

ENHANCING CO-OPERATION AND CO-ORDINATION **BETWEEN PROSECUTION AND JUDICIAL POLICE IN ALBANIA**

Tirana, 2019

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“Every brick has its own place to build a wall.” (JPO services)

Tirana, 2019

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Executive Summary

Some major legislative developments marked the launch of the justice reform in Albania. Further to the Constitutional amendments in 2016, and the amendments to the Criminal Procedure Code in 2017, new laws on the status of judges and prosecutors and on organisation and functioning of the prosecution office provided strong legal guarantees for prosecutorial independence and asserted the leading role of prosecutors in criminal investigations. The recent law on the organisation and functioning of the judicial police introduced major organisational changes to improve the investigative role of judicial police officers and affirm prosecutors' leadership.

The findings and recommendations on the implementation of the EU *aquis* suggest further strengthening the capacities of Albanian institutions in the area of the rule of law. Moreover, the observations of OSCE PiA on the dynamics of the interaction between prosecutors and judicial police indicate that yet a large number of prosecutors do not play a leading or proactive role during the investigative stage of criminal proceedings, thus leaving the judicial police to their own means and making their role in preliminary investigation more difficult. Overall, the current situation impacts the successful prosecution and adjudication of criminal cases and particularly – of those on corruption related offences.

The purpose of this study is to examine and analyse the current status of the cooperation, coordination, and communication between the prosecution and judicial police in Albania in order to establish the existing normative, professional and behavioural problems and to make recommendations for short term action and long term strategies.

The study provides an overview of the legal framework pertaining to (i) the status of prosecutors and judicial police officers, (ii) the structure and organisation of the prosecution office and the respective structures and organisation of judicial police in services and in sections, and (iii) the role of prosecutors and of judicial police in criminal investigations.

Next, the study looks at the existing procedural mechanisms and formal and informal cooperation practices between prosecution and judicial police. More specifically, it looks into the functional subordination of judicial police and the existing legal possibilities for the prosecution to afford methodological guidance and to play a role in the career development of judicial police officers. Attention is given to joint teams – both permanent and ad hoc, as a tool to achieve better investigative results through improved cooperation and coordination. Lastly, this section deals with the communication practices between prosecutors and judicial police officers.

Based on the results from the outcome of questionnaires and interviews, this study examines the views and opinions of both prosecutors and judicial police. The analysis is structured around the following thematic areas, focusing specifically on: (i) the general issues pertaining to the cooperation, coordination, collaboration and communication between prosecutors and judicial police, *inter alia* the phenomenon of rotation of judicial police on services, the existing lack of trust and com-

mon goals between the various actors, the issues related to confidentiality of investigation, and the problems related to the quality of work (ii) the roles of judicial police in services and in sections in criminal investigations, (iii) prosecutorial leadership and the current difficulties in understanding and exercising this role (iv) the effect of the dual chain of command currently existing for the judicial police officers in the State police, (v) investigation strategy, and in particular how case prioritisation is applied (vi) investigation follow-up, (vii) evidence gathering, with a focus on the access to electronic databases, (viii) quality of reporting, (ix) gender issues, and (x) training and guidelines. The analysis also examines these features in the light of the specificities pertaining to the investigation of corruption-related offences.

The analysis of the legal framework and the outcome of the questionnaires and interviews leads to a series of findings. While the applicable laws enable for a strong prosecutorial leadership, warranted by multiple legal safeguards to prosecutors' independence, the existing professional attitude of many prosecutors still limits their involvement to supervision of preliminary investigation with little or no initiative, except in the most complex cases.

The findings also reveal that judicial police in sections and in services are facing different challenges which in turn call for different solutions. On the one hand, the ability of judicial police in services to conduct quality investigations in a timely manner is affected negatively by the lack of sufficient and skilled personnel, and the need to balance investigation with preventive police functions while managing the expectations and sometimes conflicting priorities of two chains of command – that of prosecutors and of the police chiefs. In that relation, the quality of reporting and gathering of admissible evidence comes out as a pressing issue in the work of judicial service police. On the other hand, section police suffers from scarce operational and technical resources and more recently – motivation, after the 2019 law on judicial police came into force.

Another key finding of the study is related to the cooperation issues stemming from the mistrust between prosecutors and judicial police, closely linked to the lack of common goals. Media publications based on police announcements lead to early disclosure of investigative secrets. While such media announcements are possibly motivated by the desire to present police activities favourably to the public, they create risks for the successful outcome of investigations, undue pressure on prosecution and ultimately violate the good relations between prosecution and police.

Lastly, the study looks into the shortcomings related to the insufficient or inadequate training and the lack of updated practical tools for prosecutors and judicial police officers, such as manuals, SoPs, checklists, guidebooks, and outlines the most relevant areas for intervention both for local and international stakeholders.

The study provides recommendations for future actions divided in accordance with the relevant areas of intervention: at legislative and regulatory level, at organisational level and capacity building and capacity development actions.

Abbreviations

CCP	Code of Criminal Procedure of Albania
CMS	Case Management System
DSIK	National Security Agency
EU	European Union
FIU	Financial Intelligence Unit
GPO	General Prosecutor's Office
HIDAACI	High Inspectorate of Declaration and Audit of Assets and Conflict of Interest
JPC	Judicial Police Commission
JPO	Judicial Police Officer(s)
MoU	Memorandum of Understanding
NBI	National Bureau of Investigation
PiA	Presence in Albania
OSCE	Organisation for Security and Co-operation in Europe
SIS	State Intelligence Service
SoM	School of Magistrates
SoP	Standard Operating Procedure
SPAK	Special Prosecution against Corruption and Organized Crime
SPO	Special Prosecution Office
SCPO	Serious Crimes Prosecution Office
TIMS	Total Information Management System
UNODC	United Nations Office on Drugs and Crime

1. Introduction and Background

The process of the justice reform in Albania commenced in 2016 with adopting amendments to the Constitution of Albania (hereafter “The Constitution”) aiming to establish an independent and self-governing judiciary and to strengthen the legislative framework to fight corruption more effectively. The so-called “justice reform package” following the Constitutional amendments, included *inter alia* Law No 95/2016 on the Organization and Functioning of Institutions for Combating Corruption and Organized Crime, Law No 96/2016 on the Status of Judges and Prosecutors in the Republic of Albania, (hereafter referred to as “Law on the Status of Judges and Prosecutors”), Law No. 97/2016 on the Organisation and Functioning of the Prosecution office in the Republic of Albania (hereafter referred to as “Law on the Organisation and Functioning of the Prosecution office”). In 2017 amendments were introduced to the Code of Criminal Procedure of Albania (CCP) increasing the autonomy of prosecutors and strengthening their leading role in the investigative stage of criminal proceedings. The adoption of Law No.25/2019 on the Organization and Functioning of the Judicial Police (hereafter “Law on Judicial Police”) in 2019 further aimed to improve the structural and functional organisation of judicial police and reaffirmed the role of the prosecutor as the leader of preliminary investigation.

These measures were recognised as steps taken ‘to improve cooperation and mutual trust between police, prosecutors and other relevant agencies and bodies to detect and investigate complex criminal cases’. While it was acknowledged that Albania has made progress in successful prosecution of low and medium level corruption, there has been no significant progress in the prosecution of high-level state officials.¹

The current Report is prepared in the framework of the 2019 project on “Supporting justice institutions and legislative process in Albania” of the Rule of Law and Human Rights Department of OSCE Presence in Albania (PiA). One of the components of this project is focusing on prosecution-police cooperation in the investigative stage of criminal proceedings. The Report looks to identify the most relevant normative, organisational or behavioural issues affecting the interaction between prosecutors and judicial police officers in Albania.

The Report does not intend to provide a set of recommendations for improving justice institutions or the legislative process from a general perspective, but to focus exclusively on the shortcomings of the existing formal procedures and informal practices in the investigative stage of the criminal proceedings with the aim to improve communication, cooperation and coordination for effectively carrying out criminal investigations.

The process of preparing the Report on “Enhancing Cooperation and Coordination between Prosecution Office and Judicial Police in Albania” allowed many criminal justice practitioners to share their views, express concerns and suggest changes. The Report only incorporated those opinions that were deemed relevant to its main topic. Many valuable comments and proposals were shared and duly noted to be further addressed in the course of other initiatives undertaken by the Rule of Law and Human Rights Department of OSCE PiA.

The Report is intended for the prosecutors and judicial police officers in Albania, prosecutors in the General Prosecutor’s Office, the High Prosecutorial Council, the Judicial Police Commission, the Ministry of the Interior and other relevant governmental agencies and bodies.

¹ Commission Staff Working Document Albania 2019 Report, Brussels, 29.5.2019 SWD (2019) 215 final.

1.1 Methodology

The process of developing this Report commenced with a review and assessment of the legislative framework currently in force that regulates and affects the cooperation between prosecution and judicial police in Albania. That includes any primary and secondary legislation as well as other available regulatory documents. The sources for this are unofficial translations into English language of acts provided by the General Prosecution Office (GPO), Police authorities, and other official sources.

As a next step, the Rule of Law and Human Rights Department team of OSCE PiA reviewed relevant literature² and developed one questionnaire for prosecutors and one for judicial police officers. The questionnaires contained more or less the same questions with only very little differences. In total, there were 263 questions for the prosecutors and 262 questions for the judicial police, clustered in the following thematic sections:

- General Issues Pertaining to Cooperation, Coordination, Collaboration and Communication in Criminal Proceedings;
- Roles during Investigations;
- Leadership;
- Chain of Command;
- Impartiality;
- Instructions/Orders;
- Investigation Strategy;
- Investigation Follow-Up;
- Investigation and Evidence Gathering;
- Reporting;
- Information Sharing/Consultation;
- Gender Issues;
- Training and Guidelines;
- Investigation of Corruption related Offences.

The questionnaires were administered to seven prosecution offices (Tirana, Vlore, Shkoder, Durres, Fier, Elbasan and the Serious Crimes Prosecution Office (SCPO)) and six police directorates in the region of Tirana (including SCPO), Vlore, Shkoder, Durres, Fier and Elbasan. A total of 140 questionnaires for prosecutors and 234 questionnaires for judicial police officers were administered and received. The findings of the questionnaires were processed and analysed, and the results are presented in a Statistical Report³, which is structured according to the thematic sections of the questionnaires. The findings pertaining to investigation of corruption related offences are reflected in the relevant sections depending on the specific topic in question.

The preliminary findings and working hypotheses resulting from the desk study of the legislative framework and the findings of the questionnaires were used to develop semi-structured questions for personal anonymous interviews with focus groups of prosecutors and judicial police officers from the above mentioned prosecution offices and police directorates. The interviews aimed to collect the participants' accounts of their actions, experiences and thoughts related to the topic of the Report. The questions presented were mostly open ended to enable the interviewer to add supplementary questions according to the received responses. Informed consent for the recording of the responses was obtained while presenting the objectives of the Report, confidentiality and the procedure.

It must be highlighted that the methodology of the Report did not foresee administering the questionnaire or conducting interviews with judicial police officers in services other than the state police of Albania. Nevertheless, reference to those is made in the Report on the basis of information provided in the interviews.

² See Section 7.1 Bibliography.

³ The Statistical Report with the results and findings from the questionnaire (hereafter "The Statistical Report") is available in electronic format as an Annex to this Report.

In addition, a small number of semi-structured interviews with stakeholders outside of the prosecution and police system took place in the end of the process of collecting background information. The aim of these interviews was to assess the findings in a larger context and to compare them with the experience and perceptions of external parties when it comes to cooperation and collaboration between prosecution and judicial police.

The Report is structured as follows:

Section 1 introduces the scope and background to the Report and outlines the methodology.

Section 2 reviews the existing legal framework relevant to the Report with a particular emphasis of the status of prosecutors and judicial police, the organisational structure of the respective entities and the roles of prosecutors and judicial police officers in criminal investigations.

Section 3 examines the procedural mechanisms, as well the existing formal and informal cooperation practices.

Section 4 provides an analysis of the relevant findings from the questionnaires and interviews held by OSCE PiA.

Section 5 presents the main findings of the Report.

Section 6 contains recommendations.

2. Legal Framework

The present section of the Report is elaborated on the basis of the respective provisions of the Constitution, CCP, Law No 95/2016 on the Organization and Functioning of Institutions for Combating Corruption and Organized Crime, the Law No 96/2016 on the Status of Judges and Prosecutors, the Law No 97/2016 on the Organisation and Functioning of the Prosecution office, Law No 108/2014 on State Police, and Law No 25/2019 on Judicial Police.

In addition, a number of sublegal acts were provided for analysis for the purposes of the Report.⁴ While the Law on the Organisation and Functioning of the Prosecution Office specifies that such acts adopted before the entry into force of the Law remain applicable if they do not conflict with it, a high degree of caution was applied when it comes to their assessment due to the generally unclear status of their application. Such considerations were not given to regulatory acts issued after the entering into force of the law. Moreover, no sublegal acts issued pursuant to the Law on Judicial Police and the Law on the Status of Judges and Prosecutors were made available for consideration.

