



Performance of the Prosecution Service in Albania:

An Assessment of the main Mechanisms for an Efficient and Effective System



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Authors:

Mirsada HALLUNAJ

Anila DOLLANI

Jonida JANI

Internal Review:

Arjan DYRMISHI

Layout:

Ergys TEMALI

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Contents

Tables & Graphs	6
List of Abbreviations and Acronyms	7
Forward	8
Study Background	9
International Standards and Methodology	10
Assessment and Recommendations	11
I. INDEPENDENCE OF THE PROSECUTOR'S SERVICE AND PROSECUTORS	11
II. OVERSIGHT AND ACCOUNTABILITY OF THE PROSECUTOR'S SERVICE AND PROSECUTORS	12
III. QUALITY AND EFFICIENCY OF THE SERVICE OF THE PROSECUTOR'S OFFICE AND PROSECUTORS	13
IV. TRANSPARENCY, INTEGRITY AND ETHICS OF THE PROSECUTOR'S SERVICE AND PROSECUTORS	14
V. EFFICACY AND PERFORMANCE OF THE PROSECUTOR'S SERVICE AND PROSECUTORS	15
The Organization of the Prosecution System in Albania	16
I. Independence and Impartiality	18
Table I/A International standards on the Independence and Impartiality	19
1.1. Legal guarantee of the independence of the Prosecution Service and prosecutors	20
1.2. Professional Career of Prosecutors	20
1.3. Budget of the Prosecution Service	20
1.4. Independence in criminal prosecution	21
1.5. Protection of prosecutors	22
Table I: Evaluation Indicators on the INDEPENDENCE and INDEPENDENCE	23
2. Oversight and Accountability	26
Table II/A International standards on the Oversight and Accountability	27
2.1. Legal competences of institutions in relation to the prosecution service	28
2.2. Periodic reporting on the general activity of the Prosecution Service	30
2.3. Oversight or verification functions of the internal structures of the prosecution service	36
2.4. Accountability to the internal oversight and monitoring system in the prosecution service	38
2.5. Oversight of judicial police activity and reporting	38
Table II: Evaluation Indicators on the OVERSIGHT and ACCOUNTABILITY	40
3. Quality and Efficiency	42
Table III/A International standards on the Quality and Efficiency	43
3.1. Financial Resources	44
3.2. Human Resources	44
3.3. Recruitment and Career of Prosecutors	48
3.4. Professional Education and Trainings	49
3.5. Technological Capacities	50
Table III: Evaluation Indicators on the QUALITY and EFFICIENCY	52
4. Transparency, Integrity and Ethics	54
Table IV/A International standards on the Transparency, Integrity and Ethics	55
4.1. Integrity and Ethics of Prosecutors	56
4.2. Media and Public	57
4.3. Other anti-corruption mechanisms	58
Table IV: Evaluation Indicators on the TRANSPARENCY, INTEGRITY and ETHICS	60



5. Efficacy and Performance 63

Table V/A International standards on the Efficacy and Performance 64

- 5.1. Strategic Planning 67
- 5.2. The Role of Prosecutors in Criminal Proceedings and cooperation with Judicial Police 68
- 5.3. Statistics and Case Management 69
- 5.4. Measuring the Performance of the Prosecution Service 70
- 5.5. International Cooperation 71

Table V: Evaluation Indicators on the EFFICACY and PERFORMANCE 73

Bibliography 75

- International Standards 75
- National Legislation 77
- Strategies 86
- Reports & Publications 86



Tables & Graphs

Table I/A International standards on the Independence and Impartiality

Table I: Evaluation Indicators on the INDEPENDENCE and INDEPENDENCE

Table II/A International standards on the Oversight and Accountability

Table II: Evaluation Indicators on the OVERSIGHT and ACCOUNTABILITY

Table III/A International standards on the Quality and Efficiency

Table III: Evaluation Indicators on the QUALITY and EFFICIENCY

Table IV/A International standards on the Transparency, Integrity and Ethics

Table IV: Evaluation Indicators on the TRANSPARENCY, INTEGRITY and ETHICS

Table V/A International standards on the Efficacy and Performance

Table V: Evaluation Indicators on the EFFICACITY and PERFORMANCE

Table A: Level of implementation of the resolution of the Assembly for the Prosecutor General for the year 2022

Table B: Level of implementation of the resolution of the Assembly for the High Prosecutorial Council for the year 2022

Table C: Level of implementation of the resolution of the Assembly for the High Inspector of Justice for the year 2022

Graph 1: Level of realization of the budget of the General Prosecutor's Office (2022-2020)

Graph 2: Number of prosecutors, judicial police officers and administrative employees in the General Prosecutor's Office (2022)

Graph 3: Number of prosecutors in the prosecution offices near the courts of first instance with general jurisdiction (2022)

Graph 4: Number of judicial police officers in the prosecution offices near the courts of first instance with general jurisdiction (2022)

Graph 5: Number of administration employees in the prosecution offices near the courts of first instance with general jurisdiction (2022)

Graph 6: Number of prosecutors and administrative employees in the prosecution offices near the courts of appeal with general jurisdiction (2022)

Graph 7: Attendance of activities by prosecutors during the last 3 academic years

Graph 8: Days of training attended by prosecutors during the last 3 academic years



List of Abbreviations and Acronyms

CAMS	Case Management System of the Albanian Prosecution Office
CC	Constitutional Court
CE	Council of Europe
CM	Council of Ministers
CPC	Criminal Procedure Code
CSJS	Cross-Sector Justice Strategy
ECHR	European Convention of Human Rights
EU	European Union
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Union Agency for Law Enforcement Cooperation
GPO	General Prosecutor's Office
HC	High Court
HJC	High Judicial Council
HJI	High Justice Inspector
HPC	High Prosecutorial Council
IQC	Independent Qualification Commission
IT	Information Technology
ITC	Information Technology Center for the Justice System
JIT	Joint Investigation Teams
JP	Judicial Police
JPC	Judicial Police Commission
JPO	Judicial Police Officer
MoFE	Ministry of Finance and Economy
MoJ	Ministry of Justice
NBI	National Bureau of Investigation
NDIS	National Development and Integration Strategy
NGO	Non-Government Organisations
OSCE	Organization for Security and Co-operation in Europe
SAC	Special Appeal Chamber
SM	School of Magistrates
SPAK	Special Anti-Corruption Structure
SVHOPGJP	Statistics of the investigative actions of judicial police officers of the section in the prosecutor's office
TF	Task Force
UN	United Nations
UNODC	United Nations Office on Drugs and Crime



Forward

The growing challenges and complex trends of criminality, especially those related to financial and economic crimes, have led Albania, like a number of other countries, to consider the need to strengthen and improve its approach to dealing with these phenomena.

Organized crime and corruption continue to remain one of the main threats to Albania's security and economic development, while a significant part of organized crime groups is involved in the legal economy of the country, making that activities such as money laundering or the trafficking of high excise goods and counterfeit products be a serious concern.¹

The transnational scope of organized crime has also made the division between these activities carried out under Albanian jurisdiction and those carried out within the jurisdiction of the EU area increasingly less distinct. The development, sophistication and trends of organized crime have brought an increase in the volume of criminal activities, as well as innovation in the organizational structure and modus operandi of these groups.²

After the start of membership negotiations in July 2022, the fight against corruption and organized crime will continue to remain one of the main indicators for Albania's progress towards the EU. Despite the efforts in this direction, the assessments related to Albania's results in the fight against organized crime still remain weak and as a whole it results that the fight against organized crime needs to be further strengthened, while the fight against cybercrime, human trafficking human rights and money laundering remain areas where more results are needed.³ Effective criminal prosecution practices play a key role not only in addressing and effectively dealing with the above phenomena, but also in shaping citizens' trust in justice institutions.

In this context, the reform in the justice system had as its main goal the creation of a more effective criminal justice, improving the processes related to investigation, criminal prosecution and trial. The

prosecution was one of the main institutions that underwent major changes from the reform.

Decentralization and independence of prosecutors were assessed as some of the most important elements in the function of an efficient prosecution service. Also, one of the main pillars was the creation of special institutions against corruption and organized crime, the Prosecutor's Office (SPAK) and Special Courts, including the National Bureau of Investigation (NBI).

Despite the fact that the justice reform has already entered the fourth year of implementation, the capacities of the criminal investigation and prosecution institutions have not yet been fully formed to respond to all the current dynamics. Given that the reform brought radical and comprehensive changes from a structural, legal, but also cultural point of view, the new justice institutions have not yet been fully established.

Another current challenge of the prosecutor's offices continues to be the pronounced lack of human resources due to the departure of magistrates from the transitional re-evaluation process, while a large part of them are still in the process or have not started the re-evaluation process. As a result, the workload in the prosecutor's offices has created an emergency situation, as there is still no clear forecast of when the system will operate at full capacity. The implementation of the new judicial map, which led to the reorganization of the prosecutions near the courts of first instance and the prosecution near the court of appeal with general jurisdiction, also constitutes another challenge to provide citizens with an effective, cost-free and timely service.

This study prepared by the Center for the Study of Democracy and Governance aims to identify and evaluate the main mechanisms necessary for the efficient functioning of the prosecution service in Albania, with the aim of providing recommendations that support the strengthening of the justice system and criminal policies as a guarantee for the efficient investigation and proceeding of criminal offences.

¹ Center for the Study of Democracy and Governance (2022), Challenges of Albania's approach to effectively tackle Organised Crime: Developing a More Efficient and Improved Legal Framework in aligning with EU approach

² Ibid

³ European Union Commission, Report for Albania 2022



Study Background

During the last two decades, Albania has increasingly faced a series of complex challenges related to corruption, organized crime including economic and financial crime, cybercrime or other related crimes. The need to undertake a complex and comprehensive reform such as that in the justice system evidenced even more the presence and spread of these phenomena in society, but also the failure of justice institutions to respond effectively to these challenges.

The adoption of the reform in the justice system in July 2016 included among its main objectives the reform of criminal justice not only as one of the main pillars of the rule of law, but also as a need to face new forms of sophisticated criminality by improving the legislation and increasing the effectiveness of the activity of specialized agencies in the fight against criminality. As one of the main institutions in preventing and fighting crime in the country, the prosecution service was one of the main institutions that underwent a series of legal and constitutional changes.

The analysis of the justice system pointed out that the results of the work of the prosecution did not respond as much and properly to the challenges of criminality and organized crime and corruption in particular, and this is a consequence of a series of causes related to i) the completely centralized organizational model and hierarchy of the prosecutor's office, becoming a trigger for political influence on the system as well as for the violation of the internal independence of prosecutors; ii) the limited advisory role of the Prosecution Council in the administration of issues related to the status of the prosecutor; iii) shortcomings in regulating the status of the prosecutor; iv) lack of effective mechanisms for the accountability and responsibility of prosecutors; and v) lack of effective mechanisms for evaluating the performance of prosecutors.

In this context, the constitutional and legal changes that were undertaken aimed at increasing the efficiency and effectiveness of criminal justice through the consolidation of the mission and functions of the prosecution, as well as through the reorganization of its structures and the redistribution of responsibilities between them.

The new law on the organization and functioning of the prosecution aimed to regulate the guarantee of the internal and external independence of prosecutors, the review of powers of investigation and representation of the accusation in court, promoting the effective control and balancing of these powers by the responsible structures, ensuring sufficient independence of special structures of the prosecutor's office, establishing clear rules for disciplining the authority of higher prosecutors in relation to the prosecutors of the case, respecting the principles of legality and independence of their activity.

Several years after the implementation of these changes and the reorganization of almost all justice institutions and the creation of new ones, corruption in the judicial system continues to be perceived as high. Albania continues to have some level of preparation in the fight against corruption, while corruption remains a serious area of concern. Increasing the number of final convictions of high-level officials remains an important priority to further address the culture of impunity. Even in the fight against organized crime, Albania has a certain level of preparation, while the fight against cybercrime, human trafficking, online sexual abuse of children and money laundering remain problematic areas in which more results are needed.

The 2022 Progress Report also points out that Albania has a large informal sector and its economy is largely based on cash. Crimes that generate large sums of money include drug trafficking, tax evasion, smuggling and human trafficking, while in relation to money laundering, Albania is on the Financial Action Task Force (FATF) list of jurisdictions under monitoring added since February 2020.

The identification and presence of the above problems in the prosecution system, as well as the lack of a comprehensive assessment of the performance of this institution, has highlighted the need for the preparation of a study, which aims to serve as a qualitative analysis of the current state of the body of the prosecution. From the performed analysis, it is intended to understand how the prosecution body is functioning/performing, what hinders the performance of the institution according to expectations.



International Standards and Methodology

Numerous international institutions and associations have produced instruments and reports focusing on the monitoring and measuring various aspects of the performance of different segments of countries' justice systems.

This study report has included in its methodology and analysis a selection of main instruments relevant for addressing the performance of the prosecutorial services, primarily European (e.g. promoted by the Council of Europe) and global (e.g. mainly promoted by the United Nations and the International Association of Prosecutors). These two groups of instruments are used as reference in order to provide a basis for the assessment of the Albanian prosecutorial service from a managerial viewpoint.

- The Recommendation Rec (2000)19 on “The Role of Public Prosecution in the Criminal Justice Systems” was adopted by the Committee of Ministers of Justice of the Council of Europe on 6 October 2000, which was the first Europe-wide document aimed at setting standards for prosecutorial services. The Committee of Ministers aimed to improve the quality and efficiency of the European judicial systems and strengthening the court users' confidence in such systems. The European Commission for the Efficiency of Justice (CEPEJ) was created and started operations at the end of 2002. The CEPEJ reports are relevant resources that incorporate important comparative indicators on measuring the performance of the public prosecutors in European countries.
- The United Nations Guidelines on the Role of Prosecutors, adopted by the 8 United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990), complemented by a relevant guide (The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, 2014, “the UNODC/IAP Guide”), also illustrate international standards. The Standards of professional responsibility and statement of the essential duties and rights of prosecutors, 23 April 1999 by the International Association of Prosecutors (“IAP Standards”) which relate to professional conduct, independence, impartiality, role in criminal proceedings, co-operation and empowerment are an important source of international good practices guidelines.

In order to identify and reflect good practices and highlight the challenges in this field, the methodology designed by the working group to carry out this assessment is based on the collection and analysis of **primary data** (research interviews) and **secondary data** (legislation, reports, publications, etc.).

The analysis of the data is carried out in accordance with five main parameters related to:

1. Independence/Impartiality;
2. Oversight/Accountability;
3. Quality/Efficiency;
4. Transparency/Integrity/Ethics; and
5. Efficacy/Performance,

In overall, the expected results of the research and evaluation aim to contribute to:

- a) Analyse the legal framework to identify gaps and shortcomings in the legislation and generate recommendations for improvement, as per a set of indicators and sub-indicators;
- b) Evaluate the human, financial and material resources, and capacities particularly in tackling financial and economic crimes, accountability mechanisms, strategic management tools, etc.
- c) Formulate recommendations to improve staff management including exploring opportunities for training, specialisation, and increased use of simplified procedures.
- d) Analyse and assess professional practices that affect the performance the prosecution system (the focus will be on the practices that should have changed in the framework of the justice reform but may have not, i.e. performance evaluation, reporting, public relations and strategic communications, etc.).



Assessment and Recommendations

I. INDEPENDENCE OF THE PROSECUTOR'S SERVICE AND PROSECUTORS

Decentralization and independence of prosecutors was one of the main goals of the constitutional reform of the justice system, so the legislation has included a number of provisions emphasizing this element. The independence of the prosecution service and prosecutors is guaranteed in the constitution, laws and a series of general guidelines. The legislation also provides for the necessary independence of prosecutors from any form of influence in making decisions.

The independence of the prosecutor also includes his decision-making autonomy in conducting investigations, criminal prosecution, representation in court of a case and/or criminal charges and ordering or supervising the execution of court decisions, regardless of direct or indirect illegal influence, internal or external from any public, private authority or party in the criminal process.

The Code of Criminal Procedure and subsequent amendments also provide for the prosecutor's right not to initiate criminal proceedings, dismiss the charge or case, the right to withdraw and the right to appeal to a higher court. Prosecutors can also appeal general and non-binding guidelines.

The financial independence of the prosecution service is also another key indicator for the independent and effective exercise of powers. The Prosecutor's Office has an independent budget, as part of the State Budget, which is drawn up and administered by the Prosecutor General and implemented in accordance with the relevant budget and financial management legislation.

The governing body of the prosecution system such as the Supreme Council of Prosecution is constructed as a collegial body consisting of eleven members, who serve on a full-time basis with the aim of guaranteeing the independence, accountability, discipline, status and career of prosecutors. Six of the members of the Council are prosecutors from all levels of the prosecution, while the other five members of the Council are non-prosecution lawyers, selected from the ranks of lawyers, law professors and civil society representatives. Detailed rules provide for the selection of prosecutor and non-prosecutor members of the KLP.

As a mechanism that ensures the protection of the independence of the prosecutor is also the Commission for the Protection of Prosecutors at the High Council of Prosecution, which is mainly oriented towards guaranteeing the special protection of the magistrate prosecutor at his request or when he becomes aware of serious situations that affect the life, health and property of the magistrate or his family members.

Although the prosecution body is responsible for the smooth running of the work of the General Prosecutor's Office and the prosecutions at the courts of general jurisdiction of appeal and first instance, a limited role is evident in some aspects related to the staff of the institution, the General Secretary, the chancellors and the legal advisor. This is because a number of powers as well as the approval of detailed rules related to the latter are exercised by the High Council of Prosecution.

On the other hand, it results that in order to ensure the complete independence of prosecutors, it is necessary to further complete the legal and regulatory framework regarding the career of prosecutors. Cases related to the appointment or transfer of prosecutors based on political, personal or family ties still constitute an existing problem often addressed by media outlets.

Despite the achievements related to the decentralization of the prosecution service, it is recommended that procedural independence should not avoid the prosecutor from the obligation to fulfill the constitutional and legal functions and/or responsibilities related to the exercise of criminal prosecution or the implementation of general instructions, including those related to the implementation of priority recommendations of the Council of Ministers or resolutions of the Assembly for the fight against criminality.

On the other hand, the responsible exercise of independence requires that prosecutors be prepared and equipped with a professional culture to perform a more active role, which would improve the overall quality of the criminal investigation. Other aspects of the work related to the independence of criminal prosecution should be further consolidated and improved.



II. OVERSIGHT AND ACCOUNTABILITY OF THE PROSECUTOR'S SERVICE AND PROSECUTORS

Reporting and accountability are important instruments in terms of the transparency of the institution as well as the evaluation of the performance of the prosecution service. The Prosecutor General reports to the Assembly on the state of criminality in the country, at least once a year. The reporting includes data and explanations on the number, types, territorial extent, intensity and forms of criminality in the Republic of Albania. The reporting also includes detailed data related to the effectiveness of the criminal prosecution, the quality of the representation of the prosecution in court, the implementation of the priority recommendations of the Council of Ministers in the fight against criminality, as well as the issuing of general instructions, their implementation, impact and monitoring.

Despite the provisions for reporting, the criminal investigation is independent from the investigations of the parliamentary commissions and in cases of reporting to the Assembly, notification of specific cases is not allowed, with the exception of cases sent by decision of the Assembly. The General Prosecutor also reports at least once a year to the High Prosecutorial Council regarding the progress of the activity of the relevant structures.

Other institutions such as the High Prosecutorial Council and the High Inspector of Justice, which play an important role in the activity of the prosecution service and prosecutors, also report periodically to the Assembly of Albania and are also subject to the Resolutions that the Assembly prepares on evaluation of the activity of these institutions. Respectively, the High Prosecutorial Council reports to the Assembly on the state of the system during the previous calendar year no less than once a year. The HPC report, which is forwarded to the Assembly no later than May 1st of each year, describes the activity of the Council and its commissions, as well as contains recommendations for the necessary improvements. Also, an important part of the annual report of these institutions is the assessment regarding the level of implementation of the resolutions of the Assembly. The mechanism of these reports is carried out systematically by all institutions, while the monitoring of the level of fulfillment of the Assembly's Recommendations is reflected in every annual report.

The analysis has shown that there is no complete and well-defined methodology for the measurement of results for the external monitoring carried out on the prosecution service. The Assembly has limited powers regarding this monitoring and despite the efforts in this direction, its role has been more coordinating.

Internal supervision and reporting of the prosecution service are also important elements for the smooth running and exercise of the legal and constitutional powers of the prosecution, but without compromising the independence of the prosecutors. The Monitoring Sector in the General Prosecutor's Office is the structure authorized by the General Prosecutor, while in the prosecutor's offices near the courts of first instance and near the appeal courts with general jurisdiction, the monitoring/supervisory and verification authority is the head of the prosecution or the deputy head authorized by his.

It is evident that, despite the fact that the prosecution service has powers related to the organization and operation of the prosecution system, in cases of information on thematic problems or individual violations mainly evidenced either by the functional activity of the structures of the General Prosecutor's Office or by complaints sent from natural or legal persons in the General Prosecutor's Office or prosecutors with general jurisdiction, requests/complaints are addressed to the High Inspector of Justice or the Judicial Police Commission. Based on the reports of the General Prosecutor, a number of problems are evident in relation to the smooth running of the activity of the prosecution service, specifically the relations with the leaders of the prosecutions regarding their organizational and administrative activity. These issues include reporting/informing the heads of prosecutions on the state of criminality, sending the annual report on the progress of work to the relevant prosecution, deficiencies in the presentation of correct data in the annual report, informing on issues and/or violations that constitute a cause for the initiation of disciplinary proceedings against judicial police officers of the section in the respective prosecutor's office, sending the evaluation report of Judicial Police officers, issuing general instructions to guarantee and facilitate the implementation of the general instructions of the Prosecutor General.



III. QUALITY AND EFFICIENCY OF THE SERVICE OF THE GENERAL PROSECUTOR'S OFFICE AND PROSECUTORS

The efficient functioning of the prosecution service would not be possible without the support of the institution with sufficient financial, human or other technical and logistical resources. Despite the difficulties that the new institutions had at the beginning of their re-organization or creation, a significant budgetary support is evidenced to enable their efficient operation.

