



Organization for Security and  
Co-operation in Europe  
Presence in Albania



Prot. No 25

Prot. No 627

Tirana, on 13.04.2021

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE – PRESENCE**  
**IN ALBANIA**  
**and**  
**THE OFFICE OF THE GENERAL PROSECUTOR OF THE REPUBLIC OF ALBANIA**  
**on**  
**CO-OPERATION AND COLLABORATION FOR THE IMPLEMENTATION OF**  
**PROJECTS AND ACTIVITIES AIMING TO SUPPORT THE EFFECTIVENESS AND**  
**EFFICIENCY OF THE ALBANIAN PROSECUTION SYSTEM**

This Memorandum of Understanding (hereinafter referred as the “MoU”) is concluded between the Organization for Security and Co-operation in Europe, Presence in Albania (hereinafter referred to as the “Presence”), with address at “Sheshi Italia”, 1010 Tirana, Albania

and

The Office of the General Prosecutor of the Republic of Albania (hereinafter referred as the “GPO”), with address at “Rruga Qemal Stafa” No.1 Tirana, Albania

Hereinafter the Presence and the GPO are individually referred to as the “Party” and collectively as the “Parties”.

**WHEREAS** the Presence has been mandated to assist the efforts of the Republic of Albania to develop effective democratic institutions and to promote the rule of law and human rights in line with the Organization for Security and Co-operation in Europe (hereinafter referred to as the “OSCE”) commitments, international standards and best practices;

**WHEREAS** the Presence intends to intensify its existing efforts to provide capacity-building and technical support to all actors in the prosecution process to help them implement their mandate in a more effective, transparent, accountable and independent fashion in line with international standards and OSCE principles and commitments;

**WHEREAS** the General Prosecutor – in the sphere of competences attributed by the Constitution and the relevant legislation – *inter alia* ensures the well-running of the administration of the prosecution offices of general jurisdiction, issues general instructions in writing to prosecutors and oversees their implementation, issues general instructions in writing for Judicial Police officers, defines the general structure and standard rules of the organization and functioning of the prosecution offices of general jurisdiction, requests the initiation of investigations on disciplinary misconducts and complaints against judicial police officers and requests the High Justice Inspector to carry out thematic inspections or investigations for individual violations; proposes and administers the budget of the Prosecution Office, represents the accusation before the High Court and cases before the Constitutional Court, and reports to the Assembly of Albania on the situation of criminality, while carrying out other functions and duties provided for in Codes and special laws;

**WHEREAS** the Presence and the GPO intend to sign an MoU in order to facilitate the co-operation and collaboration between the Parties for the implementation of projects and activities supporting the Albanian prosecutors in the field of rule of law, good governance, democratization and human rights,

**THEREFORE**, the Parties agree as follows:

## **Article 1**

### **Purpose and Scope of the MoU**

1. This MoU creates a framework for co-operation and collaboration between the Presence and the GPO with regard to the implementation of projects and activities aiming to support the Albanian prosecution system in the field of rule of law, good governance, democratization and human rights as described in the Annexes to this MoU.
2. The purpose of this MoU is solely to set forth certain understandings of the Parties in relation to the terms and conditions for the implementation of activities as outlined in the Annexes to this MoU.



**Article 2**  
**Non-binding Nature of the MoU**

1. Nothing in the MoU gives rise to legal or financial obligations upon the Parties. To the extent that any initiative mentioned in this MoU may give rise to a legal or financial obligation, a separate agreement will be concluded prior to such activity being undertaken.

**Article 3**  
**Implementation**

1. The Parties will closely co-operate for the realization of the projects and activities planned under this MoU.
2. The Parties understand and agree that each Party's implementation of this MoU will be subject to the applicable law, normative acts, policies and the Party's respective internal rules and regulations as well as decisions of its governing bodies.
3. The collaboration of the Parties under this MoU shall be on a non-exclusive basis. Therefore, this MoU in no way restricts either of the Parties from participating in similar arrangements or agreements, including the pursuit of project funding with, inter alia, other intergovernmental organizations, public agencies, and non-profit organizations.

