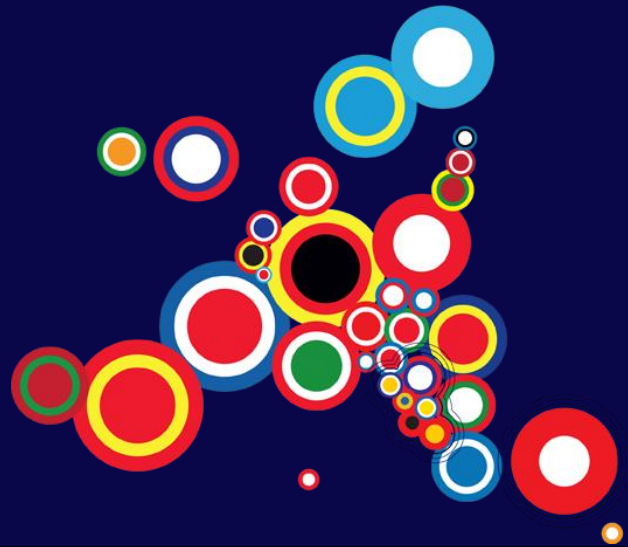




## INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020

### ALBANIA

#### EU for Justice Reform



#### **Action Summary**

This Action aims to contribute to strengthening rule of law, law enforcement and reduce corruption in government agencies and the judiciary. It will strengthen independence, transparency, efficiency, accountability and public trust in the Albanian justice system in accordance with European standards and enhance protection of human rights in the penitentiary system. The action supports the implementation of the justice sector strategy for an improved institutional framework and operational efficiency of the judicial system, consolidated legal education as well as specialisation of magistrates and court personnel; increased efficiency of the criminal justice system and of the anti-corruption measures, improved functioning of the justice system by using modernised procedures and IT systems and electronic equipment, and tools for strengthening international cooperation, enhanced protection of human rights in penitentiary system, and improved service quality of legal professions.

<b>Action Identification</b>			
<b>Action Programme Title</b>	IPA 2018 Action Programme for Albania		
<b>Action Title</b>	EU for Justice Reform		
<b>Action ID</b>	<i>IPA 2018/040211 /Albania/EU for Justice Reform</i>		
<b>Sector Information</b>			
<b>IPA II Sector</b>	Rule of Law and Fundamental Rights		
<b>DAC Sector</b>	15130 - Legal and judicial development		
<b>Budget</b>			
<b>Total cost</b>	Euro 42 million		
<b>EU contribution</b>	Euro 42 million		
<b>Budget line</b>	22.02.01.01		
<b>Management and Implementation</b>			
<b>Method of implementation</b>	Direct management		
<b>EU Delegation in charge</b>	Albania		
<b>Implementation responsibilities</b>	Ministry of Justice (MoJ) as Government Coordinator for Justice Sector reform and relevant institutions responsible for the implementation of the Justice Sector Reform, Ministry of Finance and Economy (Sector Budget support coordinator)		
<b>Location</b>			
<b>Zone benefiting from the action</b>	Albania		
<b>Timeline</b>			
<b>Final date for concluding Financing Agreement(s) with IPA II beneficiary</b>	At the latest by 31 December N+1		
<b>Final date for contracting, including the conclusion of contribution/delegation agreements</b>	3 years following the date of conclusion of the Financing Agreement		
<b>Final date for concluding procurement and grant contracts</b>	3 years following the date of conclusion of the Financing Agreement, with the exception of cases listed under Article 189(2) of the Financial Regulation		
<b>Final date for operational implementation</b>	6 years following the conclusion of the Financing Agreement		
<b>Final date for implementing the Financing Agreement (date by which this programme should be de-committed and closed)</b>	12 years following the conclusion of the Financing Agreement		
<b>Policy objectives / Markers (DAC form)</b>			
<b>General policy objective</b>	<b>Not</b>	<b>Significant</b>	<b>Main</b>

	<b>targeted</b>	<b>objective</b>	<b>objective</b>
Participation development/good governance	<input type="checkbox"/>	<input type="checkbox"/>	x
Aid to environment	x	<input type="checkbox"/>	<input type="checkbox"/>
Gender equality (including Women In Development)	<input type="checkbox"/>	x	<input type="checkbox"/>
Trade Development	x	<input type="checkbox"/>	<input type="checkbox"/>
Reproductive, Maternal, New born and child health	x	<input type="checkbox"/>	<input type="checkbox"/>
<b>RIO Convention markers</b>	<b>Not targeted</b>	<b>Significant objective</b>	<b>Main objective</b>
Biological diversity	x	<input type="checkbox"/>	<input type="checkbox"/>
Combat desertification	x	<input type="checkbox"/>	<input type="checkbox"/>
Climate change mitigation	x	<input type="checkbox"/>	<input type="checkbox"/>
Climate change adaptation	x	<input type="checkbox"/>	<input type="checkbox"/>

## LIST OF ABBREVIATIONS

AASCA	Agency for the Administration of Sequestered and Confiscated Assets
AC	Appeal Chamber
ACAC	Albanian Child Adoption Committee
AP	Action Plan
AWEN	Albanian Women Empowerment Network
CAP	Code of Administrative Procedure
CC	Constitutional Court
CCMIS	Court Case Management Information System
CoM	Council of Ministers
COP	Centre for Official Publications
CSF	Civil Society Facility
CSO	Civil Society Organisations
DCM	Decision of the Council of Ministers
DG NEAR	Directorate-General for Neighbourhood and Enlargement Negotiations
EIDHR	European Instrument for Democracy and Human Rights
EITI	Extractive Industries Transparency Initiative
ERP	Economic Reform Programme
EUD	European Union Delegation
EURALIUS	Consolidation of the Justice System in Albania
FMI	Forensic Medicine Institute
GDE	General Directorate of Enforcement
GDP	General Directorate of Prisons
GDP	Gross Domestic Product
GP	General Prosecutor
GPO	General Prosecutor's Office
HC	High Court
HCJ	High Council of Justice
HIDAA	High Inspectorate for the Declaration and Audit of Assets
HJC	High Judicial Council
HJI	High Justice Inspector
HPC	High Prosecutorial Council
ICQ	Independent Qualification Commission
IMF	International Monetary Fund
IMO	International Monitoring Operation
IPA	Instrument of Pre-Accession
ISP	Indicative Strategy Paper

TIC	Technology Information Centre
JAC	Justice Appointments Council
JHA	Justice and Home Affairs
LGBTI	Lesbian, Gay, Bisexual, Transgender/Transsexual and Intersexed
MLA	Mutual Legal Assistance
MoE	Ministry of Energy
MoF	Ministry of Finance
MoJ	Ministry of Justice
MoJ	Ministry of Justice
MTBP	Medium Term Budget Plan
NBI	National Bureau of Investigation
NCA	National Chamber of Advocates
NCM	National Chamber of Mediators
NCPJB	National Chamber of Private Judicial Bailiffs
NSDI	National Strategy for Development and Integration
OAJB	Office of Administration of Judicial Budget
OBS	Open Budget Survey
OPC	Official Publications Centre
PAMECA	Consolidation of law enforcement agencies
PAR	Public Administration Reform
PC	Public Commissioner
PEFA	Public Expenditure and Financial Accountability
PFM	Public Finance Management
PS	Probation service
ROM	Results-Oriented Monitoring
SBS	Sector Budget Support
SCLA	State Commission for Legal Aid
SCLA	State Commission on Legal Aid
SND	Cross-sector justice strategy 2017-2020
SoM	School of Magistrates
SPAK	Special Anti-Corruption Structure
TADAT	Tax Administration Assessment
TCA	Transparency Code Assessment
TNA	Trainings and Needs Analysis
UN CEDAW	United Nations Committee on the Elimination of Discrimination against Women
UNDP	United Nations Development Programme
UNIFEM	United Nations Development Fund for Women

# 1. RATIONALE

## PROBLEM AND STAKEHOLDER ANALYSIS

Albanian justice system has faced several challenges since the adoption of the Constitution in 1998, the main ones being its integrity, independence, efficiency, accountability and transparency that have resulted in the lack of public trust in the justice system. These **challenges have been addressed independently from each other, without a coordinated approach and unified solution.** During all these years vast legislation is produced and a number of institutions are set up. To support the justice system institutions, new institutions were gradually introduced such as the probation service, the private bailiff and legal aid in 2008. The alternative dispute resolution in the form of mediation was introduced in 2011 while administrative courts started to function in 2013 at first and appeal level. A separate Administrative College was also set up in the High Court for the adjudication at third level.

Attempts are made to support the justice system with IT systems. Since 2005 **an Integrated Case Management Information System (ICMIS)** is operational in the courts and covers both civil and criminal cases. Yet, the system has failed to meet the expectations and provide the courts with a proper case management system. Since 2012 Digital Audio Recording (DAR) systems were installed in almost all courts in the country, including a Digital Audio Recording Central Recording Archive (DARCRA). A case management system, CAMS, is developed and installed for the prosecution offices in Albania.

Almost the entire body of laws that regulate the functioning of the above institutions, which compose the justice system, have been subject to frequent changes or complete remaking. They have been poorly drafted and have mainly imported foreign models without prior scrutiny and adaptation in the light of internal needs and capacities. As a result of contradictory influences of different legal systems, the Albanian justice system continues to be in transition, disoriented and incoherent.

In 2011, in an attempt for a coordinated approach to the justice system the Council of Ministers approved the **Cross-Sector Justice Strategy and its action plan for 2011 – 2013** aiming to increase access to justice and public trust in the justice system. The implementation of this Strategy contributed to improving the functioning of a series of justice system institutions. They were oriented towards functional efficiency of the institutions, cooperation and coordination of their activity. The strategy and action plan ended their implementation phase at the end of 2013. The analysis of the implementation of the strategy showed it was implemented to a large extent. Still the justice system faced major challenges and problems. A number of important and needed interventions in legislation failed to get approved at that time such as the law on the Constitutional Court, the law on the Ministry of Justice, the law on the Office for the Judicial Budget Administration etc.

Under these circumstances, an **Ad-hoc Parliamentary Committee on Justice Reform** was established in November 2014 and conducted its work in three phases.

In the **first phase** the Committee commissioned a group of High-level Experts who carried out an analysis of the justice system in Albania and produced an Analytical Document with detailed findings on the problems identified in the justice system.

**The main problems identified by the Analytical Document** are connected to the insufficient separation of powers between the executive and the judiciary; appointment criteria and procedures for the members of the Constitutional Court, High Court, and General Prosecutor; the status of the judges and prosecutors; the process of disciplinary proceedings for judges and prosecutors; the weak administrative capacities in the justice sector; insufficient budget allocation for court infrastructure and judges' salaries; and the entry-level and continuous education for judges and prosecutors.

The exclusive role of the Minister of Justice to initiate disciplinary proceedings against judges was considered problematic as it conflicted with EU principles. The process of appointing **Constitutional Court judges** was inefficient, not transparent and without clear rules for conducting the appointment process. Appointment of **High Court** judges, termination of their mandate, the stay in office beyond the mandate, removal from office, resignation and disciplinary responsibility of judge was also found

problematic. In the jurisprudence of the HC deficiencies related to its review power and initial jurisdiction were noted.