2.1 Prosecution Office of Albania

2.1.1 Status of prosecutors

The Constitution proclaims the “internal independence of the prosecutors to investigate and prosecute, in accordance with the law”.⁵ The independent status of prosecutors is further reflected in the CCP and the Law on the Status of Judges and Prosecutors in Albania which ends the earlier monocratic system in the functioning of Albanian prosecution and affirms that the exercise of the functions shall be based on “the assessment of the facts and interpretation of the law, in accordance with [the prosecutor’s] intrinsic conviction, free of any extraneous influences, direct or indirect, from any side and for any reason.”⁶ In that regard the Constitution and the laws adhere to the relevant European standards that “the independence of prosecutors is not a prerogative or privilege conferred in the interest of the prosecutors, but a guarantee in the interest of a fair, impartial and effective justice that protects both public and private interests of the persons concerned.”⁷

With the new law prosecutors enjoy full independence when it comes to making decisions whether to prosecute and for what charges, which are subject only to judicial control. Higher prosecutors have the authority to ensure proper administration of the system and consistency in the application of the law but cannot interfere with the decisions of prosecutors in concrete cases.

The General Prosecutor issues general instructions in writing for the prosecutors of the prosecution offices of general jurisdiction and oversees their implementation. The General Prosecutor may issue such instructions for (i) the coordination of work between different prosecution offices or between them and the judicial police, involved in common investigations; (ii) ensuring the uniform application of law and criminal prosecution, based on judicial decisions; (iii) ensuring the implementation of recommendations of the Council of Ministers on the fight against crime; and (iv) other issues not related to concrete cases. Heads of prosecution offices have the authority to issue general instructions on organisational matters addressed to the prosecutors in their respective offices, while the Chief Special Prosecutor will be competent to issue such instructions for the prosecutors of the Special Prosecution against Corruption and Organized Crime (SPAK) (after its establishment).

Exceptionally, heads of prosecution offices may issue instructions in specific cases however these are always non-binding and reasoned.

As a safeguard to the functional independence of prosecutors, the law foresees a system to chal-

⁴ For the full list of sublegal acts, please see Section 7.1 “Legal Instruments”

⁵ Constitution, Article 148 para 2.

⁶ CCP, Article 25 para 2; Law on the Status of Judges and Prosecutors, Article 3 para 2.

⁷ See CCPE Opinion No. 9(2014) on European norms and principles concerning prosecutors, para 38-39.

lenge both general instructions and instructions in specific cases: the former by means of appeal to the High Prosecutorial Council, and the latter by requesting further explanation and decision of the individual prosecutor not to follow.

In addition to the measures ensuring the organisational independence of prosecutors, a set of clear rules for recruitment, appointment, transfer, promotion and secondment guarantee their functional independence.⁸

2.1.2 Structure and organisation of prosecution office

The Prosecution Office of Albania is organised and functions attached to the judicial system. The rules for its organisation can be found in the Constitution and in the Law on the Organisation and Functioning of the Prosecution office.

The highest-ranking office in the prosecutorial structure is the GPO headed by the General Prosecutor of Albania. The GPO has jurisdiction over the entire territory of Albania in the prosecution of cases against the President of the Republic, the Prime Minister and members of the Council of Ministers, deputy ministers, judges of the Constitutional Court and judges of the Supreme Court.

A number of prosecution offices attached to first instance courts (commonly referred to as District prosecution offices) and prosecution offices attached to courts of appeal exercise general jurisdiction coinciding with the jurisdiction of the respective courts.

Currently there are also two prosecution offices with special jurisdiction – SCPO, attached to the Serious Crimes Court of first instance and the respective SCPO attached to the Serious Crimes Court of Appeal. The SCPO is competent over cases of corruption and organized crime, e.g. crimes perpetrated by organised criminal groups, terrorist organisations and crimes of high-level state officials, as well as judges, prosecutors, justice officials.

Temporary Special Sections are established in the SCPO, and in the District prosecution offices in Tirana, Durrës, Elbasan, Shkoder, Vlora, Fier, Korça. Gjirokastra and Lezha⁹, dealing with cases of organised crime, economic crime and corruption, crime in the area of narcotic substances, money laundering and crimes committed by high-level officials (as defined in Article 132/2 of the Constitution). Given the importance of the investigations assigned to the special sections, there are some provisions to meet their extra needs, e.g. special office space, special support services and provisions to avoid disclosures of investigative secret (i.e. materials shall be sent directly, sidestepping the postal services).

The Constitution foresees one specialised prosecutorial structure, i.e. the Special Prosecution Office (SPO). The SPO is independent from the General Prosecutor and exercises criminal prosecution and represents accusation before the Special Anti-Corruption and Organised Crime Courts as well as before the High Court. The SPO is competent in cases of corruption and organized crime, in cases against high level officials, such as the President of the Republic, Speaker of the Parliament, the Prime Minister, members of the Council of Ministers, judges of the Constitutional Court and High Court, the General Prosecutor, the High Justice Inspector, mayors, members of the Parliament, deputy ministers, members of the High Judicial Council and High Prosecutorial Council, and directors of central or independent institutions defined in the Constitution or in law, as well as charges against former officials as mentioned above.¹⁰

The SPO, together with an independent investigation unit, the National Bureau of Investigation (NBI), shall form the Special Anti-Corruption and Organised Crime Structure (SPAK). The establishment of SPO, as well as the establishment of NBI, are currently ongoing.¹¹

As soon as SPO is constituted, the SCPO will cease to exist. The cases investigated by the SCPO shall be transferred to the SPO if they fall under its jurisdiction pursuant to article 75a CCP, or to the District prosecution offices of general jurisdiction. Similarly, any cases already investigated by the

⁸ Law on the Status of Judges and Prosecutors, Part III Career development of magistrates.

⁹ Cooperation Agreement to enable the implementation of the action plan on the fight against organised crime between the General Prosecutor and the Interior Minister, 6.11.2017, and Instruction No 1 of the Prosecutor General on establishment of special sections, 20.02.2018.

¹⁰ CCP, Article 75a.

¹¹ This statement is accurate by the time of finalising this Report, i.e. November 2019.

District prosecution offices of general jurisdiction shall be transferred to the jurisdiction of the SPO.

The management and representation of the prosecution under this organisation is made respectively by the General Prosecutor, the heads of the prosecution offices attached to the courts of appeal of general jurisdiction, the heads of the District prosecution offices attached to the first-instance courts of general jurisdiction and – after the establishment of the SPO, the Chief Prosecutor of the SPO.

2.1.3 Role of prosecutors in criminal proceedings

The core function of prosecutors in Albania is to exercise criminal prosecution and represent the charge in court on behalf of the State.¹² It also encompasses, *inter alia*, control of preliminary investigation and supervision of the judicial police activity¹³, and conducting investigative actions if those are deemed necessary. The prosecutor has the right not to initiate proceedings, to dismiss the charge or the case, to request the court the dismissal of the charge or of the case, and to request that the case is sent to trial, to enter into corroborative agreements and into agreements on the conditions for pleading guilty.

The decision to prosecute in Albania is exercised by applying the principle of legality, i.e. the prosecutor is required to prosecute every case where there is sufficient evidence to sustain a prosecution.¹⁴

Criminal proceedings are initiated by prosecutors either at their own initiative or on the basis of criminal notices received by citizens, state officials, medical personnel, etc. either to the prosecutor's office directly or to the state police which then in turn refers it to the prosecution. The prosecutors have the discretion whether to initiate criminal proceedings. The decision needs to be taken within 15 days and refusal to open criminal investigation is subject to judicial control. The CCP does not explicitly foresee the possibility for the prosecutor to request additional information or clarification in case of e.g. incomplete or unclear criminal report.

Prosecutors have the authority to direct the investigation, to carry out personally any investigative actions as deemed necessary and to delegate investigative actions to judicial police.

After the termination of the preliminary investigation, the prosecutor either takes action towards dismissing the charge or the case, or sending the case to trial. Both actions are performed with court's sanction and require preliminary hearing in open session. At that phase the court may ascertain that the preliminary investigation is incomplete and order its completion by determining the relevant direction and as appropriate, the acts that must be conducted, including – if possible repetition of invalid acts and non-usable evidence.¹⁵

Prosecutors have the obligation to maintain confidentiality of the facts that they were made aware in the course of their professional duties; they cannot disclose anything that they became aware in the course of the investigation if that would harm the case. Furthermore, the documents in the case file are secret until the defendant receives information about them. The prosecutor may delay disclosure even further if that is in the interest of the investigation. Publication of investigative documents is possible only with the permission the prosecutor.

2.2 Judicial Police in Albania

2.2.1 Status of judicial police officers

Judicial Police in Albania plays an integral part in the criminal justice system. In exercising its functions, Judicial Police is guided by the principles of legality, equality and non-discrimination, objectivity and fairness, professionalism and honesty in performing its tasks, avoiding conflicts of interest, safeguarding confidentiality and investigative secret and respect of human rights and freedoms.¹⁶

¹² Constitution, Article 148 (1)

¹³ CCP, Article 24 (1).

¹⁴ United Nations Office on Drugs and Crime, "United Nations Convention against Corruption: Article 11 implementation guide and evaluative framework", para. 162.

¹⁵ CCP Article 332/c.

¹⁶ Law on Judicial Police, Article 3.

Judicial Police functions in Albania are carried out by the judicial police sections, established in the prosecution offices and by the judicial police services, organised in the investigative structures of the State police, or in inter alia the State Security Service, Border Police, General Directorate of Customs, General Directorate of Taxation, and by the NBI.

It must be highlighted that while judicial police officers in sections and in services exercise the same functions and are guided by the same principles, certain aspects of their status differ, e.g. selection criteria, appointment procedures, remuneration, transfer, which will be described in further detail below.

The division of cases between sections and services is determined as a rule by the origin of the referral or the initiative for opening an investigation. Judicial police of sections in general conduct criminal investigations in a limited number of cases compared to JPO of services: either when the discovery of the criminal act is done directly in the prosecution office or if the investigation is initiated ex-officio by the prosecutor. In all other events judicial police services conduct preliminary investigations when criminal procedure has been registered with the prosecution based on criminal offence referral by them.

Heads of prosecution offices, exceptionally and upon written request from the prosecutor in charge of the investigation, may task judicial police officers from other sections or services to conduct investigation and if this measure is needed to guarantee the objectiveness of the investigation.¹⁷

Both judicial police officers in sections and in services must meet the selection criteria related to minimum required work experience¹⁸, completed initial training, clean criminal record, lack of disciplinary sanctions and integrity. A higher threshold is foreseen for the officers in sections as additional criteria apply for them, i.e. Albanian citizenship and a university degree. It must be stressed that the law allows for an exemption from the requirement for minimal work experience and completion of initial training for service judicial police officers in State police.¹⁹

In similar fashion, the procedures for the selection of officers in sections and in services are different. Judicial police officers in sections are selected on the basis of an open and transparent competition process administered by the General Prosecutor and are appointed by the Judicial Police Commission (JPC)²⁰. Officers in services in State police or other state institutions are selected in accordance with the rules in the respective special laws.²¹

The remuneration of the two categories of judicial police officers is determined on the basis of different criteria. The salary of the officers in sections is a function of the prosecutors' salary of the respective prosecution offices (i.e. 60% of the initial gross salary). The judicial police officers in the State police services are paid the officers' base salary plus a 10%.

Judicial police officers may be seconded by the JPC for a limited period of time from one section or service to another section or service if there is either an organisational need or a need to conduct investigation in a particular case.

Transfers of judicial police officers, i.e. appointments to sections or services at the same level, is possible in case of permanent vacant positions. The law provides that transfers are made either due to structural changes, by request of the respective officer, as a protection measure to safeguard officers' life and health or that of their family, or to resolve situations of 'continuous ethical incompatibility and when every other measure has resulted inefficient.'

Judicial police officers are subject of periodic assessment performed by the JPC after receiving the written opinion of prosecutors. Failure to comply with the assessment criteria may give rise to dismissal from duties.

Promotion of judicial police is decided by the JPC on the basis of merit and duration of work experience. The provision of the Law on Judicial Police does not differentiate between officers in sections and in services and does not indicate the nature of the promotion.

17 *ibid*, Article 24.

18 The requirements for work experience vary for JPO in services and in sections – see *ibid*, Article 16 paragraph 1(a) and Article 17 (c).

19 Law on Judicial Police, Article 16 and Article 17.

20 For more on the composition of JPC see Section 3.2 of this Report.

21 Law on Judicial Police, Article 18.

Judicial police officers may be subject to disciplinary responsibility in the exercise of their functions. The General Prosecutor, heads of prosecution offices, prosecutors in charge of the investigation – concerning specific cases, or chief of the respective state institution with judicial police service, have the power to initiate disciplinary measures.

2.2.2 Structure and organisation of Judicial Police

Judicial police sections are established in the District prosecution offices with general jurisdiction, the SCPO and in the GPO. Most of the officers in sections have legal background but it is possible to recruit persons with background in other areas as well. The activities of judicial police in sections are directed, coordinated and supervised by the head of the respective prosecution office.

Judicial police services in the State police are organised in accordance with the organisation of the State police in directorates and are composed by officers and agents. Officers from the judicial police services exercise their functions in every territorial unit where District prosecution office of general jurisdiction operates. Within the territorial units of the State police, officers are assigned to specialised directorates, e.g. on Economic Crimes, Prevention and Cultivation of Narcotics, Trafficking Crimes, Crimes against People and Property, etc., and in sections within the directorates.

