

SECOND SEMI ANNUAL PROGRESS REPORT

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Disclaimer for all presented draft laws:

The drafts are working documents and still under discussion and elaboration by the WGs in charge of drafting. They reflect the status of discussion as of end of November.

They are based on an Euralius proposal, which was elaborated by experts based on inputs received during the first phases of the reform, such as papers received from the UAJ, WG meetings held with judges, prosecutors and other stakeholders, comments from single judges, prosecutors and other stakeholders.

The drafting groups plan to finish a first rough draft by midst of December. They expect feedback from the experts included in the think tank group and from a consultation with stakeholders. Feedback received will lead to a review. Finally all drafts will need to be aligned to any revisions of the Constitution and with other laws that are currently elaborated in parallel.

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
ICMIS	Integrated Case Management Information System
INT	International long term expert (number = team)
IT	Information Technology
JUST	Albanian Justice Sector Strengthening Project (US Embassy)
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
NGO	Non- Governmental Organisation
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	Organisation for Security and Cooperation in Europe Presence in Albania
PAMECA	EU project "Consolidation of Law Enforcement Capacities in Albania", PAMECA IV
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
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 relationship between Euralius and all the stakeholders is very cooperative and efficient. We would like to thank the beneficiaries for their cooperation.

These are the main results listed in the order of Terms of Reference.

Activity 1.1.1. Reform of the judiciary – strategy MoJ 2016-2020

The justice reform strategy 2016 -2020 of the MoJ is in the pipeline.

Activity 1.1.1. Reform of the judiciary – strategy (Ad Hoc Committee) is delivered

The strategy for the reform of the judiciary has been delivered to the Ad Hoc Committee in Parliament. 16 consultations on strategy have been done, the budget and financing has been included into the action plan.

Study visit 1 is delivered

The constitutional drafting group met with representatives of the VC in Dublin.

Activity 1.1.2 Reform of the judiciary – drafting of laws

The strategy has been transformed into constitutional amendments proposals sent to VC, 19 consultations on constitution have been held.

Five law drafts delivered (election law concerning referenda, law on State exam, law on legal aid, law on court fees, amendments to anti-mafia law)

Six law drafts prepared and in discussion (Re-evaluation law, Law on Status of Judges and Prosecutors, Law on self-governing bodies in the justice sector, CPC, amendments to Criminal Code, Law on prosecutors/anti-corruption structure)

Other law drafts are under preparation (including drafts on court organisation, law on advocates).

Activity 1.2.1. codification department

A training has been offered to the codification department. The composition has not changed, the experts are not deeply involved in the drafting process in Parliament.

Activities 1.3.1, 1.3.2 and 1.3.3 (law proposals for legal aid and court fees) are delivered.

The law proposal on legal aid guarantees legal aid in the entire country immediately and reduces the role of the legal aid commission in the MoJ substantially. The proposal has been presented to NGO's. The new system is financed by higher court fees, which are unreasonably low once a functioning legal aid system is in place.

Results 1.5, 1.6., 1.7.; Activity 1.5.1.

Within the drafting process of the reform (activity 1.1.2) the drafts under preparation will deliver these results.

Euralius continues to work on the elaboration of a new draft law on the status of judges and prosecutors, which will provide a legal framework for the recruitment, appointment, evaluation, transfer, promotion and disciplinary liability of judges and prosecutors. Euralius also continues to contribute to the elaboration of a law on the self-governing bodies in the justice system. It shall contain inter alia the obligation of the Council to elaborate a zero tolerance policy to be extended to all courts.

Activity 1.4.3. media training

A training "court and media" has been delivered.

Activity 1.6.1 (backlog at the HC) is delivered

All organisational measures have been implemented, the backlog is reduced. The upcoming procedure codes (activities 1.1.2., 3.1.1., 4.2.2.) include filter for cases to reach the highest instance. The new court fee system makes it less attractive to go without good reason to the last instance.

Activity 2.1.4 Should Euralius be successful to secure sufficient funding for the SoM within the framework of the justice reform, this activity is delivered.

Activity 2.1.5 The first part of this activity has been delivered for 2015

Activity 2.3.3. (electronic tools and audio recording) is delivered

With the support of Euralius an Email account for every judge in Albania has been established. Internet and audio recording are available in all courts.

Activity 2.6.3. (immovable property registration) is delivered

The system is working well for Tirana and Durrës. The Central Bureau of Land Registration should allow the notaries of both districts to have access on data of both regions and should include properties such as agricultural lands and forests. The data

of the cadastral zones should be added for fiscal references. Further improvements are not possible as long as digital maps of Albania are not available (technical problem, no legal problem).

Activity 3.1.1. Criminal Procedure Code

The draft CPC has been delivered to the MoJ and is currently under revision. It is the decision of the Ministry when to disseminate any version to the stakeholders. The revision of the Criminal Code is prepared.

Activity 3.1.2. other legislation in the criminal justice system

A Juvenile Code is under preparation.

Study visit 2 (investigating corruption) is delivered.

The study visit of Albanian prosecutors to USKOK (Bureau for Combating Corruption and Organized Crime, a body of the Croatian criminal justice system) is delivered (activity 3.1.2).

Activity 3.1.2. other criminal legislation

Amendments to the anti-mafia law, made by Pameca, have been forwarded. A Juvenile Code is upcoming (so far inexistent in Albania).

Activity 3.3.3. (implementation of ethics code of prosecutors) is delivered. The code is in place and trained everywhere. The proposed legislation (activity 1.1.1. – law reform in parliament) suggests a full time member in the new prosecutorial council handling ethics, better rules for disciplinary violations and a review of some ethical violations within the evaluation system of all prosecutors.

Activity 4.1.3 (training needs assessment ACs) is delivered

Training needs assessment and training programs are available.

Activity 4.1.4 (training in administrative law) is delivered

Four trainings in administrative law took place, the training modules are established.

Study visit 3 has been delivered.

Members of the HC visited the European Courts in Luxembourg.

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 this one
Third Progress Report	1.12.2015 -31.5.2016	1.06.2016 (next one)
Forth Progress Report	1.6.2016 -30.11.2016	1.12.2016
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

Marrëdhëniet midis EURALIUS-it dhe gjithë palëve të interesuara janë shumë bashkëpunuese dhe efikase. Do të donim të falënderonim përfituesit për bashkëpunimin e tyre.

Këto janë rezultatet kryesore të listuara sipas radhës në Termat e Referencës.

Aktiviteti 1.1.1. Reforma e gjyqësorit – strategjia MD 2016-2020

Strategjia e reformës në drejtësi 2016 -2020 e MD është në proces.

Aktiviteti 1.1.1. Reforma e gjyqësorit – strategjia (Komisioni i Posaçëm Parlamentar) është dorëzuar

Strategjia për reformën në gjyqësor i është dorëzuar Komisionit të Posaçëm në Parlament. Janë zhvilluar 16 konsultime mbi strategjinë, buxhetimi dhe financimi janë përfshirë në planin e veprimit.

Vizita e parë studimore është realizuar

Grupi për hartimin e Kushtetutës u takua me përfaqësues të Komisionit të Venecias në Dublin.

Aktiviteti 1.1.2 Reforma e gjyqësorit – hartimi i ligjeve

Strategjia është transformuar në ndryshime kushtetuese; propozimet janë dërguar në Komisionin e Venecias; janë mbajtur 19 konsultime mbi Kushtetutën.

Janë dorëzuar pesë projekt-ligje (ligji zgjedhor në lidhje me referendumin, ligji për provimin e shtetit, ligji për ndihmën juridike, ligji për tarifat gjyqësore, ndryshime në ligjin anti-mafia).

Janë përgatitur dhe janë në diskutim gjashtë projekt-ligje (ligji për ri-vlerësimin, ligji për statusin e gjyqtarëve dhe prokurorëve, ligji për organet vetë-qeverisëse në sektorin e drejtësisë, KPP, ndryshime në Kodin Penal, ligji për prokurorinë/struktura anti-korrupsion).

Janë duke u përgatitur projekt-ligje të tjera (duke përfshirë projekt-ligjin për organizimin e gjykatave, ligjin për avokatinë).

Aktiviteti 1.2.1. Departamenti i kodifikimit

Departamentit të kodifikimit i është ofruar një trajnim. Përbërja nuk ka ndryshuar; ekspertët nuk janë përfshirë thellë në procesin e hartimit në Parlament.

Aktivitetet 1.3.1, 1.3.2 dhe 1.3.3 (propozimet mbi ligjin për ndihmën juridike dhe tarifave gjyqësore) janë dorëzuar.

Propozimi për ndihmën juridike garanton menjëherë ndihmën juridike në të gjithë vendin dhe zvogëlon në mënyrë të ndjeshme rolin e komisionit të ndihmës juridike në MD. Propozimi u është paraqitur OJQ-ve. Sistemi i ri do të financohet nga taksat më të larta gjyqësore, të cilat në mënyrë të paarsyeshme janë të ulëta, pasi të jetë gati një sistem funksional për ndihmën juridike.

Rezultatet 1.5, 1.6., 1.7.; Aktiviteti 1.5.1.

Në kuadër të hartimit të reformës (aktiviteti 1.1.2) draftet që janë duke u përgatitur do t'i japin këto rezultate.

Euralius vazhdon të punojë për hartimin e një projekt-ligji të ri për statusin e gjyqtarëve dhe prokurorëve, i cili do të sigurojë një kornizë ligjore për rekrutimin, emërimin, vlerësimin, transferimin, ngritjen në detyrë dhe përgjegjësinë disiplinore të gjyqtarëve dhe prokurorëve.

Gjithashtu, EURALIUS vazhdon të kontribuojë në hartimin e një ligji për organet vetë-qeverisëse në sistemin e drejtësisë. Mes të tjerash, ai përmban detyrimin e Këshillit për të hartuar një politikë të tolerancës zero që do të shtrihet në të gjitha gjykatat.

Aktiviteti 1.4.3. trajnim mbi mediat

Është zhvilluar një trajnim “gjykata dhe mediat”.

Aktiviteti 1.6.1 (çështjet e prapambetura në GJL) është realizuar

Të gjitha masat organizative janë zbatuar, numri i çështjeve të prapambetura është zvogëluar. Kodet e Procedurave që po përgatiten (aktivitetet 1.1.2, 3.1.1., 4.2.2.) përfshijnë filtra për çështjet për të arritur në shkallë më të lartë. Sistemi i ri i tarifave gjyqësore është më pak tërheqës për të shkuar pa arsye të fortë në shkallën e fundit.

Aktiviteti 2.1.4 Nëse Euralius do të jetë i suksesshëm për të siguruar fonde të mjaftueshme për Shkollën e Magjistraturës në kuadër të reformës në drejtësi, ky aktivitet është realizuar.

Aktiviteti 2.1.5 Pjesa e parë e këtij aktiviteti për 2015 është realizuar.

Aktiviteti 2.3.3. (mjetet elektronike dhe regjistrimi audio) është realizuar

Me mbështetjen e EURALIUS është hapur një adresë email-i për çdo gjyqtar në Shqipëri. Interneti dhe regjistrimi audio janë të disponueshme në të gjitha gjykatat.

Aktiviteti 2.6.3. (regjistrimi i pasurive të paluajtshme) është realizuar

Sistemi është duke punuar mirë për Tiranën dhe Durrësin. Byroja Qendrore e Regjistrimit të Tokës duhet të lejojë noterët e dy rretheve të kenë akses në të dhënat e të dy rajoneve dhe duhet të përfshijë prona të tilla si tokat bujqësore dhe pyjet. Të dhënat e zonave kadastrale duhet të shtohen për referenca fiskale. Përmirësime të mëtejshme nuk janë të mundshme për sa kohë që hartat dixhitale të Shqipërisë nuk janë të disponueshme (është problem teknik, nuk është problem ligjor).

Aktiviteti 3.1.1. Kodi i Procedurës Penale

Drafti i KPP i është dorëzuar Ministrisë së Drejtësisë dhe aktualisht është nën rishikim. Vendimi se kur do të shpërndahet ndonjë version për palët e interesuara është i Ministrisë. Rishikimi i Kodit Penal është përgatitur.

Aktiviteti 3.1.2. legjislacion tjetër në sistemin e drejtësisë penale

Është duke u përgatitur një Kod për të Miturit.

Vizita e dytë studimore (hetimi i korrupsionit) është realizuar.

Vizita studimore e prokurorëve Shqiptar tek USKOK (Byroja për Luftimin e Korrupsionit dhe Krimit të Organizuar), një organ i sistemit Kroat të drejtësisë penale, është realizuar (aktiviteti 3.1.2).

Aktiviteti 3.1.2. legjislacion tjetër kriminal

Ndryshimet në ligjin anti-mafia të bëra nga PAMECA janë dorëzuar. Një Kod për të Miturit është duke u përgatitur (deri tani inekzistent në Shqipëri).

Aktiviteti 3.3.3. (zbatimi i kodit të etikës së prokurorëve) është realizuar. Kodi është gati për t'u përdorur dhe trajnime janë bërë kudo. Legjislacioni I propozuar (aktiviteti 1.1.1- reforma ligjore në parlament) sugjeron një anëtar me kohë të plotë në Këshillin e ri të Prokurorisë që do të trajtojë çështjet e etikës, rregulla më të mira për shkeljet disiplinore dhe një rishikim i disa shkeljeve etike në kuadër të sistemit të vlerësimit të të gjithë prokurorëve.

Aktiviteti 4.1.3 (vlerësimi i nevojave për trajnim në Gjykatat Administrative) është realizuar

Analiza e nevojave për trajnim dhe programet e trajnimit janë të disponueshme.

Aktiviteti 4.1.4 (trajnim mbi ligjin administrativ) është realizuar

Janë zhvilluar katër trajnime mbi ligjin administrative, modulet e trajnimit janë krijuar.

Vizita e tretë studimore është realizuar.

Anëtarë të Gjykatës së Lartë vizituan Gjykatat Europiane në Luksemburg.

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	1.06.2016 (tjetri)
Progres-Raporti i katërt	1.6.2016 -30.11.2016	1.12.2016
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

The structure of this part is based on the original activities, which have been designed long time ago. The successful start of the ongoing reform process in the Ad Hoc Committee in Parliament, having full Albanian ownership, changed the focus of the implemented activities dramatically. Part five (annex) of this report takes this development into account and proposes to the SCM an updated and more realistic description of the activities and the delivered results. The objectives and the overall results remain unchanged.

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.

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.

Reporting

Justice reform strategy 2016 -2020 of the MoJ

The MoJ has elaborated with the assistance of Euralius a strategy of the reform of the judiciary, including the reform ongoing in Parliament, having precise objectives and activities, a timing and a budget, clear measures and measurable indicators, concrete activities and projects for the implementation. MoJ created a drafting group, composed of experts of different directorates. Euralius trained this group during a retreat in Vlora. This group is very much committed and produces efficient results.

Strategy for the reform of the judiciary with Ad Hoc Committee in Parliament

Due to the decision of the first SCM, Euralius followed the reform process in the parliamentary Ad Hoc Committee. The TL is member of the GHLE, he and three other INT and all Albanian LTE's of Euralius are co-chairs, members of drafting teams or the technical secretariat.

The 400 pages document "Analysis of the justice system in Albania-2015" was presented in the presence of over 200 distinguished guests, politicians and legal practitioners.

The official website of the justice reform <http://www.reformanedrejttesi.al/ekspertet> launched on this occasion by the Parliament gives huge visibility to Euralius. A strategy followed. The analysis and the strategy were subject to a public consultation

process carried out with substantial assistance of Euralius in 16 events in June and July.

On 16 July 2015, the parliament voted in favour of the new composition of the Ad Hoc Committee by five members coming from the ruling majority (four Socialist Party and one Socialist Movement for Integration) and five from opposition (four from the Democratic Party and one from the Republican Party), as follows:

Fatmir Xhafaj - Socialist Party, Chairman

Eduard Halimi - Democratic Party, Vice Chairman

Vasilika Hysi - Socialist Party, Member

Pandeli Majko - Socialist Party, Member

Ulsi Manja - Socialist Party, Member

Spartak Braho - Socialist Movement for Integration, Member

Oerd Bylykbashi - Democratic Party, Member

Arben Ristani - Democratic Party, Member

Gent Strazimiri - Democratic Party, Member

Fatmir Mediu - Republican Party, Member

Substitute members shall be Jorida Tabaku from the Democratic Party and Vexhi Muçmata from the Socialist Party

In order to break possible vote deadlocks, the decision of the Parliament foresees that the Ad Hoc Committee Chair, Fatmir Xhafaj, will have the deciding vote to enable the normal decision-making of the said parliamentary body, provided the decision is supported by the international experts.

Euralius joined the meeting of the GHLE discussing and finalizing the strategy and alternatives on constitutional solutions to justice in Pogradec on 18.-19.7.2015.

On 30.7. the Ad Hoc Committee convened with the participation of all its members. The international stakeholders including Euralius TL attended the meeting. The Ad Hoc Committee decided to adopt the document "Analysis of the justice system in Albania", in order to be considered a closed process and it has been sufficient time for all stakeholders, and all individuals to contribute. Secondly it was decided to adopt 'in principle' the Strategy and Action Plan, but considering these two documents open to a further process of consultation and for further opinions.

Euralius added to the action plan the budget calculation (annex).

The President of the Republic, in his capacity as Head of the HCJ, nominated the two missing members to the GHLE, Chief Inspector of the High Inspectorate of HCJ, Ms Marsida Xhaferllari and member of HCJ, judge Tritan Hamitaj.

Euralius experts and counterparts

Justice reform strategy 2016 -2020 of the MoJ

TL and MTE's Ackerley, Turkalj, Mitri, Abazi. Counterpart is a drafting group in the MoJ.

Strategy for the reform of the judiciary with Ad Hoc Committee in Parliament

Team 1 was engaged in the overall organization, in the Group on Constitutional Amendments and the Group on Anti-Corruption;

Team 2 in the Group on Judiciary;

Team 3 in the Group on Criminal Justice;

Team 4 partly on the Legal Professions;

Team 5 partly in the Legal Education Group and Group on Legal Professions.

Counterparts are the drafting groups in Parliament and the technical secretariat, in total about 100 persons.

Activities and timing

Justice reform strategy 2016 -2020 of MoJ

The available draft will be finalized until January 2016.

Strategy for the reform of the judiciary with Ad Hoc Committee in Parliament

Activity delivered, the drafting of the legislation is activity 1.1.2.

Indicators for output

Justice reform strategy 2016 -2020 of MoJ

Justice strategy MoJ 2016 – 2020, including an action plan (annex)

Strategy for the reform of the judiciary with Ad Hoc Committee in Parliament

Analysis of the Ad Hoc Committee (delivered with first progress report)

Action plan of the reform in Parliament with budgetary calculation (annex)

Strategy of the Ad Hoc Committee (annex)

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 Ministry of Justice 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.

Reporting

Euralius is currently engaged in assisting the Ad Hoc Committee in the Parliament in drafting the constitutional amendments and the law packages related to these amendments, which are expected to be adopted in the parliamentary plenary session in the first half of 2016.

Constitution:

Based on the draft strategy, a group of High Level Experts prepared the first draft of the constitutional amendments. This is one of the biggest changes of the constitution since its entry into force and a deep cut into the judiciary. All legislative changes Euralius III was fighting for without any result are now included.

The proposals include amendments in three different aspects, starting with articles related to the preparation of the legal framework for the EU accession, which will partly enter into force upon ratification of the accession treaty; secondly, entirely new organisation and structure of the judicial and prosecutorial system aiming at strengthening their independence and introduce missing accountability mechanisms, de-politicisation of the justice institutions, and anti-deadlock mechanisms for the appointments. Thirdly, these proposals provide innovative solutions on the re-evaluation of all sitting judges and prosecutors.

The HC is no longer court of first instance, the immunity of judges disappears, therefore all judges of the system and the members of the HCJ and the General Prosecutor are made disciplinary liable. The appointment of judges to the HC is based on a career system, the influence of politics is reduced everywhere. Blockades are no longer possible. The General Prosecutor is no longer the only person deciding in the world of prosecutors. He is replaced by a Council, which exists as a consultative body already. Investigations of corruption cannot be blocked by the General Prosecutor any more, an independent structure takes over corruption investigations and obtains a national bureau of investigation similar to the American Federal Bureau of Investigation. The three inspectorates are merged into one independent inspectorate. It reports to the councils, where full time members, including stakeholders from outside the judiciary, work. A very detailed re-evaluation procedure to assess sitting judges and prosecutors has been developed.

However, some aspects are under discussion. The proposal abolishes the recently established appeal courts and creates a separated High Administrative Court. These changes are too difficult to implement, too expensive and should be postponed. A shorter duration of mandates would facilitate the fight against corruption. The re-evaluation provisions and the implementing law need to be updated after comments of the VC have been obtained.

On 28 September 2015 the Ad Hoc Committee met to discuss on the draft constitutional amendments to be sent to VC for opinion. In this hearing, Euralius was represented by the TL. Following three hours of debate, the ruling majority and the opposition members agreed to send their proposals on the justice reform to the Council of Europe's VC for further expertise. The package includes draft amendments to the Constitution as well as comments on this draft of the political parties Democratic Party (54 remarks in 55 pages) and Social Movement for Integration. During the meeting it was also approved the extension period of the Ad Hoc Committee until 30 June 2016.

The proposal has been sent to the VC by Parliament. TL and a group of core experts of the constitutional group consulted with VC rapporteurs (study visit 1 to Dublin) and presented the draft in Venice.

A Group of High Level Experts, including the TL of Euralius attended the hearing of the VC on 18-19 October in Venice where the draft amendments were presented to the members of the Commission. VC's rapporteurs and supporting staff (Ms Hanna Suchocka, Mr. Konstantine Vardzelashvili, Mr. Segio Bartole, Mr James Hamilton, Mr Thomas Markert and Mr Grigory Dikov) paid a two day visit in Tirana on 2-3 November. They held meetings with the President of Albania, Prime Minister, Ambassador of the EUD, opposition, Chairman and High Level Experts of the Ad Hoc Committee, President of the HC and others.

Starting from November 2015 the parliamentary Ad Hoc Committee and the MoJ have implemented 19 public consultation roundtables/events about the constitutional amendments in the entire country (see annex). All events were covered by the media, e.g.:

<http://www.oranews.tv/vendi/reforma-ne-drejtesi-elbasani-qyteti-i-pare-i-takimeve-konsultuese/>

<http://top-channel.tv/lajme/artikull.php?id=313173>

<http://infoalbania.al/reforma-ne-drejtesi-konsultimet-nisin-nisin-nga-qyteti-i-elbasanit/>

<http://top-channel.tv/lajme/artikull.php?id=313848>

http://www.droni.al/web/Korrupsioni_ne_Drejtesi_kreu_i_Euralius_propozon_Te_shkarkohen_gjithe_prokuroret_e_gjyqtaret_10245_1.php

<http://www.balkaneu.com/strong-accusations-international-community-judges-albania/>



Picture taken during the event in Elbasan on 16 November 2015.

Drafting of other legislation

In parallel the legislative drafting procedure is organized in seven pillars (constitution, judiciary, criminal justice, legal professions, legal education, financing, and anti – corruption), divided in different laws for each pillar. For each draft law there will be a small drafting group composed of High Level Experts, Technical Secretariat and a larger think tank of representatives of the justice sector, stakeholders, and practitioners (magistrates, judges, prosecutors) and representatives of the opposition. The think tank is already to be considered a pre-consultation process and shall contribute to an inclusive process.

