEX will bring experts from different EU countries to share the necessary experience will Albanian homologues. Another application will be sent to TAIEX in this regard. It has been decided to postpone this initiative for

September as a suitable period after the approval of the main Criminal Justice laws and Constitutional amendments.

EURALIUS will continue to follow the developments on Justice Reform and the adoption process if needed.

In case of adoption, assistance will be provided in the implementation

#### Indicators for output

Assessment of assistance needs after the voting of draft constitutional amendments and draft law “On organisation and functioning of institutions to combat corruption and organised crime”.

Mission Report on the workshops on Corruption held in Tirana and Vlora on 30 and 31 st

March (Delivered-linked to activity 1.2.3.2 and 3.2.1)

Agenda on the workshops on Corruption held in Tirana and Vlora on 30 and 31 st March (Delivered-linked to activity 1.2.3.2 and 3.2.1)

Draft law “On organisation and functioning of Prosecution Office” in Albanian and English (delivered)

Explanatory notes on the Draft law “On organisation and functioning of Prosecution Office” in Albanian and English (Delivered)

Proposals on the draft law “On organisation and functioning of institutions to combat corruption and organised crime) (Delivered).

#### **Previous description before implementation:**

Activity 3.2.3: Support the implementation of memoranda to strengthen cooperation between institutions involved in the fight against organised crime and financing of terrorism (joint activities with PAMECA as regards cooperation prosecution service and police).

Current implementation:

**Activity 3.2.3: Support the implementation of memoranda to strengthen cooperation between institutions involved in the fight against organised crime and financing of terrorism (joint activities with PAMECA as regards cooperation prosecution service and police.**

EURALIUS continued to follow and assisting continuously and regularly in the working groups in Parliament regarding the drafting of the respective laws on Criminal Justice within the Justice Reform.

EURALIUS liaised and worked together with High Level Experts, Technical Secretariat and OPDAT to provide assistance in drafting in order to prepare the draft laws ready to be consulted in the Think Tank group of experts and consultation roundtables before the voting.

#### Euralius experts and counterparts

Team 3, GPO

#### Activities and timing

EURALIUS will continue to give assistance in revising the draft law “On organisation and functioning of institutions to combat corruption and organised crime”, and follow the developments of this draft until the voting process. (Second half of 2016)

#### Indicators for output

No output for this reporting period. Assessment of assistance needs after the voting of draft constitutional amendments and draft law “On organisation and functioning of institutions to combat corruption and organised crime”.

Proposals on the draft law “On organisation and functioning of institutions to combat corruption and organised crime) (Delivered).

#### **Previous description before implementation:**

Activity 3.2.4: Follow closely the development of the new electronic case management system currently being developed at the GPO, assist in its implementation and training activities when it is completed; assist in general in improving IT matters at the GPO with a view to enhanced compatibility with the IT systems of the police and courts as well as the prosecution services in EUMS.

Current implementation:

**Activity 3.2.4: Follow closely the development of the new electronic case management system currently being developed at the GPO, assist in its implementation and training activities when it is completed; assist in general in improving IT matters at the GPO with a view to enhanced compatibility with the IT systems of the police and courts as well as the prosecution services in EUMS.**

Meetings with the representatives of IT department in GPO were held on the subject of extending the scope of services of CAMS helpdesk. It was proposed that, in addition to the current tasks, the helpdesk will be able to introduce small changes to CAMS user interface and internal workflows. This will be possible only after provision of specialised training for helpdesk staff. Delivery of such training were included in the terms of reference for the upcoming extension of CAMS functionalities.

The contract for maintenance of IT infrastructure entered into force in April 2016 and will last for 2 years. The case management software is covered by manufacturer's warranty till the end of 2017. The maintenance needs of GPO are covered till the end of 2017.

Together with the IT Director of GPO, INT4 made an initial assessment of the need for carrying out a security audit of the IT system of GPO and for the need of introducing of dedicated policies pertaining to information security and access control.

On 5<sup>th</sup> February, Team 4 participated in the meeting of Court Administration Management System Working Group in GPO. The aim of the meeting was to decide on the scope of new functionalities of CAMS to be developed under Addendum to the contract main contract. The technical specification of the Addendum was then extended with the description of the new functionalities and the resulting document was presented to the IT Director of GPO for review and approval.

On 13<sup>th</sup> April, INT4 participated in the workshop with representatives of: IT Department of GPO, Statistics Dept. GPO, IT Helpdesk Unit GPO, and Prosecution Office for Serious Crimes and Përmet Prosecution Office on the current status of implementation of CAMS warranty services and on the new features to be requested in the contract for extension of CAMS system. The technical specification for the extension of CAMS system has been modified accordingly and submitted to GPO IT Dept. The procurement officer that will be responsible for the procurement process has been assigned by the EUD and the process of preparation of tender documentation has been started. Team 4 continued assisting the GPO in the process of preparation of tender documentation for procurement of extensions to CAMS case management system with the objective to have the documentation ready by 20<sup>st</sup> May (see annex tender document).



### Euralius experts and counterparts

Team 4, STE

Counterparts:

GPO: Mr Skender Baca, IT Director (integration with case management system of Albanian prosecutor service)

Ms Ornella Xhembulla, Head of Statistics Department (statistics and reporting)

Ms Eglantina Kanina, IT Specialist (helpdesk support)

AKSHI: e-Government Department, Infrastructure Department

### Activities and timing

Assistance in integration of CAMS with external state registers (Partly delivered, integration with Civil Registry completed)

Preparation of the technical specification for the extensions to CAMs System (Delivered)

Ongoing support in implementation of services under addendum to CAMS contract (provided the addendum is successfully concluded) (till Nov.'17)

Ongoing support in resolution of critical problems with the performance of CAMS (till Nov.'17)

Evaluation of feasibility of integrating the system supporting the operation of the International Cooperation Department of the GPO with the newly developed MLA case management system of MoJ (linked to Activity 1.7.4) (till Nov. '17)