One particular point to be addressed is the lack of consistency and cohesion of the legal framework concerning judicial police officers in service police in the State police. The Law on Judicial Police stipulates that the judicial police functions are exercised, *inter alia*, by employees of the State police, tasked especially to carry out investigations, and part of the investigative structure, which, in turn, is a part of the general structure of the State police.²² Such provisions so far are not introduced in the Law on State police leading to a disparity in the legal regime and calling for urgent amendments in the Law on State police to enable on the one hand the establishment of a dedicated structure within the organisation and, on the other hand, to revise the functions of the judicial police officers in State police service enabling them to carry out primarily investigations.

2.2.3 Role of Judicial Police in Criminal Investigations

The existing legal framework²³ outlines the main functions of Judicial Police in Albania, *i.e.* to receive notifications for criminal offences and to prevent further consequences from them, to prepare the ground for criminal investigation by identifying the perpetrator, to collect evidence and carry out investigative actions ordered or delegated by the prosecutor, and to assist the asset recovery process.

The main guidance as to the functions of judicial police is provided by the CCP. Judicial police in services has limited possibility to do extensive preliminary verification after receiving notification of a criminal act, as it is obliged to notify the prosecutor within 72 hours²⁴. The law however provides that further gathering of information can be done after the referral is submitted to the prosecutor's office. For the *ex officio* activities of judicial police there is a need for authorisation and supervision by the prosecutor. What is more, the law explicitly provides that judicial police officers are subordinated to the prosecutor in the investigation of criminal cases.

In the course of the criminal investigation, judicial police follow the instructions and orders of the prosecutors. After carrying out the necessary investigation, judicial police send all evidence and procedural documents to the prosecutor, together with an explanatory report with a suggestion for the conclusion of the case.

In the course of exercising their duties, judicial police has the obligation to safeguard the investigative secret. To this end, they are prohibited from disclosing acts and documents of procedural actions except to the prosecutor in charge of the investigation.

²² Law on Judicial Police, Article 2 para 6 and Article 4b.

²³ CCP, Article 30; Law on Judicial Police, Article 5.

²⁴ CCP, Article 293.

3. Procedural Mechanisms, Formal and Informal Cooperation Practices

3.1 Methodological and Functional Subordination of Judicial Police

CCP stipulates that the “*prosecutor leads the investigation and shall have judicial police at their disposal*”.

The Law on Judicial Police establishes clear rules whereby judicial police is subject to the oversight of prosecution both in general terms, through methodological instructions from the General Prosecutor²⁵ and in specific cases, when receiving mandatory orders from prosecutors in charge of the investigation. The law requires that judicial police report to the prosecutor for the activities undertaken in the course of preliminary investigation, the results and outcome of execution of tasks assigned to them.

Furthermore, an additional layer of supervision exists for judicial police officers in sections. Being an integral part of the prosecution offices, their activities *ex lege* are ‘*led, coordinated and overseen*’ by the head of the respective office to guarantee that the requirements of individual prosecutors are accounted for.

3.2 Role of prosecution in the career development of judicial police officers

A novelty, introduced by the Law on Judicial Police, is the establishment of a collegial body – the JPC, which has the authority over certain aspects of the career development of judicial police. While composed by representatives of judicial police of sections, judicial police of services in the State police, and on the basis of rotation, either judicial police of services in customs or in tax administration, JPC is chaired by a prosecutor from GPO who exercises his/her duties full time.²⁶ This format presents the possibility for the prosecution to be directly and actively involved in the career progress of judicial police officers, and in particular of those in services, compared to the procedure envisaged in the repealed Law No. 8677 on the organisation and operation of judicial police.

JPC appoints, promotes, transfers and decides on the secondment of sections officers following a proposal from the General Prosecutor. It must be said that that the transfer and secondment of service officers is done following the procedures in the respective special laws and the role of JPC is limited to providing final approval only.

JPC plays an important role in some other aspects of the career development of judicial police officers: it assesses their work performance and professional integrity and examines the requests for disciplinary measures. JPC is also key to the qualification and professional development of judicial police as it evaluates training needs and plans the training.

²⁵ Law on Judicial Police, Article 7 para 6.

²⁶ Law on Judicial Police, Article 9 para 1, 2.

3.3 Establishment of joint permanent and ad hoc teams

Joint teams as a tool for improved cooperation and collaboration are often used in complex and demanding investigations.

Further to the standard procedure of delegating specific investigative actions to judicial police, there are legal possibilities for prosecutors to engage judicial police officers in more complex ways, by involving them in joint teams and joint investigative units. These investigative formations bring the benefit of utilising various resources and enabling closer communication and improved coordination.

The Law on Judicial Police²⁷ allows the prosecutor, depending on the nature and complexity of the case, to order joint investigative actions by judicial police officers both of sections and of services. Such delegation allows for benefitting from the legal expertise and knowledge of procedures of the former with wider access to databases and other operational resources of the latter. In practical terms, the joint teams including officers from sections and services are established on ad-hoc basis, and the prosecutor's order.

Further to the legal possibility to create ad hoc teams, there are provisions for the establishment of permanent investigative units in an Order from the General Prosecutor from 2009 following a Memorandum of Understanding (MoU) between the General Prosecutor, the Minister of the Interior, the Director of the State Intelligence Service (SIS), the High Inspector of High Inspectorate of Declaration and Audit of Assets and Conflict of Interest (HIDAACI) and the Chair of the High State Audit, aiming to improve the quality of investigation of economic and corruption-related offences. The joint units were established as sections within the District prosecution offices of Tirana, Durrës, Vlorë, Fier, Shkodër, Korçë and Gjirokastrë. They were led by a prosecutor and included officers with relevant educational or professional for the investigation of economic crime and corruption. As established during the interviews with representatives from the prosecution office, these permanent joint investigative units are no longer operational.

3.4 Written Orders and Informal Communication

CCP has the requirement that certain forms of communication between prosecutors and judicial police must be in writing because of their procedural nature requiring the inclusion of the respective documents in the trial file.²⁸ Further than that however there is no specific indication how prosecutors and judicial police shall communicate on operational issues, which allows for them to choose the format that is most beneficial or suitable in particular situations. The interviews of prosecutors and judicial police officers show that formal and informal communication is carried out in parallel, depending on the circumstances. Informal communication mostly happens when there is a need for clarification on procedural or substantive legal issues, and is conducted either in meetings or via the phone. The benefit of oral communication, as indicated in the replies to the questionnaires, is that it is faster and reduces the timing for the execution of instructions and orders.²⁹

²⁷ *ibid*, Article 26.

²⁸ CCP, Article 332/ë para 1, e.g. orders for initiating criminal proceedings and decisions on the extension of timeframe for preliminary investigation

²⁹ Statistical Report, Figure 82.

4. Analysis of findings from the questionnaires and interviews administered by OSCE PiA

This section of the Report examines and analyses the findings from the questionnaires and interviews with prosecutors and judicial police officers in sections and in services to outline the most important aspects of the cooperation and coordination between them and to determine the factors adversely affecting their interaction.

For ease of reference, notes are provided to the respective data contained in the Statistical Report with the findings from the questionnaires. Whenever possible, quotes from relevant statements from the interviews with prosecutors and judicial police officers are also included while paying particular attention on the importance of preserving the anonymity of the source.

4.1 General Issues Pertaining to Cooperation, Coordination, Collaboration and Communication in Criminal Proceedings

Good cooperation and coordination between judicial police and prosecutors is equally valued by prosecutors and judicial police officers. Effective cooperation is perceived as the main precondition for successful investigation and prosecution, allowing for shared accountability and creating common values and goals.³⁰

While recognising the importance of good cooperation, the majority of prosecutors and judicial police officers acknowledge that their relationship is good on a personal level, but many of them express concerns when it comes to their professional collaboration in concrete cases. One valid point is that with the amendments of CCP, the prosecution office is no more centralised and prosecutors have stronger leadership role in criminal investigations. Therefore in the context of specific investigations, the collaboration between prosecutors and judicial police is not determined any more by the institutional relationships but by the nature of the relation between individual prosecutors and the respective officer.

Due to their specific roles in the criminal justice process, prosecutors and judicial police officers see differently the issues related to cooperation and coordination. Nevertheless, prosecutors, judicial police officers in sections and in services equally acknowledge the contributing factors determining the nature of their collaboration:

“Because of my experience I know the issues of prosecution - police. The causes are many but it starts from a structural perspective, human resources, and technical means available and more over the philosophy of the police that investigation is done as a team, with trust between prosecutors and police. This is not happening. An investigation has also costs... And the worst thing is that for 30 years now investigation work has not been separated from the operational aspects” (prosecutor)

The analysis of the replies to the questionnaires reveals that prosecutors, judicial police in sections and in services account for the same external and internal factors impacting the cooperation. Legislation in force, political influence, rotation of police officers, and trust are some of the major elements that determine effective and efficient cooperation and collaboration.³¹ It is also admitted that prosecutors are mostly exposed to external influence due to their role in criminal investigation, since *‘they have the decision making role.’*

One of the main concerns when it comes to effective cooperation and collaboration between prose-

³⁰ Statistical Report, Figure 1.

³¹ Statistical Report, Figure 2.

cutors and judicial police is the phenomenon of rotation of judicial police officers in services, i.e. the transfer of officers from one police directorate to another, or from one section of the directorate to another. Prosecutors interviewed on this topic agree that frequent movement causes instability in the case management, affects proper specialisation of judicial police officers and impacts negatively communication and trust.

Transfers entail the handover of the files assigned to one to another who, in most of the scenarios, is already busy with heavy workload and yet needs to become acquainted with the file. When it comes to the impact of the rotation on the investigation of specific offences, interviewees reported as an example the yearly rotation of the judicial police officers assigned to the economic crime section and their replacement with new colleagues, coming from e.g. the road traffic section, who are not able to provide effective support to the investigation due to lack of expertise. On many occasions the newly assigned officer may lack the necessary specialisation or expertise on the given offence due to being assigned until that moment to a directorate dealing with completely different crime types or being newly appointed as judicial police officer.

In this respect and in order to ensure effective continuity of investigation, cases were reported of transfer of one officer from a section to another within the same directorate where the prosecutor requested the officer not to handover the case and to bring it over with him/her. Nevertheless this measure seems to happen occasionally and not as an institutionalised approach to remedy the situation.

Furthermore, judicial police officers of services require time to specialise in specific types of offences or investigative techniques. In this respect prosecutors mention in the interviews past experience when specialisation in state police was more present. General perception of prosecutors is that by transferring experienced police officers to other sections *"the foundation of their work"* is affected. What is even more concerning is the tendency to transfer for operational reasons judicial police officers in services before they attain the adequate level of specialisation to another directorate, thus causing loss of specialisation, and resulting in hindrance to investigations of ongoing cases.

| *"When a JPO has time in that section, then it acquaints himself with the objective of this work and then he is transferred and he needs to start from scratch". (JPO service)*

Additionally, further negative impact on the investigation derives from the reported failure of communication of the transfer of officers to the prosecutor in charge of the case.

| *"This also brings delays because you need 2 weeks for the file to go there 2 weeks for the file to come back stating even that that officer is no longer available" (prosecutor)*

Judicial police officers of services themselves highlighted the unsatisfactory implications of the excessive rotation. In particular, emphasis was put on the waste of resources in ongoing training on selected topic in case the officers are not given the possibility to apply what they learnt and are transferred to work on a completely different field. Also, it was reported as one of the main problems the fact that transfers often take place without a proper check on the officer as to how many years of work this person has, what the results of his/her work are and how positively has this person contributed in the fight against crime. Contrary to the legal stipulation, as claimed by the judicial police of services, that the transfer needs to be motivated and the opinion of the JPO to be transferred should be asked, the interviewees maintain this is not happening in practice and the offices are not given explanation of why they are transferred. It is also claimed that no appeal procedure against the decision of transfer is provided.

The service judicial police showed awareness of the fact that the size of the country and number of police officers available require a level of flexibility. However, they emphasised the technical perspective of the issue at stake:

| *"...the work needs to be done, and this can only be done with professional skilled persons unless we want to just pretend." (JPO service)*

Looking at the issue from another angle, prosecutors report awareness that transfer of judicial police officers in services is used often as a sanction and they are cautious to initiate disciplinary measures in case of underperformance of judicial police officers in services as these measures may result in excessive punishment and the officer might be transferred *"in the middle of nowhere."*

It is a general concern that the frequent rotation of judicial police officers in services causes instability and affects the trust:

“First of all it’s a problem of trust. Trust for many reasons because JPO in the service change every 6 months so there’s no stability in the position ... In the moment that you build trust with the JPO they move.” (prosecutor)

Lack of trust as a factor that influences negatively the relationship between judicial police and prosecutors, is rated second in importance. The findings from the questionnaires reveal that judicial police officers in sections place highest value on this pre-condition of cooperation and almost half of them consider insufficient trust between agencies as a major obstacle for sharing information.³²

Yet the interviews indicate that lack of trust impacts negatively mostly the relationship between prosecutors and judicial police in services. In addition to the frequent rotation of officers, prosecutors are concerned that the work of State police is still affected by political considerations with potentially negative impact:

“We must establish some trust, so we need to strengthen the stability and independence of the State police. The State police should break away from the Minister of Interior, so that we have chiefs of police that are not appointed by the Minister and only then we will have JPO that is able to deal with the investigation.” (prosecutor)

Prosecutors and judicial police officers are equally aware that mistrust is often caused by insufficient or poor communication. Regular meetings between prosecutors and officers in services are less common and even the formal communication in the form of exchange of letters is missing at times; such meetings are only held for the most complex and serious cases to discuss investigative strategy and to follow up on the progress. This is less of a problem for judicial police in sections who in general feel that they ‘have closer ties’ with prosecutors.