Generally, adjudication of cases from the courts of all three levels do not fully guarantee the **trial within a reasonable time**. The status of judges was not clearly regulated by the legislation. Similarly, legislation was not clear about the criteria and procedures for appointing judges, for their professional evaluation and career development. The system of salaries, rewards and social and healthcare of judges does not respond to the necessity of financial dignified treatment, as well as the nature of the responsibilities of the judicial function and degree of difficulties.

There were no constitutional basic criteria for selection of members of the **High Council of Justice** elected by the Assembly. Minimum majority (36 seats) required for their voting in the Assembly did not provide sufficient guarantees for their independence.

Similarly, the Constitution did not also provide for the basic criteria to be met by a candidate for **Prosecutor General**. Approval by the Assembly with a minimum majority (36 seats) did not guarantee broad support from the legislator or independence. Hierarchical organization has caused friction between prosecutors of different levels. The lack of accountability of the General Prosecutor's Office remained a concern.

Although it was conceived as a representative body of prosecutors, the **prosecutorial council** did not have a genuine impact on the career of prosecutors, appointment, transfer, discipline and their promotion. Its opinions were only of advisory nature and they were not binding for the General Prosecutor. It did not function as a separate body from the authority of the General Prosecutor and it had no decision-making powers.

**The School of Magistrates** and its impact on the formation of future judges and prosecutors is a success story. However, this institution is, in terms of initial training, encountering difficulties in recruiting candidates because of the difficulty of assessing the criteria of integrity, ethics, social and moral behaviour, honesty etc. Regarding continuous training, it was pointed out that there is a lack of awareness of judges and prosecutors on the need for continuous training. Another important problem identified with the School of Magistrates is the lack of appropriate and sufficient premises for the accommodation of students and organisation of initial and continuous training.

The main problem identified with regard to the **penitentiary system** is related to the physical conditions in prisons and the overcrowding. There is a lack of appropriate institutions for the execution of the educational and medical measures, making the latter impossible. Moreover, frequent changes of prison staff and prison police training limits their effectiveness.

**The Probation Service** did not have a defined status in the Code of Criminal Procedure and its procedural position was not legally clear. Alternatives to imprisonment were not well regulated by the law. There were no set rules about the design of an evaluation report by the probation, the prosecution or the court. Practice showed that in very few cases prior to the sentencing, prosecutors or courts have required an evaluation report from the probation service.

The system of **legal aid** proved inefficient with a variety of issues including very low payments within the system which were paid out of the budgets of courts and prosecution office. The legal aid proved to be problematic also with regard to the system of choice of lawyers who would offer the legal aid.

Generally, the issues identified with regard to **legal profession** relate to the entry to the profession, efficient performance in guaranteeing better service to the citizens, the role of the chambers in the entry to the profession as well as to the accountability of the free legal professionals respectively.

The above is a clear picture that the interventions in the justice system were made on a case-by-case basis, largely uncoordinated and fragmented. To address all of the above from the regulatory perspective and to undertake a holistic approach to the justice reform, in the **second phase**, based on the findings of the Analytical Document the Ad-hoc Parliamentary Committee on Justice Reform approved with Decision no. 15, dated 30.07.2015 the **Strategy for Reforming the Justice System and its Action Plan**. This strategy defines the general and specific objectives of the reform in the justice system and the necessary constitutional and legal interventions for the achievement of these

objectives. The Action Plan, is more of a to-do list and consists in a long list of legal intervention that start with amendments to the Constitution and amendments of other laws or approval of new laws that completely reshaped the structure of the justice system by creating new institutions and restructuring the existing ones. The Parliamentary committee action plan is entirely focused on legislative initiatives

In the **third phase**, after the adoption of the **amendments to the Constitution** with Law no 76/2016 on 21 July 2016, as the first milestone of the justice reform, the Committee started drafting and submitted for approval the other components of the legislative package. This first package of laws was approved after the amendments to the Constitution and includes, as a matter of priority, the most urgently needed legislation such as the Law no 84/2016 dated 30.08.2016 “On the temporary re-evaluation of judges and prosecutors in the Republic of Albania”, the Law no 95/2016 dated 06.10.2016 “On the organisation and functioning of the institutions in the fight against corruption and organised crime”, the Law no 96/2016 dated 06.10.2016 “On the status of judges and prosecutors in the Republic of Albania”, the Law no 97/2016 dated 06.10.2016 “On the organisation and functioning of the prosecution office in the Republic of Albania”, the Law no 98/2016 dated 06.10.2016 “On organisation of the judicial power in the Republic of Albania”, the Law no 99/2016 dated 06.10.2016 “On some changes to the law “On the organisation and functioning of the Constitutional Court of the Republic of Albania”, and the. Law no 115/2016 dated 03.11.2016 “On governing bodies of the justice system in the Republic of Albania”.

The activity of the ad-hoc Parliamentary Committee on Justice Reform ended in December 2016. All the draft laws prepared to that date were passed on to the permanent Laws Committee for further elaboration. Following the first package of laws, during 2017 a number of important laws are amended or newly enacted. These are the Criminal Code and the Code of Criminal Procedure, the Code of Criminal Justice for Juveniles, the Code of Civil Procedure, the Law “On declaration and audit of assets, financial obligations of elected persons and some public employees”, the Law “On prevention and striking at organised crime, trafficking and corruption through preventive measures against assets”, the law “On measures against financing of terrorism”, law “On prevention of money laundering and financing of terrorism”, the law “On protection of witnesses and justice collaborators”, law “On interception of electronic communications”, the law “On court fees in the Republic of Albania”, the law “On state guaranteed legal aid ” and the law “On organisation and functioning of the Ministry of Justice”.

The approval of the first package of laws enabled the starting of implementation of the justice reform. Thus, the first step was to start with the temporary re-evaluation of judges and prosecutors, known as the vetting process aimed at "cleaning" the judiciary and the prosecutor's office from corrupted officials.

On 17 June 2017 the Assembly voted the consolidated list of 27 candidates selected by ad hoc committees at the extraordinary plenary session on 14 and 17 June 2017. Overall the extremely complex voting process was conducted with no objections by the ad hoc committee members, and with full media coverage.

The vetting process is conducted by an Independent Qualification Commission (Commission) composed of 12 commissioners organized in four panels with three members each, with a 5-year mandate; and a Specialized Appeal Chamber (Appeal Chamber) that will review appeals against the Commission decisions submitted either by the assessed or the Public Commissioner. It is composed of 7 judges with a 9-year mandate, divided in panels composed of 5 members. Two Public Commissioners, elected with 5-year mandates, have the right to appeal the decisions of the Commission (either ex officio or upon an IMO recommendation) within 15 days of the notification before the Appeal Chamber. These constitution organs are responsible for the re-evaluation of assets assessments, background assessments and proficiency assessments, through an administrative investigation procedure of judges, prosecutors, legal advisors of Constitutional Court and Supreme Court, and other officials as provided by the provisional articles of the amended Constitutional Annex.

The vetting organs became operational in autumn 2017 and the first lots were drawn in November 2017. From the start of the process some judges and prosecutors submitted their resignation as result of the vetting pressure. The first priority subjects to be vetted are 54. The first hearing was held on 21<sup>st</sup>



of March 2018. The slow pace and the dismissals of vetting judges are affecting the justice system as a whole. Thus, the Constitutional Court activity is suspended due to its inability to form a quorum for decision making because some of its members have failed the vetting process.

The other effect of vetting process is related to the establishment of the new institutions of the justice system such as the High Judicial Council, High Prosecutorial Council and the High Justice Inspectorate. The establishment of the new institutions will become possible only after a sufficient number of candidates from judges and prosecutor who are running for a position in the new institutions are vetted successfully and are then selected according to the procedures. The establishment of the new institutions is the next important milestone for the implementation of the reform. It will enable the establishment of the Specialised Structure (court, prosecution and investigation bureau) to fight corruption, the reorganisation of the prosecution service, the reorganisation of the judicial map, enhancement of status for judges and prosecutors, improving the system for fighting corruption, increasing access to justice through improved legal aid and revised court tariffs etc, thus setting the foundation of an accountable and fair justice system.

The comprehensive reform of the justice sector is based on the **Cross Sector Justice Strategy and its Action Plan** adopted on 2 November 2016 by the Council of Ministers. The later, encompasses the parliamentary strategy and gives a fuller picture of what is needed to reform the entire justice system. It is the main government policy document for the reform of the justice sector and it contains a whole set of identified activities of legal, administrative, and organisational nature. It sets the time period when these actions have to be implemented, and what is more important it is supplemented by financial estimates of the costs needed to advance with the reform.

**The key issues and needs identified** by the justice strategy that need to be addressed in the short and medium term are as follows:

- Setting up new institutions of the justice system
- Legal education of the actors of the justice system
- Ensuring infrastructure for the justice system institutions
- Ensure IT case management system for courts and other justice system institutions
- Improve existing infrastructure for the justice system institutions
- Increase access to justice
- Enhance the status of judges and prosecutors
- Fight organised crime and corruption by setting up special structure at police, prosecutor and court level.
- Reduce overcrowding and improve conditions in the penitentiary system for detainees
- Improve the functioning of the Ministry of Justice and its dependant institutions
- Enhance the operation and services offered by the free legal services.

These needs are elaborated in more details and are covered by the goals of the Strategy on page 15.

The on-going or soon to be-launched EU supported actions will address some of the above needs mostly focusing on the support to the new institutions of the justice system, the criminal justice system including the prosecution service and the penitentiary system, the setting up of the new anti corruption structure etc. At the same time, much scope for further interventions under IPA II remains, with a view to either filling the gaps left by previous interventions, or enhancing support in the same fields in order to ensure greater coherence and sustainability of the EU and other donor efforts.

Finally, in 17 April 2017, following the successful start with the implementation of the justice reform and initial results of the process of re-evaluation of judges and prosecutors, the European Commission recommended that the Council decides that accession negotiations be opened with Albania, in light of the progress achieved, maintaining and deepening the current reform momentum.<sup>1</sup>

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<sup>1</sup> [http://europa.eu/rapid/press-release\\_MEMO-18-3403\\_en.htm](http://europa.eu/rapid/press-release_MEMO-18-3403_en.htm)

## **RELEVANCE WITH THE IPA II STRATEGY PAPER AND OTHER KEY REFERENCES**

In view of the policies defined in the latest Enlargement Strategy of 2016, the most recent Annual Progress Reports and the Government's general priorities, IPA II should focus on strengthening the rule of law and justice sector as a key strategic priority. Progress in the sector will ensure a stable and democratic future for the country, benefitting directly its socio-economic development, including through increased inward investment. In line with the objectives of the Indicative Strategy Paper 2014-2020, the justice sector support programme will *inter alia* assist to support reforms in the field of rule of law and fundamental rights. The fight against corruption, especially within judiciary institutions, is a key priority in this regard. Accordingly, substantial and sustained support will be provided to strengthen the enforcement of the legislation, especially regarding the fight against corruption, organised crime, money laundering, trafficking in human beings and of drugs.