Assistance to GPO, MoJ and ASP in reaching an agreement on exchange of data between their case management systems, restart of operation of working groups responsible for this subject (till Dec.'16)

Assistance in connecting of videoconference system of GPO to the videoconferencing bridge of EUROJUST (Sept.'17)

### Indicators for output

CAMS integrated with at least one state registry until May'16 (Delivered, CAMS has been successfully integrated with Civil Status Registry)

Technical specification for the extensions to CAMs system ready (Delivered)

Services foreseen under extension to CAMS contract successfully implemented (provided the addendum is signed)

Working groups on integration of CAMS with ASP and MoJ restart their operation (Sept.'17)

Videoconferencing system of GPO connected to the videoconferencing bridge of EUROJUST

Integration between CAMS and ICMIS achieved

GPO integration with the MLA case management system of the MoJ (linked to Activity 1.7.4)

**Result 3.3: Efficiency and accountability of the Albanian prosecution service has improved among other measures due to increased professionalism, the following activities shall be implemented:**

Previous description before implementation:

Activity 3.3.1: Assist the GPO and the Council of the Prosecutors in the implementation and/or review of the evaluation system for prosecutors; in connection with this assist the GPO in analysing the role of the Council of the Prosecutors with a view to finding possible alternatives.

Current implementation:

**Activity 3.3.1: Assist the GPO and the Council of the Prosecutors in the implementation and/or review of the evaluation system for prosecutors; in connection with this assist the GPO in analysing the role of the Council of the Prosecutors with a view to finding possible alternatives.**

This activity is delivered.

According to the findings of Justice Reform, the role and the status High Council of Prosecutors will be changed. It will be transformed from a temporary and consultative body into a permanent constitutional body having decision making competences regarding the career developments for prosecutors. Concretely pursuant to the draft of constitutional amendments, article 148/a paragraph 1 *“The High Prosecutorial Council shall guarantee the independence, accountability, discipline, status and career of Prosecutors in the Republic of Albania”*. To this body are given constitutional responsibilities regarding appointment, promotion, transfer, ethical and professional evaluation and disciplinary proceedings for the prosecutors of all levels.

Detailed technical and procedural competences of High Prosecutorial Council regarding the appointment, secondment, promotion, discharge transfer, ethical and professional evaluation and disciplinary proceedings are provided in the draft law *“On status of judges and prosecutors in the Republic of Albania”*, prepared within Judiciary package part of the Justice Reform, in line with these constitutional provisions.

Another draft *“On Justice System good-governance bodies”*, reflects the constitutional amendments by setting forth a set of procedural rules on organization, composition and functioning of High Prosecutorial Council, conduct the meetings, necessary procedural acts, selection of members etc.

Euralius experts and counterparts

Team 2, 3, GPO and WGs in Parliament

Activities and timing

The further development of this activity depends on the draft law “On the organisation and functioning of the Prosecutor’s Office in the Republic of Albania”, draft law *on status of judges and prosecutors in the Republic of Albania*, draft law *“On Justice System good-governance bodies”*,

The concrete assistance regarding this activity concerning High Council of Prosecutors regarding the evaluation process will be identified after the end of the legislative measures and results of the reform process as. (Second half of 2016)

#### Indicators for output

Assessment of assistance needs after the voting of draft constitutional amendments and draft law “On the organisation and functioning of the Prosecutor’s Office in the Republic of Albania”, draft law *“On status of judges and prosecutors in the Republic of Albania”* and draft law *“On Justice System good-governance bodies”*.

Draft law “On organisation and functioning of Prosecution Office” in Albanian and English (delivered)

Explanatory notes on the Draft law “On organisation and functioning of Prosecution Office” in Albanian and English (Delivered)

Assessment report (2017)

#### **Previous description before implementation:**

Activity 3.3.2: Assist the GPO and the Council of Prosecutors in establishing in and implementing a true system of advancement in career with clear criteria.

Current implementation:

**Activity 3.3.2: Assist the GPO and the Council of Prosecutors in establishing in and implementing a true system of advancement in career with clear criteria.**

According to the findings of Justice Reform, the role and the status High Council of Prosecutors will be changed. It will be transformed from a temporary and consultative body into a permanent constitutional body having decision making competences regarding the career developments for prosecutors. Concretely pursuant to the draft of constitutional amendments, article 148/a paragraph 1 *“The High Prosecutorial Council shall guarantee the independence, accountability, discipline, status and career of Prosecutors in the Republic of Albania”*. To this body are given constitutional responsibilities regarding appointment, promotion, transfer, ethical and professional evaluation and disciplinary proceedings for the prosecutors of all levels.

Detailed technical and procedural competences of High Prosecutorial Council regarding the appointment, secondment, promotion, discharge transfer, ethical and professional evaluation and disciplinary proceedings are provided in the draft law *“On status of judges and prosecutors in the Republic of Albania”*, prepared within Judiciary package part of the Justice Reform, in line with these constitutional provisions.

Another draft *“On Justice System good-governance bodies”*, reflects the constitutional amendments by setting forth a set of procedural rules on organization, composition and functioning of High Prosecutorial Council, conduct the meetings, necessary procedural acts, selection of members etc.

Regarding developments in GPO several prosecutors or head of prosecution offices were transferred or seconded from one prosecution office to another.

#### Euralius experts and counterparts

Team 2, 3, GPO and WGs in Parliament

#### Activities and timing

The further development of this activity depends on the draft law *“On the organisation and functioning of the Prosecutor’s Office in the Republic of Albania”*, draft law *on status of judges and prosecutors in the Republic of Albania”*, draft law *“On Justice System good-governance bodies”*,

The concrete assistance regarding this activity concerning High Council of Prosecutors regarding the evaluation process will be identified after the end of the legislative measures and results of the reform process as. (Second half of 2016)

EURALIUS will continue to follow the developments on Justice Reform and the adoption process if needed.

In case of adoption, assistance will be provided in the implementation.

#### Indicators for output

Recent developments within GPO monitored.