On 24.11. Euralius organised a conference for the seven opposition experts and the co-chairs of the Ad Hoc Committee WGs. The opposition's experts did not use the opportunity to agree on their involvement.

A law draft amending immediately the law on referendum, technically correct on the old electoral code, has been delivered. According to the constitution in force there are two options to send constitutional amendments to a referendum (Art. 177 No. 4, No. 5). The applicable electoral code is an obstacle, as it prohibits referenda six months before and after elections (risk to delay) and requests the majority of registered (not participating) Albanians even outside of Albania. This law is considered to be an anti-referendum law. It has been suggested to amend two provisions (Annex).

Euralius experts and counterparts

Team 1 and other teams depending on content. Additional STE/MTE and translation capacities are needed in order to consult all upcoming legislation. Partner are the drafting groups in Parliament and the technical secretariat, in total about 200 persons. The Democratic Party appointed seven colleagues acting as ‘external consultants’:

1. Enkelejd Alibeaj
2. Eris Hoxha
3. Arjan Madhi
4. Ivi Kaso
5. Gazment Bardhi
6. Besnik Cerekja
7. Fabian Topollari

Activities and timing

This activity is partly delivered and ongoing. Among the drafts concerning different activities of Euralius, drafts for a new constitution, amendments to the former law on elections concerning the referendum and a law on State exam for legal professions have been delivered.

Further activities depend on the timing of the parliament. Due to deadlines imposed by the VC, there has been a slight change in the original planning of approving the constitutional amendments by end of December 2015. It is expected that the amendments are discussed by end of January 2016 in the Ad Hoc Committee, and to be approved by the beginning of February 2016. The entire package of laws is expected until June 2016.

The implementation of the new drafts, once voted by parliament, will last over a longer period. This activity will run through the entire period of the project and its implementation will most likely have an effect on other activities of the Action.

Indicators for output

Draft constitutional amendments sent to VC for opinion, including Euralius opinion for optional changes in the next version (Annex).

Draft law on constitutional amendments after VC

Draft law on re-evaluation, updated after VC

Draft amendments on election law/referendum (Annex)

Draft law on the status of judges and prosecutors

Draft law on self-governing bodies in the justice system

Draft CPC

Draft law on prosecutors/ corruption fighting units

Draft on a new law on legal aid (Annex)

Draft law on court fees (Annex)
Draft law on State exam (Annex)

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.

Reporting

Within activity 1.1.1. the current budget and the budgetary needs have been assessed. They will become part of the strategy 2016- 2020.

In September Euralius worked on the elaboration of a financial impact assessment of the measures planned within the justice reform. MoJ did not take part in the offered trainings on 14-18 September.

The General Director of Priorities, Foreign Jurisdictional Relations, Integration and Projects in the MoJ, Mrs Ermonela Xhafa appointed Director of Integration and Projects, Mrs Tetis Lubonja and Specialist in the same Directory Mrs Brikena Shehu to collaborate with Euralius' experts on the budgeting process.

As all budgets of the institutions do not exist as a data collection, Euralius evaluated for each institution the number of employees, the own revenues (through fees, tariffs and fines) and the salary analysis (own expenditure details are included). This documentation (annex) is the first necessary step for evaluating the budget implications related to the proposed amendments. The second step relates to the preparation of an analysis of international standards and benchmarks in the state budget drafting and implementation procedures and formalities for independent institutions.

Euralius delivered to the staff of the MoJ a tailor made training on 20-22 October in Vlora. The objective of the training was to enhance the capacity of the staff of the MoJ, to better prepare proposals and realistic objectives in regard to the Strategic Document 2015-2020, and in future strategic planning documents, in order to satisfy the EU criteria and regulations, and in the same time to be implementable and achievable for the government. This document will be linked with the Sector Planning Document, domestic budget planning documents, and the Strategy for the Justice Reform (from Parliament) for IPA funding.

The current budget proposal of the government increases the budget of the MoJ 19,2 %.

Euralius experts and counterparts

Team 1, international and Albanian MTE's

Counterparts: MoJ and the drafting group in MoJ

Activities and timing

The planning is included in the strategy and should be done by January 2016. Additional assessment and planning depends on the result of the strategy, the development in result 1.2. and need to be discussed in mid 2016.

Indicators for output

Budget calculation judiciary 2015 – excel calculation sheet (annex)

Strategy and action plan 2016 – 2020 of MoJ with budget proposals

1.2. Result: Professionalism of the MoJ

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

Reporting

Codification department:

Euralius continued assisting and providing recommendations to MoJ regarding different pieces of legislation. These have been the draft Law on Protection of Whistle-Blowers, draft law on bankruptcy, draft law on Family Code (regarding adoption procedures and the Albanian Adoption Committee).

Euralius provided a training to the specialists of the Codification Department on law drafting. Judges and prosecutors are not member of the department, the group of external experts of the MoJ remains rarely used, the capacity remains unclear. The drafting exercise in Parliament managed to add a huge team of experts.

It is expected that some staff of the MoJ becomes involved more in the drafting process of the Ad Hoc Committee. Employees of MoJ might be assigned by the Minister to attend and work in the framework the parliamentary legislative process (drafting groups and think tanks for each law).

Euralius experts and counterparts

Team 1, MoJ (both departments)

Activities and timing

Euralius will continue to monitor and work closely with the codification departments during the legislative process and provide recommendations/opinions on draft laws prepared by this department. Euralius will continue to involve in the WGs representatives of the judges union, prosecutors, NGO's and other stakeholders in order 'to hear their voice' in the legislative process.

International Judicial Cooperation department: Activity in 2017. Due to the added activity 1.1.2. (reform process in Parliament) and pending implementation of activity 4.2.3 (legislation in international cooperation in civil matters) it is too early to work on instruments of international cooperation and to train the department.

Indicators for output

Comments to draft legislative acts (three annexes)

Training agenda

List of legal literature added to the library in the MoJ

Individual assessment of staff capacities and training needs

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

Reporting

The issue related to the budgeting of the judiciary has been addressed in the draft strategy on the justice reform and in the draft constitutional amendments. According to the draft constitutional amendments (art. 147/a paragraph 1, letter e) the High Judicial Council will have the competence to propose and administer the budget of the Albanian courts. This new provision constitutes a novelty for the judiciary system, since from now on the High Judicial Council will manage all budget related issues for the judiciary. The implementation of such provision has implications on the existence and organization of OAJB. All legal implications which are related to this proposed amendment it is expected to be provided in the planned law on organisation of the judiciary.

Euralius experts and counterparts

Team 1 and 2

Counterpart will be the institution competent for budget planning, which becomes competent for the budget planning after the reform. In the case the OAJB is replaced by the full time staff of the new Councils these people will be trained.

Activities and timing

Euralius will continue to follow the pace of the reform and the lawmaker. In the upcoming 6 months, Euralius will focus on assisting the Ad Hoc Committee in the process of approving the draft constitutional amendments with the view of enhancing the legislative framework for the governing body of the judiciary.

The training needs assessment can be done as soon as the trainees can be identified. The implementation period starts in June 2016 until end of 2016.

The training on budget planning and the study visit, originally proposed in activity 1.3.3., is planned to be implemented with the relevant institution. The implementation depends on the decisions taken in the reform process. It is assumed that the study visit can take place in summer 2016 to Germany, if the relevant actors in the institutions are identified in time.

Indicators for output

Analysis of the Ad Hoc Committee (completed)

Strategy of the Ad Hoc Committee (annex)
Final draft constitutional amendments
Draft law on organization of the judiciary
Agenda of training/study visit
Quality assessment of budget proposal 2017

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, including law drafting fighting corruption in the judiciary (clarification by first SCM).

Reporting

Law drafting

The last SCM decided that Euralius takes over the law drafting activities from the previous anti-corruption project. These have been in the focus within the justice reform. This part concentrates on the specialized unit in the prosecutor's office which shall be competent and independent to investigate corruption.

Euralius provided expertise through the MTE Mrs. Sani Ljubicic, Head of County Prosecutor's Office of Zagreb and USKOK prosecutor. An anti-corruption Strategy Paper was prepared and the first draft of the SPAK. It was pointed out that legislation should provide a special law (amended laws that regulates the creation of a SPAK) even though the success of the fight against corruption depends on a number of factors, of which the most important is political will and determination.

Albania must take a series of legislative changes, including constitutional changes. The law draft fighting corruption is currently under preparation. Euralius suggested a model similar to USKOK and delivered a draft to the drafting group. A first try to regulate the matter in the law on prosecutors was given up. Now the draft on a specialized corruption fighting unit (SPAK), similar to the Croatian and Rumanian model, is under elaboration.

Corruption in the judiciary

Judge Pareshqevi Ademi, first instance court of Kurbin was arrested on 11 June together with a lawyer being captured in flagranti while giving/taking a bribe. Judge Ademi and the lawyer Gjovalin Ndokaj were arrested in flagrance, accused and found guilty for taking 200.000 ALL from a citizen to grant release on parole in his favour. The Serious Crime Prosecutor's Office asked the imprisonment of 6 years for the judge accused of Passive corruption of the judge, prosecutor and of other Justice official (Article 319 ç of the Criminal Code).and removing the right to exercise public functions for 5 years. The trial was conducted via the procedure of summary trial, which leads to the reduction of the imprisonment by 1/3 and for this reason the prosecutor at the end of the trial asked for the imprisonment of four years against to the judge. The same was decided also for the lawyer Gjovalin Ndokaj. Judge Ademi filed an appeal against the decision to the Appeal Court of Serious Crimes.

A judge from Saranda District Court, Rasim Doda, is under adjudication at the First Instance Court of Serious Crime. Judge Doda is accused of passive corruption, of having taken an 80.000 Euro bribe to modify the ruling of a court case. He is currently under home arrest.

On 27.11. Police arrested a prosecutor serving with the Fier Prosecutor's Office, on passive corruption charges, following a court ruling a day before authorizing his arrest. According to the media, the prosecutor had accepted a 300.000 ALL bribe to intervene to have a court ruling suspended.

Anti-corruption in the MoJ

Not touched yet.

Euralius experts and counterparts

Teams 1 and 3. Counterpart MoJ.

Activities and timing

USKOK visit to Tirana (financed by TAIEX) in first half of 2016.

Finalisation of the draft law on SPAK within the Justice Reform process (June 2016)

Follow up of recommendations of project "Assessment of the anti-corruption framework in Albania", output 8 and 9. The following steps are proposals for Anti-corruption measures contained in the amendments of Constitution, CPC and in the new legal framework on Anti-corruption within Justice Reform (June 2016)

Follow up of legislation of the SPAK to be adopted (June 2016)

Comparative studies of internal controlling standards in selected EU MS if resources remain available: A MTE will be recruited to conduct the comparative study.

Assessment of anti- corruption measures in MoJ (first half 2017)

Indicators for output

Strategy and Action Plan (delivered, is approved by Parliament)

Mission report on Anti-corruption Corruption Strategy Paper prepared by Euralius MTE Sani Ljubovic (see annex)

Comments provided on Constitutional draft amendments on SPAK (see annex)

Draft law establishing more efficient investigation of corruption crimes.

Analysis of corruption opportunities and anti-corruption measures in the MoJ

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
(deleted by first SCM: Ministry of Interior, the Albanian State Police).

Reporting

Currently the track records data are collected and processed manually. Track records data are a useful source of information to see the developments of a case since the first moment when the referral was filed, investigation and prosecution of this case until the end when the court issues its decision. Collecting and processing the track records data manually constitutes difficulty and time consuming. 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 easily.

However, this requires financing, which is not easily available.

Euralius experts and counterparts

Team 4, with contribution of Team 3, MoJ, GPO, Legal Advisor of the GPO Mrs. Ornela Xhembulla.

Activities and timing

This activity depends on the IT progress and the available financing for the upgrade of the existing IT systems. A precise planning is not possible. An assessment will be done End 2016.

Indicators for output

Assessment of IT possibilities on track records and statistics.

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.

Reporting

MoJ currently employs 114 persons out of 129 positions provided in the approved structure (i.e 15 positions are still vacant). On 5 October 2015 four new inspectors were appointed in the Directorate for Judicial and Prosecutorial Inspection.

A guard at the ministry, who has been transferred to Fier and has been reappointed in the ministry.

Mr Bledar Dervishaj was appointed Chief of Cabinet and Mr Aurel Lamçe is new Director for General Services. On 9.11.2015 the Minister of Justice Mr Nasip Naço resigned. The President of the Republic appointed Mr Ylli Manjani as the new Minister of Justice. Enton Lita replaced as Chief of Cabinet Bledar Dervishaj, who remained in the ministry. New advisor for the relationships with the parliament is Emilda Prifti.

No major staff turnovers occurred so far after the arrival of the new minister. The old and the new one are from the same political party. Another reason might be that the MoJ is no longer competent to handle the implementation of the new Law on civil servants. The precise activities and possibilities to influence the staff in the ministry remains to be assessed.

Euralius experts and counterparts

Team 1, MoJ and its human resources department.

Activities and timing

Assessment of the human resources situation in the MoJ (qualification, performance and job profile of employed staff, second half of 2016- subject to further arrangements with MoJ.

Assessment of human resources management in the MoJ (appointment, transfer), second half of 2016

Reports on HR in the MoJ (second half of 2016– 2017)

Indicators for output

New draft law on MoJ (if relevant, 2016)

New law on governance of the judiciary/ prosecution system (if relevant, 2016)

Assessments and reports

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

As per decision of the SCM of Euralius on 17.12.2014 activity 1.2.6. was amended. Public procurement is handled by different projects. However, the MoJ may include the project in any upcoming big procurement procedures (e.g. justice palace) for advice. A request for advice has not been made.

Result 1.3: Access to courts is open to anyone.

Activity 1.3.1: Provide support to the State Commission of Legal Aid (SCLA) 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.

Reporting

Euralius has started 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 SCLA in April 2015.

In June 2015 Euralius conducted intensive fact finding and consultation meetings with stakeholders and the major NGO involved in this area (Tirana Legal Aid Society). Only a limited number of individuals received support, mainly in Tirana in January and February of a year.

Since the analysis and the consultation with stakeholders in this area have clearly shown that an improvement of the present – unsatisfactory – situation would require

more financial resources from the state budget for legal aid and
a reorganisation of the whole area of legal aid in Albania.

Euralius has connected the work on this activity with the work on activity 1.3.3 and 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 draft law on legal aid aims at shifting the competence from the SCLA 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 beneficiaries and Euralius hold expert meetings and presented a new law on legal aid to the Parliament as part of the planned justice reform.

According to this draft, requests of legal aid no longer addressed to the Commission in Tirana, but to every court in the country. Legal aid is granted if the case has a chance to be won and if the applicant is poor. The competent court decides and an appeal instance is available. Legal aid is delivered for every advocate in the country. In the case no advocate is willing to deliver legal aid, the NCA appoints one out of a list. An application template, methods for re-financing and future EU accession options are

included. The current draft shows the development coming from the old legislation to ensure a full Albanian ownership. The final draft must differ from the first version and should have a more scientific structure. It has to foresee clearer payment in instalments and better reimbursement rules (e.g. payment of the condemned party to the State who then withhold the instalments or repayment sums). Legal aid must be granted in every instance again in order to uphold the new filters of the system to protect the higher courts. However, these details should be elaborated by the Albanian stakeholders, once the dramatic change of the system is accepted.

Euralius experts and counterparts

Team 5, input from Team 1

Activities and timing

Activity is delivered.

Euralius will further support the consultation process and the finalization of the draft law on legal aid. The draft law on legal aid is expected to be discussed and consulted within the framework of the justice reform process and should be part of the package of justice reform laws to be passed by Parliament until June 2016) within activity 1.1.2.

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, such as training within activity 2.1.1.

Indicators for output

Law Draft for a (new) Law on Legal Aid (annex)

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

(this activity is included in 1.3.1. by decision of SCM on 17 December 2014).

Euralius discussed its new draft law with representatives of the civil society in a workshop on “The provision of Legal aid in Albania - The role of the state and of the civil society” organised by Civil Rights Defenders on 23 November. The civil society was positive about the new approach, but also worried that the financing of their activities in legal aid might be reduced in the future.

The event was covered by the media:

<http://www.reporter.al/shteti-duhet-te-beje-me-shume-per-ndihmen-ligjore-falas-thote-shoqeria-civile/>

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.

Reporting

In this activity the aim is to make the exception to pay court fees simpler and quicker whereby taking into account that the fee structure is linked with the system of legal aid (activity 1.3.1) and the budget for the judiciary in total (activities 1.1.3, 1.2.2). Euralius delivered a draft law. It is currently discussed in the WG on financing. The new legislation generates a substantial increase in the budget of the Albanian state by levying higher court fees and fees for cases with substantial value and provides immediate legal aid for those parts of Albanian society that cannot afford to pay legal aid from own resources.

Currently the court fees have been fixed to a very low level of 200 ALL or 1 % in order to grant access to justice. With the proper new law on Legal Aid court fees can be levied to an extent as it is normally levied in other EU countries. According to this proposal rich applicants have to contribute more to the justice system. The court fees provide a kind of cross financing: Big cases have to earn more money for the court system even if the workload is not necessary bigger than for tiny cases. Fees are not a tax, but a financing instrument. This is the end of the 1% rule and requests a table based on value. Higher instances are more expensive for the state and the citizen.

If legal aid has been granted and the applicant wins the case, the losing party should pay the applicant's court fees. The new law draft proposes a list with new additional fees for additional services. If the court delivers a product, the beneficiary should contribute.

Euralius experts and counterparts

Team 1, WG in Ad Hoc Committee

Activities and timing

Activity delivered. Handling in Parliament and training are covered by activities 1.1.2. and 2.1.1.

Indicators for output

Draft law on court fees, draft law on legal aid (annex).

Result 1.4: Transparency of judicial proceedings is enhanced:

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

Reporting

The courts of Albania publish their court decisions on their websites. The presentation and search capability of the decisions vary in a number of ways:

- there is no free text search available;

- the number of keywords that can be searched is limited;

- there is no search option available for the publications of the HC;

- for the Tirana District Court two different websites have to be consulted, depending on the type of case (due to the use of ICMIS and ARK-IT court case management systems);

- the search option is not always platform independent, due to the use of Microsoft specific features;

- the decision is presented in different formats, not always in (different) versions of Microsoft Word;

- the protection of personal data is not standard practice. The anonymisation of court decisions is within the scope of the new maintenance contract for ICMIS case management system. The contract entered into force in the first days of November 2015)

- the relationship to the corresponding laws are presented informally; there is no reference to the official publication as published by the COP.

The COP is willing to support the consolidation of the various court decisions but does currently not have the budget for the development of such a system. Additionally, the COP publishing system does not provide a search functionality: the documents are published “as-is” and can only be found by going through the various menus. To improve this situation, the COP has started a cooperation with the Publications Office of the European Union, to exchange ideas, tools and knowledge on how to implement a comprehensive system for the publication of laws, regulations, court decisions as well as unifying decisions. The COP is very eager to cooperate with Euralius to come to a unified publication service.

An integrated approach towards publications of courts decisions is needed, taking into account the correlation between this Activity and Activities 1.7.5 and 2.3.2.

Euralius experts and counterparts:

Team 4, International MTE

Counterparts: Courts, MoJ, COP, Commissioner of Personal Data Protection

Activities and timing:

Until end of 2016:

Preparation of the concept of the Publication Service for Courts Decisions unifying all of these publications on one website

Analysis of the changes to legislation that would be necessary to enable the COP to publish court decisions

Support to the MoJ in implementation of removal from publications sourced by ICMIS system of personal data that is protected under the Data Protection Law (service contracted under the contract for ICMIS maintenance)

Induce the HC to assess and commence the process of removal from its publications of personal data that is protected under the Data Protection Law

Induce Tirana District Court to assess and commence the process of removal from publications sourced by Ark-IT system of personal data that is protected under the Data Protection Law

Search for the source of financing for a centralized publication service for court decisions.

2017: Elaboration of a solution, depending on the available IT systems

Indicators for output

The concept of the Publication Service for Courts Decisions prepared and reviewed by the counterpart institutions

Agreement of counterpart institutions for the need for a centralized publication service for court decisions

Report on the possible sources for financing for a centralised publication service for court decisions or other solutions for publications

Activity 1.4.2: Support the **Judicial Documentation Centre 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.**

Reporting

In the Inception period it became clear that the entity Judicial Documentation Centre is an archive repository. The judicial documentation in archives of the Courts will get a central storage for files older than eight or ten years. A new legal act on central archiving was established by the Ministry and a central archiving location in Lundër has been recently finished.

The beneficiary did not request to work with this department, which has no relevant functions in IT. A report on IT needs of the Judicial Documentation Centre has not been requested. If the assessment on storage problems for court files in archives should be requested, Euralius is ready to work on a deeper assessment of IT needs of the Judicial Documentation Centre. This activity is delivered if it is understood correctly.

We understood the activity that legal information in the MoJ and electronic databases become available. All judges, prosecutors and the staff of the ministry have internet and an official e-mail address. Consolidated versions of laws and link lists are available on the Euralius web-site. The transfer to the SoM, the ministry or another provider will be done after the end of the reform process at the end of the project within activity 1.4.1. The status of other electronic data bases at the SoM, MoJ is covered by activity 1.7.5., general IT activities by activity 2.3.3.

Euralius experts and counterparts

Team 4, Judicial Documentation Centre

Activities and timing

Activity delivered.

Indicators for output (if relevant)

Assessment of the judicial documentation centre delivered.

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).

Reporting

STE Dr Rathgeb delivered media training in the Court of Serious Crimes First Instance Tirana, the District Court of Durrës and the District Court of Kruja. Training subject has been the proactive media relationship. The Albanian judges showed interest in adopting the European approach by drafting clear guidelines on court-media relations based on a legal basis which still needs to be created.

The sub-group dealing with judiciary issues in the parliamentary Ad Hoc Committee is currently engaged in the drafting a new Law on court organization which is expected to provide the legal basis for the above mentioned guidelines.

Euralius is coordinating with EU/CoE project 'Support to efficiency and effectiveness of justice'.

Euralius experts and counterparts

Team 5 (media training), two international MTEs.

Counterparts: Group of trainers, MoJ (guidelines), SoM (sustainability). The continuation of the NJC became questionable within the ongoing reform process.

Activities and timing

Training of the trainers in media training (April 2016)

New law on court organisation, regulating media matters for the courts (June 2016)

Guidelines on court-media relations (until June 2016)

Indicators for output

Agenda court and media, Training Dr. Rathgeb (annex)

Agenda for training of the trainers and training materials

New law on court organisation, regulating media matters for the courts

Guidelines court-media relations

Result 1.5: Decisions taken by the High Council of Justice 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

Overall, the HCJ continues to be affected by the dismissal of the vice chair and was affected by several court decisions during the reporting period.

By decision no 36 dated 1 June 2015 the Constitutional Court decided on the request of the HCJ on the conflict of competence between the HCJ and the Assembly. According to the CC the HCJ was not able to argue, which of its competences have been violated or is hindered to exercise its functions as a consequence of the approved decisions of the assembly. The HCJ does not result to be competent for dismissing the members of the HCJ. Thus the CC considers the HCJ not to be legitimised to request the resolution of the conflict of competences, as there is no conflict between HCJ and Assembly as such. Furthermore the CC held the HCJ not to be legitimised to assess the constitutionality of the dismissal of a member by the Assembly.