Despite this, the lack of prosecutors and human resources suitable to them, constitutes an already serious difficulty in the progress and management of the prosecution's workload. As a result of the transitory reassessment process, the creation of temporary and permanent vacancies continued throughout 2022, up to 42% in terms of the prosecution service.

The data for the year 2022 show that the number of prosecutors, judicial police officers and administrative employees in the General Prosecutor's Office is lower than anticipated. In all 22 prosecutor's offices near the courts of first instance with general jurisdiction, there was a lack of the number of actual prosecutors compared to the number foreseen in the organization of the institution.

A different situation is presented in relation to the number of judicial police officers in the prosecutor's offices next to the courts of first instance with general jurisdiction, where in 16 of them the number of judicial police officers is completed according to the organization of the institution. In relation to the number of employees of the administration of the prosecutions near the courts of first instance with general jurisdiction, in 17 of them this number is completed according to the organization.

As for the number of prosecutors and administrative employees in the prosecutor's offices near the courts of appeal with general jurisdiction, there are shortages related only to the number of prosecutors, while the administrative positions are filled according to the organization. There is no full assessment regarding the impact of these absences on the efficiency of the work of prosecutors, especially in the prosecution process.

The temporary appointment of prosecutors and the lack of evaluation regulations for the heads of prosecutions based on performance indicators also remain a concern, considered as a serious deficiency

not only in the transparency and integrity of appointments, but also in the smooth running of the work and the coordination of the activities of the prosecutions.

Although the KLP has adopted a number of important regulations related to the appointment, transfer, dismissal and remuneration of prosecutors, there are still by-laws that must be approved by the KLP based on the requirements of the Law on Status and the Law on Governance. The absence of some important by-laws is considered to create a risk for the implementation of legal provisions based on different interpretations and therefore the processing and approval of all by-laws provided by the primary legislation should be a priority of the KLP.

The Continuing Education Program at the School of Magistracy, but also the trainings are a very important element as they aim to serve the quality of justice based on the needs of the training system. Despite this goal, a low number of prosecutors who have attended the training organized by the School of Magistrates is evident.

During the year 2022, 34% of prosecutors did not participate for a single day in the trainings organized by the School of Magistrates, while no prosecutor participated more than 20 days per academic year in the trainings organized by this institution. It is also found that there is a rather disproportionate ratio between the number of prosecutors invited to the trainings developed by the School of Magistrates and those who participated and were certified in these trainings. This number was the lowest during the 2021-2022 academic year.

The analysis shows that the technological aspects are also one of the difficulties for all justice institutions and the rate of improvement of this component is slower compared to other aspects of the work. As evidenced in the Cross-Sectoral Justice Strategy 2021-2025, most of the measures related to specific objective 4.1 *"Full development of the integrated electronic justice system (e-justice) with a unified identifier, updated case management systems, internet-based electronic registration for all three areas (criminal, administrative, civil) and links to relevant national registers and databases"* have been partially implemented or not implemented.



IV. TRANSPARENCY, INTEGRITY AND ETHICS OF THE PROSECUTOR'S SERVICE AND PROSECUTORS

Transparency is another important aspect of the activity of the prosecution service and almost all justice institutions have had it in the focus of their work.

As the body responsible for approving the ethical standards of prosecutors and the rules of conduct of prosecutors, as well as for supervising their compliance, the High Prosecutorial Council has taken a number of measures in this direction.

During 2022, the HPC elected the Advisor for Ethics through the command procedure, while it also approved in February 2022 the "Prosecutor's Standards of Ethics and Rules of Conduct", a regulation which aims to establish, maintain and strengthen professional and personal integrity of prosecutors, as well as to increase the effectiveness, impartiality and accountability during and outside the exercise of their functions, in the name and in the interest of society as part of the criminal justice system.

Although it has been more than 1 year since the appointment of the Ethics Advisor, a report has not yet been carried out to make it possible to understand what the ethical issues are in the system, to assess how much is known and how the ethics regulation is applied, and eventually what measures should be taken undertake HPC to improve the situation.

On the other hand, in addition to the missing reporting on the activity of the Ethics Advisor, there is a significant lack of training related to ethics. Based on the training calendar of the School of Magistrates during the last 3 years these trainings have been almost non-existent.

Regarding the relations of the prosecution service with the media, the general instruction on relations with the public in the prosecutions with general jurisdiction aims to unify the activity of the prosecutions with general jurisdiction in relations with the public and the media for providing information regarding the investigation of criminal prosecution and for other activities of the prosecutor's offices in this field.

Despite the fact that the public relations prosecutor plays an important role in the direction and supervision of the public relations service, there is no

clear published information regarding the selection of public relations prosecutors and the reports they are expected to perform.

There is also no published information or contacts regarding the public relations coordinator, who is appointed by the Director of Prosecution. The contact of the coordinator for the right to information is published on the website of the General Prosecutor's Office as well as on all the pages of the district prosecutor's offices, including the Appeals Prosecutor's Office of the general jurisdiction, while the PP offers a section dedicated to media accreditation.

The Transparency Program is also a key instrument in increasing transparency on the activity of the prosecution service. It is evident that not all the sections of this program are functional and accessible, while it is necessary to monitor the responses to the public/media and evaluate their efficiency, whether or not the requests for information have been fully addressed.

As part of the cooperation with civil society organizations, it is also suggested that the General Prosecutor's Office develop informational activities related to its activity, specifically dedicated to civil society. The prosecution must come closer to international standards that treat and consider cooperation with civil society as an efficient instrument in the fight against corruption and organized crime. The organization of joint roundtables with citizens and civil society in order to inform about the activities of the General Prosecutor's Office increases the transparency and credibility of the public towards the institution.

One of the instruments approved in 2016 in the framework of reporting corrupt acts was the Law on Whistleblowing and Protection of Whistleblowers. Currently, on the website of the General Prosecutor's Office, but also of the district prosecutor's offices, there is no published information regarding the approval of the respective acts in implementation of the law on whistleblowing and the protection of whistleblowers, which include the approval of the relevant regulations as well as the forms for whistleblowing cases internal, external and the demand for protection from retaliation.



V. EFFICACY AND PERFORMANCE OF THE PROSECUTOR'S SERVICE AND PROSECUTORS

The establishment of a mechanism that makes it possible to monitor the realization of the objectives of the prosecution institution as a whole and the effectiveness in achieving concrete results constitutes a key aspect of performance measurement, while it is used as an instrument in many countries in Europe.

It is currently evident that the legal framework in force has a legal gap in terms of performance evaluation of prosecutors with general jurisdiction, which differs from the individual performance evaluation of managers or prosecutors themselves. Despite these shortcomings, the annual report of the General Prosecutor reflects an assessment of the effectiveness of criminal prosecution and an analysis of criminality indicators.

It is evident that the number of criminal proceedings initiated mainly by the prosecution continues to remain low considering the total number of registered criminal proceedings. This fact emphasizes the importance of increasing the proactive role of the prosecutor in the preliminary investigation, in function of the increase of investigations initiated mainly by the prosecution body itself, which is also one of the main recommendations of the resolution of the Assembly for the Prosecutor General.

Due to the vacancies created as a result of the re-evaluation process and therefore the increase in the workload and volume of work of the prosecutors, an increase in the number of criminal proceedings carried out during the last 3 years is also evident. Despite the fact that the General Prosecutor's Report on the Workload of Prosecutor's Offices reflects the average workload in the investigation for each prosecutor according to the prosecutor's offices, it would be necessary for this assessment to be presented also considering the average workload in the investigation for each prosecutor in total, at the level of the country.

Compared to the years 2020 and 2021, the number of criminal proceedings in which proactive investigations were used and/or with the use of special investigation tools has decreased. The information and data reflected in the annual report of the General Prosecutor lacks data related to the duration of the preliminary investigations as well as the number of appealed cases, by the prosecutors at the appeal courts and at the Supreme Court.

Despite some positive steps taken in terms of objective evaluation and increased performance and reporting of judicial police officers, strengthening of cooperation between parties and clear understanding of roles is needed. At the same time, it is necessary to improve the quality of the referral of issues as well as communication through the creation of models and protocols for communication and work evaluation.

Although the legal framework for managing cases in the prosecutor's office and keeping statistics is complete, the problem lies in the delays in setting up and functioning of the system for managing cases that lead to overloading of some prosecutors or problems related to the time available for examining the case. In this aspect, it is recommended to set up and operate the system as soon as possible, which would result in the complete digitization of the work processes of prosecutors and judicial police officers in the prosecutions with general jurisdiction and, consequently, in the increase of efficiency.

Also, it is recommended to take measures for the identified problems related to the statistical data. It is recommended to unify the data and the way they are reported by all actors of the justice system. In addition, continuous training of the persons responsible for completing the statistics is recommended. Reliable statistical data would not only improve the efficiency of prosecutions but would also increase public confidence in them.

In relation to international cooperation, it is recommended to take measures to address the workload and to increase the professional knowledge of the staff working in departments dealing with international judicial cooperation. In this context, trainings are recommended to increase the technical and analytical capacities of the staff. In the framework of the process of Albania's membership in the European Union, the procedural legislation, and especially the part that regulates judicial and police cooperation in the criminal field, must be adapted to the standards of the European Union. A positive step in the direction of international cooperation was the opening of the Office of the Liaison Prosecutor of Albania near the headquarters of Eurojust in 2021. It is evident that there has been an increase in the number of cases registered in the Albanian Liaison Office in EUROJUST as well as the establishment of new Joint Investigation Teams.



Organization of the Prosecution System in Albania

As it was emphasized in the introduction of this study, the prosecution service has undergone the most drastic changes from the reform in the justice system. The 2016 constitutional amendments changed the prosecution system from a centralized system to one that focuses on the internal independence of the prosecutor.

The High Prosecutorial Council, from an advisory body, was created as an independent constitutional body that guarantees the independence, accountability, discipline, status and career of the prosecutors of the Republic of Albania.

Also, the changes of the reform led to the creation of the institution of the High Inspector of Justice, which carries out the verification of complaints, the investigation of violations and the initiation of disciplinary proceedings against prosecutors of all levels, members of the High Prosecutorial Council and the Prosecutor General as well as the inspection of the prosecution offices.

The prosecution is a constitutional body, the organization and functioning of which is regulated by the provisions of the tenth part of the Constitution "Prosecution", where its principles and functions are provided as the body that carries out criminal prosecution and represents the accusation in court on behalf of the state. The Constitution stipulates that the prosecution is organized and functions alongside the judicial system.

The prosecution is an independent body that guarantees the smooth running, control of its actions and respects the internal independence of prosecutors for investigation and criminal prosecution, according to the law. The prosecution exercises its functions independently through prosecutors. The mission of the prosecutor's office is to serve the public by prosecuting criminal offenses responsibly, fairly, impartially and objectively, to protect the rights of the individual and to cooperate with all actors of the justice system to strengthen the implementation of the law and the rule of law.

The prosecutor's office is organized and functions alongside the judicial system and consists of:

- a) General Prosecutor's Office;
- b) Special Prosecutor's Office, according to the special law;
- c) prosecutors' offices near appeal courts with general jurisdiction;

- d) prosecutors' offices near courts of first instance with general jurisdiction.

The direction and representation of the prosecution is done, respectively, by:

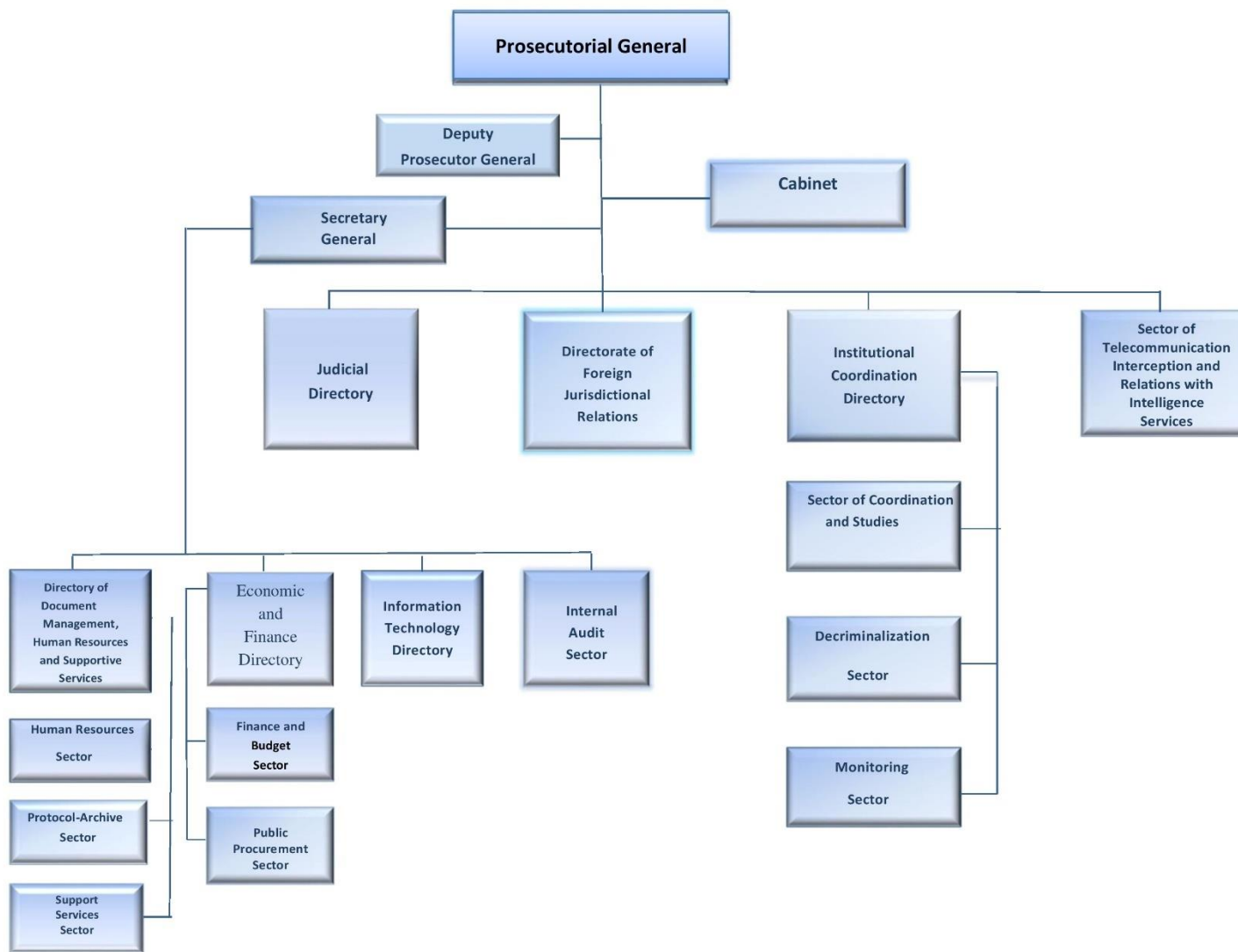
- a) Prosecutor General;
- b) Head of the Special Prosecution;
- c) heads of prosecutions at appeal courts with general jurisdiction;
- d) heads of prosecutions at the courts of first instance with general jurisdiction.

The General Prosecutor is the head of the General Prosecutor's Office and is responsible for the work of the Prosecutor's Office and the prosecutor's offices at the courts of general jurisdiction of first instance and appeal. The General Prosecutor is elected by three-fifths of the members of the Assembly, among three candidates proposed by the High Council of Prosecution, for a 7-year term and without the right to re-appointment. The General Prosecutor is appointed in accordance with Article 148/a of the Constitution.

The General Prosecutor represents the charge in the Supreme Court and cases in the Constitutional Court, except when the representation is made by the Special Prosecutor's Office. The Prosecutor General issues general instructions to the prosecutors of the prosecution offices of the general jurisdiction and officers of the Judicial Police and supervises their implementation, reports to the Assembly on the state of criminality in the country, asks the High Inspector of Justice to carry out thematic inspections or investigations for individual violations, administers the interception system and exercises other powers according to Article 38 of Law No. 97/2016 "On the organization and functioning of the prosecution in the Republic of Albania". Prosecutors in the exercise of their duties are subject to the Constitution, international agreements ratified by the Republic of Albania and other laws in force. Prosecutors exercise their powers respecting the principles of fair, equal and regular legal proceedings and the protection of basic human rights and freedoms and the public interest.

In the framework of the implementation of the new judicial map, from February 1st, 2023, 5 prosecution offices near the appeal courts ceased their activity, and from May 1st, 2023, 9 prosecution offices near the courts of first instance of general jurisdiction ceased their activity.

Organizational Structure of the Institution of the Prosecutor General in Albania



Source: (General Prosecutor's Office, 2020) Link: <https://www.pp.gov.al/Organizimi/Struktura/>



1.

Independence and Impartiality

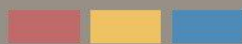


Table I/A International standards on the Independence and Impartiality

<p>The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, UNODC/IAP (2014)</p>	<p>Article 20: In order to ensure the fairness and effectiveness of prosecution, prosecutors shall strive to cooperate with the police, the courts, the legal profession, public defenders and other government agencies or institutions.</p> <p>2.2. Prosecutors are accountable to courts to an extent, insofar as their actions are always under scrutiny by the courts and in some cases can be reviewed by the courts. Examples of accountability include the undertaking of a review of a prosecutor’s decision not to prosecute a particular individual where citizens took issue with that decision or where the court wished to satisfy itself and as a result satisfy the public that a decision not to continue with the prosecution of a high-ranking politician was based on the law and on no other extraneous factors.</p>
<p>Report on European Standards as regards the Independence of the Judicial System: Part II, the Prosecution Service, adopted on 17-18 December 2010 by the Venice Commission</p>	
<p>The Role of Public Prosecution in the Criminal Justice Systems, Committee of Ministers of Justice of the Council of Europe (2000)</p>	<p>Article 11: States should take appropriate measures to ensure that public prosecutors are able to perform their professional duties and responsibilities without unjustified interference or unjustified exposure to civil, penal or other liability. However, the public prosecution should account periodically and publicly for its activities as a whole and, in particular, the way in which its priorities were carried out.</p> <p>Article 12: Public prosecutors should not interfere with the competence of the legislative and the executive powers.</p> <p>Article 14: In countries where the public prosecution is independent of the government, the state should take effective measures to guarantee that the nature and the scope of the independence of the public prosecution is established by law.</p> <p>Article 15: In order to promote the fairness and effectiveness of crime policy, public prosecutors should co-operate with government agencies and institutions in so far as this is in accordance with the law.</p> <p>Article 16: Public prosecutors should, in any case, be in a position to prosecute without obstruction public officials for offences committed by them, particularly corruption, unlawful use of power, grave violations of human rights and other crimes recognised by international law.</p> <p>Article 17: States should take appropriate measures to ensure that the legal status, the competencies and the procedural role of public prosecutors are established by law in a way that there can be no legitimate doubt about the independence and impartiality of the court judges. In particular states should guarantee that a person cannot at the same time perform duties as a public prosecutor and as a court judge.</p> <p>Article 19: Public prosecutors must strictly respect the independence and the impartiality of judges; in particular they shall neither cast doubts on judicial decisions nor hinder their execution, save where exercising their rights of appeal or invoking some other declaratory procedure.</p>



1.1. Legal guarantee of the independence of the prosecution service and prosecutors

The legal guarantee of the independence of the prosecution service and prosecutors constitutes an important element to ensure the exercise of legal powers.

One of the fundamental changes that aimed to bring reform to the justice system was to ensure and guarantee the independence of prosecutors and the prosecution system itself from external influences, as well within the institution itself.

The guarantee of the independence of the prosecutor's office and the internal independence of prosecutors is provided for in the constitution,⁴ laws,⁵ and a series of general guidelines.

The Code of Criminal Procedure also defines in article 25, point 2 the independence of the prosecutor in the exercise of his powers.

1.2. Budget of the Prosecution Service

The financial independence of the prosecution service is also another key indicator in order to ensure the independence and effectiveness in exercising respective powers.

The Constitution stipulates that the General Prosecutor proposes and administers the budget of the prosecution, with the exception of the budget of the Special Prosecution Office.⁶

The legislation sanctions that the prosecution has an independent budget, as part of the State Budget and is provided for in a separate item of it.⁷ The budget is drawn up by the General Prosecutor and is implemented in accordance with the relevant budget and financial management legislation.⁸

It is emphasized that in the case when the proposal of the budget of the prosecution by the Council of Ministers is different from that proposed by the Prosecutor General, the latter has the right to

participate in the parliamentary proceedings to defend the proposed draft budget.⁹ The Special Prosecutor's Office also has an independent budget, which is regulated by a separate law.¹⁰

1.3. Professional Career of prosecutors

The management and administration of processes related to the career of prosecutors is considered one of the most essential parts for the efficient functioning of the entire prosecution service.

The High Prosecutorial Council has essential powers in terms of the career of prosecutors, which include the appointment, evaluation, promotion, transfer of prosecutors of all levels¹¹ and dismissal from office in accordance with certain violations.¹²

Pursuant to the law "On the status of judges and prosecutors in the Republic of Albania", the High Prosecutorial Council is responsible for important issues related to the career of prosecutors, including: a) appointment; b) assignment to the position; c) transfer; ç) promotion; d) command and reappointment; dh) evaluation of ethical and professional activity; e) imposition of disciplinary measures and suspension; e) any other duty assigned by law.¹³

The High Prosecutorial Council cooperates with the School of Magistrates for the recruitment of candidates for prosecutors, in accordance with the law "On the status of judges and prosecutors in the Republic of Albania" and appoints prosecutors after graduating from the School of Magistrates.¹⁴

The Council also proposes to the Assembly the candidates for Prosecutor General, in accordance with the Constitution and the law "On the status of judges and prosecutors in the Republic of Albania". The criteria for the selection of candidates for Prosecutor General are defined in the law "On the organisation and functioning of the Prosecution Office in the Republic of Albania".¹⁵

⁴ Article 148 and 149

⁵ Law 97/2016, Article 3, 6, 45; Law 96/2016, Article 3

⁶ Article 148/b, point "ç"

⁷ Law No. 97/2016, Article 40, point 1

⁸ Ibid, point 2

⁹ Ibid, point 3

¹⁰ Law No. 95/2016, Article 56

¹¹ Constitution, Article 149/a, point 1, letter "a"

¹² Constitution, 148/d

¹³ Law 115/2016, Article 184

¹⁴ Law 115/2016, Article 183, point 1

¹⁵ Law 115/2016, Article 183, point 2,3



1.4. Independence in the criminal prosecution

The independence of the prosecutor is considered the independence and autonomy of the prosecutor for making decisions in conducting investigations, criminal prosecution, representing in court a case and/or criminal charges and ordering or supervising the execution of court decisions, regardless of direct or indirect illegal influence, indirect internal or external by any public or private authority or party in the criminal process.¹⁶

- **The decision to not initiate the proceedings**

The Code of Criminal Procedure provides for the cases of not initiating the proceedings when there are circumstances that do not allow it to start. The prosecutor gives a reasoned decision for not starting the proceedings within 15 days from the registration of the report. Meanwhile, the decision is immediately notified to those who filed a complaint, the victim or her heirs, who have the right to appeal to the court within 10 days from the announcement of the decision.

