

IPA 2009 National Programme for Albania
Project Fiche N°3
Assistance to the Justice System

1. Basic information

1.1 CRIS Number: 2009/021-642

1.2 Title: "Assistance to the Justice System"

1.3 DG ELARG statistical code: 01.24

1.4 Location: Albania, in Tirana and in the main towns where institutions of the justice system are located.

Implementing arrangements:

1.5 Contracting authority: Delegation of the European Commission to Albania.

1.6 Implementing Agency: Delegation of the European Commission to Albania.

1.7 Beneficiary: Ministry of Justice.

Secondary beneficiary:

High Court, High Council of Justice, General Prosecutor Office, School of Magistrate, Courts, Albanian Bar Association, National Chamber of Bailiffs and other relevant institutions/associations of the justice system.

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Financing:

1.8 Overall cost (VAT excluded)¹: EUR 3.3 million

1.9 EC contribution: EUR 3.3 million (100%²)

1.10 Final date for contracting: Two years following the date of the conclusion of the Financing Agreement.

1.11 Final date for execution of contracts: Two years following the end date of contracting.

¹ The total cost of the project should be net of VAT and/or other taxes. Should this not be the case, the amount of VAT and the reasons why it should be considered eligible should be clearly indicated (see Section 7.6)

² Co-financing requirements already fulfilled for this Priority Axe.

1.12 Final date for disbursements: One year following the end date for the execution of contracts.

2. Overall Objective and Project Purpose

2.1 Overall Objective

The overall objective of the project is to improve the functioning of the justice system in Albania in accordance with EU and international standards, to facilitate the development of a more independent, impartial, efficient, professional, transparent and modern justice system in Albania and to contribute for the consolidation of democracy based on the rule of law in Albania as required by the Stabilisation and Association Agreement.

2.2 Project purpose

The specific objective of the project is to support the capacities of the Ministry of Justice and institutions of the judiciary in consolidating the legislative and institutional justice system, as well as the development of the probation service in Albania.

2.3. Link with AP/NPAA / EP/ SAA:

European Partnership priorities 2008

The issues that will be addressed by the actions included in the present project fiche are along the lines of the priorities mentioned in the EP 2008 as quoted below.

Short-Term Priorities

Key priorities

Increase the independence, accountability and transparency of the justice system, including by fostering the constitutional protection of judges, appointing judges and prosecutors on the basis of competitive examinations, establishing merit-based performance evaluation for prosecutors and setting objective rules for allocation of cases to judges.

Finalise, adopt and implement the draft law on judicial power

Strengthen access to justice.

Bring Albania's legislation on defamation into line with European standards and implement it.

Medium-Term Priorities

Ensure continued and appropriate training of judges and prosecutors, including on human rights, ethics and commercial and corporate matters and SAA-related issues.

Review the role and qualifications of judicial administrators and progressively incorporate them into the civil service, ensuring pay parity with ministry staff.

SAA

This project's intervention field is in line with the objectives set out by the Stabilisation and Association Agreement, in particular Article 78 – "Reinforcement of institutions and rule of law": "In their cooperation on justice and home affairs the Parties shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Cooperation shall notably aim at strengthening the independence of the

judiciary and improving its efficiency, improving the functioning of the police and other law enforcement bodies, providing adequate training and fighting corruption and organised crime.

According to the 2007-2012 National Plan for the Implementation of the SAA, one of the requirements to be met in reforming the justice system in Albania is to ensure the protection of victims and the social reintegration of convicted persons. Strengthening and improvement of the penitentiary system, in compliance with European standards, is also required. In the framework of guaranteeing basic and fundamental rights for all convicted persons, the National Plan provides for all law enforcement agencies to ensure the human treatment of detainees and the transformation of criminal punishment into a re-education/correctional opportunity.

2.4 Link with MIPD

The 2009-2011 MIPD states that "In the area of democracy and rule of law, the capacity of the Albanian institutions remains to a large extent limited, in particular as regards the judiciary, the implementation of the public administration reform and the fight against corruption and organised crime". The Multi-annual Indicative Planning Document underlines the need for improvements in the penitentiary system. This project's goals comply with the priority set out by the MIPD: "Support to the Reform of the Judicial System" with the overall strategic objective of an independent, reliable and efficient functioning judiciary that guarantees the rule of law. Furthermore, the MIPD stipulates that some of the programmes which should be implemented ought to include: "Provision of the conditions for adequate staffing, infrastructure and equipment to the Judiciary. Support to the High Council of Justice will continue. Institution and capacity building for the Ministry of Justice, subordinated and other independent institutions.

2.5 Link with National Development Plan

The National Strategy for Development and Integration stresses the necessity on the improvements in the justice system, in terms of strengthening the relationship with independent judicial institutions, including the clarification of the respective competences of the judicial inspectorates of the Ministry of Justice and the High Council of Justice.

The reorganisation of courts to improve the efficiency and transparency of decisions and the provision of adequate space, equipment and computer networks.

The strengthening of status, independence and constitutional protection of judges and prosecutors and progress in their training, recruitment, case assignment and evaluation.

The transparency of the civil and criminal justice processes through the publication of court decisions and the results of checks on violation of the procedural code.

The execution of court decisions, which remains low, particularly in cases where the state is obliged to compensate citizens.

The penitentiary system, the prison facilities, and the pre-trial detention centres are all considered to be below European standards.

With regard the Probation Services, the project is in line with the following priority in the draft National Strategy for Development and Integration 2007-2013 "Introduction of a structure for the application of alternative sentences".

2.6 Link with national/sectoral investment plans

NA

3- Description of the project

The present project regards the provision of technical assistance to the Ministry of Justice and the Judicial Institutions.

The technical assistance will be provided via two contracts:

- Contract 1.1 "Consolidation of the Legislative and Institutional Justice System"

Grant Agreement contract with a Member State (EUR 2.3 million). The Ministry of Justice will provide 5% of contribution in kind.

- Contract 2.1 "Support to the Establishment of the Probation Services and Alternative Measures to Detention"

Twinning contract with a Member State (EUR 1 million). The Ministry of Justice will provide 5% in kind contribution.

The technical assistance in the framework of Contract 1.1 and 2.1 will be provided by long term experts (LTEs) and short-term experts (STEs) for the implementation of the activities foreseen under these two contracts with a Member States.

3.1 Background and justification:

The present project intends to support the progress of the judicial system in Albania in accordance with the priorities of the EU *acquis* in Judiciary and Fundamental Rights.

Albania's progress on its European integration path is measured on the basis of criteria established by "Copenhagen" political criteria. The reform and development of the Albanian justice system is one of the key priorities in the SAA. The rule of law is a fundamental precondition for membership; setting the mechanisms that permit the rule of law to be implemented properly is a fundamental task for all political forces.

The present project of assistance to the Albanian Justice System is organised in two contracts: Contract 1.1 regards the consolidation of the legislative and institutional justice system.

It follows up on the previous assistance provided under the CARDS programme of assistance to the Albanian Justice System: EURALIUS I (June 2005 to November 2007) under which the main area of assistance were the following: Justice Organisation and Justice Reform, Inter-Institutional Dialogue and Cooperation, Improvement of Management Capacities of the Judiciary and Ministry of Justice, Improvement of Management of the Office for the Administration of the Judicial Budget (OAJB), Legislation Drafting in Justice Matters and Law Approximation, Penitentiary Issues, Enforcement of Rulings, Land Administration and EURALIUS II (November 2007- May 2010) which also focused on these area of assistance but also in addition on Criminal Justice and Immovable Property Rights issues ,

However, due to the complexity and sensitivity of justice related issues and the persistent deficiencies of the Albanian justice system, further support is needed to bring the Albanian system fully in line with European standards. Continuous long-term assistance is therefore necessary to ensure that the results achieved and lessons learned from the previous project will not be lost.