The EU Enlargement Strategy 2016 highlights the adoption of the necessary institutional, legislative and procedural measures as crucial steps after the adoption of the judicial reform strategy. The Stabilisation and Association Agreement, in particular, includes provisions on cooperation to strengthen the independence of the judiciary and improve its efficiency, international cooperation, and fight against organised crime and corruption. Likewise, the Joint Conclusions of the 6th High Level Dialogue on the Key Priorities of 2017 highlighted the importance of completing a comprehensive, inclusive and consistent justice reform process, which is essential to increase public trust in the judicial system and fight against organised crime and corruption. Key challenges and reform goals determined in five areas for the on-going period included: rule of law, public administration reform, electoral reform, strengthening the market economy, and freedom of expression. The national justice sector reform policies proposed to be supported by way of this justice sector support action cut across - and should make a sizeable impact on - the progress in all of the above areas. In order to make the EU assistance to the justice sector more effective and sustainable, it is necessary to embed it within a longer-term strategic support framework. Thus, with the introduction of IPA II, a particular attention shall be paid to sector-based support, as opposed to programming of individual projects. The support contributes to and facilitates moving forward in the accession process.

## **SECTOR BUDGET SUPPORT READINESS**

### ***MACROECONOMIC STABILITY***

As noted in the EC 2018 annual report Albania improved macroeconomic stability during 2017 and is moderately prepared in developing a functioning market economy. Economic growth increased to 3.9% enjoying one of the fastest economic growth rates in the region reducing the public deficit to 2% in 2017 with inflation in check at 2%. Unemployment decreased but is still high in particular for young people. Progress was made in improving macroeconomic stability, growth prospects improved with the public finance management reform moving forward. This evolution is confirmed in the 2017 PEFA report showing that about half of the PEFA indicators have improved. However, significant challenges remain and Albania should continue fiscal consolidation to meet the medium-term target for public debt reduction and create more room for manoeuvre for fiscal policy and fortify the budget management framework. Reforms crucial to improving the business environment progressed but require further efforts. The comprehensive judicial reform advanced but needs to be fully implemented. The new bankruptcy law entered into force and will strengthen the insolvency regime. The level of unemployment and informal employment remains high. In line with the Economic Reform Programme (ERP) recommendations and in order to support long-term growth, in the coming year Albania should pay particular attention to: i) sustaining fiscal consolidation and strengthening the budget management framework; ii) tackling the high level of non-performing loans; iii) improving the business environment by enforcing the new bankruptcy law; and (iv) reduce the informal economy, including undeclared work

The implementation of a three-year financing arrangement with the International Monetary Fund (IMF) for strengthened macroeconomic stability and growth-boosting reforms were successfully

concluded in March 2017. In March 2018 the IMF concluded the first post-program monitoring mission with focus on vulnerabilities and risks. IMF recommends Albania to continue efforts to reinforce its growth and the resilience of its economy by efforts to lower the public debt and borrowing needs, reform property tax and reduce tax exemptions, make public financial management more efficient and modernize the tax administration, resolve the overhang of overdue bank debt that impedes lending and press ahead with the recently launched, EU-supported justice reform initiative and related structural reforms to address governance concerns and an inefficient justice system.

The European Commission assessment of Albania's Economic Reform Programme (ERP) 2018-2020 confirms that the macroeconomic framework presented in the ERP of January 2018 is coherent, consistent and sufficiently comprehensive and provides an adequate basis for policy evaluation and discussions. After revenue underperformance in 2015, improvements in revenue forecasting in the past two years suggest that the government has better procedures in place for macroeconomic assumptions, and the evaluation of new policies. Tax revenue has increased considerably from 22% of GDP in 2013 to 26% in 2017 with overall revenue reaching 28% of GDP. It is apparent that progress in PFM areas is satisfactorily with several reforms progressing and continuing to be implemented<sup>2</sup>. The ERP commits Albania to an ambitious fiscal consolidation path to tackle vulnerabilities stemming from high public debt at 71.2 percent of GDP at end-2017 and potential external shocks. *Overall the eligibility requirement that there is a credible and relevant stability-oriented macroeconomic policy is met.*

## ***PUBLIC FINANCE MANAGEMENT***

The Government completed the third year of the implementation of the **PFM Strategy for 2014-20 and a related Action plan**, whose goal is to improve the fiscal framework, budget process, enforcement of rules and procedures and prudent management of public funds, as well as to strengthen transparency and accountability mechanisms. The latest PFM annual monitoring report for 2017 published in March 2018 noted that of the 14 *general* PFM indicators in place eight were met (57%), five not met, and one without data available. Regarding overall *specific* performance indicators covering the six pillars of the PFM reform programme, 19 out of 36 indicators were met (53%), seven not met and seven partially met while data was unavailable for three of the indicators. Of 73 actions/activities remaining for 2015-2020 18 were completed during 2017, 54 in progress and one to be started this year and one abandoned. This is a progression compared to 2016 and shows a degree of momentum. The need for improvements in transparency and comprehensiveness of budget reporting and scrutiny is mentioned in particular by SIGMA's Support for Improvement in Governance and Management. However, a comparison between countries in the region shows that Albania scored higher than other countries for the medium-term budget planning and budget process indicators. The IMF recommends that Albania pursues faster fiscal consolidation to create policy buffers given the high level of public debt (70 percent of GDP at end-2017, including local and central government arrears of 2.2 percent of GDP). Reforms in the next period will focus on: improving budget planning and management; strengthening internal control standards across government; preventing arrears, at central and local government level; following-up internal and external audit recommendations; improving investment planning and management; improving the public procurement review and compliance with procurement rules; granting online access to the treasury for more institutions; and analysing the fiscal risks of state-owned enterprises. *Overall, the eligibility requirement that there is a credible and relevant programme to improve public finance management was assessed as met in 2017.*

## ***BUDGET TRANSPARENCY AND OVERSIGHT***

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<sup>2</sup> 2017 Monitoring Report on Public Finance Management Reform, Ministry of Finance, March 2018

Information regarding Albania's budget transparency as well as oversight mechanisms is generally available. The minimum requirement of 2017 budget publication is met by the publication of the budget on the MoF website<sup>3</sup>. The Government published a Citizen's budget for 2017 budget.<sup>4</sup> The first time and the requirement for publication of additional information have been incorporated in the organic budget law. The Government published the 2016 and 2017 Budget at Glance documents for the Parliament in Albanian and English. The Government for the first time published a comprehensive public investment list attached to the medium term budget 2016- 2018.<sup>5</sup>

Albania's Open Budget Index score is 50 in the Open Budget Survey (OBS) 2017. This marks a significant improvement from 2015 when the score was 38. Albania publishes seven of eight budget documents in a timely manner the Mid-Year budget reporting being the missing one<sup>6</sup>. Public participation in the budget process only scored 2 out of 100 in the OBS 2017.

The IMF Fiscal Transparency Code assessment<sup>7</sup>, published in January 2016, noted that some 10 of the Code's 36 principles are rated as either "good" or "advanced," and 14 principles rated as "basic". However, in eight areas the basic requirements of the Code are not met.

The Government publishes information on the extraction of oil, gas and other minerals, contribution of this industry to the State budget and allocation and spending of these income. In December 2016 the Extractive Industries Transparency Initiative (EITI) published Albania's beneficiary roadmap which notes how Albania intends to disclose the beneficial owners of the companies active in the extractives sector. The aim is to promote transparency in order to prevent corruption, and raise awareness among citizens to demand from their Government proper use of the fiscal and non-fiscal income generated from the exploration and exploitation of natural resources in Albania. In June 2017 the EITI assessed Albania and found it has made satisfactory progress. All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled. *Overall, the eligibility requirement for budget transparency is met.*

## ***PUBLIC POLICY***

Following the analytical work of the Ad-hoc Parliamentary Committee on Justice Reform, a **cross-sector working group** set up by Order of the Minister of Justice prepared a **Cross-sector Justice Strategy for the period 2017-2021**. The Cross-Sector Justice Strategy and its Action Plan were approved by Decision of the Council of Ministers no 773 dated 02 November 2016. It includes clear objectives and measures that will be undertaken in order to improve the functioning of justice system until 2021. The cross sector Justice Strategy is based on an assessment of the achievements under the previous strategy, on the conclusions of the analytical work carried out by the Ad-hoc Parliamentary Committee on Justice Reform, on the conclusions of other strategic documents, on the identified needs of all the stakeholders and on the identified weaknesses of the justice sector.

The objectives and actions of the cross sector justice strategy are well designed to address all the needs of the justice sector including challenges the sector will face during the ongoing justice reform. The cross sector justice strategy will be reviewed regularly and its Action Plan fine-tuned in tandem with implementation progress and change of circumstances. An update of the Action Plan, led by the MoJ, took place in 2017 and a second update is foreseen to happen following the first implementation monitoring report engaging the parties concerned.

The Strategy is **relevant** since it targets the main shortcomings and challenges as defined in the Analytical Document prepared by the Ad-hoc Parliamentary Committee on Justice Reform. The shortcomings are related to the insufficient separation of powers between the executive and the

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<sup>3</sup> <http://www.financa.gov.al/al/legjislacioni/buxheti-thesari-borxhi/buxheti/buxheti-ne-vite/buxheti-2016>

<sup>4</sup> <http://www.financa.gov.al/al/legjislacioni/buxheti-thesari-borxhi/buxheti/buxheti-i-qytetarit-2016>

<sup>5</sup> [http://www.ekonomia.gov.al/files/userfiles/Investimet\\_PBA\\_2016-2018.pdf](http://www.ekonomia.gov.al/files/userfiles/Investimet_PBA_2016-2018.pdf)

<sup>6</sup> <http://www.financa.gov.al/al/raportime/buxheti/buxheti-ne-vite/buxheti-2017>

<sup>7</sup> <http://www.imf.org/external/np/sec/pr/2016/pr1611.htm>

judiciary; appointment criteria and procedures for the members of the Constitutional Court, High Court, and General Prosecutor; the status of the judges and prosecutors; the process of disciplinary proceedings for judges and prosecutors; the weak administrative capacities in the justice sector; the insufficient budget allocation for court infrastructure and judges' salaries; the entry-level and continuous education for judges and prosecutors; high level of corruption in the judiciary and the breaches of human rights in the penitentiary system as the result of overcrowding and lack of proper detention centres for juveniles and mentally ill detainees.

**The Justice Sector Strategy is linked to national policy priorities** as laid down in various strategic and policy documents. It addresses the objectives of the NSDI with regard to Justice which aims to “*build a country based on the rule of law, guarantee human rights and fundamental freedoms, with a system of open and equal justice that ensures justice for all*” as well as the objectives of the **Albanian National Plan for European Integration 2017-2020** “*to establish an independent, accountable and efficient justice system in Albania which is able to deliver justice in a fair and transparent manner, as well as to implement legislation approximated in line with the EU acquis*”. It also addresses the shortcomings highlighted in the **European Commission Progress Reports on Albania 2017** with regard to the creation of the new independent judicial institutions, pursuing a sector approach to the justice reform under the cross-cutting strategy for 2017-2020 and ensure adequate governance, monitoring and reporting mechanisms through well-developed indicators coupled with adequate financial support for its implementation. It links with the **Anti-corruption Strategy 2015 – 2020** in the framework of the “*Repressive approach*” which includes: Improved efficiency and effectiveness of criminal investigations against corruption; Improving cooperation among law enforcement agencies in the criminal prosecution and punishment of corruption; Improving the legal framework for the prosecution of economic and financial crimes; Improving international legal and police cooperation in the fight against economic and financial crime. The Strategy takes into account of the **Mid Term Strategy of Albanian Prosecution 2015-2017** which focuses on increasing the effectiveness of investigations, strengthening professional and technical investigative capacities, and strengthening the inter-institutional cooperation, etc.

