REPUBLIC OF ALBANIA
Assembly
AD HOC PARLIAMENTARY COMMITTEE
ON JUSTICE SYSTEM REFORM

EXECUTIVE SUMMARY OF THE

PLATFORM

ON JUSTICE SYSTEM REFORM

PREPARED BY THE EXPERTS PROPOSED BY THE PARLIAMENTARY OPPOSITION

(Abbreviated version)

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INTRODUCTION

The scope of this Platform is not to find defects or criticize the documents submitted by the parliamentary majority, but to reflect a number of suggestions of complementary and corrective nature, ensuring an objective reflection of the data*. The Strategy was not consulted with the groups of interest or the justice system actors and the Ad Hoc Parliamentary Committee unilaterally approved in principle the draft submitted to the committee.*

Our Platform aims to integrate into a joint Strategy of long-term solutions that go beyond a government mandate. Therefore, based on the above premises, our opinion ***aims*** *to clarify: the eventual critical reasons, needs, objectives and aims of the constitutional/legal//institutional amendments; the potential risks; as well as the need, the concrete means and the guarantees to ensure the reform process.*

This Platform contains not only critics against the proposed measures, but offers also support to the positive solutions, identifies the disadvantages of inappropriate solutions and offers our concrete alternative for the justice system reform, aiming at the same time to ensure its independence, to strengthen the accountability of the system and the fight against corruption. Therefore, we believe the measures proposed in this Platform should be carefully analysed by the international experts in order to select the best solutions for Albania and achieve the objective of ensuring the independence of the system and the fight against corruption.

This document is based on the Recommendations of the European Union, GREECO, Consultative Council of European Judges (CCJE) and Consultative Council of European Prosecutors (CCPE), Network of European Judicial Councils, European Court of Human Rights, Venice Committee and the best European models. In this aspect, despite frequent critics concerning borrowed parts from different European experiences without precisely copying a ready European model, this platform accepts that ***Albania should create its own model of judicial power and justice system which should firmly embrace the minimum standards and the best European and international practices****. This is the only approach that adapts to and addresses the concrete needs of the Albanian society in its historical context of social and economic development, while preparing it to face the Euro-Atlantic integration process.*

The content of our Platform follows, as appropriate, the structure of the denominations defined in the Analysis of the Justice System and the Strategy, in order to avoid confusion between documents. We strongly believe that a careful assessment of this Platform would really help an objective reflecting of the problems of the system and finding the best solutions. Any efforts to ignore different opinions or insist on predefined solutions not only will prevent the solution of the justice system problems, but would add other problems that would put at risk the European future of the country.

CHAPTER I – GENERAL REMARKS

I. On the Justice Reform process

As concerns the justice system reform, the Ad Hoc Parliamentary Committee has approved in principle the Analytical Document "Analysis of the justice system in Albania", as well as the Strategy and the Action Plan on the Justice Reform. Based on the results achieved by the justice system in the last 16 years since the entry into force of the Constitution of the Republic of Albania, the *Analytical Document* aims to highlight the issues that affect our justice system in all its organization, functioning and administration aspects.

Efforts to scan the problematic of the justice system since the entry into force of the Constitution (1998) is a welcome process, but only if it is *complete, objective, inclusive and impartial*. Therefore, the process should be completed carefully and in no rush, it should be inclusive and transparent. Consulting should not be only a formal process, but a process of great impact on the content of these documents. Although a number of round table and public consultative meetings have been organized, they have failed to influence the content of the Analytical Document. Furthermore, the Strategy and the Action Plan have not undergone a specific consulting process with the groups of interest. The claim that they have been consulted during the consulting phase of the Analytical Document (*therefore, prior to being drafted by the Group of High Level Experts!!!*) is unreliable and lacks seriousness.

ENCJ has given the following recommendations on the Judicial Reform process:

1) It is essential that the judiciaries, judicial councils and in particular, judges and prosecutors are involved in every phase of the development and implementation of the reform plans. This shall ensure the independence of the judiciary and effective and reliable reforms;

2) Judiciaries, under the guide of Judicial Council, if any, should submit reasonable proposals on effective reforms. The objective of the reform should be the improvement of general justice values. A more effective management shall improve the duration and quality;

3) Such reform proposals should gather information from the general guidelines of the report. In particular, the combination of facilitated procedures, a stricter management of the cases and digitalization offer a perspective for judicial values.

A comparison of these standards and recommendations with the Analytical Document and the draft-Strategy indicates that they have failed in addressing the significance of the reform process and the procedure to follow. Apparently, this matter has been addressed in political levels (Parliamentary Commission for the Reform), which through a number of decisions have established simple rules that fail to comply with the European standards. We would like to underline once again that it is true that round table with judges, heads of courts, judges associations and HCJ representatives have been organized. Similarly, a register of the electronic addresses of judges has been set up to keep them informed and gather their opinions. However, this procedure is superficial and does not ensure the substantial activating of the judiciary. It is worth mentioning that individuals that have participated in such forums act individually and are not organized. Furthermore, this becomes sensitive due to the common mentality of judges to work individually, instead of

working as a team. That's why the European standards require the involvement of the judiciary under the guidance of the Judicial Council for an effective organization, the identification and scientific addressing of the problems and serious suggestions.

It is also essential for the experts drafting the document to be politically balanced (impartial and independent, as a general rule), for an objective reflection instead of a party-related and impartial one. The presence of the international experts is a guarantee to ensure the objectivity of the process, but their participation does not entirely eliminate the lack of trust caused by the impartiality of a high number of local experts, which role should have been decisive for the content of the documents. Although the Group of High Level Experts is described as a group of "independent" experts, the large participation of former Ministers, Deputy Ministers and other officials of the Socialist Party's government, family members of deputies and ministers of the Socialist Party or high exponents of the former communist regime, impairs their credibility as independent and non-partisan experts, thus affecting the objectivity of the analytical process and potential non-partisan solutions.

In such circumstances, it is essential for the group of experts to be balanced and to reflect to the possible extent the true structure of the Ad Hoc Parliamentary Commission. On the other hand, experts should be free of conflicts of interest and openly admit that during the time they were holding leading functions in the justice system, they failed to strengthen the public trust in the system or to keep the system away from corruptive acts!

It is also essential to avoid basing the analysis of the justice system on subjective data and personal unfounded opinions, but to carry them out according to a comparative process between the domestic reality and the international standards in this area. The Document indicates a lack of references to international acts that establish the standards of the organization and functioning of the justice system. To illustrate this, let's mention the fact that the Document does not refer to the acts adopted by the Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE), acts that are an inspiration to carry out reforms in all countries of the European Union or other countries aspiring to join the European family. At this point, the Document "Analysis of the justice system" has failed to offer an analysis of the compatibility of the Albanian legislation with the international standards.

The objectives of the judicial system reform should be based on sound principles that improve the quality of justice delivered to citizens and include the following aspects:

- Improved quality of access to the judiciary;
- Increased public trust in the judicial system;
- Improved image of the judiciary;
- Ensuring an efficient system that does not compromise the quality of the justice and access to justice.

Based on the above, the vision that pervades this part of our platform is the **reformation of the Albanian judicial system through strengthened independence and accountability, to make it easily accessible and credible, of high integrity and efficient in delivering a high quality justice**. The articulation of such vision is based on the opinion that the justice system reform should be conceived as an effort to improve the functioning of the judiciary, considering the significant impact of the economic crises (the number of cases in courts has increased, while the state budget has been reduced),

and the fact that the weak performance of the judiciary is one of the key factors impeding the economic development of the country.

The proclamation of this vision does not contradict the general objective of the draft Strategy, but unlike it, it supports the **concurrent and balanced strengthening of the independence and liability of the judiciary**. Underlying both principles relates to the institutional history and current situation of the Albanian judiciary, which has indicated that ignoring one principle largely influences the violation of the other. There is great social concern today on increased liability of the judiciary in Albania, and a careful long-term reform should consider measures to increase liability while observing the need to preserve the independence of the judiciary. The significance of both principles is also supported by the content of the Analytical Document and several parts of the draft Strategy that focus on increased liability of the judiciary in Albania, while failing to propose measures or balancing mechanisms to preserve its independence.

In its Reports on the Judiciary Reform, ENCJ recommends that the objectives of the Reform should be SMART (specific, measurable, attainable, realistic and time-sensitive). The Reform process should be composed of a set of procedural steps, as follows:

(i) Action Plan;
(ii) Procedures to engage and involve the judiciary in every phase;
(iii) Pilot Projects;
(iv) Escalated deadlines;
(v) Revised deadlines;
(vi) Revision criteria;
(vii) Dates and procedures of implementation;
(viii) Request for the proposal to be based on current and relevant data;
(ix) Impact assessment – quality and quantity;
(x) Control of the quality in every phase.

The last issue related to the reform process is the **formal structuring of its substantial issues**. In its Judicial Reform in Europe Report 2011-2012, the European Network of Councils for the Judiciary (ENCJ), has analysed 5 major areas of the Judicial Reform:

1. Rationalization and (re)organization of courts and public prosecutor offices;
2. Reduction in the volume of court cases;
3. Simplification of judicial proceedings, improvement in case management and introduction of new technologies;
4. Financing of the judicial system (courts and public prosecution offices);
5. Court management and allocation of cases within and between courts and within and between public prosecution offices.

II. On the Analytical Document

1- The Analytical Document tries to make a scan of the current situation of the Albanian justice system, but the identified problematic fail to always reflect the reality and is not always confirmed and verified by accurate and statistical sources of information.

2- Although the document is voluminous and cites various domestic and international documents, it fails to make a complete scan of the current situation of the justice system. In this aspect, it would be appropriate to make a comparison of the compatibility of the legal and institutional situation in the country with the international standards in this area. On the other hand, it is necessary to clarify case by case the reasons leading to the current situation. If causes are not identified, we shall be destined to fail in finding valuable solutions and ensuring that the same problems will not reappear in the future.

3- The Document often displays a significant lack of compatibility among the analysis, findings and conclusions. Not all of the identified problems are reflected in the conclusions. Citing of international documents is fragmented and fails to fully reflect the identified inconsistency.

4- The Document reflects strong subjectivity in addressing the problems. The Document often states that a respective problem has been evidenced by the general public or the close followers of the system, failing to indicate the source. In addition, parts of the document contain political considerations, which we believe are harmful and do not help the process. In order to increase the trust in the analysis is necessary to accurately cite the source of information and avoid subjective assessments and efforts to assess the work of institutions guided by other experts, as well as criticise without any fact the work of institutions that have not been included in the Group of Experts.

5- The Document gives the perception that all the improvements of the system have taken place before 2005 (when strangely there were no problems), while all problems have been identified after this year. The truth is quite different. Before 2005 the justice system has suffered the most unimaginable seizure from the Socialist Party. As a consequence, the objectivity standards require an accurate reflection and inclusion of the respective problematic from the adoption of the Constitution until today, as well as the evidencing of the system achievements during this period.

6- The Document contains unnecessary information that unreasonably encumbers its content and creates confusion to the readers. As an illustration, although the Analytical Document contains more than *50 pages of* statistics, they have not been analysed at all and the problems have not been identified.

7- The structure of the Analytical Document is entirely inappropriate. Identical issues and institutions are addressed in different chapters, thus repeating the information and creating frequent inconsequence. In this aspect, the Document lacks a suitable referring mechanism that would enable the readers to receive complete information on any problematic or institution. To illustrate this, if readers are willing

to get information on HCJ analysis, they will have to find it dispersed in at least 3 chapters of the document (constitutional amendments, judiciary, and anticorruption).

8- The analysis of the Document gives the impression that the key problem of the Albanian justice system is not its functioning, but its organization. The entire document fails to analyse the problematic under the perspective of services delivered to the citizens, relating it instead to the way public officials are elected or nominated. In our opinion, problems should be analysed based on the functioning and efficiency of the system in fulfilling its mission.

III. On the Strategy and the Action Plan

1- More than a Strategy on the Judicial Reform the Strategic Document is a summary of the general measures to be taken by the Ad Hoc Parliamentary Commission within its deadlines. This gives the document the features of an Emergency Document rather than a Strategic Document. In our opinion, the Justice System Reform cannot be complete and comprehensive if measures included in the Strategic Document fail to provide short-term interferences in the legislation, as well as long-term interferences extended at least to the next 5 years.

2- Measures provided by the Strategic Document are generic, and often unclear and impossible to be measured. The Strategic Document fails to analyse the advantages and disadvantages of the offered solutions, the compatibility with the international standards in the area and the implementation details of the measures and ways to eliminate the problematic identified so far.

3- There is an easily identifiable inconsistency between problems evidenced in the Analytical Document and measures proposed in the Strategic Document. Concretely, the Strategic Document offers solutions to problems that have not been addressed by the Analytical Document, while giving no solutions to already evidenced problems.

4- The deadlines of the Strategy for the Justice System Reform established in the Action Plan during the period September-December 2015, are of great concern to us. Such deadline is not serious and realistic. In our opinion the Strategy should contain the format and deadlines of action as required by the European Union. The Strategy should provide measures for the period 2015-2020, accompanied with an accurate Action Plan to provide the monitoring mechanisms and financial components. This is the only way to ensure the EU financial support for the justice system reform.