On 1 July 2015 the AC of First Instance published the decision rejecting the appeal of Mr Lelcay, former member of the HCJ, against the **dismissal** decision of the Assembly. Mr Lelcay had not asked to be reinstated in the position as member of the HCJ, so the AC found that he has no legal interest in the decision and did not enter into the merits.

On 28 July 2015 the AC of First Instance issued the decision on the case against Mr Cefa, former vice chair of the HCJ. The court accepted the claim of Cefa to get salary payment until the end of his mandate in circa 2 ½ years, however the administrative act on his dismissal was not annulled.

The position of the vice chair is still vacant. Article 11(2) of the HCJ Law states that the 'Chairman shall convene and chair the meeting of the HCJ and cares for the implementation of the law during the conduct of meetings and taking of decisions'. On the other hand the HCJ Law assigns some specific tasks to the vice chair, for example the proposal for appointment of inspectors, or chairing the recruitment commission.

In regard to the right to propose candidates for appointment of inspectors the HCJ has taken the stance that the vice chair has just delegated power from the chair, thus in his/her absence the chair may substitute the vice chair. In case of chairing the recruitment commission however, the provisions of the Law on Judicial Bodies is applied according to which in absence of the deputy chair the most senior member of the collegial body has to substitute the deputy chair. The most senior member would be the chair of the HC. However, the HJC refers in this case the provision not to the HCJ as collegial body but to the respective recruitment commission. It is questionable whether this Commission is a collegial body in the sense of this law as it has no decision making power.

Article 13 HCJ Law determines the duties of the vice chair.

Article 13 (3) HCJ stipulates that the ‘Vice Chairman shall, at his absence or due to an impediment and with his authorization, replace the Chairman of the HCJ in the exercise of the functions specified in point 2 of Article 11 of this law’.

Article 13(2) lists other duties of the Vice chair, like following the day by day activity of the HCJ, organizing the preparatory work for the agenda and the normal conduct of the meeting of the HCJ and others.

Before this legal background it may be argued that the vice chair has delegated tasks (from the chair) and original tasks assigned to him as vice chair. If this interpretation is followed the vice chair would have to be replaced according to the Law on Collegial Bodies, so by the most senior member, i.e. the chair of the HC and not by the President.

A consistent interpretation of the law in this regard seems not yet to be established by HCJ.

Election of new members following end of term of sitting members

On 22 September 2015 the executive Council of the NJC in fulfilment of the constitutional duties has decided to call the meeting of the NJC on October, 26. The agenda had foreseen inter alia the election of four new members of the HCJ since the mandate of Mr Dritan Hallunaj, Ilir Mustafaj, Flamur Kapllani and Tritan Hamitaj terminated on 15 November 2015. The meeting was postponed to 14 December 2015. For such cases the mandate of the sitting members is extended based on Article 7(2) HCJ Law which foresees that in case a term of a member ends when the five years term is completed these members stay in office until the appointment of a new member.

New laws to be expected within the justice reform

In August and September Euralius continued to work on a sketch of a draft law on self-governing bodies and on the status of judges and prosecutors which reflect previous work done in consultation with stakeholders, the UAJ, the judges Association and the NJC. The prospective law on the status will provide a legal framework for the recruitment, appointment, 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 objective and merit based, that judges and prosecutors are incentivized throughout their career to perform well and the system allows more flexibility.

Furthermore in October Euralius MTE Greenberg contributed to the work on the sketch of the new law on the self-governing bodies in the justice system, providing a new

legal basis in line with the constitutional amendments for the High Judicial Council, High Prosecutorial Council, High Inspectorate, Disciplinary Tribunal and the Justice Appointment Council. The new Inspectorate would be in charge of investigating judges and prosecutors and inspect courts and prosecution offices. This would allow to overcome institutional overlaps between inspection by MoJ and the HCJ's Inspectorate.

This preparatory work aimed at smoothing the third phase of the reform.

Midst of October the third phase of the reform was started, in which the new law drafts shall be elaborated in compliance with the constitutional changes. In the area of the judiciary the elaboration of two laws is envisaged by the end of 2015, i.e. the law on the status of judges and prosecutors and the law on the self-governing bodies. By end of February the first draft law on court organisation shall be elaborated.

In October and November several meetings of the law drafting groups were held and two meetings with the think tank group, which includes a wide range of stakeholders who are consulted throughout the process of drafting the law.

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.

Reporting

Euralius was asked to comment a draft decision of the HCJ on circular decisions (see annex). Euralius found that the law does not provide a sufficient legal basis for the adoption of a sub-legal act aiming at establishing a decision making procedure by written consent. Euralius recommended not adopting a respective sub-legal act. The HCJ was advised to consider addressing this issue to the legislator and proposing the introduction of a respective legal basis.

Furthermore, Euralius was involved in the revision of the HCJ decision on the distribution of cases by lot (see annex). Euralius put forward respective recommendations, which propose in particular to make the use of ICMIS obligatory, to ensure proper monitoring and establish transparency mechanisms for the case assignment and establish rules for the case when the electronic case management system is not functional.

Euralius team and counterpart

Team 2, law drafting groups in Parliament

Activities and timing

Activity 1.5.1. is partially delivered.

Delivered:

A constitutional draft revises completely the composition and jurisdiction of the HCJ. A draft of the law on the status of judges and prosecutors provides clearer criteria and procedure for the decision relating to the status of judges.

Ongoing:

The finalisation of the following draft will be regarded as delivery of this activity:
A draft of the law on the self-governing bodies

WG meetings of the law drafting group on the law on self-governing bodies (each Wednesday and Friday afternoon from November to end of December 2015)

Think tank group meetings for receiving comments to the law on self-governing bodies (beginning of November, end of November, midst of December 2015)

Elaboration of an explanatory note (by end of December 2015), consultations.

Indicators for output

Comment to draft decision of the HCJ on circular decisions (annex)

Comment to the revision of the HCJ decision on the distribution of cases by lot (annex)

Consultation/ roundtables agenda

Draft Law on self-governance bodies in justice system

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

Reporting

Transfer and promotion

There is a concern that 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 the meeting on 10 July 2015 the Chair, representing the vice chair, proposed out of a list of 10 candidates for the position of inspector one candidate though three position are open. The Chair did not reason why he chose exactly this candidate and why he did not propose other candidates for voting. There was no discussion within the HCJ on the merits and qualification of the candidates.

The draft law which is currently under elaboration intends to address these issues.

New magistrates appointed

In the HCJ meeting of 18 September 2015 the proposals to the President for the appointment of candidate magistrates who have completed the SoM in 2014 were adopted. The 10 candidates were assigned to vacant court positions in courts of first instance, following the preferred options indicated by the candidates in the order of the ranking by the SoM.

Internship for students of Magistrates School

Furthermore eight candidate magistrates who have completed the second year of the course at the SoM in June 2015 were assigned to internship positions in courts.

There is no uniform understanding of the purpose of the internship. Some members believe that the purpose is the further training, thus they should be assigned to courts where there is a wide spectrum of cases and several chambers established. Others believe that the internship should serve the purposes of the courts and therefore candidate judges should be assigned to courts with the highest caseload and the candidate judges should serve as judges.

It is recommendable this issue to be clarified in the status law, which should make clear that the purpose of the internship is the further training of the candidate and should determine a frame and criteria for the decision of the HCJ.

Euralius team and counterpart

Team 2, HCJ, WG in Parliament

Activities and timing

WG meetings of the law drafting group on the law the status of judges and prosecutors (each Tuesday and Thursday afternoon from November to end of December 2015)

Think tank group meetings for receiving comments to the law on the status of judges and prosecutors (beginning of November, end of November, midst of December 2015)

Elaboration of an explanatory note (by end of December 2015)

Holding Consultation roundtables (by midst of January 2016)

Delivering draft law to Ad Hoc Committee (by midst of January 2016)

Indicators for output

List of WG/think tank meetings

Consultation /roundtables agenda

Draft new law on status elaborated

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 Memorandum of Understanding) for the overlapping inspectorates.

Reporting

This activity already has been partially delivered.

In June 2015 the HCJ started an accelerated procedure of performance evaluation was started for 8 judges who have applied to compete for 12 vacant positions and do not have any professional and ethical evaluation.

The second round of evaluation for the years 2007-2009 is expected to be finalised by the end of the year. It is not clear whether a new round of evaluation will be started based on the currently applicable legal framework or the adoption of the new law on the status, which provides for new provisions, will be awaited.

The CoM did not forward the draft law elaborated by Euralius and is waiting for the reform process. Euralius follows the matter and includes the subject in the new law on the status of judges and prosecutors.

EURALISUS experts and counterparts

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

Activities and timing

WG meetings of the law drafting group on the law the status of judges and prosecutors (each Tuesday and Thursday afternoon from November to end of December 2015)

Think tank group meetings for receiving comments to the law on the status of judges and prosecutors (beginning of November, end of November, midst of December 2015)

Elaboration of an explanatory note (by end of December 2015)

Holding Consultation roundtables (by midst of January 2016)

Delivering draft law to Ad Hoc Committee (by midst of January 2016)

Indicators for output

WG meetings held, think tank group meetings held

Consultation roundtables held

Draft new law on status elaborated

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

Reporting

Suspension of judges/decisions on lifting the immunity

On 2 June 2015 the HCJ suspended Mr. Qani Hasa from duty as judge of the first instance court of Elbasan. The judge is accused of committing “Refusal to declare, non-declaration, concealment or false declaration of assets” and “passive corruption”. The Tirana court, on 8 May 2015, had already suspended the judge from exercising his duty.

On 5 June 2015, the HCJ granted in an extraordinary plenary meeting convened due to a confidential request of the General Prosecutor the authorization to arrest, and for personal and premises search of a judge based on Article 21 (1) of the HCJ Law. The judge of the First Instance Court of Saranda, Mr. Rasim Doda, was indicted by the Serious Crime Court for “passive corruption of the judges, prosecutors and other officials of the justice bodies/system”, pursuant to Article 319/ç of the Criminal Code.

On 13 June 2015 the HCJ authorized the arrest of judge Pareshqevi Ademi, first instance court of Kurbin. The judge was arrested on 11 June together with a lawyer being captured in flagranti while giving/taking a bribe. The request was submitted to HCJ by the General Prosecutor on Friday, 8.30, based on Article 21(1) of the HCJ Law.

In this meeting some members claimed that the General Prosecutor had not submitted evidences together with the report of the prosecution office while this would be needed for the decision of the HCJ. Other members considered this not necessary as the HCJ does not need to assess the lawfulness of the arrest.

It was decided to establish a WG which elaborates a legal opinion on this matter and to ask Euralius for an opinion.

Euralius elaborated an opinion on this issue (see annex), by stating that though Article 21 (1) of the HCJ Law does not spell out criteria a teleological interpretation could be applied. Such an interpretation provides arguments for understanding the role of the HCJ as not being competent to review the lawfulness of the arrest. As a rule the HCJ should authorize the lift of the immunity. Only in cases where there are manifest indications of a false accusation with the intention to ‘punish’ a judge for an opinion expressed and decisions taken in the exercise of their judicial function, the HCJ may refuse the authorization. Furthermore, according to Article 288 CPC the request submitted by the prosecutor for authorization shall be supported by a report where the prosecutor presents the evidence and legal grounds for the request filed. As the HCJ has to decide only on whether the arrest is related to the judges’ judicial function, this provision is considered appropriate.

On 6 November 2015 the Serious Crime Court issued the decision foreseeing four years of imprisonment for the judge Parashqevi Ademi as well as for the lawyer Gjovalin Ndokaj for a corruption offence. It should be noted that against judge Parashqevi Ademi a disciplinary issue was decided in March 2015, which led to no sanction. The inspection service of the Ministry had found out that the judge had violated the law in the proceedings in reviewing a request of granting an extradition from Albania to Italy. The Minister had asked for the dismissal of the judge as a disciplinary measure. The HCJ decided that the request of the Minister has not respected the deadline of 1 year, as foreseen in Article 34 (2) of the JP Law, and thus to reject the request to initiate a disciplinary proceeding.

Disciplinary proceedings

The HCJ had foreseen in the agenda of its 19 June and 10 July meetings four disciplinary proceedings against judges. Due to the absence of the Minister this issue was postponed. Also requests of the Minister of Justice to initiate the disciplinary proceeding against 10 judges of the beginning of October are not on the agenda yet.

This seems to be a problem in regard to Article 33(2/1) of the HCJ Law which provides that the 'examination of the disciplinary proceedings takes place within one month from the date the respective documentation is deposited by the Minister of Justice with the HCJ.'

The HCJ seems to justify the postponement of the deliberation with the absence of the Minister. According to Article 34 JP Law the Minister of Justice has the right to start a disciplinary proceeding against judges in the HCJ. According to Article 31(2) HCJ Law at the conclusion of the inspection and on the basis of the results of the inspection, the Minister of Justice proposes disciplinary proceedings against judges before the HCJ and deposits the respective documentation with the HCJ. Article 33(2) HCJ Law provides that at the beginning of a meeting in which a disciplinary proceeding is conducted, 'the Minister of Justice or, as appropriate, the Vice Chairman is heard, who sets out for the HCJ the reasons for the proceedings. From this it appears that the Minister does not necessarily need to be present at the HCJ meeting as long as he requested the initiation of the proceeding and as he deposited respective documentation at the HCJ. He might be represented by the Vice chair.

In another disciplinary case the HCJ had to reconsider the disciplinary sanction of dismissal because of not meeting deadlines. The dismissal decision of the HCJ was repealed by the HC, as the HCJ had not considered the fact that the judge had a serious illness. In the plenary meeting the medical experts were heard. The HCJ decided to postpone the deliberation on the issue. This case makes clear that there are not sufficient rules in place on how to deal with health issues of judges. It seems inappropriate to consider this under the aspect of discipline.

Euralius experts and counterparts

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

Activities and timing

This activity is partly delivered. Delivered:

All judges and prosecutors of all levels and all members of the HJC become disciplinary liable according to the draft constitutional amendments.

The competent body for the determining the disciplinary liability of members of the HJC shall be the disciplinary tribunal.

Ongoing:

WG meetings of the law drafting group on the law the status of judges and prosecutors (each Tuesday and Thursday afternoon from November to end of December 2015)

Think tank group meetings for receiving comments to the law on the status of judges and prosecutors (beginning of November, end of November, midst of December 2015)

Elaboration of an explanatory note (by end of December 2015)

Holding Consultation roundtables (by midst of January 2016)

Delivering draft law to Ad Hoc Committee (by midst of January 2016)

Indicators for output

WG meetings held

Think tank group meetings held

Consultation roundtables held

Draft new law on status elaborated

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.**

Reporting

The envisaged law on the self-governing bodies shall contain also a respective obligation of the Council to adopt a zero tolerance policy regarding corruption, extend such policy to the courts and establish internal control standards.

Euralius experts and counterparts

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

Activities and timing

WG meetings of the law drafting group on the law on self-governing bodies (each Wednesday and Friday afternoon from November to end of December 2015)

Think tank group meetings for receiving comments to the law on self-governing bodies (beginning of November, end of November, midst of December 2015)

Elaboration of an explanatory note (by end of December 2015)

Holding Consultation roundtables (by midst of January 2016)

Delivering draft law to Ad Hoc Committee (end of January)

Indicators for output

Sketch of a new law on self-governing bodies, which includes an obligation of the Council to adopt a zero tolerance policy elaborated.

WG meetings held

Think tank group meetings held

Consultation roundtables held

Draft new law on status elaborated

Result 1.6: Efficiency of the High Court:

Activity 1.6.1: Provide assistance to the High Court in improving its internal organizational 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.

Reporting

The EU/CoE Project 'Support to the Efficiency of Justice' has supported – inter alia – the HC in the frame of the court coaching program on SATURN. More specifically, the 15 Saturn Starting Priority Guidelines, judicial time management and quality tools were delivered for the HC already in 2014. A number of key documents relating to CEPEJ and CEPEJ/SATURN tools were translated and disseminated to the HC.

These include: (checklist for promoting the quality of justice and the courts; checklist on time management. Guidelines for a better implementation of the existing CoE recommendations on enforcement; Length of court proceedings in the member states of CoE based on the case law of the European Convention on Human Rights – Calvez Regis report; Handbook for conducting satisfaction surveys aimed at court users in CoE Member States. SATURN Guidelines on Judicial Time Management 2009; SATURN Guidelines on Judicial Time Management 2011; SATURN 15 Guidelines on Judicial Time Management 2012; Saturn Guidelines on Judicial Time Management 2013) and methodology (including the Court Satisfaction Surveys study and mechanism).

The EU/CoE project team closely follows the implementation of these tools. During the coaching programme information was collected on any tool or method that was used in the court with a view to increasing efficiency, preventing delays and excessive length of proceedings and reducing court's workload. Court statistics were carefully collected and examined in order to understand the flow of cases in the court (incoming cases, pending cases and backlog), the way cases were allocated, addressed, handled and concluded by the judges and judicial staff, including the way the parties and the public were notified of the decisions/judgments. Public access to the courts, to court decisions and services were discussed as well, with particular focus on the systems that were in place to ensure all the above. Insight was gained on the relations between the court and the media.

After the coaching sessions a technical report was prepared and discussed with the court. The emphasis of the discussions was on the implementation of specific recommendations and improvements in line with the SATURN guidelines. In 2015 the projects experts assessed also the current level of implementation of the SATURN

Guidelines on judicial time-management and came up with a number of recommendations.

In the frame of these activities the courts were inter alia invited:

- a) to set targets or plan the length of judicial proceeding for the different types of cases,
- b) to monitor the deviations between targets or plan and effective duration,
- c) twice a year to list all cases registered since more than two (or at the beginning three) years and to explain briefly why the duration exceed two (or three) years, and
- d) to examine periodically if the targets or the plan are still adequate for improving the court's performance'.

The CoE project will by the end of 2015 have another follow-up meeting with the court in order to see the degree of implementation of some of the agreed recommendations.

The most important measures which have had and are expected to have positive impact on the work of the HC, are as follows:

1. At institutional level, several organizational measures have been taken, with a view to quickly and effectively address the problem of backlog accumulated over the years.

In this regard, by order of the President of the HC, judicial bodies were set up composed also of judges of the Criminal and Administrative Chambers, who, during the months of May - June 2014, would, in addition to the Civil Chamber, adjudicate with priority all unfinished civil cases of year 2010 (a total of 240 cases). Within this period, almost the entire volume of these cases was evaded by the backlog of the HC.

These measures are taken in parallel to other actions taken by the HC to reduce backlog of cases, like the filling of the corps of legal assistants, adjudication of cases based on chronological order, setting a monthly norm of cases to be prepared by the legal assistants, internal organizational changes etc. As a result of taking such measures, the judicial corps has already begun the adjudication of civil cases of 2013, criminal cases of 2014, and administrative cases of 2013.

2. As a result of structural changes to the HC in July 2014 Internal Rules of Procedures of the HC were adopted, which clearly define duties and responsibilities for all the categories of officials at the HC.

3. The changes introduced recently to the legal framework on adjudication of administrative matters raised the need to improve the court case management system (ICMIS) with these changes. The completion of the system analysis and

issuing of the relevant recommendations by the WG set up for this purpose was followed by the procurement and procedures of selection of the operator of the information technology to perform the technical interventions in the system. Currently, the system is operational and functions divided according to respective chambers.

4. In addition, in the framework of cooperation with the SoM, in the premises of the HC, a seminar was conducted with a judge of the AC of Appeal of Nimes (France), with whom judges and legal assistants exchanged ideas and experiences regarding the adjudication of administrative cases.

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 HC in the procedure laws (activity 3.1.1. CPC, activity 4.2.2. civil procedure code). The proposed new court fee system (activity 1.3.3.) makes it less attractive to go without good reason to the last instance.

Euralius experts and counterparts

Team 4 (organisation, backlog, short term perspective); Team 1 (law reform), Team 2 (law drafting); counterparts: HC and the Assembly (for potential legal amendments)

Activities and timing

The activity is delivered. The HC introduced successfully organisational measures in order to reduce the backlog. The constitutional draft and the draft CPC does not foresee any more the original jurisdiction. The draft CPC introduces filters for cases admissible at the HC.

Further rules on the filters and other legislative measures are envisaged to be introduced in the other procedure codes. As these codes are referred to in other activities (3.1.1. and 4.2.2.), this activity is considered to be delivered.

Indicators for output

Statistical data for the HC (see annex)

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.

Reporting

The constitutional amendments foresee a new appointment scheme for judges of the HC, 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 an area needed at the HC. In compliance with this the draft law on the status of judges and prosecutors foresees the inclusion of judges of the HC under the umbrella of the Judicial Council. The draft law aims at establishing a maximum number of judges that may be appointed from the ranks of jurists who are not judges and clear cut restrictive criteria.

Eurailus experts and counterparts

Team 2, counterpart: HC, Assembly

Activities and timing

The activity is partly delivered.

Delivered: The draft of the constitutional amendments provides for a different appointment process, making the HC a career court under the umbrella of the HJC.

Ongoing: The new draft law on the status establishes the criteria and procedure for the nomination and appointment of judges of the HC.

WG meetings of the law drafting group on the law the status of judges and prosecutors (each Tuesday and Thursday afternoon from November to end of December 2015).

Further activities are: Think tank group meetings (December 2015), Elaboration of an explanatory note (by end of December 2015), Holding Consultation roundtables (by midst of January 2016 and delivering draft law to Ad Hoc Committee (by midst of January 2016).

Indicators for output

Draft constitutional amendments (annex)

WG, think tank and consultation meetings held

Draft of a new law on status elaborated, which contains criteria and procedures for the appointment of HC judges elaborated

Activity 1.6.3: Provide assistance to the High Court in preparing and implementing a comprehensive program 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 program.

Reporting

This activity had been delivered in the previous reporting period

(The HC published documentation containing unifying decisions for the years 2000 – 2014)

Euralius experts and counterparts

Experts: Team 4, input team 1,

Counterparts: HC

Activities and timing

No additional activities

Indicators for output

Unified decisions published (done)

Result 1.7: Judicial cooperation among stakeholders of the Albanian justice system and international partners.

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

Reporting

The strategy of the reform adopted in principle by the Ad Hoc Committee foresees in chapter II, the objective 1 related to increasing access and effectiveness in the judicial system through the reorganization of courts in accordance with European standards. This objective was set based on new administrative landscape in Albania due to the entry into force of law no. 115/2014 'On administrative –territorial division of local units'.

The GHLE sees the necessity of a territorial reorganization in such a way as to guarantee citizens' access to this service, effectiveness of judicial services, increased speed of adjudication, effective control of legal and factual violations of lower courts by the higher ones and the proportionate distribution of average caseload per court and per judge.

Within the justice reform a new law on court organization is planned. This law shall establish the rules on the territorial reorganization and determine the court structure. Based on two studies carried out by former Euralius projects and CEPEJ Guidelines on the Creation of Judicial Maps to Support Access to Justice within a Quality Judicial System the MoJ is currently providing support in collecting relevant data.