Asked about the importance of trust in interviews, judicial police officers in sections are more aware of its benefits for developing good working relationship with prosecutors and emphasise on the benefit of trust in their working relations with prosecutors, which is built on shared views, good performance and experience:

“Speaking only of myself I’ve been very correct at work; I have only respected the law. In this way I have built trust.” (JPO sections)

Despite the good understanding of prosecutors and judicial police alike that open communication is vital for establishing and maintaining good working relationships, fear of repercussion might potentially hamper their collaboration:

“There are those prosecutors that ask you to do things which are irrelevant for the investigation. You understand that he is wrong but you can’t contradict because the prosecutor can give us disciplinary measures. So we have to agree.” (JPO sections)

Lack of trust in prosecutors often results from the inability of judicial police to preserve the confidentiality of criminal proceedings. Despite the straightforward provisions of the legislation in force, the issue of the confidentiality of the investigation appears of a high concern for prosecutors and judicial police officers both in the statistical report and in the interviews. The lengthy chain in administering the case files, especially concerning investigations carried out in police services allows for breaches of the investigative secret and makes it hard to find out the responsible person. In this respect the prosecutors mentioned a practice originating from a Joint Instruction of 2009 between the General Prosecutor and the Minister of the Interior, according to which after the registration of the case at the prosecution office and the drafting of an investigation plan and the corresponding delegation acts to the police, the file is sent through ordinary means by the prosecution office “officially” to the local police directorate. This way the file, often containing sensitive information goes from hand to hand, starting from the administrative staff of the prosecution office and then to the offices of the Director of police, the Deputy Director, the chief of section, and “after two weeks from the starting date the file is in the hands of the JPO” who are supposed to carry out the investigative acts. Some prosecutors mention that the attempts to hand over files directly to judicial police officers was not approved by the police chiefs who consider that the standard protocol must be followed in order to be able to administer the activities of officers properly (e.g. to check days of work and respective per diem).

This way and in the absence of effective mechanism of control and containment of the number of people who have access to the file, the risk of breaches of confidentiality is subject to exponential

³² Statistical Report, Figure 2, Figure 200.

growth. In order to prevent 'leakage', some prosecutors report that they keep the case files in the prosecution office and just delegate to judicial police certain tasks.

Both prosecutors and judicial police seem to agree on some of the possible remedies for the above-mentioned breach of confidentiality, which would include the use of sealed envelopes or enforcing a procedure enabling the handover of files directly to the respective judicial police officer, which seem vital particularly in sensitive investigations. They consider the need to emphasise on the issue of confidentiality in every important meeting pertaining to the investigations.

While the need to activate disciplinary proceedings for cases of breaches of confidentiality was not explicitly mentioned during the interviews, the possibility of criminal proceeding against those responsible for said leakage was remarkably envisaged and suggested by the judicial police officers in services.

Furthermore, prosecutors emphasise that too often the notice of a possible criminal offence received by the police reaches the media well before the prosecution office is made acquainted of it, which in turn has detrimental effect on the investigations and on the public perception of its effectiveness. The concern was shared particularly with respect to the publication of transcription of interceptions. This not only puts at risk the official investigation, but also encourages undue pressure on the prosecutors, mostly in cases where officials of public institutions try to make interventions on the prosecution office after becoming acquainted of the *notitia criminis* from the media. Furthermore prosecutors express concern that they feel obliged to keep a certain course of action (e.g. regarding arrests) following media coverage to avoid assumption of corruption practices from the general public:

"... and then we're the bad guys for setting the arrested person free ... I think I can let this person free, but then I don't do it because they will say I took money to release him. So I leave the person in." (prosecutor)

Aside from individual cases of intentional hindrance to the investigation that may pertain to any of the State agencies involved in, prosecutors see as a possible reason for the media exposure of investigations the emphasised need for the law enforcement authorities to promote their work in order to overcome the public mistrust and to get closer to the citizens.

The relations between prosecutors and judicial police depend a lot on the quality of work of either professional category. Police underperformance appears to be the second most important factor for prosecutors, which affects negatively their relationship with judicial police, with the highest concern being expressed by the prosecutors from SCPO.³³ Contrary to this, prosecutor's underperformance appears to bear less significance to judicial police, especially in services.³⁴

The questionnaires and the interviews indicate that the main factors that affect the quality of work of judicial police in criminal investigations, are the lack of sufficient personnel, and the fact that state police officers are performing investigative tasks alongside with administrative and law-enforcement tasks leading to excessive workload. The standards and methods of recruiting judicial police officers do not provide for persons with the necessary professional skills, and as a result – many judicial police officers lack investigative skills.³⁵

An issue where convergence of opinions expressed in the interviews of prosecutors and judicial police, as well as between these and the findings of the survey was detected, is the excessive workload of the officers in the police services.

The double subordination the police officers of services requires them to attend to investigative tasks assigned by the prosecutors and to administrative and law enforcement tasks assigned by the chiefs of the respective police directorates. Those functions are discharged in a context characterised by limited number of police officers unevenly distributed per units of directorates, and by unequal distribution of the workload within units, the bulk of which is reportedly assigned to less than a half of the officers.

Both police officers and prosecutors agree that every time the dynamics of the police directorate require focus on operational aspects of police work (e.g. checking on drugs, check points, focus

³³ Statistical Report, Figure 3.

³⁴ Statistical Report, Figure 2.

³⁵ Statistical Report, Figure 4.

interventions on illegal constructions, etc.) or the discharge of reporting tasks, the time devoted to, and the quality of the criminal investigation assigned by the prosecutors suffer. It is not uncommon that law-enforcement priorities, i.e. “focus campaign” take precedent over investigative work and then judicial police must ‘drop everything else.’ Cases of requests to the prosecutor to delegate investigative activities to officers other than the one, who filed the initial report due to excessive workload, were reported as well.

Prosecutors argue that clear separation of functions is needed for the judicial police officers in the State police to remedy this situation.

“The division would be exactly this way of investigational structure, with direct subordination to the procedural body that will lead the investigation with the support that it needs to undertake investigation. Only now we can speak of proper investigation. Because the JPO of services deal also with other tasks and are not focused on investigation.” (prosecutor)

What results from this finding is the need to consider separation between investigative and police enforcement tasks in order to ensure more effective coordination with the prosecutors and better quality of investigation.³⁶

It is also understood that excessive workload is often linked with the unavailability of sufficient number of qualified police officers in services. Furthermore, failure to recruit sufficient personnel is seen by prosecutors as an issue not only for services in State police, but also for the other governmental officials which have functions of judicial police.

The questionnaires do not differentiate the replies concerning underperformance between the judicial police in sections and in services, therefore the views of prosecutors at the interviews on the quality of work of section officers are taken into account.

One common problem detected during the interviews is the lack of sufficient experience of police officers due to their relatively young age. Remarkably, the mentioned problem was emphasised by the police officers themselves with respect to their ranks:

“In the ranks of the state police there are many young police officers that don't have the necessary experience to deal with an in depth investigation and this is the main problem that the prosecution faces with the police at the moment the actions are delegated.” (JPO services)

The quality of investigations is negatively affected by lack of procedural knowledge and substantive investigative skills. Prosecutors admit that few officers are really abreast of the amendments of the procedural code introduced in 2017. The biggest problem appears the inability to follow the procedural rules for the collection of evidence to ensure admissibility in court, e.g. presence of defense counsel at suspect interviews. What appears to be a common concern is that many service police officers lack knowledge of the elements of criminal offence, which in turn affects their ability to obtain relevant evidence by e.g. conducting in-depth witness interviews. Reportedly, at times the prosecutors provide the delegated officers even with the questions to be asked.

In some occasions officers do not coordinate between themselves the work within same investigation, which leads to preparing contradictory reports.

According to prosecutors, the knowledge of the procedural aspects of the work and the expertise related to particular crime types, e.g. economic crimes, allow officers in sections to carry out investigations independently. In general, the Sections are less affected by the turnover of staff, therefore ‘more stable’, which has allowed for prosecutors to get used to the working methods of one another and to give ‘very little explanation’.

The main reasons giving rise to concerns of prosecutors on the quality of work of judicial police in sections is their systematic place, generally believed to result in ‘lack of infrastructure’ which makes them detached from the operational aspects of the work. As one prosecutor states: “They are not in the field and they don't understand the field”.

Notably, the lack of knowledge of some prosecutors of the intricacies of investigative work is also considered as a factor affecting negatively their performance: “The problem is that prosecutors today don't know the field. They don't go out of the office.” That is clearly confirmed by the findings of the

³⁶ See also sub-section 2.2.1

Statistical Report, which indicates that less than one third of the prosecutors often conduct investigative actions on their own, and if they do, those are mainly interviews.³⁷ It appears that prosecutors would be engaging personally to perform investigative activities mostly in sensitive cases e.g. involving high-profile persons or having extensive media coverage. Nevertheless, it appears that the main reason for this outcome is the workload, which does not allow prosecutors to take active part in investigations aside from ordering or delegating the police.

Prosecutors themselves are concerned that the lack of sufficient supporting staff and assistance creates extra burden as they are often busy with technical matters, e.g. photocopying or putting case files together, and unable to focus on their core tasks.

While underperformance is seen as a major impediment for effective cooperation between judicial police and prosecutors, the need for good quality investigations is one point all agree with.

Lack of shared common goals in the criminal proceedings is considered a serious problem for building good cooperation between prosecutors and judicial police. While the questionnaire indicates that this factor holds equal significance for JPO in service, JPO in sections and for prosecutors, each of these professional categories expresses different concerns over the issue in the course of interviews.

Being part of the prosecution gives confidence to JPO in sections that they share the same priorities, values and attitudes as the prosecutors and enables the feeling that they are a team which in turn is supported by prosecutors. Nevertheless, when it comes to officers in services, prosecutors are concerned that there is seldom the feeling of common purpose, that there is no “organic unity”. The causes for this are not only structural but often rooted into the different priorities of JPO in services, for example the criteria for measuring and assessing police work which is mostly quantitative:

“JPOs are very formal. It doesn't seem like the intention of the JPO is to solve cases. They work mostly for statistics than solving cases, since they are concerned to show how many arrests in flagrante they have done.... Sometimes they reach wrong conclusions although for e.g. they might not have evidence they still say 'Let's send it to court'. We are working like in the time of Enver Hoxha with statistics.” (prosecutor)

What appears to be another point of concern is the insufficient level of cooperation between section and service judicial police officers. From an institutional point of view, both categories of judicial police report directly and separately to the prosecutor of the case based on a letter of entrustment/delegation of investigations addressed to them. From an organizational perspective, although generally described as “responsive” and good, both via official channels of communication and on a personal level, that cooperation seems limited to coordination of “certain work” such as collecting information from people, finding and verifying certain addresses, etc., to occasional clarification of procedural issues or to cases on which they are requested to work on jointly.

Being asked whether there is regular cooperation and reciprocal support while doing the investigation, at least at the time of advising the prosecutor on the possible qualification of a given criminal offence, both sections and service agree that overall the investigative work doesn't connect them much.

“No, we don't deal with them, as they don't deal with us” (JPO Service and JPO Section)

While the described situation casts doubts on the strategic, rational and efficient use of the investigative human resources available to the prosecutors, it also appears to impact on the successful outcome of given investigative steps when – as reported during the interviews – the processing of the case file by the judicial officers in sections reveals that urgent actions that should have been taken at the initial stage of the investigation were not carried out and could not be repeated at a later stage. It appears that extra effort is needed to overcome the current perception that officers in sections and in services lack common vision and understanding that they all are part of a joint investigative effort aimed at achieving common goals.

The questionnaire reveals that respondents in general acknowledge that political interference affects negatively the relationship between them, but prefer to put less significance to this factor, placing it at the bottom of the list of elements relevant to the cooperation between prosecutors and

³⁷ Statistical Report, Figure 22-23.

judicial police.³⁸ Prosecutors admit that for them political interference is expressed mostly by attempted influence in high-profile cases, such as cases against persons holding significant positions, or corruption cases.

“Prosecutors are able to work independently in most cases but we can't say that they are isolated from the reality around.” (prosecutor)

Aside from what is already observed as regards the confidentiality of investigation and the remedial actions in case of unsatisfactory reports, the prosecutors have experienced cases of inspectors, sent to them following requests from the police to the Ministry of Justice, accusations of demotivating the police because of decisions to declare invalid certain arrests or acts as well as cases of perceived pressure stemming from requests for information on the development of individual cases received from national and international organization and agencies.