5- On the other hand, the Strategy fails to address the piloting of several measures presented for the first time related with the review of planned measured, the impact and quality control and the financial costs of proposed measures. Therefore, we suggest the set-up of a strict procedure to ensure the impartiality of the results of the Reform. This procedure should be based on ENCJ recommendations.

6- There are dozens of recommendations in the draft Strategy that have “sprung” in the document from “nothing”. The Analytical Document does not contain a single line on how to address them, on the problematic of the current situation and the international model and standards used during the drafting process of the legal

amendments. This flagrant deficiency places at risk the seriousness of the entire document, as well as the practical usefulness of addressing these solutions. In this situation there are strong suspicious on the bases on which the respective solutions for these recommendations have been identified. **One thing is certain: such solutions or recommendations are not a logical product of the research activity performed by the expertise and included in the Analytical Document.**

CHAPTER II – COMMENTS AND ADDITIONS TO THE ANALYTICAL DOCUMENT

I. CONSTITUTIONAL ANALYSIS OF THE JUSTICE REFORM AND LEGAL ANALYSIS ON THE CONSTITUTIONAL COURT REFORM

1) The constitutional amendments in the Analytical Document are addressed in Chapter IV, composed of 30 pages and divided in 5 parts: (I) Introduction; (II) Constitutional and legal framework; (III) Summary of findings; (IV) Legal analysis on the reform of the Constitutional Court; (V) Summary of findings; and (VI) Conclusions. This part of the material has structural problems, frequently going through a chain tautology of the type "facts – summary of facts – conclusion of facts". Such structural problems make the text difficult and unclear, with inappropriate overlapping and frequent substantial incoherencies. On the other hand, the structure is not exhaustive as concerns the constitutional amendments, as many issues of this level have been addressed in other chapters (for example, the analysis of the prosecution is addressed in the Chapter "Criminal justice", or part of the issue of the constitutional status of judges has been addressed in the Chapter "Anticorruption"). In addition, although the main concern of the citizens and international partners is the fight against corruption, the analysis fails to mention the GREECO Report as a significant report for the justice reform at constitutional level.

2) The entire text of this Chapter is focused on nominations and dismissals. To illustrate it, the word "dismissal" has been used 34 times, while "nomination" has been used 57 times in this Chapter composed of 30 pages. In fact, the main concern should have been the efficiency of the system. The entire text is focused on the nomination of several key figures with simple majority in the Assembly, apparently to open the way for the approval with a qualified majority. This is a problem, as the concern in Albania is not the numbers, but the lack of dialogue and mutual political trust that can be settled only with procedures that ensure clear competencies and non-overlapping of the state organs. In addition, a new concept has been invented. The concept of "simple majority" has been replaced in the text with "minimum majority (36 votes), which is used several times. No official has ever been elected in Albania with 36 votes. It seems that the argument has been used to suggest not such a thorough reading of the material, although the experts can easily identify its inaccuracies and trends.

3) **Part I "Introduction"** contains conclusions on the constitutional reforming of the justice system and Constitutional Court. Conclusions are superficial and are not based on arguments as concerns the defects of the constitutional text and the bad practical implementation.

4) **Part II "Constitutional analysis on reform in justice"** gives a description of the constitutional and legal framework, as well as the constitutional institutions related to justice (President, Constitutional Court, Supreme Court, HCJ, National Judicial Conference and Prosecution). This part has the following problems:

- Lack of a complete constitutional and legal framework due to the lack of constitutional norms on the status of judges and lack of an organic law on the judicial;

- The role of the President of the Republic has been treated unprofessionally, even with impartial doses. The institution of the President has not been addressed in its historical aspects, there is a lack of concrete data and impressions have been focused on the current President. The entire analysis is focused solely on the number of the required votes to elect the President.
- The section on the Efficiency and Effectiveness of the Constitutional Court contains a logical incoherence of cause-consequence nature between the identification of problems and the identification of causes.
- The structure of HCJ has been addressed impartially and double standards have been use to analyse HCJ members elected by the judicial as compared to those elected by the Minister of Justice and the Assembly. The concept of the conflict of interest for HCJ members elected by the judiciary has been deformed. There is a superficial identification of the problem when declaring that the members are elected by the Assembly with a minimum quorum (this is an invented concept, as the Constitution refers to simple majority). There is a lack of analysis as concerns the type of the mandate of the HJC elected members: mandatory, representative or independent mandate. There is no explanation of the concept "too activating role of the President in HCJ";
- The section "Position of the Minister of Justice" contains a different standard then the standard used to address HCJ members. The only identified problem is the exclusive power to initiate disciplinary proceedings, while other competencies related to the justice system that lack a sound constitutional basis, have not been addressed. An inappropriate sentence has been introduced about the President, stating that he approves the judges as the Chairman of the HCJ. There are also inconsistencies with the parts "Summary of Findings" and "Conclusions";
- The part on the National Judicial Conference is not in coherence with "Summary of Findings" and "Conclusions". The analysis of NJC is superficial and deficient;
- The Prosecution section is not in coherence with "Summary of Findings" and "Conclusions", due to the long list of problems. The conclusion that the 5-year term of the Prosecutor General is unsuccessful is unjustified. It makes no sense to treat the investigation committees as a problem of the Prosecutor, while the lack of liability of the Prosecutor General is identified as a problem. There are no correct analysis of the constitutional positioning and competencies of the Prosecutor General. There are no statistics and studies to support findings. The relations of the Prosecutor General with the Minister of Justice and the Council of Ministers have not been addressed.

5) <u>Part III "Summary of Findings"</u> gives a summary of the constitutional problems described in part II. There are problems of incoherence and impartiality, as described above.

6) <u>Part IV "Legal Analysis on the reform of the Constitutional Court"</u>, makes a description of the organic law of the Constitutional Court through a schematic display of the text of the law, followed by a presentation of the current situation. The problems in this part of the document are as follows:

- The appointment of the members of the Constitutional Court is impartially addressed; problems are displayed as opinions, with no statistics and authentic studies. There is incoherency with the "Summary of findings" and "Conclusions", as well as legal inaccuracies. To illustrate, this section mentions a legal deadline of 1 month to initiate the replacement procedure for constitutional judges whose

mandates have ended, while the two other parts conclude that the law has no deadlines. There is another comment concerning the President: "in recent years a large number of refusals have been seen in the Assembly";

- The actions of the replaced judges have not been addressed in the section: "Completion of the mandate of the members of the Constitutional Court";
- The problematic in "The procedures of constitutional adjudication" is not based on statistics and authentic studies. There is not an identical approach for all subjects. It is suggested to extend the circle of subjects that require the incompatibility or ineligibility of the President. Such a defect is not evidenced for deputies. There is a technical error in relation to HCA and funding of political parties. There is incoherency with the "Summary of Findings" and "Conclusions". There are technical inaccuracies giving the impression that the Constitution entitles individuals to affect a legal norm. There is a deficiency related to the right of individuals who have not exhausted all juridical means (the case of procrastination – used recently as a practice by the Constitutional Court jurisprudence);
- The analysis of the 3-year deadline in the section "The procedures for constitutional adjudication", "Deadline for application" is unprofessional. There are oblivions in addressing the deadlines of disagreements between powers and deadlines of incidental control. The lack of a deadline to initiate the procedure for the dismissal of the President has been evidenced once again as a problem;
- The analysis of the special procedures concerning the dismissal of the President of the Republic is inaccurate. Although the disciplinary liability of judges has been identified as a problem, it disappears in the "Summary of Findings" and "Conclusions". Although the overlapping of competencies between CC and the Election College concerning the verification of elected deputies has been identified as a problem, it disappears in the "Summary of Findings" and "Conclusions". The constitutional concept of a regular legal process has narrowed. The issues of abuse with the competencies of the Constitutional Court related to requests for a regular legal process and frequent overtaking of the competencies of courts of usual jurisdiction has not been addressed. Although the procedure of constitutionality of political parties has been identified as a problem, it disappears in the "Summary of the Findings" and "Conclusions". Although the lack of competencies of the Constitutional Court to control the international agreements signed by the Prime Minister has been identified as a problem, it disappears from the "Summary of Findings" and "Conclusions";
- In the section "Promulgation and implementation of the decisions of the Constitutional Court", problems have been addressed impartially. The recent abusive practice of the Constitutional Court to promulgate unreasoned decisions has not been identified and reported. The fact that state organs fail to execute the CC decisions has been evidenced as a problem and illustrated with the lawmaking initiatives pertaining to the period 2005-2013. The procedure for the dismissal of the President has been used once again as an example in the effects of decisions;
- The section "Position of the advisors of the judges" follows a different standard. There is a lack of approach concerning the disciplinary liability of judges and their dismissal. Only the promotion and financial treatment of judges has been addressed;

7) <u>Part V "Summary of findings"</u> gives a summary of the legal issues described in part IV. There is incoherency and impartiality, as described above.

8) <u>Part IV "Conclusions"</u> reproduces, almost without any change, the two parts "Summary of Findings". This part too reflects inconsistency and impartiality, as explained above.

(For more on these issues, please refer to Part III, Chapter I, full Version of the Platform "On Justice System Reform".)

II. ANALYSIS OF THE JUSTICE SYSTEM

1) The justice system has been addressed in Chapter IV of the Analytical Document, composed of 115 pages and divided in 5 topics: (I) Introduction; (II) Constitutional and Legal Framework; (III) Presentation of the Current Situation; (IV) Summary of Findings; and (V) Conclusions.

2) <u>Part I "Introduction"</u> identifies 9 issues, but then the material becomes incoherent as problematic is identified differently. There is a deviation as concerns the concepts of independence and impartiality, which have been converted into good governance and status of the judge. Equally, administration is not a separate issue, but presented as a summary topic of transparency and efficiency.

3) <u>Part II "Constitutional and legal framework"</u> gives a list of the constitutional provisions, relevant international acts and domestic legal framework. The list is schematic and poor, especially as concerns international acts.

4) <u>Part III</u> "Presentation of the current situation" covers 5 issues: (1) organisation of the judicial power; (2) well governance of the judiciary; (3) status of the judge; (4) administration of justice, including transparency and efficiency; and (5) enforcement of judicial decisions. Independence, impartiality and professionalism are not addressed separately as mentioned in the Introduction. Transparency and efficiency have become part of the administration of justice. This section has the following problems:

- failure to identify the problematic of judicial organization as concerns citizen access to the justice system. There is no description of the territorial reform and inconsistency between judicial organization and territorial organization;
- conclusions are based on opinions and there is a lack of accurate scientific data and examples to support identified problems;
- failure to evidence problems of specific institutions for which the document gives a simple institutional description, such as the case of the Chairman of the Supreme Court;
- omitting of specific institutions, such as the Office for the Management of Judicial Budget (ZABGj) or the School of Magistrates;
- use of double standards to assess the performance of institutions, criticizing only HCJ and its Inspectorate, while the performance of other institutions has been converted into a legal problem;
- inconsistency with the other parts of the Analysis, specifically the "Summary of Findings" and "Conclusions". The Summary of Findings and Conclusions contain more detailed analyses than this section.

5) The section "Presentation of the current situation" describes as follows:

- The High Court (substantial competencies, organization and functioning, the Chairman of the HC, ways to resolve cases, interaction with the Constitutional Court and statistical data). There is incoherence with "Summary of Findings" and "Conclusions".
- The Courts of Appeal or ordinary jurisdiction (number, geographical distribution, substantial and territorial competency and statistical data). There is a lack of description of the problematic and the language used by the experts is impartial. There is incoherence with the sections "Summary of Findings" and "Conclusions".
- The Serious Crimes Court of Appeal (number, geographical distribution, substantial competency and statistical data). There is a lack of description of problematic and incoherence with the sections "Summary of Findings" and "Conclusions".
- The Administrative Court of Appeal (number, geographical distribution, substantial competency and statistical data). There is a lack of description of problematic and incoherence with the sections "Summary of Findings" and "Conclusions".
- The First Instance Courts of ordinary jurisdiction (number, geographical distribution, substantial competency and statistical data). The only problematic described is the competency of the Chairman of the Court for the inner organization of the court. This has not been reflected in the section "Summary of Findings".
- The District Court of Tirana (organization and statistical data). The difficulty of managing the two chambers of the court with 1 Chairman and 1 Chancellor, which is reflected on the quality and velocity in delivering services to the public, has been identified as a problem. This is not reflected in other sections of the document "Summary of Findings" and "Conclusions".
- The Serious Crimes Court of First Instance (number, geographical distribution, substantial competency and statistical data). No problems have been identified. The text focuses on reforms that exclude the period 2005-2013. There is no description of the problems and there is incoherence with the sections "Summary of Findings" and "Conclusions".
- The Administrative Courts of First Instance (number, geographical distribution, substantial competency and statistical data). Another standard has been used for the statistical data and the high volume of cases has been identified as a problem. This has not been reflected in the "Courts of Administrative Appeal". There is incoherence with the sections "Summary of Findings" and "Conclusions" that identify the procrastination of the process and the extended territorial competence of these courts as a problem.

6) The section "Well governance of the judiciary" describes as follows:

- The High Council of Justice, identifying 17 problems related to the structure, organization and functioning. There are comments on HCJ performance in contradiction with the law and an opposite approach compared to the one used for other institutions. There are inconsistencies /incoherencies between problems listed in this section and problems identified in "Summary of Findings". The latest adds among problems the inappropriate political influence over HCJ and the lack of good will to fulfill its functions. The phenomenon of corporatism due to the participation of 10 judges in HCJ has been added in "Conclusions".