The issues that will be addressed by the present project fiche have been highlighted in the progress report 2008 as follows:

[...] Judicial procedures have remained slow and lack transparency. [...] A clear reform strategy and vision for the judiciary, going beyond adoption of individual pieces of legislation, is still missing. What is needed now is to adopt a comprehensive strategy on judicial reform, to complete the legal framework and to provide sufficient human and financial resources for implementation [...]. A law has been prepared on privatisation of the bailiff system for the enforcement of civil court rulings. However, enforcement of judgments by bailiffs remains slow. A computerised civil case management system is now installed in all courts and has been expanded to cover criminal cases. The system registers cases electronically and assigns them to judges randomly. However, further training on its use is needed. The court system continues to be problematic, with procedures remaining slow and non-transparent. [...] Overall, the independence, transparency and efficiency of the judiciary remain key European Partnership priorities to be addressed. [...]

Therefore, Contract 1.1. will particularly focus on one hand on the consolidation of the legislative justice organisation and justice reform issues, as well as on legislation drafting in justice matters and law approximation; and on the other hand, on the consolidation of the judicial system.

The execution of the final court judgments remains one of the cornerstones of the rule of law and of the democratic society and it is an integral part of the due legal process. Several judgments of the Constitutional Court and of the Court of Strasbourg shift the focus on the failure to take proper measures on the execution of the court judgments thus enabling the justice to be ideal but not practical. Each political program approved by the Assembly has targeted the execution of the court judgments in line with those of the countries of the Western Europe.

Court proceedings continue to be slow. The frequent postponements of scheduled trial hearings are among other reasons one main obstacle. Efforts need to be made to bring the necessary amendments of the Civil Procedure Code on its way which would enable judges to exercise more authority and subpoena powers or to hand down default judgment.

Presently, Albania has available the legal basis of a double system between the public and private operators of the bailiff system. The necessary legislation for introducing this two-track system were essentially a new law on the establishment of a private enforcement service and accompanying amendments and addenda to the Civil Procedure Code, which were approved by the Albanian Parliament in December 2008. In the first half of 2009 the Albanian Ministry of Justice was strongly engaged in undertaking necessary implementation measures in order to introduce the new two-track system in practice. Main priorities were the design of an electronic enforcement information system, the organisation of tests for the first private enforcement agents, which are supposed to take place before summer 2009 and the introduction of a new fee system. The latter is an important prerequisite for facilitating a serious business planning of candidates running for the positions of private enforcement agents. The system of private bailiffs has still not been established and made operational and it is comprehensible just like for any new system to have a primary need for training, drafting of bylaws, consultancy etc, in view of its consolidation. Also, a new philosophy and new way of perception is required for the execution of the court judgments to which the state is a debtor. Further, it is needed a comprehensive reform and harmonisation of the statistics for the execution of the court judgments for both systems.

Legislation to follow up on the February 2008 law on the organisation of the judiciary, respectively, draft bills on the judicial administration still need amendments.

Besides, judicial administrators need to be progressively incorporated into the civil service and ensure pay parity with ministry staff.

The court administration also needs its further training on task implementation toward the judicial power. The chancellors need to be trained on the implementation of their constitutional tasks originally stipulated by the new law "on judicial power". The key objective is that the new generation of chancellors is taken from a similar contingent under a recruitment procedure from the school of magistrates just like prosecutors and judges.

Additionally, the drafting of respective curricula of training and competition, recruitment procedures and extension of their continuous training is required. The training of chancellors and court administrators on the clear and balanced division of responsibilities among them, judges, secretaries and the public prerequisites also required.

Contract 2.1 regards the support to the establishment of a probation service and alternative measures to detention. The Albanian criminal justice system is mainly prison based, with lengthy sentences and very few alternatives to imprisonment imposed by the courts. The Criminal Code of Albania provides for some provisions of the alternative sentences to imprisonment, but many judges lack confidence in the execution of community sentences and measures (for example article 59 (suspending the execution of a sentence) has been applied by the courts only for 796 persons in 2003, for 1300 persons in 2004, for 1102 persons in 2005, for 945 in 2006 and for 710 persons in 2007). Their implementation is not secured due to the fact that Albania is one of the last countries in Europe where there is no operational probation service yet in place to be responsible for the supervision of offenders during execution of a community sentences.

The prison population in Albania has risen constantly and has reached the highest level during recent years by now – almost 5000 persons are detained when the capacity of the penitentiary system is currently only around 4000 places. Additionally there are about the same number of prisoners with Albanian origin in other European countries. The prison system is encountering severe overcrowding, poor hygiene, and medicine and food shortages. This is alarming and very costly, because overcrowding can only damage instead of rehabilitate the persons detained in prisons.

The European Commission's 2008 Progress Report highlights that *"Amendments to expand and facilitate application of alternative sentences have been drafted, but are progressing slowly. [...] in cases involving minors, judges do not sufficiently apply alternatives such as probation. Probation and parole are available as alternatives to detention, but there are no qualified social workers or probation officers to supervise them."*

Amendments to the Criminal Code and the Law on the Execution of Criminal Decisions have been adopted and provide the statutory framework which will allow for the greater use of alternative measures to detention for offenders in the criminal justice system. This new approach allows better reintegration into society of offenders and alleviate the social problems caused by inappropriate and excessive use of custody as a sanction. These reforms represent an important part of the reform of the Albanian criminal justice system.

However, for the alternative measures and sanctions to be effective in reducing the rate of re-offending, they have to have the confidence of the judges and prosecutors. This can gradually be achieved if the measures are implemented by a statutory established probation service with the requisite legal powers to implement the supervision of sentenced offenders and with well

trained, professional staff that is accountable under the law and to their professional ethics to carry out their duties.

The establishment of a Probation Service which can conduct pre-sentence reports and offer planned supervision of offenders in the community will encourage judges to impose more alternative sentences to detention. The project will provide assistance at the national level to the staff in the Ministry of Justice to enable a national lead, strategic planning, co-ordination, management and training in probation area. Locally the project will support the development of probation teams in different areas of the country, as resources and local conditions permit; also, support will be provided in building the capacity of these teams to expand and consolidate practice across the breadth of probation activity. Very importantly, an integral part of this project is the development of a modern probation information system as well as a national system of probation education, based in the University system, to provide a trained workforce.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact

Contract 1.1 "Consolidation of the legislative and the institutional justice system" will support the consolidation of the legislative and institutional justice system. The Albanian Justice system and the Albanian society as a whole will benefit from a more independent, transparent and efficient judiciary and from the proper execution of the court decisions, so respecting rights for the due process of law.

Review of constitutional provisions, and the check and balances of judicial powers and proper functioning of this principle. Support the drafting of a judicial reform strategy and its implementation. As a consequence, review and support the reorganisation of the different services of the Ministry of Justice (MoJ) and of institutions of the Judiciary and the definition of their respective competences, in order to ensure a clear and balanced division of responsibilities among them, as well to ensure an effective and efficient internal organisation.

The provision of trainings to the drafters of law at the Ministry of Justice will contribute to increase the efficiency of the drafting of legislation and a better compliance and approximation with EU standards and international agreements and conventions.

- The improvement of the quality of the legal drafting process will improve the capacity, and raise awareness of EU *acquis* of the General Directorate of Codification at the Ministry of Justice, in order to produce high quality legal texts and to speed up the process of approximation of legislation. Ensure the drafting process includes analysis of the costs and capacity of the Albanian authorities to effectively implement and enforce legislation. Assist in the drafting of legislation in detail and concrete terms.