In the course of interviews prosecutors also expressed concerns that rotation or dismissal of judicial police officers in services is often resulting from political interference: “We’ve had contact with JPOs that were very well prepared that were further dismissed for political reasons”. Judicial police in services also consider that the intervention from their superiors is the most significant form of political influence that they receive.

Prosecutors believe that they always provide judicial police with professional support and interpretation of criminal law provisions. However both section and service police officers perceive that help with legal interpretation³⁹ is given only from time to time, when prosecutors consider it necessary.⁴⁰ In majority of the cases this happens at the time when there is a need to extend the time limit of the investigation or at the time of registering and assessing the notice of the criminal offences, preparation of interviews or upon completion of the investigation, and after the police submits the explanatory report. Having joint meetings with prosecutors to discuss significant changes in the legislation, which affect their work, is mentioned as good practice by judicial police officers in sections.

Many interviewees consider that the available human and technical resources are not sufficient to cope with the current workload, especially in the investigations of corruption-related offences.⁴¹ This issue is particularly acute for the officers in sections who consider that the Law on Judicial Police does not sufficiently guarantee the availability of such resources.⁴² On a practical level, section officers find that despite a lot of resources are available online, it is a serious issue for them to procure specialised literature and codes with their own money, or having available only outdated specialised books or commentaries. In some instances, officers in sections and in services express concern about lacking service vehicles: “We have no vehicles even to go to the crime scene. We go with our own cars”.

4.2 Roles during Investigations

This section of the Report looks into the perceptions of prosecutors and judicial police on the impact that recent changes in the legislation have on their interaction. Secondly, it examines the ways investigations are assigned to police officers in services and in sections and the consideration given to specific skills or knowledge in that respect. Lastly, it aims to assess whether lack of such skills in judicial police officers affect the decision of the prosecutor to reassign the case to ensure its proper follow-up. Matters pertaining to the role of the prosecutors in the investigations are discussed under section 4.3 of the Report, dealing with prosecutorial leadership.

Prosecutors and judicial police feel that the recent changes in the procedural law did not affect significantly the interaction between them. Prosecutors feel more confident in that than judicial police

³⁸ Statistical Report, Figure 2

³⁹ Statistical Report, Figure 83: judicial police officers in general are confident that they are familiar with the legal requirements for collecting evidence in order to ensure its admissibility in court (94% of section police and 85% of service police), but this opinion is not shared by the prosecutors (only 24% replied affirmatively to that question).

⁴⁰ Statistical Report, Figure 43.

⁴¹ Statistical Report, Figure 243.

⁴² Statistical Report, Figure 47.

officers, but overall very few feel that the changes had negative effect.⁴³ What is more, the statistical data indicates that overall prosecutors and judicial police are confident that the respective roles of each are clearly defined by the law.⁴⁴ The interviews carried out in preparation of this Report allowed to look more closely into the perceptions of prosecutors and judicial police and noted opinions on the need to re-evaluate the role of judicial police in sections. While the skills and knowledge of the latter are undisputed, some prosecutors argue that section police officers can be much better utilised if the current system is reformed and section officers are assigned the role of prosecutor's advisors who would take over some of prosecutors' responsibilities for preparing procedural acts. Such approach would on the one hand allow to overcome the functional issue related to lack of operational resources (*"they are outside of the field"*), would make better use of their expertise and will effectively reinforce the prosecution offices. Along these lines, prosecutors see the need of *"a rapid amendment of the law, leaving the prosecution office only with prosecutors and advisers"* and leaving investigation *"in the hands of the state police, that is professional and not political"*. Section police also see the recent changes less favourably and consider that the new rules affect negatively their motivation. Concerns revolve mostly around limited career prospects and payment (i.e. salaries and compensation for over-time work).

In terms of legislative change, while the modality of consultation during the legislative process was not a direct subject of inquiry, it is incidentally observed that all three respondents complained that they are not properly involved in the stage of drafting new pieces of legislation or amending current ones.

Reportedly, some prosecution offices were given only two days to provide comments to the amendment of the procedure code in 2017, thus making the consultation a mere formality. Insufficient and ineffective consultation regarding the new Law on Judicial Police was lamented by both prosecutors and JPOs during the interviews.

Looking into the roles of judicial police in investigations, many remarks were made in the course of the interviews as to the need to strengthen the investigative aspect of the work and reduce the burden stemming from the multiple administrative and preventive functions. More details on that issue are given under section 4.1 General Issues/Quality of work.

The current legal framework establishing the criteria for judicial police in services and in sections to carry out investigation gives rise to certain varying interpretations by prosecutors, more grounded in practical, than into legal considerations. What appears from the interviews is that in general prosecutors aim to follow *"the basic rule"* to delegate the investigation to the officer who submitted the referral. That has the advantage that the officer is already familiar with the case. Nevertheless sometimes the internal organisation of police enables other officers to be additionally assigned to the case leading to inconsistent results.

"I have the tendency to send it back to the same person because that person has the legal framework more clearly in mind. However for an issue in how the station is organized now it may be that for one case they may engage 3-4 officers and this is very wrong because one notes down explanations that the other doesn't and I have found contradictory explanations in the file, because they have different questioning style which might go into deeper or not. So the results may be different in one case only because the witness for example has been asked by two different officers" (prosecutor)

In some instances prosecutors consider delegating cases to judicial police of services – either because of their proximity, or because they appear to be more prepared: *"I try to select the ones which work more and can bring the case forward but there are very few of them available"*.

Interviews confirm that prosecutors are well aware of their right to re-assign investigations but in reality such changes happen more often due to transfer of service officers. To simplify the exchange of materials and to shorten the time of the investigation, especially in more demanding investigations prosecutors often chose to delegate cases from the onset of the investigation to judicial police officers in sections, thus increasing their workload.

Given the fragmented nature of investigative structures and the many opinions on lack of coordination between (i) services in different agencies and (ii) between services and sections, prosecutors strongly advocate that the same officer must follow the case from the beginning to the end, even

43 Statistical Report, Figure 13.

44 Statistical Report, Figure 40.

if separate actions are delegated outside of his/her realm. Among the many benefits that such approach brings are consistency, swiftness, and not allowing for “an interruption of the passion and engagement”.

The issue of judicial police discretion in carrying out investigative acts is the most unclear one due to the disparity of results stemming from the questionnaire and the interviews.

During the interviews, the respondents of the three categories seemed to agree that judicial police officers in sections and in services enjoy and exercise the necessary level of discretion and initiative when implementing the acts of delegation of the investigation issued by the prosecutor, by both expanding the scope of the entrusted acts and identifying new lines of investigation. The discretion is exercised on a case by case basis, with instances where the cooperation with the prosecutor is closer (i.e., previous notification to the prosecutors and/or maintaining with them an active channel of communication).

However, the larger sample of respondents involved in the survey through questionnaire seemed far less certain about the extent of that discretion. Specifically, judicial police officers in services and in sections acknowledge the possibility to carry out actions upon their own initiative - “for the sake of the investigation and without violating the law”. Still, in the context of their respective roles in the investigation, and of their interaction with prosecutors, judicial police officers in sections and in services appear to place considerable significance to the limitations of their discretion.⁴⁵ The outcome of the questionnaire also reveals that officers in sections are significantly more concerned that they are given little discretion, which results in lack of flexibility in police investigations.⁴⁶

4.3 Leadership

“The role of prosecutors is to direct and control. That’s all they do. We are under their guidance.” (JPO Section)

The questionnaire reveals an overwhelming positive response from prosecutors, judicial police officers in sections and in services that the leading role of the prosecutor in criminal investigations is clear to them.⁴⁷ Four main features stand out when it comes to the general understanding of what leadership currently is and should be: (i) control of preliminary investigation; (ii) making decisions on the legal qualifications of the criminal offences; (iii) managing and supervising judicial police via orders, instructions and delegation of investigative actions; and (iv) deciding whether to send the case to court. These are aspects related to the professional function of prosecutors as defined by the law and the respondents to the survey indicated that there is no discrepancy in the way they are currently exercised and how they ideally should be.⁴⁸

Nevertheless, when it comes to the features related to the professional competencies of prosecutors, such as integrity, respect for diversity, communication, accountability, leadership, managing performance and building trust, considerable discrepancies⁴⁹ are noted between how these features are currently exhibited and how they should be displayed.⁵⁰

The outcome of the interviews however indicates that the understanding of the notion of prosecution leadership of the investigation appears to be a formalistic one based on the comfort zone offered by the prescriptive language of the procedural code. Unsurprisingly, one in every three finds that there is no real leadership because prosecutors mainly give general instructions and exercise a generic supervision.⁵¹ All respondent invariably referred to provision of the code as objective proof that the prosecution leadership is in force. Little reflection on the multifaceted aspects of the practical implementation of that leadership was detected during the interviews.

45 Statistical Report, Figure 2

46 Statistical Report, Figure 63.

47 Statistical Report, Figure 57.

48 Statistical Report, Figure 49.

49 For the purposes of this analysis attention is given to these competences, with regards to which there is more than 10% difference in the total responses between “Should be” and “Currently are”, as indicated in Fig. 49 and Fig. 50 of the survey.

50 *ibid*

51 Statistical Report, Figure 63.

The interviews confirm the observation that prosecutors experience significant difficulties with understanding, accepting and exercising their leadership role. Prosecutors themselves express concerns that their leadership is very formal and does not extend to having an active role on the criminal investigation:

“Generally 40% of prosecutors haven’t understood the philosophy of the procedural law. They still think they have to stay in the office and wait for the material to come to them.” (prosecutor)

The understanding of the notion of leadership appears to be dependent on the role that the respondents assign (or they believe is assigned by the legislator) to the prosecutors. Some prosecutors state that the police (with specific reference to judicial police in services) don’t need an order to investigate from prosecutors because it is them who inform the prosecutors and the prosecutor intervenes in the investigation if the police inform them.

Seconding this opinion are the accounts of some prosecutors that despite the fact that they have taken notice of media reports on possible criminal offences, they consider this to be the duty of the judicial police to take the initiative.

Some of the prosecutors go even further by identifying leadership with “overseeing” the investigation from a procedural and human rights perspective, whereas they believe that the most important role for them is to bring and defend the case in court.

The inception of the investigative stage before the case officially reaches the prosecution office for registration and initiation of the formal investigation is best described with the words of the police officers in the services:

“... the way we proceed is that once we collect the information and think we have completed the entire investigation actions up to the verification point with the prosecutor, we consult the chief of section in the prosecution and make an analysis of the material that we have, and at the moment we consider that the elements of the criminal offence exist we then refer the material to the prosecution. Once the case is registered as a proceeding we know where we want to go with the case, and after the prosecutor is assigned to the case we devise the investigation strategy. After this point information is collected through the investigation. We jointly assess the information available. So, the prosecutor is throughout involved in the progress of the case.” (JPO service)

However, when it comes to the active participation in the investigative stage, both section and service officers seem to agree that the prosecutors’ workload together with the engagement in preliminary hearings and trials limit the prosecutors’ intervention to the most important or serious cases (for example, organised crimes). Prosecutors share similar concerns that factors such as work overload⁵², coupled with lack of sufficient administrative support and efficient protocols takes the focus away from their core function:

“I don’t know if we’ll ever get to the day that in the quality of prosecutor I would really have the position of a prosecutor. Until today I have seen myself in the position of the secretary, courier, a JPO and only then in the position of prosecutor. I need to draft documents, send them to protocol or to court and this is just a waste of time for me and it doesn’t allow me to lead and control investigation.” (prosecutor)

In complex investigations, the prosecutors appear more involved in following the progress of the investigation (for example, discussion with the police on how to best collect the evidence) and attending if needed the crime scene.⁵³ It must be noted that even in high-profile cases, i.e. investigation of corruption related offences, the approach is mostly reactive and cases are opened upon submission of criminal report, while the possibilities to initiate gathering of intelligence to detect corruption patterns seem underused.⁵⁴

Looking specifically into the sources of information giving rise to proactively initiating investigation of corruption offences, and confirmed by both the statistical data and the interviews, it appears that

⁵² Statistical Report, Figure 57.

⁵³ Overall, higher results are reported by prosecutors than by JPO concerning prosecutorial attendance of crime scenes: Statistical Report, Figure 120.

⁵⁴ Statistical Report, Figure 251.

media and Internet are the two sources that most often suggest for criminal activities.⁵⁵ On other occasions prosecutors gather information from tax authorities or the Financial Intelligence Unit (FIU) however the questionnaire does not allow to assess how much of that information is provided as referrals and how much is requested upon prosecutor's initiative.⁵⁶

In less serious offences, the leadership role seems to be associated with the issuance of orders for which the mandatory intervention of the prosecutor is requested by the procedural code, with providing ad hoc advice and receipt of the final report after the completion of the investigation.

“Overall they give the tasks and say ‘see you in 3 months’.” (JPO services)

And yet, besides the formal distinction based on the seriousness of the offences, some police officers related a more informal, subjective one pertaining the “bureaucratic” attitude of some prosecutors as opposed to the “practical” attitude of others, the former being comfortable in following the investigation from the office and therefore in need of “improvement” in their approach to it and the latter taking active part in the investigation for the purpose of a better presentation of the case in court.