Assessment of assistance needs after the voting of draft constitutional amendments and draft law “On the organisation and functioning of the Prosecutor’s Office in the Republic of

**Previous description before implementation:**

Activity 3.3.3: Support the Association of Prosecutors and the GPO in the implementation of the Codes of Ethics for prosecutors.

Current implementation:

**Activity 3.3.3: Support the Association of Prosecutors and the GPO in the implementation of the Codes of Ethics for prosecutors.**

Union of Prosecutors is established on 4 December 2015 with a membership compound of 400 members. On 21 December 2015 Mr Ndini Tavani, Head of the “Union of Prosecutors”, had a meeting with the Team Leader for collaboration with EURALIUS. It is agreed that there is no need for a code of Ethics training since it is already delivered.

On 9 January 2016 the new association of prosecutors presented themselves in their first public meeting. In the presence of EURALIUS the new minister of Justice explained his future vision of the work on the prosecutors, requesting a direct responsibility of the prosecutor in charge for the investigation and indictment. The association and EURALIUS agreed to check at a later stage suitable support for training needs. The event has been covered by the media:

<http://shqiptarja.com/aktualitet/2731/manjani-prokuror-ve-hetoni-zyrtar-t-e-lart-nisur-nga-un-335928.html>

<http://www.oranews.tv/vendi/manjani-prokurore-ve-zbardhni-dosjen-e-cdo-zyrtari-ge-abuzon-qofte-dhe-minister/>

Euralius experts and counterparts

Team 3, GPO

Activities and timing

Activity delivered. No additional activity requested by GPO.

Indicators for output

No output as there is no additional activity requested by GPO.

#### **Previous description before implementation:**

Activity 3.3.4: Assessment of the current institutional set up of the GPO and other prosecutor's offices with the aim of evaluating the current independence and accountability (in particular, an analysis of the existing checks and balances) of prosecutors in line with EU standards.

Current implementation:

**Activity 3.3.4: Assessment of the current institutional set up of the GPO and other prosecutor's offices with the aim of evaluating the current independence and accountability (in particular, an analysis of the existing checks and balances) of prosecutors in line with EU standards.**

This activity is delivered.

EURALIUS continued to follow and assisting continuously and regularly in the working groups in Parliament regarding the drafting of the respective laws on Criminal Justice within the Justice Reform.

The draft of constitutional amendments provide the prosecution system in the article 148-149/c establishing an independent and accountability”.

Concretely in the article 148, paragraph 2 of the draft constitutional amendments it is provided as following *“The Prosecutor’s Office is an independent body, which shall ensure the coordination and control of its actions as well as respects the internal independence of prosecutors to investigate and prosecute....”*.

This article provides also the establishment of a Special Prosecution Office and independent investigation unit to investigate and prosecute corruption, organized crime and crimes by high-level officials, which is independent from the General Prosecutor.

These constitutional provisions are reflected respectively in the draft law “On organization and functioning of Prosecution Office in the Republic of Albania” and in the draft law “On organization and functioning of institutions to combat corruption and organized crime”.

Concretely the independence and accountability of prosecutors is defined in the article 6 of the draft law “On organization and functioning of Prosecution Office in the Republic of Albania” which reads as follows *“1. Prosecutors are independent in the exercise of their functions. Lower prosecutors shall be subject of higher prosecutor’s general instructions in writing according provisions of this Law. 2. Any kind of inappropriate influence exerted on the work of prosecutors and their activity on concrete cases through public authorities, the media or any other means or other persons that affect the independence of prosecutors in the exercise of their duties is prohibited and punishable by law. 3. In the exercise of their functions, prosecutors act and make decisions independently based on the principle of legality, objectivity and impartiality.*

General Prosecution Office delivered to Parliament its Annual Report. EURALIUS has provided a summary with main focus to the state of criminality focusing on the corruption



and organized crime and assets investigation. The priorities of General Prosecution Office for 2016 are also included and focus on

In one point it is foreseen the “*increase professionalism of prosecutors through continuous training*”. EURALIUS activities (as trainings) are in line with General Prosecution Office’s priorities for 2016.

#### Euralius experts and counterparts

Team 3, GPO and WGs in Parliament

#### Activities and timing

The concrete assistance regarding this activity will be identified after the results of the reform process as. (Second half of 2016)

EURALIUS will continue to follow the developments on Justice Reform and the adoption process if needed.

In case of adoption, assistance will be provided in the implementation.

#### Indicators for output

Assessment of assistance needs after the voting of draft constitutional amendments and draft law “On the organisation and functioning of the Prosecutor’s Office in the Republic of Albania” and draft law “On organization and functioning of institutions to combat corruption and organized crime”.

#### **Previous description before implementation:**

Activity 3.3.5: Support the General Prosecutors Office in reviewing its own internal organisational structure, human resources and financial management and that of the district prosecutor's offices, for the purpose of overall improvement of functioning.

Current implementation:

**Activity 3.3.5: Support the General Prosecutors Office in reviewing its own internal organisational structure, human resources and financial management and that of the district prosecutor's offices, for the purpose of overall improvement of functioning.**

#### **DECRIMINALIZATION LEGAL FRAMEWORK AND APPLICATION**

Regarding to Decriminalization, the General Prosecution Office established the structure to apply the law "On decriminalization". General Prosecutor Mr. Adriatik Llalla, has signed the Order to establish a special structure to verify the integrity of public officials, in application to the law so called "On decriminalization". The law "On ensuring the integrity of the persons, elected appointed or exercising public functions" and Chapter VII of the Decision of the Assembly of the Republic of Albania No. 17 dated 04.03.2016 "On determining the detailed rules on the application of the prohibitions provided in the law No. 138/2015 ...", defines the Prosecutor's Office body as the responsible institution for verifying the integrity of officials throughout public administration.

Based on the above legal acts, General Prosecutor ordered the establishment of the Sector of Verification of Integrity of Persons selected, appointed or exercising public functions, which will consist of two prosecutors, 3 judicial police officers and an IT specialist.