- The revision of constitutional provisions, the check and balances of judicial powers will ensure a proper functioning of this principle and support the drafting of a judicial reform strategy and its implementation.

- Review and support the reorganisation of the different services of the Ministry of Justice and of the Judiciary and the definition of their respective competences will ensure a clear and balanced division of responsibilities among them and transparent and effective internal organisation.

- By providing training and recommendations on the organisation and monitoring of the court administrative staff's work (instructing on the implementing the IT system and setting their curricula and job description) will result in a better functioning of the computerised case management.

- By developing the case management and court administration capacities of the courts as well as by enhancing the managerial capacity of the relevant structure in charge of the Ministry of Justice, the transparency and efficiency of the judicial process will increase.

- To improve the Bailiff's Office performance will raise the enforcement rates of judicial rulings in Albania.

- By supporting the establishment of a private bailiffs system and the improvement of the existing public sector of bailiffs, Albania will have an increased number of the executed court decisions.

Contract 2.1 "Support to the Establishment of the Probation Services and Alternative Measures to Detention " will contribute towards increased efficiency of the law enforcement system through improving the supervision and rehabilitation of conditionally sentenced and released offenders in Albania. A strong national probation service delivering constructive flexible community penalties eases financial and population pressure on the prison system. It allows prisons to concentrate on their core task of security and on rehabilitation which can be reinforced post-release. An increased use of the alternatives to imprisonment and supervising offenders in the community will reduce the crime,

overcrowding in prisons as well as the costs and negative effects of unnecessary imprisonment. This will also make possible reviewing and re-allocating of limited resources in the criminal justice system. Such initiative will therefore assist Albania in its efforts to meet European standards in this area.

The project will support the development of a national probation service in Albania to improve the treatment of those entering the criminal justice system, through development of alternatives to imprisonment and diversion. This will help offenders reintegrate into society and alleviate the social problems caused by inappropriate and excessive use of custody as a sanction.

3.3 Results and measurable indicators:

Results and indicators in relation with Activity 1 "Consolidation of the legislative and institutional justice system"

This activity will be implemented with a technical assistance support provided via a grant agreement with a Member State (contract 1.1) and will be organised in two components:

Component 1 - Consolidation of the legislative system

Results

Improved quality of the legislative process related to justice affairs and approximation of Albanian legislation; Increased observance of the European Convention on Human Rights in justice-related legislation and practice; Improved consultation and transparent process for the drafting of legislation; Legislation drafted in accordance with EU practices and standards.

Indicators

Number of high quality draft laws; Number of approximated laws in compliance with the *acquis communautaire*; Around 15 legal experts trained on drafting laws; Standard consultation procedure for legislative drafting established.

Component 2 - Consolidation of the judicial system

Results

Improved efficiency of the courts and of the prosecutor's offices; Shortening of court proceedings; Better trained judges, prosecutors, court administrative staff and other actors involved in the judiciary; Effective management of the IT system in the courts established; Improved organisational structures of the Courts and prosecution offices; Increased impartiality, effectiveness, transparency and professionalism of services in the courts; Legal aid system established and functioning ; Reduction in the number of non implemented court rulings; Consolidation of the organisation of private bailiffs and National Chamber of Bailiffs;

Indicators

Number of trained prosecutors (30-50 prosecutors), judges (30-50 judges), lawyers, judicial police officers (30-50 officers) and court administrative staff (27 chancellors and 100 -150 secretaries); Computerised case management system used and functioning in all courts, relevant users trained; Statistics for the short time process in courts and data collection system in function; Approved standard formats for all reports produced by prosecutor's office and the courts; Private Bailiff System functioning ; Number of trained public bailiffs (50 people) and private bailiffs (50 people); Increased number of execution of the court decisions.

Results and indicators in relation with Activity 2 Support to the Establishment of a Probations Service

This activity will be implemented by a technical assistance support provided via a Twinning project with a Member State (contract 2.1) , which will include the mobilisation of a Resident Twinning Adviser in Albania and a team of Short Term Experts as well as a team Leader in the Member State.

Results :

A probation case record and data collection system created; Standards, procedures and criteria for qualification, selection and recruitment of probation officers developed ;Probation training strategy and curriculum prepared and training delivered; Probation officers received appropriate level of training and education; Trained team of trainers prepared; Study materials on social rehabilitation work with offenders developed and published; Judges, prosecutors and other criminal law practitioners briefed on probation work; Probation structures on central and local level built; Probation teams adequately accommodated and equipped; Increased use of alternatives to custodial sanctions and measures facilitated; Active involvement of the community in the social reintegration of the offenders; Public tolerance regarding the probationers increased.

Indicators:

Probation structures functioning; Developed curricula for initial and in-service training for probation officers and related staff; Number of Probation staff trained; Training of trainers conducted; Courts and prosecution offices using probation services and alternatives to custody; Criminal law practitioners including judges, prosecutors and police briefed; Case management and data collection system in function; Approved standard formats for all reports produced by probation officers; Equipment purchased and put in operation; A proactive public relations strategy in place; Public openness regarding the probation procedures; Inter-agency cooperation at national and local level

3.4 Activities

Activity 1- Consolidation of the legislative and institutional justice system

This activity regards the provision of a technical assistance to the Ministry of Justice and the institutions of the judiciary and will be implemented through a Grant Agreement with a Member State (contract 1.1), and will include the mobilisation of a team of Long Term Experts (LTE) in Albania, complemented by the assistance of Short Term Experts (STE). This TA will carry out the following activities organised in two components :

Component 1 - Consolidation of the legislative system

Main Beneficiary: MoJ - General Directorate of Codification

Secondary beneficiary: School of Magistrates

Assist the members of the General Directorate of Codification, in legal drafting/ approximation processes and Justice reform/organisation by:

- Developing a methodology of legislative drafting Improvement the quality of consultation procedures for legislative drafting
- Organisation of a series of training activities with lawyers of the General Directorate of Codification and other drafters on the quality of legal drafts. (15 legal experts)
- Provision of expertise and advice on legislation at the request of the MoJ regarding legislation on subordinated institutions.
- Assistance in realising a clear plan for the approximation and harmonisation of the Albanian legislation of justice towards EU standards.
- Training staff on legislation drafting on the base of this plan for the approximation and harmonisation of the Albanian legislation of justice towards EU standards.
- Assistance in drafting of new legislation established in the yearly analytical program of the Ministry of Justice.
- Assistance in developing and implementing a method for the assessment and continuous monitoring of the implementation of the European Convention on Human Rights in the domestic legislation.
- Provide assistance in drafting legislation in Justice Reform and Justice Organisation processes.

Component 2 - Consolidation of the judicial system

Main beneficiary: MoJ- (General Department on Legal Matters, Office for the Administration of the Judiciary Budget),

Secondary beneficiary: High Council of Justice, General Prosecutor Office, School of Magistrates, Albanian Bar Association.