Euralius experts and counterparts

Team 1, input Team 2 and 4;

Counterpart: Ad Hoc Committee with WGs, MoJ (Mr. Pasho)

Activities and timing

Euralius will continue to follow the pace of the reform and the lawmaker. In the upcoming six months Euralius will therefore focus on assisting the reform process regarding the re-organization of the court system.

WG meetings of the law drafting group on the law on self-governing bodies (two afternoons a week from January to February 2016)

Think tank group meetings for receiving comments to the law on self-governing bodies (beginning of January, end of January, midst of February 2015)

Elaboration of an explanatory note (by end of February 2016)

Holding Consultation roundtables (by midst of February 2016)

Delivering draft law to Ad Hoc Committee (end of February 2016)

Indicators for output

Analysis of the Ad Hoc Committee (completed)

Strategy on justice reform and action plan (approved in principle)

Meetings with HCJ and MoJ counterparts in order to discuss issues in regard to judicial map

WG meetings held

Thank Tank group meetings held

Consultation meetings held

Draft law on court organization (upcoming until June 2016)

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.**

Reporting

The constitutional draft foresees a new institution: an Independent Inspectorate 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.

Euralius experts and counterparts

Team 2, WG in Parliament, HCJ

Activities and timing

The activity is partly delivered. The new draft of the constitution creates one single, independent inspectorate. The law on the self-governing bodies will provide the legal framework for the organisation and functioning of the unique Inspectorate. It includes:

WG meetings of the law drafting group on the law on self-governing bodies (each Wednesday and Friday afternoon from November to end of December 2015)

think tank group meetings for receiving comments to the law on self-governing bodies (beginning of November, end of November, midst of December 2015)

Elaboration of an explanatory note (by end of December 2015)

Holding Consultation roundtables (by midst of January 2016)

Delivering draft law to Ad Hoc Committee (end of January)

Indicators for output

Sketch of a new law on self-governing bodies elaborated, which foresees one single inspectorate

WG meetings held

Thank Tank group meetings held

Consultation meetings held

Draft law elaborated

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.

Reporting

This activity is postponed till 2017 when results of current activities by CoE/CEPEJ and OSCE in the area of trial monitoring become available.

It is planned that the trial monitoring system will be an integral part of the future court management system. The current status quo of this system and proposed future steps are described under Activity 2.3.2.

Euralius experts and counterparts

Team 4, input team 2, international MTE Trial monitoring

Counterparts: HC, other Courts, HCJ and the MoJ

Activities and timing

Monitoring of the status of the support provided by CoE/CEPEJ and OSCE in the area of trial monitoring (first half year of 2017)

Subsequent activities are dependent on the results achieved by CoE/CEPEJ and OSCE in the area of trial monitoring. This activity is postponed until 2017, when results of current activities by CoE/CEPEJ and OSCE in the area of trial monitoring become available. The result is expected for November 2017.

Indicators for output

Trial monitoring system in place

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.

Reporting

There is a marked need for providing IT support for processing of Mutual Legal Assistance (MLA) cases with abroad. The cases are handled by the Sector of Interjudicial Cooperation of MoJ and by the Department for International Cooperation of GPO. MoJ estimates the current number of cases at 8 000 per year, expected to grow to 14 000 in the near future.

In second half of September 2015, MoJ started the development of an IT system supporting the internal operation of its Sector of Interjudicial Cooperation with regards to the MLA. Simultaneously, Mr Eric Vincken, Project Manager International of the EU Project „International Cooperation in Criminal Justice: Prosecutors’ Network in the Western Balkans” confirmed that his project would support financially inclusion of the GPO to the above mentioned system. If successful, newly developed system would provide comprehensive IT support for MLA processing.

Currently Team 4 is assisting the “Sector of Interjudicial Cooperation” of MoJ in guiding the development of the new system.

Once MoJ and GPO decide on inclusion of GPO in the new system, these support activities will be extended with helping with specification of the legal terms and conditions on which both institutions will be using the system, specification of the technical requirements for system extensions, support during system procurement, design, development, testing, implementation, data migration, acceptance and hand-over.

New instruments for international judicial cooperation, including electronic applications and tools, will become available with Albania’s membership in EUROJUST. Full membership will be possible only upon the country’s accession to the EU. In the intermediary period, it is the intention is that a Cooperation Agreement will be established between EUROJUST and Albania, making it possible to have an Albanian observer at EUROJUST. This process will be facilitated by EU Project „International Cooperation in Criminal Justice: Prosecutors’ Network in the Western Balkans”. Another project, International Cooperation in Criminal Justice: the prosecutor’s network of the Western Balkans. Team 4 established working contacts with the Seconded Prosecutor and the National Legal Officer working for this project in Albania.

On 15 June 2015 upon the request of EUD, Euralius liaised and organized a meeting with representatives of GPO, MoJ, and Data Protection Commissioner. The meeting

aimed at knowing the current state of play concerning the signature of the operational agreement with Eurojust. Until now some obstacles have been faced and this process has not been finalized yet due to the fact that the Office of Data Protection Commissioner hadn't appointed yet a representative from this institution as a contact point, a request to be fulfilled in order to sign the agreement. GPO and MoJ had already appointed the respective contact points and fulfilled all the obligations concerning data protection within Eurojust.

MoJ prepared the draft-agreement with Eurojust and took as an example the Croatian Model as the resent and newest one.

In the meeting it has been pointed out by the representatives from the Office of Data Protection Commissioner that this institution was not aware of the latest developments on Eurojust and the progress of this process but it was expressed the will to resolve the issue duly. Following this meeting in the framework of signature of the Operation Agreement with Eurojust, the Office of Data Protection Commissioner appointed officially the contact point and committed to be involved in a full contribution in this process (in addition to their previous contribution).

Euralius experts and counterparts

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

Courts, MoJ, GPO

Activities and timing

Ongoing assistance in implementation of MLA case management system within MoJ

Facilitation of agreement between MoJ and GPO on inclusion of GPO in the MLA case management system, if agreement reached specification of the technical requirements for system extensions and support during system procurement, design, development, testing, implementation, data migration, acceptance and hand-over (till 31 May 2016)

Observe status of Albania to EUROJUST.

Workshops on how to facilitate exchanging information on prosecution with foreign prosecutor's office within the framework of Eurojust, planned to be held in three Albanian cities (Gjirokastra, Tirana, Korça) 2017

Indicators for output

MLA case management system operational in MoJ till end of 2016

GPO included in MoJ's MLA case management system till Nov 2017 (subject to an agreement reached by GPO and MoJ)

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.

Reporting

Investigation conducted in 2nd Quarter 2015 by Team 4 revealed that the mentioned international legal data bases (e.g. Lawtel, Westlaw, etc) were not very relevant for the Albanian context. As the temporary approach to lower cost alternatives, links to European sources of legal information, such as EUR-Lex were provided on Euralius web pages.

In the long term, a lower cost alternative could be based on the new publication system that COP is willing to establish in the near future. However, COP's efforts are hindered by the lack of adequate financing. During the next reporting period, Team 4 intends to explore feasibility of such an approach.

Euralius experts and counterparts:

Team 4, input team 1, one International MTE

SoM, MoJ, Courts, Prosecution Offices, Police, COP, OAJB

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 (ongoing)

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)

Library with internet access in MoJ established (June 2016)

Indicators for output:

E-mail addresses are available for all staff members (delivered)

Internet connections to courts improved (end of 2016)

Better access via internet to legal data bases for judges, prosecutors, the SoM, the MoJ and law enforcement bodies is established (Nov. 2017)

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 School of Magistrates 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

Euralius is – constantly – in close contact with the Director of the SoM and the permanent academic and administration staff of the SoM.

The SoM is also affected by the ongoing judicial reform process mainly in two aspects. One concerns the SoM and the law on the SoM directly.

The SoM 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 SoM. The SoM will though of course be affected by other measures foreseen in the judicial reform, e.g. the planned changes in the administration of the justice system. These side effects should though even further enhance the quality of education offered by the SoM and solve some of the identified problems. Other planned measures that will directly affect the Law on the SoM serve the purpose of even further consolidating the achievements of the SoM hitherto. This concerns in particular the planned update of the training methods, assessment and certification of professional qualifications during the initial training of magistrates, the planned development of more specialised trainings and the potential expansion of the training activities of the SoM for other key professionals like state advocates, advisers to the HC and the judicial administration. All these issues should – according to the present planning – be addressed in the third phase of the justice reform. The planned outcome is a law draft amending the Law on the SoM in these points. This law draft should be passed by Parliament in summer 2016.

The other concerns the SoM (as well as the other legal professions) indirectly.

The strategic discussions within the justice reform process have identified the necessity of the introduction of a state exam for lawyers.

This strategic decision has already been accepted and – partly – implemented by the Albanian Parliament. Article 82 of the (new) Law on Higher Education and Scientific Research in the Institutions of Higher Education in the Republic of Albania, No. 80/2015 of 22 July 2015, which entered into force recently, foresees already the introduction of a state exam for lawyers and some core elements of this legal instrument.

The drafting group legal education of the Ad Hoc group in Parliament is tasked with the drafting, consulting, finalization and presentation to the Albanian Parliament of a (new) draft Law on the State Exam for Lawyers. In September and October 2015 Euralius INT 5 has drafted a first draft for this law and disseminated it to the co-chairs for consultation. This draft is at present under consideration and should be passed by Parliament in summer 2016.

From a teleological point of view this measure seems to be one of the most suited ones to achieve the necessary quality assurance mechanism for the law market through the introduction of a central, transparent, objective, corruption and irregularity free and unified examination organised by an independent examination board. The value of Albanian law degrees will thus be enhanced and the way for mutual recognition with other European countries opened. Further on it will contribute to secure a high minimum standard level of knowledge and understanding of the law and the legal and institutional system of the Republic of Albania. This applies at least for those law graduates who want access to the legal professions of judge, prosecutor, advocate, notary, state advocate and state or private bailiff as well as for a professional career in the central and local public administration of the Republic of Albania.

The introduction of a state exam for lawyers fits also in the already existing legal system in Albania: According to the Law on Regulated Professions in the Republic of Albania, No. 10 171 of 22 October 2009, a number of regulated professions (medical doctors, dentists, pharmacists, nurses, midwives, physiotherapists, veterinarians, architects, engineers, teachers, social workers and psychologists) have to pass a state exam to access the relevant market. This was one of the – pre-existing – Albanian models.

In case this draft Law on the State Exam for Lawyers will be adopted, it will – besides many other legal professions – of course also affect the SoM and will have to be considered when amending the Law on the SoM.

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.

Reporting

Since this activity is to be carried out in close coordination with the ongoing EU/CoE project to avoid any overlapping and eventual contradictory or conflicting approach Euralius in in close contact with the Eu/CoE project manager.

According to the information provided to Euralius by the EU/CoE project manager the initial and continuous training offered by the SoM is falling within the sphere of the ongoing EU/CoE project insofar as it is connected with the overall project aim of efficiency and effectiveness of justice.

A conclusive report of the EU/CoE project is still in the process of final drafting. The delimitation line between this activity and the EU/CoE project will become substantially clearer once the findings of this report are known, Euralius has agreed with the EU/CoE project manager that Euralius will receive this report as soon as a final draft is available. Further on ongoing close coordination between Euralius and the EU/CoE project has been agreed.

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

Activities and timing

Assessment of the final draft of the EU/CoE project when available.

When and insofar it can then be established that there is still need for a Euralius activity, Euralius will – in close coordination with the EU/CoE project and the Lord Slynn Foundation - revise the training curricula for judges and the HCJ's inspectors in the second half of 2016 and deliver the necessary training modules in 2017.

Indicators for output

Draft Law on State Exam for Lawyers (annex)

Assessment EU/CoE project (if applicable training needs, training program, training materials)

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).

Reporting

Euralius has discussed – in connection with the delivery of activities 4.1.3 and 4.1.4 in September 2015 with the scientific staff of the SoM the eventual necessities or requests of the SoM to Euralius with regard to activity 2.1.2.

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.

A conclusive report of the EU/CoE project is still in the process of final drafting. The delimitation line between this activity and the EU/CoE project will become substantially clearer once the findings of this report are known, Euralius has agreed with the EU/CoE project manager that Euralius will receive this report as soon as a final draft is available. Further on ongoing close coordination between Euralius and the EU/CoE project and the Lord Slynn Foundation has been agreed.

Euralius experts and counterparts

Team 5, eventually: one international MTE (4 weeks for training programs on international legislation) and additional MTE or STE to provide trainings on specific subjects. Counterpart is the SoM

Activities and timing

Assessment of the final draft of the EU/CoE project when available.

When and insofar it can then be established that there is still need for a Euralius activity, Euralius will – in close coordination with the EU/CoE project and the Lord Slynn Foundation - revise the training curricula in the second half of 2016 and deliver the necessary training modules in 2017.

Indicators for output

Assessment EU/CoE project (if applicable training needs, training program, training materials)

If and insofar not covered by the EU/CoE project: Training delivered

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

Reporting

Euralius has assisted the SoM – on the request of the SoM – between June 2015 and September 2015 in the preparation of the new procedures for the admission to the SoM in compliance with the amendments of the Law on the SoM regarding the preparation and implementation of the new mental and psychological health testing of candidates for the SoM.

Euralius was participating and supporting the SoM in June, July and August 2015 in the development of the testing and in the meetings of the ‘Commission for the drafting of the questions of the psychological and psychiatric health testing in the entrance competition for the academic year 2015-2016’ in the SoM. The SoM followed the advice of Euralius with respect to the adoption of the PSSI test for the written part, did though not follow the advice to introduce the IST 2000 and the Wiener Matrizentest. Euralius helped the SoM in the adaptation process of the PSSI and in securing the necessary copyright license as well as in the necessary pretesting of the PSSI with students of the School of Advocates in July 2015. Euralius and STE Professor Renner further on supported and monitored the first mental and psychological health testing in the framework of the entrance examination in September 2015. A report on this testing with conclusions on eventual future improvements has been prepared and disseminated.

This part of this activity has thus been delivered for 2015.

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. Counterpart is the SoM.

Activities and timing

The project team will assess 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 (starting April 2016);

The project team will assess in the first half of 2016 the process of the selection and revision of the curricula with regard to its transparency and clearness in close co-ordination with the EU/CoE project, assist in the eventual improvement of selection procedures and monitor eventual selection processes;

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 2016 and – eventually 2017 – in this improvement for future tests and monitor them.

Some of the results of the assessments might already feed into the drafting of the amendments to the Law on the SoM (expected until June 2016).

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 (annex)

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

Assessment report on procedures for selection and revision of curricula 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

Eventually: Draft Law on the amendments to the Law on the SoM or amendments to the SOM Regulation containing a change of the sequency (psychological testing at a later stage with less candidates and (clearer or more substantial) rules on the transparent and clear selection of professors and curricula for the SoM

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

Reporting

Euralius is – within the justice reform process – also participating in the WG dealing with financial implications of the justice reform. In this context Euralius is also trying to secure – inter alia – sufficient means for the SoM. The budget calculation of the strategy 2016-2020 includes the budget of the SoM.

The further implementation of this activity will thus depend massively on the ongoing justice reform process which is scheduled until summer 2016.

Euralius experts and counterparts

Team 5, input from team 1. Counterpart SoM, eventually MoJ and Ministry of Finance

Activities and timing

The budgetary needs and performance of the SoM, the donor coordination activities and the donor activities will be evaluated in the first half of 2016, probably in May.

The SoM will be assisted within the framework of the justice reform process to ensure necessary financial means to facilitate initial and continuous training in line with EU standards and supported in ensuring sufficient budget (until June 2016)

The SoM will be assisted to ensure necessary financial means to facilitate initial and continuous training in line with EU standards (second half of 2016 and 2017)

The SoM will be assisted in updating their donor coordination strategy and supported in ensuring sufficient budget (sustainable approach, 2017).

Indicators for output

Action plan of the Parliament with budget lines (annex)

Budget calculation judiciary with SOM (2015) – excel calculation sheet (annex)

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

Eventually: Donor coordination strategy updated

Eventually: SoM's own budget increases, donor contribution decreases

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.

Reporting

In August 2015 the SoM has – based on Art. 6 of the Internal Regulations of the SoM (Annex 36 to the first progress report) – established an administrative commission for the entrance examination (the electronic testing and the professional testing) for the entrance exam in fall 2015. Euralius INT 5 has been invited to be part of this administrative commission together with Director of the SoM and another national member. Euralius has – with the agreement of EUD – accepted this invitation to support in this way the credibility of the entrance exam and to support the “zero tolerance” policy of the SoM.

Euralius was also requested by the SoM to assist with two or three representatives to monitor the entrance examination in fall 2015. Euralius has supported the SoM with the requested monitoring activity. The TL, INT 5 and two national experts have fully monitored this entrance exam and reported about this activity.

The results of the professional testing can be appealed internally. However, nobody developed the idea that the evaluation of the test might also be controlled by ACs, possibly with a reduced assessment standard. This is a common problem of administrative law. This problem is left to be clarified by the jurisprudence of ACs.

Euralius experts and counterparts

Team 5, input team 3. Counterpart is the SoM.

Activities and timing

The first part of this activity has been delivered for 2015. In case support is requested by the SoM for the entry exams, probably June 2016 and 2017, Euralius will again undertake to support the SoM in this respect.

The implementation of this activity is evidently dependent on the results of the ongoing justice reform process and specifically the eventual amendments of the Law on the SoM (cf. in this context also the reporting above under 2.1). It will thus – on the one hand – be part of the involvement of Euralius in the ongoing law drafting exercise within the framework of the third phase of the justice reform and – on the other hand – be a follow up based on the outcome of this exercise.

Depending on the further developments with regard to the third phase and the planned amendments of the Law on the SoM, this activity might be delivered already within the law drafting process or might have to be delivered separately beginning in summer 2016.

Indicators for output

Monitoring Report 2015 with regard to Entry Exam (annex)

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

Draft Amendments to the Law on the SoM.

Subsequent status report and eventual subsequent elaboration of still necessary measures for the implementation of missing internal control standards

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

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.

Reporting

This activity is coordinated with other ongoing events. The joint project of EU / CoE "Support to the efficiency of Justice - SEJ", offered a conference on "judicial time management" on 25.11. It discussed observations resulting from the court coaching programs on CEPEJ/SATURN tools on judicial time management.

Euralius experts and counterparts

Team 4 SoM (training),

Teams 3 and 5 WGs in Ad Hoc Committee (legislative measures)

Activities and timing

Assessment of the final draft of the EU/CoE project when available. When and insofar it can then be established that there is still need for a Euralius activity, Euralius will – in close coordination with the EU/CoE project and the Lord Slynn Foundation - revise the training curricula in the second half of 2016 and deliver the necessary training modules in 2017.

Legislative measures are covered by the activities concerning the CPC (e.g. penalty order, activity 3.1.1.) and concerning the Civil Procedure Code (e.g. payment order, activity 4.2.2.) until June 2016.

Indicators for output

Assessment EU/CoE project (if applicable training needs, training program, training materials)

If and insofar not covered by the EU/CoE project: Training delivered

Civil Procedure Code provides more efficient tools

CPC provides more efficient tools

Activity 2.2.2: Assisting 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).

Reporting

In the CPC Draft prepared with Euralius assistance in the several articles in the different chapters of this draft it has been proposed to add respective provisions aiming at disciplining the behavior and ensuring the smooth conduct of trial within reasonable time for all the participants in the proceedings.

Firstly regarding the coercive appearance, the proposed provisions give the competence to the court to take measures for the defendant, witness and expert to participate in the court proceedings by ordering the coercive appearance or in other procedural actions such as recognitions or examinations where the presence of the abovementioned person is needed. Secondly the court may proceed also with imposing a fine as an administrative sanction for witness and expert. Besides these two measures if the witness or expert refuses to give statement in front of the court they may be fined for the refusing after being firstly warned by the court.

Moreover, aiming at disciplining the behaviour of the participants during the court session it is provided that the presiding judge takes administrative measures by imposing a fine against the defendant, defence lawyer, victim, witness, expert, or interpreter, when they do not abide to the orders of the court such as to keep quiet during the court session as well as other orders aiming at protecting the dignity of the court. Additionally for the defendant who hinders the normal performance of the hearing, the court may order the removal of the defendant from the court room for a period time.

Regarding defense lawyers in order to improve the court efficiency, as the judge does not have to postpone the hearings, the defense lawyer may be fined in case he does not appear in the hearing or in the case he leaves the court session without the court permission.

Regarding prosecutors, these amendments provide rules to ensure a proper behaviour of the prosecutor during a court proceeding. Concretely if the prosecutor does not obey to court order, or he does not appear in the court session the court shall notify the higher prosecutor on the prosecutor behaviour.

The other procedural codes can refer to these provisions which can apply accordingly in all legislation. In addition, the proposal in the court fees law suggest, that the advocate has to reimburse the fee for postponements to the client if the advocate did not act on the instruction of the client.

Euralius experts and counterparts

Teams 3 and 5, and all other teams (law drafting changes in the procedural law), counterpart WGs of the Ad Hoc Committee in Parliament.

Activities and timing

Finalisation of CPC (depends on the consultation process, probably until June 2016).

Reference in the Civil Procedure Code (depends on the consultation process, probably until June 2016).

Indicators for output

Draft law on court fees (annex)

Draft law on CPC

Draft law on civil procedure code

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

Reporting

The upcoming CPC contains provisions about taking evidence with court experts. It need to be assessed if the Civil Procedure Code can refer to these provisions. If the civil procedure shall be in the hand of the parties and evidence is not taken ex officio, the rules about experts need to be changed. The scientific discussion is not yet mature in this regard.

From the technical point of view a compilation of experts can easily be done within the context of the “next generation of ICMIS” (Activity 2.3.2). However the question need to be discussed who decides to place experts in the official list of the courts. This challenge is quite big, as experts are not necessarily evaluated by other professional institutions. Currently it is unclear if this subject can be included in one of the ongoing legislations. Possibly the challenges are quite particular and can become subject to an extra law or amendments to existing laws after the law reform.

EURALIUS experts and counterparts

Team 4 (IT), Teams 3 and 4 (legislative measures). Counterparts: Courts, MoJ

Activities and timing

Analysis of current status and background analysis (2017);

Consultation process, prioritisation and sequencing (2017);

Elaboration of a strategy on a national approach with use of IT (2017);

Assistance in drafting amendments to Laws (2017);

Assistance in implementation of a framework (2017).

Indicators for output

Report on status quo and present problems;

Elaboration of a strategy with an implementation plan;

Relevant decision making body (for instance Minister / Chief Justice / NJC) will decide on the preferred solution;

Legislation in place regulating court experts, their use and payment

Technical assistance report on creating a National database of Court Experts.

Database of court experts in place

Result 2.3: A country-wide implementation of the Integrated Case Management Information System

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.

Reporting

At present, all the courts of Albania have installed and configured ICMIS on their servers. The last court to install and configure ICMIS was the AC of First Instance Vlora, which adopted the system in early July 2015.

The majority of courts use ICMIS as the only case management system, whereas the Tirana District Court uses ICMIS only in the family section. In addition, the First Instance Serious Crimes Court uses ARK-IT to cast the lottery and ICMIS for the rest of the actions. Tirana district court has raised numerous objections for using ICMIS in the other sections of the court. These objections were assessed by MTE Mr. Nightvecht, on the "ICMIS Assessment Report" in April 29 2015. The report points out all the "issues" of the system and the extent to which they are solved. The MoJ had undertaken to solve these "issues" in the new contract for maintenance of ICMIS. None of these issues has been addressed yet as the new contract for maintenance of ICMIS entered into force only on the first week of November 2015 (as presented under Activity 2.3.2 below).