The appeal is reviewed by the judge who judges the requests of the parties during the preliminary investigations in the counselling room within 30 days from the filing in the court secretariat of the copy of the acts contained in the bundle of the decision not to initiate the proceedings. The prosecutor, no later than 15 days from the filing of the appeal, sends to the court a copy of the acts contained in the bundle of the non-starting decision, as well as has the right to submit written submissions regarding the merits of the appeal.

When the appeal is found to be well-founded, the court orders the prosecutor to record the proceedings and carry out the necessary investigations, also determining their direction. Against the decision, the parties can appeal to the appeals court within 10 days from the day after the notification of the decision. The appellate court examines the appeal in the consultation room within 30 days from the date of receipt of the acts.¹⁷

- **Withdraw of the prosecutor**

¹⁶ Guideline No 12 dated 20.07.2020 " On the regulation of relations between prosecutors and heads of prosecution, information, transparency and guarantee of independence in Prosecutor's Offices with General Jurisdiction", Article 3, point 9

The prosecutor has the duty to withdraw when there are reasons for bias in the cases provided for in Article 17.¹⁸ The head of the prosecution at the court of first instance, the prosecution at the court of appeal and the General Prosecutor decide on the declaration of withdrawal, according to their respective duties and the Head of the Special Prosecution. For the heads of the prosecution offices, the holders of the prosecution offices of one level above decide. With the decision accepting the declaration of withdrawal, the prosecutor who resigned is replaced by another prosecutor.¹⁹

- **Replacement of the prosecutor**

The criminal procedural law provides for cases of replacement of the prosecutor (Articles 16, 17, 27), which also occurs due to his absence or temporary physical incapacity for work, when he is unable to exercise his functions or respect legal deadlines.

The head of the prosecution takes a written decision regarding the replacement of the prosecutor. The prosecutor has the right to submit a written appeal to the High Prosecutorial Council against the replacement decision, within 5 days of receiving the notification.

The High Inspector of Justice regularly conducts, at least annually, a thematic inspection on the practice and reasons for the replacement of prosecutors.²⁰

- **Distribution of cases**

The distribution of cases is partially regulated by law 97/2016 and partially by the Instruction of the General Prosecutor no. 3/2016, dated 29.12.2016 "On the distribution of cases in the Prosecution Office".

According to the law, the General Prosecutor defines detailed rules for the distribution procedures of cases, which ensure transparency and sufficient verification opportunities; the criteria for distribution of cases, based on the case load and the specialization of the prosecutors; cases and criteria for the redistribution of cases as well as the way of monitoring and documenting them.

The head of the prosecution ensures the impartiality, independence and efficiency of the work of the

¹⁷ Criminal Procedure Code, Article 291

¹⁸ Criminal Procedure Code, Article 17 – "Withdrawal"

¹⁹ Criminal Procedure Code, Article 26

²⁰ Law 97/2016, Article 49



prosecution, considering the need for fair distribution of the workload among prosecutors.

- **Relations with judges**

The Constitution sanctions the independence of the Prosecutor's Office²¹ and sanctions that the prosecution is organized and operates under the judicial system.²²

Also, the legislation stipulates that in relations with judges, prosecutors must respect the independence and impartiality of judges, regardless of their conviction, not questioning their decisions and ordering the execution of court decisions, except in cases where they exercise the right to appeal. Moreover, it is required that prosecutors be objective during the judicial procedure and help in the good administration of justice by the court.

In the relations of the General Prosecutor and the Head of the Special Prosecution with the Council of Ministers, recommendations to proceed or not for specific issues are prohibited.²³ The General Prosecutor, as well as the Head of the Special Prosecution, cooperate with the parliamentary investigative commissions, according to the legal provisions in force. In any case, the criminal investigation is independent from the investigations of the parliamentary committees.²⁴

1.5. Protection of prosecutors

Referring to Article 20 of the Law on Status and the decision of the Council of Ministers no. 564, dated 31.07.2019 "On the criteria and procedures for the special protection of the magistrate during the exercise of the function or because of it", the prosecutor magistrate is provided with special personal, family and property protection, when during the exercise of the function or for because of it, his life, his health or that of his family, as well as his property, are endangered.

Special protection is also provided to the magistrate who does not exercise the function or who has retired, at his request, in case the violation is related to the previous exercise of the function.

The Commission for the Protection of Prosecutors at the High Prosecutorial Council is mainly oriented towards guaranteeing the special protection of the

I. Independence and Impartiality

magistrate-prosecutor at his request or upon learning of serious situations that affect the life, health and property of the magistrate or his family members.

The request for special protection is submitted to the Commission for the Protection of Prosecutors in writing by the magistrate, the General Director of the State Police, the Minister of Justice, the president of the court or the head of the prosecution, where the magistrate exercises his function, as well as any other public body that, due to the function, becomes aware of the presence of serious circumstances that endanger the life, family or property of the magistrate.

During the year 2022, the Commission for the Protection of Prosecutors has administered 8 requests for protection from magistrates, prosecutors who have concluded that due to the exercise of the prosecutor's function, they were in serious circumstances that endangered their lives and those of their families.²⁵ The decisions of the Commission for the Protection of Prosecutors on the provision of special physical protection of prosecutors or the extension of the provision of special protection are evaluated with a time limit:²⁶

- A 3-month deadline for physical protection has been set for 4 requests;
- A 6-month deadline for physical protection has been set for 2 requests;
- For 2 requests, a 1-year deadline for physical protection has been set;

The annual report of the High Prosecutorial Council states that taking into consideration the geographical extent of the requests for special protection throughout the year 2022, it is established that these requests were presented mainly by prosecutor magistrates who exercise their functions, mainly, in the country's largest prosecution offices. This geographical extension of protection requirements continues to exist in areas where there is increased and serious criminal activity.

²¹ Constitution, Article 148, point 2

²² Ibid, Article 148, point 3

²³ Law 97/2016, Article 103

²⁴ Law 97/2016 Article 104

²⁵ High Prosecutorial Council, Annual Report 2022

²⁶ Ibid

Table I: Evaluation Indicators on the INDEPENDENCE and INDEPENDENCE

Dimension	Sub-Dimensions	Categories	Indicators	Negative Assessment	Partial Assessment	Positive Assessment	Missing Assessment
Independence/ Impartiality	Institutional Independence: Structure and Organization	The legal framework which guarantees the independence of the prosecution service and prosecutors	Formal legal guarantee of the independence of the prosecution and prosecutors				
			Guaranteeing the independence and autonomy of the prosecutor in making decisions in conducting investigations				
			Guaranteeing the independence and autonomy of the prosecutor in the criminal prosecution				
			Guaranteeing the independence and autonomy of the prosecutor in representing the charge and/or case in court				
			Guaranteeing the independence and autonomy of the prosecutor in ordering or supervising the execution of court decisions				
			Rejection of interference and the exercise of illegal influence				
		The budget of the Prosecution Service	The approval of the budget for the prosecution service is based on clear criteria related to the institution's independence				
			The prosecution service is involved in the phases of budget drafting, proposal, approval, administration and evaluation/auditing				
			The financing system of the prosecution service is transparent and based on objective criteria, taking into consideration the needs in order to achieve certain objectives				
			The budget of the prosecution service includes income from donations and any other legal income				
		Administration and Organization of the Prosecution Service	GPO is responsible for carrying out the work of the General Prosecutor's Office and the prosecutions offices near the courts of general jurisdiction of appeal and first instance				
			GPO defines detailed rules regarding the appointment process of the Secretary General				
			GPO defines the rules and procedures for the selection and regulation of the experts' work relations in the Sectors of Expertise in the GPO				
			Non-magistrate legal advisors in the Legal Service Unit are appointed by the GPO				
			GPO approves detailed rules for the number of legal advisors and the functioning of the Legal Service Unit at the General Prosecutor's Office				
			GPO has full powers in the case of the qualification assessment, parallel movement, promotion, appointment, transfer, suspension, setting of disciplinary measures, termination of the relationship in the civil service of chancellors and legal advisers				
		GPO approves more detailed rules for the procedure of appointment, suspension, termination of the relationship in the civil service of the prosecution					

Individual Independence: Status and Functioning of prosecutors		GPO approves detailed rules for the content, procedure and administration of personnel files, as well as the way of keeping, discarding, updating and using data	Red				
		GPO approves further rules for indicators of criteria related to evaluation criteria, sources and evaluation procedure for civil servants	Red				
		GPO conducts the initial and continuing professional training (education) of other civil servants in the prosecution, prepares the curriculum and approves more detailed rules for the initial and continuing training (education) for all other civil servants of the prosecution	Red				
	Stability in office (Recruitment/Selection/ Professional Appointment)	The selection of GPO is carried out in accordance with a transparent process, which is based on clear rules and professional criteria				Green	
		Policies and procedures for the selection of prosecutors are clearly defined and candidates are subject to specific controls				Green	
		Prosecutors have the right to appeal against the decisions of the High Prosecutorial Council related to their career				Green	
		The legal and regulatory framework related to the career of prosecutors is published and systematically updated				Green	
		The legal and regulatory framework regarding the career of prosecutors is complete		Yellow			
		Articles in the press during the last three years have highlighted cases related to the career of prosecutors due to political, personal or family connections	Red				
	Procedures in case of violation of the independence of prosecutors/Protection of prosecutors	The existence of a mechanism/instrument for the protection of prosecutors and their families in case of threats				Green	
		The existence of protocols and measures that clearly guide the efficient handling of protection requests				Green	
		Effective use of protocols and measures in circumstances/situations where prosecutors and/or their family members have been threatened or harmed due to the prosecutor's role in a particular case				Green	
		Systematic and comprehensive statistics regarding cases of threats or damage to prosecutors and their family due to the exercise of the activity as well as the forms/means of protection used				Green	
		The procedures followed for providing special protection are fast and efficient in direct proportion to the urgent need to protect against the threat				Green	
		The respective bodies have the necessary capacities in the face of the technological evolution of ways and means to threaten the life, health, family or property of the prosecutor					Grey
Prosecutor's rights related to criminal proceedings	The right of the prosecutor not to initiate criminal proceedings				Green		
	The right of the prosecutor to dismiss the charge or case				Green		
	The right of the prosecutor to ask the court to dismiss the charge or the case				Green		
	Prosecutor's right to withdraw				Green		

Internal independence		General and non-binding instructions	The prosecutor's right to appeal to a higher court					
			The prosecutor, in cases where he assesses that the general instruction is not based on the law, or is clearly against the law, can appeal to a higher authority					
			When the prosecutor does not agree or is unclear about the non-binding instructions for specific issues, he has the right to request further explanations in writing about them					
			In cases where the prosecutor has requested explanations for the non-binding instruction, the head of the prosecution or the head of the relevant section provides explanations on the instructions					
		Distribution of cases	General instructions of the Prosecutor General and heads of prosecution offices are published on the website of the prosecution office					
			Existence of a transparent mechanism for distribution of cases					
			Defining clear procedures and rules regarding the distribution of cases					
			Full and efficient functioning of the rules related to the distribution of cases in the prosecution service					
			The respective instructions or manuals related to the distribution of cases in the prosecution service have been published on the institution's official website					



2.

Oversight and Accountability



Table II/A International standards on the Oversight and Accountability

<p>The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, UNODC/IAP (2014)</p>	<p>2.1 Prosecution service may be required to report on its activities or on specific issues to the:</p> <ul style="list-style-type: none"> • Executive branch and to the Parliament. • The Ministry of Justice, the legislative branch and financial and auditing services of government can be kept informed of the activities and expenditures of a prosecution service in a variety of ways. <p>One method is the preparation and tabling of annual reports to the legislature and in some jurisdictions the subsequent publication of those reports. The appearance of senior members of the prosecution services before legislators to answer questions regarding the operation of the prosecution service is an example of another method.</p> <p>However, care should be taken to ensure that any accountability to Parliament does not extend to permitting the legislature to give directions to a prosecutor in any individual case or to compel the disclosure of information which is properly confidential.</p> <p>Article 20: In order to ensure the fairness and effectiveness of prosecution, prosecutors shall strive to cooperate with the police, the courts, the legal profession, public defenders and other government agencies or institutions.</p>
<p>Report on European Standards as regards the Independence of the Judicial System: Part II, the Prosecution Service, adopted on 17-18 December 2010 by the Venice Commission</p>	
<p>The Role of Public Prosecution in the Criminal Justice Systems, Committee of Ministers of Justice of the Council of Europe (2000)”</p>	<p>Article 21: In general, public prosecutors should scrutinise the lawfulness of police investigations at the latest when deciding whether a prosecution should commence or continue. In this respect, public prosecutors will also monitor the observance of human rights by the police.</p> <p>Article 22: In countries where the police is placed under the authority of the public prosecution or where police investigations are either conducted or supervised by the public prosecutor, that state should take effective measures to guarantee that the public prosecutor may:</p> <ol style="list-style-type: none"> a) give instructions as appropriate to the police with a view to an effective implementation of crime policy priorities, notably with respect to deciding which categories of cases should be dealt with first, the means used to search for evidence, the staff used, the duration of investigations, information to be given to the public prosecutor, etc.; b) where different police agencies are available, allocate individual cases to the agency that it deems best suited to deal with it; c) carry out evaluations and controls in so far as these are necessary in order to monitor compliance with its instructions and the law; d) sanction or promote sanctioning, if appropriate, of eventual violations.



2.1. Competences of institutions in relation to the prosecution service

- **High Prosecutorial Council**

Despite the importance of guaranteeing the independence of prosecutors and the prosecution service in the exercise of their powers, reporting and accountability are important instruments in terms of the institution's transparency and performance evaluation.

The High Prosecutorial Council is the main body responsible for the management of the prosecution system, which guarantees the independence, accountability, discipline, status and career of the prosecutors of the Republic of Albania.²⁷ The High Prosecutorial Council, in cooperation with the Minister of Justice, drafts, approves and implements a strategic plan for the prosecution system in coordination with the strategy of the justice sector and according to the defined criteria.²⁸

The HPC exercises the main powers related to: the proposal to the Assembly of candidates for Prosecutor General,²⁹ the appointment of prosecutors in the Special Prosecutor's Office against Corruption and Organized Crime, the appointment, promotion and evaluation of prosecutors of all levels, the decision on measures disciplinary measures against prosecutors, cooperation with the School of Magistrates regarding the continuing training of prosecutors, etc.³⁰

In addition to the powers above, the High Prosecutorial Council also has some important powers related to the internal organization of the prosecution service. HPC gives an opinion to the Prosecutor General in the proposal of the number of prosecutors, who in cooperation with each other evaluate at least every five years, the number of prosecutors for each prosecutor's office.³¹

The High Prosecutorial Council also establishes detailed rules regarding the process of appointing the General Secretary of the General Prosecution, who is

selected through an open and transparent procedure.³²

The High Prosecutorial Council determines the rules and procedures for the selection and regulation of the working relationships of experts (Expertise Sectors in the Prosecution),³³ although the latter operate under the direction and supervision of the head of the prosecution where they exercise their functions.³⁴

HPC is the competent body for the appointment,³⁵ transfer,³⁶ suspension,³⁷ professional training,³⁸ assignment of disciplinary measures,³⁹ termination of the relationship in the civil service⁴⁰ for the chancellor and the legal advisor. The number of vacancies for legal advisers for the next year and for chancellors for the following three years is determined by the General Prosecutor, after receiving the opinion of the heads of the prosecution offices.⁴¹

The HPC also has powers related to the parallel movement and promotion of civil servants in the prosecutor's office. The General Secretary of the General Prosecution or the Chancellor of the Prosecution shall immediately and without delay notify the High Prosecutorial Council or the head of the relevant Prosecution, as the case may be, of the vacancy created in the Prosecution or which may be created in the future, in any case, no later than two weeks after receiving the information.⁴² The High Prosecutorial Council, in the case of chancellors, or the head of the prosecution, in the case of other officials, offers the place to the candidate registered in the relevant list of civil servants of the prosecution.⁴³

In the case of parallel moves or promotions for the position of chancellor, the review of requests and selection is carried out by the High Council of Prosecution, while the HPC and the General Prosecutor, as the case may be, adopt by decision more detailed rules for the procedures for parallel

²⁷ Constitution, Article 149

²⁸ Law 115/2016, Article 180

²⁹ Constitution, Article 148/a and Law 97/2016, Articles 22-37

³⁰ Law 115/2016, Article 186

³¹ Law 97/2016, Article 18, point 3/Article 19, point 2

³² Law 97/2016, Article 66, point 4

³³ Law 97/2016, Article 67, point 3

³⁴ Law 97/2016, Article 67, point 4

³⁵ Law 97/2016, Article 79

³⁶ Law 97/2016, Article 86, point 3

³⁷ Law 97/2016, Article 87, point 2

³⁸ Law 97/2016, Article 72

³⁹ Law 97/2016, Article 97, point 2, letter "a"

⁴⁰ Law 97/2016, Article 100, point 3

⁴¹ Law 97/2016, Article 73, point 2

⁴² Law 97/2016, Article 77, point 4

⁴³ Law 97/2016, Article 77, point 5



moves and promotions of chancellors and other civil servants in the prosecution.⁴⁴

The High Prosecutorial Council approves by decision detailed rules for the content, procedure and administration of the personnel files, the data kept in them, as well as the way of keeping, discarding, updating and using the data.⁴⁵

The High Prosecutorial Council approves by decision further rules for the indicators of the criteria related to the evaluation criteria, resources and evaluation procedure for civil servants of the prosecution.⁴⁶

- **High Inspector of Justice**

The High Inspector of Justice is responsible for verifying complaints, initiating investigations into violations and initiating disciplinary proceedings against judges and prosecutors of all levels, members of the High Judicial Council, members of the High Prosecutorial Council and the General Prosecutor, according to the procedure established by law.

The High Inspector of Justice is also responsible for the institutional inspection of courts and prosecutor's offices.⁴⁷ The inspector is set in motion based on: a) the written complaint of any natural person, legal entity or public body interested; b) written complaint to the Minister of Justice; c) the written complaint of the Prosecutor General; ç) the written complaint of each member of the High Judicial Council or the High Prosecutorial Council; d) written complaint by the president of the court where the judge works who is suspected of having committed a disciplinary violation; dh) written complaint from the head of the prosecution office where the prosecutor who is suspected of having committed a disciplinary violation works.⁴⁸

The High Inspector investigates suspected violations mainly, based on public data or obtained in the framework of institutional and thematic inspections, according to the conditions and procedures provided in the law "On the status of judges and prosecutors in the Republic of Albania". The High Inspector of Justice conducts institutional and thematic inspections on every aspect of the work of courts, judicial administration, prosecution offices and prosecution administration, based on the motivated

II. Oversight and Accountability

written request of the High Judicial Council, the High Prosecutorial Council, Minister of Justice, Attorney General and in the annual plan of inspections.⁴⁹

- **Council of Ministers**

The Council of Ministers, no later than March 31 of each year, approves and conveys to the Attorney General the priority recommendations to be followed for the following year in the fight against criminality. The recommendations are approved at the meeting of the Council of Ministers and also contain information on the budget changes that are necessary for their implementation.

The Minister of Justice makes known the recommendations of the Council of Ministers to the heads of prosecution offices of all levels in a joint meeting, not later than one month from the date of their approval by the Council of Ministers.

The Council of Ministers, through the Minister of Justice, continuously follows the implementation of the recommendations given by him.⁵⁰ The Minister of Justice cooperates with the General Prosecutor, the Head of the Special Prosecution and the Chairman of the High Prosecutorial Council in the preliminary examination of their budget needs and presents and defends them in the meeting of the Council of Ministers. The Minister of Justice has the obligation to file with the High Inspector of Justice the complaints that are presented against the prosecutors.⁵¹

- **Assembly of Albania (Parliament)**

Based on the above as well as the joint mechanism for systematic monitoring of the follow-up and implementation of the recommendations of independent constitutional institutions and those established by law,⁵² the Assembly approves through a resolution the annual recommendations for the institution of the General Prosecutor's Office.

- **Judicial Police**

The Judicial Police is organized and operates in accordance with the provisions of Law No. 25/2019, while the activity of Judicial Police officers is supported and carried out according to the provisions of the Code of Criminal Procedure. Law

⁴⁴ Law 97/2016, Article 77, point 13,14

⁴⁵ Law 97/2016, Article 83, point 4

⁴⁶ Law 97/2016, Article 85, point 11

⁴⁷ Constitution of the Republic of Albania, Article 147/d

⁴⁸ Law 115/2016, Article 194, point 2

⁴⁹ Law 115/2016, Article 194, point 3,4

⁵⁰ Law 97/2016, Article 103

⁵¹ Law 97/2016, Article 107

⁵² Decision 49/2017 "On the creation of a joint mechanism for the systematic monitoring of the follow-up and implementation of the recommendations of independent constitutional institutions and those created by Law"



25/2019 "On the organization and functioning of the Judicial Police" has also brought important organizational changes to improve the investigative role of judicial police officers, emphasizing the leading role of prosecutors in the investigation.