- The HCJ Inspectorate is addressed in the section "Well governance of the Judiciary" as part of the HCJ. Having two functions "inspection and evaluation of judges", as well as the lack of the legal framework on the status of judges and the lack of liability and disciplinary process have been identified as problems. Even here the approach is different, as the focus is shifted on the liability of this structure, instead of strengthening for a better performance. There are no true critics of the performance, no realistic display of the activity, due to the total absence of data. There is incoherency with the section "Summary of Findings", where overlapping of inspections, human resources and inadequate professional capacities have been added as problems;
- No problems have been identified as concerns the National Judicial Conference. There is incoherency with the section "Summary of Findings" that describes the failure of the Conference to strengthen the ethics of judges and protect their interests as problematic;
- The section "Minister of Justice" evidences the legal role of the Minister as a cause of fragmentation, influence on the judicial administration, overlapping of inspections and his exclusive competencies for disciplinary proceeding. In 2004 the Constitutional Court has justified such competencies as based on Constitution. In the section "Summary of Findings" this problematic has been converted into conceptual and legal inaccuracies, as well as inefficient and unprofessional competencies of the Minister of Justice. The same approach has been used in the section "Conclusions" that deals only with the fragmentation, overlapping of inspections and the inefficient, non-objective and unprofessional initiatives of the Minister on disciplinary proceedings.
- The only identified problematic concerning the Inspectorate of the MoJ is the fact that its role is not in compliance with international recommendations. There are no comments or critics of the Inspectorate performance, unlike the case of HCJ Inspectorate where human resources, professional capacities and the lack of an accurate tracking system of complains have been identified as problems (the last one is unclear in the Analysis).

7) The section "Well governance of the judiciary", fails to address the issue of the competence of the President of the Republic concerning the number of judges, the competencies of the courts, ZABGj competencies on financing the justice system, as well as the issues of the School of Magistrates. The institutions of the Chairman of the court and Chancellor of the court, as subjects of the daily governance of the justice system within their respective courts – and in particular the role of the Chairman of the High Court have not been addressed. The associations of judges, as mechanisms that influence the daily governance of the judiciary have not been analysed. The international relations (participation in international organizations) that should become a drive to achieve the best standards of governance have not been analysed.

8) The section "Status of the judge" evidences the incompatibilities, appointment in all levels of the judiciary, the assessment of professional and ethical performance, the irremovability and transfer, the temporary transfer, permanent transfer, disciplinary liability, promotion, termination of the mandate of the judge, appointment of judges to other institutions, salaries, financial and social treatment of judges, safety and protection of judges and the working conditions.

9) The main critic in the section "Status of the judge" is the lack of a scientific and comprehensive approach, reflected in the failure to use concrete cases and data. There is no credible catalogue of all international elements and standards. Conclusions seem to have been drafted based on general impressions taken from impartial individual stories! As an example, the failure of HCJ to implement the law concerning the winning candidate with an equal number of votes has been presented as a problem, but no examples have been given. This indicates that specific parts of the document are based on personal unverified stories and the phenomenon has not been analysed. There is a lack of key information. In the framework of the professional and ethical evaluation of the performance, there is no mentioning of the evaluation of the Chairmen of courts, legal assistants and MoJ inspectors. As concerns disciplinary proceedings, there is a total lack of analysis of the perspective of judges and guarantees to protect them in disciplinary proceedings – such an approach is used in many international documents.

10) In addition, there are technical contradictions in the section "Status of the judge". As an example, while speaking of protection and safety of judges, the extension of judges' immunities in case of personal control and apartment control is identified as a problem!

11) The section "Administration of justice" addresses the issues of transparency and efficiency. There is a lack of statistical data and credible studies/evaluations of the situation. Where statistical data is provided, as it is the case of the employees of the judicial administration, their performance has not been considered a problem, although it is one of the most concerning issues. There are also technical problems/errors, such as making no difference between civil proceedings and administrative proceedings. The ICMIS problematic and the failure of the Centre for Official Publications (QBZ) to publish consolidated laws have not been addressed. QBZ has failed to fulfil its legal obligation to update all legal and by-legal acts in force. There are inconsistencies in the text, such as the case of the administrative adjudication, where the inadequate number of judges is considered a concern, while in "Summary of Findings" the extended competencies of the courts are criticised.

12) The section "Enforcement of judicial decisions" fails to give a realistic presentation of the private bailiff service reform approved in 2008 under the perspective of transitional development intended to keep both services until a later period when it would become entirely private. This is another indicator of the impartiality of the experts which have also addressed other changes of the system occurred during the period 2005-2013. There is a lack of critical analysis of the state institutions performance, such as MoJ, State Advocacy, Probationary Service, Office for the Registration of Immovable Property and Directory of Prisons. The efforts concerning the functioning of electronic monitoring and its extension all over the country, especially for women and children, have not been addressed. There is no analysis of the implementation of the "One Stop Shop" system in Office for the Registration of Immovable Property (ZRPP) as a success story in the fight against corruption, that should extend all over Albania.

13) **<u>Part IV</u>** "Summary of findings" gives a description of the problematic of the justice system, but it contains deep deviations from Part III that describes the current situation. This is strangely related only with issues pertaining to HCJ functioning. In addition, there are doses of impartial evaluation of HCJ and HCJ Inspectorate, especially in "Summary of Findings". Words such as "lack of good will", "infringement of the law by HCJ", etc, have been used.

(For more on this issue, please refer to Part Third, Chapter II, full Version of the Platform "On Justice System Reform".)

III. CRIMINAL JUSTICE

1) The Prosecution (organization, functioning, etc) is addressed in Chapter "Analysis of the Criminal Justice System" of the Analytical Document, although its traces can be found dispersed in other chapters too. Perhaps this is due to the fact mentioned above that the "judiciary power" necessarily includes the prosecution system and interferences in one branch (for example, in the court system) have their effects on the prosecution system. This makes the analysis a little bit difficult, as the same issue is addressed differently in different chapters.

2) The used approach is academic and unsupported by data. Most part of the text is focused on legal provisions and the problematic reflects the views of the experts. The identification of the problems and their gravity is not supported by experience, studies and statistics – therefore, comparative objective data.

3) The text makes a commendable effort to address the issue of organization and functioning of the respective criminal proceeding institutions, as well as apparently less important issues, such as improving the investigative procedures, issues related to the material and criminal procedures, international relations and execution of judicial decisions. However, the approach is not well structured and there is no tendency to adopt a predefined system or model.

4) Reference to organs instead of the area (activity) is perhaps one of the reasons leading to a superficial and rather deformed analysis, as concerns the identification and solutions of problems, and discrepancies between identified problems and solutions offered by the draft Strategy. Similarly, failure to specify the set of international acts (standards) on which the comparative logical operations should be based is another reason leading to inappropriate solutions. The proposed solutions fail to reach the core of the problem (accuracy in exercising the criminal proceeding functions) and are oriented instead towards procedures for the selection of the Prosecutor General and participatory mechanisms. Therefore, the offered solutions openly reflect the current political feelings of the majority, instead of reflecting the scientific needs of reforming.

5) Section 1.4.1 "Appointment and constitutional position of the Prosecutor General", focused on problems between the Assembly and the Prosecutor (investigation committees and dismissal of the PG) is incoherent with sections "Summary of Findings" and "Conclusions", where problems have been reduced to the PG appointment criteria and approval of PG candidacy with a minimum majority. A new legislative term "minimum majority" has been invented, while the Constitution clearly speaks of "simple majority". The inaccurate positioning of the PG in the Constitution, as a unique Albanian model that has caused so many problems, has not been addressed. In the Constitution PG is conceived neither as part of the judicial power, nor as part of the executive.

6) There is no logical argument to support the need for an equal treatment of the Council of Prosecution and the High Council of Justice. The delicacy of such proposal and the failure to be based on constitutional analysis or comparisons with international standards

casts a strong shade of doubt on the seriousness of such solution declared as an objective to be achieved through the constitutional reform. Meanwhile, raising such organ at constitutional level with the proposed structure and decision-taking competencies that surpass the central figure of the Prosecutor General (proposed to be similar to HCJ, therefore, to have the last word concerning the appointment or dismissal of prosecutors), seems to create a deep crisis for the current constitutional provisions on the prosecution as a centralised organ (Article 148/2) and dismissal of prosecutors by the PG (Article 149/3), and even for the model of the prosecution system.

7) There is a flagrant contradiction between the Analytical Document identifying the weak control of prosecution over police and the need to strengthen it and the suggestion of the draft Strategy, Objective 3, paragraph 2 going *towards further weakening of this authority.*

8) Concerning the criteria for candidates, the document requires them to be similar to those applied to candidates for the Constitutional Court. This is an almost irreproachable solution. As concerns the appointment procedure (proposed by the Council of the Prosecution), it seems to be a "*deus ex machina*" solution. This formula has not been addressed in the "Constitutional Analysis", let alone the "Criminal Justice". This is an evidence of serious inconsistencies between both documents and seriousness of the analysis and the selection process of the finale recommendations. There is no analysis of international standards in identifying the respective problems and solutions.

9) There are a total of 17 problems in the section "Analysis of the criminal justice system", "Prosecution and judicial police", which lack a correspondent part in the draft Strategy (not to mention other parts of the Analytical Document, such as "The criminal procedural law", "Criminal law" or analysis in "Constitutional Analysis, "Judicial power" and "Anticorruption measures"). Such deficiency indicates the low quality of both documents, proving, in last analysis, that the Strategy is no product of an authentic juridical expertise and that several passages clearly indicate influences of political nature.

10) There are also 17 recommendations in the draft Strategy that seem to have "sprung" from "nothing" in this document. The Analytical Document contains no single line on the way they should be addressed, on the need to provide for them, on problems related to the current situation, as well as international models and standards used to draft the respective legal amendments. This flagrant absence creates a critical situation not only for the seriousness of the entire document, but also for the practical utility of addressing such solutions.

(For more on these issues, please refer to Part Third, Chapter III, of the full Version of the Platform "On Justice System Reform".)

IV. LEGAL ANALYSIS OF ANTI-CORRUPTION MEASURES

1) The document fails to mention the Fourth Evaluation GRECO Report on Albania, an essential document of the legal framework against corruption in the justice system, not only due to its specialized nature and exclusive anticorruption focus, but particularly due to its focus on prevention of corruption in parliamentary assemblies, justice system and prosecutions. Considering the mandatory nature of GRECO recommendations, on which

Albanian is expected to report, the failure to include GRECO findings and recommendations makes the analysis entirely ineffective, leaving space to address these issues in the Strategy not in accordance to the highest CoE recommendations and standards, but to momentary political interests.

2) Although many findings are identical to those of the GRECO Report, they have been addressed quite differently. GRECO Report recommends self-regulation and self-perfection through strengthening of the internal judiciary mechanisms and finding practical solutions within the judiciary and prosecution system under the existing legal framework. On the other hand, the Analytical Document analysis the findings under the prism of conflict, uncertainty, lack of and overlapping of norms, thus aiming to legitimate substantial interferences in the legislation and the set up of new organs with new competencies! This approach is in contradiction with one the findings of the analysis, according to which the existing legal framework is generally complete and adequate – a conclusion of the Third Round GRECO Evaluation Report for Albania.

3) From the methodological point of view the analysis has been structured in an academic and illustrative format, consisting in a *snapshot* of the current legal framework on the fight against corruption in the justice system, institutions and their respective competencies, followed by an identification of problems, based simply on opinions and mostly inaccurate and contestable data.

4) The analysis lacks a logical format for a clear identification of problems based on the findings of international institutions (GRECO Report, EU Progress Reports and other relevant reports that analyze the existing legal framework), competencies of the existing institutions (to assess their adequacy or lack of) and an objective evaluation of the defective links of the system due to the lack of and /or overlapping and unclear division of competencies among institutions.

5) Findings on which the analysis is based are not objective, independent and based on international documents, and refer mostly to analogies from the CoE 2009 Report on Ukraine, a model of reformed justice system which is aimed to be implemented in Albania too. This is an irrelevant fact, considering that findings of the Report (Ukraine 2009) are of different size and specific weight compared to findings of international documents pertaining to Albania. As an illustration let's mention the fact that very few interviewed people in the Ukraine Report relate corruption of the justice system with the low salaries of judges and prosecutors, as well as lack of investments and working conditions, while GRECO Report findings consider it as one of the main reasons of corruption in the Albanian justice system.

6) The analysis fails to consider key anti-corruption documents such as the Intersectorial Strategy on Prevention and Fight against Corruption and Transparent Governance 2008-2013, the Intersectorial Strategy against Corruption 2015-2020, as well as findings and recommendations of the Project against Corruption in Albanian (PACA Project).

7) The analysis fails to consider important parts of the anti-corruption legislation such as the legislation on whistleblowers, as well as legal initiatives under process (initiatives for a new law on whistleblowers in corruption cases, amendments to the law on declaration of assets, etc.), thus failing to create a complete panorama of the legal framework and to

identify the true reasons of the malfunctioning and lack of appropriate practical impact of specific parts of the legislation.