Long Term Experts (IT, legal matters pertaining to Case Management and Enforcement) support the increase of transparency and efficiency of the judicial process by strengthening case management and court administration capacities, as well as the managerial capacities of the MoJ structures by:

- Providing assistance for the IT system in the MoJ on how to monitor and assist the IT of the courts.
- Assistance and training to upgrade the computerised case management.
- Expertise for the courts IT to make the computerised system more reliable providing necessary equipment (software and hardware) according to their specific needs, to complete the functioning of links between judicial system, courts, prosecutor offices, criminal record office and Ministry of Justice.
- Training of Court Administration on recording, filing, storage, retrieval of court records and case statistics based on subject matter grounds, different data upon requested.
- Expanding training Curricula with the school of Magistrates.
- Assistance in drafting concrete curricula in dealing/using the computerised case management system including data protection.
- Expertise on the drafting of job description of court administration and other experts (social workers, psychologists, etc).
- Training of Chancellors on up to date case management practices according with their managerial duties and competencies established by the law “Judicial Power Law”.
- Expertise in defining the rules of communication of courts with the public.
- Organising of a series of seminars, analytical studies, roundtables, and workshops with the judges, prosecutors, lawyers on the organising and functioning of legal aid system, mediation, arbitration, etc. (MoJ legislative initiatives).
- Assistance to the Albanian Bar Association in the establishment of a methodology on the legal aid process.
- Providing assistance in the creation and functioning of a database system on data regarding the international judicial cooperation in terms of extradition, rogatory, recognition and enforcement of foreign judgement, even criminal or civil one, transfer of criminal proceedings.
- Training the experts of the Office for the Administration of the Judiciary Budget on how to implement recommendations aiming at the economisation of expenditures of judicial budget resources.
- Assistance in the creation of a database for the information and statistics about expenditure reports given by the OAJB.
- Assistance in drafting internal legal acts for Bailiffs.
- Assistance in drawing up and implementation of a project on statistics for Bailiffs.
- Design a training of trainers programme for the private bailiffs.
- Development of curricula for initial and in-service training for the bailiffs.
- Develop standard formats for bailiff information reports to judges and prosecutors.
- Conduct a systematic analysis on the education and training needs of the existing bailiff service staff and agree a programme to meet the identifying needs.

Besides, assistance will be provided to strengthen the awareness on EU *acquis*, best practices and international standards by:

- Training judges and prosecutors on human rights, ethics, commercial and corporate matters, international judicial cooperation and development of respective curricula in these areas.
- Training the experts of the International Judicial Cooperation Department on international law, European law, and approximation of international agreements with the domestic law, more particularly on:
 - Best practices from new Member States – on approximation of the law in compliance with the *acquis communautaire* in the area of international judicial cooperation, and its transposition /drafting in the domestic legislation.
 - The application of *acquis* acts and concrete practices of international judicial cooperation in criminal matters between the EU countries.
 - The application of *acquis* acts and concrete practices of international judicial cooperation in civil matters, between the EU countries;
 - Facilitation of extradition procedures and inter-institutional cooperation;
 - Comparative view on conditions and guarantees for the observance of a fair judicial trial in view of granting the extradition;
 - Establishment and role of joint investigation groups, intelligence service and video-conferences and the most contemporary methods of international judicial cooperation in specific cases of mutual legal assistance for serious crimes such as organised crime, terrorism, traffics of all types, corruption, seizures and confiscations of crime products, money laundering and Cyber crime;
 - Domestic legislations and concrete cooperation on the recognition and execution of foreign criminal judgments in compliance with the *acquis communautaire*;
 - Cooperation of authorities of justice for speeding up and applying the procedures on the transfer of criminal proceedings: the role of the prosecutor's office and of the courts.
 - The role of the courts and of the prosecutor's office on "the custody of the persons released on parole".

Activity 2 Support to the Establishment of a Probations Service and to the development of alternative measures to detention

This activity will be implemented through a Twinning project with a Member State (contract 2.1). The Twinning project will focus on the following activities:

Component 1 - Support to the Ministry of Justice for implementing the national probation standards and probation service methodologies

Main Beneficiary: MoJ - General Directorate of Probations

Secondary beneficiary: General Directorate of Prisons, Court, Prosecutor offices

Through a process of advice and monitoring by a long term Expert (LTE) to the Ministry of Justice assist in:

- Updating the probation development strategy and yearly action plans
- Providing Pre-trial information to prosecutors / bail information reports.
- Supervising pre-trial cases.
- Providing victim related services including support, victim-offender mediation and restorative justice practices.
- Preparation and writing pre-sentence reports for the courts.
- Sentence and supervision planning in case of offenders sentenced with alternatives to imprisonment (including obligations for unpaid work, prohibited activities, mental health treatment, group and individual programme to address behaviour such as violence, sex offending, drug/alcohol abuse, domestic violence etc.).
- Preparation and writing of pre- release reports.
- Supervision of conditionally released prisoners.
- Appropriate enforcement of community sentences, securing the offender's cooperation and compliance with the order/obligations imposed by the courts.
- Work with other agencies, particularly the courts, police, prosecutors and prison service based on protocols at the local level.
- Monitoring the performance against the Standards and the outcomes of the probation work.

Component 2 - Creating a probation information system which enables political and management decisions to be made on the basis of accurate information, informs developments and targeting and can demonstrate the efficiency and effectiveness of probation work

Main Beneficiary: MoJ - General Directorate of Probations

Secondary beneficiary: General Directorate of Prisons, Court, Prosecutor offices:

- Develop common case record and data collection system to be used by probation officers in their supervision of offenders which could be linked with the prison, prosecution and court info systems
- Develop with the appropriate authorities of the requisite legal documentation that will be required for each of the new measures
- Develop standard formats for reports to judges and prosecutors (bail information reports; pre-sentence reports; supervision plan/reports; pre-release reports, risk assessment reports)

- Train probation staff from local and central level as probation information managers in order to assist all probation teams to understand how to use information as a resource

Component 3 - Designing the training strategy, preparing the training curriculum and training the probation staff (30 - 40 people)

Main Beneficiary: MoJ - General Directorate of Probations

Secondary beneficiary: Ministry of Education, General Directorate of Prisons, Court, Prosecutor offices

- Update and implement the probation education and training policy.
- Update the training curriculum for the probation service agreed by the Ministry of Justice and universities (Schools of Social Sciences) involved in delivery the training
- Update the standards, procedures and criteria for qualification, selection and recruitment of probation officers Conduct a systematic analysis of the education and training needs of the existing staff and agree a programme to meet the identifying needs
- Design a training of trainers programme Design a in-service training provision
- Manage the delivery of the training by Short Time Experts throughout the project
- Deliver by use of Short Time Experts a programme to train staff to become the future trainers of the Albanian Probation Service
- Deliver training to probation managers at central and local level, as well as training of probation inspectors
- Establish a Probation Fellowship Programme/ Practice Facilitators to place for up to two months probation officers from EU countries in the Albanian probation teams; and to give Albanian probation officers experience of short-time (one month) working in probation services in the EU countries.
- Organise study visits designed for probation staff, judges and prosecutors to EU Member States in order to get familiar with and see the probation services in action

Component 4 - Developing probation offices in different regions of Albania

Main Beneficiary: MoJ - General Directorate of Probations and Local Probations Services Offices:

- Support setting up new probation offices and assess the required probation staff for each region based on criminal justice statistics and criminological analysis of case data
- Set up and maintain an advisory group comprising heads of probation projects, information manager from headquarters, representatives of judiciary, prosecutors, OSCE experts and other key persons
- Prepare a formal review process of the pilot projects and conduct a continual assessment of each area
- Review of the pilot probation projects.