4.4 Chain of Command

“Every action is monitored by the direct superior and the prosecutor. So in this way the path of trust and efficiency is tinted.” (JPO services)

The double subordination of judicial police of services to the prosecutors and to the police administration has appeared as a key issue of cooperation between the agencies both in the questionnaires and during the interviews. Apart from what is already reported on the topic of excessive workload of the police officers (see sub-section 4.1 General Issues/Quality of Work), here the issue at stake is the impact of the double subordination on the efficient and independent exercise of the investigative functions. More than one third of all prosecutors and judicial police officers replied to the questionnaires that the law does not establish clearly the chain of command between prosecutors and police officers entrusted with criminal investigation on the one hand, and on the other hand, between police officers and their superiors within the police. SCPO stands out with highest numbers of responses that the chain of command is not clearly established.⁵⁷

The prosecutors emphasised how the functional subordination of judicial police to them as predicated in the procedural code works differently in practice. The concept is best epitomised in the words of the respondents:

“The police/prosecutor relationship is currently a relationship between prosecution as an institution and the police as the institution. However, the procedure code means differently, namely that the relationship is personal; it is between the prosecutor and the police officers and not the police institution.” (prosecutor)

This setting impacts investigations and hampers prosecutorial leadership. Some cases of bureaucratic intervention may merely cause unnecessary delays, e.g. the signature of the chief of police station is required before a case file containing material against an unknown perpetrator is sent to the prosecution office for opening of an investigation. Prosecutors argue that such signature is procedurally unnecessary under the new provisions of CCP.

Some other practices however have major impact on confidentiality of proceedings due to the number of people that got to know the details of a case. Instances were reported when cases of alleged corruption would be discussed between the chiefs of police even before the case is reported to the prosecutors and to assess whether to make a referral at all. In high-profile cases prosecutors make particular effort to “avoid the chiefs”, counting only on the skills and integrity of the officer and being “particularly careful that no one gets access to information”.

It appears from the interviews that sometimes exchange of emails occur between the officers en-

⁵⁵ Statistical Report, Figure 254.

⁵⁶ Statistical Report, Figure 255.

⁵⁷ Statistical Report, Figure 66.

trusted with a particular investigative activity and the police chain of command as to what the prosecutor has ordered. Moreover, half of the service police officers have stated that they have personally experienced a situation where in a specific criminal investigation a superior police officer has given orders against prosecutors' instruction.⁵⁸

"This is what happens, we delegate the file for actions to the police. In order for the file to go from the prosecutor to the JPO of the service it goes through the hands of chiefs in the police, which make comments and order actions to be taken on top of ours. And the JPO don't know what to do because they get the orders from the prosecutor and get paid by their chiefs." (prosecutor)

Of note, both prosecutors and judicial police of services maintain that in matters pertaining to investigation of cases delegated by the prosecutors, service police at times abides by orders coming from the police management.⁵⁹ This would occur for example in cases of decision to arrest suspects of criminal offences: despite the lack of sufficient evidence and/or the contrary advice of the prosecutor, the arrest would be carried out anyway based on the order given by the police chain of command, being unable to "go against the chief" due to respect to the chain of command, fear of disciplinary proceedings⁶⁰ or negative performance evaluation

Some officers recognise the described situation as unsatisfactory and assert that in similar situation they communicate immediately with the prosecutor and tell police superior that the order of the prosecutor is different, at the cost of being reproached by the police chiefs. Such behavior is grounded in the awareness that, e.g. deprivation of a person's liberty without legal grounds might entail disciplinary and criminal responsibility.

Prosecutors appear to take a rather amicable approach in situations when their orders were overridden by police chiefs and in the majority of the cases limit their action to requesting oral explanation from the respective police officers.⁶¹ This attitude again affirms the fatalistic approach of the prosecutors which is best expressed in this statement:

"We have been fooling ourselves for 20 years that the JPO is dependent of the prosecutor. They are actually dependent on their chiefs. They are not subordinate to us, only on paper that is so. So if we tell them to do something but their superior tells them to do something else they will do that." (prosecutor)

4.5 Investigation Strategy

The replies to the questionnaires indicate that investigation theory is developed in most of the cases.⁶² It appears that it is used primarily to identify the elements of the criminal offence that need to be proved. Many respondents however mention that at this stage they make an assessment whether the reported conduct has the elements of a crime, thus confirming the observation of the presence of multiple referrals to the prosecution, which do not constitute criminal offences.⁶³ Contrary to what the questionnaires reveal, some judicial police officers comment at the interviews that at times prosecutors do not engage effectively with the respective officers in the elaboration of the theory:

"The latest changes of the CCP have really increased the workload of the prosecutor. They are often times in court. Therefore it is difficult to meet them in person and discuss on the file. They are very willing to cooperate with us in every detail but now it is a bit of a problem. So even for very simple cases the necessary attention is not paid. But this is a reality. Despite the fact that for serious cases we try to make an effort... However we cannot discuss in detail, in person, a case." (JPO Sections)

⁵⁸ Statistical Report, Figure 68.

⁵⁹ Statistical Report, Figure 69.

⁶⁰ Statistical Report, Figure 71.

⁶¹ Statistical Report, Figure 70.

⁶² Statistical Report, Figure 95

⁶³ Statistical Report, Figure 96

Further to this, the outcome of the questionnaires shows great uncertainty among the respondents as to the development of general criteria of prioritisation for case selection by the prosecutors⁶⁴. Even within the group of respondents who believe that such criteria do exist, besides the general criterion of the seriousness of the given case, a significant contrast is reported. On the one hand, there is the procedural-oriented perception of the prosecutors, who emphasise on the viability or probability of a satisfactory outcome of the investigation, prosecution or adjudication; and on the other hand – the perception of the judicial police who highlighted the potential of a case to generate future impact due to its social, political or legal features⁶⁵. While the interviews did not allow for obtaining more information about the reasons for this uncertainty or its impact on the effectiveness of the prosecution offices in discharging their functions and rationalising the use of resources, they nevertheless provided information on the use of prioritisation as a tool for office workload management.

Indeed, the interviews with officers in section reveal that – depending of the size of the office and the available human resources, each officer is assigned cases of multiple prosecutors (up to 8). Aside from situations requiring *ex lege* prioritisation, such as people under arrests or deadlines about to expire, or cases perceived as not “so risky” as others (e.g. illegal constructions vis-à-vis drug trafficking), the officers seem not to be given directions on prioritisation of cases either by the prosecutor or by the chief prosecutor, nor do they seem to request such directions. Rather, while each prosecutor considers his/her own cases as a priority and asks that they are treated as such, the judicial police officers believe it is up to them to make the best of their time and ensure workflow in the given circumstances: *“there are no clear guidelines how to prioritise, we do it on the basis of experience”*.

It seems that investigations into corruption-related offences are more likely to be prioritised, although the statistical report reveals significant uncertainty among the respondents as who within the office (the prosecutor in charge of the case or the chief of the office) decides on the prioritization.⁶⁶

The interviews did not allow for gathering more detailed information on the particular circumstances that would determine the choice to prepare a dedicated plan for investigation or its specific content, apart from the notion of prosecutors that the plan needs to be tailored to the skillset and knowledge level of the judicial police officer:

“... now when I develop my investigation plan I have to take into account to which JPO this file will go to, and depending on their skills I have to make a more elaborated file even drafting the questions the JPO needs to ask” (prosecutor)

The questionnaires and the interviews clearly indicate that in the most complex cases prosecutors consider the use of multi-disciplinary teams or task forces.⁶⁷ That approach is particularly favoured in high-profile investigations, e.g. into corruption-related offences.⁶⁸ Such joint formations enable speedier and more accurate and coordinated investigation⁶⁹ but also – as pointed out in the interviews, allow for bringing in some specific expertise, coming, e.g. from tax or customs judicial police officers. Some references were made as to the previous positive experience with the joint teams of prosecutors, officers from customs, tax, SIS, HIDAACI and the money laundering directorate that were *“directly subordinate to the prosecutor of the case and did not give account to their administrative supervisors on what they were working on.”*⁷⁰

Given the recent legislative developments, prosecutors are uncertain about the legal possibility of establishing joint units under the same framework. As a remedial action they see the possibility of delegating tasks to officers from various state agencies, however this approach does not enable teamwork and joint meetings, as well it does not remedy the downsides of double chain of command and potential breaches of confidentiality.

The replies to the questionnaire did not allow for conclusive statement whether there is a system

64 Statistical Report, Figure 99.

65 Statistical Report, Figure 100.

66 Statistical Report, Figure 259. Although not reported as a reason for prioritization of corruption-related offences, during the interviews the majority of the respondents found that both the time limit for investigation and the statutory limitations for such offences are too short, especially in high profile or complex cases.

67 Statistical Report, Figure 111 – 112.

68 Statistical Report, Figure 269.

69 Statistical Report, Figure 112.

70 See also sub-section 3.3 Establishment of joint permanent and ad hoc teams.

or set of rules and procedures for evaluating the effectiveness of prosecutorial strategies and practices, including decision-making, either in the GPO or in the High Prosecutorial Council.⁷¹ The interviews indicated that some police officers find that presently such system does not exist and they are left out of the possibility to appeal the decisions of the prosecutor to their chief, which was one possible option in the past to oversee and revise the activities of the prosecutor.

4.6 Investigation Follow-Up

The overall results from both the survey and the interviews indicate that there is no systematic approach to providing feedback to judicial police concerning the quality of their work. Half of service officers never receive such information. Judicial police officers in sections receive more feedback about indictments and court verdicts⁷²; still largely that depends on factors as the importance of the case, their own initiative or the practices of each particular prosecutor or their administrative assistant.

"I don't know for example how the case ends up in the end. Maybe I don't need to know it, but why not? That is also my file..."

"...The prosecutor doesn't necessarily have the obligation to inform us on the fate of the case but the file is just as much my file as that of the prosecutor. So I also need to know"

"We would feel appreciated if we had more information and feedback." (JPO Sections)

Upon this background it must be emphasised that the clear majority thinks that establishing a system for exchange of information on indictments and verdicts will increase the feeling of having common work and goals between judicial police officers and prosecutors.⁷³ In the interviews some prosecutors also share that establishing a technical connection between the CMS of State police, prosecution and courts will improve case management and harmonise data collection.

Technological difficulties (e.g. system or other incompatibilities)⁷⁴ are considered as the main reason for the problems with sharing information between the prosecutors and judicial police. Further to that almost one in three believes that the reasons are related to turf considerations, sensitivity, or legal limitations concerning access to certain information.⁷⁵

Despite the general opinion of judicial police that they consider receiving feedback important for their work, some section officers express concerns that this will unnecessarily increase their workload, since they comprehend receiving feedback only in the sense of personally attending court hearings.

4.7 Investigation and Evidence Gathering

"The biggest procedural problem that we have is that most of JPO don't have the minimal care in collecting evidence so that they can then become admissible. The evidence can be easily dismissed by the court." (Prosecutor)

The current sub-section builds upon the findings in sub-section 4.1. General issues/Quality of Work, dealing with lack of skills and knowledge as a factor obstructing the process of gathering admissible evidence. It further focuses on the impact of inconsistent access to electronic databases for gathering relevant information as a significant external factor preventing the collection of evidence. Attention is also given to disproportionate use of special investigative techniques vs. conventional methods for collecting evidence, especially in the context of investigations into corruption-related offences.

71 Statistical Report, Figure 114.

72 Statistical Report, Figure 197

73 Statistical Report, Figure 198.

74 Statistical Report, Figure 200.

75 *ibid*

The process of collecting evidence is seriously impeded by the lack of permanent and sufficient access to databases even though judicial police officers need them in their daily work.⁷⁶ The need to ensure applicability of data protection principles is not disputed, however data protection considerations are apparently not the reason for the limitations experienced by prosecutors and judicial police officers concerning access to electronic databases, given the fact that different respondents within the same professional category, e.g. prosecutors from varying territorial units, have been granted different level of access.⁷⁷ The lack of uniformity of access, also established in the interviews, results in the paradoxical situation that people who have the same job function do not benefit from the same facilities on a standard, similar basis.

What is more concerning is the fact that judicial police officers have less access to some databases⁷⁸ (e.g. the one on criminal convictions or company financial records) than prosecutors, meaning that they need either to rely on prosecutors for simple checks, which increases the prosecutor's workload and reduces their effectiveness by causing unnecessary delays, or to ask favours from others who have access, therefore potentially jeopardising the integrity of the investigation.

"...we can't even get a simple death certificate we have to make a formal request to get it and wait 2 weeks to receive it... We have access only to TIMS and civil status services but only for birth certificates not death certificates. Also for bank systems we can't see things online neither of mobile companies." (JPO Sections)

Despite the lack of uniform access to electronic databases, the vast majority uses them – to the extent permitted, in their daily work.⁷⁹ Yet, aside from that, other reasons for limited use of databases are grounded in the findings that they are not interconnected and not up-to-date⁸⁰.