**Article 4**  
**Role of the Presence**

1. Subject to the provisions of this MoU and to availability of funds, the Presence intends to:
  - a) Implement projects and activities, in the field of rule of law, good governance, democratization, human rights and other fields deemed relevant for both Parties, as mentioned in Article 1 of this MoU;
  - b) Cover with the budget allocated to the Presence the operational, administrative and other costs related to the development and implementation of the projects and activities as mentioned in Article 1 of this MoU. Funds shall be expended in accordance with the applicable OSCE rules and regulations;
  - c) Nominate a contact person for each of the projects and activities as mentioned in Article 1 of this MoU in order to ensure smooth implementation and accurate flow of communication and information;
  - d) Contribute in-kind to the projects and activities as mentioned in Article 1 of this MoU through its internal staff and experts as well as with its office facilities, logistics, procurement, and financial administration capacities;

- e) Perform all measures necessary for the effective development and implementation of the projects and activities as mentioned in Article 1 of this MoU, including provision of timely and accurate information about possible difficulties which might be encountered during the implementation phase;
- f) Monitor the proper implementation of the projects and activities as mentioned in Article 1 of this MoU, and report on their implementation to OSCE participating States and/or Donors and stakeholders in accordance with the applicable OSCE rules and regulations.

## **Article 5**

### **Role of the Office of the General Prosecutor**

1. Subject to the provisions of this MoU, the Office of the General Prosecutor intends to:
  - a) Nominate a contact person for each of the projects and activities as mentioned in Article 1 of this MoU in order to ensure smooth implementation and accurate flow of communication and information;
  - b) Contribute and co-operate financially and in-kind through its internal staff or external experts in the implementation of the projects and activities as mentioned in Article 1 of this MoU;
  - c) Facilitate contact with prosecutors and judicial police officers that shall be involved in the implementation of the projects and activities as mentioned in Article 1 of this MoU;
  - d) Participate in Working Groups/Stakeholder Meetings/Conferences on project activities;
  - e) Provide timely and accurate information about possible difficulties which might be encountered during the implementation;
  - f) Undertake all other measures - including access to relevant information - required to ensure the effective implementation of the projects and activities as mentioned in Article 1 of this MoU.

## **Article 6**

### **Confidentiality**

1. Each Party undertakes that it will not at any time use, divulge or communicate to any person, except to its professional representatives or advisers or as may be required by law or any legal or regulatory authority, any Confidential Information concerning the business or affairs of the other Party which may have come to its knowledge as a result of entering into this MoU.
2. For the purpose of this MoU, confidential information shall mean any and all information, which is supplied or disclosed, directly or indirectly and which at the time of its disclosure or supply is identified as confidential.



**Article 7**  
**Liability and Indemnification**

1. The Parties shall not assume liability for any third-party claim for damages arising out of the performance of this MoU by the other Party.
2. The Parties shall ensure that their officials, agents and persons performing services for the Presence, and any other persons placed under the Parties' supervision for the purpose of implementing the present MoU shall avoid any action which may adversely reflect on the image and status of the OSCE or the GPO.

**Article 8**  
**Visibility**

1. The contribution of each Party to the implementation of the projects and activities as mentioned in Article 1 of this MoU shall be duly recognised in any printed material, press releases, speeches, public events or any other material prepared in connection with the projects and activities, in full respect of the relevant normative acts.
2. No Party shall use the name, emblem and official seal of the other Party or the abbreviation of the other Party's name in any form or manner whatsoever without seeking the previous written authorization of the other Party.

**Article 9**  
**Intellectual Property Rights**

1. All rights, title and interest in the materials produced, invented developed in execution of this MoU, including, without limitation, all copyrights and patents, shall be vested in the OSCE which shall grant an unlimited, non-exclusive and cost-free license to the GPO to use, reproduce, publish, translate, distribute them for non-commercial purposes and in a manner compatible with and as foreseen by the projects and activities as mentioned in Article 1 of this MoU.
2. For specific type of activities, intellectual property rights may be regulated separately within each project agreement concluded between the parties as mentioned in Article 1 of this MoU and annexed to it.