General Prosecutor also ordered;

- The establishment of the registry to register the requests for verification and establishment of the registry to register the self-declaration forms; as well as,
- The establishment of an electronic system for registering, storing and documenting the requests for verification, data, acts or facts administered, the results of verification and data collected.

In the Order of the General Prosecutor are determined the obligations of employees who will be part of the verification sector. Under this act, the data and information collected in this process shall be treated in accordance with law No. 138/2015, by Assembly Decision no. 17 dated 03.04.2016, as well as legislation in force on the protection of personal data.

EURALIUS continued to follow and assisting continuously and regularly in the working groups in Parliament regarding the drafting of the respective laws on Criminal Justice within the Justice Reform.

EURALIUS liaised and worked together with High Level Experts, Technical Secretariat and OPDAT to provide assistance in drafting in order to prepare the draft laws ready to be

consulted in the Think Tank group of experts and consultation roundtables before the voting.

#### Euralius experts and counterparts

Team 3, GPO and WGs in Parliament

#### Activities and timing

The concrete assistance regarding this activity will be identified after the results of the reform process as. (Second half of 2016)

EURALIUS will continue to follow the developments on Justice Reform and the adoption process if needed.

In case of adoption, assistance will be provided in the implementation, otherwise this activity has to be implemented in the given framework.

#### Indicators for output

Assessment of assistance needs after the voting of draft constitutional amendments and draft law “On the organisation and functioning of the Prosecutor’s Office in the Republic of Albania” and draft law “On organization and functioning of institutions to combat corruption and organized crime”.

**Objective 4: To align the Albanian civil and administrative justice system to EU standards**

**Result 4.1: The newly established administrative courts are functioning well producing efficient, transparent and effective judicial decisions:**

President Nishani and the HCJ have appointed Arjan Qafa as judge in the Administrative Court of Appeal. On 31 March 2014, Qafa was denounced in the Prosecution office by HIDAACI, for false declaration of assets and hiding the property. At the time, Qafa was denounced in his capacity as inspector in the HCJ. When it was expected the HCJ and its Chairperson Nishani to be distant on this case, suddenly Qafa was promoted by being appointed at the Administrative Court of Appeal.

On 15.03.2016, Nishani issued the decree for such appointment (following the HCJ meeting on 07.03.2016). Qafa was ranked the 30<sup>th</sup> among 40 winning candidates in the qualifying test for Administrative Appeal court judges.

**Previous description before implementation:**

Activity 4.1.1: Provide assistance to the HCJ and the MoJ in preparing the necessary sub-legal acts for the Law on Justice and the Administrative Courts.

Current implementation:

**Activity 4.1.1: Provide assistance to the HCJ and the MoJ in preparing the necessary sub-legal acts for the Law on Justice and the Administrative Courts.**

EURALIUS experts and counterparts

Team 2, counterpart: MoJ, administrative courts.

Activities and timing

Completed activity

Indicators for output

Completed activity

#### **Previous description before implementation:**

Activity 4.1.2: Assist the HCJ in evaluating the implementation of the selection and appointment procedures that took place for the new administrative court judges and provide continuing assistance to the HCJ and the SoM in the future implementation of these procedures.

Current implementation:

**Activity 4.1.2: Assist the HCJ in evaluating the implementation of the selection and appointment procedures that took place for the new administrative court judges and provide continuing assistance to the HCJ and the SoM in the future implementation of these procedures.**

Activity 4.1.2 is delivered.

The draft SL foresees revised appointment criteria for administrative court judges. For being appointed as administrative court judge the candidate has to have at least 1.5 years of professional experience in the public administrative sector. Furthermore, the professional internship in the third year shall encompass at least 3 months in an administrative court. In order to be transferred from a court of general jurisdiction to an administrative court the judge has to have a minimum time of experience. Moreover, it is proposed that cases of civil nature are fall not into the competence of administrative courts any more. Respective provisions are foreseen in the draft JP law. This set of measures is supposed to facilitate the transfer of judges from courts of general jurisdiction to administrative courts by ensuring at the same time the specialisation needed.

#### EURALIUS experts and counterparts

Team 2, counterpart: HCJ, administrative courts, MoJ

#### Activities and timing

Continuation of assistance in ensuring compliance with constitutional amendments, consistency among the draft laws within the reform and incorporating comments received (until July, summer break of Parliament).

Depending on progress at parliamentary level: start of assistance in implementation of new laws or other implementation activities (until end of 2016)

#### Indicators for output

Draft constitutional amendments and draft judicial power revised

Constitutional amendments and judicial power draft adopted

Plan for implementation of laws elaborated and fist implementation activities carried out

**Previous description before implementation:**

Activity 4.1.3: Provide assistance to the SoM in preparing a training needs assessment and to develop and deliver a general training program for the administrative court judges that will be sustainable and will bring their performance up to EU standards.

Current implementation:

**Activity 4.1.3:** Provide assistance to the SoM in preparing a training needs assessment and to develop and deliver a general training program for the administrative court judges that will be sustainable and will bring their performance up to EU standards.

This activity has been delivered in September 2015.

**Previous description before implementation:**

Activity 4.1.4: Provide assistance to the SoM in preparing an advanced training program for the administrative court judges focusing on the case law of the European Court of Justice, the Court of First Instance (General Court) and other EU Member State high courts on the handling of administrative law issues.

Current implementation:

**Activity 4.1.4:** Provide assistance to the SoM in preparing an advanced **training program for the administrative court judges** focusing on the case law of the European Court of Justice, the Court of First Instance (General Court) and other EU Member State high courts on the handling of administrative law issues.

This activity has been delivered in September 2015.



**Previous description before implementation:**

Activity 4.1.5: Provide assistance concerning final improvements to and adoption of the new Administrative Procedures Code, assisting the MoJ in having a broad consultation process that includes the new administrative court judges as well as existing judges with administrative experience and the legislation and interpretation of administrative jurisdiction in line with EU standards.