The value of information contained in electronic databases is quite significant in the context of investigations of corruption-related offences. This factor is indicated as second in importance (following the availability of cooperation framework between relevant actors) to the success in investigating high-profile cases.⁸¹

Looking into the topic of methods for collection of evidence, one particular observation was made during the interviews with prosecutors, i.e the fact that judicial police in services prefers to use special investigative techniques in cases of corruption-related offences, and especially wiretapping, while generally overlooking other sources and not fully utilising all available possibilities for gathering information and evidence. Prosecutors consider this "a problem of the mentality" of the police officers who need to go beyond their routine of initiating an investigation by wiretapping and start utilising other sources of information:

"Not everything is done by tapping. The police don't really engage with people." (prosecutor)

Police officers, in turn, consider that it is not inertia, but lack of cooperation from citizens and institutions, that resorts to use of special techniques.

The results from the questionnaires may even give rise to concerns about excessive use of interception of telecommunication as means for gathering information.⁸² What is more, in some instances prosecutors find themselves pressured to make a request to court for authorising wiretapping, knowing that a refusal may give rise to suspicions of corruption for him/herself.

A significant issue revealed in the course of analyzing the outcome of the questionnaire and the interview appears to be the difficulty to obtain information for corruption-related offences. That seems to be a problem pertaining equally to referrals coming from citizens or other institutions. A specific point is made that reporting corruption is more likely to be done by individuals than institutionally:

"From the institutions we have not received information, only from the people within these institutions that may report at a personal, not institutional level." (prosecutors, JPO)

One possible reason for that might be the perception of more than half of the respondents on

76 Statistical Report, Figure 154.

77 Statistical Report, Figure 157.

78 Statistical Report, Figure 156.

79 Statistical Report, Figure 158.

80 Statistical Report, Figure 159.

81 Statistical Report, Figure 236.

82 Statistical Report, Figure 267.

the survey that the criminal legislation in force does not provide for effective protection from potential retaliation or intimidation of witnesses in criminal proceedings who provide testimony on corruption-related offences⁸³. Further to that, half of all prosecutors and JPO engaged in the survey state that they will not feel comfortable in reporting alleged involvement of a JPO, prosecutor or judge in corruption-related offence given the current system of protection of witnesses and whistleblowers⁸⁴.

4.8 Reporting

Both the questionnaire and the interviews indicate a general problem with the quality of police reports. There is a very low number of reports assessed as excellent or very good, only one reply out of three says that the quality of reports is good and more than half – that quality of reports is either average or not good.⁸⁵ The main shortcomings of the police reports seem to be that there is no sufficient description of the facts and circumstances of the alleged offences⁸⁶. Prosecutors find that often reports merely contain information that a certain event has taken place without providing an analysis whether it constitutes a criminal offence, who are the persons involved and what the supporting circumstances are:

“... the officer doesn't know what they are referring. They don't understand. [We] need to read the acts one by one to understand what the criminal fact is because other than mostly the officer even gets the date wrong... they don't have an analysis of what is the criminal act. The rest is just a description of the actions of the JPO without logic behind it and why they even started the investigation.” (prosecutor)

Less concerning but equally perceived as deficient are reports with poor quality of language and ones prepared by copy-pasting information from reports on similar events.

The shortcomings described above are found in cases of alleged corruption as well. Here, the unsatisfactory quality of the reports is linked to the police officers' reluctance to report cases involving high officials. Contrary to that and with regard to the vast majority of cases involving less prominent officials, prosecutors recognize police willingness to report but question the authentic motivation for the report. According to them in most cases this reporting is only done to justify any dismissal measures that have already been taken against the said official. Furthermore prosecutors complain that in extreme cases the particulars of the persons suspected of alleged corrupt practices are not even reported.

Generally speaking, prosecutors find that reports on corruption-related offences prepared by judicial police of customs and - sometime - of the tax offices, are of better quality, probably due to the higher degree of specialization, knowledge of legislation and adequate educational background of respective judicial police officers in these state agencies.

On many instances prosecutors receive reports from the police even though it is evident that they do not contain any indicator that a criminal act has taken place – e.g. a report on destruction of property because of an earthquake. Officers in services express the opinion that it is only legally possible for the prosecutor who *“has the ultimate power and responsibility to take a decision”* to assess whether a certain event presents the characteristics of a criminal offence. Prosecutors, however, consider as possible reasons for such practice also the lack of knowledge of the elements of criminal offence, as well as the tendency to do so in order to increase the statistics of police workload.

The judicial police officers of services were able to provide another reasoning for referring reports that do not contain information on criminal offences:

83 Statistical Report, Figure 248.

84 Statistical Report, Figure 250.

85 Statistical Report, Figure 168.

86 Statistical Report, Figure 169.

"Someone who has lost his phone complains to the Internal Audit Service of the Police because we have told him that this is not an offence but he doesn't trust us. So we have to report it although it is not an offence and then have to send it to the prosecutor." (JPO services)

Against the former background, the prosecutors seem to take a "fatalistic/formalistic" approach when it comes to put in place remedial actions. Indeed, returning the report to the police to improve quality and completeness is considered by the interviewees as "procedurally impossible". While this option was reported to be available under the previous code, the prosecutors believe that now they only have the choice between registering the report or dismissing it within 15 days from the receipt. Only for those "procès-verbaux" so severely deficient that could not be considered as reports of a criminal offence to be processed, the prosecutors believe that they could be returned to the police from an "administrative perspective". Yet, the said administrative option is considered to occur rarely and assessed of little value as the police would not re-engage to look for more information to enrich the file.

While recognising that such solution is currently not exercised, some prosecutors consider that establishing a procedure whereby the reports are assessed by the prosecutors before their registration – possibly by the prosecutor on duty, might enable returning poor reports before their registration.

No information could be obtained during the interviews on how the prosecutors consider as possible remedial action the power/obligation impeding on them to take notice of alleged criminal offences on their own and to instruct accordingly the judicial police.

In the mentioned context it must be added that in some instances the prosecutors' reluctance to take remedial action against a poor reports – be that returning them to the police or even dismissing them together with the case – is explained with the perceived lack of (general public or public officials') trust in the prosecutor's judgment not to start an investigation due to the paucity of the material provided by the police, and the consequent fear of pressure and/or exposure to accusation of supporting the criminality with the dismissal decision .

In cases such as the ones mentioned above, the unsatisfactory report is more likely than not to be included in the case file and the file to be brought in front of the judge, no matter what the prospect of prosecution success is.

In other cases, it is on the prosecutors to identify the relevant facts and turn the initial report into a proper case file; and they believe that blame for the failure to retrieve the necessary, missing information would be put on them.

While all the respondent agree that a mechanism should be establish to resolve the problem, the police emphasises the need to have a standard procedure on the subject matter to better protect the officers from possible claims of inaction.

4.9 Gender

The survey and the interviews do not reveal any gender issues. Prosecutors and JPO alike feel that the gender of their colleagues does not matter to them and does not affect their preferences as to with whom they want to work. Similarly, when examining gender perspective in the context of prosecutors' leadership⁸⁷, replies reveal that there are no preferences to follow orders or instructions coming from male prosecutors or resistance from police officers to female influence and leadership.

It must be worth noting, however, that in the interviews some of the responses indicate awareness that female officers handle better specific case, e.g. cases of trafficking in human beings for sexual exploitation and cases of sexual violence.

In some interviews female prosecutors have pointed out that they tend to assert authority by being "harsher" or having to "scream all the time", but these findings are insufficient to indicate a particular tendency.

⁸⁷ Statistical Report, Figure 65.

4.10 Training and Guidelines

Some of the factors that affect the effectiveness and efficiency of the judicial police are the insufficient training opportunities and the inadequate system for training.⁸⁸

The replies from the questionnaire reveal that very few of the officers in sections received initial training.⁸⁹ Interviews further indicated that the initial training was mainly theoretical or pertaining to the legislation rather than focusing on conduct of investigation. Section officers seem to acquire investigation experience by working on concrete investigations and - even if employed since a number of years - they believe they would need training on investigative methods of offences that require specialised skills (e.g. on economic crimes, crimes committed against minors, domestic violence, etc.) as well as on international legal assistance issues and on legislative novelties.

When it comes to the organisational aspects, section officers believe they should be given equal opportunity to apply for trainings as well as to be included in the calendar of trainings prepared by the School of Magistrates for judges and prosecutors, as the current system is not transparent and clear preference is given to enabling prosecutors to attend trainings. Moreover, they should be given the opportunity to train in areas outside of their current specialisation.

The outcome of the questionnaire and the interviews indicate that unlike judicial police in sections, judicial police officers in services receive trainings more often - both at the Academy for Security and trainings organized by international organisations. What appears to be a problem however is the organisation of the trainings: the current continuous training opportunities are mainly available at the level of the general directorate, and that too often the same officers are sent to attend the same training several times, thus depriving other colleagues of the benefit of the learning experience.

A large part of the joint specialised trainings - e.g. on financial intelligence, evidence gathering, tracing and freezing of assets or human rights, were delivered by international agencies. As for the local ones, only the School for Magistrates was indicated in the replies to the questionnaires⁹⁰. Opinions are split when it comes to assessing the capacity of local institutions to deliver specialised trainings without the support of international organisations or programmes. It also appears that the opinion of the only specialised prosecution office - the SCPO, is strongly in favour of maintaining the level of support of international stakeholders.

The prosecutors agree on the need to provide specialised training to judicial police - for example on the issue of procedural legality and validity of the evidence - as everyday work and exchanges seem not to have an effective impact on the quality of the investigation. Some suggest the possibility to organise "in-house" events, namely sessions of training on procedural issues delivered by prosecutors working in the territory of the given police directorate.

Sections officers seem less prone to contribute to the training exercise by providing the colleagues in the services with insight of the legal aspects of the investigation. The reasons for that vary, ranging from the lack of time to the perception that attendance would not be significant or that such initiative from the Section would not be well-received by the colleagues in the services.

Joint trainings are one useful tool to improve cooperation and communication between representatives of different agencies. It appears that joint trainings on substantive topics (e.g. financial intelligence, evidence gathering, asset recovery, human rights) are common.⁹¹ But to meet the needs of the complex environment they work in, and in particular to improve the capacity to cooperate and coordinate, prosecutors consider that specialised joint trainings involving them, and officers from services and sections will be useful:

"Because teamwork in investigating a given crime is very weak. I have appointed a JPO for each section, and they can't really coordinate their work unless I call them and coordinate them. And they try to transfer their work to the other. They complain that they can't do the work, and so when you engage more than one then, it ends up that none of them work. I think they need training on team work." (prosecutor)

⁸⁸ Statistical Report, Figure 4.

⁸⁹ Statistical Report, Figure 211.

⁹⁰ Statistical Report, Figure 229.

⁹¹ Statistical Report, Figure 226.

A common concern is the lack of available tools, such as manuals, SoPs, checklists, handbooks, to assist prosecutors and JPO in their daily work. Prosecutors consider that it would be useful to prepare handbooks with models of various procedural documents or Manuals on investigative methods of specific criminal offences, which on the one hand will ease the work of judicial police, and on the other hand will unify the practice.

5. Summary of the main findings

The recent justice reform in Albania succeeded in creating independent governance in the judiciary, but did it influence the dynamics of cooperation between prosecutors and judicial police? The prosecutor's independence is reinforced; the hierarchical structure of the prosecution office is no longer affecting prosecutor's decision-making powers and the role of the prosecutorial chiefs, including the General Prosecutor, is limited to ensuring organisational support and providing methodological guidance but is no longer enabling interference into concrete investigations.

Independence is interlinked with the strengthened role of the prosecutor as the leader and 'master' of the preliminary investigation. Prosecutors and judicial police alike acknowledge this role, it is undisputed and unquestioned. Nevertheless it is yet unclear to what extent prosecutors are prepared for it. The prosecutors appear somewhat passive in their work: few cases are opened upon prosecutor's own initiative, and the involvement in preliminary investigations is at times limited to supervision of the work of judicial police. The recent changes in CCP requiring judicial control over certain procedural and investigative measures resulted in increased engagement of prosecutors at court and affected their availability to guide and direct judicial police officers, except in the most complex and demanding cases.

Upon this background, judicial police in services and in sections are confronted with multiple challenges, which affect negatively the quality of their work and consequently, the cooperation with prosecutors.

What seems to be perceived as a major problem is the frequent rotation of service police officers in the State police. The new procedure, introduced by the recently approved Law on Judicial Police, will have to challenge the mentality consolidated by the procedure existing for transfers up to now, which provided for insufficient guarantees against arbitrary decisions of police chiefs and thus allowed transfers to be used as a measure to impose sanctions or exercise pressure – directly or indirectly, towards individual officers. Transfers are sometimes justified with the interest of the organisation or camouflaged even as promotions but ultimately cause lack of stability, loss of motivation and inability to acquire sufficient level of expertise for the service police officers. As a final outcome, the frequent rotation of judicial police officers in the State police hampers investigations and thus affects negatively the trust between prosecutors and judicial police.

Breaches of confidentiality are not uncommon – sometimes they are caused by attempts to promote police work through the media before the case is even reported to the prosecutor. At other occasions the long and unclear chain of persons engaged in the administration of case files between prosecution offices and police directorates creates favourable ground for sensitive information to 'leak', as it is impossible to uncover how the breach of investigative secret happened and who is responsible for it.