8) The analysis fails to consider and identify the opinions of the relevant institutions, as the key actors engaged in the prevention, investigation and punishment of corruptive acts, materialized in their work analysis, identification of problems and future objectives for an improved performance and achieved results.

9) The analysis identifies financial investigations and the failure to recognise and use them by the respective structures in the fight against corruption, especially in proactive investigations, as a weak point. On the other hand, the analysis fails to identify the competencies, responsibilities and functioning of the General Directorate for the Prevention of Money Laundering, a deeply politicized institution since autumn 2013.

10) The analysis is mostly based on an illustration of the existing legal framework on the prevention, investigation and judgement/punishment of corruption starting from purely academic premises which often are not based on objective data concerning the good functioning of norms. Starting from such premises, most findings in this chapter may be oriented towards all types of interests, considering the fact that they are purely theoretical and unsupported by reports from third sources. For example, in the beginning the document underlines the findings of the Third Round GRECO Report that the legislation in force is generally adequate to fight the corruption and corruptive acts. Therefore the analysis should have continued with a focus on the practical implementation of the legislation supported by international reports. There are no data behind many findings (such as the case of the influence of judges and prosecutors after the end of their mandates, cases of resignation of judges and prosecutors, the functioning of the Code of Ethics for the prosecutors, etc...).

(For more on these issues, please refer to Part Third, Chapter VI, full Version of the Platform "On Justice System Reform".)

V. ANALYSIS OF JUSTICE SYSTEM FOR LEGAL SERVICES

1) More than evidencing the problems, the Analytical Document makes a presentation of the current situation of legal services. Inclusion of irrelevant information (such as the origins of the profession of lawyer or judicial bailiff) makes the material tiresome and losing the focus for which the Document was intended.

2) Although the Document addresses the advocacy, notary, judicial bailiff service, mediation and the State Advocacy, other issues such as the arbitration, forensics, Office for Registration of Immovable Property, Centre for Official Publications, official translation and experts have not been included.

3) There are no details on licensing of lawyers, applicable tariffs and guarantees offered by the licensing process to ensure the professionalism of lawyers.

4) There is a tendency to obscure the achievements of the Albanian notary system during the period 2005-2013.

5) The Analytical Document fails to provide a scientific analysis of the statistics on the execution of court decisions, to further conclude on the need to merge the state bailiff service and the efficiency of private bailiff services.

6) The fact that the mediator's profession has started in Albania since 2012 has not been reflected in the document and problems that cause the low number of cases addressed/solved through mediation has not been reflected too.

7) The Document fails to analyse the situation created in the State Advocacy after 2013, when almost all Heads of professional structures of the General State Advocacy, including the Advocate General, were dismissed.

(For more on these issues, please refer to Part Third, Chapter V of the full Version of the Platform "On Justice System Reform".)

VI. ON THE ANALYSIS OF THE EDUCATION SYSTEM OF JUSTICE

1) The analysis is based on current findings and law on high education and fails to reflect the substantial changes of the high education system, including the legal education system.

2) The Analytical Document impartially considers the massiveness of the high education as a key problem, skipping the fact that such massiveness is mostly due to the preferences of students of this profile, as well as its significance for a complete legal education of society on rights and obligations.

3) In analyzing the relations between professors and students in private universities the Document considers the external professors as staff, while failing to do so in the case of public universities due to the lack of accurate data concerning the ratio between students and professors in public universities that offer a legal education.

4) The Document fails to clarify whether private universities define their own criteria for transferring the students; public universities operate in the circumstances of a legal gap as concerns transferring, thus creating space for abuse and corruption.

(For more on these issues, please refer to Part Third, Chapter IV, of the full Version of the Platform "On the Justice System Reform".)

VII. ANALYSIS OF JUSTICE SYSTEM FINANCING AND INFRASTRUCTURE

1) The Document is focused only on the analysis of the court and prosecution budgets, as well as the juridical assistance, while skipping the budget for other actors of the justice system, including the penitentiary system and controlling mechanisms.

2) While fight against corruption and illegality should be a priority of the justice reform, there are no analysis concerning financing of controlling mechanisms of the justice system (such as court and prosecution inspections).

3) There is no description of the conditions of courts infrastructure and supporting services during the period 1998 – 2005, when almost nothing was done to improve the working conditions or the technological infrastructure of the courts.

4) The Document fails to explain the reasons behind blocking the construction of the Palace of Justice with EU funds.

5) The Analytical Document fails to mention the fact that judges' salaries did not increase in 2013 as expected, as a consequence of the Government proposal and further adoption by the Assembly in 2014 of an increase of the tax income, which affected the expected raise of salaries.

6) There is no accurate calculation of the budgetary needs and costs of improvement of the working conditions and status of judges/prosecutors. This prevents drafting of a long-term strategy aiming to improve the infrastructure, working conditions and status of judges/prosecutors. Financing the justice system is above all a cost-related issue and the lack of calculation of the needs of the system prevents solid premises to solve the problem.

(For more on these issues, please refer to Part Third, Chapter VII, full Version of the Platform "On Justice System Reform".)

CHAPTER III – MEASURES PROPOSED IN THE PLATFORM AS STRATEGIC SOLUTIONS TO PROBLEMS

For all the problems identified in the Analytical Document or the measures proposed in the Strategy, for which this Platform does not provide comments or offer an alternative solution/proposal, we agree with the present problems and proposed measures. Meanwhile, following the elaboration made earlier in this Platform, the problems identified in the justice system, as well as the solutions found on these issues in compliance with international standards, we deem it necessary that these measures be taken or these recommendations followed as disaggregated by area:

I. THE CONSTITUTIONAL REFORM WITH REGARD TO THE JUSTICE SYSTEM AND THE REFORM OF THE CONSTITUTIONAL COURT

1.	The Justice Reform is a sector reform and should not be aimed at reforming the state organization as a whole. The opposite solution carries the risk of the need for revision of the three powers, which entails a discussion on the need for a new Constitution. Therefore, the constitutional norms of the President of the Republic should be addressed as peripheral to the Justice Reform, with regard to his justice-related powers.
2.	Not to change the formula of the election of the President of the Republic.
3.	To identify the respective powers and procedures of the state authorities in the consent process for the appointment/dismissal of the justice system bodies.
4.	The constitutional reform on the Constitutional Court should strengthen its institutional independence in at least 4 components: a. administrative independence; b. financial independence; c. decision-making independence; and d. independence of the exclusive designation of jurisdiction
5.	The constitutional reform on the selection of the members of the Constitutional Court should aim at identifying: a) displayed values of the highest professional competence of the selected judges; b) their prominent experience in public activities; c) their profound knowledge of public activity; d) diverse professional experience and background; e) the highest moral integrity; f) the maximum skills to involve in, discuss about and commit to matters of public interest.
6.	The election of the members of the Constitutional Court should be conducted by an interactive institutional mechanism, which ought to involve political and non-political stakeholders in order to integrate the professional and meritocratic component on one side and the public component to guarantee democratic legitimacy on the other.
7.	The procedure of selecting the members of the Constitutional Court should ensure: - the maximum transparency in the preliminary stages; - proper time duration for each step of the process;

	- detailed publication of each intermediate decision-making; - maximum and un-biased access to anyone who believes that meets the criteria; - administration of the process in the first instance by an existing corps of professionals, of a diverse and politically uninfluenced structure (for example, HCJ or the Constitutional Court itself) which manages: i. acceptance of applications; ii. exclusive competition based on Curriculum Vitae, documents and interviews; iii. evaluation on whether the candidates meet any disqualifying criteria, and the drafting of an objective assessment (individual and comparative) between candidates who meet the eligibility criteria; iv. completion of relevant documentation for each qualified candidate and forwarding to the proposing body. - in the second instance, well-justified proposal on the selection or non-selection and ranking of candidates selected according to an objective assessment based on the parameters of integrity, recognition of prominent public activities, diverse professional experiences and cultures, the maximum skills to involve in, discuss about and commit to matters of public interest of a minimum number of candidates for each post in the Constitutional Court, from the group of candidates who have passed the first stage. - in the third instance, the conduct of public hearings with the proposed candidates with no right of disqualification. - approval in any case by a majority of two thirds of the Parliament, or otherwise, by substantial participation of the opposition, followed by an unblocking mechanism in the event of an impasse. Increase the role of the Constitutional Court itself in the process of electing the President and recognize its power to elect the President itself.
8.	Strengthen the independence of the individual so that the judge of the Constitutional Court shall not be subject to political influence and be impartial by targeting these four components: a) Base the appointment of judges on objective criteria and avoid partiality or discrimination of candidates; b) Guarantee the mandate and financial remuneration, which requires that the mandate be defined in the Constitution; and ensure appropriate payment and decent working conditions c) Ensure decision-making power; d) Specify the set of rights for judges; e) Terms and conditions of appointment of constitutional judges are as follows: ✓ citizenship; ✓ integrity; ✓ legal knowledge and skills; ✓ professional experience; ✓ judicial attitude; ✓ dedication to duty; ✓ physical and mental health; ✓ financial accountability. *(Professional experience to take into consideration the risk of recycling through the promotion of officials, investigators, prosecutors and judges of the communist regime, who must be excluded from any promotion if having exercised these duties during the communist period).*

9.	Not to change the rule of the mandate extension of the constitutional judge until his replacement. In order to avoid the unreasonable stay in office beyond the mandate, deadlines for the judge replacement should be set and an unblocking mechanism developed in case where the selection authorities fail to appoint a substitute judge for a long time.
10.	Guarantee the respect of the institute of rotation by specifying the duration of mandate, the renewable procedures timelines, and introduction of the selective mechanism of the member of the Constitutional Court associated with an appropriate unblocking mechanism.
11.	The disciplinary process and decision-making should rest upon the CC.
12.	Specify at constitutional level the concepts of "dismissal from duty" and "release from duty". Provide for the hypothesis of dismissal from duty of the constitutional judge even in cases where he is being prosecuted for an apparent crime, although the adjudication of finding him guilty is not final.
13.	To complete/expand the scope of subjects legitimated to address the CC on matters of anti-constitutionality of normative acts in an abstract way, acknowledging the right to individuals/ legal persons. This legitimacy shall be recognized for any administrative act or any other anti-constitutional conduct provided that this legitimacy is based on the infringement of the fundamental human rights and freedoms.
14.	The relationship between the individual/legal person and the CC should be established by procedure and substance according to the present relationship between the individual and ECtHR, in order to establish a harmonious linearity and a subsidiary relationship between CC and ECtHR.
15.	To define explicitly in the Constitution the principle of juridical security and the explicit obligation of the CC to have a consistent jurisprudence and to be referred to for adjudication of cases and principles of ECHR.
16.	Not to expand the scope of legitimated subjects on matters of selection and incompatibility of the President in CC.
17.	Not to add the Chairman of HCJ as a subject who can address the CC.
18.	Regarding the legitimacy of the individual in CC, provide for an exemption from the demand for the exhaustion of internal means in cases where the application of this rule may cause irreparable damages for the individual or legal person.
19.	The legitimacy of the Ombudsman in CC should foresee the condition that he conducts his own preliminary administrative procedure to verify the constitutional problem, upon his own initiative or based on a complaint, as a legitimate condition in CC. This right shall be recognized *mutatis mutandis* according to their functional competence to other independent Authorities whose scope covers the basic human rights and freedoms.
20.	Revise the timelines on the demands to CC ensuring at the same time the access to CC and juridical security. Incidental inspection should be included in the revision of timelines and its concrete procedure applied in courts.
21.	Provide for the constitutional control procedures of the distribution of local governmental bodies.
22.	Specify the concepts "municipality" and "commune" according to the territorial reform perspective.
23.	The consent over the detainment or arrest of a member of CC in a criminal proceeding shall be regulated according to the Venice Commission standards. In this procedure it should be foreseen that the constitutional judge be suspended

	from duty and that the ruling is made by a majority of all judges of CC without the participation of the judge in question. Suspension should be foreseen in cases of criminal proceedings for very serious crimes.
24.	Harmonize the power of the Electoral College with the power of CC on matters of selection of members of parliament. The details of the matter should be part of the Electoral Reform.
25.	In cases of individuals' appeal to the CC against delays, CC should be able to order the accelerated completion of the procedure at the ordinary court level or decide on its own on the merits of the matter. In such cases, CC should be able to provide compensation equal to what the complainant would have received from ECtHR.
26.	After the withdrawal of an appeal, the Constitutional Court should be able to continue the consideration of the case, if its consideration is in the public interest, even if the complainant is no longer a party to the process. The trial procedure of the constitutional control of the Constitutional revising laws should be separated from the constitutional control of other laws.
27.	In the case of individual appeals, the trial in the Constitutional Court should ensure the adjustment of the right through a binding ruling on the case. The court should be obliged to hear the case and there should not be any unreasonable request on fees or representation.
28.	Specify once and for all that the announcement of the decision is part of the trial and that in no case, the Constitutional Court and any court can pronounce a ruling without justification. In this case, mandatory deadlines should be determined not only for the announcement and justification of the decision, but also for the completion of the case.
29.	Clarify the *ex tunc* effect of Constitutional Court rulings by considering it only as an exceptional circumstance.
30.	Clarify in the Constitution that all other state bodies, including the courts, must implement/follow the constitutional interpretation made by the Constitutional Court. Therefore strict sanctions against officials/institutions should be taken in cases where the Constitutional Court itself, through a special procedure initiated by the complaining subject, finds unreasonable failure in implementing its decision.
31.	Adjust all the issues of the status of the legal assistants, up to their dismissal from duty, and apply the same approach to state officials.
32.	Consider the possibility of setting fees for filing the application to the Constitutional Court. Fees should be relatively low and the Constitutional Court should be able to exempt people who do not have adequate financial means even when the application is not explicitly ungrounded.
33.	The Supreme Court should transform in a court of career unaffected by political influences.
34.	Outline the clear distinction between procedures and criteria for the appointment of judges of the Supreme Court and the procedures and criteria for the appointment of CC.
35.	Recompose HCJ aiming at guaranteeing the independence of the judicial system and the individual independence of judges. The task of the Council should be to ensure, from any external political, ideological or cultural pressure or prejudice, the unlimited freedom of judges to resolve cases with impartiality, according to the interpretation of the facts based on their conscience and the law.
36.	The Constitution should determine not only the establishment of the Council, but