Current implementation:

**Activity 4.1.5: Provide assistance concerning final improvements to and adoption of the new Administrative Procedures Code.**

This activity has been delivered. The new Administrative Procedure Code is adopted and entered into force on 1 May 2016.

An EURALIUS expert is member of the Board of Co-authors for the Commentary for the administrative practice on the new Albanian Code on Administrative Procedures”.

EURALIUS experts and counterparts

Team 5, input from Team 2

Activities and timing

Completed Activity

Indicators for output

Administrative Procedure Code was adopted by the Assembly in April 2015.

**Result 4.2: Provide assistance to the MoJ (Codification Directorate) in a review of issues under the Civil Code with a view to updating the Code especially in view of alignment the EU *acquis*.**

**Previous description before implementation:**

Activity 4.2.1: Provide assistance to the MoJ (Codification Directorate) in a review of issues under the Civil Code with a view to updating the Code especially in view of alignment the EU *acquis*.

Current implementation:

**Activity 4.2.1: Provide assistance to the MoJ (Codification Directorate or working group) in a review of issues under the Civil Code or other relevant legislation with a view to updating the Code especially in view of the ongoing reform process.** Include necessary amendments (e.g. professional liability of free legal professions). The alignment with the entire EU *acquis* in civil law/ family or inheritance law / consumer protection / conflict of laws/ business law is not a deliverable.

Since – on the one hand – EURALIUS has been massively involved into the justice reform process and since – on the other hand – the MoJ has so far not started the review process of issues under the Civil Code or other relevant legislation, EURALIUS has so far – with exceptions – not undertaken measures in this activity area.

The exception concerns the Family Code with regard to which EURALIUS has commented in September 2015 on the proposed amendments to the adoption procedures in this Code.

#### EURALIUS experts and counterparts

Team 5. Eventually: one or two international MTE or STE

#### Activities and timing

Depending on the start of the review process of issues under the Civil Code or other relevant legislation by the MoJ and based on the requests of the MoJ for assistance, EURALIUS will support and assist to reform the legislative framework in civil matters in the second half of 2016 and 2017.

#### Indicators for output

Draft “Civil Code” provisions and/or analysis paper(s)

Draft Amendments or Drafts with regard to connected relevant civil law legislation and/or analysis paper(s)

#### **Previous description before implementation:**

Activity 4.2.2: Provide assistance to the Codification Directorate to review outstanding issues remaining in connection with the ongoing reform of the Civil Procedure Code, especially in view of alignment with the EU *acquis*.

Current implementation:

**Activity 4.2.2:** Provide assistance to the Codification Directorate to review outstanding issues remaining in connection with the ongoing reform of the **Civil Procedure Code**, especially in view of alignment with the EU *acquis*.

Since this activity falls – at least partly – within the scope of the ongoing justice reform process, EURALIUS has – based on previous research work of EURALIUS in this respect and meetings with practitioners and experts in this area – prepared in October 2015 for the start of the third phase of the justice reform an assessment paper on the needed short term interventions and the needed midterm interventions into the Civil Procedure Code (including necessary measures with regard to the EU *acquis*).

This assessment paper has been disseminated to the co-chairs of the Drafting Group Civil Procedure Code and has formed the basis of the following law drafting process. The distinction between the short term interventions and the midterm interventions is based on the necessities deriving from the planned constitutional amendments within the justice reform process.

In April 2016 a working group has been set up by the Ministry of Justice to work on a draft for the necessary amendments to the Civil Procedure Code.

With a priority to enhance efficiency, EURALIUS identified – based on the assessment paper of October 2015 – several priority topics such as: improvement of the notification system without civil register in operation; introduction of the European payment order; standard decision of judgment on default if one party does not show up allowing a remedy only once; removal of the oral preparatory hearing and its substitution by a well prepared hearing in which needed evidence is taken and after which the case is decided; mandatory representation by advocates for cases of high value if the new legal aid law becomes available; voluntary online register for court experts; written procedure for small claims and exclusion of the right to take evidences from the Court of Appeal.

A short term expert contracted by Euralius Mr Michael Kumpl, Mrs Ulrike Frauenberger and vice president of court Mr Daniel Radke have been working on the revision of the Civil Procedure Code. The Ministry has established a working group with the following members, who went through the identified topics:

Expert Ermal Jahja: Notification – find a system to notify on short term basis on a reliable method without the need to have the civil register (project of the ministry of interior)

operable (which is the long term solution). Check public notification on web-site, court, last known place.

Expert Eljona Bylykbashi: Payment order (*Europäischer Mahnbescheid*) – copy and adjust. The enforceable judgement might be only become available at the end of the procedure (*no vorläufige Vollstreckbarkeit*).

Expert Matilda Halilaj: Judgement on default – update existing legislation according to the German model with the possibility to request continuation once against a court fee.

Expert Helsi Dardeli: Preparation of proceedings – one well prepared oral hearing with witnesses present, foreseeable expert advice can be ordered before. The aim is to decide the case after one hearing in principle. Delete Albanian oral preparatory hearing.

Expert Argita Halilaj: Make advocates mandatory for cases of high value (idea: if three judges decide in first instance –check). Requires new legal aid law in place.

Expert Enerieta Tarelli: Create not binding online register for different experts, to be searched by subject and region, may be with qualification?) information or court comments, based in MoJ. Art. 225, Euralius activity 2.2.3.Challenge: Rules who can put information and how it is verified. First step is better than no information.

Expert Dejvi Celcima Written procedure for small claims – identify limit for this procedure and guarantee oral hearing if requested.

Expert Mirjon Brahimllari Time limits to present evidence and exclusion of evidence in second instance, similar to new administrative procedure code (Art 47?).

This draft has then been fed into the justice reform process and has been consulted with the Drafting Group Civil Procedure Code and disseminated to the members of the think tank.