Component 5 - Developing and implementing a public relations strategy and briefing of judges, prosecutors, police, prison service, local authorities and NGOs about the probation system

Main Beneficiary: MoJ - General Directorate of Probations

Secondary beneficiary: General Directorate of Prisons, Court, Prosecutor offices:

- Identify and develop protocols with NGOs all over the country to work in partnership for ensuring that all the requirements of the probation legislation can be implemented throughout Albania
- Develop protocols with police, judges, prosecutors, General Directorate for Prisons, local authorities and other Government departments in order to ensure maximum cooperation, best possible working environment and understanding
- Conduct probation briefings and seminars for judges, prosecutors, police, prison staff, local authorities, social services and NGOs in the pilot areas
- Prepare a public relations strategy and its action plan

3.5 Conditionality and sequencing:

The project will be dependent on the following conditions (not exhaustive):

- The identification of the lead beneficiary given the lead role of the Ministry of Justice in the Justice Reform process, the lead beneficiary should be the Ministry of Justice.
- The agreement to co-locate the advisers within the relevant beneficiary premises and the agreement of co-financing in kind. No provision will be made in budget for the rental of separate premises.
- Commitment to provide a vehicle to experts when required (it is foreseen that most activity will be in Tirana but regional travel will be required and the beneficiary institution(s) should provide when required.
- Full commitment of the Ministry of Justice and Institutions of the Judiciary involved to work towards the achievements of the project objectives including specialists in all this process as well as other facilities to make the objectives of this project fulfilled.
- In parallel with international assistance programmes, the Government shall gradually allocate more funds from the national budget to sustain from its own resources the progress in justice reform.
- The PIU office in the Ministry of Justice coordinates the programming process, good enough human resources in the PIU structures.
- Endorsement of the terms of reference and involvement in the process of the selection of the experts of the Grant agreement and Twinning by the Albanian Authorities.

- The Albanian Authorities have to appoint a project focal point for each of the project.
- The Albanian Authorities must closely co-operate with the twinning partner/grant beneficiary and with each other in the widest possible sense. This includes making officials available for training and accepting to maintain them in the relevant posts thereafter, providing all necessary information to advance the project objectives, and facilitating the work of the project staff.

3.6 Linked activities

The activities foreseen under this fiche will follow up on recommendations and assessment of previous assistance and complement efforts of the Albanian authorities which are also supported by the EU and other organisations. The main projects directly relevant and close to the assistance proposed under this project fiche are the following:

- **EURALIUS II project**

This project is a follow up of the previous assistance provided under the CARDS programme to the Justice System and its institutions in Albania. EURALIUS II started on November 2007 as an immediate follow-on Mission of EURALIUS I, which had been implemented during the period 13 June 2005 to 15 November 2007.

The main area of this assistance is to further support and bring the Albanian system fully in line with European standards on assisting Justice Organisation and Justice Reform, Inter-Institutional Dialogue and Cooperation, Improvement of Management Capacities of the Judiciary and MoJ, Improvement of Management of the Office for the Administration of the Judicial Budget (OAJB), Legislation Drafting in Justice Matters and Law Approximation, Penitentiary Issues, Enforcement of Rulings, Immovable Property Rights / Land Administration.

Therefore, it is essential that the succeeding IPA 2009 follows up on the accomplishments of EURALIUS II (and other projects in the sector) and continues to focus on the some of its specific objectives in order to reach sustainable results.

- Training of Court Administrators (CARDS 2003);
- Equipment for Court Administrators (CARDS 2004) implementation of a Computerised Court Management System;
- Establishment of Judicial Systems in Juvenile and Commercial Matters (CARDS 2004);
- Support to the sustainability of the School of Magistrates (CARDS 2005);
- Twinning Support to the High Council of Justice and its Inspectorate (CARDS 2004);
- United States Agency for International Development (USAID): Pilot "Courts' administration reform project", in cooperation with the MoJ and the Office for the Administration of the Judiciary Budget;
- Assistance to the Government of Albania on the Approximation of Legislation to EU standards financed by the German Technical Cooperation Office (GTZ);

Regional projects in the Western Balkans:

- The project 'Balkan Enforcement Reform Project' (BERP) is to support the countries of the Western Balkans in ensuring a more efficient and effective functioning of the systems of enforcement law at the national and at the regional level.
- Development of monitoring instruments for the JHA institutions of the Western Balkans (CARDS 2006) to provide guidelines for the gathering of statistics and develop clear, measurable, and objective benchmarks and indicators for measuring and monitoring anti-corruption performance, and produce an assessment of anti-corruption performance in the region.
- The ongoing CARDS 2006 regional project "*Support to the Prosecutors' Network*" focuses on strengthening the legislation and institutional capacities of Prosecutors' Offices (POs) of South-eastern Europe in view of a more effective co-operation against serious crime.
- The ongoing CARDS 2005 regional project "*ILECUs*" supports the creation of special international law enforcement coordination units in the beneficiaries with a view to supporting the exchange of information in international investigations and facilitating contacts on an operational level. These units will be integrated in national criminal intelligence models and supported by proper data protection and confidentiality regimes.

3.7 Lessons learned

The Albanian authorities have to continue their efforts to improve as far as reasonably possible the employment conditions (status, salary, allowances, etc.) of civil servants and other staff members of the judiciary. In parallel, with international assistance programmes, the Government has to gradually allocate more funds from the national budget to sustain from its own resources the progress in justice reform.

This project will have to put a strong emphasis on continuation of what has been achieved under the implementation of previous projects in the sector, in order to make possible to carry out the necessary legislative changes and administrative and justice reforms.

A clear reform strategy and vision for the judiciary, going beyond adoption of individual pieces of legislation, is still missing. There is the need to adopt a comprehensive strategy on judicial reform, to complete the legal framework and to provide sufficient human and financial resources for its implementation.

4. 4. Indicative Budget (amounts in EUR)

				SOURCES OF FUNDING								
			TOTAL EXP.RE	IPA COMMUNITY CONTRIBUTION		NATIONAL CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	INV (1)	EUR (a)=(b)+(c)+(d)	EUR (b)	%(2)	Total EUR (c)=(x)+(y) +(z)	% (2)	Central EUR (x)	Regio nal/ Local EUR (y)	IFIs EUR (z)	EUR (d)	% (2)
Activity 1 Consolidation of the legislative and institutional justice system	X		2.3 M									
contract 1.1	X	–		2.3 M	70	0	0	0	0	0	0	–
Activity 2 Establishment of the Probation Services - Twinning		X	1.0 M									
Contract 2.1	–	X		1.0 M	30	0	0	0	0	0	0	–
TOTAL IB			3.3 M	3.3 M	100	0	0	0	0	0	0	
TOTAL INV			-	-	-	-	0	0	0	0	0	
TOTAL PROJECT			3.3 M	3.3 M	100							

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1.1 Grant Agreement	1 st Quarter 2010	4 th Quarter 2010	3 rd Quarter 2012
Contract 2.1 Twinning	4 th Quarter 2009	4 th Quarter 2010	3 rd Quarter 2012

All projects should in principle be ready for tendering in the 1ST Quarter following the signature of the FA.

6. Cross cutting issues

6.1 Equal Opportunity

The principle of equal opportunity will be integrated into all stages of the project implementation, in conformity with the Albanian Constitution which provides for equal opportunity for men and women be treated equally despite of their race, nationality, gender, origin, religious and political beliefs.

Appropriate professional qualifications and experience will be the main factors of personnel recruitment and evaluation. The applications shall be evaluated objectively and non-discriminatively. All periodical progress review reports and other interim reports will include a specific explanation on measures and policies taken with respect to participation of women and equal opportunity for women and men and will provide measurements of achievement of this goal.

The project will develop strategies for effective implementation of equal opportunities and anti-discriminatory policies. The desired outcomes include the establishment of Probation as an activity which positively and actively promotes human rights offering a fair and equal service. The interventions will therefore include monitoring of data in all activities, information gathering and monitoring in inspections to enable targeting and strategy building. The project will ensure that issues of human rights and anti-discriminatory practices are included in all training events and practice guidance.

6.2 Environment

N/A

6.3 Minorities

Based on the fundamental principles of promoting equality and combating discrimination, participation in the project will be guaranteed on the basis of equal opportunity for minorities. A more efficient justice system will assure that rights of minorities will be respected and enforced.