The law provides for the continuity of investigation and criminal prosecution by defining clear rules and procedures related to the transfer of judicial police officers of the judicial police section and services, giving an essential role to the prosecutor of the case in the direction of the investigation.⁵³

The law addresses career issues for the judicial police services and the judicial police officer, through the establishment of the Judicial Police Commission with five members, which is chaired by a full-time prosecutor appointed by the attorney general and is composed of four officers. coming 1 from the judicial police section, 2 members from the judicial police services in the State Police and 1 from customs and taxation on a rotating basis.

The functions of the Judicial Police are exercised by: a) officers of the Judicial Police in the sections near the prosecutor's offices of general jurisdiction; b) employees of the State Police, who are part of the investigative structure; c) employees of the National Bureau of Investigation, who have the status of Judicial Police officers according to the legislation in force on the organization and operation of institutions to fight corruption and organized crime, ç) employees of other police services and state institutions whose the functions of the Judicial Police are defined by law.⁵⁴

These functions include: a) finding out about criminal offenses, on one's own initiative or upon report or complaint; b) preventing or hindering further consequences arising from the criminal offense; c) searching for the perpetrators of criminal offenses; ç) carrying out the necessary actions to secure the sources of evidence and to collect everything that serves the implementation of the criminal law; d) carrying out any investigation and action ordered or delegated by the prosecuting body; dh) performing procedural actions for the execution of criminal court decisions; e) performing actions within the framework of criminal jurisdictional relations with foreign authorities; ë) carrying out actions in implementation of the legislation for the prevention

⁵³ Law 25/2019, Article 22

⁵⁴ Ibid, Article 4

⁵⁵ Ibid, Article 5

II. Oversight and Accountability

and attack of organized crime and trafficking through preventive measures against wealth.⁵⁵

The organization of the judicial police is carried out by the judicial police services and judicial police sections in the prosecutor's offices near the court of first instance of general jurisdiction and in the General Prosecutor's Office.

2.2. Periodic reporting on the general activity of the Prosecution Service

Article 38 and 104 of Law 97/2016 provides for reporting to the General Prosecutor's Assembly on the state of criminality in the country, at least once a year. The reporting includes data and explanations on the number, types, territorial extent, intensity and forms of criminality in the Republic of Albania.

The General Prosecutor also informs on the implementation of the priority recommendations of the Council of Ministers in the fight against criminality, as well as the issuing of general instructions, their implementation, influence and monitoring. The General Prosecutor also submits to the Assembly detailed data related to the effectiveness of the criminal prosecution, the quality of the representation of the accusation in court, as well as other essential elements in the activity of the relevant institutions, as well as cooperates with the parliamentary investigative commissions.

Despite the provisions for reporting, the criminal investigation is independent from the investigations of the parliamentary commissions and in cases of reporting to the Assembly, notification of specific cases is not allowed, with the exception of cases sent by decision of the Assembly.⁵⁶ The General Prosecutor also reports at least once a year to the High Prosecutorial Council regarding the progress of the activity of the relevant structures.⁵⁷

Other institutions such as the High Prosecutorial Council and the High Inspector of Justice, which play an important role in the activity of the prosecution service and prosecutors report periodically to the Assembly of Albania and are also subject to the Resolutions that the Assembly prepares on the evaluation of the activity of these institutions.

Respectively, the High Prosecutorial Council reports to the Assembly on the state of the system during the previous calendar year no less than once a year.

⁵⁶ Law 97/2016, Article 104, point 3,4

⁵⁷ Law 97/2016, Article 105



The HPC report, which is forwarded to the Assembly no later than May 1st of each year,⁵⁸ describes the activity of the Council and its commissions, as well as contains recommendations for the necessary improvements.

The Council responds to the request of the Assembly to present the report and to answer questions related to it. The recommendations conveyed in the resolution approved by the Assembly for the annual report of the High Prosecutorial Council are mandatory to be considered by the Council, insofar as they do not affect the independence of this institution. The Council reports in any other case it deems necessary or at the request of the Assembly.⁵⁹

HIJ not less than once a year also reports to the Assembly on the work of the Inspector's Office in the preceding year.⁶⁰

Also, an important part of the annual report of these institutions is the assessment regarding the level of implementation of the resolutions of the Assembly. The tables below provide a summary of the level of fulfilment of the recommendations of the Assembly Resolution for the General Prosecutor, the High Prosecutorial Council and the High Inspector of Justice.

⁵⁸ High Prosecutorial Council, Reports: <https://HPC.al/raportime/>

⁵⁹ Law 115/2016, Article 181

⁶⁰ Law 115/2016, Article 204, point 1, letter "d"



The level of implementation of the Resolution of the Assembly for the General Prosecutor's Office for the year 2022 ⁶¹		Fully fulfilled	Partially fulfilled
1.	To continue increasing the proactive role of the prosecutor in the preliminary investigation, in order to increase the investigations initiated mainly by the prosecution body itself, applying the best standards in terms of guaranteeing human rights in criminal proceedings, the rights to due process regular, of the principle of equality of citizens before the law and the principle of proportionality, the principle of legality, objectivity and impartiality	√	
2.	To encourage prosecutors and officers of the Judicial Police to have more focus, accountability, primarily and proactive investigations for criminal offenses in the field of corruption, referring to the subject competence of the general jurisdiction prosecutors' offices, including the efficient use of proactive investigation techniques, as far as possible by evaluating the effectiveness of the structures set up for preventing and combating criminal offenses in the field of money laundering, related to them.	√	
3.	To continue the work for the consolidation of the institutional and functional independence of the prosecution institution and especially the independence of the prosecutors in the process of investigation and decision-making in the relevant cases, also considering their responsibility and accountability as very important in order to achieve the best results in the fight against crime.	√	
4.	To work to strengthen the mechanisms for increasing the internal responsibility and accountability of Judicial Police officers, for the efficiency and effectiveness of work, without violating the regular legal process during the exercise of their functions, as well as to continue encouraging prosecutors to exercise effective control in the work of Judicial Police officers, as well as to identify cases that should be processed in disciplinary ways.	√	
5.	To take measures to increase the quality of investigations for criminal offenses of domestic violence and criminal offenses against minors, as well as to continue the supervision of the implementation of general instructions in this direction, including aspects of the creation of new statistics and periodic reporting of accurate statistical data.	√	
6.	To take effective measures for the protection of victims of criminal offenses of domestic violence and criminal offenses against minors and to increase cooperation with the state institutions charged with responsibility in this regard according to the legislation in force.	√	
7.	To take effective measures for the protection of victims of criminal offenses of domestic violence and criminal offenses against minors and to increase cooperation with the state institutions charged with responsibility in this regard according to the legislation in force.	√	
8.	To consolidate the methodology and transparency in casting the electronic lottery for the division of cases, as well as to continue the work started for the development and completion of the PRESTO electronic system for the electronic administration of procedural records and the benefit of real-time statistics with comprehensive data	√	
9.	To continue with the further improvement of the efficiency of cooperation and coordination inter-institutional with institutions and law enforcement agencies party to bilateral or multilateral agreements, as well as in jurisdictional relations with foreign judicial authorities through the Liaison Prosecutor's Office of Albania at Eurojust, especially for increasing the number of joint investigative teams and combating criminal activity within and abroad.	√	
10.	To continue strengthening the cooperation with the High Inspector of Justice within the of the cooperation agreement concluded between them "For conducting inspections institutional and thematic and for individual violations of prosecutorial magistrates in prosecutions with general jurisdiction" and to continue the proactive role of the Prosecutor General in cooperation with the High Prosecutorial Council to address the problems of non-implementation of general instructions by heads of prosecutions.	√	
11.	To continue strengthening cooperation with regional and international law enforcement agencies in function of the effectiveness of investigations for criminal offenses related specially to drug trafficking, money laundering, terrorism financing, human trafficking, environmental crimes.	√	
12.	To continue the work started to strengthen professional capacities in the fight against corruption, money laundering and criminal offenses in the field of free elections, the field of narcotics, especially regarding the production and sale of narcotics, as well as the	√	

⁶¹ Parliament of Albania, Commission for Legal Affairs, Public Administration and Human Rights, dated 06.06.2023 (Continued): https://fb.watch/l6Z1GK_KfZ/



II.

Oversight and Accountability

	investigation of criminal offenses that related to the illegal development of gambling, through the organization and development of joint training activities with law enforcement institutions/agencies, in cooperation with international missions and projects that assist the prosecution system.		
13.	Continue the work started on updating the money laundering manual and recovery of assets in the framework of the FIIAPP project.	√	
14.	To engage in the process of implementing the new judicial map, aiming at the guarantee of the fundamental rights and freedoms of the individual, with special emphasis on the right of access to justice.	√	
15.	Together with responsible state structures, civil society organizations and the necessary international assistance to contribute to the creation of an integrated approach of criminal policy in the fight against criminality as an immediate need of our society, with a focus on the prevention of criminality among minors and young people.	√	
16.	To continue efforts to fulfill the obligations arising from the integration process with the European Union referring to the recommendations made in the progress report of the date 19.10.2021.	√	

Table A: *The level of implementation of the Resolution of the Assembly for the General Prosecutor's Office for 2022*



The level of implementation of the resolution of the Assembly for the High Prosecutorial Council for the year 2022 ⁶²		Fully fulfilled	Partially fulfilled
1.	To cooperate with the Prosecutor General in order to follow the implementation of general instructions by prosecutors of all levels and to commit to concrete results in this direction.		
2.	To continue the procedures for the selection of other prosecutors of the Special Prosecutor's Office against Corruption and Organized Crime to make it possible to fill the vacancies in this institution as soon as possible in accordance with the decision of the Assembly no. 6, dated 28.1.20		
3.	To conclude in the shortest possible time the drafting and approval of by-laws according to the determinations in the justice reform laws, as well as the drafting, approval and implementation of more detailed rules for the initial and continuing training for other civil servants of the prosecution.		
4.	Prepare and approve the annual program for evaluating the ethical and professional activity of prosecutors and start the evaluation process immediately. The Council to submit a detailed report on the implementation of this recommendation within the month of September 2022		
5.	In order to fulfill the obligations of Article 170, of Law No. 115/2016, to organize joint meetings on a periodic basis with the High Judicial Council, emphasizing the unification of the interpretation and implementation of laws and the strengthening of institutional cooperation.		
6.	In cooperation with the High Judicial Council, to adopt common rules for joining proceedings in the case where a judge and a prosecutor are involved in the same offense.		
7.	In fulfillment of the legal obligations and specifications of Article 185 of Law no. 115/2016 "On the governing bodies of the justice system", to maintain and publicly articulate the respective positions to guarantee the inviolability and non-influence in the exercise of the legal functions of prosecutors.		
8.	To strengthen the institutional cooperation with the High Inspector of Justice and the School of Magistracy in the framework of the proper functioning of the prosecution system and overcoming the challenges created by vacancies in the system.		
9.	To intensify the interaction with the High Inspector of Justice, with the aim of dealing with disciplinary proceedings for prosecutors in reasonable terms, giving priority to the subjects in the process of re-evaluation.		
10.	To follow and prioritize commitments, legal and functional obligations arising from the process of implementing the judicial map.		
11.	In order to further increase the transparency of the Council, to publish in time the decisions and minutes of the plenary meetings and the Standing Committees according to the provisions of articles 167 and 168 of the law no. 115/2016 "On the governing bodies of the justice system" as amended, as well as to process information to the public in the most unified and comprehensible way possible on the institution's official website.		
12.	To fulfill without delay the recommendations for the Council in progress of the European Union report of 2021, as well as other obligations arising from the process of integration with the European Union of Albania.		
13.	To continue providing opinions and evaluations for legal improvements in accordance with the provisions of Article 187 of Law no. 115/2016 "On the governing bodies of the justice system".		

Table B: The level of implementation of the Resolution of the Assembly for the High Prosecutorial Council for the year 2022

⁶² Parliament of Albania, Commission for Legal Affairs, Public Administration and Human Rights, dt. 07.06.2023: <https://fb.watch/I6UxuOHTtL/>



II.

Oversight and Accountability

The level of implementation of the resolution of the Assembly for the High Inspector of Justice for the year 2022 ⁶³		Fully fulfilled	Partially fulfilled
1.	The drafting of detailed provisions for the administration of the case management system for the investigative procedure, as well as the public disclosure of partial information according to the determination of the High Inspector of Justice in accordance with and in implementation of Article 137 of Law no. 9612016 "On the status of judges and prosecutors in the Republic of Albania".	√	
2.	Fast-paced follow-up of the work on the drafting of the regulation for the handling of complaints and the drafting of a general inspection methodology.	√	
3.	Fast-paced continuation of the work to complete the recruitment procedures of inspectors at the Office of the High Inspector of Justice.	√	
4.	Encouraging cooperation with the High Judicial Council, the High Prosecutorial Council, the Ministry of Justice, the General Prosecutor or other institutions for the presentation of requests motivated by them for the realization of thematic or institutional inspections by the Inspector's Office High Court of Justice.	√	
5.	Drafting and approval of the annual plan of institutional and thematic inspections, as well as making it public on the institution's official website.	√	
6.	The fast-paced continuation of the handling of complaints submitted by the competent bodies during the transitional period, as well as the priority handling of complaints, which due to the provisions of Article 117 of Law no. 9672016 "On the status of judges and prosecutors in the Republic of Albania" can be prescribed, thus avoiding their archiving without enabling verification and investigation by the institution.		
7.	Priority follow-up of complaints against magistrates in the vetting process in function of their responsibility and accountability.	√	
8.	Priority handling of all cases of conflict of interest that may be encountered during the activity of the governing bodies of the justice system.		
9.	Reviewing the objectives of the work and drafting a new strategic plan, extended in time and according to a coordinated methodology to serve as a basis for general planning and for performance management.	√	
10.	Commitment to performing internal control periodically, mainly in the accountability of inspectors.	√	
11.	Following and increasing transparency towards the public through the use of different public communication channels.	√	

Table C: The level of implementation of the Resolution of the Assembly for the High Inspector of Justice for 2022

⁶³ High Inspector of Justice, Annual Report 2022
<https://www.youtube.com/watch?v=RBb9SRXyp1U>



2.3. The supervisory or verification functions of the internal service structures of the prosecution service

Internal supervision and reporting of the prosecution service are also important elements for the smooth running and exercise of the legal and constitutional powers of the prosecution, but without compromising the independence of the prosecutors.⁶⁴

The Monitoring Sector in the General Prosecutor's Office is the structure authorized by the General Prosecutor, while in the prosecutor's offices near the courts of first instance and near the appeal courts with general jurisdiction, the monitoring/supervisory and verification authority is the head of the prosecution or the deputy head authorized by his.⁶⁵

The supervisory and verification functions performed by the structures in the General Prosecutor's Office related to the activity of prosecutors with general jurisdiction, judicial police sections near them and judicial police services according to the law, are grouped in these directions:⁶⁶

- a. The exercise of constitutional and legal powers in the prosecutor's offices with general jurisdiction and in the judicial police sections next to them according to the law;
- b. The implementation of the legal framework of the criminal justice system by the prosecutors of the appeals prosecutions and prosecutions at the courts of first instance with general jurisdiction, the judicial police officers next to them, and not only, in conducting investigations, exercising criminal prosecution, raising / the representation of the accusation in court, the execution of criminal decisions and the supervision of their implementation, the treatment of detainees, convicts or victims in the criminal process, evidenced in the representation of cases in the Supreme Court or the Constitutional Court;
- c. The implementation of the general orders and instructions of the Prosecutor General by managers, prosecutors, judicial police

⁶⁴ General Prosecutor's Office, General Instruction No 10/2021 updated "On exercising the monitoring function in the prosecution system and cooperation with constitutional and legal institutions", Article 3, point 1, letter "b"

II. Oversight and Accountability

officers and administrative employees, according to the special dispositions provided for in the concrete normative act, as well as the resolutions of the Assembly of Albania and the priority recommendations of the Council of Ministers, and not only;

- d. The content and accuracy of the data of the annual report on the progress of the work in the relevant prosecutor's office during the previous year according to the law;
- e. The organizational and functional activity of the Judicial Police Sections near the prosecutor's offices and the functional activity of the judicial police services in the relevant structures, as well as the coordination and coordination of their work with the prosecutor's offices near which they exercise their functions.

The structures in the General Prosecutor's Office, with a focus on the object of their activity, carry out supervision and/or verifications through the search and administration periodically, and not only, of data or information from the heads of the prosecutor's offices of the general jurisdiction regarding:⁶⁷

- the progress of the criminal and administrative procedural activity of the prosecutor's office they lead;
- the state of indicators of criminality, data and explanations for the number, types, territorial extent, intensity and forms of criminality in the judicial district of the prosecution that leads;
- the progress of the implementation of the general instructions, if general instructions have been issued to facilitate their implementation or non-mandatory instructions for specific issues in implementation of the relevant instructions/recommendations, including how they have affected the crime situation and the areas recommended;
- the progress of the implementation of the resolutions of the Assembly of Albania and the priority recommendations of the Council of Ministers, according to the law;

⁶⁵ Ibid, Article 4

⁶⁶ Ibid

⁶⁷ Ibid, Article 6, point 3



- the implementation progress of inter-institutional cooperation memoranda/agreements.

The structures in the General Prosecutor's Office, after analyzing and evaluating the data received, according to the scope of the activity, prepare summary information for the General Prosecutor on the findings from the monitoring and propose short-term and/or long-term solutions, at the level of policies, changes/additions to acts normative, need for professional development, thematic inspections or investigations for individual violations of the case.

The supervisory or verification functions of the Head of the prosecution in his competence and responsibility, according to the law, are grouped in the following directions:

- a. Carrying out the work and taking measures and actions to ensure the efficiency and legality of the activity of the prosecution;
- b. Discipline at work of prosecutors according to the law;
- c. Guaranteeing the correct implementation of the instructions of the Prosecutor General according to the law, issuing general instructions on matters of organization and operation of the prosecution that leads, as well as facilitating the implementation of the general instructions of the Prosecutor General;
- d. Respecting the prosecutor's ethics, planning their work and fulfilling legal commitments for the professional evaluation of prosecutors and/or officers of the Judicial Police;
- e. The activity of the Judicial Police in his jurisdiction.

The head of the prosecution carries out the periodic supervision of the criminal procedural activity, according to the stages of the criminal proceedings, and according to the instructed/recommended priorities, through the exercise of powers:⁶⁸

- issues mandatory orders for the judicial police and supervises their implementation in relation to the exercise of functions according to the law, as well as monitors the efficiency and effectiveness of their activity for increasing responsibility and internal accountability;

II. Oversight and Accountability

- requests information on the progress of the proceedings and verifies the progress and/or conclusion of the case, according to the law;
- issues non-binding written instructions according to law when deemed necessary;
- takes a written decision on the replacement of the prosecutor or judicial police officer for the cases provided for in the law.

The head of the prosecution carries out periodic supervision of the activity of the prosecution, also through the analysis of indicators of the state of criminality, the progress of work, efficiency and effectiveness in the exercise of criminal prosecution according to the recommended priorities, as well as the evaluation of the performance of the prosecution that he leads, and legally:⁶⁹

- informs the Prosecutor General every three months about the state of criminality in the judicial district of the prosecution that leads;
- sends the annual report on the progress of the work in the relevant prosecutor's office to the General Prosecutor within the month of February of each year;
- is responsible for the smooth running of the work and taking measures and actions to ensure the efficiency and legality of the activity of the prosecution that he directs;
- is responsible for directing, running the work and taking measures for coordination, coordination and supervision of the activity of the judicial police under his jurisdiction, to ensure the efficiency and legality of this activity in the prosecution that he leads;
- informs within 15 days the monitoring sector in the General Prosecutor's Office in cases where it identifies problems and/or violations that constitute a reason for the initiation of disciplinary proceedings against judicial police officers of the section in the prosecution that it directs, based on analyzes and evaluations of volume indicators of the work performed by them according to the statistical data of the SVHOPGJP electronic system;
- sends the evaluation report of the Judicial Police officers to the Judicial Police Commission and the Prosecutor General.

⁶⁸ Ibid, Article 6, point 1

⁶⁹ Ibid, Article 6, point 2



2.4. Accountability to the internal supervisory and monitoring system in the prosecution service

Despite the fact that the prosecution service has powers related to the organization and functioning of the prosecution system, in cases of information on thematic problems or individual violations mainly evidenced either by the functional activity of the structures of the General Prosecutor's Office or by complaints sent by natural persons or legal in the General Prosecutor's Office or prosecutors with general jurisdiction, requests/complaints are addressed to the High Inspector of Justice or the Judicial Police Commission.⁷⁰

The General Prosecutor submits a request to the HIJ for thematic inspections or the investigation for individual violations, in cases where there is reliable data that a disciplinary violation has been committed, ascertained through:

- a) supervision/monitoring of the implementation of general instructions;
- b) periodic information on the exercise of the constitutional and legal powers of the prosecution;
- c) conducting analyzes and reports related to the progress of the activity of the prosecution offices with general jurisdiction;
- d) information from institutions and other sources.⁷¹

The request, as the case may be, is accompanied by the necessary documentation related to the facts, indications and evidence that have served to believe that a disciplinary violation has been committed. The General Prosecutor requests the performance of institutional and thematic inspections in one or several prosecutor's offices by the High Inspector of Justice, presenting in the request the need for the inspection, the identified problems and suggested the object of the inspection, as the case may be.⁷²

Based on the Report of the Prosecutor General on the state of crime in Albania for the year 2022, a number of problems are identified regarding the smooth running of the activity of the prosecution

⁷⁰ Ibid, Article 5

⁷¹ Ibid, Article 9

⁷² Ibid, Article 9, point 3,4

⁷³ General Prosecutor's Office, Report of the General Prosecutor on the state of crime in Albania for 2022, "Normative acts issued by the General Prosecutor and the oversight of their implementation".