### EURALIUS experts and counterparts

Team 5. Two international STE

### Activities and timing

The draft law on some additions and amendments to the Civil Procedure Code is still to be consulted in a consultation process and should then be adopted by the Parliament together with the other parts of the justice reform (additional result)

Review of the civil procedure code with MoJ outside the reform process (9`2016 -12`2016)  
additional result

### Indicators for output

Assessment paper on the needed short term interventions and the needed midterm interventions into the Civil Procedure Code (delivered)

Draft Law on some additions and amendments to the Civil Procedure Code (delivered)  
Study visit on payment order (additional result)  
New civil procedure code (additional result)

### Previous description before implementation:

Activity 4.2.3: Support the MoJ in continuing adoption of legislation regarding international cooperation in civil matters and implementation of that already adopted.

Current implementation:

**Activity 4.2.3: Support the MoJ in continuing adoption of legislation regarding international cooperation in civil matters** and implementation of that already adopted.

This activity was scheduled to start in the first half of 2016. Since EURALIUS was though until now fully involved into the justice reform process, the start of this activity had to be rescheduled to the second half of 2016.

As a first activity the legislation in force has been identified and published on Euralius website in AL and EN: Law on “Jurisdictional relation with foreign authorities in criminal matters” <http://www.euralius.eu/en/albanian-legislation/category/84-law-on-jurisdictional-relations-with-foreign-authorities-in-criminal-matters>



The training about EU acquis included the acquis in civil matters.

### EURALIUS experts and counterparts

Team 5

### Activities and Timing

An assessment of the current situation on international judicial cooperation in civil matters will be conducted in close cooperation with the MoJ (Directorate of Foreign Jurisdictional Relations) in the second half of 2016.

The assessment will analyse the degree of implementation and the application of the agreements in practice and the need for eventual law amendments.

Based on the outcome of the assessment and the requests from the MoJ EURALIUS will support the MoJ with regard to the necessary measures.

#### Indicators for output

Legislation in force identified delivered and published (delivered)

Assessment report on the current situation on international judicial cooperation in civil matters (including immediate and more remote necessities for law amendments)

Draft amendments to the Civil Procedure Code and/or other laws

Report(s) on the requested necessary support measures

### **Activity 5: new Monitoring and peer review of judgements**

This activity has been added in February 2015.

In the report period (December 2015 – May 2016) no (new) request for a monitoring and peer review under this activity has been made.

#### EURALIUS experts and counterparts

Team 5, input from Team 3 and eventually also other teams as the case may be.

#### Activities and timing

Since this is a specific additional task which depends on whether and when there are monitoring cases upcoming neither a clear ex ante description of the extent of this activity nor a clear ex ante description on the time lines is sensible and possible. These questions can only be answered on an ad hoc and case by case basis.

#### Indicators for output

Reports on monitoring and peer review cases delivered



### **PART THREE: BENEFICIARIES/AFFILIATED ENTITIES AND OTHER COOPERATION**

The relationship between the Beneficiaries/affiliated entities of this grant contract are very fine. Beneficiaries have nominated high level counterparts and counterparts on the working level. The reform process in Parliament is implemented in close cooperation with other donors, in particular CoE, OPDAT and Soros foundation.

Contacts to new EU Twinning and other regional projects have been established. A huge number of international and bilateral project planning missions coordinated with Euralius.

The JUST project continued with a new consortium focusing on “Justice without delay” in cooperation with OSCE.

The regional project focusing on the network of prosecutors, situated in GPO handles the Eurojust accession scenario.

The twinning project on mediation continues to the reform process and joined into a training.

The twinning project in the Prime Minister`s office working with the civil service cooperates in regard to the staff of the ministry of justice. The experts discussed together work descriptions, needed education and resulting salaries categories.

The future project on preventing of corruption might take over the preventive corruption of Euralius.

## PART FOUR: VISIBILITY

The activities of Euralius have been followed closely by the media. Euralius obtained huge visibility even in the television.

<http://www.oranews.tv/vendi/mbyllet-komisioni-per-reformen-zgjedhore-nuk-ka-dakordesi-per-disa-ceshtje/>

<http://top-channel.tv/lajme/artikull.php?id=324304>

<http://top-channel.tv/lajme/artikull.php?id=326524>

<http://www.oranews.tv/vendi/mbyllet-komisioni-per-reformen-zgjedhore-nuk-ka-dakordesi-per-disa-ceshtje/>

<http://www.gazeta-shqip.com/lajme/2016/04/25/halimi-reforma-ne-drejttesi-eshte-bllokuar-nga-edi-rama/>

<http://shqiptarja.com/Politike/2732/p-rjashtimi-i-berish-s-pd-ngrin-reform-n-n--drejt-si-p-r-10-dit--353231.html>

<http://www.euralius.eu/en/news/228-first-public-consultation-round-table-on-judiciary>

<http://www.euralius.eu/en/news/229-public-consultations-on-draft-laws-on-the-organization-of-the-prosecution-office-specialized-prosecution-and-national-bureau-of-investigation>

<http://www.euralius.eu/en/news/230-ad-hoc-committee-concluded-the-chapter-on-constitutional-court>

<http://www.euralius.eu/en/news/231-euralius-attended-the-ad-hoc-committee-to-consult-the-chapter-on-courts>

<http://www.euralius.eu/en/news/232-euralius-co-chairs-the-second-public-consultation-on-judiciary-in-vlora>

<http://www.euralius.eu/en/news/233-euralius-co-moderates-public-consultation-on-the-draft-law-on-constitutional-court>

<http://www.euralius.eu/en/news/234-ad-hoc-committee-discusses-the-chapter-on-prosecution-office>

A huge website ([www.euralius.eu](http://www.euralius.eu)) and a Facebook account give visibility in the social media. The project website is regularly updated with the news on the project activities, reports, resource documents, Albanian and International laws and useful links to main Albanian and European Institutions. Since January 2016, new elements such as a new Homepage, Newsroom – which are interlinked. International Cooperation section and a revision of the entire project website was made with the view to make the project more interactive and user-oriented. The website is continuously updated in both languages: English and Albanian.