It also links with the **PAR Strategy** for the purpose of strengthening legal drafting capacities of the codification department and other departments in the Ministry of Justice (Objective 2 of the PAR Strategy: *Transparent and all-inclusive system of drafting laws, which is based on the policies and, which ensures alignment with the acquis*). There are also a number of other links with the PAR Strategy in regard to the reform of the civil service. The employees of the Ministry of Justice and its subordinated institutions, including notably the penitentiary system, are mainly civil servants. The following objectives of the PAR Strategy contribute directly to improving the performance of civil servants in these institutions. Improvement of the capacity of the Ministry of Justice and the Codification department will support the alignment of sectoral legislation with the Code of Administrative Procedures (CAP) and ensure proper implementation of CAP across the public administration. The Strategy is also linked with the **Inter-Sectoral Strategy for Decentralization and Local Governance 2014-2020** which, *inter alia*, will have a direct impact on the reorganisation of the judicial map and consequently on the access to justice for citizens.

The Strategy moreover includes the needs identified by all concerned institutions. Gender and minority issues as well as access to justice for vulnerable groups are implicitly covered in some of the actions, but still need to be further highlighted. The National Strategy on Gender Equality (2016-2020) recently adopted by the Government of Albania, has a strategic goal on reduction of gender-based violence and domestic violence and a functioning national mechanism on gender equality.

With regard to **relevance**, the justice reform strategy targets eight goals underpinned by a number of actions, each requiring monitoring.

**Goal 1: Strengthening the independence, efficiency and accountability of the justice system institutions** is the key goal of the justice strategy and justice reform. It focuses on the enhancement of the status of all judges and prosecutors at all levels as well as enhancing, strengthening and improving court organization and judicial administration. Under this goal, the justice system will be governed by a new set of justice institutions including the JAC, HJC, HPC and HJI.

**Goal 2: Consolidation of legal education and training as well as specialisation of magistrates and court personnel.** The Constitutional amendments recognise the School of Magistrates as a constitutional organ. With an increase scope of trainings the School of Magistrate is the responsible institution at national level to carry out initial and continuous training, in medium and long term, for judges and prosecutors as well as continuous training programmes for other court staff like the court chancellors and judicial administrative staff.

**Goal 3: Improvement of the operation of the judicial system by strengthening its efficiency, transparency and accessibility in accordance with European standards.** Under this goal the legislation on system of notifications, prevention of postponements of trials, introduction of accelerated procedures, filtering criteria, electronic publication of court decisions etc. will be improved. Access to justice will also be improved through a reasonable and proportionate court fee system combined with a fair and free legal aid system for individuals and groups in need.

**Goal 4: Increasing the efficiency of criminal justice system and anti-corruption measures through the consolidation of the mission, status and functions of criminal justice institutions.** The justice reform aims to increase the internal and external independence of prosecutors and prosecutor's office, a specialised anti-corruption structure at the national level, composed of police, prosecutor's office and courts will be established to fight organised crime and corruption together with improvement of criminal legislation.

**Goal 5: Improving the functioning of the justice system by providing modern electronic systems procedures and facilities for development of strong international cooperation.** IT systems for courts, HJC, HPC, and HJI will be established including a centralised Technology Information Centre (TIC). A new case management system will be implemented for courts and the case management system for prosecution services will be enhanced to increase the efficiency of processing of Mutual Legal Assistance cases.

**Goal 6: Enhancement of the protection of human rights in penitentiary system.** The main focus of this goal is the protection of human rights of the detainees in accordance with the European and international standards. Employment opportunities for prisoners, rehabilitation and reintegration programmes according to the European best practices will be aimed at, including allocation of the necessary human resources. Resources will be allocated to reduce overcrowding in prisons and pre-detention centres to meet European standards and to guarantee the protection of fundamental rights of detainees with mental health problems. The strategy will focus also on the strengthening and improvement of the probation service.

**Goal 7: Improving the functioning of the Ministry of Justice and its subordinate institutions.** The strategy has identified that the capacities of various departments of the Ministry should be strengthened such as the capacities of the codification department, international cooperation department, EU integration department, and inspection of free legal professions department. Within the codification department a system for conducting regulatory impact assessment of legislation and a system for corruption screening of draft legislation need to be set up. As to the subordinate institutions, the specialised expertise of the Forensic Medicine Institute will be enhanced and the institutional and professional capacities of Albanian Adoption Committee need to be increased.

**Goal 8: Improving the service quality of legal professions and establishing a legal framework for arbitration.** Changes in the legislation for entry to the profession for advocates and notaries are needed and will be prepared. The disciplinary mechanisms for both advocates and notaries will be strengthened. Initial and continuous education for advocates, notaries, bailiffs and mediators takes particular importance with the purpose of increasing their professional capacities. Changes in the legislation will also aim to increase the autonomy of the chambers.

The Justice Sector Reform includes an **Action Plan 2017-2021** covering all pillars. Indicators, baselines and targets of indicators will be defined in 2018



The Action Plan will be **adjusted on annual basis** in order to adapt it to the progress of the implementation measures and update it in accordance the medium-term budget planning. In the first monitoring report the institutions have reported the need to review the Strategy and its Action Plan 2017-2021 in order to adjust it to the real needs and priorities of the justice system and institutions. According to the monitoring report, the need to review is linked mainly to factors, such as:

- Delayed establishment of the new justice system institutions included (HJC, HPC, HJI, SPAK AND NBI).
- Changing circumstances and institutional responsibility with impact on the implementation of activities;
- Revision of cost estimates and adequate budget allocations;
- Change of management and commitment among the stakeholders involved in the reform programme to carry out attributed actions.

For measures in the Action Plan which are yet not financially covered, the responsible institutions shall plan the budgetary needs through their respective budget programmes as part of the MTBP and of the annual budget process. In addition, the Council of Ministers in cooperation with the donors' community shall identify financial support options for the measures which currently are not financially covered.

The Justice Sector Strategy is assessed as **credible**, as detailed below:

Since November 2014, a political agreement at highest levels was reached to shift the responsibility of designing and approving justice reform from the Ministry of Justice to the Parliament. The latter, assured greater participation from all the political parties thus guaranteeing political endorsement of the justice reform and avoiding labelling of the justice reform as being carried out exclusively from the government, i.e. the executive branch of power.

The Justice Sector Strategy incorporates a strategy prepared by the Ad Hoc Parliamentary Committee for the Justice Reform, which has been consulted with civil society and the general public. Also, the Justice Sector Strategy has been developed and adopted by a sector working group which encompassed all stakeholders in the justice sector, and supported by EU funded Technical Assistance projects which have conducted further assessments and consultations with all stakeholders at operational level, including with civil society, in October 2015 and September 2016, thus allowing adequate time for feedback. The Ad Hoc Parliamentary Committee collaborated closely with a core of ten civil society organisations which are active in the justice area by regularly inviting them to the consultation table.<sup>8</sup> Other civil society organisation also played an active role by sending written comments to the Ad Hoc Committee. The feedback is reflected in the final strategy. In May 2018, the Albanian Assembly, pursuant to Article 288 of Law no. 115/2016, established by virtue of Decision no. 74/2018 the Independent Commission for Coordination, Monitoring and Following the Implementation of Law no. 115/2016 "On the governance bodies of the justice system. This Commission will monitor the election and appointment of members of the justice system governance bodies; will coordinate the implementation of the Law no. 115/2016 by the respective institutions; will report to the Assembly on the progress of its implementation; and will record cases of failure of responsible institutions to implement the law. It can therefore be concluded that **the design of the strategy was an inclusive process that incorporated the relevant state and non-state actors.**

The same level of participation and inclusiveness is guaranteed for the implementation and monitoring of the implementation of the Strategy and its Action Plan. An Institutional Mechanism assisted by a Technical Secretariat, under the leadership of the Ministry of Justice is set up for this task.

**Annual progress/monitoring reports** on implementation of the Action Plan will be produced and published. These reports will include an analysis of achievements against targets. The first monitoring report, assessing the progress of implementation of the Action plan during the year 2017, was prepared by the Technical Secretariat in the first quarter of 2018. The monitoring report was approved by the

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<sup>8</sup> <http://www.reformanedrejttesi.al/rrjeti-i-organizatave-jofitimprur%C3%ABse>

Institutional Mechanism on 18 April 2018 and is made available online in the website of the MoJ<sup>9</sup>. According to the first report, out of 201 sub-activities foreseen in the Action Plan of the Strategy 59 or 29% of the total activities are implemented, 35 or 18% are ongoing and for the remaining 107 or 53% the implementation has not yet started. Most of the activities that have not yet started implementation (65 sub-activities) fall under the scope of responsibility of new institutions of the justice system, that are not established yet. The monitoring report 2017 estimates that the cost of the completed 59 actions in 2017 is € 2.7 million, of the € 5.0 million spent by the justice sector in 2017.

**The sustainability of the intervention** depends on political, financial and structural factors. The comprehensive and thorough justice reform as approved with the amendments to the Constitution is the result of political negotiations and agreement between all political parties, with significant support of the international community. The implementation of the on-going justice reform is undergoing and has already achieved good progress mentioned above. The re-evaluation of all judges and prosecutors (vetting process) has started and is delivering first tangible results. This process has cross-party support, is carried out by an independent authority, is subject to international monitoring and its compatibility with the European Convention on Human Rights has been confirmed by the Venice Commission. Under the aegis of the European Commission, an International Monitoring Operation has been deployed to oversee the process throughout its implementation.<sup>10</sup> A Council for Legislation, composed as a bipartisan structure with equal representation from the majority and opposition, is set up in Parliament to give its opinion on the draft laws as requested by other Committees of the Parliament. The Council for Legislation is working to address interventions needed in some of the key laws of the justice reform following their review by the Constitutional Court. **Political sustainability of the reform is thus generally secured, but full political will and ownership for the implementation** of the reform still needs to be ensured from all political parties.

Sustainability of the reform also depends on the existence of **qualified human resources**. The vetting process is contributing to the clean-up of the justice sector from corrupted elements. New legislation provides for merit-based recruitment procedures for staffing and the soon to be established institutions. The reform also encompasses a significant increase of training initiatives directed at existing and new staff extending to continuous training, mainly under the auspices of the School of Magistrates, coupled with technical assistance by international experts. The capacity building measures contained in the Strategy will thus provide – on the medium term – **the responsible institutions with sufficient capacity to implement the agreed plans well enough to achieve the objectives**.

**As regards financial sustainability**, the Justice Sector Strategy is linked to the detailed Action plan which is costed and partially budgeted. There are a number of financial sustainability issues resulting from the changes in legislation as well as in the institutional structure of the justice system, leading to the creation of new institutions; the reorganization of other ones; and enhancing of the status of the actors of the justice system, mainly judges and prosecutors, by increasing their salaries and other benefits and guarantees. New staff hires, increase of current salaries and maintenance costs for new IT systems create an ongoing burden to the state budget. **The overall costs for the implementation of the Action Plan for 2017-2021 for the Justice Sector Reform** was initially estimated at **EUR 146 million** including the EUR 89 million of capital cost, see Table 1.