	also the range of functions, sectors where the members come from, and the criteria and procedures for their selection.
37.	Council should have the power to promote efficiency and quality of justice, and to strengthen the public trust in the justice system. Therefore, it should have the duty of establishing the necessary tools to evaluate the justice system, to report on the status of services, and to ask the relevant authorities to take the necessary steps to improve the administration of justice.
38.	Powers of the Council should include at least: a) Selection and appointment of judges; b) Promotion of judges; c) Assessment of the activity of judges d) Handling of disciplinary and ethical issues e) Professional training of judges; f) Control and management of the budget of the judiciary; g) Administration and management of the courts; h) Protecting the reputation of the judge i) Giving opinions to other governmental authorities on issues related to the judicial system j) Cooperation with other national and international bodies; k) Public responsibility to transparency, accountability and reporting; l) Management of financial resources for the administration of justice; m) Review of complaints about judges and courts; n) Drafting of an annual report on the situation of the judicial system and its activities to present to the Commission of Laws in the Assembly and to the public. This Report should not serve as a reason for disciplinary liability against any member of the HCJ's.
39.	The number of Council members should be determined based on the amount of powers, their effective exercise and the judicial system dimensions.
40.	HCJ composition should be mixed (judges and non-judges), aiming to avoid the perception of corporatism, self-defense and clientelism.
41.	The Constitution should stipulate that the substantial majority of the HCJ membership should be from the judiciary, elected by the National Judicial Conference, which is the assembly of all the judges of the Republic. The member judges should be elected so as to guarantee representation from all levels of the judiciary.
42.	In order to depoliticize the Council and to minimize any risk of damaging the public trust in the judiciary, the competition for the selection of the members should be in accordance with the rules established by the Council. The involvement of Parliament, the executive or administrative hierarchical positions of the judicial system should be avoided in the process of selecting the judge members. The judge members of the HCJ are assigned through an election process.
43.	HCJ members should be selected based on the criteria of competence, experience, and knowledge of court functions, ability to discuss and culture of independence.
44.	Non-judge members should be elected among prominent lawyers, professors of law, with significant experience in professional service or citizens of prominent status. Additional criteria for these members should be determined based on the type of functions that the Council will be assigned.
45.	The selection process of non-judges for HCJ should ensure political impartiality

	in order to limit the majority's possibility to influence the composition of the Council. The formulas proposed by the Venice Commission to ensure the substantial participation of political parties in the voting process, associated with procedural rules against any risk of blocking may be options that should be stipulated in the Constitution.
46.	The operation of HCJ with mixed composition should not tolerate the intervention of parliamentary majorities and pressure from the executive, and be free from any submission to party-political considerations.
47.	It is preferred that the HCJ members be full-time employees, except of *ex officio* members.
48.	Some of the tasks that are closely related to the status of a judge should be only within the powers of the Council judge members coming from the judiciary.
49.	The replacement formula of HCJ members should ensure the continuation of the activity of the Council, by not replacing all members at the same time;
50.	The members of the Council should not be engaged in an active political life and should not have been members of parliament, Government members, senior officials of the public administration or former-officials, investigators, judges and prosecutors during the communist dictatorship. The Minister of Justice should not be a member of HCJ.
51.	The President of the Republic, as long as he has no executive functions, should continue to be a member of HCJ; His presence in HCJ during the disciplinary process and promotion may be eliminated.
52.	Members of HCJ must have explicit guarantee of independence and impartiality in the exercise of their duties. Their remuneration should correspond to their position and the workload in the Council;
53.	The term in office of the HCJ members should be guaranteed. Changes in the Government or Parliament should not influence the continuation of the mandate of the elected members of the HCJ. They can only influence the appointment or expiry of mandate of ex officio members;
54.	To ban the immediate re-election of members and determine the minimum time of the ban.
55.	In view of the composition and powers of the HCJ, the powers of the Minister of Justice with reference to the justice system should be reconsidered strictly and accurately.
56.	NOT to disestablish the National Judicial Conference, but to ensure the strengthening and consolidation of the body.

II. THE JUDICIARY POWER

57.	The reorganization of courts in the Republic of Albania shall be based on the following criteria: a) The distribution of the population; b) Geographical distances and accessibility to public transport; c) (Digital) presence and accessibility in infrastructure and/or support services; d) A sufficient number of cases to allow efficient use of the courts; e) Adequate number of judges and their supportive staff to ensure the continuity in case of illness or absences of judges, as well as to allow for

	their specialization that is deemed necessary in any court (in terms of quality). f) Proper guarantees to the status and immobility of judges without their consent g) Ban the appointment of staff in the judiciary from outside the School of Magistrates.
58.	The concentrated reorganization of courts is based on a proper study on the following: a) the need to ensure high quality justice and to use the available resources effectively; b) consider whether any cost savings are attained through concentration of courts, by designing the calendar of objectives extended in several years; c) the possibility for increased use of the information and communication technology (ICT) to reduce the frequency of the necessary personal visits of the parties in court, and the use of ICT to increase the visibility of trials.
59.	For HCJ the law should stipulate the obligation of the Council to display the highest degree of transparency towards judges and society by following predefined procedures and taking justified decisions.
60.	In order to increase the self-regulatory independence and autonomy of the judicial system only a single Inspectorate for the judiciary, which remains within the HCJ, should be stipulated.
61.	HCJ Inspectorate should be arranged in separate sections, responsible for discipline and evaluation of judges to ensure the necessary separation of these two processes.
62.	The Inspectorate as a structure within the HCJ should be strengthened by taking the following measures: - Rigorous criteria for the recruitment of inspectors; - Objective and transparent formula for their appointment, avoiding in any case the political influence of the executive or the Parliament, even indirectly; - Provision of inspectors with a complete and attractive status (throughout all components) to enable the attraction of the best human resources; - Improved experience-based procedures, to make them more agile rather than omitted.
63.	The law should guarantee the transparency of the HCJ activity by certain means such as the publication of the Annual Report or of the minutes or decision-making acts, respecting the personal data protection standards.
64.	Judicial control (in procedure and content) of the HCJ decisions should be stipulated, defining a uniform solution for the means of complaint and the court where the complaint is addressed to.
65.	HCJ administration should be strengthened, incorporating the departments of analysis, evaluation and study of the system. The information and technology department should also be strengthened. This issue should be considered closely with the reconsideration of HCJ powers and its appropriate relevant budgeting.
66.	The role of the Minister of Justice should be revised in the light of the new powers allocated to HCJ, divesting the Minister from some powers on the system performance evaluation, the ownership of the case management electronic system, or the collection and processing of judicial statistics.
67.	The role of the Minister of Justice should be revised in the area of judicial

	administration, especially of legal assistants.
68.	The law should stipulate the cross-institutional cooperation mechanisms (the rules for the mandatory gathering of opinions in drafting the legal draft acts or strategies, the periodic reporting and periodic exchange of information).
69.	With regard to the Judge Status, the normative prohibition for judges should be reviewed, allowing their engaging in activities beyond their official functions. In order to avoid any actual or perceived conflict of interest, their participation should be restricted to activities compatible with their independence and impartiality.
70.	With regard to the reform of the Supreme Court the following recommendations should be provided: a) the Supreme Court should be re-dimensioned as an explicit judicial organ, not only in its functioning (court of law) but also in its constituting (court of career); b) the ultimate object of the reform of the Supreme Court should be the professionalism, together with the extreme independence and impartiality, and of course efficiency of activities. Any political influence thereof should be avoided; c) the selection of judges of the Supreme Court must be made exclusively from the persons enjoying the status of the judge (internal judges or judges serving in other structures outside the judicial system); d) no criteria for the appointment of judges of the Supreme Court should be separate from the criteria for the appointment or promotion of judges of the first instance court or the court of appeal; e) the criteria for the appointment of the judges of the Supreme Court, and the criteria for the promotion of judges should generally be perfected. For more details on the criteria for appointment, the information on the criteria for the appointment of judges of the Constitutional Court in the Platform for Constitutional Amendments can be reviewed; f) the Council of Appointments to the Supreme Court should be disestablished since there are no constitutional grounds for its establishment and it does not have the features of independence, impartiality and public trust; g) If aspects of the current system (Presidency-Parliament) are kept, in order to eliminate the politicization of the appointment procedure, the firm and determinant role of the HCJ should be integrated, not only as a body that manages the initial and main stages of the appointment process, but also as an unblocking mechanism.
71.	The draft-law on the professional evaluation of judges deposited to the Assembly should be adopted without delay, in order to significantly improve the process in terms of the speed and quality of the measuring criteria.
72.	In order to ensure the independence of the judiciary, the judges' terms of office should be guaranteed until the mandatory retirement age or until the mandate terminates for judges operating under a mandate.
73.	In case of suspension, the judge should be provided for 70% of the salary, which guarantees the necessary minimal vital incomes for him and his family.
74.	The principle of immobility of the judge and exceptional cases should be clearly defined in the Constitution, relating to the independence of the judiciary (the actual content of the constitutional norm is insufficient).
75.	In case of dismissal or transfer of a judge, through a disciplinary process, the

	law should determine precisely the conduct considered as a disciplinary infringement that urges such a consequence.
76.	The early retirement of a judge should be applied only at the request of the judge or for medical reasons.
77.	A judge should not be appointed or moved to another court position without his consent, except in cases of disciplinary sanctions.
78.	A judge may be transferred under constraint, without his consent, in exceptional circumstances clearly defined in the law, including disciplinary sanctions or proved cases of inability to fulfil judicial functions appropriately, independently and impartially (close relationship to lawyers or judges handling with the same cases).
79.	The reasons for the transfer of the judge must be clearly defined and a compulsory transfer should be decided through a transparent procedure developed by HCJ and such decisions should be appealable.
80.	The exceptional immobility causes should be assessed by HCJ through a procedure meeting the criteria of a regular process and its decisions must be appealable in court. The review in this case should fully incorporate issues of procedure and foundations.
81.	A judge working in a court that will merge should be allowed to continue working in the same or similar type of court or instance. It is important for the judge not to be appointed to a lower position after the merging of the court.
82.	In the case of an organizational reform - clear and proportionate rules must be set on the transfer of a judge, and the right of appeal. Therefore it is important in the Albanian context to define the concept of organizational judicial reform. The term "judicial reorganization" is too broad and should be replaced with the "reorganization of the court system", rendering the material content of the concept. In the transfer of the judge in these cases, the law should provide for the rules to allow the judge maintain the same salary.
83.	The delegation of a judge to another court should be possible only under strict criteria clearly identified in the law (the number of cases in the hosting court, the number of cases in the delegating court, the number of cases tried by the judge who is being assigned). The maximum duration of the delegation must be indicated in the law, too.
84.	In the case of a reorganization of the court system, the judge should take more than a proposal for transfer and plans of the judges to be retired in other courts should be considered in making such proposals. Instead of dismissing a judge, he must be transferred without his consent. If the judge does not accept his new office, a disciplinary process may be initiated against him, not because he has refused his transfer but because he refused to work.
85.	The activity of courts legal assistants in the managing activity of court Presidents should be subject to professional assessment.
86.	The concept of "promotion" of the judge should include promotion and appointment to new positions in court. The promotion should be based on objective criteria determined in the law and HCJ should be the competent authority for their assessment. No judge or official of the justice system during the communist dictatorship should have the right to be promoted.
87.	HCJ should be legally bound to introduce, publish and give effect to objective promotion criteria to ensure that the selection and career of judges are based on merit, focusing on their qualifications, integrity, ability and efficiency. Seniority in office should not be the guiding principle which determines promotion.