**Article 10**  
**Officials not to Benefit**

1. The Parties shall not grant to any official of the other Party any direct or indirect benefit or preferential treatment on the basis of this MoU. Any breach of this provision shall constitute a fundamental breach of this MoU.

**Article 11**  
**Communication**

1. All communications relating to the implementation of the Project shall be addressed as follows:

For the Presence:

Blerina Fani – National Legal Officer

Address: OSCE Presence in Albania

Telephone: 069 25 53 086

E-mail: blerina.fani@osce.org

For the Prosecution Office:

Sokol Stojani – Director, Directorate for  
Institutional Cooperation

Address: General Prosecution Office

Telephone: 069 20 96 793

E-mail: sokol.stojani@osce.org

**Article 12**  
**Settlement of Disputes**

1. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this MoU.

2. For specific type of activities, modalities for settlement of disputes may be regulated separately within each project agreement concluded between the parties as mentioned in Article 1 of this MoU and annexed to it.

**Article 13**  
**Privileges and Immunities**

1. Nothing in or relating to this MoU shall be construed as a waiver, expressed or implied, of any of the privileges and immunities enjoyed by the OSCE.

**Article 14**  
**Amendments**

1. The provisions of this MoU and its Annexes may be amended by mutual, written consent of the Parties.
2. Consultations with a view to amending this MoU may be held at the request of either of the Parties.

**Article 15**  
**Termination**

1. If one Party believes that the MoU can no longer be executed effectively or appropriately in all or in part, it shall consult the other Party as soon as possible to find appropriate solutions, and may terminate the MoU by serving a written notice.

**Article 16**  
**Entire Agreement**

1. The Annexes to this MoU shall form an integral part of it.
2. Additional Annexes can be appended to this MoU following the procedure described in Article 14 of this MoU.

**Article 17**  
**Survival**

1. Provisions of Article 7 (“Liability and Indemnification”), Article 9 (“Intellectual Property Rights”), Article 12 (“Settlement of Disputes”) and Article 13 (“Privileges and Immunities”) shall survive any termination or expiration of this MoU.

**Article 18**  
**Entry into Force and Duration**

1. This MoU shall enter into force upon the date of the last signature of the Parties and will remain valid until terminated in writing in accordance with Article 15 of the MoU.

This MoU is concluded in 2 (two) originals in English language, one copy for each Party. An Albanian translation of the MoU is provided as a courtesy. In case of disagreement in the interpretation of the provisions of this MoU, the English version shall prevail.

**For the OSCE Presence in Albania**

**For the Office of the General Prosecutor**

*Vin, Del Monaco*

Ambassador Vincenzo Del Monaco

Head of Presence

Date:

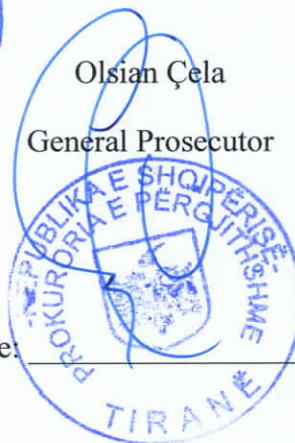
*13 April 2011*



*Olsian Çela*

General Prosecutor

Date:





## **ANNEX I**

### **Project Outline**

#### **Support to the Albanian General Prosecution Office**

Implemented by the OSCE Presence in Albania

#### **Executive Summary:**

The OSCE Presence in Albania (hereinafter ‘the Presence’) seeks to increase the operability and efficiency of prosecutors of general jurisdiction building upon the Presence’s engagement to date on strengthening and consolidating the prosecutorial leadership and investigation capacities of prosecutors in the investigation process. To this end, the Presence will provide technical assistance to the development and promotion of relevant tools. Further to that, the Presence shall also continue to assist and support the General Prosecution Office in its legislative efforts and processes for better regulating and standardizing the prosecutorial field.