All appellate courts are currently using ICMIS. They have voiced numerous concerns with regards to ICMIS. Majority of these concerns will be addressed through the newly concluded maintenance contract.

The ACs started use of ICMIS system in 2015. They have voiced numerous concerns with regards to ICMIS. Majority of these concerns will be addressed through the newly concluded maintenance contract.

The HC is using its own version of ICMIS. The system is currently under maintenance agreement, but the company providing the services is different from the company providing maintenance for remaining courts. Currently, there is no data exchange between ICMIS of the HC and ICMIS systems of other courts. Such exchange would be very desirable from the efficiency and data integrity points of view.

Euralius experts and counterparts

Team 4, International MTE, Counterparts: MoJ Tirana district court and other courts.

Activities and timing

Continuous assistance to Tirana district court in resolving the technical problems with ICMIS (Until 31 May 2016)

Continuous mediation between Tirana district court and ICMIS Supplier on resolution of technical problems (Until 31 May 2016)

Preparation of gap analysis report specifying the deficiencies in ICMIS preventing its full application in Tirana district court (Until 31 May 2016)

Preparation of gap analysis report specifying the deficiencies in ICMIS preventing its full application in First Instance Serious Crimes Court (end of 2016)

Obtaining and installing of an evaluation version of ICMIS (for testing purposes, end of 2016)

Work on inclusion of penal section of Tirana district court in ICMIS and on First Instance Serious Crimes Court to move to ICMIS lottery (if the new court management system described under Activity 2.3.2 is procured by mid-2017 until end of 2017)

Assistance to MoJ in addressing deficiencies specified in the above report (ongoing activity until end of 2017).

Euralius provides ongoing support to the MoJ and the courts in solving ICMIS deficiencies (ongoing activity until end of 2017).

Indicators for output

ICMIS Assessment Report (annex)

Tirana district court retains ICMIS in its family section in 2016

Penal section of Tirana district court moves to ICMIS in 2017 (if the new court management system described under Activity 2.3.2 is procured by mid-2017)

First Instance Serious Crimes Court moves to ICMIS lottery in 2017 (in the scenario that the new court management system described under Activity 2.3.2 is procured by mid-2017)

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

Reporting

Albanian courts are in need for an integrated computerised management system supporting key business processes within these institutions. The system should follow an “Integrated Justice” approach, allowing for exchange of digital documents between the courts and the police, prosecution, bailiffs and prisons and providing digital connections to key state registries such as vehicle database, civil status registry, and electronic register of immovable property.

At present, ICMIS plays the role of court management system in all Albanian courts with the exception of Tirana district court where this job is shared between ICMIS and Ark-IT (depending on the court section, as presented in the reporting part for Activity 2.3.1 above). Both systems demonstrate numerous technical deficiencies. The architecture adopted and fact that they are based on outdated technologies (both are already 10 years old) make introducing serious changes and improvements very challenging from the technical point of view and impracticable from the financial point of view. For this reason, there is a pressing need for establishing a new integrated court management system. The new system should be a natural continuation of both ICMIS and Ark-IT and should include the best features from these systems. Team 4 provides extensive support to MoJ in securing financing and in specification, procurement and implementation of the new system.

The establishment of new court management system is a long-term process. It will involve preparation of the concept of the system, preparation of tender specification and tendering, design, development, implementation and training. In the most optimistic scenario, minimum 2 years will be needed until the new court management system is developed and ready to use. It is of highest importance to keep the existing ICMIS system in operational state until the new court management system is in place. For this reason the system must be covered by maintenance support services contract.

The status of maintenance support contract for ICMIS was followed by Euralius from the beginning of this reporting period. The previous maintenance contract expired in June 2015 and, since then, the system had been in operation without any technical support. The new maintenance contract had been concluded by the Ministry in the first days of November. Team 4 intends to provide ongoing support to the MoJ in following-up with maintenance service provider of most important requests for bug fixes and functionality adjustments submitted by the courts.

Statistical Service providing precise and trustworthy statistical information will be a vital part of the future court information system. It will automate the process of creation

of statistical reports, improve the quality of statistics, reduce labour intensity, and increasing the overall efficiency of generation of statistical reports.

Euralius addressed the issue of IT support for the generation of statistical reports for the HCJ and MoJ. It has been defined the basis of a standalone web service that would generate statistical reports basing on the data contained in ICMIS & ARK-IT as well on the reports produced monthly by the courts, including the HC. The service would comply to open standards with regards to data storage and communication with external systems and will be ready to operate in the environment of the New Generation ICMIS. The Statistical Service project brief is currently under consultation with the representatives of the MoJ and HCJ. Following its approval, Team 4 will assist the beneficiaries in securing the funding, possibly through international donor financing, and provide extensive guidance and support throughout the implementation cycle (procurement, design, development, implementation, maintenance).

Establishing of above mentioned statistical service will strongly influence the implementation of Activities 1.2.4, 1.7.1 and 1.7.3.

An important goal for the next reporting period is provision of assistance to the MoJ in establishing of an Application Integration Server. This server is indispensable for correct operation of the statistical service described above, for many electronic applications and tools that will be the subject of Activity 2.3.3 as well as for integrating of the court management system with the state registries and with IT systems of other judiciary institutions.

The implementation of this result depends dramatically on the funds, which will be made available for the IT services. The current maintenance contract cannot provide sufficient updates nor sustainable solutions.

Euralius experts and counterparts

Team 4, international MTE IT System Architecture, international MTE IT System Procurement,

Counterparts: MoJ, Courts, National Agency for Information Society (AKSHI), GPO.

Activities and timing

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 (until 31/05/2016)

Statistical Service: Assistance to MoJ in securing the funding, provision of support during procurement process (31.05.2016)

Assistance to the counterparts for securing financing for the new court management system (long term, end of 2017)

Assistance in high level design of the new court management system (long term, end of 2017)

Assistance in procurement of the new court management system (long term, Nov. 2017)

Indicators for output

New maintenance support contract for ICMIS (annex)

Statistical Service project brief (standalone web service)

Assessment report on possible sources of financing

Application Integration Server set-up and operational

Financing for a new court management system available

High level design of the new court management system completed and approved by the counterparts

Procurement of the new court management system completed

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.

Reporting

The audio recording is working in all courts. Euralius concentrated on electronic applications and tools:

Email for the judiciary

The provision of professional e-mail addresses for the Albanian judiciary had been among the most pressing IT needs indicated by Euralius experts. Euralius prepared a detailed action plan for introduction of e-mail in May 2015. The action plan had been implemented by OAJB and e-mail accounts for all judges have been set-up and are ready to use. However, according to information received from the National Agency for Information Society (AKSHI) the e-mails are not currently being used. An investigation was undertaken to verify whether HCJ issued an appropriate order for the judges to use only professional e-mail addresses for official e-mail communication.

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.

Improvement of connectivity between the courts

OAJB is working on improving the connectivity between the courts, and their inclusion in Albanian GovNet network with the aid of the action plan prepared by Euralius in May 2015.

The SEJ project focussed on European best practices, collected by the CEPEJ, regarding the use of new technologies in courts. In order to avoid overlaps, there is a marked need for coordination with other donors active in this area, in particular USAID (United States Agency for International Development).

There is a multitude of electronic applications and tools that would have a strong positive impact on the operation of Albanian judiciary. The government is aware of the technical options. However, all actions depend heavily and on available funding and on the actions and funding of other donors. Unlimited funds can buy unlimited electronic tools. Financing is limited. For this reason they cannot be determined nor delivered as guaranteed result. If needed and desired, Euralius can prepare as an

additional output an opinion prioritizing those electronic applications and tools, which would have the highest positive impact of the operation of the judiciary and which would be feasible to implement in the Albanian context. It can include a concept for web based service for gathering IT service requests (i.e. requests for bug fixes and for system improvements for ICMIS). Such a service would be an integral part of future help-desk system.

Euralius experts and counterparts

Team 4, one international MTE

Counterparts: MoJ, Courts, GPO

Activities and timing

The activity is delivered. Continuous support is given within activity 2.3.1.

However, if requested, Euralius is able to deliver as an additional result an opinion or a study on most feasible electronic applications and tools (31.05.2016).

Indicators for output

Audio recording is available in all courts (delivered)

All court users have an official e-mail address and internet (delivered)

ICMIS Assessment Report (annex)

Additional output if applicable: Study on electronic applications and tools that would have the highest positive impact of the operation of judiciary

Result 2.4: The performance of the administrative court staff has improved.

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 previous judicial administration law.

Reporting

Activity 2.4.1. has been delivered, decision taken by the first SCM. A draft law on Judicial Administration has been elaborated. Euralius continues to support. Within the reform process of the judiciary a new law on court organization is envisaged, which shall contain provisions on the status of court employees. The status shall be equal to the status of civil servants.

Euralius experts and counterparts

Team 2

Activities and timing

Activity 2.4.1. has been delivered, decision taken by the first SCM.

Additional activity:

WG meetings of the law drafting group on the law on court organisation (two afternoons a week from January to February 2016)

Think tank group meetings for receiving comments to the law on court organisation (beginning of January, end of January, midst of February 2015)

Elaboration of an explanatory note (by end of February 2016)

Holding Consultation roundtables (by midst of February 2016)

Delivering draft law to Ad Hoc Committee (end of February 2016)

Indicators for output

Judicial administration law draft (see first progress report, Annex 38)

Draft on a new law on court organisation

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.

Reporting

The strategy paper foresees that the planned law on court organization will require initial and continuous training for court employees and chancellors. The law is planned to be elaborated by end of February 2016.

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. From the side of the SoM there was eagerness to collaborate expressed. It was though identified that the MoJ should collaborate by requesting with a memorandum of understanding the collaboration of the SoM, according to the Law on the SoM.

The necessary memorandum of understanding has been concluded – according to information received from the SoM – only in November 2015. On this basis the next Steering Council of the SoM should now decide on the planning of this activity for the upcoming first half of 2016. It has been agreed with the Director of the SoM that Euralius will support the SoM in the necessary training needs assessment, the development of curricula and the delivery of the first training modules.

As coordination with the EU/CoE project in November 2015 has shown, at present no overlap with the activities of this project exist. Nevertheless close co-ordination with the EU/CoE project will be secured by Euralius.

Euralius experts and counterparts

Team 5 and Team 2, SoM

Activities and timing

This activity is implemented in close co-ordination with the EU/CoE project, assessment of the results (September 2016)

Euralius will carry out during the first half of 2016 – 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

Training needs analysis carried out

Training programs and curricula developed

Training delivered (Indicators: List of participants, agenda, and assessments)

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.

Reporting

The EU/CoE Project 'Support to the Efficiency of Justice – SEJ' is currently in process of assessing the court administration structure. Euralius is closely following this activity and will ensure that its result will be reflected in the elaboration of the new law on court organization.

Euralius experts and counterparts:

Team 2

Activities and timing

The activity is in principle delivered by the draft law on judicial administration elaborated within Activity 2.4.1. It foresees clearer rules for establishing the court structure and for delimitating the competences between the court staff. This draft will probably be incorporated within the draft law on court organisation.

WG meetings of the law drafting group on the law on court organisation (two afternoons a week from January to February 2016)

Think tank group meetings for receiving comments to the law on court organisation (beginning of January, end of January, midst of February 2015)

Elaboration of an explanatory note (by end of February 2016)

Holding Consultation roundtables (by midst of February 2016)

Delivering draft law to Ad Hoc Committee (end of February 2016)

A follow up is planned: Assessment of remaining measures how to strengthen the managerial capacities (first half 2017)

Indicators for output

WG meetings held

Thank Tank group meetings held

Consultation meetings held

Draft law elaborated

Assessment on managerial capacities of court staff

Result 2.5: Professionalism of Albanian lawyers 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.

Euralius INT 5 has also co-chaired the WG Legal Professions together with the President of the NCA Professor Haxhia.

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 pre-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. In October 2015 Euralius has prepared 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 shall form the basis for the upcoming law drafting and consultation process which is scheduled for the time period November 2015 until January 2016. This drafting and consultation process is to be seen in interdependence with the parallel ongoing consultation process for a new Law on the State Exam for Lawyers (cf. in this respect above under 2.1).

The new draft Law on Advocacy is – at present – scheduled to be passed by Parliament in summer 2016.

Euralius INT 5 is both co-chair of the Drafting Group Legal Professions and the Drafting Group Law on Advocacy.

The Drafting Group Legal Professions comprises – besides the Drafting Group Law on Advocacy – also the Drafting Group Law on Notaries (co-chaired by Euralius INT 5), the Drafting Group Law on Bailiffs (co-chaired by Euralius INT 5), the Drafting Group Law on Mediation, the Drafting Group Legal Aid (cf. in this respect also activity 1.3.1) and the Drafting Group Law on State Advocacy.

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.

Reporting

Euralius has – further to its extensive support and participation in the second and third phase of the ongoing justice reform process (cf. above under 2.5) – conducted in July 2015 also a monitoring and assessment study on the status quo and the gaps to be closed with regard to the disciplinary proceedings of the NCA.

It has been taken into account the development of the strategic document with regard to the necessary measures for the advocacy (June and July 2015) and the in-depth research on the legal bases of Albanian advocacy. Additional documents are 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. This new draft law shall – inter alia – insert rules for the improvement of the preparation of candidate advocates for the profession. Other rules are those for the increase of the professionalism of advocates, rules for the strengthening of the disciplinary structures and the increase of the transparency of disciplinary proceedings against advocates, new mandatory rules on the professional insurance of advocates and 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 – eventually in steps – catch up with the European standards for this profession.

Euralius experts and counterparts

Team 5, counterparts are the CoA and the WGs in Parliament

Activities and timing

The work of the Drafting Group Law on Advocacy is expected to be concluded in January 2016. Handling in Parliament might last until summer 2016.

Indicators for output

Statistical data of the Disciplinary Committee regarding the disciplinary proceedings in the NCA (annex)

Strategic document for the legal profession of advocate (annex)

Comprehensive assessment paper containing an outline for the drafting of a new law on the profession of advocate in the Republic of Albania (annex)

Report on options and feasibility study regarding professional liability insurance

Draft of new Law on Advocacy in Albania or draft of the new law on the profession of Lawyers

Eventually: Report on the implementation of the new Law on Advocacy in Albania

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 – besides its activities in the second and third phase of the judicial reform (cf. above under 2.5 and 2.5.1) – established close ties with the Director of the School of Advocacy and is – with regard to the strategy and law drafting development 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 (cf. in this respect also above under 2.1) – is also heavily influenced by the input of the Director of the SoA and will – if adopted and implemented – heavily influence and change the legal landscape in which the SoA operates.

These drafting activities occurred, occur and will occur in close cooperation and coordination with – inter alia – the Director of the SoA.

EURALIUS is with regard to this activity also in close contact with the OSCE presence in Albania which has been designing in June 2015 a survey for around 500 practicing lawyers and judges to assess what they believe to be the shortcomings in initial training of new advocates, so that the curriculum of the School could reflect these identified needs adequately, in particular in relation to more “vocational training” type modules. The outcome of this study is expected to be shared with EURALIUS and the results could – if in time – be fed into the ongoing law drafting process.

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

The ongoing consultation process on the new law on the state exam for lawyers (cf in this respect above under 2.1) and the ongoing law drafting process of a new law on advocacy within the framework of the third phase of the justice reform will substantially affect also the SoA and the initial and continuous training of advocates.

A major part of this activity is thus also delivered by the massive EURALIUS support of this law drafting exercise which is scheduled for the time period November 2015 until January 2016.

Based on the outcome of this exercise and the planned passing of the new law on advocacy in summer 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, taking into consideration the new legal provisions for advocacy.

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).

Based on the provisions of the new law on advocacy support for the development of curricula for continuous training will be elaborated, 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

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

Activity 2.5.3: Support the NCA in the implementation of the **Lawyer's Code of Ethics.**

Reporting

Euralius has – in the framework of the second and third phase of the judicial reform – and in August 2015 – between these two phases – 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.

Euralius experts and counterparts

Team 5, One Albanian MTE 2 weeks, NCA

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.

Following the expected passing of the new law on advocacy in summer 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. These documents might include 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.

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 – if requested by the NCA – also support the NCA and its disciplinary structures in the implementation of the new provisions on professional ethics starting with the second half of 2016.

Indicators for output

Draft law on advocacy (integrating the present code of ethics)

Guidelines or manual on the new legal provisions on ethical behaviour of Albanian advocates and on the new procedural rules for disciplinary proceedings

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

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 has improved.

In the framework of the ongoing third phase of the justice reform process the notaries – 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.

Euralius INT 5 has also co-chaired the WG Legal Professions together with the President of the NCA Professor Haxhia.

Since it became clear in the second phase of the justice reform process that the NCN is aiming for a completely new legal basis for the Albanian notaries, Euralius has done in July and August 2015 extensive research on the present legal situation, the necessities for a new draft Law on Notaries and the international standards and best practices.

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 shall form the basis for the upcoming law drafting and consultation process which is scheduled for the time period January 2016 until March 2016.

The new draft Law on Notaries is scheduled to be passed by Parliament in summer 2016. Euralius INT 5 is both co-chair of the Drafting Group Legal Professions and the Drafting Group Law on Notaries. The Drafting Group Legal Professions comprises – besides the Drafting Group Law on Notaries – also the Drafting Group Law on Advocacy (co-chaired by Euralius INT 5), the Drafting Group Law on Bailiffs (co-chaired by Euralius INT 5), the Drafting Group Law on Mediation, the Drafting Group Legal Aid (see activity 1.3.1) and the Drafting Group Law on State Advocacy.

Activity 2.6.1: Provide support to the National Chamber of Notaries (NCN) regarding its internal organization and functioning, especially also with regard to the disciplinary procedures for notaries.

Reporting

Euralius has extensively supported and participated in the second and third phase of the ongoing justice reform process.

Based on the development of the strategic document with regard to the necessary measures for the notaries in the second phase of the justice reform (June and July 2015), the in-depth research on the legal bases, the actual socio-economic situation of Albanian notaries, the economic situation of the NCN and the necessities for reform of the legal bases for Albanian notaries in July and August 2015 and the assessment paper Euralius prepares a new draft law on notaries in the time period January 2016 until March 2016.

This new draft law shall – inter alia – insert rules for the improvement of the preparation of candidate notaries for the profession, insert rules for the increase of the professionalism of advocates. It shall insert rules for the streamlining and strengthening of the disciplinary structures and the transparency of disciplinary proceedings against notaries, for the strengthening of the provisions on the professional insurance of notaries, for the strengthening of the profession of notary in Albania and introduce strict legal criteria and modalities for the calculation of the number of notaries in Albania.

The agreed aim of these legal interventions is to enable the NCN and the Albanian notaries to move forward massively and – eventually in steps – catch up with the European standards for this profession.

Euralius experts and counterparts

Team 5, more STE might be needed, eventually study visit (notaries).

Activities and timing

Euralius will intensively support the drafting process for a new Law on Notaries in the period between January 2016 and March 2016.

Euralius will massively support the eventual parallel or consecutive consultation of this law draft until it is delivered to the Parliament for adoption (first half of 2016).

The team will analyse in January and February 2016 the market situation and the different solution options with regard to professional liability insurance for creating the possibility to feed the preferred option into the drafting process for a new law on notaries to be finalized in March 2016.

In case the new law on notaries is passed by Parliament in summer 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 is planned in November/December 2016 to help the NCN in the implementation of the rules on the new law on notaries and approximate the NCN to best European practices (topic “best practices”, timing in the first two weeks in December 2016, for example to the Notary Institute in Würzburg, Germany).

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 (annex)

Report on options and feasibility study regarding professional liability insurance

Draft of new Law on Notaries in Albania

Eventually: Report on the implementation of the new Law on Notaries in Albania

Report on the study visit carried out

Disciplinary sanctions increased

Activity 2.6.2: Support the Ministry of Justice and the NCN in the implementation of a training program for notaries and notary' candidates.

Reporting

Euralius has established close ties with the President and the Vice-President of the NCN and is – with regard to the strategy and law drafting development in close cooperation and coordination with the NCN on a permanent basis also with regard to the planned development of a School for Notaries.

The new draft law on notaries is – inter alia – also aiming at inserting rules for the improvement of the preparation of candidate notaries for the profession and for the increase of professionalism of notaries which comprises – inter alia – also the creation of a School of Notaries as focal point for the initial and continuous training.

The manifold previous discussions with the representatives of the NCN and the in-depth analysis of Euralius conducted in July 2015 into this question have though also shown that the realization of these aims depend on the creation of a sound financial basis of the NCN. This will be one of the main issues to be addressed during the law drafting exercise and the following implementation phase of the new legal provisions.

The draft law on a State Exam for Lawyers will – if adopted and implemented – also heavily influence and change the legal landscape in which the NCN and an eventual future School for Notaries operate.

Euralius experts and counterparts

Team 5. More MTE/STE input might be needed. These drafting activities occurred, occur and will occur in close cooperation and coordination with – inter alia – the representatives of the NCN.

Activities and timing

The ongoing consultation process on the new law on the state exam for lawyers) and the upcoming law drafting process of a new law on notaries will substantially affect also the NCN and are expected to create a new landscape for the initial and continuous training of advocates.

A major part of this activity is thus also delivered by the intensive Euralius support of this law drafting exercise which is scheduled for the time period January 2016 until March 2016.

Based on the outcome of this exercise and the planned passing of the new law on notaries in summer 2016, the NCN should then operate in a new legal landscape which should lay the basis for the creation of a School for Notaries.

In the second half of 2016 Euralius will then support the NCN in the setup and making operational of this new School of Notaries. The study visit (activity 2.6.1.) shall include questions of training and research.

Following the setup of the School of Notaries and – eventually already parallel to it – Euralius intends to organize for Training Need Assessments (for initial and continuous training), taking into consideration also the new legal provisions for notaries. This will take place also in the second half of 2016.

Based on that propositions for the necessary content of 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 exams at the School of Notaries delivered (second half of 2016 and 2017).

Based on the provisions of the new law on notaries support for the development of curricula for continuous training will be elaborated, which the new School of Notaries should offer for notaries in all districts of Albania (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 (annex)

Draft Law on Notaries (foreseeing the creation of a new School for Notaries)

Report on the setup and functioning of the new School of Notaries

Training Needs Assessment Reports for initial and continuous training

Curricula for initial training elaborated and training implemented

Curricula for continuous training elaborated and training implemented.

Report about the study visit

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.

Reporting

The legal basis for the registration of land transactions through the offices of the notaries is to be found in the following acts:

- Law 33/2015 on the registration of the immovable properties
- Law 7829 of the law 7829, date 1.6.1994 "On Notaries", as amended
- Order 248, dated 07.06.2012, to approve the Regulation "Definition of ways, procedures and conditions for the use of electronic ONE STOP SHOP - system of notaries"

The „ONE STOP SHOP“ system is a special electronic system that provides on-line connection of notaries through a web interface with the electronic register of properties of the Central Property Registration Office, in order for a notary to verify the legal status of a distinct property, through its on – line image display (Article 5/1 of the Regulation). It interlinks the responsible structures of the MoJ, the Central Property Registration Office and the NCN, by offering the “one stop shop” possibility to generate reports and detailed analyzes and to monitor how the performance of duties is done.