The remedial actions taken by some prosecutors, i.e. to keep the case file with them and merely delegate specific actions, may indeed protect the confidentiality of the investigation but would deprive judicial police officers of the possibility to have full overview on the case and to better plan and develop the investigative strategy.

The specific position of service police officers in the State police – being functionally subordinate to prosecutors and administratively – to the police chiefs, makes them vulnerable when it comes to disclosing certain aspects of the investigation. It appears that materials prepared by the officers for submission to the prosecution require the chief's signature; even confidential documents, such as requests for special investigative techniques, need to be reported to the police hierarchy with the justification that the information contained in them is required to assess the workload of the officers.

The double subordination of judicial police officers in the State police services affects their availability and places the focus of their work according to the priorities of the police. The dynamics in police directorates often require that officers deal primarily with "focus campaigns" or reporting at the expense of their investigative duties.

While the systematic position of service police appears to be the enabling factor for this outcome, future harmonisation between the Law on Judicial Police and the Law on State Police may allow for

an effective solution by establishing a separate investigative structure within the State police which will be directly subordinate to the prosecution, dealing with investigative and not preventive police tasks.

The excessive workload of the service police officers in general is seen as a consequence of the lack of sufficient number of qualified personnel in the State police and in the other governmental agencies dealing with investigations. What is particularly affecting the work in the State police services however is the disproportion between experienced and newly recruited officers. The Law on the Judicial Police waives the requirement of minimum experience and initial training with regard to recruitment of judicial officers in the State police to allow for the swift filling of the ranks, but extra time and dedicated efforts are needed until these recently appointed officers gain the necessary knowledge and skills.

In addition to all the elements mentioned above, the newly introduced system for promotion of judicial police officers seems unclear and raises a lot of questions as to its practical implementation. While these can be effectively addressed by the JPC in the future, currently it raises concerns which affect the motivation of judicial police.

The cooperation and collaboration between prosecutors and judicial police officers in sections is based on different premises than the interaction with service police. Section officers are generally well trained and sufficiently experienced to conduct investigations. Due to the fact that they are physically located within the prosecution offices and that the turnover of staff in sections is not an issue, they are able to establish close and often – long lasting working relationships with prosecutors. That proximity – as much as seen as an advantage when it comes to interaction, is also an impediment, as it creates a detachment from the field. Further to that, section officers lack the necessary infrastructure to deal with operational work, e.g. vehicles, couriers, access to some databases, which affects their capacity to provide rounded ‘service’ to prosecutors in some investigations.

One may assume that the two structures – services and sections, would mutually benefit if they work in close cooperation and partnership. In reality it seems that the only common denominator for both in particular investigations is the prosecutor, but not much team effort is made either by one or the other. But again - and in that particular context, it is the role of the prosecutor as the leader of the investigation to enforce and enable effective interaction and communication between the different members of the investigative team.

Apart from the long-term solution, which would require changes in the perception of both prosecutors and judicial police officers about their roles in concrete investigations and about the nature of their collaboration, a quick fix can be provided by reviving the recent practice of joint investigative units. By establishing permanent structures including prosecutors and judicial police officers from various sections and services, investigations will benefit from the accumulated expertise of different professionals and from the better communication between team members.

Further consideration shall be given to the idea of modifying the functions of judicial police in sections. Building upon their biggest strength – the substantive and procedural knowledge and experience, they can afford valuable help to prosecutors in certain administrative aspects of the work. Such figure is well known to many prosecutorial systems in Europe, e.g. in The Netherlands where the “assistant prosecutor”, usually a senior police officer, is authorised to extend the period of police custody thus effectively relieving prosecutors from repetitive and less complex tasks.

The multiple challenges of service police officers which negatively affect their performance sometimes motivate prosecutors to delegate complex and demanding investigations to officers in sections. That, in turn, increases the workload of the latter and leads to the need to manage urgently multiple and varying investigative tasks. In that environment prioritisation is left to the discretion of each officer who relies on common sense but often decides upon the degree of pressure exercised by individual prosecutors. Rules on prioritisation of cases would resolve that issue and will provide for clear ground on which prosecutors can base their expectations.

One of the features of prosecutorial leadership exhibiting a significant difference between the current status and the desired one is the feature of prosecutors to “share accountability for the successes and failures of the investigation”. As established in the Report, there is no effective mechanism – formal or informal, enabling judicial police officers to receive feedback on their performance systematically and consistently, especially when it comes to the outcomes of investigations in court. Such mechanism will enable easy interaction and will bring the benefit of creating the feeling of working towards a common goal.

This potentially can be achieved with targeted use of the respective CMS in the police, prosecution and court, once these systems become interconnected. Other possible benefits of implementing such technical solution would be better management of the workflow and improved reporting and statistical results.

Overall quality of police reports seems unsatisfactory. Besides all abovementioned factors that negatively affect the work of the service police officers, the lack of evaluating system or mechanism prior to their registration or submission to the prosecution is further contributing to the unsatisfactory outcome.

Furthermore, many of the deficiencies in the performance of judicial police are not effectively addressed by providing adequate training. The lack of initial training on the one hand, and the insufficient continuous training both to service and section police officers significantly affect their performance and consequently – the cooperative relationship with prosecutors. Particular areas that need further improvement are investigative reporting and evidence gathering methods. Changes in the training approach, e.g. joint trainings for prosecutors and judicial police, are also much needed, as well as a transparent and fair system for applications to training that would provide equal access for all interested professionals, irrespective of the preferences of their chiefs or heads of office.

Gender does not seem to play a role in the relationship between prosecutors and judicial police. While generally that does not seem to be a factor in the collaboration between the different professionals, consideration is given to the benefits of engaging female JPO in particular investigative actions.

6. Recommendations

To address the shortcomings in the effective cooperation and coordination between prosecutors and judicial police, it is recommended that the beneficiaries of the project take further actions in these three main areas:

6.1 Actions at legislative and regulatory level

- Amend the Law on State Police to ensure consistency with the Law on Judicial Police concerning the establishment of an investigative structure under the formal and substantial functional subordination to the prosecutors, and, in meantime.
- Apply regulatory separation between investigative and police enforcement tasks for the JPO of the Service in order to ensure quality, effectiveness, timeliness and independence of investigations led by the prosecutors.
- Rethink the role of judicial police officers in sections and consider introducing the system of assistant prosecutors/advisors to make better use of their legal and professional skills.
- Increase the transparency in the transfer process of judicial police officers in services and establish an effective control mechanism exercised by the Judicial Police Commission.
- Limit the transfer of JPO of the Service to cases of serious and documented operational needs so as to ensure continuity in the investigative tasks as well as acquisition and preservation of professional investigative skills.
- Adopt internal regulations and instructions to strengthen and where necessary to set up effective procedures of cooperation between JPO of the Section and JPO of the Service – including a clear system of case and task distribution - in order to ensure strategic, rational and efficient use of the investigative human resources available to the prosecutors.
- Develop standard rules on case prioritisation as well as interoffice instructions and/or guidelines on prioritization for JPO working on multiple files assigned by the same or different prosecutors.
- Revise and if necessary introduce new rules for exchange of case files and information between prosecution and police to avoid 1) risks of breaches of the investigative secret before and after the registration of the case at the prosecution offices and 2) prejudice to the development of current or future investigations by the prosecutors.
- Develop rules for communication with the media on issues pertaining to criminal investigations and their confidential nature.
- Introduce and apply effective measures and processes to inquire into cases of violation of the secrecy of the investigation and to raise disciplinary or criminal charge against those responsible for the breach.
- Adopt nationwide measures to ensure that legitimate claims of underperformance of the prosecutors do not turn into abusive and illegitimate means to exert pressure on the prosecutors to carry out or to abstain from carrying out legitimate investigative and prosecutorial activities.
- Introduce mechanism and procedures for the judicial police and prosecutors to evaluate the quality of referrals prior to their registration in the prosecution and if needed – for the prosecutors to provide directions for further actions and improvement.

- Establish an obligation of judicial police to report and of prosecutors to review the materials from the investigation prior to its finalisation and before submission of the case file with the final report to the prosecution.
- Introduce coordinated, effective, timely and more structured procedures of consultation of JPOs and prosecutors in case of enactment of new legislation or amendment of current legislation pertaining to their functions and their status.
- Reinforce and render effective the system of protection for witnesses and whistle blowers in corruption cases and cases against high-level State officials.

6.2 Actions at organisational level

- Develop and implement effective technical solutions to enable interconnection of the case management systems of the State police, prosecution and courts.
- Ensure wider use of joint investigation teams including judicial police officers with various expertise for the investigation of complex cases and, in particular, into corruption-related offences.
- Enable fuller access to electronic databases for judicial police officers in full compliance with the principles of data protection.
- Develop a procedure for the systematic evaluations of the effectiveness of prosecutorial strategies and practices, including evaluations of prosecutorial decision-making.

6.3 Capacity building and capacity development actions

- Develop and keep up-to-date a compendium of the applicable bylaws in the Prosecution Office of Albania.
- Undertake a detailed assessment of the training needs of prosecutors, judicial police in services and judicial police in sections based on detected deficiencies such as in the fields of investigative methods of offences that require specialised skills (e.g. on economic crimes, crimes committed against minors, domestic violence, high profile cases of corruption, etc.), international legal assistance issues, legislative novelties, financial intelligence, evidence gathering, tracing and freezing of assets, human rights, procedural legality and validity of the evidence, investigative reporting, drafting skills, etc.
- Develop a set of practical tools, such as manuals, SoPs, practical guidelines, checklists, etc. for prosecutors and judicial police officers.
- Develop leadership skills for prosecutors through training and mentoring programs for both in-service and newly recruited prosecutors aiming to implement active leadership mindset and techniques.
- Enable an open and transparent application process for the trainings provided by training institutions.

7. References

7.1 Bibliography

Bureau of the Consultative Council of European Prosecutors, Report on the independence and impartiality of the prosecution services in the Council of Europe member States in 2017, CCPE-BU(2017)6.

Commission Staff Working Document Albania 2019 Report, Brussels, 29.5.2019 SWD(2019) 215 final.

Commission Staff Working Document Albania 2018 Report, Strasbourg, 17.4.2018 SWD(2018) 151 final.

Commission Staff Working Document Albania 2016 Report Brussels, 9.11.2016 SWD(2016) 364 final.

Commission Staff Working Document Albania 2015 Report Brussels, 10.11.2015 SWD(2015) 213 final.

Consultative Council of European Prosecutors (CCEP) Opinion No. 9(2014) on European norms and principles concerning prosecutors.

If you are suspected of a criminal offence, The Council for the Judiciary, Netherlands, 2008.

Joint Investigation Teams Manual, Council of the European Union, 15790/1/11 REV 1, 4.11.2011.

McDonald, William F., Police-Prosecutor Relations in the United States, Executive Summary, US Department of Justice, National Institute for Justice, 1982.

UNODC, Handbook on practical anti-corruption measures for prosecutors and investigators, Vienna, 2004.

UNODC, United Nations Convention against Corruption: Article 11 implementation guide and evaluative framework, Vienna, 2015.

7.2 Legal instruments

Constitution of the Republic of Albania.

Code of Criminal Procedure of Albania, 21.3.1995.

Law No 95/2016 on the Organization and Functioning of Institutions for Combating Corruption and Organized Crime.

Law No 96/2016 on the Status of Judges and Prosecutors in the Republic of Albania.

Law No 97/2016 on the Organisation and Functioning of the Prosecution office in the Republic of Albania.

Law No 108/2014 on State police (updated as per amendments of law No 112/2018 and Law No 58/2017).

Law No 25/2019 on the organization and functioning of the Judicial Police.

Cooperation Agreement on the Albanian State police Case Management System and Prosecution Case Management System, 2017.

Cooperation Agreement to enable the implementation of the action plan on the fight against organised crime between the Prosecutor General and the Interior Minister, 6.11.2017.

Agreement on the Continuous Training of the Officers and Agents of the Judicial Police between the Prosecutor General, the Ministry of the Interior and the School of Magistrates, 13.03.2011.

Order No 70 on assigning competence of exercising control and criminal prosecution by the Investigation Directorates at the General Prosecutor's Office, 9.02.2015.

Order No 251 of the Prosecutor General on the establishment and functioning of the Corruption and Property Investigation Unit with the first instance court for serious crimes, 10.09.2015.

Instruction No 2 of the Prosecutor General on organisation and coordination of prosecution work, 29.12.2016.

Instruction No 1 of the Prosecutor General on establishment of special sections, 20.02.2018.

Joint order of the Ministry of Interior and the General Prosecution on the functioning of judicial police services at the State police, 15.04.2008.

Memorandum of Cooperation between the Prosecutor General's Office Ministry of Interior, Ministry of Finance, State Intelligence Service, HIDAACI and High State Audit, 6.05.2009.

Letter No 9 on the complying with the timeframes for preliminary investigations and other penal procedural timelines, 6.01.2004.

Order No 204 of the Prosecutor General on the establishment and functioning of joint investigation units, 13.10.2009.

Order No 291 of the Prosecutor General on the functioning of the serious crimes prosecution and its relations with the other prosecution offices and the judicial police, 21.10.2004.

General Instruction of the Prosecutor General on asset investigation, sequestration and confiscation of proceeds of crime, 20.11.2018.