The Presence will implement the project in close and constant cooperation with the General Prosecution Office, catering to the needs and priorities of this institution.

#### **Background and Justifications:**

In 2020, Albania continued to progress towards advancing the rule of law and increasing public confidence in the work of public institutions. Albanian authorities have undertaken particular efforts in establishing an independent and impartial judiciary through the implementation of a comprehensive justice reform. The reform started in 2016 with the adoption of the constitutional amendments, which paved the way for further implementation of the reform in line with international standards and OSCE commitments.

The Presence recognizes the challenges faced by the justice system in light of the vetting process and commends the efforts made so far by the respective authorities to mitigate, to the extent possible, the effects of the said process on the efficiency of the system. In addition, adapting work to the unforeseen impediments resulting from the Covid-19 pandemic is also praiseworthy.

Despite these positive developments, challenges still persist. The new independence granted to prosecutors, amid the vetting process and other changes introduced to the justice system, as a result

of the justice reform, pose difficulties in reconciling the old practices with the new ones. In this regard the Presence has for a few years now engaged in better understanding the dynamics of investigation and prosecution of criminal offences, developing tools that come to aid and aim to support prosecutors in these new attributes granted to them. An important aspect that comes together with prosecutorial independence is that of leadership, a topic on which the Presence was particularly vested in last year, developing a Handbook on Prosecutorial Leadership that intends to be a practical instrument to better guide and facilitate the work of prosecutors.

All of the Presence's efforts and engagements as per the above have been informed by the gap analysis on prosecution and judicial police cooperation that the Presence finalized in 2019<sup>1</sup>. It is therefore based on this empirical foundation and the continuous consultation of the Presence with the prosecutors as beneficiaries themselves, that further assistance with the development of such practical instruments has been identified as necessary and welcomed. The School of Magistrates is also another important partner with whom the Presence cooperates in light of its above goal, by providing training to prosecutors on the developed instruments, such as the training on Prosecutorial Leadership organized last year and planned to be continued this year, in 2021 as well.

#### **Objective:**

The project outline aims to support the General Prosecution Office to develop tools and instruments that will come to the aid of prosecutors for enhancing the effectiveness of criminal justice.

#### **Outputs and Activities:**

Through a set of activities that are planned to be implemented in the course of 2021 (April – December 2021), the project in cooperation with the General Prosecution Office shall:

- Develop a guideline on the investigation of criminal offences in a field jointly determined by the General Prosecution Office and the Presence
- Promote the Handbook on Prosecutorial Leadership with the prosecution offices of general jurisdiction throughout the country
- Assist the General Prosecution Office in its legislative initiatives

#### **Activity 1. Promoting the Handbook on Prosecutorial Leadership**

Following the development of the Handbook on Prosecutorial Leadership in 2020, the Presence will organize an online launching event to introduce the Handbook as well as provide a technical presentation addressing prosecutors on the main features that the Handbook contains to come to their aid in leading and managing an investigation. This promotional task aims to reach out to a number of prosecutors in different general jurisdiction prosecution offices with the involvement of the General Prosecution Office that shall facilitate the participation of prosecutors in the launching event. In so doing the Presence will contract again the international expert that prepared the Handbook, given her substantial authorship over this document. This activity intends also to encourage feedback on the Handbook from prosecutors and the GPO, in order to ensure its applicability and utility in time.