The project website is directly linked to the Facebook page and to main Albanian and European relevant institutions and has a highly active Facebook profile. The activities implemented were updated regularly on Facebook and on the project's website and shared by European Delegation Union to Albania Facebook account. The number of followers

increased steadily from January to June 2016, reaching 1,101 likes in the time of reporting from 157 likes in January 2016: <https://www.facebook.com/EuraliusIV/>



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Consolidation of the  
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**Welcome to EURALIUS IV "Consolidation of the Justice System in Albania". This project is funded by EU**

**TRAINING SESSION ON "EU ACQUIS AND ALBANIAN LEGISLATION"**



On 30-31 May, EURALIUS and the School of Magistrates jointly organized a training session on "EU Acquis and Albanian Legislation" in frame of continuous training for judges and prosecutors at the Scho...

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**BRAINSTORMING SESSIONS ON THE NEXT GENERATION COURT CASE MANAGEMENT SYSTEM ...**



On 25th and 26th May 2016, EURALIUS IV invited Chairs of First Instance Courts, Court of Appeals and Administrative Courts, as well as representatives of the High Council of Justice and the Ministry o...

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**THE AD-HOC COMMITTEE DISCUSSES "VETTING" PROCESS**



The Ad Hoc Committee on Judicial Reform is discussing today article by article the last chapter of the revised draft of the constitutional amendments based on the recommendations of the Venice Commiss...

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## What we do

EDUCATION AND ORGANIZATION OF THE MINISTRY	HIGH COUNCIL OF JUSTICE AND HIGH COURT	CRIMINAL JUSTICE AND PROSECUTION OFFICE	JUDICIAL ADMINISTRATION AND EFFICIENCY	LEGAL PROFESSIONS AND SCHOOL OF MAGISTRATES
The main aim of this component is to assist the Albanian authorities to design and implement a justice system strategy with a view to guaranteeing independence,	The activities envisaged under this component aim at supporting the High Council of Justice to ensure that decisions regarding the status and career of judges are based on objective,	The activities envisaged under this component aim at aligning the legislative framework in criminal matters including international cooperation to EU and Council of Europe standards.	Within this component the focus is on improving transparency of court functioning and increased the efficiency of the administrative staff in the justice system. The component	The main aim of the activities envisaged under this component is to strengthen the National Chamber of Advocacy, National Chamber of Notaries and the State Commission

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Erin Eri and 40 other friends

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**EURALIUS IV** added 3 new photos  
Published by Delina Cici (?) · 31 May at 14:17 ·

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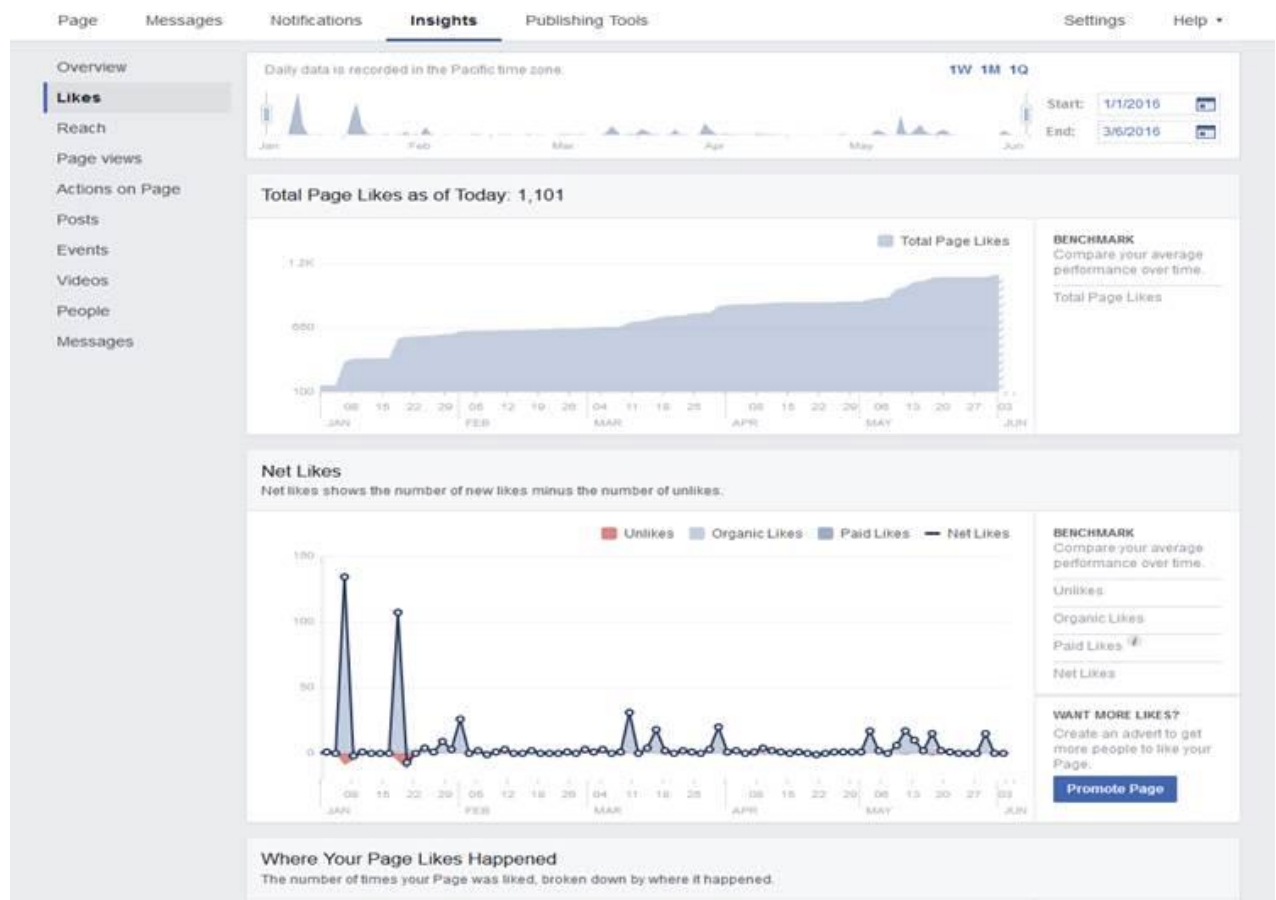
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Two new cars (Audi Q5) are available, since January 2016.