	Appropriate professional experience is important; and a precondition associated with the years of experience helps to support independence. Political considerations for promotion are unacceptable.
88.	Regarding the disciplinary liability of judges, the following standards must be met: i. The Judge Code of Ethics should be revised. It must be drafted and approved by the judges themselves; ii. There should be a list or description of the types of judicial conduct/ethics the violation of which is unacceptable iii. The judge has the right to a private life, but he must behave with the highest degree of integrity in his private and personal life. The behaviour which discredits the judiciary should constitute grounds for disciplinary procedures; iv. Complaints should be received and administered by the HCJ Inspectorate, which is independent from the Ministry of Justice and reports to the Judiciary. v. A complainant should normally be identified, however, since a complaint can be filed by anyone, there must be a mechanism or a simplified procedure by which a complaint may be rejected or by which a decision may be taken to cease scrutinizing the complaint. This procedure should be under the responsibility of a judge or a panel of judges or a person who answers directly to the Judiciary. vi. The complaint should be investigated by the HCJ Inspectorate, which is responsible to the judiciary, which has the right to investigate the complaint. The investigation should include the possibility of obtaining evidence verbally or in writing. vii. The inspectorate should be regulated by law. It should include a majority of judges, from all levels and types of courts. A HCJ committee consisting of judge members only should be the body responsible for judicial discipline. viii. There should be a time limit for filing a complaint that may be extended only in exceptional circumstances. ix. There must be a time limit for carrying out the investigation, taking a decision, and determining a sanction. A sanction must be determined immediately after the decision on the case merits and in any case, without inappropriate delays. These time limits can only be extended in exceptional circumstances, such as the complexity of the investigation, illness of a judge or a criminal investigation. x. The name of the judge should not be published prior to determining the sanction. The decision may be published where the sanction is given, (whether citing or not the name of the judge depending on the circumstances of the case). xi. A judge should be suspended from serious and exceptional cases, and if necessary suspended from the administration of justice. xii. If a judge is suspended, he should be provided with 70% of the gross salary during the investigation, except of cases where the judge is causing significant delays or fails to cooperate in the investigation or in other exceptional circumstances. He should be compensated with each amount of salary he has been deprived of during the investigation if no disciplinary measure is taken or if later he is found not to have

	committed the alleged acts. xiii. If a judge wishes, he has the right to be legally represented or assisted by someone he prefers. A judge against who charges drop, should be able to recover the reasonable legal costs incurred and where appropriate even by the state authorities. xiv. The judge, subject to disciplinary proceedings shall be granted the following rights: a) to be fully informed of the case against him; b) to be represented; c) if the charges against him drop, to be compensated of the costs of appearance and hearing in the hearing sessions, and of the investigation evidence verbally or in writing; d) to be informed immediately if a complaint will be investigated; e) to be given a timeline program to investigate the complaint and the decision; f) to be given reasons for any taken decision; g) to appeal xv. Any sanctions should be clearly determined and authorized by law, proportional in principle and enforcement with the matter in question. xvi. xvi. The right of appeal should be stipulated in the recourse of trial.
89.	The Minister of Justice should be deprived of the right of disciplinary prosecution of judges. This power should not be exclusive but is distributed to various authorities.
90.	The judges' immunity should be revised by the disciplinary proceedings of judges of the Electoral College.
91.	The retirement age of judges should be revised to commensurate with increasing life expectancy trend.
92.	Legal amendments should address the issue of guaranteeing the status of judges, retention of all rights and obligations deriving from the status of a judge, creating incentives for judges serving in other structures.
93.	The Constitution should explicitly state the substantial irresponsibility of the judge in exercising his duty.
94.	The procedure details on authorizing the arrest of the judge should improve.
95.	The judge/prosecutor salary should be upgraded gradually in a 5-year term by 30% annually.
96.	Efficiency should be improved by changing the procedural legislation. The Code of Civil Procedure should provide that if the Supreme Court returns a case for re-examination in the Court of Appeal and after the re-examination by the latter, the case is filed again to the Supreme Court, it does not have the right to decide to return the case for retrial to the Court of Appeal, but should make the final ruling itself. The problem of process delays in the Supreme Court due to failure to notify the parties regularly should come to an end.
97.	In addressing issues of efficiency in Court the recommendations of the project of the Council of Europe, CEJ, co-financed by the European Union, and of the project "Justice without delay", implemented by the OSCE should be followed.
98.	Court fees should be reviewed through a profound study to see their impact on reducing the caseload in courts. If court fees are deemed to increase, the financial circumstances of the parties must be taken into consideration, through differentiation of fees for these strata or through state legal aid.
99.	The law should prohibit the appeal to the law of civil cases of small financial

	value. A non-automatic mechanism should be created, leaving the courts the discretion to complicated legal cases that have small financial values. The regulation of access to the court of appeal should be made by the judiciary itself, considering the merits and not by mechanical rules.
100.	Increase alternative resolution of disputes.
101.	Reforming measures, including reducing the caseload of courts and increasing the court fees should provide access to justice, as guaranteed by Article 6 of the ECHR.
102.	Judicial procedures should be simplified to reduce the number thereof. Simple and swift procedures should be introduced, allowing the judge to have strict control over the court session. Repeated exchange of documents in court and delay of proceedings are an exception.
103.	Measures should be taken to eliminate the postponement of the justification of decision, considering the decision as part of the judicial process duration and its announcement should always be supported with justification.
104.	Further measures should be taken to prevent delaying tactics of lawyers and parties, such as the financial penalty against lawyers.
105.	Court proceedings should be digitalized through electronic information of cases, digital exchange of documents with digital signatures. The "e-court" system should be created by initially piloting cases of small values.
106.	The audio recording court system should be maintained and monitored, and video recordings and video conferences should be shown, especially to avoid movements of the parties or participants in geographical distances. The procedural legislation should foresee strict criteria and procedure of information technologies use.
107.	An integrated electronic system of all justice-related system data should be studied and targeted.
108.	The concept of strict management of cases by the judge should be included, as a tool that increases efficiency, by providing training for judges and developing specific methodologies for judges.
109.	Tasks in court should be redistributed so that the judges can focus on the merits of their judicial duties. Therefore, the requirements for the professionalism of the supportive staff in courts should increase.
110.	Measures should be taken to optimize the cases in courts and judges, considering the possibility of taking flexible mechanisms in determining cases in various courts in order to distribute an equal caseload. Since these results in the travelling of the parties, the parties can be left to take a choice: the party can either agree to travel to a more distant court or to have his case adjourned later in time to the court in his vicinity. An alternative is to delegate temporary judges of the courts with little load to courts with more caseload.
111.	The administrative staff in courts should be assigned the task to collect and analyze data periodically; in order to give judges the most essential information on the prolongation of cases and lagging cases.
112.	IT staff in courts should be strengthened.
113.	The possibility of in-service specialization of judges in accordance with the judicial reorganization measures should be examined.
114.	Consultative groups to the courts, including the court's staff and its users, who meet periodically, should be established.
115.	HCJ should draft general standards for the time of trials, so that courts can

	decide on setting general objectives to achieve the court standards, and so that parties can know what to expect and tend to cooperate. The standards are developed through a careful analysis of procedures and the concrete court performance and speed.
116.	Procedures in the Court of Appeal should be simplified, and focus only on the cases with merits, proper filters should be used in accepting cases in the Court of Appeal and only conspicuous cases should be considered for appeal. The common procedure in the Court of Appeal should rest on ruling over documents; the use of information technologies should increase.
117.	Mediation should be strengthened and its impact studied.
118.	Public awareness and legal aid for mediation should be raised.
119.	Mediation should essentially remain a voluntary process, judges should be provided with mandatory procedural means to encourage its use by the parties.

III. CRIMINAL JUSTICE

120.	The terms and conditions for the appointment of the Prosecutor General should be similar to those applied for judges of the Constitutional Court, emphasizing the professional experience, and the priority criteria should be the knowledge in criminal law and the managerial skills.
121.	The appointment procedure should be implemented through an interactive process between the President of the Republic and the Parliament.
122.	The procedure of selecting the Prosecutor General should consist of public announcement to invite applicants to submit their application. At the same time the conditions and selection criteria, the modalities of application and the source of information out of which data will be collected to assess whether the key criteria are met should be made public.
123.	Applications must be submitted in writing together with documentation certifying the fulfilment of the criteria.
124.	The President of the Republic, based on the experience of candidates and supporting documentation, selects three candidates, and if there are women in the competition, at least one of the nominees should be a woman.
125.	The President delivers the 3 nominations to the Parliament to give its consent for the Prosecutor General. The consented candidate is the one having received the number of votes based on a formula suggested by the Venice Commission that guarantee the impossibility of the majority's political influence and eliminate political affiliation; or by a procedure that guarantees substantial participation of the opposition. This procedure should include an unblocking mechanism that guarantees the elimination of political affiliation by reaching a certain number of votes.
126.	By proposal of the President of the Republic, the Parliament, through a decision which has the necessary number of votes that guarantees appointment, can relieve the Prosecutor General of his duties if the Prosecutor General is unable to fulfil the duties deriving from his/her mandate for reasons out of his control or because of a final court decision ordering compulsory medical measures in a criminal process. The President asks for the opinion of the Prosecution Council in advance.
127.	By proposal of the President of the Republic, the Parliament announces the dismissal of the Prosecutor General by a decision with the number of votes according to the formulas above, if the Prosecutor General fails to fulfil the

	duties deriving from his/her mandate for reasons within his control or because of a final court decision finding the defendant guilty of a crime. The President asks for the opinion of the Prosecution Council in advance.
128.	The decision of the Parliament is reviewed by the Constitutional Court, which, when determines that there is one of the above causes for release or dismissal from duty announces the expiry of Prosecutor General's mandate
129.	The Prosecutor General should be appointed definitively or for a relatively long period without the possibility of reappointment at the end of this period. The Prosecutor General's mandate should not coincide with the mandate of the Parliament. The current mandate meets these criteria, however, its extension may be considered as an alternative.
130.	The law should specify further the employment of the Prosecutor General after the expiry of mandate, as this guarantee must be made clear prior to his appointment. On the other hand, there should be a total ban on the possibilities of the Prosecutor General to apply to other public duties during or after the expiry of mandate;
131.	The Prosecutor's Office should be regulated as an independent, hierarchical, centralized body with exclusive jurisdiction to exercise the prosecution. Within the prosecution system, specialized prosecutors corpses may be established by law, to investigate the crime typologies determined in special investigation procedures.
132.	In order to safeguard the independence, the principle of centralization and the principle of the exercise of criminal prosecution only by the system of prosecution, only a special law should provide for the establishment of a specialized and specific anti-corruption structure.
133.	The independence of the prosecution should be given significant importance, although the principle of the independence of the prosecution, in itself, does not fully guarantee a democratic prosecution model. Therefore, the level of independence should be adjusted so as not to create a system out of control.
134.	The principle of independence or autonomy in the organization of the prosecution changes from the one applicable to judges. The Prosecution should be organized as an independent body, while the activity of the prosecutors should be subject to internal hierarchical audit.
135.	The drafting of the prosecution policy-making is a matter where the legislative and the government may play a decisive role. An accountability tool for the Prosecutor General may be the presentation of a public report to the Parliament. When applicable, in these types of reports, the Prosecutor General should give a transparent account of the implementation of any general instruction given by the executive;
136.	The accountability of the Prosecutor General to the Parliament regarding individual cases of exercise or failure to exercise any criminal prosecution should not be allowed. The decision to exercise the prosecution should rest only on the Prosecutor's Office and not on the executive or the legislative;
137.	The prosecution system should be organized internally as a system with relative independence, structured in correspondence with the court system. It is the task of the senior prosecutor to control the immediate subordinates. However, the Prosecutor General should not directly control the bottom level prosecutor. In this way, the prosecution system would be protected from political interference or other influences.
138.	The general guidelines and policy directives on criminal data from the

	Prosecutor General should be published and included in the periodic report that the Prosecutor General addresses to the Parliament.
139.	The Prosecutor as an individual, during the investigation and prosecution in trial is independent. In a hierarchical subordination system, prosecutors are subject to directives and instructions of general content issued by their superiors.
140.	The right to give instructions to a junior prosecutor should extend only to the miscellaneous instructions and not specific instructions on handling separate cases. Such a restriction must be clearly articulated in the law.
141.	The internal independence should consist of a system where the individual prosecutor, while exercising the activities permitted by law, would not need to obtain prior approval or subsequent confirmation by his superior.
142.	Cases should be distributed to prosecutors based on procedures guaranteeing equality and impartiality. The transfer of the case from one prosecutor to another of the same level can be done only due to legal barriers to the exercise of criminal prosecution.
143.	In order to avoid improper instructions, it is essential to develop a list of guarantees for non-interference in the activities of the prosecutor. Non-interference should consist of guarantees that the activity of the prosecutor in trial be free from external pressure and from illegal or irregular internal pressure within the prosecution system. These guarantees should cover the appointment, discipline/dismissal, but also specific rules for case management and decision making process.
144.	It is necessary to specify exactly what is meant by the "hierarchical system" of the organization of the prosecution. It is necessary to specify exactly the right of instructions granted to someone within the system, who exactly this right is granted to, what exactly is the circle of authority of individual prosecutors, in what cases they can make decisions on their own initiative, which decisions are required to be adopted by a senior prosecutor, which decisions may or may not be re-examined, by whom and for what reasons.
145.	The general guidelines of the immediate superior should always be given in writing. The subordinate prosecutor should be recognized the right to seek explanation and additional justification from the superior prosecutor, which must also be given in writing.
146.	When the junior prosecutor finds that his immediate superior's instructions conflict with the law, or are against his conviction, he should have the right to ask for settlement of the dispute by the Prosecutor's Office Council. This right should be implemented in a coherent and reasoned manner. Alternatively, when the junior prosecutor finds that the instructions of his immediate superior conflict with the law, or are against his conviction, he has the right to resign and in this event, the case is investigated specifically by the supervising prosecutor who gave the guidance considered as illegal.
147.	The constitutional level should foresee that all prosecutors of the three levels be subject to disciplinary liability. The law should also foresee a clear and objective list of all disciplinary violations and the proportionate sanctions against violations.
148.	The disciplinary proceedings against prosecutors should be handled at two instances: the Prosecutor's Office Council (first instance) and the administrative court.
149.	Legal modalities of supplying the media with necessary information should be foreseen, in order to inform the public on the functioning of the justice system.