ANNEXES

- 1- Log frame in Standard Format
- 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme
- 3- Description of Institutional Framework
- 4 - Reference to laws, regulations and strategic documents:
Reference list of relevant laws and regulations
Reference to AP /NPAA / EP / SAA
Reference to MIPD
Reference to National Development Plan
Reference to national/sectoral investment plans
- 5- Details per EU funded contract

ANNEX 1: Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX FOR Project Fiche		IPA 2009	
Consolidation of the legislative and institutional justice system in Albania & Development of Probation Service in Albania		Contracting period) expires 2 years following the conclusion of the Financial Agreement	Disbursement period expires 1 year following the end date of the execution of contracts
		IPA budget: EUR 3.3 million	Total budget : EUR 3.3 million
Overall objective	Objectively verifiable indicators	Sources of Verification	
The overall objective of the project is to improve the functioning of the justice system in Albania in accordance with EU and international standards, to facilitate the development of a more independent, impartial, efficient, professional, transparent and modern justice system in Albania and to contribute for the consolidation of democracy based on the rule of law in Albania as required by the Stabilisation and Association Agreement.			NA
Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
The specific objective of the project is to strengthen the capacities of the Ministry of Justice and institutions of the judiciary in improving the quality of legislation and its implementation, foster case management, court administration and enforcement of rulings.		-Albanian laws and regulations, EU directives, Ministry of Justice monthly, quarterly, semi-annual and annual reports. -Ministry of Justice statistics -EU Adviser Reports -Regular report of the EU Commission, -GoA reports	GoA commitment That the Beneficiaries provide cooperation and availability. That the GoA maintains it's stated commitment to improve the quality of legislation and strengthen the judiciary independence and the create the conditions for the respect of convicted rights
Results	Objectively verifiable indicators	Sources of Verification	Assumptions
<u>Contract 1.1</u> "Consolidation of the legislative and institutional justice system" (Grant Agreement with MS) - Results Component 1 - Improve the quality of the legislative process related to justice affairs and approximation of Albanian legislation - Strengthen the rule of law by implementing in the domestic legislation	<u>Contract 1.1</u> Indicators Component 1 Consolidation of the legislative system - Number of high quality draft laws - Number of Approximated laws with acquis communautaire - Around 15 legal experts trained on	- Regular report of the EU Commission - GoA reports - EU Adviser Reports - MoJ annual statistics - Statistics on executive decisions of judiciary - Regular report of the EU Commission - GoA reports - EU Adviser Reports	<u>Contract 1.1</u> The beneficiary maintains its stated commitment to fulfil with its obligations under the international agreements and conventions (of witch it takes part), respect the judiciary and other justice system institutions independence and help their functioning compliant with human rights and the rule of law. <u>Contract 2.1</u> The beneficiary maintains its stated commitment to respect the rights of convicted persons establishing the rules of functioning of the probation service

the European Convention on Human rights. • Improve the consultations and transparent process for the drafting of legislation. • Legislation drafted in accordance with EU practices and standards. • Results component 2 • Improved efficiency of the courts and the prosecutor's office. • Better trained judges, prosecutors, court administrative staff and other actors involved in the judiciary. • Effective management of the IT system in the courts. • Increase the efficiency of the court system, administration of the courts and prosecutors office by improving the management of all aspects of the legal system. • Increase the impartiality, effectiveness and professionalism of services in the courts. • Increase of transparency of the courts' work and complete delineation of the courts judicial administration relations, in order to organise the justice service at a high level. • Improve organisational structures of the Courts • Better co-operation between the judiciary and other law enforcement bodies. • Improved Access to Justice • Reduction in the number of non implemented court rulings. • Enforcement of rates of judicial rulings towards average EU levels. • Consolidation of the organisation of private bailiffs and National Chamber of Bailiffs; • <u>Contract 2.1</u> Support to the Establishment of a Probations Service and development of Alternative measures (Twinning) ⇒ A probation case record and data collection system created ⇒ Standards, procedures and criteria for	drafting laws • Standard consultation procedure for legislative drafting established <u>Indicators Component2</u> - Consolidation of the judicial system • Number of trained prosecutors (30-50 prosecutors), judges (30-50 judges), lawyers, judicial police officers (30-50 officers) and court administrative staff (27 chancellors and 100 -150 secretaries). • Computerised case management system used and functioning in all courts, relevant users trained. • Statistics for the short time process in courts and data collection system in function. • Approved standard formats for all reports produced by prosecutor's office and the courts. • Private Bailiff system functioning. • Number of trained <u>public bailiffs</u> (50 people) and private bailiffs (50 people). • Number of execution of the court decisions. <u>Contract 2.1</u> <u>Indicators</u> ⇒ Probation structures functioning. ⇒ Developed curricula for initial and in-service training for probation officers and related staff ⇒ Probation staff trained. ⇒ Training of trainers conducted. ⇒ Courts and prosecution offices using probation services and alternatives to custody. ⇒ Criminal law practitioners including judges, prosecutors and police briefed. ⇒ Case management and data collection system established. ⇒ Approved standard formats for all reports produced by probation officers.	- MoJ annual statistics - Reports of national and international human rights organisations - Opinion polls	and creating the conditions for high quality activity of this structure.
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qualification, selection and recruitment of probation officers developed ⇒ Probation training strategy and curriculum prepared and training delivered ⇒ Probation officers received appropriate level of training and education ⇒ Trained team of trainers prepared ⇒ Study materials on social rehabilitation work with offenders developed and published ⇒ Judges, prosecutors and other criminal law practitioners briefed on probation work ⇒ Probation structures on central and local level built ⇒ Probation teams adequately accommodated and equipped ⇒ Increased use of alternatives to custodial sanctions and measures facilitated ⇒ Active involvement of the community in the social reintegration of the offenders ⇒ Public tolerance regarding the probationers increased.	⇒ Equipment purchased and put in operation. ⇒ A proactive public relations strategy in place. ⇒ Public openness regarding the probation procedures. ⇒ Inter-agency cooperation at national and local level.		
Activities	Means	Costs	Assumptions
<u>Contract 1.1</u> Component 1 Consolidation of the legislative system Component 2 Consolidation of the judiciary system <u>Contract 2.1</u> Component 1 - Support to the Ministry of Justice for implementing the national probation standards and probation service methodologies Component 2 - Creating a probation information system which enables political and management decisions to be made on the basis of accurate information, informs developments and targeting and can demonstrate the efficiency and effectiveness of probation work Component 3 - Designing the training strategy, preparing the training curriculum and training the probation staff Component 4 - Developing probation offices in	<u>Contract 1.1</u> Implemented through a Grant Agreement contract with a Member State. LTEs and STEs Seminars Roundtables Study reports Monitoring reports Trainings Training materials Study visits <u>Contract 2.1</u> Implemented through a Twinning contract with a Member State. 1 RTA , 1 TL and additional STEs Seminars Roundtables	<u>Contract 1.1</u>: EUR 2.3 million <u>Contract 2</u>: EUR 1.0 million	<u>Contract 1.1 Grant Agreement with a Member State includes the following activities:</u> <u>Assumptions Component 1:</u> The beneficiary maintains its stated commitment to fulfil with its obligations under the international agreements and conventions (of which it takes part), and enact new legislation compliant with the abovementioned. <u>Assumptions Component 2:</u> The beneficiary maintains its stated commitment respect the judiciary and other justice system institutions independence and help their functioning compliant with human rights and the rule of law. The beneficiary maintains its stated commitment to provide for a legal ground for the functioning of the private bailiff system, to support the private bailiffs by means of facilitating the procedures of their work to the final end of increasing the number of executed court decisions. <u>Contract 2.1: Twinning contract with a Member State includes the following activities:</u> <u>Assumptions Component 1:</u> The beneficiary maintains its stated commitment to create the condition for respecting the rights of the persons in pre-trial and to the convicted with one of