**Table 1 –Initial Cost Estimate of the Justice Reform by type of expenditure in € ‘000**

Year	2017	2018	2019	2020	2021	TOTAL	%
Capital	11 667	21 225	25 470	20 573	9 943	88 878	61%
Salaries	5 286	5 346	12 066	12 106	12 106	46 911	32%

<sup>9</sup> <http://www.drejtesia.gov.al/al/prioritete/strategjia-ndersektoriale/plani-i-veprimit-te-strategjise-ndersektoriale-te-drejtise>

<sup>10</sup> [http://europa.eu/rapid/press-release\\_MEMO-18-3403\\_en.htm](http://europa.eu/rapid/press-release_MEMO-18-3403_en.htm)



Training	450	95	155	77	65	842	0.6%
Other current exp.	965	610	2 085	3 570	2 365	9 596	6.4%
<b>Grand Total</b>	<b>18,368</b>	<b>27,276</b>	<b>39,776</b>	<b>36,326</b>	<b>24,479</b>	<b>146,227</b>	<b>100%</b>

During May 2017 the Action Plan was revised as well as the cost estimate. Large capital expenditures (new court buildings) of approximately EUR 50 million were removed from the cost estimate reducing it to **EUR 98.4 million** shown in Table 2.

**Table 2 Revised reform costs estimate by type of expenditure in € '000**

	2017	2018	2019	2020	2021	TOTAL	%
Capital	6 667	14 425	9 836	5 240	3 619	39 787	40.4
Salaries	5 286	5 346	12 066	12 106	12 106	46 911	47.7
Training	885	260	310	222	195	1 872	1.9
Other current exp.	1 920	707	2 172	2 590	2 425	9 815	10
<b>Total</b>	<b>14 758</b>	<b>20 738</b>	<b>24 384</b>	<b>20 158</b>	<b>18 345</b>	<b>98 385</b>	<b>100</b>

Source: Action Plan 2017-2021

According to the Action Plan, EUR 59 million will be covered by budget funds included Reserve Funds of EUR 41 million and approximately EUR 2 million by donor funds for the costs for training. **The financing gap will amount to some EUR 35-37 million** for the period 2017-2021, equivalent to 38% of the EUR 98 million cost estimate. Donor funds will be sought to close the financing gap.

**Budget allocations for the Justice sector have been critically low e.g. EUR 92 million**, according to the Final Budget for 2018. The MTBP 2018-20 foresees EUR 86.6 - 90 million for the years 2019 to 2021. The recent MTBP 2019-21 has indicative annual maximum ceilings of EUR 90 million<sup>11</sup>.

The MTBP 2018-2020 reflects some elements of the Justice Sector reform. Budget provisions for the financial impact of the reform's core legislation have been made, but are based on an extra-budgetary reserve fund. Long-term effects of the justice reform on other aspects such as for example the pension system has not been accounted for, and no revenue measures have been planned to date. On the other hand, possible savings, which may result from measures against corruption and efficiency gains resulting from automation, should be taken into account in the medium term.

The timing and costing of the Action Plan of the Strategy will be reviewed **on annual basis** to adapt it to the progress of implementation and **update it in accordance the medium-term budget planning and vice versa**.

With regards to track record, the seven key pieces of legislation which are crucial for the successful implementation of the Strategy have been adopted and the first monitoring report shows that the justice reform advances. *On the basis of the assessment carried out, the Justice Sector Strategy 2017-2021 is considered relevant and credible as underlying sector development strategy for this Sector Reform Contract.*

<sup>11</sup> Indicative expenditure ceiling, Medium Term Budget Plan 2019-2021, Ministry of Finance and Economy.

## **LESSONS LEARNED, LINK TO PREVIOUS/OTHER FINANCIAL ASSISTANCE AND INTERVENTIONS BY OTHER COOPERATION PARTNERS**

The EU has provided substantial support to the Albanian authorities in the areas of Justice Reform. Previous IPA assistance focused on key institutional reforms and capacity building of the various judiciary actors, primarily through assistance to the modernization of the justice system. In addition, a number of infrastructure projects have considerably increased the capacity of the judicial and penitentiary system to comply with international standards.

The **EU stands as a leading donor** also in relation to the promotion of human rights as a result of several projects financed under the **civil society facility and in the frame of the European Instrument for Democracy and Human Rights**. IPA I assistance in the sector amounts to more than EUR 86.5 million. Various donors are providing support in the area of justice and fundamental rights, e.g. Sweden, Italy, Netherlands, as well as the United States and the United Nations.

**Donor fragmentation is a particular problem in Albania**<sup>12</sup> and the need for a robust system of donor coordination is high. Donor coordination mechanisms can play a role in increasing the beneficiaries' ownership of the accession process and a gradual alignment of donor interventions. Being wide and sometimes horizontal areas, justice reform and anticorruption interventions **need improved coordination of donors**. However donors' cooperation only cannot make up for shortcomings in political engagement, leadership, and consensus within governments as the **prime driving force in strengthening such ownership**.

Moreover it was assessed that donor interventions **cannot substitute for a lack of confidence concerning in-country systems** and their insufficient use for the delivery and management of assistance<sup>13</sup>. Strengthening of donor coordination mechanisms should go in line with the government's commitment to increase its responsibility and ownership of implemented projects and at the same time guarantee their sustainability.

One of the most relevant issues of assistance in this area relates to the **ownership and sustainability of the interventions**. Taking into consideration the frequent lack of financial resources, **sustainability** is affected and requires close follow up.. Ownership of individual projects by the end beneficiaries is important and in case of works and supplies adequate maintenance is required. This is even a more an issue in the case of the justice sector reform with a number of new institutions being established, requiring additional support on staff recruitment, not to mention the intended increase of current salaries of judges, and maintenance costs for new IT systems. In order to ensure sustainability it is necessary that such costs be fully covered from the state budget from the very beginning.

**For technical assistance projects**, the key factors affecting impact and sustainability are the **lack of political involvement** and the lack of **human and financial resources** for continuation of the implementation of reform measures after technical assistance projects end. The pitfall is that the assistance becomes substitution and does not trigger national resource allocation.

The **Final report of the "Evaluation of Justice and Home Affairs (JHA) sector IPA programmes in Albania"** (April 2016) concluded that the impact of EU support for improvement of the Rule of Law and Law Enforcement standards is still limited by systemic weaknesses, but would take significant effect once the justice reform removes existing structural obstacles. The report highlights that the series of EURALIUS and PAMECA projects have a successful track records of achievements in the Justice and Law Enforcement sectors. However, their sustainability is linked to the

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<sup>12</sup> The political economy of donor intervention in Western Balkans and Turkey: Mapping and potential for stronger synergies, Final Report, August 2014, page 91.

<sup>13</sup> Ibid

constitutional reform process at large. Better coordination of the outputs of past interventions would be required with regard to technical infrastructure. The report adds that, after the advancement of the constitutional reform, fine-tuning of the project design for upcoming projects is needed in order to focus them on reinforcing reform process effectiveness.

Further, the Report recommends furthermore for the next EURALIUS and PAMECA projects to concentrate on support for fighting corruption, in terms of both prevention and sanction, combined with monitoring of judicial and prosecutorial performance. Other important areas of intervention would be: (i) Capacity building for the implementation of the justice sector strategy with regard to planning, monitoring, legislative drafting and legislative/regulatory assessment; (ii) Development of a judicial career system; (iii) Improvement of the case management system; (iv) Assessment of the quality and revision of the legislative framework in several areas to ensure compliance with the EU acquis and best practice, and (v) Strengthening of the statistical system for judicial data.

Since poor implementation of laws and policies largely results from the weak legislative and policy processes, attention should be paid to the development of legislation in line with all national procedures, especially those related to (fiscal/ regulatory) impact assessments, public consultations and inter-ministerial coordination and alignment with the mid-term budgetary framework shall be ensured.

## **2. INTERVENTION LOGIC**

The **intervention logic** of this action intends to capture the interactions and the combined effects of the sector reform contract and the enhanced policy dialogue ongoing in the field. Developmental risks of government effectiveness are addressed by establishing good governance practices and creating a solid basis for rule of law, In particular enhanced transparency, accountability and efficiency of Albania's public administration, the reduction of impunity, strengthening of IT systems used by public institutions, improvement of cooperation between law enforcement agencies, proactive investigations and raising awareness of the public – serving to mitigate corruption related risks in Albania and enhance public trust in the justice system.

The Justice Sector Strategy coordination and monitoring structure will monitor the implementation of the strategy and will annually report on implementation and performance against well designed and measurable indicators and targets.

## **DESCRIPTION OF OBJECTIVES, MAIN ACTIVITIES AND EXPECTED RESULTS**

**The overall objective** is to contribute to strengthening rule of law, law enforcement and reduce corruption in government agencies and the judiciary

The **specific objectives** are the following:

- To strengthen independence, transparency, efficiency, accountability and public trust in the Albanian justice system in accordance with European standards,
- To enhance protection of human rights in the penitentiary system,

The **induced outputs** of this intervention are the following:

- Independent, efficient and accountable justice system institutions, providing for equal gender representation
- Improved transparency and accessibility of the justice system
- Consolidated legal education and training
- Improved effectiveness of the criminal justice system
- Improved infrastructure and functionality of the electronic justice management system
- Improving the functioning of the Ministry of Justice

- Increased access to justice through improved service quality of legal professions and arbitration
- Reintegration and rehabilitation measures for detainees according to European standards

### **Main activities:**

The main activities to implement the budget support package are policy dialogue, financial transfer, performance assessment, reporting and capacity development;

- Engagement in policy dialogue around conditions and government reform priorities, the verification of conditions, targets and the payment of budget support;
- Transfer of EUR 34 million to the beneficiary country over the fiscal years 2019, 2020, 2021 and 2022 with disbursements of fixed and variable tranches.
- Continued support to reinforce Government's institutional capacities to implement the Justice sector reform, including new institutions and mandates resulting from changes to the legislative framework;
- Enhancing donor coordination through capacity building for the Justice sector by technical assistance;
- Creating the monitoring and evaluation systems for tracking implementation of the Justice Sector Reform Strategy through capacity building;
- Regular monitoring of budget support eligibility criteria.

At **input level**, the transfer of budget support funds will enable the government to improve the financial capability to undertake the Justice Sector policy objectives and implementation. Also, the policy dialogue and focus on improved sector coordination will contribute, among others, to better follow up of policy implementation and improve sector monitoring and evaluation. Technical Assistance will support the reform implementation, enhanced communication and awareness raising , regular monitoring and compliance review of the reform progress.