II. Oversight and Accountability

service, specifically the relations with the heads of the prosecutions regarding their organizational and administrative activity.⁷³

These shortcomings have mainly been found in the quality of information in reports, statistical data, requests for information, three-month periodic reports, etc.; as well as non-fulfilment of reporting and information requirements.⁷⁴

The report states that from the information forwarded by the heads of prosecutions with general jurisdiction throughout the year 2022 regarding the measures taken to implement the general instructions and other by-laws of the Prosecutor General, it results that:

- i. To a considerable extent, the heads of the prosecution offices do not play a dynamic and active role in the exercise of their duties in this aspect;
- ii. It continues to be a problem to give non-binding instructions for concrete issues even outside the framework of the action plans, since only in a small number of prosecutions it results that the leaders issue instructions of this nature;
- iii. It is established that, in general, the annual work reports submitted both in 2021 and 2022 need to be improved in order to serve the analysis of the criminality situation and the identification of the solution to the organizational and functional problems of the prosecutor's office.

In 2022, the General Prosecutor's Office requested a disciplinary investigation for 3 magistrates, of which 1 prosecutor and 2 judges.⁷⁵

2.5. Oversight of judicial police activity and reporting

The Judicial Police exercises its functions for the investigation of the concrete case, under the authority of the prosecutor and is directed and controlled by him.⁷⁶

The supervision of the activity of the judicial police officers is carried out by receiving information from

⁷⁴ Ibid

⁷⁵ Presentation of the Prosecutor General's annual report for the year 2022 before the High Prosecutorial Council, pg. 26

⁷⁶ Law 25/2019, Article 7, point 1



the heads of the prosecutor's office about the officer's activity and ethics, as well as thematic supervision, for groups of works or sections at the prosecutor's offices, which from the reports and analyzes carried out, turn out to be problematic in terms of efficiency in conducting criminal investigations and/or compliance with criminal procedural legal requirements.⁷⁷

Following the encouragement of prosecutors to exercise effective control over the work of Judicial Police officers, as well as the identification of cases that should be processed in disciplinary ways due to delays and lack of diligence in fulfilling the duties assigned to them by law, has been one of the main recommendations for the year 2022 for the institution of the General Prosecutor.⁷⁸

In this aspect, the report emphasizes that the General Prosecutor's Office has considered the exercise of effective control over the activity of judicial police officers in sections from the monitoring structure in the General Prosecutor's Office, both for the evidence of actions in violation of the law, and to initiate the beginning of investigations for disciplinary violations against judicial police officers of sections in the prosecutor's office and services in the relevant structures of the State Police or police services of other law enforcement agencies with judicial police attributes.

For disciplinary violations of judicial police officers in the framework of institutional coordination with the Judicial Police Commission, according to the law, the following have been addressed to the Commission:

- I. The General Prosecutor, based on the legal violations evidenced in an audit of the judicial police section at a judicial district prosecutor's office, has requested the initiation of investigations for disciplinary violations for 8 judicial police officers;
- II. The heads of the prosecutor's offices near the courts of first instance have requested the initiation of investigations for disciplinary violations for 3 judicial police officers;
- III. Prosecutors in the prosecutor's offices near the courts of first instance have requested the initiation of investigations for disciplinary violations for 8 judicial police officers.

In the framework of inter-institutional cooperation, referred to in the information of the Judicial Police Commission, throughout the year 2022 this Commission in implementing the powers according to the law on the disciplinary responsibility of judicial police officers, based on the proposals sent by the prosecutors of the cases, the heads of the prosecutions and the Prosecutor General, has ordered and developed disciplinary proceedings for 19 judicial police officers, of which 9 people are judicial police officers of the State Police services and 10 people are judicial police officers of the prosecution sections near the courts of first instance.

At the end of the disciplinary proceedings, the Commission has decided, for 13 judicial police officers, it has given disciplinary measures in relation to the committed violations, specifically:

- written remarks in 8 cases;
- demotion in 3 cases;
- suspension from office for 2 cases;
- for 4 officers of the judicial service police, the disciplinary proceedings were terminated due to the fact that the alleged disciplinary violations were not proven.
- Whereas, 1 disciplinary proceeding was carried over to be reviewed in 2023.⁷⁹

⁷⁷ General Prosecutor's Office, General Instruction No 10/2021 updated "On exercising the monitoring function in the prosecution system and cooperation with constitutional and legal institutions", Article 8, point 1

⁷⁸ General Prosecutor's Office, Report of the General Prosecutor on the state of crime in Albania for 2022, point 1.4

⁷⁹ Ibid

Table II: Evaluation Indicators on the OVERSIGHT and ACCOUNTABILITY

Dimension	Sub-Dimensions	Categories	Indicators	Negative Assessment	Partial Assessment	Positive Assessment	Missing Assessment
Oversight/ Accountability	External oversight	Oversight/Monitoring/Structures/Institutions	The use of a methodology with well-defined indicators regarding the monitoring of the prosecution service				
			The existence of a system/mechanism/instrument, which regularly assess the performance of the prosecution service based on a set of well-defined indicators				
	Oversight and Accountability of the Prosecution Service	Periodic reporting on the activity of the Prosecution Service	The prosecution service periodically reports on the activity and state of criminality in the country				
			The report includes data related to the types, territorial extent, intensity and forms of criminality				
			The prosecution service periodically reports on the implementation of the general instructions				
			The prosecution service periodically reports on the progress of the implementation of the resolutions of the Assembly of Albania and the priority recommendations of the Council of Ministers				
			The prosecution service periodically reports on the progress of the implementation of inter-institutional cooperation memorandums/agreements				
	Supervision and Accountability of the Head of Prosecution	Reporting on criminal procedural activity, the state of criminality, the progress of work, efficiency and effectiveness in the exercise of criminal prosecution	Heads of the prosecutor's offices inform the General Prosecutor about the state of criminality every three months				
			The heads of the prosecution offices send to the General Prosecutor the annual report on the progress of the work in the relevant prosecution office within the month of February of each year				
			The heads of prosecutions present accurate data in the annual report				
			The heads of the prosecutor's offices inform within 15 days the monitoring sector in the General Prosecutor's Office in cases where problems and/or violations are evident that constitute a reason for the initiation of disciplinary proceedings against judicial police officers of the section in the prosecutor's office that they lead, based on analyzes and evaluations of the indicators of the volume of work performed by them according to the statistical data of the SVHOPGJP electronic system				
			The heads of the prosecutions send the Judicial Police Commission and PP the evaluation report of the officers of the Judicial Police				
			The heads of the prosecutions issue general instructions to guarantee and facilitate the implementation of the general instructions of the GPO				
			Accountability of prosecutors	Reporting of prosecutors	Accountability of prosecutors according to ethics codes in order to strengthen public credibility and their role		
			Reporting on the performance of out-of-function activities				



3. Quality and Efficiency



Table III/A International standards on the Quality and Efficiency

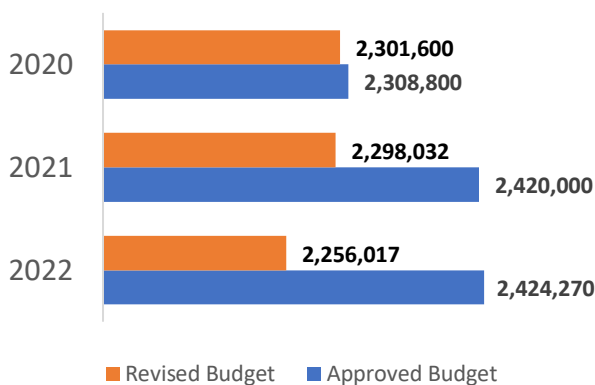
<p>The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, UNODC/IAP (2014)</p>	<p>Article 1: Persons selected as prosecutors shall be individuals of integrity and ability, with appropriate training and qualifications.</p> <p>Article 2/b: Prosecutors have appropriate education and training and should be made aware of the ideals and ethical duties of their office, of the constitutional and statutory protections for the rights of the suspect and the victim, and of human rights and fundamental freedoms recognized by national and international law.</p> <p>Article 6: Reasonable conditions of service of prosecutors, adequate remuneration and, where applicable, tenure, pension and age of retirement shall be set out by law or published rules or regulations.</p> <p>Article 7: Promotion of prosecutors, wherever such a system exists, shall be based on objective factors, in particular professional qualifications, ability, integrity and experience, and decided upon in accordance with fair and impartial procedures.</p> <p>Article 8: Prosecutors like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional disadvantage by reason of their lawful action or their membership in a lawful organization. In exercising these rights, prosecutors shall always conduct themselves in accordance with the law and the recognized standards and ethics of their profession.</p>
<p>Report on European Standards as regards the Independence of the Judicial System: Part II, the Prosecution Service, adopted on 17-18 December 2010 by the Venice Commission</p>	
<p>The Role of Public Prosecution in the Criminal Justice Systems, Committee of Ministers of Justice of the Council of Europe (2000)</p>	<p>Article 4: States should take effective measures to guarantee that public prosecutors are able to fulfil their professional duties and responsibilities under adequate legal and organisational conditions as well as adequate conditions as to the means, in particular budgetary means, at their disposal.</p> <p>Article 5: States should take measures to ensure that:</p> <ol style="list-style-type: none"> a. the recruitment, the promotion and the transfer of public prosecutors are carried out according to fair and impartial procedures embodying safeguards against any approach which favours the interests of specific groups, and excluding discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status; <p>Article 7: Training is both a duty and a right for all public prosecutors, before their appointment as well as on a permanent basis. States should therefore take effective measures to ensure that public prosecutors have appropriate education and training, both before and after their appointment.</p> <p>Article 8: In order to respond better to developing forms of criminality, in particular organised crime, specialisation should be seen as a priority, in terms of the organisation of public prosecutors, as well as in terms of training and in terms of careers. Recourse to teams of specialists, including multi-disciplinary teams, designed to assist public prosecutors in carrying out their functions should also be developed.</p> <p>Article 35: States should ensure that in carrying out their duties, public prosecutors are bound by “codes of conduct”. Breaches of such codes may lead to appropriate sanctions. The performance of public prosecutors should be subject to regular internal review.</p>



3.1. Financial Resources

On the website of the General Prosecutor's Office, under the heading "Transparency Program for the Prosecutor's Office",⁸⁰ the budget, the expenditure plan for the following financial year and previous years, as well as the annual reports on the implementation of the budget and annexes (by year) are presented.⁸¹

Graph 1: Approved and revised budget for the Prosecution Service in lek (2022-2020)



Source of data: Annual reports of the General Prosecutor "On the state of criminality in Albania" 2022, 2021, 2020

In general, special attention has been paid to the institutions of justice and the needs they have addressed, also in terms of financial support, in order to realize their powers as efficiently as possible.

One of the worrying problems for the prosecution service remains the arrears for the prosecutors in connection with the trial they have won in the Supreme Court regarding salary increases, a figure which goes up to 17.6 million euros.⁸²

3.2. Human Resources

As a result of the transitory reassessment process, the creation of temporary and permanent vacancies continued throughout 2022, up to 42% in terms of the prosecution service.⁸³ In 2022, the total number of approved prosecutors is 321 prosecutors in the prosecutor's offices with general jurisdiction.⁸⁴

Their distribution in the prosecutor's offices according to levels was specifically 278 prosecutors in the prosecutor's offices near the courts of first instance, 26 prosecutors in the prosecutor's offices near the appeal courts and 17 prosecutors in the General Prosecutor's Office.⁸⁵

Meanwhile, due to vacancies, the actual number of prosecutors was 174 in the prosecution offices near the courts of first instance, 16 prosecutors in the prosecution offices near the appeal courts and 12 prosecutors in the General Prosecutor's Office, which compared to 2021 represent a reduction of 1.46 % of the actual total number of prosecutors.

The report of the General Prosecutor on the state of criminality in Albania for 2022 states that despite the lack of human resources in the system, during 2022, 61,045 incriminating materials were handled in the prosecution body, which is an increase of 0.11% compared to 2021.⁸⁶ Meanwhile, 21,865 criminal proceedings were carried out with an increase of 20.19% compared to the proceedings carried out in 2021.

According to the respective reports of the institution of the General Prosecutor's Office, in 2022 the number of prosecutors, judicial police officers and administration for each level of prosecution is reflected in graph no. 2 below.

⁸⁰ Prosecution Office, Transparency Program Office: https://www.pp.gov.al/Programi_i_Transparences_per_Prokurorine/Informacion_mbi_buxhetin_dhe_te_dh_enat_financiare_te_PP.html Accessed on 02.06.2023

⁸¹ https://www.pp.gov.al/Dokumente/Raporte_per_Monitorimin_e_Performances/ Accessed: 02.06.2023

⁸² Parliament of Albania, Committee for Legal Affairs, Public Administration and Human Rights, dated 06.06.2023 (Continued): https://fb.watch/l6Z1GK_KfZ/

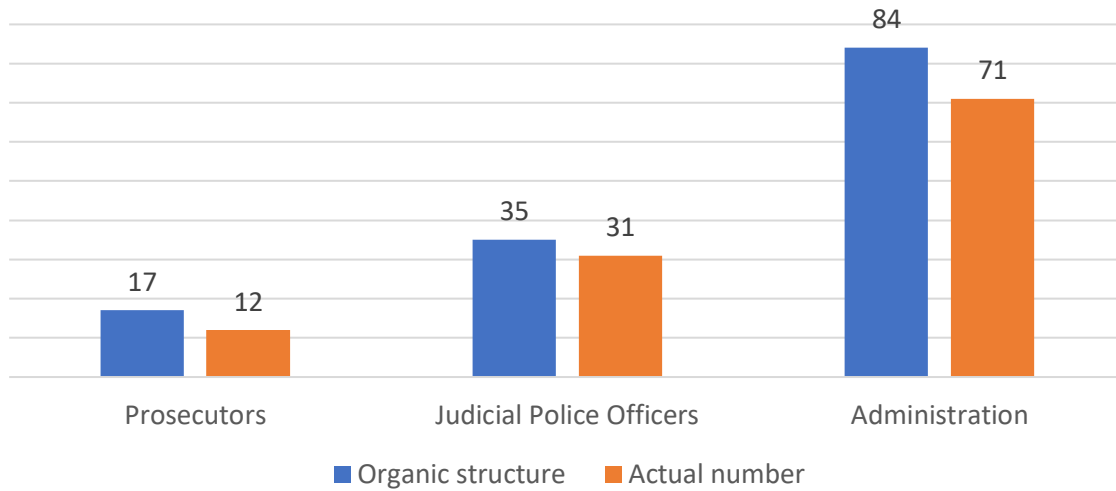
⁸³ General Prosecutor's Office, Report of the General Prosecutor on the state of crime in Albania for 2022

⁸⁴ General Prosecutor's Office, Annual Report on the workload of prosecution offices 2022

⁸⁵ Ibid

⁸⁶ The actual number of prosecutors in 2021 was 205, namely 177 in the first instance prosecutions, 16 in the appeals prosecutions and 12 in the General Prosecutor's Office General Prosecutor's Office, Annual Report on the workload of the prosecution offices 2021

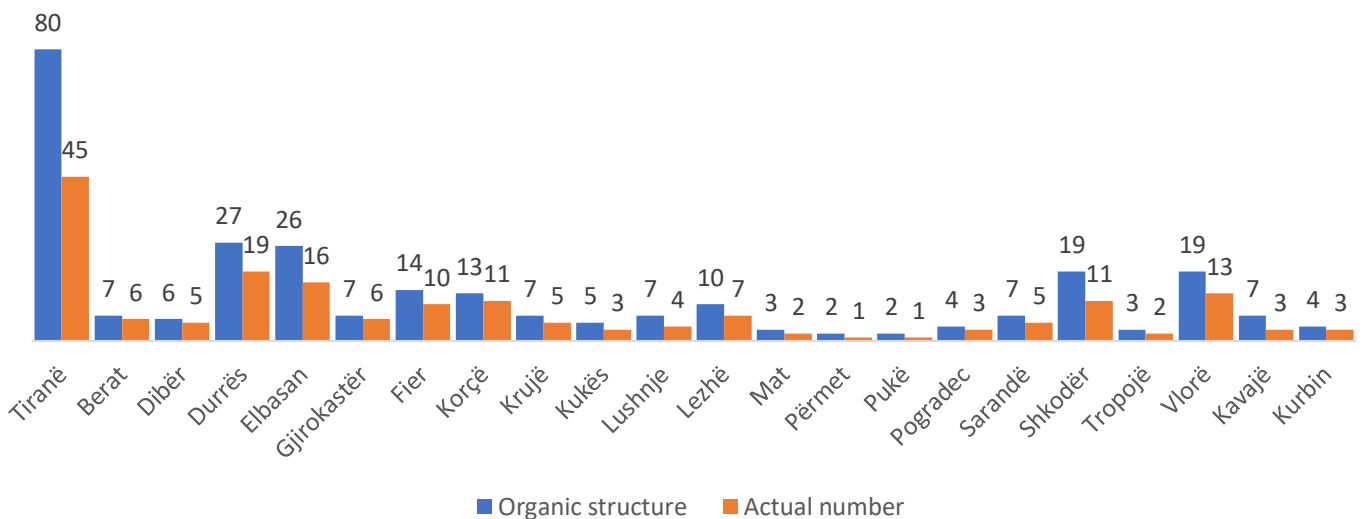
Graph 2: Number of prosecutors, judicial police officers and administrative employees in the General Prosecutor's Office (2022)



Source of Data: Annual report of the Prosecutor General on the Workload of the Prosecutor's Offices 2022

As evidenced by the graph below, in all 22 prosecutor's offices near the courts of first instance with general jurisdiction, there is a lack of the number of current prosecutors compared to the number foreseen in the organization of the institution.

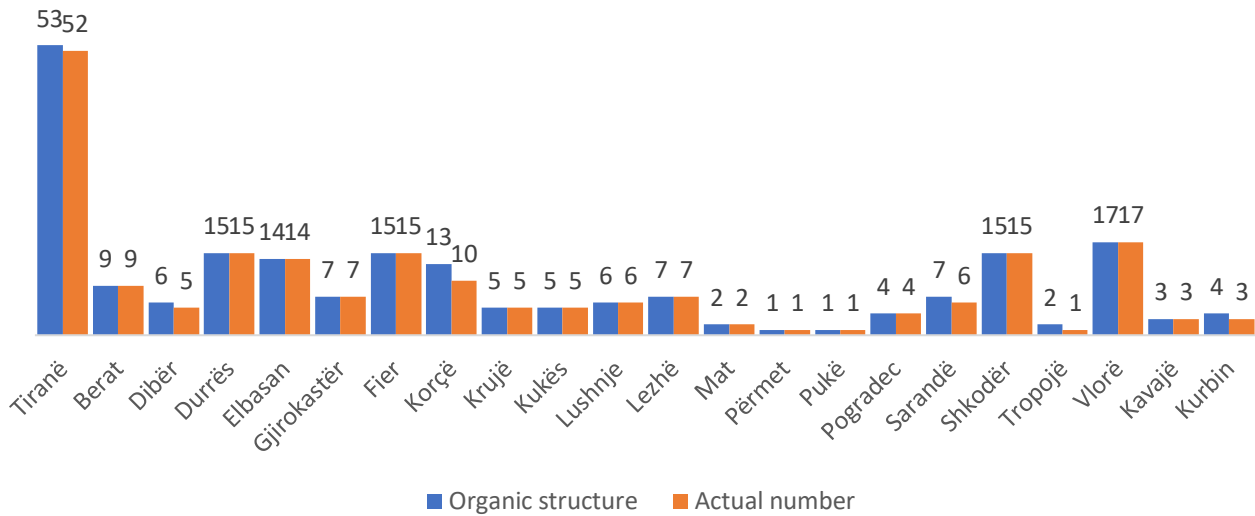
Graph 3: Number of prosecutors in the prosecution offices near the courts of first instance with general jurisdiction (2022)



Source of Data: Annual report of the Prosecutor General on the Workload of the Prosecutor's Offices 2022

A different situation is presented in relation to the number of judicial police officers in the prosecutor's offices next to the courts of first instance with general jurisdiction, where in 16 of them the number of judicial police officers is completed according to the organization of the institution.

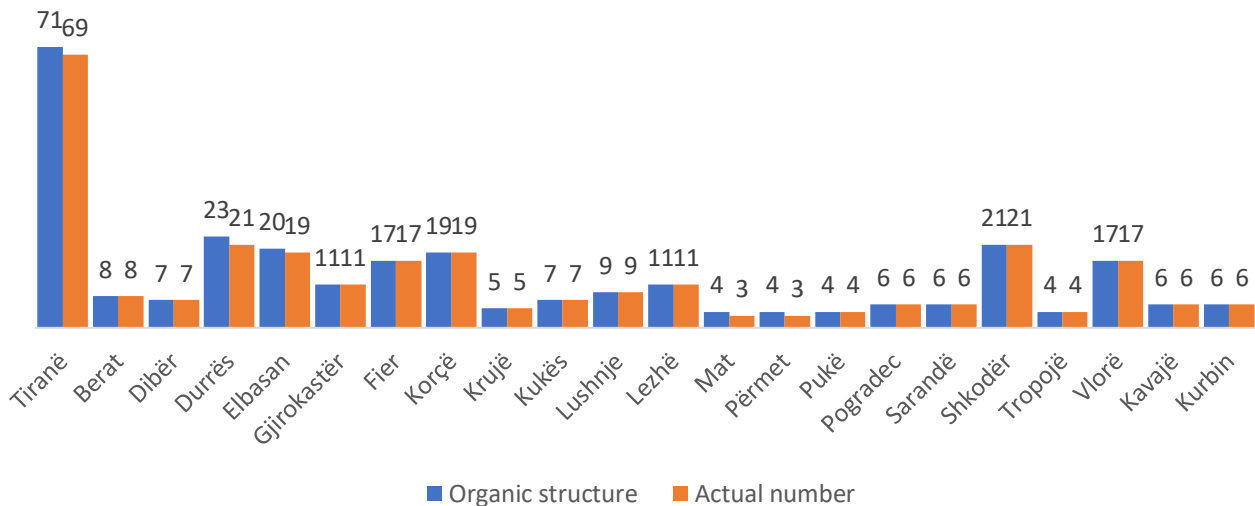
Graph 4: Number of judicial police officers in the prosecution offices near the courts of first instance with general jurisdiction (2022)



Source of Data: Annual report of the Prosecutor General on the Workload of the Prosecutor's Offices 2022

In relation to the number of employees of the administration of the prosecutions near the courts of first instance with general jurisdiction, in 17 of them this number is completed according to the organization.