On 11. 02. 2016 Euralius Team Leader signed a “Transfer agreement for Euralius project cars” and delivered officially by the project the pervious cars owned (BMW and two Volkswagen Jetta) to the Ministry of Justice.





## **PART FIVE: DECISION OF THE STEERING COMMITTEE MEETING**

The Steering Committee decided:

1. The third progress report (December - May 2016) is approved, which means that the contractually agreed objectives are met.
2. The Steering Committee approved the deviation from the original project design, timing and implementation perspective and approved the focus on the reform process. With regard to the elaborated law drafts, the Albanian institutions ensure the correct Albanian legal terminology and compliance with the Albanian legislative techniques and coherence within the legal system, as well as the elaboration of financial and organisational impact, assessment and a proper planning of the timing and sequencing of adoption and implementation of laws. Euralius participates in consultation events and comments the final version.

3. These activities are delivered:

Activity 1.1.1.1 (Justice Strategy) 2016-2020 is delivered.

Activity 1.1.2 Consulting process in Parliament and the MoJ in drafting or amending necessary laws is delivered.

Activity 1.1.3 Elaboration of human resource and budgetary needs analysis for funding the initiatives called for by the strategy are delivered.

Activity 1.2.2 (budget training) is delivered. A coaching to the team of the OAJB helped to improve the annual budget request for 2017.

Activity 1.2.3.1 (Internal audit in MoJ) is delivered, audit system is in place.

Activity 1.2.3.2 A proposal on an independent structure of the prosecutor's office to fight corruption, has been delivered.

Activity 1.4.3 (court media training) is delivered. A legislative framework has been proposed. Training of trainers has been delivered.

Activity 1.5.1 Legislative rules have been delivered within the ongoing reform process of the reform the High Judicial Council

Activity 1.5.2 New primary legislation governing the recruitment, appointment, promotion and transfer of judges has been delivered.

Activity 1.5.3 Assistance to the HCJ in the implementation of the evaluation system for judges and the inspection system, has been delivered in an updated version (additional result).

Activity 1.5.4 A draft new legislation within the reform process of the judiciary reviewing and amending the rules on disciplinary procedures has been delivered.

Activity 1.6.2 The assistance in redesigning the appointment process of judges to the High Court is delivered.

Activity 1.7.1 A legislative framework for the implementation of the courts' territorial reorganisation has been proposed. The activity is delivered.

Activity 1.7.2 (Support the implementation of the MoU between the MoJ and the HCJ inspectorates through the conduct of joint inspections) becomes redundant by the proposed legislation. The activity is delivered.

Activity 1.7.3 (trial monitoring system) is merged with activity 1.2.4 (statistics).

Activity 2.2.3 Elaboration of a framework for the court experts is delivered.

Activity 2.4.1 Assistance to the MoJ in the elaboration of the Law on the Judicial Administration is delivered in an updated version (additional result).

Activity 2.6.1 Support to the (NCN) regarding its internal organisation and functioning has been delivered.

Activity 2.6.2 Support to the MoJ and the NCN in the elaboration of a legal framework foreseeing a training program for notaries has been delivered.

Activity 3.1.1 An overall Criminal Code and a new Criminal Procedure Code have been delivered

Activity 3.1.2 Proposal for amendments to reforms and modernisation of the Criminal Justice legal and Institutional Framework have been delivered.

Activity 3.3.1 Assistance to the GPO and the Council of the Prosecutors in the implementation of the evaluation system for prosecutors has been delivered.

Activity 3.3.2 The proposed legislation establishes and facilitates the implementation of a true system of advancement in career.

Activity 3.3.4 A draft law on the Prosecution Office has been delivered.

Activity 4.1.2 A draft law facilitates the selection and appointment procedures for the new administrative court judges. The activity is delivered.

Activity 4.2.2 Assistance the Codification Directorate to review the Civil Procedure Code has been delivered.

4. These activities are changed:



a) IT/ICMIS

Activity 1.2.4 is reformatted: With the aim of establishing a clear track record of investigations, prosecutions and convictions, support the capacities of the courts and the MoJ to elaborate track record statistics and improve the track record reporting in coordination with the GPO. PAMECA handles the Ministry of Interior, the Albanian State Police.

Activity 2.3.1 is reformatted: Assist the MoJ and the OAJB in keeping ICMIS case management system in the best possible condition with the aim of providing the courts with at least basic case management functionalities until the arrival of the new integrated case management system. This Activity includes assistance in identification and in resolution of ICMIS shortcomings falling under the current maintenance contracts and assistance in specification and in implementation of small functional improvements that may be implemented with the available financing.

Activity 2.3.2 is reformatted: Assist MoJ in specification and procurement of new integrated case management system supporting case processing in all Albanian courts.

b) Due to the involvement in the Justice Reform activity 4.2.1 (civil code) is cancelled.

c) The activities “support the zero tolerance policy” in regard to the fight against corruption in the ministry of justice (line ministry with audit system in place), High Judicial Council and School of Magistrates (1.2.3.1, 1.5.5 and 2.1.5) are transferred to the upcoming twinning project on anti-corruption preventive measures.

5. Recommendations:

- a. The High Judicial Council is recommended to formally allow the use of email addresses (activity 2.3.3)
- b. Law drafting activities are recommended to be based on a political decision on the objectives (policy paper) and a time table for the drafting (several months ahead)
- c. The Ministry of Justice is invited to secure financial means for the upcoming IT maintenance contracts.

Representative of the Ministry of Justice

Dr. Rainer Deville  
Team Leader of EURALIUS