At **output level** (induced outputs), the assistance will contribute to:

- **Independent, efficient and accountable justice system institutions, providing for equal representation of females among judges and prosecutors** (resulting from the implementation of Goal 1 of the Strategy: “*Strengthening the independence, efficiency, effectiveness and accountability of the justice system institutions*”) through the implementation of new and amended organic laws<sup>14</sup> which should lead to consolidation of the mission, status and functions of the justice sector institutions;. This should result in an improved clearance rate; increases in the number of cases judged per year in 2<sup>nd</sup> and 3<sup>rd</sup> level courts and complaints processed. A cross-cutting issue is the equal representation of female judges and prosecutors as heads of district courts and prosecution offices.
- **Consolidated legal education and training** (resulting from the implementation of Goal 2 of the Strategy: “*Consolidation of legal education and training as well as specialisation of magistrates and court personnel*”): Capacity building of the School of Magistrates and the implementation of new and amended laws on the governing bodies of the justice system will result in a qualitative improvement of legal training, in terms of additional training curricula for the continuous training programme as identified by a TNA, as well as in a quantitative improvement by increasing the

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<sup>14</sup> Law no 95/2016 dated 06.10.2016 “On the organisation and functioning of the institutions in the fight against corruption and organised crime”; Law no 96/2016 dated 06.10.2016 “On the status of judges and prosecutors in the Republic of Albania”; Law no 97/2016 dated 06.10.2016 “On the organisation and functioning of the prosecution office in the Republic of Albania”; Law no 98/2016 dated 06.10.2016 “On organisation of the judicial power in the Republic of Albania”; Law no 99/2016 dated 06.10.2016 “On some changes to the law “On the organisation and functioning of the Constitutional Court of the Republic of Albania”; and Law no 115/2016 dated 03.11.2016 “On governing bodies of the justice system in the Republic of Albania”.

number of students that can be accommodated in the School of Magistrates following the construction of new premises.

- **Improved transparency and accessibility of the justice system** (resulting from the implementation of Goal 3 of the Strategy: “*Guaranteeing efficiency, transparency and accessibility of the judicial system, and the right to due legal process in accordance with European standards*”) will provide for improved access to legal aid for citizens. The appointment of press judges for media relations will improve transparency of the justice system.
- **Improved effectiveness of the criminal justice system** (resulting from the implementation of Goal 4 of the Strategy: “*Increasing the efficiency of criminal justice system and anti-corruption measures through the consolidation of the mission, status and functions of criminal justice institutions*”) will be ensured by the vetting procedure for judges and prosecutors and by increasing the number of corruption convictions by the Special Court for Anticorruption. As regards juvenile justice, the aim is to decrease the number of juveniles in detention centres.
- **Improved infrastructure and functionality of the electronic justice management system** (resulting from the implementation of Goal 5 of the Strategy : “*improving the functioning of the justice system by providing modern electronic systems procedures and facilities for development of strong international cooperation*”) will be achieved through investment measures that are oriented at introducing a new comprehensive IT system for the courts and the upgrade of court infrastructure, resulting in strengthened operational capacity of the court and case management.
- **New organisational structure of the Ministry of Justice** (Goal 7 of the Strategy: “*Improving the functioning of the Ministry of Justice and its subordinate institutions of new or substantially changed institutions*”) will result in an adjusted organisational structure of the Ministry in line with the changes brought about by the justice reform (separation between the executive and judicial branches). The Ministry will save resources under its inspection department which can now be used to strengthen and increase capacities for inspection of free legal professions. In addition, the new changes will enable the Ministry of Justice to carry out proper legal analysis through its Codification Department before taking any legislative or policy making initiative.
- **Increased access to justice through improved service quality of legal professions and arbitration** (resulting from the implementation of Goal 8 of the Strategy: “*Improving the service quality of legal professions and establishing a legal framework for arbitration*”) shall be achieved through amending the Law on notaries, the Law on advocacy, legislation related to private bailiff system and new legislation for alternative dispute resolution, thus increasing and easing access to justice and reducing the case load of the courts.
- **Reintegration and rehabilitation measures for detainees according to European standards** (resulting from the implementation of Goal 6 of the Strategy: “*Enhancement of the protection of human rights in penitentiary system*”) will provide for policy development resulting in strengthening of alternative sentencing. Focus is also set on reintegration activities.
- At the **outcome level** (specific objectives):
  - “*Improving the institutional and operational framework*” will result in decreased case processing time and a reduction of the case backlog, improved access to justice and judicial independence.
  - “*Enhanced protection of human rights in the penitentiary system*” shall reduce prison over-population towards the available facilities. More generally, a decrease of the number of detainees through use of alternative sentencing is envisioned.

## COMPLEMENTARY SUPPORT

One complementary assistance in the form of capacity building will aim at i) strengthening the capacities of the Ministry of Justice as coordinator and other institutions of the justice sector for monitoring and reporting on the implementation via the monitoring structure, ii) supporting the Ministry of Justice to enhance its codification capacity to lead law drafting, to implement the Code of Administrative Procedures; iii) Provide policy advice and strengthen the capacities of the institutions of the justice sector, in particular of the newly established bodies; iv) strengthen cooperation with other stakeholders such as anti-corruption bodies and law enforcement agencies as well as support consultation with civil society organizations think tanks development partners, to contribute to the reform implementation.

Addition assistance will provide support for the independent monitoring operation for the re-evaluation of judges and prosecutors and another will provide an independent monitoring and assessment on the implementation of the justice sector reform contract programme.

**The expected results** of the complementary technical assistance support are:

- Capacities enhanced through training and coaching of relevant staff of the Ministry of Justice and other institutions of the justice sector to coordinate and implement the Justice Sector Strategy;
- Enhanced policy dialogue for the implementation of the justice reform through input from independent assessment and data compilation on the implementation;
- Enhanced re-evaluation of judges and prosecutors supported by the independent monitoring operation.

**Key performance indicators** of the complementary technical assistance shall include:

- Number of person days of training provided or facilitated;
- Number of monitoring meetings facilitated;
- Number of policy dialogue events with state stakeholders, donors, CSOs, etc. facilitated;
- Number of communication and awareness raising activities as part of the communication plan for enhancing public awareness on the justice reforms implemented;
- Number of surveys carried out on the level of court user's and court personnel's satisfaction with (and trust in) the courts.<sup>15</sup>
- Number of independent assessments on the implementation of the justice reform and the compliance with the general and specific requirements of the sector reform contract completed;
- Number of cases for the re-evaluation of judges and prosecutors monitored;

Significant support is currently provided by a long term grant of Euralius V<sup>16</sup> in support of the Consolidation of Justice system in Albania<sup>17</sup>. The scope is to provide comprehensive implementation support to the justice reform and the institutions involved by strengthening the independence, transparency, efficiency, accountability and public trust in the Albanian justice system in line with the EU acquis and best practices.

## RISK MANAGEMENT FRAMEWORK

The main risks linked to the Justice Sector Reform are the following:

Risk	Level	Mitigation measures
Delayed approval of laws linked to the reform package	Medium	Continuous political dialogue with all main interlocutors including main opposition parties are essential for adoption of the main legislation.
Delayed establishment of the new	Medium	Continuous political dialogue with all main interlocutors

<sup>15</sup> In accordance with the CEPEJ adopted report and survey model accompanied by a methodology guide prepared by Jean-Pail Jean and H el ene Jorry

<sup>16</sup> <http://www.euralius.eu/index.php/en/>

<sup>17</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa\\_2016-038717-4\\_consolidation\\_of\\_the\\_justice\\_system\\_in\\_albania.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa_2016-038717-4_consolidation_of_the_justice_system_in_albania.pdf)

Risk	Level	Mitigation measures
<b>justice system institutions</b> linked to the impact of the vetting process.		including main opposition parties for the identification of solutions to speed up the process.
<b>Lack of commitment, political support and ownership</b> for strengthening decision and policy making processes and for implementing the Action Plan.	Medium	<p>Continuous policy dialogue in the context of the High Level Dialogue and EU support for the implementation of the road maps concerning the key priorities in view of the opening of accession negotiations.</p> <p>Guidance from EU through political dialogue on cross-party work on EU integration. EU support to the Parliament to fulfil its oversight role and to independent institutions to strengthen their monitoring role.</p> <p>The programme has been designed in close consultation with a wide range of stakeholders to both identify what support would be most likely to be ‘owned’ and has focused support on the key functions of relevant institutions.</p>
<b>Lack of funding</b> for the implementation of the Action plan (and in particular the new institutions) and <b>lack of medium term perspective</b> may negatively affect the stakeholders' ability to fulfil their mandates and implement the action plan.	High	<p>The envisaged instruments (budget support and procurement support) will contribute to mitigate the risk of underfunding. It must however be ensured that sufficient budget funds are directed at the intended purposes. This will be ensured by proper definition and monitoring of performance indicators for the implementation of the Action Plan.</p> <p>Medium-term budgeting capabilities of the institutions of the judiciary need to be strengthened</p>
<b>Limited absorption capacity</b> and lack of human resources available to carry out the reform processes.	Medium	Support through ongoing or proposed complementary capacity building to facilitate the reforms, namely the ongoing EURALIUS and PAMECA projects and planned follow-up projects.
<p><b>Fragmented sector coordination,</b> slow progress in setting-up the coordination and monitoring framework</p> <p>Complexity of the reform cannot be handled effectively and efficiently by the lead institution, taking into account the need for separation of powers between the executive and the judiciary</p>	High	<p>Support to the Ministry of Justice as coordinator to organise the monitoring sessions of the strategy implementation, as complementary assistance accompanying the budget support operation.</p> <p>Support to the meetings of the coordination structures and technical secretariat.</p>

These risks will be monitored through a policy dialogue on the key priorities related to the justice reform.

### 3. IMPLEMENTATION ARRANGEMENTS

#### 3.1 ROLES, RESPONSIBILITIES AND POLICY DIALOGUE

The decision about the formal setting of coordination and monitoring structure for the implementation of the Justice Sector reform has been adopted, hence the composition of **Cross-sector working group for the justice reform** is defined as follows, according to the Justice Sector Strategy by the following Members: Deputy Minister of Justice and five representatives from the Ministry of Justice and 1 representatives from each of the following institutions: the Ministry of Finance, and Economy, the Council of Ministers covering the issues of coordination of strategic documents, High Judicial Council, the Constitutional Court, the High Prosecutorial Council, the High Inspectorate, the General Prosecutor’s Office, the School of Magistrates, the National Chamber of Advocacy, the National Chamber of Notary, the National Chamber of Judicial Private Bailiff Service, the National Chamber of Mediators.

Also, representatives of donors and development partners that assist institutions of the justice system as well as representatives of civil society shall be invited to participate in the meetings of the monitoring group for consultation. The first monitoring report for the implementation of the strategy for 2017 has been published.

Until the establishment of the new institutions, an Institutional Mechanism is established to monitor the implementation of the Strategy and its Action Plan. To assist the Institutional Mechanism, a technical secretariat is operated by the Minister of Justice. The technical secretariat meets every month and coordinates the work with all the responsible institutions for the implementation of the Action Plan. It prepares a report every six months and every year on the implementation of the activities of the Action Plan and the level of achievement of the indicators, as well as on the problems encountered and budget allocated and spent. The reports will be further assessed and approved by the institutional monitoring mechanism. At the end of the time line for the Strategy implementation, the technical secretariat will draft an assessment report on its implementation and its impact on the achievement of the objectives and its vision.

Policy dialogue on progress and monitoring of performance as well as addressing risks will be conducted through the Cross-sector working group for the justice reform at least two times a year. In addition separate policy dialogue meetings may be organised on an ad hoc fashion as required.

Key CSOs that have been consulted during the Strategy preparation are: the Institute of Public and Legal Studies, the Centre for Legal Civic Initiatives, the Civil Rights Defenders in Albania and the Helsinki Committee. It is anticipated that they will also be consulted during implementation.