	The competent authority should take measures to convey such information, and be very careful about the presumption of innocence of the accused, the right to a fair trial and the right to protection of the private and family lives of all persons involved in the process. Therefore, codes of conduct or guidelines regarding relations with the media should be adopted.
150.	The power and responsibility of prosecutors should lie only to the prosecution of criminal offenses and to the role of the general protection of public interest through the criminal justice system.
151.	The model of mandatory prosecution of offenses (legality principle) should be applied. Exceptions can only be made on the grounds of well-defined criteria in favour of prosecution (administering justice - the case of the protected witnesses")
152.	The prosecution system should be based on a criminative system. The honest administration of justice requires an effective equality of arms between prosecution and defence, as well as the observance for the independence of courts, observance for the principle of division of powers and the binding force of final court decisions. Judges and prosecutors should enjoy independence in their functions, but must be and clearly appear to be independent of each other.
153.	The prosecution system should be based on the model that the investigations be controlled by a judicial authority. Any attribution of judicial functions (the rendering of justice) to the prosecutors can extend only to cases dealing with petty sanctions against offenses (the role of the prosecutor in private charges), and that in no event should be exercised simultaneously with the authority of the prosecution in the same case and should not restrict the right of defence to address the court in these cases.
154.	The exclusiveness of prosecution should rest only to the prosecution system, with the possibility that some petty offenses be handled by individuals themselves under private charges (mainly affected by the offense).
155.	The prosecuting system should be re-dimensioned by recognizing the persons affected by the offense the right to participate in every stage and level of criminal proceedings.
156.	Legal mechanisms should be developed to avoid political interference aimed at wrongful decision-making of prosecution, either in cases where the prosecution is exercised when it should not have initiated because of lack of evidence or because it is based on fabricated or compromised evidence; or in cases where the prosecution is not exercised instead of having initiated. Mechanisms ensuring the avoidance of inappropriate political pressure on prosecution cases should be adopted. Criminal prosecution should not be used by the majority as a repressive instrument or as a corruption-assisting instrument.
157.	In order to resolve the case of wrong decisions of the prosecution for failure of exercising criminal prosecution, procedural legal mechanisms should develop to ensure the judicial control of these cases at the request of the victims of criminal offenses.
158.	The prosecutor's actions affecting human rights, such as the control or arrest, should remain under the control of judges;
159.	Protection mechanisms must be established so that the prosecution is not subject to the pressure of the majority, which is due to the pressure of manipulating the public opinion by the majorities, or due to its populist pressure, especially when supported by media campaigns, and therefore be used thereof as a repressive instrument.

160.	The Prosecutor's Office Council should be an independent collegial body. The number of members of the Prosecutor's Office Council should be determined in view of the range and volume of functions.
161.	A substantial majority of the members in the Prosecutor's Office Council should be elected by their colleagues. Members elected prosecutors must represent all levels of the hierarchical structure of the prosecution system and must not come from managing posts (prosecutor directors from district level or Court of Appeal) must meet the criteria indicated above for the judges of the SC and CC, in terms of their professional integrity, including the criteria of experience when exercising functions and duties during the communist regime.
162.	In order to ensure the democratic legitimacy of the Council, other members should be elected by the Parliament. These must be people with appropriate qualifications (law professors and lawyers engaged in civil society, etc.).
163.	The members of the Prosecutor's Office Council appointed by the Parliament should be elected by a qualified majority as in the case of the Prosecutor General or by the substantial participation of the opposition in order to ensure impartiality and eliminate political affiliation.
164.	An unblocking mechanism should be provided for the election of the non-prosecutor members, for example the election by the Parliament through a proportional system, or the transfer of the right to vote to independent bodies to eliminate political affiliation.
165.	The members of the Prosecutor's Office Council may remain in office for a 4 - year term. Members may be re-elected by first making sure that at least 4 years have passed from their previous mandate.
166.	Ideally both professions - judges and prosecutors - should be represented by separate bodies (HCJ and Prosecutor's Office Council).
167.	In order to guarantee independence, the members should elect the President of the Council through an election mechanism.
168.	The mandate of these members should terminate only on the expiry of this period, on retirement, resignation or death, or their dismissal for disciplinary reasons.
169.	A disciplinary procedure should be applied in cases of disciplinary violations.
170.	Cases of member dismissal should be specified in law.
171.	Never should "lack of trust" of the body that elected these members be considered as a ground for their dismissal.
172.	The disciplinary proceedings should guarantee a fair trial for the member of the Prosecutor's Office Council.
173.	Dismissal should be decided only by the rest of the members of the Council, with a qualified majority, without the participation of the member concerned.
174.	During the evaluation of taking the measure of dismissal (or suspension) the proportionality between the violation and the measure should be considered, and the procedure of the objective identification of the violation should be determined.
175.	Appeal to the court against the measure of dismissal (or suspension) by the members of the Council should be explicitly provided for.
176.	No member of the Prosecutor's Office Council, elected by the prosecutors should have the right, while serving in the Council, to be promoted within the service.
177.	Membership in the Council may be suspended when the status as a prosecutor is

	suspended, for example because of an ongoing criminal investigation or for any other reason provided for in the law, for example in the case of a disciplinary proceeding for as long as the proceedings continue.
178.	The physical disability of a member of the Prosecutor's Office Council impeding him to perform his functions should actually be a reason of dismissal, even if it is caused by objective reasons. However, the period of time during which he has been absent must be considered: a minimum time period should be clearly established, after which the dismissal of the member may be required.
179.	Meetings of the Prosecutor's Office Council should be open to the public, unless the Council decides to work in closed meetings, except of cases where the security or other reasons related to the protection of personal data may require closed meetings in accordance with proceedings rules as an exception.
180.	Another Commission should be established within the Prosecutor's Office Council, with the priority objective of reviewing the final performance evaluation of prosecutors. Instead of this choice, the performance evaluation in the first instance may be carried out by a specialized inspectorate assigned by the Prosecutor General, and later, the final review is carried out by the Council.
181.	The Council should be involved in the daily operational work. Therefore, it should be arranged as a full-time body. The guarantees of the prosecutor members' status are adjusted *mutatis mutandis* similarly as in the case of judge members of HCJ.
182.	The right of appeal to the Administrative Court against the decision of the Prosecutor's Office Council should be recognized. Judicial control of decisions of the Council is a greeted measure.
183.	The trend should be that more powers of the status and internal operation be addressed to the Prosecutor's Office Council in order to restrict inappropriate political influence on these cases, so as to ensure institutional independence and individual independence of prosecutors.
184.	The Prosecutor's Office Council as one of the institutions within the prosecution system has decision-making powers regarding the issues of the status of prosecutors, their appointment and promotion, disciplinary procedures and internal progress of the prosecution system.
185.	Criteria for the appointment of prosecutors and their appointment to the highest administrative levels of the prosecution system should be based on criteria which are applied *mutatis mutandis* for judges as well.
186.	Miscellaneous information such as citizenship, good health condition, professional competence, the lack of any current or past criminal prosecution are requirements that need to be addressed among the selection conditions and criteria. Promotion should be based essentially on performance evaluations. No prosecutor or functionary of the justice system during the communist dictatorship shall have the right to be promoted.
187.	Access to the prosecution system should be provided exclusively for those who have the professional graduation and initial training at the School of Magistrates, without allowing any exception to this rule.
188.	In any case, the right of the Prosecutor General, to take essential decisions especially for the appointment, disciplinary procedures, promotion, and evaluation should not be subtracted from the decision-making powers of the Prosecutor's Office Council.
189.	Proposal for the appointment of junior prosecutors, their access into the prosecution system, their appointment to administrative hierarchical levels of

	the prosecution should be made by the Prosecutor General. The Prosecutor's Office Council should only have the right to refuse the appointment, based on sound reasons.
190.	The principle of immobility should apply to judges only and not to prosecutors. However, prosecutors should be able to appeal against mandatory transfers.
191.	The issue of secondment should be applied only in cases where and for as long as there is the need to overcome operational problems by establishing permanent human resources in order to ensure the fulfilment of the tasks required. Secondment should not be used as a coercive tool that might jeopardize the independence of the prosecutor.
192.	The law should foresee the procedural guarantees for any prosecutor that can be obliged to transfer. The criteria for such a transfer should be clearly stipulated. The right of a prosecutor who has been subject to obligatory transfer to appeal the decision at court should be stipulated, too.
193.	The potential risk of secondment against the prosecutor's will must be balanced by guarantees. A full right of appeal without suspension from secondment should be foreseen. The seconded prosecutor may file an objection to the Prosecutor's Office Council, which should at least provide an *ex post* re-examination of the case. This re-examination should also address the fair application of legal criteria.
194.	Prosecutors should stay in office without limitation up to retirement age. Termination of time in office can occur only due to dismissal as a result of disciplinary proceedings or release because of subjective reasons.
195.	It is necessary to foresee an objectively transparent procedure in the process of prosecutors' promotion. This process cannot be left solely to the discretion of the immediate superior.
196.	The evaluation process becomes much more independent if carried out by the Prosecutor's Office Council. At least, the final decision on the evaluation should be entrusted to the Council. Involvement of some "external" members, in the Council subcommittees covering evaluation (if it is not fully entrusted to the Council) would help guarantee independence and impartiality.
197.	The possibility of an appeal against the decisions against wrong or untrue evaluation from the evaluation committee should be clearly indicated.
198.	The need for provisions that recognize the appeal to court should not be limited to disciplinary sanctions, but should also include acts that have adverse effects on the status or activities of prosecutors, such as denial of a promotion, filing of negative comments in the personal records of promotion, transfer from the district he is exercising his activity etc. In a country enforcing the rule of law it is necessary in these cases to provide for defensive tools by the court.
199.	Evaluation as "incompetent" should be indicated as an objective basis for the disciplinary initiative. This is a factor that should be precisely regulated to prevent its transformation into a tool of improper interference with impartiality. Therefore, the performance evaluation system must be provided by law. The competent authority carrying out the evaluation should be specified, together with the circumstances under which these grounds may apply.
200.	Such a system should indicate objective criteria for evaluation and should necessarily include the guarantee to appeal against negative evaluation.
201.	In the case of prosecutors other than the Prosecutor General, decisions on dismissal should be taken by the Prosecutor's Office Council.
202.	The right to a fair hearing and access to an independent court, that will

	supervise the process should not be undermined and should be explicitly provided by law.
203.	Disciplinary measures should not be imposed by the immediate superior, who is concurrently the denunciator and judge, similar to an inquisitorial system. It is up to the Prosecutor General to promote the start of disciplinary proceedings, based on the procedure, which deprives him of the chances to block any appeal. The Disciplinary Inspector tool should be recognized, too.
204.	In proceedings against prosecutors, the Council should decide through a committee constituted with prosecutors only.
205.	The Inspectorate for disciplinary inspection (disciplinary prosecutor) of prosecutors should be stipulated by law and elected by the Prosecutor's Office Council. The same criteria applied for selecting non-prosecutor members of the Prosecutor's Office Council should be followed. This would increase the autonomy and independence of disciplinary investigations, which are particularly important for the prosecutor and the public.
206.	In disciplinary cases, including the dismissal of prosecutors, the prosecutor in question should have the right to be heard in contradictory proceedings.
207.	The prosecutor, subject to a disciplinary sanction, should have the right to appeal to the administrative court, which must have the right to rehearing the case (trial on the merits) and not merely to re-examining the procedure.
208.	It should be specified that the prosecution is the only authority who leads a probationary investigation (collection of evidence).
209.	The Prosecution should control and evaluate the preliminary investigative actions carried by the police, at its own initiative during its operations to prevent criminal acts, especially those dealing with human and fundamental rights and freedoms.
210.	The judicial police need to be under the operational subordination of the prosecution and conduct only the investigative actions delegated by the prosecution. The prosecution should indicate detailed instructions that the police must follow, in order to accomplish effectively the investigative priorities, namely the means they need to resort to find evidence, the staff resources, the duration of investigations, the deliverables to the prosecutor, etc.
211.	The prosecution should have the right to assign the police crews that will carry out the investigation on any case or on any particular series of investigative actions.
212.	The prosecution should have the right to make performance evaluations and inspections of judicial police, due to the need to monitor that the investigations are being accomplished pursuant to the law. The prosecution should have rights on the status of police officers and specifically to initiate disciplinary proceedings if administrative legal violations are found.
213.	The status of the police employees should be monitored simultaneously by the prosecution in terms of the internal police activity and its commitment to investigative operations under the command and control of the prosecution.
214.	Changes in the Code of Criminal Procedures, developed by the Ministry of Justice, assisted by international experts of OPDAT, EURALIUS III, OSCE, Council of Europe, JUST USAID project, etc., should be immediately forwarded to the Ad Hoc Parliamentary Committee to proceed further with their review and approval.
215.	The Criminal Code needs to be improved and any measure aimed at improving and harmonizing its content is greeted. In this regard, we support the idea to

	consider the possibility of drafting a new Criminal Code.
216.	We fully support the possibility of establishing private prisons, and the extent of electronic surveillance to the whole country.