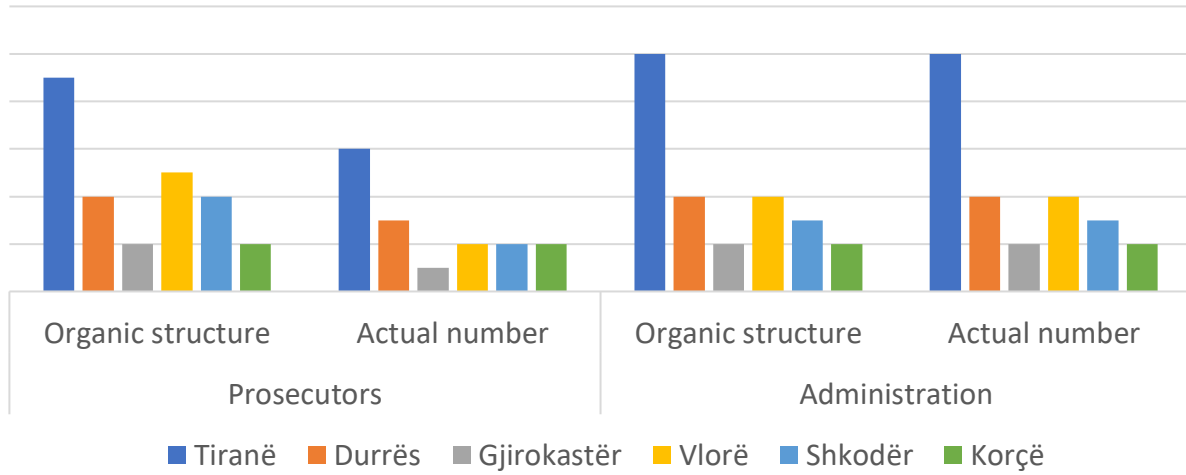
Graph 5: Number of administration employees in the prosecution offices near the courts of first instance with general jurisdiction (2022)



Source of Data: Annual report of the Prosecutor General on the Workload of the Prosecutor's Offices 2022

As for the number of prosecutors and administrative employees in the prosecutor's offices near the courts of appeal with general jurisdiction, there are shortages related only to the number of prosecutors, while the administrative positions are filled according to the organization.

Graph 6: Number of prosecutors and administrative employees in the prosecution offices near the courts of appeal with general jurisdiction (2022)



Source of Data: Annual report of the Prosecutor General on the Workload of the Prosecutor's Offices 2022



3.3. Recruitment and Career of Prosecutors

The law on the governing bodies of the justice system⁸⁷ and the law on the status of judges and prosecutors⁸⁸ determine that the appointment⁸⁹ and assignment⁹⁰ of prosecutors is made by the HPC in cooperation with the School of Magistrates. The assignment and appointment of new magistrates, prosecutor profile, who have completed the Initial Training Program at the School of Magistrates is a task that the law has assigned to the HPC.⁹¹ Meanwhile, the Career Development Commission in the HPC has as its object of activity a number of important issues related to the career of prosecutors.⁹² HPC has approved a series of regulations for the evaluation system of the work and professional and moral skills of prosecutors, on the criteria and procedure for promotion, transfer, etc.⁹³

The legislation is also supplemented with transfer principles,⁹⁴ including transfer without consent⁹⁵ and temporary transfer.⁹⁶ Criteria have also been established for the promotion⁹⁷ and assessment of the prosecutor,⁹⁸ including professional⁹⁹ and organizational skills,¹⁰⁰ ethics and commitment to professional values¹⁰¹ and personal skills and professional commitment.¹⁰² Also, the sources¹⁰³ and levels of assessment¹⁰⁴ have been determined. The law also defines the cases of dismissal of the magistrate.¹⁰⁵

On the other hand, the lack of appreciation for the heads of the prosecutor's offices is considered a serious deficiency not only in transparency and integrity in appointments, but also in the smooth running of the work and the coordination of the activity of the prosecutor's offices.¹⁰⁶ In the presentation of the annual report before the HPC,

the General Prosecutor identifies as problematic the process of promotion/appointment, evaluation of the activity, suspension or dismissal of the heads of the prosecution. Referring to the Prosecutor General, the legal framework is not clear and does not provide for the evaluation of the legal indicators measuring the performance of managers in organizational and/or administrative activities, and of the relations between the head of the prosecution and the Prosecutor General in this field, these very elements important in the smooth running of work and in the exercise of constitutional and legal powers in prosecutions with general jurisdiction.¹⁰⁷

The temporary appointment of prosecutors continues to remain a worrying problem, despite the fact that the HPC has shown increased caution in relation to these appointments by applying this provision only in those cases where the temporary appointment of a prosecutor in the capacity of the Head, or the prosecutor of general jurisdiction or at the appellate level, has been a necessity.¹⁰⁸

Based on the data of the HPC annual report for the year 2022, 13 prosecutors are temporarily appointed as heads, 5 prosecutors are temporarily appointed by the First Instance Court of Appeal, while one of them is appointed by a Prosecutor at the Court of First Instance in another Prosecutor at the Court of First Instance and 2 prosecutors are temporarily assigned by the General Prosecutor's Office to a first instance prosecutor's office. One of the measures proposed by the High Prosecutorial Council in order to normalize and balance the effects of the transitory reassessment process of prosecutors are the legal proposals, which suggest the inclusion of students in the system after the end of the second academic year at the School of Magistrates, for a transitional

⁸⁷ Law No. 115/2016

⁸⁸ Law No. 96/2016

⁸⁹ Law No. 96/2016, Articles 35 - 38

⁹⁰ Law No. 96/2016, Articles 39 - 40

⁹¹ High Prosecutorial Council, Annual Report 2021. Pg. 38

⁹² High Prosecutorial Council, Regulation "For the organisation and internal functioning of the High Prosecutorial Council", Article 41

⁹³ Refer to: Bibliography, High Prosecutorial Council /Decisions

⁹⁴ Law 96/2016, Article 42

⁹⁵ Ibid, Article 44

⁹⁶ Ibid, Article 46

⁹⁷ Ibid, Article 47, Article 48.

⁹⁸ Ibid, Article 69

⁹⁹ Ibid, Article 73

¹⁰⁰ Ibid, Article 74

¹⁰¹ Ibid, Article 75

¹⁰² Ibid, Article 76

¹⁰³ Ibid, Article 77

¹⁰⁴ Ibid, Article 78

¹⁰⁵ Ibid, Article 111

¹⁰⁶ Reporter.al "Mungesa e vlerësimit për drejtuesit dhe promovimet pa garë shkaktojnë debat në HPC", April 2023: <https://www.reporter.al/2023/04/24/mungesa-e-vleresimit-per-drejtuesit-dhe-promovimet-pa-gare-shkaktojne-debat-ne-HPC/>

¹⁰⁷ Presentation of the Prosecutor General's annual report for the year 2022 before the High Prosecutorial Council, pg. 24

¹⁰⁸ High Prosecutorial Council, Annual Report 2022



period. Currently, this proposal of HPC has not materialized yet.

Based on the monitoring report for the year 2022 of the ISJ (2021-2025) there are still by-laws that must be approved by the HPC based on the requirements of the Law on Status and the Law on Governance. The absence of some important by-laws creates a risk for the implementation of legal provisions based on different interpretations. The processing and approval of all by-laws provided by the primary legislation will be a priority of the HPC.

3.4. Professional Education and Training

The law on the status of the prosecutor recognizes the rights and obligations for the continuous education (training) of prosecutors, also defining the period of continuous education.¹⁰⁹ Among other things, the personal file of the magistrates also contains the participation in the training courses that the magistrate has developed.¹¹⁰

Increasing the professional capacities of prosecutors and judicial police officers was one of the recommendations of the Resolution of the Assembly as well as the priority recommendations of the Council of Ministers for the institution of the prosecution for the year 2022.

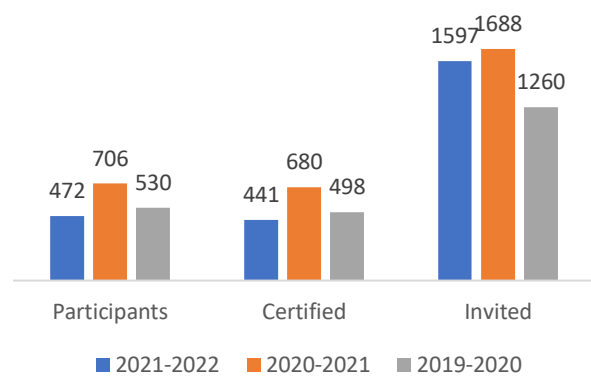
In this context, the heads of the prosecutor's offices were instructed to coordinate and organize joint trainings with law enforcement agencies involved in the fight against the recommended priority criminal offenses, as well as to facilitate the participation of prosecutors and judicial police officers in one or more joint training with other law enforcement agencies in recommended areas.¹¹¹

Also, prosecutors have been asked to aim at increasing and developing their professional capacities and skills, through participation in trainings or roundtable discussions, especially for the implementation of the new provisions of the Criminal Code, as well as joint training with judicial police officers. sections and investigative structures in the

police services, with a focus on the recommended priority areas and directions.¹¹²

Despite this established priority and the measures taken, it is found that there is a rather disproportionate ratio between the number of prosecutors invited to the trainings developed by the School of Magistrates and those who participated and were certified in these trainings. This number has marked the lowest number during the academic year 2021-2022.

Graph: Attendance of activities by prosecutors during the last 3 academic years



Source of Data: School of Magistrates, Academic Reports 2021-2002; 2020-2021; 2019-2020

The General Prosecutor's Office, both in the by-laws issued by the General Prosecutor and in cooperation with the School of Magistrates, the international missions/projects¹¹³ that assist the criminal justice system, which includes the prosecution, considers the professional growth of prosecutors a priority, with the aim of increasing of efficiency and effectiveness in the fight against criminality, as well as taking measures to increase professional capacities through the organization of trainings for prosecutors and judicial police officers.

Based on the data of the report of the General Prosecutor on the state of criminality in Albania for 2022, in the framework of continuous training and in law enforcement, 61 topics in different areas of the criminal justice system have been organized and

¹⁰⁹ Law No. 96/2016, Article 5

¹¹⁰ Law No. 96/2016, Article 38

¹¹¹ General Instruction No. 02, dated 29.7.2022 "For the priority recommendations of the Council of Ministers in the fight against criminality for the year 2022 in the prosecutions of the general jurisdiction", Article 6, point "e"

¹¹² Ibid, Article 7, letter "gj"

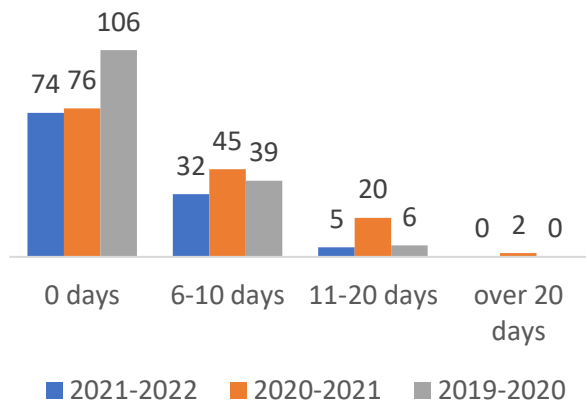
¹¹³ Memorandum of Understanding (No. 627, dated 13.04.2021) between the General Prosecutor's Office and the OSCE "On cooperation and coordination in the implementation of projects and activities in support of the efficiency of the Albanian prosecution system" See also the Report of the Prosecutor General on the state of crime in Albania for the year 2022, point 1.13.6



developed at the School of Magistrates, topics selected according to the law by 704 prosecutors and 83 participating judicial police officers.¹¹⁴

However, there is a marked increase in the number of prosecutors who have not participated for a single day in the trainings developed by SHM, and no prosecutor has completed more than 20 days of training.

Graph 8: Days of training attended by prosecutors during the last 3 academic years



Source of Data: School of Magistrates, Academic Reports 2021-2002; 2020-2021; 2019-2020

The European Commission report for Albania for 2022 states that the quality of initial and continuous training needs to be improved. The School of Magistracy should intensify efforts to strengthen the academic staff and ensure competitive and transparent recruitment procedures.

The methodology of continuing training should be improved by focusing more on daily needs as well as case studies for judges and prosecutors.

On the other hand, the report states that the initial training requires a substantial revision, in line with the objective of specialized training of judges in various fields of law, increasing its practical focus, especially with legal aspect courses on issues related to writing and the reasoning of court decisions and other procedural acts, including the decision not to initiate the criminal case. The School of Magistrates should play a proactive role in organizing trainings according to the needs of justice institutions "tailored made" within the continuing education program; also, SM should cooperate and coordinate assistance

from donors and civil society organizations in a more active way.

3.5. Technological Capacities

The complete improvement of technological capacities is a challenge for all institutions of justice, while the Resolution of the Assembly foresees as an important recommendation for the institution of the Prosecutor General: the assessment of professional and technological capacities and taking other measures to raise them as soon as possible of the case management system in cooperation with the Information Technology Center for the Justice System at the High Judicial Council.¹¹⁵

Despite the cooperation of the institution of the General Prosecutor's Office with the Center of Information Technology for the Justice System at the High Judicial Council for the assessment of human and technological capacities and taking other measures to establish as soon as possible the case management system in the prosecutor's office with current standards, the CAMS system, due to the general technical condition out of operation, does not enable any other information technology activity in the administration of cases or statistical data in the prosecutor's office.¹¹⁶

Meanwhile, the Assembly of Albania approved and agreed with Law no. 85/2022 "On the budget for the year 2023", 50 million ALL, or 408,163 Euros for the General Prosecutor's Office, as the first phase for the investment/establishment of the case management system (CAMS), in the prosecutor's offices with general jurisdiction.

The Directorate of Information Technology at the General Prosecutor's Office is engaged in the collection of data for the new CAMS system, their drafting for the final standardization of the terms of reference for this system and the integration of the IMPRO system at the General Prosecutor's Office with the M-File system of Ministry of Justice, as well as the connection with state databases, the State Police system, the Courts system, etc., connections which will enable full digitization of the work

¹¹⁴ General Prosecutor's Office, Report of the General Prosecutor on the state of crime in Albania for 2022, Annex 3

¹¹⁵ General Prosecutor's Office, Report of the General Prosecutor on the state of crime in Albania for 2022, point 1.7

¹¹⁶ Ibid



processes of prosecutors and judicial police officers in the jurisdictional prosecutions general.¹¹⁷

The technological aspects appear to have influenced the activity of the High Prosecutorial Council fulfilling the powers of this body. In the annual report for 2022, the Late Prosecution Council emphasizes that one of the difficulties encountered in the implementation of the regulation on the Ethical and Professional Evaluation of Prosecutors has been the generation of accurate statistical data, which are currently entered manually in the prosecution offices.

For this reason, the digitization of the archives of the HPC system and the prosecution system as a whole in order to increase processing capacities and the use of technology as a whole, to increase productivity, security, reliability and efficiency of work has been defined as one of the goals and main priorities for 2023.¹¹⁸

The Office of the High Inspector of Justice also considers in the annual report for 2022 that the aspects related to the development of infrastructure and information technology have been a challenge which has not managed to achieve the intended results.

The report states that throughout the year 2022, there have been no significant developments, due to the reconstruction project and the extended time to provide the necessary technical-legal documentation, to modernize the work environment, where measures have undoubtedly been taken to ensure the infrastructure necessary technology.¹¹⁹ In this respect, also for the HIJ institution, the development of the information technology system and the case management strategy, as well as the improvement of the necessary information technology infrastructure, in particular for the verification of complaints and inspections, are considered among the most important priorities for the year 2023.¹²⁰

¹¹⁷ Ibid

¹¹⁸ High Prosecutorial Council, Annual Report 2022

¹¹⁹ Annual Report on the work of the Office of the High Inspector of Justice for 2022

¹²⁰ Ibid

Table III: Evaluation Indicators on the QUALITY and EFFICIENCY

Dimension	Sub-Dimensions	Categories	Indicators	Negative Assessment	Partial Assessment	Positive Assessment	Missing Assessment
Quality/Efficiency	Capacities and Resources	Financial	The prosecution service has sufficient financial resources to effectively implement the envisaged powers				
			The prosecution service has sufficient financial resources to meet the needs related to personnel expenses				
			The prosecution service has sufficient financial resources to meet the needs related to operational expenses				
			The prosecution service has sufficient financial resources to meet investment-related needs				
			The budget of the prosecution service has increased over the last 3 years				
		Human	The number of prosecutors in the General Prosecutor's Office is in accordance with the foreseen structure				
			The number of judicial police officers in the General Prosecutor's Office is in accordance with the foreseen organic structure				
			The number of administrative employees in the General Prosecutor's Office is in accordance with the foreseen organic structure				
			The number of prosecutors in all prosecution offices near the courts of first instance with general jurisdiction is in accordance with the foreseen organic structure				
			The number of judicial police officers in all prosecutor's offices near courts of first instance with general jurisdiction is in accordance with the foreseen organic structure				
			The number of administrative employees in all prosecution offices near the courts of first instance with general jurisdiction is in accordance with the foreseen organic structure				
			The number of prosecutors in all prosecution offices near the courts of appeal with general jurisdiction is in accordance with the foreseen organic structure				
			The number of judicial police officers in all prosecutions near the courts of appeal with general jurisdiction is in accordance with the foreseen organic structure				
			The number of administrative employees in all prosecutions near the courts of appeal with general jurisdiction is in accordance with the foreseen organic structure				
			Recruitment and Career of Prosecutors	Filling vacancies with prosecutors in the General Prosecutor's Office			
		Filling vacancies with prosecutors in the prosecutor's offices near the courts of first instance with general jurisdiction					

			Filling vacancies with prosecutors in the prosecutor's offices near the courts of appeal with general jurisdiction						
			Filling vacancies with prosecutors in the Special Prosecutor's Office against Corruption and Organized Crime (SPAK)						
		Training	The increase in the number of prosecutors' applications to participate in the training organized by the School of Magistrates compared to the previous academic year						
			Increase in the number of prosecutors certified by the School of Magistrates compared to the previous academic year						
			Increase in the number of prosecutors who participate 6-10 days per academic year in the trainings organized by the School of Magistrates compared to the previous academic year						
			Increase in the number of prosecutors who participate 11-20 days per academic year in the trainings organized by the School of Magistrates compared to the previous academic year						
			The increase in the number of prosecutors who participate more than 20 days per academic year in the training organized by the School of Magistrates compared to the previous academic year						
			Reduction of the number of prosecutors who did not participate for a single day in the trainings organized by the School of Magistrates compared to the previous academic year						
		Technological	Setting up and making functional the Case Management System of the Albanian Prosecution Service (CAMS)						
			In the electronic register of the PRESTO e-tracking system, the data is entered in real time						
			In the PRESTO e-tracking electronic register, the progress of criminal procedural actions is updated within a day for each report/referral and/or criminal case and/or property proceeding/investigation						
			Development of the statistical program PRESTO for the benefit of statistical data for all criminal groups						
			The SVHOPGJP electronic system is periodically updated every 15 days by each judicial police officer in the relevant prosecution section						
			The SVHOPGJP electronic system is periodically updated every 15 days by the section judicial police officer						



4.

Transparency, Integrity and Ethics

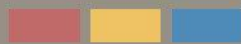


Table IV/A International standards on the Transparency, Integrity and Ethics

<p>The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, UNODC/IAP (2014)</p>	<p>Section 11. Prosecution services must be able to satisfy the public’s right to know about aspects of a criminal proceeding while at the same time not jeopardizing the proceeding itself through the dissemination of information subject to a publication ban or by comments that could be considered inflammatory or damaging to an accused.</p> <p>Page 32. Statistics allow the prosecution service to answer queries of this type in a transparent and defensible manner, thus reinforcing public confidence in the administration of justice.</p> <p>Page 43, Point 6/a. Prosecutors should be entitled to perform their professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability;</p> <p>6/i. To relief from compliance with an unlawful order or an order which is contrary to professional standards or ethics.</p> <p>Page 47. Oversight mechanisms can be a useful component of a prosecution service, especially in their audit and legal risk management functions, as they allow for a proactive approach to identifying the practices and procedures of a prosecution service that are potentially legally or operationally unsound and resolving them before they become problematic.</p> <p>Page 72. Prosecutors must be cautious with respect to their own participation in social media.</p> <p>Page 73. Prosecution services should also have guidelines in place to provide guidance on the establishment of spokespersons, media contacts and a communication plan for major cases, particularly those of national interest and where major legal issues are involved.</p>
<p>Report on European Standards as regards the Independence of the Judicial System: Part II, the Prosecution Service, adopted on 17-18 December 2010 by the Venice Commission</p>	<p>Point 57. All public prosecutors enjoy the right to request that instructions addressed to him or her be put in writing. Where he or she believes that an instruction is either illegal or runs counter to his or her conscience, an adequate internal procedure should be available which may lead to his or her eventual replacement.</p> <p>Point 58. The prosecutor is also entitled to initiate a procedure to allow for his or her replacement by another prosecutor where an instruction is believed to be illegal or contrary to his or her conscience.</p> <p>Point 70. Appropriate training should be available for prosecutors throughout their career. The importance of training for prosecutors is certainly of the same level as that for judges. Such training should include legal, including human rights, training as well as managerial training, especially for senior prosecutors.</p> <p>Chapter XIII. Conclusions</p> <p>12. Prosecutors other than the Prosecutor General should be appointed until retirement.</p> <p>13. In disciplinary cases the prosecutor concerned should have a right to be heard.</p> <p>22. An expert body like a Prosecutorial Council could play an important role in the definition of training programmes.</p>
<p>The Role of Public Prosecution in the Criminal Justice Systems, Committee of Ministers of Justice of the Council of Europe (2000)</p>	<p>Point 5/g. Public prosecutors, together with their families, are physically protected by the authorities when their personal safety is threatened as a result of the proper discharge of their functions.</p> <p>Point 7. Training is both a duty and a right for all public prosecutors, before their appointment as well as on a permanent basis. States should therefore take effective measures to ensure that public prosecutors have appropriate education and training, both before and after their appointment.</p> <p>Point 7/b. The constitutional and legal protection of suspects, victims and witnesses;</p> <p>Point 11. The public prosecution should account periodically and publicly for its activities as a whole and, in particular, the way in which its priorities were carried out.</p>



4.1. Integrity and Ethics of Prosecutors

The legislation charges the High Prosecutorial Council as the body responsible for approving the ethics standards of prosecutors and the rules of conduct of prosecutors, as well as for supervising their compliance.