### **3.2 IMPLEMENTATION METHOD(S) AND TYPE(S) OF FINANCING**

The amount allocated for the budget support component is EUR 34 million and EUR 8 million for the complementary support. These amounts are based on a combination of factors a) costing of the strategy, b) financing gap c) assessed level of national funding sufficiently encouraging to support the reforms. The overall costs estimate for the implementation of the Action Plan for 2017-2021 is EUR 98.4 million of which EUR 58.5 million is foreseen to be covered from budget funds including the use of specific reserves set aside to support the justice strategy implementation. The financing gap therefore amounts to EUR 39.9 million for the period 2017-2021.

#### **3.2.1 Disbursement of sector budget support**

The general conditions for disbursement of all tranches are as follows:

- Satisfactory progress in the implementation of the Justice Sector Reform and continued credibility and relevance thereof;
- Implementation of a credible stability-oriented macroeconomic policy;
- Satisfactory progress in the implementation of the public financial management reform strategy.
- Satisfactory progress with regard to the public availability of timely, comprehensive and sound budgetary information;

The specific conditions for disbursement that may be used for variable tranches focus mainly on areas related to strengthening the independence, efficiency and accountability of the institutions of justice and improving the functioning of the judicial system in line with the focus of the overall strategy. The indicators and triggers for the variable tranches are outlined in Annex 2.

The chosen performance targets and indicators to be used for disbursements will apply for the duration of the programme. However, in duly justified circumstances, the Ministry of Justice through the National IPA coordinator may submit a request to the Commission for the targets and indicators to be changed. The changes agreed to the targets and indicators may be authorised by exchange of letters between the two parties.

In case of a significant deterioration of fundamental values, budget support disbursements may be formally suspended, temporarily suspended, reduced or cancelled, in accordance with the relevant provisions of the financing agreement.



### **3.2.2 Budget support details**

The full budget support amount is split in four tranches, the first one with a fixed part only and the three following ones with a fixed and a variable part. The specific conditions for the disbursement of each tranche are specified in the Annex.

Budget support is provided as direct untargeted budget support to the national Treasury. The crediting of the Euro transfers may be deposited in Euro or disbursed into Albanian LEK which will be undertaken at the appropriate exchange rates in line with the relevant provisions of the financing agreement

### **3.2.3 Complementary support**

The implementation of the complementary assistance will include three or more service contracts in direct management mode

## **4. MONITORING AND EVALUATION**

### **MONITORING AND REPORTING**

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final reports. Every report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and direct outcomes) as measured by corresponding indicators, using as reference the list of result indicators. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. For the complementary assistance the final report, narrative and financial, will cover the entire period of the action.

The Ministry of Justice has the leading role should be reconfirmed, through a policy making decision or cooperation agreement signed by all the stakeholders of the justice system once all the new justice institutions are set up and running. Monitoring through the **Cross-sector working group for the justice reform** shall be carried out with the coordination and secretariat role of the Ministry of Justice based on the Action Plan output, as result indicators.

**At national level**, the implementation of sectoral and cross-cutting strategies is monitored through a result-based performance assessment system, which is based on policy goals and programme objectives, as part of the Government's Integrated Planning System (IPS) to be coordinated with the Prime Minister's Office. The IPS is a set of operating principles to ensure that government policy planning, budgeting and monitoring are linked and operate efficiently. The IPS is the key national system for strategic directions and aligning the allocation of resources. It guides the MTBP and the annual budget process, by providing policy objectives which are included in the Ministry of Finance's instructions for the budget preparation by all ministries and agencies.

Implementation of the **Albania Public Finance Management Strategy 2014-2020** is also crucial for the Justice Sector Reform in terms of improvement of the MTBF and thus proper planning, budgeting and monitoring of the Justice Sector Strategy including strengthening capacity of the High Judicial Council (which will in the future incorporate the Judicial Budget Administration Office for public financial management issues). Implementation of the PFM Strategy is also relevant for the achievement of the general eligibility criteria relating to the Justice Sector budget support (Macroeconomic Stability, public finance management, and budget transparency and oversight). Reports on the PFM Strategy implementation are produced by the PFM Reform Steering Committee and published annually in the first quarter of the year. At the same time the Justice Sector Strategy implementation will contribute to strengthened rule of law e.g. in public procurement.

For the technical assistance components, the Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the

Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews). Monitoring exercises will be carried out as prescribed by the DG NEAR guidelines on linking planning/programming, monitoring and evaluation<sup>18</sup>.

There will be annual reviews that will evaluate performance against the conditions where the degree of compliance will affect the proportion of tranche payments released for the variable components. Each of these reviews will review the 4 general eligibility criteria for SBS and thus provide an assessment of the satisfactory progress and the continued relevance and credibility of each criteria.

Compliance with the four general conditions will trigger the release of the fixed tranche payments following the signature of the Financing Agreement.

Additionally, DG NEAR may utilise the existing Results-Oriented Monitoring (ROM) as part of its ongoing commitments to monitor expenditure of aid under the EU's Financial Regulation.

## **EVALUATION AND AUDIT**

Evaluations of the budget support component should be aligned with similar exercises of other budget support providers for accountability and learning purposes at various levels (including for policy revision) and carried out via independent consultants.

For complementary support, the Commission may also carry out external evaluations via independent consultants, as follows:

- (a) a mid-term evaluation mission;
- (b) a final evaluation, at the beginning of the closing phase;
- (c) an ex-post evaluation.

Evaluation exercises will be carried out as prescribed by the DG NEAR guidelines on linking planning/programming, monitoring and evaluation<sup>19</sup>.

The Commission shall inform the implementing partner at least 2 months in advance of the dates foreseen for the evaluation missions. The implementing partner shall collaborate efficiently and effectively with the evaluation experts, and inter alia provide them with all necessary information and documentation, as well as access to the project premises and activities.

The evaluation reports shall be shared with the partner country and other key stakeholders. The implementing partner and the Commission shall analyse the conclusions and recommendations of the evaluations and, where appropriate, in agreement with the partner country, jointly decide on the follow-up actions to be taken and any adjustments necessary, including, if indicated, the reorientation of the project. The financing of the evaluation actions shall be covered by another measure.

## **5. CROSS-CUTTING ISSUES**

### **EQUAL OPPORTUNITIES AND GENDER MAINSTREAMING**

**Women, in particular vulnerable women, face several challenges in access to justice:** In Albania, inequalities persist between women and men, gender bias, and stereotypes result in unequal access of women and men to justice. Women face significant barriers in accessing justice in the following areas: land titling, property legalization/registration, inheritance, division of property in the course of divorce, and maintenance and alimony payments. Lack of proper access to courts due to lack of financial means, lack of knowledge and the society's perception on the position of women in the family affect the access of women. There is a raising number of claims of victims of domestic violence. Women often do not have property titles, property legislation favour men (After

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<sup>18</sup> [https://ec.europa.eu/neighbourhood-enlargement/tenders/monitoring-and-evaluation\\_cs](https://ec.europa.eu/neighbourhood-enlargement/tenders/monitoring-and-evaluation_cs)

<sup>19</sup> [https://ec.europa.eu/neighbourhood-enlargement/tenders/monitoring-and-evaluation\\_cs](https://ec.europa.eu/neighbourhood-enlargement/tenders/monitoring-and-evaluation_cs)

communism: redistribution of land targets mainly to men. Statistics show that the majority of those benefiting from legal aid are women. Several CSOs, in particular the Center for Legal Civic Initiatives, AWEN network of local CSOs, Justice for All coalition are active in areas related to access to justice, gender issues and protection of women and vulnerable groups.

**Also, women tend to be disproportionately affected by corruption.** Women tend to spend more time in unpaid labour, such as caring for sick family members, and thus feel the impact of corruption on poor service delivery more acutely (UNIFEM 2008; Chêne, Clench, and Fagan 2010). They are also more likely to be at risk of human trafficking and prostitution<sup>20</sup> The reform implementation will take into account aspects of gender equality.

The issues of minorities and vulnerable groups are not yet specifically addressed in the Action Plan. They need to be further detailed during the revision of the Action Plan. Key areas which require support and will be addressed under IPA either in an integrated manner or through specific and targeted action include the following:

- Carrying out gender analysis of the justice sector as an integral part of reform
- Establishment of strong institutional mechanism in the justice system and the judiciary to monitor and guide process towards greater gender equality.
- Support for the establishment of gender indicators allowing for the monitoring of gendered impact of justice reform on women and men, and particularly on marginalized/ vulnerable/ discriminated groups among them, in line with EU Measures for Gender Equality and Women's Empowerment through EU External Relations 2016-2020. Support will be provided for increasing the general gender capacity and skills of legal staff, judges, lawyers, court personnel, external supporting court specialists, notaries, bailiffs, attorneys, etc. through (i) revision of curricula of related professional, technical and academic institutions; (ii) integration of mandatory training on gender equality, women's rights, the gendered impact of the legal and judiciary system and the issue of gender-based violence in the education and qualification of lawyers, judges, prosecutors, court personnel, external supporting court specialists, etc.; and (iii) gender equality training as integral part in continuous legal education for all legal practitioners.
- Ensuring access to free legal aid by improving the free legal service system, especially access to free attorneys for women belonging to ethnic and linguistic minorities, women in rural areas, domestic violence survivors, and women belonging to disadvantaged groups.
- Regulation of the service of bailiff office with regard to the treatment of cases of poor and marginalized groups, and particularly women and among them.
- Among the general population and among women and marginalized groups in particular, familiarity with the concept of 'rights', legal literacy, and awareness of specific laws, e.g. on protection against discrimination and of the complaint mechanism, remains low. Key principles of the rule of law and zero tolerance for corruption are learned from an early age onwards, starting in pre-school education. The Ministry of Justice and Ministry of Education will be supported in conducting age- and target group - specific campaigns, promoting a culture of the rule of law and raising awareness including among girls and boys not only of their rights, but also of their duties as a citizen.

In line with national legislation, Eurostat standards, and the national set of harmonized indicators (HGI), the adoption/development and collection of sex-disaggregated statistics and gender data in the justice sector will be supported.

Support will be continued for the harmonization of national legislation with international one, and transposition of national laws and sub-legal acts which impact particularly on women (see e.g. Recast Directive, UNDP Legislative Analysis Package 2013; Istanbul Convention; UN CEDAW Concluding Observations – fourth periodic report).

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<sup>20</sup> Corruption costs and mitigation strategies (IMF, May 2016)  
<https://www.imf.org/external/pubs/ft/sdn/2016/sdn1605.pdf>

In line with EU diversity policy, affirmative action measures will be employed for ensuring women's equal opportunities in professional life; and women's equal participation and representation in decision-making at all levels. As regards women in justice professions, the situation is balanced. About 50% of the judges in Albania are females, but there is a low level of representation of women in decision making government bodies (for instance in the High Council of Justice only one among 15 members is female).

Some of the activities under the interventions will increase the capacities for gender mainstreaming as per EU quality assurance, and particularly pursuant to CoM Decision no. 465 (2012) on gender mainstreaming in the medium-term budgetary programme. Special attention will be paid to the linkages between national gender policy, gender-responsive sector priorities, and the MTBP. This will contribute to analysing how resources benefit the female and male citizens, and will identify potential for increased effectiveness of expenditures in the justice sector.