different regions of Albania Component 5 - Developing and implementing a public relations strategy and briefing of judges, prosecutors, police, prison service, local authorities and NGOs about the probation system	Study reports Monitoring reports Trainings Training materials Study visits	the alternatives to imprisonment by establishing the rules of functioning of the probation service and creating the conditions for high quality activity of this structure. Full commitment of the Ministry of Justice and other involved authorities involved in development of probation services in Albania. <u>Assumptions Component 2:</u> The beneficiary maintains its stated commitment to offer support in creating a database system for probation cases and establishing standard rules and procedures for reporting. <u>Assumptions Component 3:</u> The beneficiary maintains its stated commitment to establish cooperation memorandums with the Ministry of Education and other institutions involved for creating a training curricula and for defining the standards, procedures, criteria for recruitment of probation officers. The Ministry of Education and universities support and contribute to the development of probation curricula and to the training. The beneficiary maintains its stated commitment to develop a training programme for trainers and probation inspectors and to establish a sustainable training system. <u>Assumptions Component 4:</u> The beneficiary maintains its stated commitment to support the establishment of the probation offices throughout the country providing for staff, accommodation and equipment for the probation service. Albanian authorities will identify and allocate office space for all local probation offices in regions. <u>Assumptions Component 5:</u> The beneficiary maintains its stated commitment to establish protocols of cooperation with NGO-s, The General Directorate of Prisons, Government Departments and local authorities to the better functioning of the probation service. The beneficiary maintains its stated commitment to support the establishment of a strategy to address the public impact of the probation service. Judges, prosecutors and staff from the MoJ provide active support in implementing the alternatives to imprisonment.
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ANNEX 2: amounts (in million EURO) Contracted and disbursed by quarter for the project

Contracted	2 nd Quarter 2010	3 rd Quarter 2010	4 th Quarter 2010	1 st Quarter 2011	2 nd Quarter 2011	3 rd Quarter 2011	4 th Quarter 2011	1 st Quarter 2012	2 nd Quarter 2012	3 rd Quarter 2012	4 th Quarter 2012
Contract 1.1 Grant Agreement			2.30								
Contract 2.1 Twinning project			1.00								
Cumulated			3.30								
Disbursed											
Contract 1.1			0.80			1.20					0.30
Contract 2.1			0.40			0.50					0.10
Cumulated			1.20			2.90					3.30

ANNEX 3

Description of Institutional Framework

Ministry of Justice, in compliance with Constitution, law no. 8678, dated 14.05.2001 “On organisation and functioning of Ministry of Justice” (amended) and the by-law acts issued in application of it as well as the Internal Regulation of Ministry of Justice has the duty and the responsibility for the conception and implementation of state general policies on justice system issues. In order to realise these legal and constitutional obligations, Ministry of Justice has the authority to compile and follow the policies, to prepare laws and by-law acts, to offer legal assistance through the opposition of legal initiatives carried by other institutions and participation in the working groups, which are created for this purpose. Ministry of Justice also exercises the necessary services related to the judicial system, to the system of executing the penal and civil decisions, to the system of free juridical - professional services, international cooperation in the penal and civil field, other judicial fields and its competence according to the law, and for the co-ordination, harmonisation and reformation of the Albanian legislation as a whole.

In compliance with the legal framework which regulates the activity of Ministry of Justice and with the program of the Government, the Ministry of Justice is committed to fulfil all its functions with a clear vision and high rhythm, where the most important role is the Reform in Justice. The whole activity of the Ministry of Justice is described from the objective declared in the Program of the Government “*on returning the power of the legal state, where laws are fully applied and equally for everyone, dismantling the systems of corruption*”. The Reform in Justice is designed to take measures of a legal, institutional and administrative character, which aim to strengthen the legal state, to return citizens trust on justice, the combat without compromise against corruption and the transparency of the work of the judicial organs.

Beginning with the importance and the role of the Ministry of Justice in the judicial system, in the function of the Reform in Justice undertaken by the Albanian Government, this Ministry has broken this reform down into two levels:

- In the legislative level, paying special attention to the compilation and improvement of the legal framework in almost all the fields of the judicial system, realised by the General Directorate of Codification; and
- In the executive level of the legal framework through verification/control in practice of the legal framework, identification of needs for changing the existing legal framework and taking measures for a general prevention by the General Directorate of Judicial Issues

The realisation of the Reform has always taken into consideration the objectives foreseen in the Partnership document, recommendations of CTF and National Plan for the Application of Stabilisation Association Agreement, intensifying for this purpose the close cooperation with the international partners. As a result of this cooperation it has been achieved:

- improvement of the legal framework in the field of justice and the bringing it closer to the international standards;
- deepening the combat against the corruptive appearances in the judicial organs through the improvement of the status of the employers in these organs and the exercising of the disciplinary procedures through continuous inspections;
- transparency in the work of the judicial organs;

- intensification and the efficiency of the international judicial cooperation;
- improvement of the judicial power infrastructure;
- noticeable improvement of the living conditions and the treatment of convicts;
- rapid execution of the judicial decisions.

The Reform in Justice in the legislative level is perceived by the Ministry of Justice as a process including justice delivery which starts with the submission of acts in trial up to the execution of judicial decisions. This process includes three components:

- (i) Improvement of organisation and functioning of courts;
- (ii) Improvement of organisation and functioning of the operators participating in trial; and
- (iii) Improvement of the procedures, as well as organisation and functioning of the operators in the execution of the judicial decisions.

If we were to use as a measuring standard the positioning of the judicial system operators against the procedural moment of giving the judicial decision by the courts for disagreement as the object of adjudication, then the reforming point of view of the Ministry of Justice is from the operators in the centre to the periphery. Thus, from the central procedural subject the court (the law for the organisation of the judicial power, draft-law for the administrative courts, draft-law for the judicial administration), in a way to continue with the operators which are closer to it such as the parties in adjudication (prosecutor office, solicitors, state advocacy) and to conclude with the preliminary peripheral following operators against the judicial process (notary, mediators, judicial police, judicial bailiffs, probation). This point of view doesn't imply the specific importance of each of these operators but neither denies the importance of each of them in the functioning of the judicial system.

ANNEX 4 -Reference to laws, regulations and strategic documents:

Reference list of relevant laws and regulations:

Contract 1.1.

Reference list of relevant laws and regulations:

- ❖ Law No. 8417, dated 21.10.1998 On approval of the Constitution of the Republic of Albania”;
- ❖ Law No. 7850, dated 29.7.1994 “Civil Code of the Republic of Albania” ;
- ❖ Law No. 8116, dated 29/03/1996 “Code of Civil Procedure of the Republic of Albania” ;
- ❖ Law No.7895 dated 27.01.1995 “Criminal Code of the Republic of Albania”, amended ;
- ❖ Law No. 7905, dated 21.3.1995 “Code of Criminal Procedure of the Republic of Albania”, amended ;
- ❖ Law No.8678, dated 14.05.2001 “On the Organisation and Functioning of the Ministry of Justice”;
- ❖ Law No.8136, dated 31.7.1996 “On School of Magistrates of the Republic of Albania”;
- ❖ Law No. 9877, dated 18.02.2008, “On organisation and functioning of the judicial power in the Republic of Albania” ;
- ❖ Law No.8328, dated 16.4.1998 “On rights and treatment of imprisoned persons”;
- ❖ Law No. 8331, dated 21.4.1998, “On execution of criminal judgments”;
- ❖ Law No 10 031, dated 11/12/2008 “On private judicial bailiff service”;
- ❖ Law No. 10 039, dated 22/12/2008 “On legal assistance”;
- ❖ Law No. 9109, dated 17.7.2003 "On lawyer’s profession in the Republic of Albania”;
- ❖ Law No. 8737, dated 12.02.2001 “On organisation and functioning of the Prosecutor’s Office in the Republic of Albania”;
- ❖ Law No. 8677, dated 02.11.2000 “On organisation and functioning of the judicial police”;
- ❖ Decision of Council of Ministers No. 1292, dated 24.09.2008 “On transfer of responsibility of administration of the Ministry of Justice, of the site and the building premises of the district courts and appellate courts”;
- ❖ Order No. 3155, dated 28.04.2008 “On categorisation of institutions of execution of criminal judgments”, amended.