The HPC makes public the ethical standards and rules of conduct of prosecutors, reviews the rules from time to time and when necessary changes them, as well as analyzes the degree of implementation and compliance with the ethical rules and publicly reports on the findings.¹²¹

During the year 2022, HPC elected the Advisor for Ethics through the appointment procedure,¹²² who serves for a period of 5 years, with the right to re-election only once. The main functions and tasks performed by the Ethics Advisor include:

- a) giving advice, at the request of any prosecutor, on the most appropriate behaviour, inside and outside the prosecutor's office or the court, for controversial issues of ethics;
- b) seeking the opinion of the Council on certain issues related to the behaviour of prosecutors in general, but not related to specific persons;
- c) drafting, publishing and constantly updating an informative manual, which contains questions and answers on ethical dilemmas, based on international standards and best practices and relevant decisions of the Council;
- d) care in cooperation with the School of Magistrates, for initial and ongoing training on ethics issues;
- e) reporting in writing, not less than once a year, before the Council regarding its activity.¹²³

Although it has been more than 1 year since the election of the Ethics Advisor, a report has not yet been carried out to make it possible to understand what are the ethical issues in the system, to assess

how much is known and how the ethics regulation is applied, and eventually what measures should be taken undertake HPC to improve the situation.

The High Prosecutorial Council also approved in February 2022 through Decision No. 32, dated 24.02.2022 "*Ethical standards and rules of conduct of the Prosecutor*", a regulation which aims to establish, maintain and strengthen the professional and personal integrity of prosecutors, as well as to increase effectiveness, impartiality and accountability during and outside the exercise of their functions, in the name and in the interest of society as part of the criminal justice system.¹²⁴

The regulation defines a series of principles on which the ethical standards and rules of conduct of the prosecutor are based and which include: independence; impartiality; purity of image; graceful and restrained behaviour; due diligence and professionalism; respect and the ability to listen; fair treatment and transparency. The regulation also deals with some activities outside the prosecution.¹²⁵

The head of the prosecutor's office oversees compliance with the rules of conduct and ethics of the prosecutor and reports any issues to the High Council of Prosecutors, within the periodic information requested. Violation of the Standards of Ethics and the Rules of Conduct of the Prosecutor when it does not constitute grounds for disciplinary responsibility is taken into consideration within the ethical and professional assessment of the prosecutor.¹²⁶

According to the regulation, the violation of the Standards of Ethics and the Rules of Conduct of the Prosecutor, when it does not constitute grounds for disciplinary responsibility, is taken into consideration within the ethical and professional assessment of the prosecutor.¹²⁷ On the other hand, in addition to the missing reporting on the activity of the Ethics Advisor, there is a significant lack of training related to ethics. Based on the training calendar of the School of Magistrates during the last 3 years these trainings have been almost non-existent.¹²⁸

¹²¹ Law 115/2016, Article 182, point 1

¹²² High Prosecutorial Council, Ethics Advisor: <https://HPC.al/keshilltar-etike/>

¹²³ Law 115/2016, Article 182, point 4

¹²⁴ High Prosecutorial Council, Regulation "Ethical standards and rules of conduct of the Prosecutor", Articles 3-11

¹²⁵ Ibid, Articles 12-18

¹²⁶ Ibid, Article 19, point 2

¹²⁷ Ibid, Article 19, point 3

¹²⁸ School of Magistrates, Training Calendar

Report of the Prosecutor General on the state of crime in Albania for 2022, Annex 3



4.2. Media and Public

In order to increase the transparency of the prosecution service, relations and communication with the public are considered a very important element. Based on the discrete rules applicable during criminal proceedings, the regulation of the way of interaction between the media and the prosecution service becomes even more necessary.

The general instruction on relations with the public in the prosecution offices with general jurisdiction aims to unify the activity of the prosecution offices with general jurisdiction in relations with the public and the media for the provision of information related to the criminal investigation and prosecution and for other activities of the prosecution offices in this field.¹²⁹

This instruction unifies and defines by whom, when and in what manner the data for the investigation and prosecution of criminal offenses as well as other activities of the general jurisdiction prosecutions which will be distributed to the public can be provided. The directive also provides for restrictions on the provision of information, the obligation to protect investigative secrets, as well as cases of banning the publication of acts.¹³⁰

The public relations prosecutor, appointed for this purpose by the head of the prosecution, leads and supervises the public relations service", while the latter appoints a civil servant as coordinator for public relations.¹³¹ There is no clear information published regarding the choice of public relations prosecutors and the reports they are expected to carry out.

The Media Advisor at the General Prosecutor's Office performs a number of functions defined in Article 10 point 3 of the Regulation on the Organization and Functioning of the General Prosecutor's Office.

In accordance with the legal provisions,¹³² the General Prosecutor's Office has published the Transparency Program.¹³³ There are specified the categories of mandatory information to be made public, the method of publication, as well as the

IV. Transparency, Integrity and Ethics

legal provisions from which the obligation to publish arises. Each prosecutor's office of general jurisdiction implements the institutional program of transparency, which defines the categories of information that is made public without request and the way of making this information public.

On the official website of the General Prosecutor's Office, in the "Press Releases" subsection of the "Media" section, in addition to announcements about criminal proceedings, the General Prosecutor's Office also publishes special announcements for the media.

According to the Register of requests and responses for the year 2022, it appears that the General Prosecutor's Office has processed all requests for information within the legal deadlines. From the presentation of the tabular data, it remains unclear the type of response from the PP, for example, whether the requests have received detailed responses, the responses have fully or partially addressed the request, have returned a response for refusal to provide information, returned a response for delegation or orientation of requests for information.

Public relations specialist at the General Prosecutor's Office:

- a) handles complaints and requests that are under the jurisdiction of the General Prosecutor's Office;
- b) for complaints and requests that are not within the competence of the General Prosecutor's Office for resolution, as the case may be, he returns an official answer to the interested party or forwards it to the competent institution;
- c) takes care of informing the public about the activity of the prosecution, through the relevant structure, as well as for special issues, applying the legal requirements for guaranteeing the secrecy and smooth progress of the investigation and in implementation of the general instruction no. 5/2019;
- d) exercises the duties of the coordinator for the right to information in accordance with

¹²⁹ General Prosecutor's Office, General Instruction No. 5 dated 30.07.2019 "On relations with the public in prosecutions with general jurisdiction"

¹³⁰ Ibid, Articles 8, 9, 10

¹³¹ Ibid, Article 11, point 2,3

¹³² Law No.119/2014 "For the Right to Information", Article 7

¹³³ General Prosecutor's Office, Transparency Program for the Prosecutor's Office:

https://www.pp.gov.al/Programi_i_Transparences_per_P_rokurorine/



law no. 119/2014 "On the right to information", under the care and supervision of the Cabinet.¹³⁴

The HPC has also approved during 2022 the regulation "On the communication of the High Prosecutorial Council with the Media", in order to guarantee the reflection of the institutional position of the Council, in function of transparency in communication with the media and the public. This regulation defines special principles, rules and procedures, part of the rules for relations with the public, legal, transparent, responsible and professional communication of the Council with the written and electronic media, as well as with any of its representatives. According to this regulation, on the official website of the High Council of Prosecution, a special column named "Contact with the Media" is designated. Specifically, this section is missing.

In the framework of institutional transparency, all plenary meetings, hearings and daily activity of the HPC are reflected. It is worth noting that not only the meetings, but all the important acts and documents produced by this institution, are reflected for the general public on the official website of this institution.

The HPC has also enabled the drafting of a Model Request for Information, for all those media that become part of the activities and media agenda of the Council.¹³⁵

Also, under the chairmanship of the Commissioner for the Right to Information and Protection of Personal Data, work is being done on the new format of the "Electronic Register of Requests and Responses for the Right to Information" (REKPDII), mechanism of the Electronic Register of Questions and Answers.¹³⁶ According to the data in the Request Registers (2022-2020) it appears that the public/media received answers from HPC within a very short time. It remains unclear the effectiveness of returning responses, if the latter have fully addressed the subjects' needs for information.

In the HPC Annual Report 2022 it is mentioned that journalists can submit their request through a form,

¹³⁴ Order No. 136, dated 28.10.2020 "On the approval of the Regulation on the Organization and Functioning of the General Prosecutor's Office", Article 15, point 4.1.4

¹³⁵ High Prosecutorial Council, Model request for information: <https://HPC.al/programi-i-transparences/model-kerkese-per-informim/>

IV. Transparency, Integrity and Ethics

according to the model of Link 1 "Accreditation form for Media". Contact form not found.

Following the improvement of institutional communication, during 2022, HPC has generated communication with the public, coming closer to it through the creation of new communication platforms, such as the official account on Twitter, Instagram or even the official YouTube channel. As has been done with the official website, www.klp.al, communication on social networks has brought a greater approach and closeness to the public, reflecting there all the activity of the Council throughout the year 2022 through multimedia publications. Periodically, in a one-month period, a summary of HPC's publications is realized, through the publication of an Informational Bulletin.

Throughout this 1-year period, HPC has received and handled a number of 35 requests, in electronic format and through the postal service, which were handled and received answers within the legal deadlines, where a good part of them come from media operators, legal and executive offices and also citizens, related to the work of the Council and on specific issues involving the Council. Also, there have been requests for information from non-profit organizations or other institutions.

4.3. Other anti-corruption mechanisms

- **Whistleblowing and the Protection of Whistleblowers**

The law on whistleblowing and protection of whistleblowers, adopted in 2016, is considered an important mechanism in the fight against corruption and the reporting of corrupt cases. According to the law, a responsible unit is assigned to each public authority, which has more than 80 employees, which registers, administratively investigates and examines alerts.¹³⁷

Currently, on the website of the General Prosecutor's Office, there is no published information regarding the approval of the respective acts in implementation of the law on whistleblowing

¹³⁶ High Prosecutorial Council, Annual Report 2022

¹³⁷ Law No. 60/2016 On whistleblowing and protection of whistleblowers", amended by Law No. 150/2020, dated 17.12.2020, Article 10, point 1.



and the protection of whistleblowers, which include the approval of the relevant regulations as well as the forms for cases of internal and external whistleblowing and the request for protection from retaliation.

Considering the number of members of the institutions, only the institution of the High Inspector of Law has published the relevant forms on the institution's official website.¹³⁸

Cooperation and engagement with Civil Society organizations

Although there is no document dedicated to a clear policy for the forms of cooperation between the prosecution and civil society organizations, this cooperation has not been lacking.

In the recommendation of the Resolution of the Assembly it was specified *"together with responsible state structures, civil society organizations and the necessary international assistance to contribute to the creation of an integrated approach of criminal policy in the fight against criminality as an immediate need of our society, with focus on the prevention of criminality among minors and young people"*.

The General Prosecutor's Office following the supervision of the implementation of general instructions no. 5/2018¹³⁹ and no. 17/2020¹⁴⁰ it is evident that the prosecutions of the general judiciary and the General Prosecutor's Office have continued their cooperation with civil society organizations, while with the necessary international support/assistance it has been possible to create an alternative criminal policy in the fight against violence against minors in conflict with the law and the victim, while a strict policy towards domestic violence and towards minors as an immediate need with a focus on the prevention of criminality in this area.¹⁴¹

¹³⁸ Senior Inspector of Justice (HIJ), Whistleblowing Forms: <https://HIJ.al/sq/formulare-sinjalizimi/>

¹³⁹ General Prosecutor's Office, General Instruction No. 5 dated 26.10.2018 "On guaranteeing assistance to victims and witnesses of criminal offenses"

¹⁴⁰ General Prosecutor's Office, General Instruction No. 17 dated 23.12.2020 "On the effective criminal investigation

and prosecution of criminal offenses against violence against women, domestic violence, and hate-based violence"

¹⁴¹ Report of the Prosecutor General on the state of crime in Albania for the year 2022, pg. 47-48

Table IV: Evaluation Indicators on the TRANSPARENCY, INTEGRITY and ETHICS

Dimension	Sub-Dimensions	Categories	Indicators	Negative Assessment	Partial Assessment	Positive Assessment	Missing Assessment
Transparency/ Integrity/Ethics	Public and Media	Publication of information on internal surveillance	The prosecution service publishes updated information about strategic work plans				
			The prosecution service publishes updated information about monitoring reports				
			The prosecution service publishes other documents containing indicators of GP performance				
		Publication of Financial Information of the Prosecution Service	The prosecution service publishes updated information about the implementation of the annual budget				
			The prosecution service publishes updated information about procurement procedures/competitive concession procedures/public-private partnership				
			The prosecution service publishes updated information about the financial audit				
		Responsiveness to Information Requests	The prosecution service has approved and made public the Transparency Program				
			All sections of the Transparency Program are accessible				
			The institution offers a quick response to requests for information				
			The institution has formal internal mechanisms regarding responses to requests for information				
			The institution applies certain deadlines regarding the response to requests for information				
			During the last 3 years, the time limits related to the return of responses to requests for information have been correctly implemented				
			There are clear guidelines in cases where information is considered restricted due to privacy or other security issues				
			The prosecution service has published the contact list of public relations prosecutors				
			The prosecution service has published the contacts of the coordinator for the right to information and the respective formats of requests and complaints				
		Policy related to the Public and the Media	The prosecution service has published the contacts of the media adviser at the General Prosecutor's Office				
			The prosecution service has implemented the institutional program of transparency				
			The prosecution service has the appropriate protocols for engaging with the media				
			There are written protocols that provide guidance on when and how personnel should interact with the media				
			The protocols address requirements related to confidentiality and the public's right to information				
			The Protocols address the need to protect the integrity of criminal proceedings				
			There are protocols for prosecutors and staff regarding the use of social media				

			There are mechanisms in place to ensure that there are no different forms of retaliation	Red				
			The institution provides immunity in relation to disciplinary measures for persons who raise various concerns/complaints	Red				
			The institution is subject to disciplinary measures regarding persons who mistreat whistleblowers	Red				
			During the last 3 years, there have been reports of institutions, media coverage, disciplinary proceedings in the institution or lawsuits that show that people who complain to someone inside the institution are consequently victimized, harassed or abused	Red				
			In case of jeopardizing the safety of the whistleblower, there is a mechanism for placing the person in the protection program	Red				
		Engagement with Civil Society	The institution proactively engages with civil society organizations and the public to inform the public and receive feedback from key community groups					Grey
			The institution actively engages with interest groups such as associations of lawyers and legal professionals, human rights groups or victim services					Grey
			The institution organizes regular meetings with interest groups/stakeholders					Grey
			The institution receives the feedback of the community/interest groups on certain problems/issues/concerns					Grey
		Support of Civilian Supervision of the Institution	The prosecution service accepts and cooperates in the direction of civil supervision of the institution				Green	
			The prosecution service is ready to provide information to civil society organizations that conduct studies/research, supervision and monitoring of the institution, including budget and data analysis				Green	
			Civil society organizations (especially those in the field of justice) cooperate and participate in the training of the institution's personnel				Green	
			Civil society organizations that provide legal/legal assistance to defendants, minors or other vulnerable persons, or victims of crime, engage constructively with the prosecution institution				Green	



5. Efficacy and Performance



Table V/A International standards on the Efficacy and Performance

<p>The Status and Role of Prosecutors: A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, UNODC/IAP (2014)</p>	<ol style="list-style-type: none"> 1. Careful management and tracking of case assignments is crucial to ensuring that all cases are either prosecuted fairly and vigorously to the extent that the law will allow or screened out of the criminal process through careful consideration and the application of the appropriate legal tests 2. Accountability, transparency and operational effectiveness all require a prosecution service to be able to track and articulate what is being done on any file that has been opened or closed by any office in the prosecution service. In most jurisdictions, that will require considerable effort on the part of the administration in conjunction with management and the prosecutors themselves to ensure that the file is properly documented and tracked throughout its lifetime, including while archived. There are a number of advantages to tracking files in this manner, some of the major advantages are as follows: <ul style="list-style-type: none"> • The ability to generate statistics on the files that can assist in improving the efficiency of the prosecution service as well as providing performance information to support public accountability. • Ensuring that individual prosecutors are not overburdened by too many files. • Ensuring that individual prosecutors are assigned files in enough time to properly prepare the case. • The ability to quickly access files in order to brief senior officials or other interested parties such as victims or witnesses as to the status of the file. • The ability to review a file that has been closed to see what the outcome was (i.e., closed for lack of evidence, acquittal and on what grounds, conviction and sentence, recommendations for appeal). • The ability to share pleadings, decisions or methodologies among prosecutors who have similar cases, allowing for lessons learned to be disseminated and helping to ensure consistency of response. • The ability to generate statistics on the files that can assist in improving the efficiency of the prosecution service as well as providing performance information to support public accountability. 3. Importance of maintaining statistics: <ul style="list-style-type: none"> • Case clearance rates, actions taken in response to incoming cases, the number of cases being handled by a prosecution service or sub-office by day, week, month or year can tell a prosecutor general or director of public prosecutions a great deal about how staff should be allocated, whether a sub-office or a court system is working efficiently, what actions should be taken and how those challenges may be resolved. • Careful scrutiny of the number of cases carried by each prosecutor and the case clearance rate of an office can inform senior officers as to the action that needs to be taken. • Efficiencies can be found simply by ensuring that each prosecutor’s caseload is properly maintained instead of overburdening some while others have capacity to do more. • Statistics can also be useful in addressing negative perceptions held by groups or individuals regarding the efficiency of a prosecution service. Statistics allow the prosecution service to answer queries of this type in a transparent and defensible manner, thus reinforcing public confidence. <p>11. Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest.</p>
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- 12. Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.
- 14. Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.
- 15. prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences.
- 16. When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.

Prosecutors shall perform an active role in criminal proceedings as follows:

- a. Where authorized by law or practice to participate in the investigation of crime, or to exercise authority over the police or other investigators, they will do so objectively, impartially and professionally;
- b. When supervising the investigation of crime, they should ensure that the investigating services respect legal precepts and fundamental human rights;
- c. When giving advice, they will take care to remain impartial and objective;
- d. In the institution of criminal proceedings, they will proceed only when a case is well-founded upon evidence reasonably believed to be reliable and admissible, and will not continue with a prosecution in the absence of such evidence;
- e. Throughout the course of the proceedings, the case will be firmly but fairly prosecuted; and not beyond what is indicated by the evidence;

Article 5 (b): In order to ensure the fairness and effectiveness of prosecutions, prosecutors shall render assistance to the prosecution services and colleagues of other jurisdictions, in accordance with the law and in a spirit of mutual cooperation.

Report on European Standards as regards the Independence of the Judicial System: Part II, the Prosecution Service, adopted on 17-18 December 2010 by the Venice Commission

The Role of Public Prosecution in the Criminal Justice Systems, Committee of Ministers of

Article 38: Steps should be taken in a number of areas to further direct contacts between public prosecutors in the context of international judicial co-operation. Such steps should in particular consist in:

- a. disseminating documentation;

Justice of the Council of Europe (2000)

- b. compiling a list of contacts and addresses giving the names of the relevant contact persons in the different prosecuting authorities, as well as their specialist fields, their areas of responsibility, etc;
- c. establishing regular personal contacts between public prosecutors from different countries, in particular by organising regular meetings between Prosecutors General;
- d. organising training and awareness-enhancing sessions;
- e. introducing and developing the function of liaison law officers based in a foreign country;
- f. training in foreign languages;
- g. developing the use of electronic data transmission;
- h. organising working seminars with other states, on questions regarding mutual aid and shared crime issues.

Article 39: In order to improve rationalisation and achieve co-ordination of mutual assistance procedures, efforts should be taken to promote:

- a) among public prosecutors in general, awareness of the need for active participation in international co-operation, and
- b) the specialisation of some public prosecutors in the field of international co-operation,



5.1. Strategic Planning

The drafting and implementation of a strategy for the prosecution system, which includes a strategic plan accompanied by operational action plans and contains clear performance indicators as well as the necessary human, material and financial resources, has been assessed as an important step and essential in promoting an efficient performance of the prosecution service.¹⁴²

The legislation provides that the High Prosecutorial Council, in cooperation with the Minister of Justice, drafts, approves and implements a strategic plan for the prosecution system in coordination with the strategy of the justice sector and according to the defined criteria,¹⁴³ while the legal provisions do not foresee specified the involvement of the prosecution in the drafting of this document. Based on the above, the High Prosecutorial Council has approved the 2021-2024 Strategic Plan for the High Prosecutorial Council, which defines the strategic objectives of the Council for this time period. The objectives include efforts to ensure: (i) independence; (ii) accountability; (iii) meritocracy and indirect objective (iv) efficiency of prosecutors in the Republic of Albania.

The Strategic Planning, Administration and Budget Commission at the HPC is the structure that is planned to carry out the planning and monitoring of the strategy under the supervision of the HPC. Although the strategy is published on the official website of HPC, there are no published reports, which reflect data and more detailed information on the monitoring of the strategy.¹⁴⁴

The institution of the General Prosecutor's Office has approved during the years 2015-2020 the Medium-Term Strategy of the General Prosecutor's Office 2015-2017 and 2018-2020 as well as the respective action plans.¹⁴⁵ After this period, there is no strategy for the following period. Despite the fact that the strategy provided for the establishment of the Working Group chaired by the General Prosecutor's Cabinet, which reported in writing every 6 months to the General Prosecutor, progressively reflecting the degree of implementation of the measures for each six-month period, there are no published reports,

which reflect the level of fulfillment of the foreseen objectives.