According to Article 6 of the Regulation, every notary need to be registered as “user”, to pay a fee and then obtains a user name and a password.

The Central Property Registration Office offers online the consultation of the property's data included in the respective card (Article 8/1/point a, “kartela e pasurise”) of the Register (Register of the Central Property Registration Office). This service is available online. Automatically the scanned information of the property comes to the notary via scanned images of the card of the property (Article 11 of the Regulation). This procedure last 1-3 days. There is no need of interaction with the “operator” of the Central Property Registration Office.

The Central Property Registration Office offers online other data of the property as well and it provides official information for individuals and institutions.

In case that the request consists in services regarding the official information of registration of the properties, followed by the request to enable the transfer of the property via notarial acts (notarial sale contract of immovable property) the procedure is as follows:

- Within 24 hours from the day the request of the notary has been sent to the Bureau of Land Registration the operator of the Bureau has to verify if another

request has reached the Bureau of Land registration, regarding the change of the data contained in the card of the property.

- A research is done to verify if another act of a public office has been sent to the Protocol Office of the Bureau of Land Registration, which could lead to changes of the data contained in the card of that property
- A verification is made to check if it is necessary that third parties should give the consent for the transaction regarding this property.

After the above mentioned verifications the operator of the Bureau of Land Registration follows the following procedure:

- In case of limitations as above mentioned, informs the notary through online notification that the action has been “cancelled” and provides the reasoning for that decision. The notary should not draft the sale contract.
- In case of limitations, conditioned by the consent of a third party, informs the notary through on-line notification that the action is permitted through a “conditioned permission” and provides the reasoning for that permission. The notary goes on with the drafting of the sale contract, if the third party provides the consent.
- In case that there are no limitations, the operator informs the notary through on-line notification that the request has had “success” and he might goes on with drafting of the sale contract.

For requests with status “conditioned permission” or “success”, the system provides a period of 30 days of reservation of the property, so that the parties and the notary may conclude their actions and in the same time no other notary can have access to that property. This prevents the misuse of the right to sell the property. After 30 days the limitations of the right to access in the property are automatically removed (this is the case when the parties do not conclude a sale contract between them for the period of 30 days).

Euralius assessed these shortcomings and suggests these three changes:

The Central Bureau of Land Registration does not allow for the time being the notaries of the district of Tirana to have access on data of properties, which are situated for instance in the district of Durrës. According to the Law on notaries (Article 12 of the Law) notaries might have their seat in just one district of Albania, still they are allowed to make transactions for clients, whose properties are in different districts of Albania, as long as they show up and make the transaction in the office of the notary.

For the time being the notaries can make transactions via „ONE STOP SHOP“ system, which concern only properties such as apartments, houses or buildings. They cannot use the „ONE STOP SHOP“ system for transactions concerning properties such as agricultural lands, forests, etc. These kind of properties are registered in the digital

maps and theoretically this kind of service is possible to be included in the „ONE STOP SHOP“ system and offered to the notaries (for the districts of Tirana and Durres only).

The division of the territory in cadastral zones corresponds to a division of the territory in zones of fiscal references (if a property of a distinct zone of fiscal reference is being sold under the price of the reference list of prices, the fiscal authorities impose a tax which is equal to the price of the reference list of prices). If the notaries use the system to receive the proper information about the property, this data is missing (the number of the cadastral zone, in which is situated the property).

According to Article 3 of the Regulation, its effects lay only on the Local Property Registration Offices of Tirana and Durres. As far as the other districts of Albania are concerned, the transactions are still been made through the traditional way, which means that the notary should go to the Local Property Registration Office and request for a distinct kind of service that might be required. This is simply interlinked with the fact that the cadastral maps of many districts of Albania has not yet been digitalized. Without a digitalization of the cadastral maps, the „ONE STOP SHOP“ system is not possible to operate in other districts of Albania.

Euralius experts and counterparts

Team 5. Counterpart: NCN

Activities and timing

Activity delivered. Further improvements are not possible as long as digital maps of Albania are not available (technical problem, no legal problem).

Indicators for output

Analysis of the implementation of the electronic registration of property with a view of identification of problems and of options for solutions (see above)

Objective 3: To align the Albanian criminal justice system to EU standards

Specific Objective 3 of Euralius provides for technical assistance to align the Albanian Criminal Justice system to EU standards. The GPO and prosecution service as a whole are included as one of the beneficiaries of Euralius.

Result 3.1: The legislative framework in criminal matters including international cooperation has been aligned to EU and Council of Europe standards

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.

Reporting

Criminal Code

According to the findings of the Analytical Document and Justice Reform an entire new Criminal Code will be drafted at later stage, may be after end of this project. Drafting a new Code is a consequence of the internal incoherence of the existing code lost due to often amendments during the 20 years since it went into effect. Having a consistent structure and harmonisation of Criminal Code with EU standards is an important step in this regard.

Euralius focused to analyse the Criminal Code and to identify possible articles to be amended on a short term basis in order to resolve some urgent problems with its implementation into practice. Concerning to the Criminal Code Euralius provided the necessary expertise through the MTE Mrs. Beate Vogt, a German senior prosecutor, to prepare draft proposals to ameliorate the Criminal Code. The draft prepared contained amendments on probation service, (alternative sentences), juvenile justice, fraud, attempt, trafficking of organs etc

Upon the request of the MoJ, Euralius prepared the comments on the draft amendments to Criminal Code on criminal offences in the field of customs and smuggling. These amendments aiming at proposing new criminal offences in this field and applying more severe measures in the fight against smuggling and informality.

Euralius suggested in its comments not to amend the Criminal Code as it is proposed but instead revising the whole Chapter III, Section V of the Criminal Code named:

“Crimes in the field of Customs”, in line with the Customs Code and to put them in line with international standards and decisions of the European Convention on Human Rights. Many of the proposed articles on Criminal Code are provided in the Customs Code. Euralius in this regard also suggested that each punishment should be proportional with the committed offence. Therefore it is not advisable to provide only punishment by imprisonment (and not even by fine) some of offences such as “Concealment of income”, “Non completion of duties from tax authorities”, “Modification of measurement devices” and “Destruction of sing posts used to block or suspend a commercial activity”.

It is assumed that these offences should stay in the Criminal Code (as they are currently), although in most of the other European countries these provisions are found in administrative legislation and in separate laws such as Law on Customs providing fines. Most of these violations are provides as contraventions unless the damage and financial consequences are considerable or they are committed through falsification of respective documents.

Euralius is coordinating with the twinning project handling the penitentiary system and OSCE. This cooperation focusses on the provisions on probation. They are systematically structured in an unwise matter and not consistent enough.

As the discussions on the Juvenile Code are pending (activity 3.1.2) the proposal has been withhold. Should a Juvenile Code not been drafted the provisions in the Criminal Code about sentences for juveniles need to be amended urgently. In reality, the Criminal Code has some scientific deficits (in particular in the general part). The most appropriate solution might be to develop a new Criminal Code, even if this goes beyond the original task to include questions of the *acquis*.

Drafting of a new CPC

Euralius drafted a new CPC. Starting from June the work on CPC proceeded drafting of the articles in the section of interceptions and security measures. Further there have been discussed and reflected the draft amendments concerning new provisions and new legal institutions to be included in CPC such as penalty order and judgment upon agreement. European best practices, the Albanian tradition and in particular the Croatian, Austrian and German Code have been considered as models.

On 10.6. the think tank group met. These meetings aimed at discussing the elaborated draft amendments on invalidities, notifications, evidence, type of evidence, witnesses, confrontations, expertise etc

Euralius collaborated with OPDAT in the organization of one week retreat which was held from 29.6 to 3.7. in Korça. This retreat brought together members of the WG on CPC established by the MoJ. Besides representatives of Euralius and OPDAT in the

retreat participated: Mrs. Eljona Bylykbashi and Mrs Matilda Halilaj, Legal Experts, Directory of Codification, MoJ, Mr. Arqilea Koça, Prosecutor from GPO, Mrs Ornela Xhembulla, Legal Advisor, GPO, Mr. Sander Simoni, President of First Instance Court of Serious Crimes, Mrs. Ornela Naqellari, Judge at First Instance Court of Përmet. The Deputy Minister of Justice Mr. Ildir Peçi participated in the discussion for respective articles of CPC.

The penalty order has been included in the draft as one of the special trials. The penalty order will aim at improving the judicial economy by reducing the judicial costs and to reduce the workload in courts and prosecutor's offices on the criminal offences with low social risk.

During this reporting period, several meetings have been established with Judge Naqellari Ornela to discuss and draft the articles on extraordinary remedies, changes needed in the chapter of appeal and the trial in absentia. Articles on a new institution; so called "judgment upon agreement", were drafted. PAMECA provided draft of articles on "sequestration of cyber data", "order to allow the interception or surveillance" and "coercive sample taking" etc. The drafted articles were discussed and revised afterwards. CPC draft articles were discussed also with Mr. Arqilea Koça and Mr. Artur Selmani, prosecutors at GPO.

The GPO, represented by Mrs. Roven Gashi, contributed in particular to provisions concerning international judicial cooperation in criminal matters.

Deputy Minister of Justice Ildir Peçi assists to revise the entire draft article per article. This process is ongoing.

During September the work on CPC was concentrated to finalize and revise the explanatory notes prepared for each amended. The explanatory notes are illustrated with case law of European Court on Human Rights, Court of Luxemburg, provisions of EU Directives and Conventions.

Other activities criminal procedure code

Euralius and PAMECA delivered Joint Opinion Paper on some immediate amendments to the CPC delivered to Parliament from the MoJ. Following the official delivery of the Joint Paper (on some amendments of CPC), Euralius and PAMECA's experts met with the Minister of Justice Mr. Nasip Naço to discuss in detail that Joint Paper prepared by the two projects on improving the investigations performance and keeping of court minutes and records.

On 13 November, Euralius participated in the meeting to present and discuss the draft proposals to improve the Criminal and Criminal Procedure legislation on trafficking of human beings prepared by the Ministry of Internal affairs (MoIA) under the initiative of

the Office of National Coordinator on the Fight against Trafficking in Persons. These draft proposals aimed at reflecting the standards of United Nations Convention against Transnational Organized Crime and two additional protocols supported by the respective arguments for improvement has been prepared by MoIA. In the framework of this meeting Euralius pointed out that the CPC is part of the Justice Reform.

Justice Reform in Parliament

Concerning to Justice Reform in Parliament, Euralius participated in the meetings of the Criminal Justice WG. In these meetings the structure of Prosecutor's Office, career, transfer and promotion of prosecutors, constitutional position and appointment of General Prosecutor and the role and competences of Council of Prosecutors have been discussed. Euralius participated in the Joint meetings of WGs to discuss the crosscutting issues (see annex).

Euralius established meetings with the co-chairs of the Criminal Justice WG Mr. Artan Hoxha and Mr. Jon Smibert (ODPAT) to discuss on the structure of the Law on SPAK and Law on Prosecutor's Office.

Starting from 3rd November, Euralius participated in the Criminal Justice WG in Parliament, convened to continue with the third phase of Justice Reform concretely with the drafting process. According to the calendar prepared by Parliament, the Criminal Justice WG convened twice per week respectively every Monday and Thursday. Criminal Justice WG in this process is divided in two Sub WGs; WG to draft the Law of Prosecutor's Office and SPAK and WG to draft the Law on Judicial Police and National Bureau of Investigation.

The WG to draft the Law on Prosecutor's Office is composed of:

- Mr. Artan Hoxha
- Mr. Arben Rakipi
- Mr. Koraljka Bumci (Euralius)
- Mr. Jon Smibert (OPDAT)

The WG to draft the Law on Judicial Police + Law on National Bureau of Investigation composed of:

- Mr. Artan Hoxha
- Mr. Henrik Ligori
- Mr. Ardian Visha
- Mr. Dritan Rreshka
- Mr. Jon Smibert (OPDAT)

Regarding to the draft law on Prosecutor's Office Euralius submitted via email to the WG the comments as below:

1. To include an article either in the chapter 3 or chapter 4 of the draft law structure on "Appointment of the Head of the SPAK" as this provision is not included in the constitutional amendments.
2. In chapter 5 on SPAK should be added articles on :
 - "Competences and Jurisdiction of SPAK"
 - "Procedure of recruitment of other staff in SPAK" (In the procedure of recruitment, administrative staff and expert associates should be provided a declaration of assets they possess or have at their disposal and a statement in which they agree to security checks).
 - "Security of the office's premises.
3. To think whether there is a place in the draft to put "Joint investigations teams" (joint investigation bodies established on the basis of an international agreement)
4. In the transitory provisions, the article on budget should include separate budgeting for SPAK which not clear.
It needs to be pointed out that according to the submitted amendments of the Constitution:
 - GPO is "decentralized",
 - General Prosecutor represents the country abroad except for SPAK
 - SPAK is a specialized structure.

Euralius prepared the first draft of articles regarding the chapter III of this draft law according to the division of respective tasks in the WG. It has been provided a very first preliminary draft of this chapter including: jurisdiction and competence, departments of the prosecutor's offices, office of the General Prosecutor and other prosecutor's offices and their representation. The draft provides also two other structures such as collegiate body and extended collegial body.

The discussions in the WG meetings were technical and focused on to elaboration of articles in order to ensure clarity.

In the course of public consultations roundtables on constitutional draft amendments, Euralius participated in the roundtables held Tirana and Shkodra respectively on 17, 18 and 23 November. On behalf of Euralius and according to the divisions of tasks in the Criminal Justice WG in Parliament, LTE Mrs. Koraljka Bumči made a presentation on the new constitutional provisions regarding. General Prosecutor. New constitutional provisions provide; selection criteria, appointment and discharge of the General Prosecutor, disciplinary responsibility, exercising of duties and duration of mandate. In the presentation there were presented the novelties in the selection and appointment of General Prosecutor. According to constitutional draft amendments General Prosecutor will be selected based on the proposal of the High Prosecutorial Council and Opinion of the Justice Appointment Council. General Prosecutor is provided to be selected with the consent of 3/5 of the Parliament members. The mandate of General Prosecutor is another novelty which is extended up tp 9 years

instead of 6 years as it was before. SPAK is provided for the first time in the draft constitutional amendments as a special Prosecutor's Office to prosecute corruption and organized crime.

Euralius experts and counterparts

Team 3, MoJ, GPO, Serious Crime Court, Parliament

Activities and timing

The proposals for amendments to the criminal code (EU requirements) are prepared. Currently there is a discussion ongoing if amendments should include more provisions. and need to be polished if the Juvenile Code is upcoming. This should be clarified until January 2016.

Euralius will continue to give assistance regarding CPC in the following six months period, following the consultation process within the think tank group in Parliament as the draft on CPC is supposed to be delivered from the MoJ to the Criminal Justice WG in Parliament (ongoing until May 2016).

Indicators for output

Meeting calendar of events in the justice reform (annex)

Comments on Criminal Code amendments in the field of Customs (annex)

Draft CPC (new legislation)

Draft Amendments to Criminal Code

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.

Reporting

Anti-corruption measures

Regarding the institutional measures on strengthening the Anti-corruption measures, September 2015, General Prosecutor Mr. Adriatik Lalla strengthened the capacities of the Anti-Corruption Unit at the Serious Crimes Prosecutor’s Office by adding five prosecutors. This structure was established last September 2014 as a section and it is now transformed into an unit with the increased number of prosecutors.

Mr. Dritan Rreshka is appointed as Acting Head of Anti-Corruption Unit. Other prosecutor’s part of this Unit are: Mr. Gent Osmani, Mrs. Anisa Qilimi, Mrs. Enkeleda Millonai and Mr. Armand Gurakuqi. The reason to increase the number of prosecutors to this Unit comes as a result of the increased workload regarding corruption proceedings. The President of the Republic turned down the proposals and did not decree the nominations for four prosecutors at the Serious Crime Court. According to media reports not all criteria were fulfilled in the process, such as the announcement of vacancies at the Serious Crime Prosecutor’s Office, and the holding of a competition for the filling of these vacancies. Mr. Gent Osmani has been transferred from Elbasan Prosecutor’s Office to Serious Crimes Prosecutor’s Office and then appointed in the Anti-corruption Unit at this Prosecutor’s Office. In case of internal movement within a Prosecutor’s Office (transferral or promotion) no Presidential Decree is issued.

In these conditions, the abovementioned prosecutors, who were not decreed by the President of Republic, exercise their function as seconded prosecutors to the Anti-Corruption Unit at the Serious Crimes Prosecutor’s Office

In the course of Justice Reform and in line with project Work Plan Euralius focused on preparing the structure on the Law on SPAK and Organised Crime. In this regard Euralius provided expertise through the MTE Mrs. Sani Ljubicic, Head of County Prosecutor’s Office of Zagreb and USKOK prosecutor. The first draft on the SPAK and amendments of the Law on Serious Crimes Court was prepared followed by Anti-corruption Strategy Paper. Based on the MTE report, Euralius prepared further the draft structure regarding the Law on SPAK and the relevant amendments.

Study visit 2 to USKOK in Zagreb

Upon the request of Euralius and in close collaboration with GPO it was organized the study visit “On the investigation and prosecution of corruption offenses- Croatian

experience". This study visit is foreseen also in the activities of the project's Work Plan and concretely in the Activity 3.1.2. Therefore Euralius funded the translation during the whole study visit even though this study visit was funded from Technical Assistance and Information Exchange instrument of the European Commission. The study visit was organised for five full working days from 26 to 30 October 2015 and took place in Zagreb/Croatia at the premises of:

Office for Suppression of Organized Crime and Corruption (USKOK),
Office for the Suppression of Corruption and Organized Crime (PNUSKOK) and
Country Court- Department of USKOK Cases

The study visit was designed for six prosecutors from Serious Crime's Prosecutor's Office, Tirana Prosecutor's Office (Joint Investigation Unit) and GPO who were prosecutors appointed by the General Prosecutor Mr. Adriatik Llalla to participate as follows:

1. Mr. Armand Gurakuqi, Prosecutor at Corruption Unit, Serious Crimes Prosecutor's Office
2. Mrs. Enkeleda Millonai, Prosecutor at Corruption Unit, Serious Crimes Prosecutor's Office
3. Mr. Arton Martini, Prosecutor dealing with Organised Crime, Serious Crimes Prosecutor's Office
4. Mrs. Doreza Musabelliu, Prosecutor dealing with Organised Crime, Serious Crimes Prosecutor's Office.
5. Mrs. Denona Katro, Prosecutor/Head of Joint Investigation Unit, Tirana District Prosecutor's Office.
6. Mr. Elion Mustafaj, Prosecutor at Korça District Prosecutor's Office, seconded at the GPO

In order for the investigation and prosecution of corruption offenses to become efficient, specialized prosecutors are needed. Croatia, the newest Member State of European Union constitutes one of the best examples in the region having a consolidated anti-corruption and organized crime structure suchlike Office for Suppression of Organized Crime and Corruption (USKOK). USKOK enumerates successful cases of high profile corruption and organised crime prosecuted efficiently resulting in conviction of perpetrators. This study visit was organised in an appropriate time for Albania considering the findings of Analytical Document and Strategic Document of Justice Reform to establish an Anti-Corruption and Organised Crime Structure in Albania according to USKOK Model.

The study visit aimed at:

1. Giving an overall picture for the Albanian prosecutors on the legislative framework, investigation techniques and infrastructure system to prosecute corruption and organized crime according to Croatian experience
2. Enriching the knowledge and awareness of Albanian prosecutors on the abovementioned topic by introducing Croatian best practices and performance in prosecuting corruption and organized crime.

Euralius cooperated closely with Mrs. Nataša Đurović, Deputy Head of USKOK who served as a contact point in this initiative to coordinate the agenda and to select the topics for the study visit.

Albanian prosecutors had meetings with:

Mr. Dinko Cvitan, General Prosecutor of the Republic of Croatia, Mrs. Tamara Laptos Head of USKOK, Mr. Drazen Jelinić, first deputy of Mr. Dinko Cvitan; Spokesperson Mr. Kresimir Devićić and judges Mrs. Tanja Pavelin Borzić., Mrs. Renata Milicević and Mrs. Martina Marsić, County Court of Zagreb USKOK and attended court hearing of the President of County Court of Zagreb department for USKOK cases Mr Ivan Turudić, judges and prosecutors, officials of *PNUSKOK*.

During the meetings they had the possibility to get acquainted with the organisation and functioning of GPO, USKOK, PNUSKOK, Country Court etc. During the study visit were introduced the investigation and prosecution of successful corruption and organised crime cases as FIMI MEDIA which implicated the Croatian former Prime Minister Ivo Sanader. FARMAL, OFFSIDE, trafficking of narcotics and smuggling of persons as transnational organised crime involving several European Countries.

The study visit for Albanian prosecutors an excellent possibility to share and exchange professional experience in investigation and prosecution of corruption and organized crime, to discuss legislation, assets confiscation, investigative techniques, infrastructure and best practices aiming at identifying both differences and similarities. It was characterized by interactivity, lively conversations and followed by exchanging of opinions.

Albanian prosecutors raised a lot of questions and pointed out that they should have a more active role in the ongoing Justice Reform in order to share the views and experience with other colleagues to incorporate necessary amendments into respective and related laws. They gave the opinion that the corruption offences should be investigated along with organized crime offence and a special structure for investigation, prosecution and adjudication could be an effective tool to perform broader investigations.

Concerning “abuse of office”, offence it has been pointed out that it should be firstly defined who belong to the category of high State officials and when this offence is committed by these category of people it should be prosecuted and adjudicated by the SPAK.

According to the GPO the statistical data during the nine months period are registered 3 criminal proceedings for the article 319 of the Criminal Code “*Active corruption of the judge, prosecutor and of other justice officials*” and no criminal proceeding has been sent to trial.

While for the article 319/ç of the Criminal Code “*Passive corruption of the judge, prosecutor and of other justice officials*”, there are registered 17 criminal proceedings and there are sent to trial 2 criminal proceedings.

Other criminal legislation

According to discussion and in collaboration with PAMECA, this project delivered the draft amendments to the Anti-mafia Law and explanatory report prepared by PAMECA’s STE. According to PAMECA, the objective of this report is to propose improvements to the current Anti-mafia law 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. The draft law proposal takes into account the Albanian experience, the jurisprudence of Court of Strasbourg and the very useful experience of the Italian court and legislation in the area.

Euralius received from MoJ a request for comments on the draft law “For some changes and additions on law. No 8328, dated 16.04.1998, “On the rights and treatment of prisoners and detainees”. The proposed amendments aim at improving the treatment and the rights of prisoners and detainees to the following levels of prison: High security prison; Ordinary security prison; Low security prison. The draft law provides the way of distribution of prisoners in these prisons as per the commission of the criminal offence. Innovative in the draft is the prison of open regime. In this prison are placed prisoners who commit criminal offences unintentionally, criminal contraventions or who commit criminal offences for which the punishment does not exceed 5 years of prison. In this regime the prisoners do not remain closed in the cell prison and they are also allowed to work while serving the sentence. As the proposed amendments have only to do with prisons regime, Euralius forwarded the draft for comments to the Twinning project supporting the General Directorate of Prisons in Albania.

The same happened with the law package of the probation service. Euralius provided comments and forwarded the draft for comments to the Twinning project supporting the General Directorate of Prisons in Albania.