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<sup>1</sup> <https://www.osce.org/files/f/documents/3/f/442660.pdf>



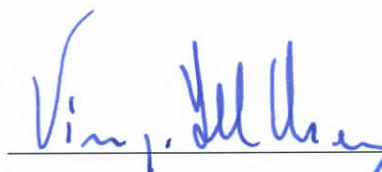
## Activity 2. Development of guideline of investigation on a specific type of offence

Following the progressive work that the Presence has undertaken in the field of prosecution, building on the 2019 gap analysis on prosecution and judicial police cooperation and the 2020 Handbook on Prosecutorial Leadership, the Presence will hire an international expert to support the development of a guideline of investigation in a specific area of criminal offences that shall be agreed upon jointly between the Presence and the GPO, upon expressed preference of the latter. The guideline aims to further operationalize the Handbook, by supplementing the general principles of leadership enshrined in the Handbook with a subject specific guideline putting into practice the general principles of leadership in a subject specific area. In so doing the guideline serves to provide a useful instrument that shall aid prosecutors in the investigation of a given category of criminal offences to be agreed on jointly by the Presence and the General Prosecution Office. Therefore, in the implementation of this exercise the General Prosecution Office is foreseen to have an active role being closely involved in the development of the guideline, reviewing the draft and providing feedback on different stages of its development, in order to endorse the final product for use by the prosecution offices of general jurisdiction countrywide.

## Activity 3. Assist the General Prosecution Office in its legislative efforts

Following the Presence's support to the development of the internal regulation of the Judicial Police Commission, and the current engagement with the working group for the development of the general instruction on the Functioning of the Monitoring Sector in the General Prosecution Office, considering the Presence's longstanding experience in the processes of legislative review, upon expressed need by the General Prosecution Office, the Presence shall assist the latter in its legislative efforts to regulate and improve the operational framework of the prosecutorial system in the country.

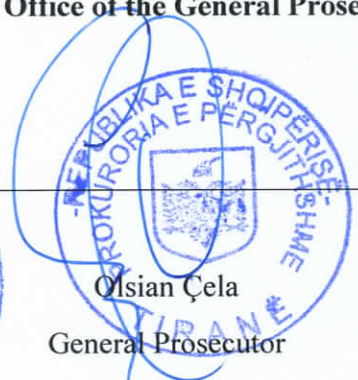
**For the OSCE Presence in Albania**



Ambassador Vincenzo Del Monaco  
Head of Presence



**For the Office of the General Prosecutor**

  
Olsian Çela  
General Prosecutor

Date: 13 April 2021

Date: \_\_\_\_\_



## ANNEX II

### Project Outline

#### Action Against Human Trafficking in Albania

Implemented by the OSCE Presence in Albania Extra-Budgetary Project funded by the Government of the United Kingdom and led by UNICEF Albania

#### Executive Summary:

Based on the OSCE comprehensive approach to combatting human trafficking, the Project builds upon the long-standing record of the OSCE Presence in Albania ('the Presence') in supporting the Albanian lawmakers, police, prosecution, judiciary, labour inspectors, social services, child protection agencies, civil society and media, to address the multi-faceted phenomenon. The focus of the overall Project action is on strengthening the capacities of Albanian law-enforcement, prosecutorial and judiciary institutions; and thus upgrading the criminal justice response to human trafficking through a multi-agency approach.

With regard to capacity building for judges and prosecutors, the Project foresees:

1. creation of an online **anti-trafficking training platform for the School of Magistrates of Albania**
2. **roll-out of a training programme** for judges, prosecutors and the School's students, focusing the anti-trafficking legal framework and its application from a victim-centered, multiagency and human-rights based approach.
3. organisation of the **simulation-based training on combatting human trafficking**, for the first time in Albania. The OSCE-designed simulation-based training promotes an innovative approach to capacity building, whereby anti-trafficking practitioners engage in **real-time simulated scenarios** to identify and investigate human trafficking;

For the purposes of the Memorandum of Understanding between the Presence and the General Prosecution Office, this Project Outline highlights those activities that are targeted more specifically at prosecutors, and which will be implemented in collaboration with the General Prosecution Office, catering to the needs and priorities of the institution.