The mid-term strategy of the General Prosecutor's Office 2018-2020 included 7 main objectives: 1) increasing the effectiveness of the investigation; 2) strengthening the fight against corruption and organized crime; 3) strengthening cooperation with international partners; 4) strengthening the integrity and guaranteeing the independence of the prosecutor; 5) respect for human rights; 6) strengthening public trust in the functioning of state bodies, through the rigorous implementation of the legal framework for decriminalization and 7) increasing transparency in communication and relations with the public.

Meanwhile, the prosecution is part of the Cross-Sector Strategy of Justice and its 2022-2025 Action Plan,¹⁴⁶ which foresees 17 Specific Objectives and 184 measures for implementation during the 5 years of its implementation. Based on the monitoring report for 2022, during this year out of 16 Specific Objectives, 1 was fully implemented, 13 were partially implemented and 2 objectives were not implemented. Despite the progress from last year, the specific objective 3.2 related to an efficient and proactive prosecution system that operates according to European standards in order to efficiently investigate and prosecute corruption and organized crime turns out to have been partially realized.

The Office of the High Inspector of Justice has also prepared the "Strategic Plan and Action Plan for the Office of the High Inspector of Justice 2020-2022", which contains 4 main strategic objectives and 15 specific objectives/sub-objectives, 44 activities/measures and 2 indicators from the Passport of Indicators/Indicators (according to SND). It should be noted that HIJ is the only institution that has published the annual report on the implementation of the strategic plan and action plan for the period January-December 2021, while the strategy monitoring report for 2022 has not yet been published.

Given that the objectives and priority directions of the prosecution's activity as well as the measures/activities for their implementation and

¹⁴² OECD (2021), Performance of the Prosecution Service in Latvia, A comparative Study, Chapter 4

¹⁴³ Law 115/2016, Article 180

¹⁴⁴ The High Prosecutorial Council, "Strategic Plan 2021 - 2024 for the High Prosecutorial Council"

¹⁴⁵ General Prosecutor's Office, Documents, Strategy: <https://www.pp.gov.al/Dokumente/Strategji/>

¹⁴⁶ CMD No. 823, dated 24.12.2021 "On the approval of the Intersectoral Justice Strategy 2021-2025 and its Action Plan"



monitoring are included in a number of other strategic documents and action plans it is evident that unification in a complete strategic and calculated document of all objectives in accordance with the measures/activities and indicators is necessary.

5.2. The Role of Prosecutors in Criminal Proceedings and cooperation with Judicial Police

The Constitution sanctions that the Prosecutor's Office carries out the criminal prosecution as well as represents the accusation in court on behalf of the state.¹⁴⁷ The Code of Criminal Procedure provides the rules for the development of criminal proceedings in all its phases, starting from the investigation, the trial, the issuance of the decision and the implementation of the decision. The prosecutor directs and controls the preliminary investigations and the activity of the judicial police, carries out any investigative action that he deems necessary, as well as exercises the functions of judicial cooperation with foreign authorities, according to the rules specified in the CCP.¹⁴⁸

The Code of Criminal Procedures stipulates that prosecutions are initiated by prosecutors either on their own initiative or on the basis of criminal reports received from citizens, state officials, medical personnel, etc., which are either presented directly to the prosecutor's office or to the State Police, which then refers them to the prosecutor's office.¹⁴⁹ The legislation stipulates that the prosecutor has the right not to initiate the criminal prosecution, dismiss the charges or the case, ask the court to dismiss the charges or the case, request that the case be sent for trial, as well as conclude a cooperation agreement or an agreement on the terms of accepting the charges.

The existing legal framework does not limit the possibility for the prosecutor to request clarifications before deciding to initiate a proceeding. On the one hand, these clarifications do not constitute a request for the performance of other investigative actions, but focus more on the information and evidence that the police have collected before filing the reference and that may not have been shared with the prosecutor. On the other hand, in order to register a

V. Efficacy and Performance

proceeding, the prosecutor must ensure that there are no legal obstacles to the initiation of a proceeding.

The legislation identifies three main stages during the investigation, namely: (i) planning the investigation, (ii) conducting the investigation and (iii) closing the investigation. Each of these phases has its own specifics that require different approaches to the leadership role of the prosecutor. The legislation defines the leading role of the prosecutor in case management. The leading role of the prosecutor is a managerial position performed during the investigation, which includes the general organization of the investigation, directing investigative actions and supervising the development of the case, ensuring the proper implementation of all procedural rules.¹⁵⁰

After the completion of the preliminary investigations, the prosecutor either takes actions to dismiss the charges or the case or sends the case for trial. Both of these actions are carried out by court decision and require preliminary hearings in open sessions. At this stage, the court may assess that the preliminary investigations are incomplete and order their completion, giving appropriate directions and, if necessary, the actions to be taken, including the repetition of invalid acts and unusable evidence if it's possible.

Although increasing the proactive role of the prosecutor has been one of the repeated recommendations, the role of prosecutors in initiating criminal proceedings on their own initiative remains low. Also, one of the still present problems remains the efficient coordination and cooperation of prosecutors with judicial police officers.

The new law on the organization and functioning of the judicial police, approved in 2019, aimed to address a number of previous shortcomings identified in the activity of judicial police officers, improving the structural and functional organization of the judicial police, as well as reaffirming the role of the prosecutor as the head of preliminary investigations.¹⁵¹ Despite these changes, the judicial police continues to remain one of the weak points of the prosecution system, while due to the dynamics created after the changes brought by the reform in

¹⁴⁷ Constitution of the Republic of Albania, Article 148, point 1 (Amended by Law no. 76/2016, dated 22.7.2016)

¹⁴⁸ Ibid, Article 24

¹⁴⁹ Ibid, Articles 304 - 317

¹⁵⁰ OSCE, (2020), A Handbook for Prosecutors, Prosecutorial Leadership, pg. 49

¹⁵¹ Parliament of Albania, Report on the Draft Law "On the Organization and Functioning of the Judicial Police"



the justice system, relations and cooperation with prosecutors present various challenges.

Some of these challenges include: the frequent movement of service police officers in the State Police; breaches of confidentiality; double dependence of police officers of the services; the exaggerated workload of service police officers which is seen as a consequence of the lack of a sufficient number of qualified personnel in the State Police and in other government agencies dealing with investigations; the lack of an evaluation system or mechanism before registering or submitting police reports to the prosecutor's office which are unsatisfactory; the lack of appropriate, sufficient and common trainings with prosecutors.¹⁵²

Despite some positive steps taken in terms of objective evaluation and increased performance and reporting of judicial police officers,¹⁵³ strengthening of cooperation between parties and clear understanding of roles is needed. At the same time, it is necessary to improve the quality of the referral of issues as well as communication through the creation of models and protocols for communication and work evaluation.¹⁵⁴ Other measures in the function of this cooperation are related to the improvement of legal and organizational aspects as well as building and strengthening the capacities of judicial police officers.¹⁵⁵

5.3. Statistics and Case Management

As has been evidenced before in this study,¹⁵⁶ improving and making the aspects related to technological capacities, including statistics and case management systems, a challenge for almost all

justice institutions.¹⁵⁷ The legal changes undertaken in the framework of the justice reform envisage the establishment of a statistics system. Accordingly, the Constitution of the Republic of Albania¹⁵⁸ provides for the creation and operation of information technology structures in the prosecution through a decision of the Council of Ministers.

Meanwhile, the Law "On the governing bodies of the justice system",¹⁵⁹ provides for the development of the information technology system that will provide full access to the High Inspectors of Justice to the data contained in the entire information technology system related to the Council of the Supreme Court, the courts, the High Prosecutorial Council and the prosecutor's offices.

The law provides that until the electronic case management system is fully functional, the High Prosecutorial Council enables the management of court cases by other means.¹⁶⁰ In addition, the legislation establishes the establishment of the Center for Information Technology for the Justice System at the High Judicial Council.¹⁶¹ The center aims to support the information system in the justice bodies, including among others the prosecution and the HPC. In addition, the rules for the organization, operation and powers of the center have been approved.¹⁶² We emphasize that the Center's website is still under construction and not enough information can be obtained about its functionality and standards.¹⁶³

Keeping, completing and reporting statistical data in the prosecutor's office is legally regulated.¹⁶⁴ Prosecution offices keep 3-month, 6-month, 9-month and annual statistical data. On the other hand, the General Prosecutor publishes the annual report on the work load of the prosecutor's offices for the

¹⁵² OSCE, (2019), "Enhancing co-operation and co-ordination between prosecution and judicial police in Albania, pg. 39-41

¹⁵³ General Prosecutor's Office, General Instruction No. 10/2021 updated "On exercising the monitoring function in the prosecution system and cooperation with constitutional and legal institutions", Article 8

¹⁵⁴ OSCE, (2020), A Handbook for Prosecutors, Prosecutorial Leadership, pg. 98-103

¹⁵⁵ OSCE, (2019), "Enhancing co-operation and co-ordination between prosecution and judicial police in Albania, pg. 42-43

¹⁵⁶ Point 3.5., Technological Capacities

¹⁵⁷ SND 2021-2025, Monitoring Report 2022, Specific Objective 4.1.

¹⁵⁸ Article 148/b, point c

¹⁵⁹ Law No. 115/2016 "For the governing bodies of the justice system", Article 92

¹⁶⁰ Ibid, Article 281 (The establishment of the administrative and organizational structures of the High Prosecutorial Council)

¹⁶¹ Decision No. 971, dated 2.12.2020 For the adoption of rules for general state policies, for the information technology system, for the justice system

¹⁶² Decision No. 972, dated 02.12.2020 For the organization, operation and determination of the competences of the information technology center for the justice system

¹⁶³ Information Technology Center for the Justice System: <https://qti.al/>, Accessed on 03.06.2023

¹⁶⁴ Order of the Prosecutor General No. 284, dated 19.12.2002, supplemented by order No. 104, dated 24.03.2023



previous calendar year¹⁶⁵ within the month of March every year, and periodically sends statistical evidence to the Ministry of Justice.¹⁶⁶ However, due to the lack of an electronic file management system, the data in the prosecutor's offices are entered manually and this prevents the generation of accurate statistical data.¹⁶⁷ Also, based on the report of the Attorney General, problems are identified with the periodic statistical data that the district prosecutors forward to the Attorney General.

The CAMS system, due to the general technical condition out of operation, does not enable any other information technology activity in the administration of cases or statistical data in the prosecutor's office. The Assembly of Albania has allocated a fund for the General Prosecutor's Office, as the first phase for the investment/set up of the case management system (CAMS), in the prosecutor's offices with general jurisdiction.¹⁶⁸ Based on the Prosecutor's report, it is noted that the work is in the stage of data collection for the new CAMS system, their drafting for the final standardization of the terms of reference for this system and the integration of the IMPRO system in the General Prosecutor's Office with the M-File system of the Ministry of Justice and with other interactive systems.¹⁶⁹

Meanwhile, the PRESTO e-tracking system, which started operating in 2021, is considered an intermediate stage, to enable the further development of the PRESTO program for the benefit of a statistical system that will enable the acquisition of statistical data for all criminal groups, until the establishment of the new CAMS system.¹⁷⁰ In the electronic e-tracking system PRESTO, the progress of criminal procedural actions is updated within the day for each report/referral and/or criminal case and/or proceeding/property investigation, according to the stages of the proceeding and the relevant typologies, with the aim of obtaining statistical data comprehensive, detailed and reliable, as well as to analyze and highlight the achievements and problems for this group of criminal offenses.¹⁷¹

¹⁶⁵ Law No. 97/2016 "On the organization and functioning of the Prosecutor's Office in the Republic of Albania", Article 19, point 1

¹⁶⁶ Ibid, Article 38, point 2, letter "h"

¹⁶⁷ High Prosecutorial Council, Annual Report 2022

¹⁶⁸ Law No. 85/2022 "For the budget for the year 2023"

¹⁶⁹ General Prosecutor's Office, Report of the General Prosecutor on the state of crime in Albania for 2022

¹⁷⁰ Ibid

In 2022, it was also foreseen to launch the electronic system (SVHOPGJP) for the judicial police officers of the sections in the prosecutor's office, for completing/disposing of the number of investigative actions they perform for each criminal proceeding or property proceeding/investigation, with the aim of administering data and obtaining periodic 15-day statistics, with data on the number of investigative actions or the execution of criminal court decisions in the framework of criminal proceedings or the number of asset verification actions in the framework of asset proceedings, carried out by each judicial police officer of the section in the respective prosecutions.¹⁷² The electronic system enables the administration of the work of each judicial police officer of the sections in the prosecutor's office, as well as periodic monitoring no less than twice a month of the workload and discipline at work during their activity by the supervisory structures.

It is noted that the ICMIS system is used in different ways by courts, prosecutions, police and enforcement offices, which report different figures when it comes to corruption cases (cases initiated by the police, pursued by the prosecution and tried by the courts).¹⁷³

5.4. Measuring the Performance of the Prosecution Service

The annual report of the Prosecutor General for 2022 shows that in the legal framework in force there is a legal gap in terms of performance evaluation of prosecutors with general jurisdiction, which differs from the individual performance evaluation of managers or prosecutors.

On the other hand, the report states that the evaluation of the prosecution's performance requires a greater involvement of the Prosecutor General in the process of accountability and identification of responsibilities in the implementation of administrative and organizational measures, as long as there is an impact on the day-to-day functioning of the prosecution's activity. with general jurisdiction.

¹⁷¹ Ibid

¹⁷² General instruction No. 4/2022, dated 18.10.2022 "For some additions to the general instruction No. 10/2021, dated 30.12.2021 "On exercising the monitoring function in the prosecution system and cooperation with constitutional and legal institutions"

¹⁷³ Council of Europe (2019), Guidelines for the implementation of selected CEPEJ instruments in the Republic of Albania, p. 12



Based on the above, among the priority objectives in the fight against criminality for 2023 is also included the further increase in monitoring activity for the implementation of general mandatory instructions¹⁷⁴ and cooperation with HIJ and HPC in terms of performance problems of prosecutor's offices.

The creation of a mechanism that makes it possible to monitor the realization of the objectives of the prosecution institution as a whole and the effectiveness in achieving concrete results constitutes a key aspect of performance measurement, while it is used as an instrument in many countries in Europe.¹⁷⁵

5.5. International Cooperation

Due to the dynamics and extent that organized crime has suffered over the years, the need to effectively respond to this phenomenon has led to judicial cooperation in criminal cases being one of the objectives and also the main needs of Albania. This cooperation is regulated by several laws including the Criminal Code, the Code of Criminal Procedure and the Law on Jurisdictional Relations with Foreign Authorities in Criminal Matters.

The Law on Jurisdictional Relations with Foreign Authorities in Criminal Matters approved in 2009 is the *lex specialis* in Albania in the field of international judicial cooperation in criminal matters.¹⁷⁶ The law regulates the procedures related to criminal offenses that are under the jurisdiction of the judicial authorities of the requesting state or in Albania, and the procedures that are under the jurisdiction of the European Court of Human Rights or other international courts, the jurisdiction of which is accepted by Albania.¹⁷⁷

This law regulates the main areas of judicial cooperation such as extradition, execution of foreign criminal decisions, transfer of criminal proceedings, transfer of convicted persons, recognition of foreign

criminal decisions, etc.¹⁷⁸ The law provides rules for treaty-based claims and sets out key principles such as reciprocity, notifications and confidentiality.¹⁷⁹ While the main responsible institutions that coordinate international judicial cooperation in criminal matters include the Ministry of Justice and the General Prosecutor's Office.

However, due to the complexity and volume of developments in this field, the implementation of the law has been complex and not easy. The group of senior experts who analyzed the justice system pointed out that the provisions of the Code of Criminal Procedure for letter orders do not provide for the right of the prosecutor to obtain evidence directly abroad, in accordance with the rules of the Criminal Procedure Code and International Conventions, without going through letter orders, a fact that brought in practice a significant extension of preliminary investigations.¹⁸⁰

The increasing number of international acts to which Albania has acceded over the years was considered another factor which has created difficulties especially in relation to the professional knowledge of the staff in the Ministry of Justice.¹⁸¹ Other studies have concluded that the MD often faces lengthy procedures and work overload, which has an impact on the timely processing of important requests.¹⁸²

For this reason, the amendments that were made to the law in 2021 aimed to bring facilities in the practical implementation of the procedures undertaken by the institutions that implement it.¹⁸³

The purpose of these amendments was to facilitate and clarify the terms used, adapting them to the problems encountered by law enforcement institutions such as the Prosecutor's Office and the State Police. The changes aimed to improve the implementation of legislation in practice and international agreements to which the Republic of

¹⁷⁴ Law 97/2017, Article 6, point 2; Article 46, point 1 in relation to Article 2, letter "c"

¹⁷⁵ OECD (2021), Performance of the Prosecution Service in Latvia, A comparative Study, Chapter 4

¹⁷⁶ Law No. 10 193, dated 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters" (amended by laws: no. 100/2013, dated 18.3.2013, no. 97/2021, dated 7.7.2021)

¹⁷⁷ Ibid, Article 3

¹⁷⁸ Ibid, Article 4

¹⁷⁹ Ibid, Articles 9, 10, 12

¹⁸⁰ Parliament of Albania, Special Parliamentary Committee for Justice System Reform, Group of High-Level

Experts, Analysis of the Justice System in Albania, June 2015, pg. 149

¹⁸¹ Intersectoral Justice Strategy and Action Plan (July 2011), Official Journal No. 116, Date. 18/08/2011

¹⁸² Network of Prosecutors of the Western Balkans (2018), Assessment report on mutual legal assistance in criminal matters in Albania:

<http://www.prosecutorsnetwork.org/uimages/MLA%20REPORT%20ALBANIA.pdf>

¹⁸³ Law No. 97/2021 "On some additions and amendments to Law No. 10 193, dated 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", as amended.



Albania is a party. They also aimed at avoiding the ineffective execution of international search warrants, avoiding unnecessary procedures, avoiding unnecessary procedural delays, promoting direct communications between judicial authorities and fixing the most immediate problems encountered in practice by the institutions involved, such as the General Prosecutor's Office, the Ministry of Justice, the Police and the courts.¹⁸⁴

In October 2018, Eurojust and Albania signed a Cooperation Agreement with the first Liaison Prosecutor for Albania, who took office in January 2021.¹⁸⁵ In 2022, the Liaison Prosecutor of Albania at Eurojust was involved in 85 new cases, 36 meetings coordination, 4 coordination centers and 18 joint investigative teams.¹⁸⁶

¹⁸⁴ Report "On some additions and amendments to Law No. 10 193, dated 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", as amended.

¹⁸⁵ European Union Agency for Criminal Justice Cooperation (EUROJUST):

<https://www.eurojust.europa.eu/states-and-partners/third-countries/liaison-prosecutors/albania>

¹⁸⁶ Ibid

Table V: Evaluation Indicators on the EFFICACY and PERFORMANCE

Dimension	Sub-Dimensions	Categories	Indicators	2022	2021	2020
Efficacy/ Performance	Efficiency of criminal prosecution	Criminal proceedings	Crime rate for registered criminal proceedings per 100,000 inhabitants	920	1002	979
			The number of criminal proceedings initiated mainly by the prosecution	124	125	59
			The ratio between the number of criminal proceedings registered and those sent for trial	50.3%	43.5%	41.2%
			The number of criminal proceedings carried out	21,883	18,204	16,304
			The ratio between completed and ongoing proceedings	15,517/48,315	15,460/47,512	14,458/44,834
			Duration of preliminary investigations	N/A	N/A	N/A
			The ratio between the number of defendants sent to court and the number of defendants convicted	81.5%	74.6%	69.7%
			The ratio between the number of defendants sent to court and those found not guilty	1.7%	1.2%	1.3%
			The average cost of the preliminary investigation for all prosecutions near the courts of first instance	2,458 ALL/proceeding	4,711 ALL/proceeding	N/A
			The number of appealed cases, by the prosecutors at the appeal courts and at the Supreme Court	N/A	N/A	N/A
			Percentage of unexecuted decisions (%)	44%	50%	39%
			Number of criminal proceedings in which proactive investigations were used and/or with the use of special investigative tools	573	655	630
		Volume in criminal prosecution ¹⁸⁷	The average workload in the criminal prosecution for each prosecutor according to the organic number	N/A	N/A	N/A
			The average workload in the criminal prosecution for each prosecutor according to the actual number	N/A	N/A	N/A
			The average workload in the criminal prosecution for each prosecutor according to the effective number	N/A	N/A	N/A
			The average workload in the criminal prosecution for each prosecutor according to the organic number (Appeal)	N/A	N/A	N/A
			The average workload in the criminal prosecution for each prosecutor according to the actual number (Appeal)	N/A	N/A	N/A
			The average workload in the criminal prosecution for each prosecutor according to the effective number (Appeal)	N/A	N/A	N/A
	International Cooperation	Extraditions	The ratio between recorded and completed extraditions from outside the state	40.6%	31.2%	N/A
			The ratio between registered and completed extraditions for outside the state	47.9%	62.5%	N/A
		Letters rogatory	The ratio between registered and completed letters rogatory from outside the state	61.5%	67.1%	N/A

¹⁸⁷ The General Prosecutor's Report on the Workload of the Prosecutor's Offices for 2022 reflects the average workload in the criminal prosecution for each prosecutor according to the prosecutor's offices and not in TOTAL

			The ratio between registered and completed letters rogatory for outside the state	34.2%	34.3%	N/A
		Criminal decisions	Recognition of foreign criminal decisions	19	40	58
			Recognition of Albanian criminal decisions abroad	7	14	12
		Criminal proceedings	Transfers of criminal proceedings from abroad	11	11	34
			Transfers of criminal proceedings abroad	13	17	15
		Jurisdictional relations with foreign authorities	The establishment of new Joint Investigation Teams	8	5	N/A
			Cases registered at the Albanian Liaison Office in EUROJUST	37	21	N/A
			Cases registered against Albania in the Albanian Liaison Office at EUROJUST	48	31	34

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Center for the Study of Democracy and Governance (CSDG)

Rr. "Sulejman Delvina", Qendra Olimpia,
K. 1/14, Tirana, Albania
Phone: +355 45628607
www.csdgalbania.org