Euralius received from the MoJ a request for comments on the draft law on “Protection of Whistle-Blowers “

Euralius provided the relevant comments to this draft which were delivered to the MoJ. It was pointed out that Albanian efforts in recognising the role of whistleblowing in

fighting corruption are welcomed. Therefore even though all EU countries have ratified the UN Convention against Corruption (UNCAC), which requires countries to consider adopting whistle-blower protections, only very few of them have adopted separate Law on the issue. Having in mind above stated and the fact that Albania is facing important and rather huge judicial reform which will, according to the Strategy on justice system reform, change certain role of some institutions, Euralius in this regard, suggested to amend the existing draft only regarding the protection measures imposed for whistle-blowers. This draft proposal is limited only to whistle-blowers who are reporting corruption offences. The proposed implementation measures, which includes the existing High inspectorate in the process of whistle-blower protection measures, are put in place considering the existing legislation in Albania. This is one of the reasons that such Law could help in reporting and then prosecuting corruption criminal offences which currently seems to be a problem in Albanian society. This is the reason why Euralius more than welcomes the proposed draft.

Euralius received from the law committee in Parliament a request to comment the draft law “On the allowance of an independent international investigation on public accusations raised on the “CEZ Distribution S.A case”. After consultation with the EUD to Albania, Euralius was not allowed to provide comments to this draft law as it was considered a highly political issue.

Juvenile Justice

On 13 July Euralius upon the invitation of Save the Children and Albanian Foundation for Conflict Resolution and Reconciliation of Disputes attended the conference on “Protection of Children in contact with the law through the application of restorative justice”. This Conference was organized in the framework of the project “On institutional development of restorative justice and victim-offender mediation on juveniles”. The aim of this Conference was to present the finding of the study on the impact of the application of the restorative justice for children in contact with the law in Albania.

On 31 August 2015, the Parliament organized a public consultation table for the presentation of the “Juvenile Justice in the focus of the Justice Reform in Albania” in collaboration with Euralius and UNICEF.

In the event moderated by the Team Leader of Euralius, the GHLE discussed the reform progress up to date and the need for the inclusion of the Juvenile Justice in this process. Euralius’ short term expert for Juvenile Justice and Vice Chairperson of the UN Committee on Rights of Child (UNCRC) Mrs Renate Winter, shared her long distinguished expertise and views of the most recent Juvenile Code approved in Georgia, which is based on an UN model laws. As a result of this round table, members

of the experts group considered the idea to draft in close cooperation with *UNICEF*, a new Juvenile Code for Albania. Special provisions will avoid indictments in minor cases, if educational measures can be taken instead. Juvenile cases will be head by special trained judges, but not necessarily in separated courts.

The main purpose of this Juvenile Code should not be the punishment, but the education of juvenile offenders. Imprisonment should occur as the measure of last resort only.

Euralius established a meeting with UNICEF and concretely with Mrs. Vera Gavrilova, Deputy Head of UNICEF and Mrs Ermira Shkurti, Legal Expert to agree on initiating the drafting of the Juvenile Code, for Albania and concrete steps to proceed in this initiative.

Euralius explained the intermediate need to intervene into agreeing on drafting the Juvenile Code. Euralius suggested that Georgian model can be used as a starting point of the draft. As this model is quite similar to Albanian legal frame and model and it is advisable not to provide any cross cutting and double articles foreseen by the draft CPC.

UNICEF expressed its fully commitment to this issue and to start as soon as possible to draft by the best Albanian legal experts, they have on board with expertise in Juvenile Justice. UNICEF expressed its commitment to start drafting in November in order to meet the respective deadline which is possibly middle of April 2016. Euralius will provide continuous assistance in the drafting process of JJ Law.

Upon the invitation of the MoJ, Euralius attended on 5 November the Roundtable to present the findings of the *“International Study on Children Equitable Access to Justice in Central and Eastern Europe”*, organised in collaboration with UNICEF. The Roundtable aimed at gathering opinions and viewpoints on how to include the findings of this Study regarding Albania in the Strategic Document on Justice for Children which is ongoing. The research study on Children Equitable Access to Justice in Central and Eastern Europe is conducted in Albania, Georgia, Kyrgyztan and Montenegro. Access to Justice for all children constitute the main goal to be taken into consideration by every country and this needs to be accompanied by a multidisciplinary approach. It has been pointed out that every Law Enforcement Agency should treat the children considering their age and their status as enshrined in the UN Convention of the Protection of Children Rights. There is a strong need to guarantee a special protection of children in conflict with law. Currently there are established special premises at the police commissariats in Fieri, Shkodra, Tirana and Vlora but other premises in other cities need to be established. Special centers or schools for special or general education of children are also indispensable.

As a supporter of the idea to draft a separate Code for juveniles, upon the invitation of the MoJ, on 17 November Euralius participated in the Roundtable “Juvenile Justice Legislation- Albania and Georgia share experiences”, organized by the MoJ in

collaboration with UNICEF. The aim of the event was to promoting professional debate on Albanian and Georgian legislation needed to the treatment of juveniles in conflict with the law, considering that Ad Hoc Parliamentary Committee on the Justice System Reform has included in the Justice Reform Strategy the development of specific legislation on juvenile justice. In this roundtable participated Deputy Minister of Justice of Georgia and other legal professionals working in Georgia who shared their experience with the drafting, adoption and early stages of implementation of their newly promulgated Juvenile Code.

This roundtable served as a platform to present the political and legislative measures to adopt the Juvenile Code in Georgia, its content and challenges.

In this roundtable it was pointed out that juveniles in conflict with the law should not be convicted, instead they should repair the damage they caused. The principle of the highest interest of child should lead the criminal law. A new legal framework to include all the rules on Juvenile Justice in a single legislative corpus is a necessity. The juveniles should be investigated, prosecuted and adjudicated by specialized judges and prosecutors.

The Georgian Juvenile Code constitutes the most newest and innovative Code. It was adopted in summer 2015 and will enter into force in 1st January 2016,

This Code was needed to Georgia as the existing rules of Juvenile Justice were in conflict with the most important standards such as UN rules, Beijing rules, Havana rules etc. The new Georgian Code had two main goals:

- To bring Juvenile Justice in Georgia in line with international standards;
- To take out all the provisions of Juvenile Justice from other laws and to put them in a single document.

Georgian Code provides specialized and trained professional staff to deal with juveniles starting from judicial police, prosecutors, judges, lawyers, probation officers, social workers etc. Diversion and mediation is also provided in order to avoid the investigation and prosecution of juveniles whenever it is possible. The adoption of the Juvenile Code in Georgia brought as a necessity putting all the secondary legislation in line with the Code and the specialization and training of the staff to deal with juveniles.

Euralius experts and counterparts

Team 3, GPO, MoJ,

Activities and timing

The activity is partly delivered. A draft to update the anti-mafia law has been delivered together with Pameca. Euralius commented other legislation and promoted a Juvenile Code which will be elaborated by UNICEF.

These activities are ongoing: Euralius will be involved in the drafting of necessary amendments of the Law on Prosecutor's Office and Law on SPAK according to the divisions of tasks in the WG on Criminal Justice. Euralius will follow the consultation for the adoption of Anti-corruption legislation and Law on Prosecutor's Office (until June 2016).

A Juvenile Code needs to be drafted. The timing depends on international involvement and political decisions to do so.

Workshops in Tirana, and Vlora on presentation of USKOK model regarding SPAK, security checking for judges and prosecutors within SPAK , presentation of case studies on the usage of endangered witness (special investigation tools), while collar crime (abuse of office) and assets confiscation and organisation of Prosecutorial Council in Croatia. These workshops are expected to be funded TAIEX upon the request of GPO.

Indicators for output

Draft Amendments of anti-corruption legislation- Special Prosecutor's Office on Anti-corruption and Organised Crime (SPAK) (annex)

Study Visit program at USKOK/Zagreb for Albanian prosecutors

Report on the Study Visit at USKOK/Zagreb for Albanian prosecutors (annex)

Comments on the draft law on "Protection of Whistle-Blowers"(annex)

Draft law on Anti-mafia and explanatory report (prepared and delivered by PAMECA, annex)

Georgian Model of Juvenile Justice Law

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.

Reporting

Euralius proposed to add in the law packages of Justice Reform also the amendments to the Law on jurisdictional relations with foreign authorities in criminal matters. 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. Practitioners doubt which law shall have priority in case of discrepancies of the provisions. EURALIS 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. Moreover Euralius proposed to Albanian Parliament in this legal package concerning Justice Reform the establishment of a WG with the participation of representatives of Euralius, GPO and High Level Experts on Justice Reform in order to draft the possible amendments to this Law according to EU models and developments including European Arrest Warrant.

Euralius experts and counterparts

Team 3, 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)

Indicators for output

Literature on international cooperation in criminal matters updated (delivered)

Updated legislation in international cooperation (CPC or specialized law)

Training program “international cooperation in criminal matters”

Result 3.2: Criminal investigations are handled in a more efficient and effective way.

Activity 3.2.1: Assist the General Prosecution Office in upgrading technical skills of the prosecution service regarding specialized 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.

Reporting

Euralius continued to follow the pace of the Justice Reform in parliament, working on the draft on CPC and facilitating the work of STEs and MTEs of the project on the preparation of respective draft amendments in the Criminal Justice field. These activities include a new National Bureau of Investigation.

The needed technical equipment for these specialized investigation is not expensive. Important is an exchange of experiences. The study visit for specialized prosecutors (see activity 3.2.1.) included investigation activities needed to fight organized crimes and corruption cases. An update will follow, financed by the EU commission.

The same activity is covered by other donors, in particular by Pameca (training on financial investigations) and by the American OPDAT mission (linked with the implementation of a national bureau of investigation and training of technical skills). It is expected that the American government provides substantial funds including training in the United States.

As far as this activity is linked to law drafting activities they are included in activity 3.1.2. Additional training needs can be included in result 2.1. activity 2.1.3

Euralius experts and counterparts

Team 3, GPO, prosecutor's offices

Activities and timing

Activity 3.2.1 should be considered as delivered.

Indicators for output

Coordination with other donors achieved (delivered)

Activity 3.2.2: Assist the General Prosecution Office in the implementation of the existing legislation, in particular regarding measures for fighting organized crime (e.g. asset confiscation).

Reporting

Euralius continued to follow the pace of the Justice Reform in parliament, working on the draft on CPC and facilitating the work of STEs and MTEs of the project on the preparation of respective draft amendments in the Criminal Justice field. Due to this busy schedule and time constraints Euralius did not focus on this activity during this reporting period).

Substantial assistance is expected from the United States of America due to their support of the National Bureau of Investigation.

Euralius experts and counterparts

Team 3, GPO

Activities and timing

This Activity is linked to Activity 3.1.2. and 3.2.1 and it will partly be delivered regarding the topic on assets confiscation in the course of the workshops expected to be funded by TAIEX on presentation of USKOK model regarding SPAK. This training includes security checking for judges and prosecutors within SPAK, presentation of case studies on the usage of endangered witness (special investigation tools), white collar crime (abuse of office) and assets confiscation and organisation of Prosecutorial Council in Croatia. (See activities 3.1.2. and 3.2.1)

Other assistance will be identified after the end of the legislative measures of the reform process and in coordination with other donors in January 2017 (implementation 2017).

Indicators for output

Training on USKOK model

Donor coordination (delivered)

Assessment of assistance needs after the justice reform

Activity 3.2.3: Support the implementation of memoranda to strengthen cooperation between institutions involved in the fight against organized crime and financing of terrorism (joint activities with PAMECA as regards cooperation prosecution service and police).

Reporting

Euralius continued to follow the pace of the Justice Reform in parliament, working on the draft on CPC and facilitating the work of STEs and MTEs of the project on the preparation of respective draft amendments in the Criminal Justice field. Due to this busy schedule and time constraints Euralius did not focus on this activity during this reporting period. So far the coordination is done by Pameca and the OPDAT mission.

Euralius experts and counterparts

Team 3

Activities and timing

Activity 3.2.3 should be cancelled. This activity is implemented by Pameca. The new National bureau of investigation will probably be trained by an American project.

Indicators for output

No output for this activity

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.

Reporting

Extensive support was provided to the GPO in order to resolve a critical problem with the performance of the CAMS case management system. Assistance was also provided in preparation of the technical specification for the contract for extending the functionality of this case management system.

The case management system for Albanian prosecutors (CAMS) has been put to operation on 1.1.2015. There were more than 20 000 cases registered and processed during the first months of system functioning. During the daily operation of CAMS it became evident that a number of new functionalities, such as support for military penal cases, full support for case splitting or support for newly introduced registries in the Prosecutor Office for Serious Crimes would need to be implemented. Moreover, there is an acute need for additional training for Beneficiary's technical personnel. This is due to the fact that the headcount of beneficiary's IT support team had been extended after the trainings foreseen under the main contract were completed. GPO seeks to procure the necessary extensions and trainings through an addendum to the main contract. This requires preparation of the technical specification for the addendum in compliance with Europe Aid procurement standards and provision of justification for the need for direct extension of the main contract. Team4 provided GPO's IT Department with extensive support for the above activities.

Moreover, during this reporting period, an on-going support was provided to GPO in resolution of critical problems with the performance of CAMS and with preparation for integration of the system with external state registries.

Apart from CAMS, Team 4 is evaluating 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 as described under Activity 1.7.4. Team 4 is also assisting in evaluation of applicability of the Information system of the Italian National Antimafia Bureau (*Sistema Informativo Direzione Distrettuale Antimafia / Sistema Informativo Direzione Nazionale Antimafia*) case management and analysis system for the Prosecutor Office for Serious Crimes.

Euralius experts and counterparts

Team 4, input from Team 3; International MTE to advice on integration with IT systems of EU MS (should such integration become feasible from legal point of view)

Counterparts: GPO, MoJ, Prosecution Office for Serious Crimes

Activities and timing

Ongoing support in implementation of services under addendum to CAMS contract (provided the addendum is successfully concluded)

Ongoing support in resolution of critical problems with the performance of CAMS and with preparation for integration of the system with external state registries

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)

Assistance to GPO, MoJ and ASP in reaching an agreement on exchange of data between their case management systems, restart of operation of WGs responsible for this subject

Evaluation of applicability of SIDDA-SIDNA case management and analysis system for the Prosecutor Office for Serious Crimes

Assistance in connecting of videoconference system of GPO to the videoconferencing bridge of EUROJUST

This support is ongoing until the end of the project.

Indicators for output

50% of services foreseen under addendum to CAMS contract successfully implemented until 31/05/2016 (provided the addendum is signed)

WGs on integration of CAMS with ASP and MoJ restart their operation

CAMS integrated with at least one state registry until 31/05/2016 (e.g. Civil Status Registry)

Videoconferencing system of GPO connected to the videoconferencing bridge of EUROJUST

Integration between CAMS and ICMIS achieved (long-term, goal for 2017)

GPO integration with the MLA case management system of the MoJ (long-term, goal for 2017)

Result 3.3: Efficiency and accountability of the Albanian prosecution service has improved.

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.

Reporting

Euralius Mid Term Expert (MTE) Mrs. Anita Mihajlova prepared a report on the draft amendment on the Law on Prosecutor's Office regarding Prosecutor's Council within the Justice Reform. The report elaborated preliminary assessment on functioning of Prosecutorial system in Albania as well as findings, analysis, proposals and recommendations in compliance with international standards and best practices. In this report was pointed out that the structure of the Prosecutor's office is under the direction of the General Prosecutor as the central element and includes the Office of the General Prosecutor, the Council of the Prosecutor's office and the prosecutors' offices attached to the judicial system. The Council of the prosecutor's office performs advisory functions to assist the General Prosecutor. As such the Council does not have any obligations or functions as a decision making body in the area of management, administration of the prosecution system and career development of prosecutors.

The appointment, promotion, transfer, evaluation performance and disciplinary liability of prosecutors depend on the individual decisions of the General Prosecutor. No appeal procedures exist against the decisions of the General Prosecutor (except the decisions on dismissal of prosecutors which might be appealed before the Tirana Court of Appeal).

Regarding the standards and proposed interventions it was recommended:

1. Establishment of the Prosecutorial Council as an independent and transparent decision making body within the Constitution. It comes as a necessity to review the legal framework on the Prosecutorial Council and setting forth clear distinction between the functions of the General Prosecutor and the Prosecutorial Council;
2. Establishment of objective and clear-cut criteria, transparent and fair procedure for the election and dismissal of members of the Prosecutorial Council, including criteria ensuring high integrity;
3. Disciplinary procedures against the members of the Council needs to be clearly defined;
4. Determination of the tasks of the chair and the vice chair, allowing committees, full time membership, ensuring collegial, transparent, merit based and objective decision making process;

5. Introduction of clear rules on prevention of conflict of interest obliging the Prosecutorial Council to strategic planning;
6. Determination of clearer procedural rules for the process of appointment, evaluation, transfer and promotion of all prosecutors on all levels by the Prosecutorial Council in order to ensure independent, fair, open, merit based and transparent recruitment, selection and nomination of prosecutors and to guarantee the career development process;
7. Establishment of an Inspectorate, a body for disciplinary investigation against prosecutors. The Inspectorate could be a fully independent body for disciplinary investigations against prosecutors and judges.

In the ongoing reform it has been suggested to upgrade the function of the council of prosecutors. It should become a decision making body like the HCJ. This body will then decide on career questions, based on the findings of an independent inspectorate.

The law on the status of judges and prosecutors which is under elaboration will establish similar standards for the process of evaluation for judges and prosecutors.

Euralius experts and counterparts

Team 2, 3, GPO and WGs in Parliament

Activities and timing

This activity is partly delivered. The draft of the constitutional amendments introduce a council of the prosecutors similar to the new HCJ. This body is competent for the evaluation system, based on the findings of an independent inspectorate.

Euralius is further involved in the WG to draft the Law “On the organisation and functioning of the Prosecutor’s Office and High Council of the Prosecutor’s Office in the Republic of Albania” and the Law “On Status of Judges and Prosecutors” . Activity 3.3.1 depends on the development of these laws and Justice Reform. The further development of this activity depends on the Law “On the organisation and functioning of the Prosecutor’s Office and High Council of the Prosecutor’s Office in the Republic of Albania” and Law “On Status of Judges and Prosecutors” (constitution until February rest until June 2016).

Indicators for output

Assessment of current evaluation system of Prosecutor’s Office (annex)

Draft constitutional amendments upgrading the Council (annex)

Draft laws on status, implementing evaluation criteria and methods

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.

Reporting

General Prosecutor appointed Mr. Blerim Tominaj in September 2015 as the new Head of Serious Crimes Prosecutor's Office. Mr Tominaj substituted Mr Adnan Xholi – Director of Investigation at GPO who was acting as the Head of this office since the transfer of Mr Eugen Beçi at the Prosecutor's Office of Elbasan. Mr. Blerim Tominaj was one of the prosecutors of the Tirana District Prosecutor's Office being involved in prosecution of the 21st January Case.

On 29 October 2015 at the premises of GPO a two phase exam to fill the nine vacancies for prosecutors arisen at the Prosecutor's Offices of Dibra, Saranda, Mat, Puka, Tropoja, Kurbin, Gjirokastra, Kukësi dhe Kruja. In the exam participated 45 candidates mainly judicial police officers. The exam for the new vacancies was held in two phases. In the first phase the candidates underwent a written theoretical test. The candidates with higher scores in this test passed in the second phase, the oral hearing in front of the Council of Prosecutors held the following day on 30 October 2015. At the end of the exam the Council of Prosecutors submitted to the General Prosecutor the list of candidates with highest scores. The procedure of the exam to recruit the new prosecutors is based on the respective instruction of the General Prosecutor for which the prior opinion of the Council of Prosecutors was given.

The President of the Republic issued the respective Decree for 7 new prosecutors.

In the ongoing reform it has been suggested to upgrade the function of the council of prosecutors. It should become a decision making body like the HCJ. This body will then decide on career questions, based on the findings of an independent inspectorate. The proposed status law should be applicable as well for prosecutors. It shall contain clear criteria.

Euralius experts and counterparts

Team 2 and team 3, GPO and the WGs in Parliament

Activities and timing

The activity is partly delivered. The evaluation and promotion of prosecutors, done by the Council, is based on objective criteria similar to the judges (draft on constitutional amendments and upcoming status law on judges and prosecutors).

The further development of this activity depends on the Law "On the organisation and functioning of the Prosecutor's Office and High Council of the Prosecutor's Office in

the Republic of Albania” and Law “On Status of Judges and Prosecutors” (drafting until February 2016)

It is supposed that these laws will be submitted to Parliament along with Constitutional amendments for approval.

Indicators for output

Recent developments within GPO monitored (delivered, see above)

Draft constitutional amendments to change the prosecutorial council (annex)

Law on status of judges and prosecutors with career criteria.

Activity 3.3.3: Support the Association of Prosecutors and the GPO in the implementation of the **Codes of Ethics for prosecutors.**

Reporting

The rules on ethics and behaviour of prosecutors are in force since June 2014 (Annexes in AL and EN). These rules are approved by the General Prosecutor Adriatik Llalla by order No. 141, dated 19.06.2014. These rules aim at establishing high standards concerning the ethics and behaviour of prosecutors of all levels in exercising their duty in line with the Albanian Constitution and other relevant laws. Pursuant to article 19 of the rules on ethics and behavior of prosecutors Ethics Inspector Mr. Adnan Kosova, Prosecutor at the GPO monitors and controls the implementation of the ethical rules of Albanian prosecutors. OPDAT consulted the Code and has organized trainings on Code of Ethics in all District Prosecutor's Offices. Currently there is no need for additional trainings, guidelines or other activities.

An Association of Prosecutors is not active, is not meeting nor running any activity. There might be an idea, developed by some of those who finished from SoM, to get organized differently one day. For the time being there is no such partner for additional support.

Within the ongoing reform of the status law on judges and prosecutors some ethical violations of judges and prosecutors shall be considered as disciplinary violations. Within the reform it has been proposed that a prosecutor's council, similar to the High Judicial Council, should be created. This body should become competent to handle disciplinary proceedings. One of the activities of the full time members shall be the handling of ethical standards and violations. According to the current proposal of the constitutional amendments the General Prosecutor will be replaced and the new one shall have less decision making powers than today.

Passive corruption of prosecutors, an ethical problem as well, will be dealt with the new anti-corruption structure (activity 1.2.3.) These prosecutors, assisted by updated investigation tools and a well-trained national bureau of investigation, shall be independent. Their investigation can no longer be stopped within the hierarchy.

According to the proposed constitutional amendments inappropriate contacts to organized crime, an ethical problem as well, shall be checked within the evaluation of all prosecutors.

Euralius experts and counterparts

Team 3, GPO

Activities and timing

Activity delivered. No additional activity requested by GPO.

Euralius will check in December 2016 if new developments occurred that might give reason to reopen this activity for 2017 (e.g. for training) after this reporting period the Union of Prosecutors was established on 04.12.2015. Mr Ndini Tavani is Head of this Union that is comprised of 200 prosecutors. Euralius agreed with Ndini Tavani to cooperate and identify different fields of joint activities end of January 2016.

Indicators for output

Code of ethics in place (annex)

Assessment of implementation and training (delivered)

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.