Contract 2.1.

Reference list of relevant laws and regulations:

- Law No. 7895, dated 27.01.1995 “Criminal Code”;
- Law No. 7905, dated 21.03.1995 “Criminal Procedure Code”;
- Law No.8678, dated 14.05.2001 “On the Organisation and Functioning of the Ministry of Justice”;
- Law No.8331, dated 21.04.1998 “On the Execution of Criminal Decisions”;
- Law No.8328, dated 16.04.1998 “On the Rights and Treatment of Prisoners”;
- Decision of the Council of Ministers, dated 25.03.2009 “On the organisation and functioning of the probation service and the standards and procedures of supervising the execution of alternative sentences”.

Reference to SAA (Stabilisation and Association Agreement)

Article 78 of the Stabilisation and Association Agreement (SAA) between the Government of Albania and the European Community of July 2006 states that: "Reinforcement of institutions and rule of law" states that: "Parties cooperation on justice and home affairs shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Cooperation shall notably aim at strengthening the independence of the judiciary and improving its efficiency, improving the functioning of the police and other law enforcement bodies, providing adequate training and fighting corruption and organised crime."

Reference to the European Partnership

The project will assist to achieve the following short and mid term priorities included in the European Partnership (EP) with Albania repealing Decision 2006/54/EC:

Short – term priorities:

- Ensure that all law enforcement bodies are aware of their human rights obligations and implement them rigorously in accordance with the code of ethics for the prisons system and with international conventions ratified by Albania, in particular the European Convention on Human Rights.
- Ensure that the relevant international conventions are observed in establishing and running new penitentiary facilities.

Medium – term priorities:

- Ensure that detainees and prisoners on remand are treated in accordance with international standards.
- Guarantee that human dignity and personal safety are respected in detention centres, prisons and mental institutions, in accordance with international conventions.

Reference to MIPD

The 2008-2010 MIPD states that "In the area of democracy and rule of law, the capacity of the Albanian institutions remains to a large extent limited, in particular as regards the judiciary, the implementation of the public administration reform and the fight against corruption and organised crime". The Multi-annual Indicative Planning Document underlines the need for improvements in the penitentiary system. This project's goals comply with the priority set out by the MIPD: "Support to the Reform of the Judicial System" with the overall strategic objective of an independent, reliable and efficient functioning judiciary that guarantees the rule of law. Furthermore, the MIPD stipulates that some of the programmes which should be implemented ought to include: "Provision of the conditions for adequate staffing, infrastructure and equipment to the Judiciary. Support to the High Council of Justice will continue.

Reference to National Development Plan

The National Strategy for Development and Integration stresses the necessity on the improvements in the justice system, in terms of:

- strengthening the relationship with independent judicial institutions, including the clarification of the respective competences of the judicial inspectorates of the Ministry of Justice and the High Council of Justice.
- reorganising of courts to improve the efficiency and transparency of decisions and the provision of adequate space, equipment and computer networks.
- strengthening the status, independence and constitutional protection of judges and prosecutors and progress in their training, recruitment, case assignment and evaluation.

The transparency of the civil and criminal justice processes through the publication of court decisions and the results of checks on violation of the procedural code. The execution of court decisions, which remains low, particularly in cases where the state is obliged to compensate citizens. The penitentiary system, the prison facilities, and the pre-trial detention centres are all considered to be below European standards.

With regard the Probation Services, the project is in line with the following priority in the draft National Strategy for Development and Integration 2007-2013 “Introduction of a structure for the application of alternative sentences”.

Reference to national / sectoral investment plans

N/A

ANNEX 5 - Details per EU funded contract

The technical assistance will be provided via two contracts:

- Contract 1.1 "Consolidation of the legislative and institutional justice system"

Grant Agreement contract with a Member State (EUR 2.3 million). The Ministry of Justice will provide 5% of contribution in kind.

The project will consist in a team of long term experts (LTEs) in the following areas: Justice Reform/Organisation and Strategic, Law Drafting, Case Management and Court Administration, Executions of Rulings. A pull of Short Term Experts and assistance staff will also be required.

The tasks to be implemented by the team would be the following:

- To design a work plan for the implementation of the project;
- Assist in the preparation of all strategic project documents [inception study, sector strategy/policy/plan, monitoring reports, final project report, training manuals etc.]
- To ensure continuity of implementation through: the execution of the day to day management; working on a daily basis with the Albanian Ministry of Justice/ Institutions of the Judiciary to implement the project;
- To plan and coordinate and ensure proper quality of outputs;
- Nominate, mobilise and supervise the short- and medium-term term experts;
- To coordinate and organise selected study visits, training course modules and activities, workshops and public awareness activities;
- To prepare and deliver relevant reporting, including detailed reports on the impact of the project.
- To contribute to the project with specialist knowledge in the relevant are of purpose of the project and provide specialist support services,
- Advice and backstopping from a national EU Ministry of Justice/relevant counter-par institution.

- Contract 2.1 "Support to the Establishment of the Probation Services and alternative measures to detention"

Twinning contract with a Member State (EUR 1 million). The Ministry of Justice will provide 5% in kind contribution.

The technical assistance in the framework of this contract will be provided by a Team Leader (TL), A resident Twinning Adviser (RTA) and short-term experts (STEs) from Member States to implementation the activities.

The tasks to be implemented are the following:

- Support to the Ministry of Justice for implementing the national probation standards and probation service methodologies
- Creating a probation information system which enables political and management decisions to be made on the basis of accurate information, informs developments and targeting and can demonstrate the efficiency and effectiveness of probation work
- Designing the training strategy, preparing the training curriculum and training the probation staff
- Developing probation offices in different regions of Albania
- Developing and implementing a public relations strategy and briefing of judges, prosecutors, police, prison service, local authorities and NGOs about the probation system.

TL (Team Leader) tasks:

- Overall project co-ordination;
- Co-chairing, with the Albanian TL, the regular project implementation steering committee meetings;
- Mobilising short- and medium term experts;
- Executing administrative issues (i.e. signing reports, administrative order etc.).

Resident Twinning Advisor (RTA) tasks:

- To design a work plan for the implementation of the programme and to assist the process of drawing up a covenant;
- Assist in the preparation of all strategic project documents [inception study, sector strategy/policy/plan, monitoring reports, final project report, training manuals etc.]
- To ensure continuity of implementation through: the execution of the day to day management; working on a daily basis with the Albanian Ministry of Justice staff to implement the project;
- To plan and coordinate outputs; To ensure proper quality of outputs;
- Together with the Project Leader: to nominate, mobilise and supervise the short- and medium-term term experts;
- To coordinate and organise study visits, training activities, workshops and public awareness activities;
- To provide detailed reports on the impact of the project.

Short-term experts' tasks:

- To contribute to the project with specialist knowledge in the area of law enforcement systems and the judiciary;
- To provide specialist support services [e.g. providing Albania with access to databases];
- To prepare training course modules;
- Delivery of selected training modules to the probation officers;
- Advice and backstopping from a national EU Ministry of Justice.