## Background and Justifications:

Albania represents a source, transit and destination country for men, women and children subject to trafficking for sexual and labour exploitation. The majority of the victims assisted by the National Coalition of Anti-Trafficking Shelters are children from 11 to 17 years old, 70% being girls victims of sexual exploitation. Men and boys are exploited mostly for forced criminal activities (drug distribution and stealing), begging and forced labour. Data obtained by the Presence indicate that from 2016 to 2018, 1,255 children were subject to forced begging and child labour. At least 10% of those are correlated to human trafficking, mainly involving trafficking of girls for sexual exploitation. The factors that exacerbate the situation include: poor socio-economic conditions; widespread misconception and limited access to reliable information about migration; a fragile child protection system; lack of protective environment and employment opportunities for young people; weak capacities to prosecute human traffickers aggravated by the change of jurisdiction of human trafficking cases. This Project aims to reinforce the criminal justice response to human trafficking.

To this end, in 2020 the OSCE PiA launched the development of a new training curricula on trafficking in human beings for police, prosecutors and judges. It is working with the OSCE's Office of the Special Representative for Combatting Trafficking in Human Beings (OSR/CTHB) to adapt its methodology for a simulation-based training programme on combatting THB for various practitioners in Albania, including prosecution, due to be piloted in 2021. It also follows upon recommendations from the 2020 High-Level conference of the Alliance against Trafficking in Persons organized by OSR/CTHB, which focused on increasing prosecution across the OSCE region by 2023, including through advancing the justice professionals' capacities to conduct victimless prosecution strategies, implement the non-punishment principle, and build trust between victims, communities and law enforcement.

## Objective:

The purpose of the Project is to contribute towards an overall reduction in the prevalence of human trafficking in and from Albania.

## Outputs and Activities:

Based on the OSCE comprehensive approach to combatting human trafficking, and as part of its broader action, the Presence shall implement activities that focus on strengthening the capacities of Albanian law-enforcement, prosecutorial and judiciary institutions; thus upgrading the criminal justice response to human trafficking through a multi-agency approach.

### Activity 1. Training Workshops for prosecutors and victims' coordinators

Training workshops for the *First Instance prosecutors and victims coordinators*, which aim to increase the knowledge and skills of the trainees on how to make prosecution a more utilized, tailored, and effective tool in combating human trafficking, highlighting good practices, including creative and innovative methods to enhance efforts against human trafficking crimes. By emphasizing challenges and opportunities to make investigation and prosecution more effective



and discussing linkages between prosecution of offenders and protection of victims, the training will put particular emphasis on the new provisions on trafficking in human beings in the Albanian Criminal legislation and address the special needs of children from the perspective of the “best interest of the child”. A special focus will be put on ways to work smarter, including availing of technology tools, financial investigations, partnerships, proactive investigation methods and prosecution strategies, which do not require the testimony of victims.

Two sessions of one-day training workshops for around 40 trainees, respectively one for First Instance prosecutors of general jurisdiction and one for victims’ coordinators, will be delivered in the months of June and September 2021. The OSCE will host the training online and engage two trainers for this purpose, one international and one local expert.

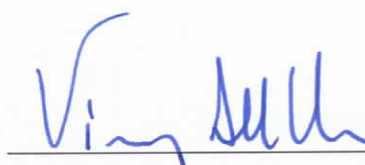
### **Activity 2. Simulation-based anti-trafficking training exercise**

This training activity, delivered for the first time in the region by international and national experts, including prosecutors, aims at enhancing the capacities of Albanian institutions to effectively investigate and prosecute trafficking in human beings, as well as to promptly identify trafficked persons by promoting a multi-agency and human rights-based approach.

The simulation based training exercise is an enactment of a real-life situation that allows trainees to experience decision-making in so-called ‘safe environments’, without having to worry about the consequences of their decisions. It represents a learner-focused training method that puts trainees at the center of the learning process and not the trainer/s. Trainees will include four prosecutors of general jurisdiction and two victims’ coordinators. The training will be delivered in a hybrid format, in person and online, over 3 days in October 2021.

**For the OSCE Presence in Albania**

**For the Office of the General Prosecutor**



Ambassador Vincenzo Del Monaco,

Head of Presence



Olsian Çela

General Prosecutor

Date: 13 April 2021

Date: \_\_\_\_\_