## **ENVIRONMENT AND CLIMATE CHANGE (AND IF RELEVANT DISASTER RESILIENCE)**

### **Environment and climate change:**

The lack of rule of law and high levels of corruption in the judiciary and public administration are impacting negatively the environment and the efforts to limit climate change, especially the unsustainable extraction/use of natural resources and the increasing pollution (air, solid waste, etc.). There has been extremely limited number of environmental cases in court.

The main objective of the justice reform is to strengthen rule of law, law enforcement and lower the corruption level in government agencies and judiciary. This will enable proper implementation of legislation and sentencing of those causing harm to the environment, thus having a direct impact on the improvement of environment and climate change.

In addition, this intervention shall aim to reinforce the overall capacities of the judiciary chain to process environmental case, support environment and climate change principles in policy making and public administration.

## **ENGAGEMENT WITH CIVIL SOCIETY (AND IF RELEVANT OTHER NON-STATE STAKEHOLDERS)**

CSOs are playing an important role in the **implementation** of the Justice Sector Reform through their activities, such as the provision of free legal aid (See Section 1),

With regard to **awareness raising and monitoring**, CSOs are best placed for the following activities:

- Awareness raising for the citizens on the new organization of the justice system and how they can claim their rights.
- Legal education of citizens on the justice reform
- Access of citizens to the new institutions established by the reform
- Monitoring of court cases, corruption and respect of human rights in the penitentiary system
- Providing input to investigative media on cases of abuse

Within the EU Civil Society Facility (CSF) 2014-15 these activities are supported. The EU has allocated EUR 3.4 million for Albania in 4 lots in the Rule of Law sector, namely: 1 – Promotion of good governance and fight against corruption; 2 – Monitoring of judiciary system and access to justice; 3 – Monitoring living conditions in prisons and pre-detention structures; 4 – Re-use of assets confiscated to organized crime.

CSOs need strengthening of their abilities to develop monitoring instruments and fact-checking services as a means of holding public actors more accountable for the implementation of proposed programmes and policies. Complementary assistant will help strengthening the monitoring capacities of CSOs.

It is also worthwhile noting that CSO representatives will be appointed as one of the eleven members in the High Judicial Council and the High Prosecutorial Council having full rights as the other members of these bodies. Moreover, in accordance with the national law on public consultation, CSOs will be also associated to any legislative development carried out in the frame of the justice sector reform.

The intervention intends to ensure continued close coordination and alignment of the activities of development partners, allied to active participation of stakeholders in civil society and local government. NGOs, foundations and philanthropic institutions are emerging as chosen partners by the Government in contributing towards the implementation of the reforms particularly for efficient service delivery to the public.

## **MINORITIES AND VULNERABLE GROUPS**

Special attention will be paid to safeguarding the rights, and enabling access to justice, of specific groups, including LGBTI, the disabled, poor, rural, elderly, Roma and Egyptians, and particularly women among them, as well as of socially stigmatised such as drugs users, STD carriers, sex workers. The LGBTI communities face discrimination in education and employment.

The minority and vulnerable groups' issues are not yet specifically addressed in the Action Plan. They need to be further detailed during the revision of the Action Plan.

Clarification of legal procedures and increased funds available for the proper functioning of legal aid service will increase their ability to fully exercise their rights granted by the Constitution and recognized by law.

The adoption of the Law on Legal Aid<sup>21</sup> and establishment of the State Commission on Legal Aid aimed to improve access to justice for vulnerable groups. This measure has had limited effect so far as the number of citizens that managed to benefit from free legal services has remained very low<sup>22</sup>. Support will be provided by various CSOs for overcoming current shortcomings in the implementation of the legal aid legislation which hinder effective access to justice especially by vulnerable women and men in different locations, and with socio-economic and cultural characteristics.

Special attention will be paid to the effective adoption of EU directives regarding procedural rights of victims and minors, and the gender-related needs. The “Procedural Rights Package” aims at strengthening the procedural rights of all suspects or accused persons who are not able to understand and to effectively participate in criminal proceedings due to age, their mental or physical condition, disabilities, gender or due to other vulnerabilities.

With regard to juvenile justice, support by a recently started EU project provides for alignment of the legal and policy frameworks pertaining to juvenile justice with international norms and standards. A profound understanding of international juvenile justice standards, their rationale and correct application and the skills to properly communicate with female and male juveniles will need to be further developed with professionals. The needs of girls and boys in contact with the law - particularly as victims or witnesses to crime - are yet inadequately addressed in legislation. Key stakeholders in juvenile justice such as the Ministry of Justice, the Ministry of Interior, judiciary and prosecution will be supported in their coordination and data management which would allow for the proper tracking of cases of juvenile delinquency throughout their journey through the justice system and, thus, the development of targeted policies for them. Special attention will be paid to required change in the institutional culture from a punitive one towards a more child-friendly justice system, focusing on prevention, and including rehabilitation and re-integration of juvenile delinquents with a view to prevent occurrence or re-occurrence of delinquency. Special attention is also needed for orphans released from state residential institutions.

## **6. SUSTAINABILITY**

### **Political sustainability**

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<sup>21</sup> Law No. 10039 dated 22 December 2008.

<sup>22</sup> Universal Period Review for Albania, Submission by the UN Country Team, September 2013.

The sustainability of intervention primarily depends on political, financial and structural factors. The justice reform as approved with the amendments to the Constitution is the result of political negotiations and agreement between the left and right political wings. The same agreement was not reached for the approval of the seven laws, part of the first package. The lack of agreement from political parties for the approval of these key laws of the justice reform indicates the lack of full political support for its implementation. This had an impact in slowing down the pace of the reform in the justice system (as it has been the case when the Constitutional Court has suspended in November 2016 the implementation of the vetting law and vetting process after an appeal from the Democratic Party in opposition. This has halted the implementation of other activities of the justice reform while waiting for the Venice Commission's amicus curiae opinion on the Law that was provided on the 10th of December. The suspension was lifted on 22<sup>nd</sup> of December after the Constitutional Court rejected the Democratic Party appeal). International community has played a significant role in reaching an agreement for the approval of Constitutional amendments. It should continue to play the same role possibly during the entire implementation period.

### **Sustainability of human resources**

Sustainability of the reform also depends on the existence of qualified human resources. This requires hiring new qualified staff for the new institutions and training the existing staff on the novelties of the justice reform. The vetting process, which is giving its first results, is expecting to contribute greatly to the clean-up of the justice sector from the not worthy and corrupted elements. The new legislation provides for complex procedures for recruiting staff for the newly established institutions which in letter guarantees a transparent, merit based, independent and free from political intervention process. As with regard to the training of the existing and new staff, the justice sector reform foresees a significant increase in training activities, mainly to be carried out by or in collaboration with the School of Magistrates. Likewise, training of staff in the Ministry of Justice and other administrative bodies will be carried out in coordination with the Albanian School for Public Administration. Financial and technical assistance support from international expertise is of significant importance for the successful preparation of the actors of the justice system. Special attention should however be paid to ensure ownership of the national stakeholders when development of legislation and procedures is supported by technical assistance. This will be achieved through capacity building.

### **Financial sustainability**

The Justice Sector Strategy is linked to a detailed Action Plan which is costed and partially budgeted. The overall costs for the implementation of the Action Plan for 2017-2021 for the Justice Sector Reform have been estimated at EUR 98.4 million. According to the Action Plan, EUR 58.5 million should be covered from budget funds (EUR 5.5 million budgeted, EUR 41 million from a Reserve Fund and EUR 12 million for capital investment in infrastructure for court buildings and prosecution offices). As requested by the Council of Ministers the financing of the Action Plan is subject to continuous intensive policy dialogue to facilitate the review of these costs to rationalise, prioritise and appropriately and rationally time the cost identified and the budget needs to close the gap for the financing as well as identify alternative sources.

There are a number of financing issues resulting from the changes in legislation as well as in the institutional structure of the justice system, leading to the creation of new institutions and the reorganization of other ones. In addition to the establishment of new justice institutions, the justice reform also focuses on enhancing of the status of the actors of the justice system, mainly judges and prosecutors, by increasing their salaries and other benefits and guarantees. New staff hires, increase of current salaries and maintenance costs for new IT systems create funding need from the state budget. Moreover, investments in court and prosecution office construction need a considerable time for planning and procurement. The same holds for complex IT systems.

EU budget support contributing to the implementation of the Action Plan 2017-2021 would be appropriate for closing the reprioritised financial gap and ensure financial feasibility to implement the objectives of the Strategy. The followings should be taken into account:

- Estimating the financial impact of savings resulting from the reform: possible savings are likely to result from corruption fight and efficiency gains resulting from automation. These savings will however only take effect after the investments are made.
- Planning concrete revenue measures and estimating their financial impact: The main revenue measures would consist in adjusting the court fees – and this is envisaged in the Action Plan – but concrete schemes, in line with the fee level in the region and qualifying for a political consensus, have not yet been developed.

## **7. COMMUNICATION AND VISIBILITY**

The justice reform process has received the widest coverage and attention a reform process has ever received in Albania. This is because of the high engagement of the political parties in the process combined with deeply involvement of the best legal local expertise, the civil society organisations, academia, and international presence in the country led by the Delegation of the European Union. The entire process has been intensively covered by the media which has played a vital role in raising the awareness of the citizens on the justice reform. The Parliament has organised various consultation round tables with the participation of civil society organisations, experts and academia.

Due to the political importance of the justice reform as a key priority for opening negotiations a very intensive visibility on political dialogue on this issue has taken place also in the framework of Key priority and High Level Dialogue which will also continue to give high visibility for the program.

High level communication and visibility will be maintained during the design and implementation of the program. The implementation of the communication activities for the Justice reform Strategy shall be the responsibility of the beneficiary, which shall design and implement a communication plan accompanying the reform implementation. The beneficiary shall publicise the fact that the Actions have received funding from the EU.

Visibility and communication actions shall demonstrate how the intervention contributes to the agreed programme objectives and the accession process. Actions shall be aimed at strengthening general public awareness and support of interventions financed and the objectives pursued. The actions shall aim at highlighting to the relevant target audiences the added value and impact of the EU's interventions and will promote transparency and accountability on the use of funds.

In addition, the EU Delegation will also envisage communication actions during the implementation of the Action. EU-funded awareness campaigns are an appropriate platform to provide EU-visibility, they will be sequenced in a manner to maximise best the link between the implementation of the program, disbursement of tranches, policy implementation and political dialogue with the authorities.

For the implementation of the complementary assistance the Communication and Visibility Requirements for the EU External action apply. Additional Visibility Guidelines developed by the Commission (DG NEAR) and the EU Delegation will have to be followed.

The beneficiary shall report on its visibility and communication actions in the report submitted to the IPA monitoring committee and the sectorial monitoring committee.

## **8. PRECONDITIONS**

### **Assumptions**

It is assumed that the Albanian Authorities (Government of Albania, Parliament and Institutions of the Judiciary) will secure their full commitment to work towards the achievements of the programmes objectives, as well as to guarantee their sustainability. The Ministry of Justice as lead institution for coordination of the stakeholders for the implementation of the Strategy will operate a coordination structure for regular monitoring of the strategy implementation as well as any update required.

It is also assumed that adequate allocation of funds will be secured in the national budget annually and the medium term budget programme for the implementation of the Action plan for the Strategy and in

particular for the operation of the new and existing legal institutions as well as the School of Magistrates.