Reporting

(See Activity 3.3.1 above)

The constitutional draft has suggested that the General prosecutor loses some of the decision making powers to the Council. The prosecutors' offices will obtain more independence. The specialized office to fight corruption should be independent.

Euralius experts and counterparts

Team 1 and 3, GPO and the WG in Parliament

Activities and timing

The activity is partly delivered. The constitutional amendments cut substantially the power of the General Prosecutor. The accountability and the transfer are handled by the new Council of the prosecutors.

Euralius is involved in the third phase of Justice Reform and respectively in the WG to draft the Law "On the organisation and functioning of the Prosecutor's Office and High Council of the Prosecutor's Office in the Republic of Albania". Euralius will follow the consultation process regarding this legal framework. Activity 3.3.4 depends on the development of this law and Justice Reform.

It is supposed that these laws will be submitted to Parliament along with Constitutional amendments for approval until June 2016.

Indicators for output

Draft of constitutional amendments (annex)

More independent institutional set up of the prosecutors office, included in constitutional amendments (annex)

Draft law on prosecutors

Activity 3.3.5: Support the General Prosecutor's 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.

Reporting

Due to the fact that judicial reform is ongoing and will establish new pillars on law on the organisation and functioning of the GPO, the internal organisational structure will be developed in line with the new legal framework in this regard.

Euralius experts and counterparts

Team 3, GPO

Activities and timing

Euralius is involved in the third phase of Justice Reform and respectively in the WG to draft the Law "On the organisation and functioning of the Prosecutor's Office and High Council of the Prosecutor's Office in the Republic of Albania". Euralius will follow the consultation process regarding this legal framework. Activity 3.3.5 depends on the development of this laws and Justice Reform.

It is supposed that these laws will be submitted to Parliament along with Constitutional amendments for approval submitted to Parliament along with Constitutional Amendments for approval.

The assessment of the internal organisational structure and the challenges in management starts after the reform not before July 2016.

Consultancy to upgrade the management structure will be implemented 2017. According to the current draft a new Council of Prosecutor shall obtain a huge number of management tasks.

Indicators for output

Assessment of new management challenges in the GPO

Training needs assessment

Training or coaching programs

Objective 4: To align the Albanian civil and administrative justice system to EU standards

Result 4.1: The administrative courts are functioning.

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.

Reporting

Euralius assisted in the elaboration of a sublegal act determining the judicial activities, which are carried out of court's premises. No further sub-legal acts are expected to be adopted.

The current legislation has been implemented. The MoJ has completed the recruitment of legal assistants for ACs. The candidates participating in competition procedures were subject to the assessment of documentation (first phase) and then the qualified candidates were subjected to the process of written testing, oral testing, and evaluation of CVs and relevant documentation (second phase). Upon the completion of that process, the Ad Hoc Committee calculated final the results of the candidates who participated in the competition. The results were published in the premises of the MoJ and in its website. Upon the completion of that procedure, the process of recruitment of legal assistants at 6 first instance administrative courts of Tiranë, Korçë, Durrës, Vlorë, Shkodër, Gjirokastër and the Appeals AC of Tirana was finalized in May 2015.

However, as an additional activity, the draft constitutional amendments propose a change in the administrative court system, by abolishing the appeal instances and establishing a High Administrative Court, separate from the HC. These proposals became questioned in the ongoing roundtables and might be subject to further discussion or changes. The need for new sub-legal acts depend on the new legislation.

Euralius experts and counterparts

Team 2, counterpart: MoJ, ACs, WGs in Parliament.

Activities and timing

Activity 4.1.1 (contractual obligation) is delivered: Euralius assisted in the elaboration of a sublegal act determining the judicial activities, which are carried out of court's premises. No further sub-legal acts are expected to be adopted.

Euralius is willing to accept an additional output, the revising of the AC law. This additional activity follows this timing:

WG meetings of the law drafting group on revising the AC law (March to May 2016)

think tank group meetings for receiving comments to the draft law (March to May 2015)

Elaboration of an explanatory note (by end of May 2016)

Holding Consultation roundtables (by midst of May 2016)

Delivering draft law to Ad Hoc Committee (end of May 2016)

An assessment for new secondary legislation follows until July 2016

Indicators for output

Assessment on secondary legislation (done in first progress report)

Legal assistants employed (delivered)

Indicators for additional output (primary legislation):

WG meetings held

Thank Tank group meetings held

Consultation meetings held

Draft law on the AC law elaborated

Sub legal acts elaborated (if applicable)

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.

Reporting

In the frame of the justice reform the appointment criteria for judges at the ACs is supposed to be revised. Respective provisions are foreseen in the draft law on the status of judges and prosecutors which should facilitate the transfer of judges from ordinary courts to ACs by ensuring at the same time the specialisation needed. The law is envisaged to be elaborated by end of December or until February (depending on Albanian contributions).

Euralius experts and counterparts

Team 2, counterpart: HCJ, ACs, MoJ

Activities and timing

This activity is partly delivered. The drafts of the constitutional amendments and the upcoming draft law on the status of judges contain new rules for the appointment of all judges.

WG meetings of the law drafting group on the law the status of judges and prosecutors (each Tuesday and Thursday afternoon from November to end of December 2015)

think tank group meetings for receiving comments to the law on the status of judges and prosecutors (beginning of November, end of November, midst of December 2015)

Elaboration of an explanatory note (by end of December 2015)

Holding Consultation roundtables (by midst of January 2016)

Delivering draft law to Ad Hoc Committee (by midst of January 2016)

Indicators for output

Sketch of a new law on status elaborated

WG meetings held

Thank Tank group meetings held

Consultation meetings held

Draft law elaborated

Activity 4.1.3: Provide assistance to the SoM in preparing a training need 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.

Reporting

With regard to Euralius activities 4.1.3 and 4.1.4, Euralius and the MTE M. Philippe Peretti have evaluated during the expert mission (31 August – 11 September 2015) the training needs for administrative judges.

Euralius experts Dr. Agnes Bernhard and Dr. Richard Regner LL.M. had on 23 September 2015 a final meeting on this activity and on activity 4.1.4 in the SoM. The results of the mission of MTE M. Peretti and eventual further training needs have been discussed with the representatives of the SoM responsible for the initial and continuous training of administrative judges and the Resident Twinning Advisor of the ongoing Twinning Project “Support to Albanian Civil Service Reform”.

It has been cleared up in this meeting that the setup of the initial and continuous training for administrative judges of the SoM is already very advanced. No necessity for a further training needs analysis or further training under participation of Euralius in this respect could be identified.

It has though be established that further development of combined continuous training modules for administrative judges and civil servants in different fields of administrative law (e.g. delimitation between civil law and administrative law, new code of administrative procedure, material fields of administrative law like construction law and public procurement law) might be beneficial.

No immediate need for further support of Euralius in these fields seems though to exist.

Euralius experts and counterparts

Team 5, input from Team 2

Activities and timing

This activity has been delivered. A training needs assessment is available.

Indicators for output

Training needs assessment of administrative law, Peretti (annex)

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.

Reporting

With regard to Euralius activities 4.1.3 and 4.1.4, Euralius and the Euralius MTE M. Philippe Peretti have been evaluating during the latter's expert mission to Tirana (31 August – 11 September 2015) the training needs for administrative judges and have been delivering trainings of trainers and training for administrative judges at the School of Magistrates.

As has been cleared up with the SoM (see for details above activity 4.1.3), no immediate need for further support of Euralius in these fields seems to exist.

However Euralius assisted to implement additional trainings to specialized target groups, based on their individual needs. The administrative chamber of the HC, consisting out of six judges, visited on 22 and 23 October 2015 the European Court of Justice in Luxembourg for a tailored training. This activity has been prepared by Euralius and implemented with the assistance of the EU Commission. Participants have been:

Mr. Xhezair ZAGANJORI, President of the HC

Mr. Ardian DVORANI, Member of the HC

Mrs Arjana FULLANI, Member of the HC

Ms Evelina QIRJAKO, Member of the HC

Mr. Andi ÇELIKU, Member of the HC

Mr. Medi BICI, Member of the HC

The members of the administrative chamber will receive another study visit to the German High administrative court in 2016, financed either by IRZ (bilateral funds) or TAIEX.

The legal advisors at the constitutional court received a training on media, administrative procedure law and human rights on 8. and 9.10. This training has been supported by Euralius and implemented by the lead contractor IRZ.

Euralius experts and counterparts

Team 5, input from Team 2. Counterparts are the SoM and the courts.

Activities and timing

This activity has been delivered.

Indicators for output

Training program trainings of trainers, Peretti (annex)

Training program training for administrative judges Peretti (annex)

Program of study visit in Luxembourg (annex)

Training program for constitutional court (annex)

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.

Reporting

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”. A first working session was held on 29 October 2015.

Euralius experts and counterparts

Team 5, input from Team 2

Activities and timing

This activity has been delivered before (decision of the SCM based on the first progress report).

Indicators for output

Administrative Procedure Code was adopted in April 2015 (Annex 3 to the first progress report)

Result 4.2: The civil law reform continues taking into consideration latest EU developments.

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 with the EU *acquis*.

Reporting

Since – on the one hand – this activity is very likely to be affected by the ongoing justice reform in various points and since – on the other hand – the exact relationship of this activity with the justice reform process will only become clear once the third phase of the justice reform moves substantively forward, 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.

The civil code dates from 1994. Provisions relevant for the implementation of the *acquis* can be found in other laws, in particular in the Law on conflict of laws from 2011 (Ligj nr. 10 428, datë 2.6.2011 “Për të Drejtën Ndërkombëtare Private”) and the law on consumer protection from 2008, amended the last time in 2013.

The exact delimitation between the part of this activity eventually falling within the scope of the justice reform process and the part of this activity falling outside the scope of the justice reform should become substantially clearer in the first half of 2016.

Euralius experts and counterparts

Team 5. One or two international MTE or STE (in total 4 weeks, focussing on EU *acquis*)

Activities and timing

Under this activity a status report will assess the needs for legislative changes in the relevant laws (first half of 2016). It is expected that this activity is too broad to be covered by this project. Most probably are more precise planning and a number of EU projects are needed to cover this challenge (Euralius V).

Based on these needs and the requests of the MoJ and/or the Parliament continuous support and assistance to reform the legislative framework in civil matters (especially with view to the EU *acquis*) shall be provided in 2016 and 2017.

Indicators for output

Assessment report on the needs for legislative changes with regard to the Civil Code (especially with view to the EU *acquis*)

Eventually: Draft “Civil Code” provisions or analysis paper(s) showing possible options as a basis for the MoJ/Parliament

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*.

Reporting

Since this activity falls 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 shall form 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.

Euralius support for the law drafting process of the necessary amendments to the Civil Procedure Code is scheduled to take place in the first half of 2016.

One important pre-condition for the service of documents has been addressed by the government. End of November Minister of Interior Saimir Tahiri presented a project for the address registry. He said that Albania was the only country in the world which had still not created an easily accessible and transparent database of addresses. Tahiri added that Albanians continue to refer to different buildings or objects in lieu of addresses. An accurate address database is urgent and indispensable for notifications.

Euralius experts and counterparts

Team 5. One or two international MTE or STE (focussing on EU *acquis*) might be needed.

Activities and timing

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 will support the law drafting process and the subsequent consultation process which is scheduled to take place in the first half of 2016 and should – eventually – lead to a draft Law containing the necessary amendments to the Civil Procedure Code (including the alignment with the EU *acquis* as far as possible).

This draft Law is at present scheduled to be adopted by the Parliament in summer 2016. The elaboration of an entire new Civil Procedure Code might be needed, in particular in regard to further increase provisions for efficient trials. However, the timing might go beyond the duration of the project (2017 and later).

Indicators for output

Assessment paper on the needed short term interventions and the needed mid-term interventions into the Civil Procedure Code (including necessary measures with regard to the EU acquis) (delivered)

Draft Law on immediate amendments to the Civil Procedure Code

Activity 4.2.3: Support the MoJ in continuing adoption of legislation regarding international cooperation in civil matters, and implementation of that already adopted.

Reporting

Since this activity was originally scheduled to start in the first half of 2016, so far no measures have been taken in this field. Due to the reform the start will be after summer 2016.

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) within the first months 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.

This assessment shall take place parallel to the workings of the Drafting Group Civil Procedure Code to secure that eventually necessary immediate changes and/or amendments can be fed in into the law drafting process.

Based on the outcome of the assessment and the requests from the MoJ and the Parliament Euralius will support the MoJ and/or the Parliament with regard to the necessary measures.

Indicators for output

Assessment report on the current situation on international judicial cooperation in civil matters (including immediate and more remote necessities for law amendments)

Eventually: Draft amendments to the Civil Procedure Code and/or other laws

Eventually: Report(s) on the requested necessary support measures

Activity 5 new: Monitoring and peer review of judgments

Reporting

This activity has been added in February 2015.

In the report period (June 2015 – November 2015) no (new) request for a monitoring and peer review under this activity has been made.

Euralius has – nevertheless – been following the developments of the first monitoring and peer review request brought under this activity which concerned the high level judge and member of the HCJ, Mr. Gjin Gjoni.

In this context Euralius reported in June 2015 that Gjin Gjoni has been elected as President of the Balkan and Euro-Mediterranean Network of Judicial Councils End of May 2015 with an office period of two years. Gjoni's candidacy was approved unanimously by the eleven state representatives present at the conference of this network.

In October 2015 Euralius reported that the court case against Gjin Gjoni – which constituted the first monitoring and peer review request – has been permanently closed. The High Inspectorate for Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) had filed criminal charges against Gjoni accusing him of hiding of assets. According to the newspapers, the investigations had already ceased, but Gjoni insisted that the court ruled that a criminal fact did not exist and close the case permanently. The Court of Appeal in Durrës followed this request and ruled that there was no criminal fact in the case involving Judge Gjin Gjoni and closed the case permanently.

Euralius has further on – in preparation of eventual future monitoring and peer review requests – in June 2015 developed in collaboration with the Euralius STE Dr. Pesendorfer standard templates and standard procedures for eventual future monitoring of court hearings and/or cases based on the best international practices in this respect (especially the practice of the OSCE).

Court hearings and cases at the District Court of Durres, the District Court of Tirana and the Serious Crimes Court have been monitored using the (new) standard templates and standard procedures in June and July 2015 for testing these templates and procedures.

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.

PART FOUR: Visibility

Visibility is consolidated with the Information and Communication Officer of EUD. Special visibility was given to Euralius during the consultation process of the three phases of the justice reform. Euralius was present in all the events organised in this regard. TL and International Experts of Euralius were key speakers in the majority of these events, which created huge visibility. However, wrong content of press statements and a missing rebuttal service, combined with the interdiction of EUD for Euralius to establish own media contacts, caused questionable publicity. Upon advice by the EUD, Euralius will continue to publish statements on its project website in cases the media reports wrong facts about Euralius.

Euralius distributed a booklet, showing the constitution in force – consolidated version-with the amendments sent to the VC. It has been distributed to all participants in all the round tables. The document takes the label of the reform – including all national and international stakeholders - and respects the visibility guidelines by mentioning the financing out of EU funds.



Euralius contributed to the web site of the EU Commission a picture of a court room. This picture shows the banner Euralius is using.

http://ec.europa.eu/budget/euprojects/consolidation-justice-system-albania_en



PART FIVE: Decision of the Steering Committee on 14 January 2015:

The Steering Committee decided:

1. The second progress report (May – November 2015) is approved.
2. The Steering Committee approves the deviation from the original timing and implementation perspective and approves the study visits to Dublin and Zagreb and the focus on the reform process.
3. The short/medium term experts are not used as originally indicated in the log frame, but according to the upcoming needs upon the decision of the Team Leader. The project continues to follow the timing of the reform process in Parliament until the next steering committee.
4. The activities of the project are updated (changes underlined) as follows. Those activities in the list, which have been delivered (marked **delivered**), are completed, which means that the contractually agreed objective is met.

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.

1.1. Result: Justice system strategy with a concrete action plan

Former 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, is split in two activities and clarified:

Activity 1.1.1.1. Justice reform strategy with a concrete action plan 2016 -2020 of ministry of justice

New activity 1.1.1.2 Additional activity “Strategy for the reform of the judiciary with ad hoc committee in Parliament”. The steering committee added this activity already last time. **Activity 1.1.1.2 is delivered.** An analysis, an action plan with financing needs and a strategy have been elaborated.

Study visit 1 is delivered (Constitutional drafting group to Dublin).

Original 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 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.

Activity 1.1.2 is clarified: 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.

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.

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

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

Original 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).

Activity 1.2.2. is clarified: 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.

Original 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.

Original activity **1.2.3 becomes 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.

Additional activity 1.2.3.2: Propose and consult within in 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).

Original 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, the Albanian State Police (ASP).

Activity 1.2.4. is clarified: 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 and the Albanian State Police.

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.

Activity 1.2.6. is cancelled. Support the Budget and Finance Directorate of the MoJ in procurement proceedings and optimal allocation of resources. The first steering committee cancelled this activity.

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:

The original activity 1.3.1 has been: Provide support to the State Commission of Legal Aid (SCLA) 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.

Activity 1.3.1 is clarified: Propose a new 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. **Activity 1.3.1. is delivered.** A new law on legal aid has been proposed.

Activity 1.3.2. has been cancelled by the first steering committee. It has been: Support Albanian civil society institutions in their efforts to provide legal aid, in coordination with the SCLA and NCA.

Activity 1.3.3 is delivered: 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 has been proposed.

1.4. For the achievement of expected 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:

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

Activity 1.4.2 is delivered: Support the Judicial Documentation Centre 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 1.4.2. is delivered. The Centre is not the relevant institution, the relevant ones are covered by other activities.

Original 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).

Activity 1.4.3. is clarified: Improve the public relations of courts with the general public by providing the needed legislative framework which at least 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.

1.5. For the achievement of expected 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, the following activities shall be implemented:

Original 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.

Activity 1.5.1. is clarified: Create legislative rules within the ongoing reform process to reform the High Judicial Council in order to reduce discretion and improve transparency of the decisions (draft of constitutional amendments and legislation to organize the HJC).

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

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

Activity 1.5.3. has already been **delivered**, decision taken by the first steering committee.

Activity 1.5.4 is clarified: 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.

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.

1.6. For the achievement of expected result 1.6, the independence, efficiency and effectiveness of the High Court have been improved ensuring that the court can fulfill its constitutional task to provide guidance to all other Albanian courts by unifying the judicial practice, the following activities shall be implemented:

Activity 1.6.1 **is delivered**: 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.

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.

Activity 1.6.3 has been **delivered**, decision taken by the first steering committee.

1.7. For the achievement of Expected Result 1.7, i.e. 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:

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.

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.

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.

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.

Activity 1.7.4. is clarified: This Activity assists also the implementation of the case management system for processing MLA cases.

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.

Activity 1.7.5 is clarified: Assist the access to national and international legal data bases via internet to all judges, prosecutors, the SoM, the MoJ.

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.

2.1 For the achievement of expected 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:

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

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.

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).

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

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

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

2.2. For the achievement of expected result 2.2, i.e. 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:

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.

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).

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

For the achievement of **Expected Result 2.3**, i.e. a country-wide implementation of the ICMIS, the following activities shall be implemented:

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.

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

Activity 2.3.3 is delivered: 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.

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

For the achievement of **Expected Result 2.4**, i.e. the performance of the administrative court staff has improved, the following activities shall be implemented:

Activity 2.4.1. 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).

Previous 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.

Activity 2.4.2 is divided into two activities:

New 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.

New 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 2.4.2.2. is delivered: The draft law on judicial administration elaborated within Activity 2.4.1. foresees the obligation to select chancellors and judicial civil servants after an initial training and obligates them to attend continuous training. This draft law will probably partially be incorporated in the court organisation law.

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.

For the achievement of **Expected Result 2.5**, i.e. Professionalism of Albanian lawyers involved in judicial proceedings has improved, the following activities shall be implemented:

Activity 2.5.1 is clarified: 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. A new law on advocates is upcoming within the reform process and part of this activity.

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 other issues related to the setting up and putting into operation the new School of Lawyers.

Activity 2.5.3 is clarified: 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.

2.6. For the achievement of expected result 2.6, i.e. Professionalism of Albanian notaries involved in judicial proceedings and otherwise has improved, the following activities shall be implemented:

Activity 2.6.1 is clarified: 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.

Activity 2.6.2: Support the Ministry of Justice and the NCN in the implementation of a training program for notaries and notary candidates.

Activity 2.6.3 is delivered: 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.

The system is working well for Tirana and Durrës. Further improvements are not possible as long as digital maps of Albania are not available (technical problem, no legal problem).

Objective 3: To align the Albanian criminal justice system to EU standards

3.1. For the achievement of expected result 3.1, i.e. the legislative framework in criminal matters including international cooperation has been aligned to EU and Council of Europe standards, the following activities shall be implemented:

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.

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.

Study visit 2 has been **delivered** (corruption fighting prosecutors to Zagreb).

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.

3.2. For the achievement of expected result 3.2, i.e. criminal investigations, in particular regarding specialised areas of criminal activity, are handled in a more efficient and effective way, the following activities shall be implemented:

Activity 3.2.1 is delivered: 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;

This activity is implemented by Pameca (training on financial investigations) and by the American OPDAT mission (implementation of a national bureau of investigation and technical skills).

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).

Activity 3.2.3 is delivered: 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).

This activity has been implemented by Pameca. The new National bureau of investigation will probably be trained by an American project.

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.

3.3. For the achievement of expected result 3.3, i.e. efficiency and accountability of the Albanian prosecution service has improved among other measures due to increased professionalism, the following activities shall be implemented:

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 analyzing the role of the Council of the Prosecutors with a view to finding possible alternatives.

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.

Activity 3.3.3 is delivered: Support the Association of Prosecutors and the GPO in the implementation of the Codes of Ethics for prosecutors.

The draft on the status law on judges and prosecutors links ethical violations with the disciplinary regime. The Association is inactive. No additional training needs.

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.

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.

Objective 4: To align the Albanian civil and administrative justice system to EU standards

4.1. For the achievement of expected Result 4.1, i.e. the newly established administrative courts are functioning well producing efficient, transparent and effective judicial decisions, the following activities shall be implemented:

Activity 4.1.1 is delivered: 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 assisted in the elaboration of a sublegal act determining the judicial activities which are carried out of court's premises. No further sub-legal acts are expected to be adopted.

Additonal output for activity 4.1.1.: Euralius is invited to continue with the new primary legislation (revision of administrative court law) and any upcoming sub-legal acts.

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 4.1.3 is delivered: 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.

Training needs assessment and training programs are available.

Activity 4.1.4 is delivered: 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.

A training to the trainers and several other trainings, partly by other donors, have been delivered.

Study visit 3 is delivered (HC, administrative chamber, to Luxembourg).

Activity 4.1.5. has been delivered, decision taken by the first steering committee. The new Administrative Procedure Code is adopted.

4.2. For the achievement of expected result 4.2, i.e. the civil law reform continues taking into consideration latest EU developments, the following activities shall be implemented:

Original 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*.

Activity 4.2.1. is clarified: 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

Activity 4.2.2 is clarified: 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*.

This activity includes the consultation of a law containing amendments to the Civil Procedure Code, including an assessment for better efficiency of the process.

Activity 4.2.3: Support the MoJ in continuing adoption of legislation regarding international cooperation in civil matters and implementation of that already adopted.

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