IV. LEGAL EDUCATION AND EDUCATION IN LAW

217.	It is important to specify the obligatory inclusion in the pre-university curricula of legal education subjects as separate disciplines in all pre-university cycles, as compulsory or optional subjects. To take this measure, concrete interventions of DCM are required in pre-university curricula. These subjects may be selected by the schools among alternative textbooks compiled by local jurists, because the legal system of each country is specific and therefore foreign textbooks cannot be adopted.
218.	It would be more efficient that measures for higher education in law be set by considering the new method of organizing and functioning of higher education in law and the problems that might emerge after the entry into force of the new law on higher education.
219.	A legal unchangeable ratio between the number of students and lecturers of the Faculty of Law should be established.
220.	The legal possibility for a collaboration between the Faculty of Law, the Assembly of the Republic and the Ministry of Justice for the use of academic expertise in all legal changes or legal reforms would not only help research but also in the professionalism of laws drafted in the country.
221.	Legal initiatives should be taken to improve financial remuneration of the scientific and teaching staff in law schools.
222.	Law Faculties should have part of the lectures taught by personalities with particular expertise in the fields of law. National or international personalities of a specific area of research, or of a particular topic of a discipline in legal subjects may be invited as guest professors.
223.	Continuous education of freelancers should develop periodically by the National Chamber of freelancers, which can organize training courses or continuous education courses to keep them coherent with legal amendments.
224.	Any method or mechanism to become part of the judicial system that skips the School of Magistrates, and the control of capabilities through competition, is **UNACCEPTABLE** to us.
225.	To achieve complete training, more professional assessment and an uninfluenced process in the School of Magistrates it is necessary to change the administrative and academic organization of schooling, the selection criteria of the academic staff and the assessment of students.
226.	The School of Magistrates should be guaranteed with independence, lack of influence from the executive power, inclusion inside the coverage of the High Council of Justice. In this regard, it is necessary to undo the recent interventions to the law on the School of Magistrates.
227.	We find the measure indicating the possibility of establishing proportional quotas for admission <u>without competition in the School of Magistrates</u> based on the system needs and the compulsory school attendance of at least one year **UNACCEPTABLE**! For us, this measure is totally unacceptable and a clear violation of international standards for admissions in the juridical system. Such a measure seems to restore the system prior to the years 2000.

228.	Interventions are needed in the School of Magistrates to employ professional staff outside of any political influence.
229.	Given the importance of assessment of students in the School of Magistrates in terms of the court or prosecutor's office they will be appointed to, it would be necessary to establish a modern and objective assessment system, as the only way to ensure the professionalism and independence of future judges or prosecutors.
230.	The provision stipulated by the law on the organization of the judiciary, for the appointment as judges of 10% of people not having attended the School of Magistrates, should be revoked. This provision was insisted unjustifiably by the Socialist Party at the time of the adoption of the law, but we think that it has damaged and continues to damage the professionalism and independence of the system.

V. LEGAL SERVICES AND FREELANCE PROFESSIONS

231.	Further strengthening of the School of Advocates is needed, because it is a new organization in an ongoing consolidation process.
232.	The law should provide for a mechanism to strengthen the transparency and objectivity of the bar exam, increasing the number of training on the rules of ethics and legal rules on the exercise of this profession.
233.	The law already provides for the professional liability of lawyers' insurance but it has failed to be implemented. Consequently, it is necessary to identify ways to the legal resolution of the problem.
234.	In order to eliminate tax evasion it is necessary that the National Chamber of Lawyers determine the minimum standard fees for service and the obligation of lawyers to issue an invoice for each service provided, signed by the service recipient, too.
235.	Solutions to the problems of delaying the proceedings due to the absence of lawyers. This would require appropriate changes in the code of procedures, and foresee the possibility that lawyers deliberately delaying the process be fined by judges, who also prepare a request for disciplinary measures against the lawyer.
236.	Revision of low payments mainly for lawyers. This would require the possibility that these lawyers be paid at market rates, as established by the National Chamber of Lawyers (minimum standard fees). We believe that the payment of these lawyers by market rates would help in improving the quality of service to customers, because practice has shown that the quality of representation by lawyers is mainly low and violates a person's right to a fair trial.
237.	Strengthening legal mechanisms that guarantee lawyers' cooperation with state institutions. On this issue we believe it is necessary to amend the relevant provision in the law on advocacy, by providing a disciplinary punishment mechanism, up to dismissal, against officials who do not provide information/documents requested by lawyers and may cause the breach of individual's right to a fair trial.
238.	It is necessary to review the legal requirements to become a notary. We estimate that at least 10 years experience as a lawyer is required to ensure the professionalism of notaries.
239.	It is necessary that the "One Stop Shop service for notaries" extends to the entire territory of the Republic of Albania. The possibility of further digitalization of

	the notary activity should be considered.
240.	The possibility that notaries become tax agents should be considered, because in this way the problems of tax evasion in cases of execution of transactions close to a notary are solved.
241.	Improvement and further development of the Albanian Notary Register (ANR)
242.	It is necessary that the law defines clearly the criteria over the categories of persons benefiting from free notary services, since this is a private service of entirely public features.
243.	Adoption of the necessary amendments to the law in order to ensure that notaries have civil liability to third parties.
244.	Rules on responsibility and accountability of bailiffs should be strengthened and strict sanctions applied for failure of timely execution without objective reasons.
245.	The state bailiff's service has failed to fulfil its mission. Therefore, we think it is appropriate that all bailiffs pass on to private bailiff's service. This measure would necessarily require the application of the mechanisms needed to facilitate the free execution of court decisions for people in need. The law should provide clear criteria for their exemption from fees for the execution of judicial decisions. On the other hand, privatization of 100% of this service must be backed up by a mechanism to strengthen control and accountability by the state supervisory structures.
246.	Measures to ensure effective execution of decisions, when state institutions are involved should be foreseen. It is necessary to revise the rules for the execution of court decisions by state institutions and the possibility of dismissal of any public official who impedes the execution of court decisions by acts or failing to act.
247.	The law should provide for a proper mechanism that ensures the liability and accountability of intermediaries.
248.	Merge the Institute of Forensic Medicine with the Scientific Police, under the Institute of Scientific Expertise. We believe the increased cooperation between the Forensic Medicine and Scientific Police and the exercise of their activities within the same institution will help to increase the possibility for coordination of information/results, and provide a priceless contribution to accurate and quick investigations.
249.	Ensuring the necessary financial support for forensic medicine, in order to provide modern operational devices and improve the status of the employees of this structure.
250.	Strengthening the mechanisms of control and accountability for official translators and experts from various fields involved in trials. Currently, their activity is completely unregulated and there is no accountability mechanism on exercising their activity.
251.	Digitalization of services for the Office for the Registration of Real Estates, applying the "One Stop Shop" principle in the entire country.
252.	Finding the appropriate legal mechanism to make the Official Publication Centre fulfil the obligations provided for by law, especially with regard to electronic archive of legislation and updating of laws and by-laws in force.

VI. ANTI-CORRUPTION MEASURES

253.	Our constitution model provides for a centralized system (Article 149 of the

	Constitution) and as such, it does not allow the establishment of "parallel constitutional prosecutors' offices" or "super constitutional prosecutors' offices" (the case of SPAK and the National Bureau of Investigation), which do not respect the division and the balance of power or the independence and impartiality as basic conditions of the judiciary. Our constitutional model enables at law level, that the structuring of the prosecutor's office adapts to the criminal phenomenology on one side (Specialized Prosecutors' Offices) and the adaptation of investigative-probationary (collection of evidence) -ruling procedures.
254.	The decision of the Constitutional Court considering the establishment of the National Bureau of Investigation as unconstitutional **MUST BE FULLY RESPECTED**. Amendments to the Constitution in favour of the governmental law declared unconstitutional is unacceptable for us. Any investigative structure should be established observing to the relevant decision of the court and the Constitution of the Republic of Albania, which guarantees the principle of division and balance of powers and the indisputable authority of the Constitutional Court to guarantee the rule of law.
255.	Regarding SPAK, the idea of "specialized prosecutors' offices" targeting only the phenomenon of corruption, is not new, and in some countries it has proven successful. But framing, as suggested in the Constitution, so that the Constitution approves an additional body, parallel to the prosecutor's system, undermines precisely the constitutional system of arranging the prosecution as a centralized body. All possibilities to set up a specialized prosecutor's office exist and the current Constitution recognizes this possibility (the case of serious crimes prosecutor's office). This prosecutor's office shall focus only on the phenomenology of corruption, observing the organizational model developed in the present Constitution. Specialized Prosecutors' Offices are not successful by simply emerging as bodies out of control, since such an experiment would turn easily into a political pressure tool (as with the former communist system). Our proposal is to set out in the legislation and implement a SPAK model, operating under the umbrella of the prosecutor's office.
256.	Strengthening the accountability and liability of judges and prosecutors is a greeted measure. The establishment of new institutions should take into account the high risk of political advantages of the current majority based on its number in the Assembly. The establishment of new institutions bears the risk of excessive institutional fragmentation and eventually of the lack of sound cooperation in achieving the required outcomes. Only a European model which guarantees 100% avoidance of political influence over judges and prosecutors will be an issue worth discussing at length in consultation tables. We support the recommendation of GRECO for judicial self-regulation and self-control, and no external control from the majority by militants disguised as apolitical. The attitude of the current majority in these two years is no guarantee of establishing independent parallel institutions.
257.	Public cooperation in the fight against corruption should avoid the application of old methods, which remind us of the dark communist period.
258.	Periodic professional and ethical performance evaluation of judges/prosecutors should be carried out and considered at the right time making sure that the criteria of the ethic evaluation of judges be objective and transparent, taking into consideration the principle of judicial independence.
259.	We fully welcome a concrete, efficient and quick evaluation of all judges and prosecutors, based on the audit of their work, efficiency, accountability, speed,

	observance of the law and the Constitution. We **DO NOT SUPPORT** any government exam, theoretical exam, tests of knowledge or psychological tests. We do not support such processes, because such procedures fundamentally undermine their status (immobility from office) and also pave the way to the extreme politicization of the judiciary.
260.	The Committee of Mandates Verification and Continuous Professional Development at the National Judicial Conference should fulfil its mandate, ensure the pro-active enforcement of the rules of ethics; ensure that guidelines, consultations and mandatory training services be provided to judges on the topics of ethics, conflict of interest and corruption prevention measures within their ranks.
261.	It is not acceptable to create parallel institutions or structures, but we recommend strengthening the independence of HIDAA and building independent capacities for quick and efficient investigations. Our proposal is to strengthen and de-politicize HIDAA, considering it as a constitutional body, with constitutional powers and status and where the Inspector General is elected by proposal of the President, and approval of 2/3 of the members of Assembly.
262.	The law should provide for judges/prosecutors to publish their assets on an official web site, taking into account the privacy and security of judges/prosecutors and their families, who are also subject to the law on declaration of assets.
263.	The law should provide that one of the causes initiating disciplinary proceedings against judges and prosecutors is failure to declare, declaration beyond deadlines or incomplete declaration of assets and conflict of interest in performing their duty. It must be accompanied with a balancing mechanism, for example, assessment by a third party such as the President of the Supreme Court/the Prosecutor General/HCJ of HIDAACI reporting.
264.	Merging the existing Inspectorate at the Ministry of Justice with the one at HCJ so that the latter remains. The process should follow with doubling or tripling the number of inspectors of HCJ, increasing their salaries and empowering their status.
265.	Digitalization of court monitoring systems in order to identify frequently and immediately the deviant judges; quick processing by the competent authorities.
266.	Regarding a special Disciplinary Tribunal (as an ad hoc body consisting of judges and non-judges), we believe that the establishment of new institutions should take into account the high risk of political advantages of the current majority based on its number in the Assembly. The establishment of new institutions bears the risk of excessive institutional fragmentation and eventually of the lack of sound cooperation in achieving the required outcomes. Only a European model which guarantees 100% avoidance of political influence over judges and prosecutors will be an issue worth discussing at length in consultation tables. We support judicial control over any decision by eliminating political influence deriving from the appointment of non-judge members.
267.	The law should provide for appropriate restrictions for judges and prosecutors after their working hours, such as being employed as freelance advocates or legal advisors for commercial entities that can benefit from their influence in the justice system.
268.	Appropriate legal interventions should be provided for designating the role and powers of the General Directorate for Prevention of Money Laundering, aiming at strengthening this institution's anti-corruption policy and avoiding its political affiliation.
269.	The salary of judges/prosecutors should increase by 30% each year for a 5 -year

	period.
270.	Allocation of special and sufficient financial resources for reconstruction or refurbishment, where necessary, of the premises of courts and prosecutors' offices, ensuring appropriate and decent conditions for judges and prosecutors, as strict measures to prevent corruption.
271.	Revocation of the exclusive power of the Minister of Justice to initiate disciplinary proceedings against judges. This right should be recognized even to the HCJ Inspectorate, the Prosecutor General, and the Presidents of Courts. We believe that the implementation of this measure would increase the number of judges undergoing a proceeding, but it would also protect them from the pressure of the executive.
272.	Improving the rules of the system of promotion, transfer of and disciplinary proceedings against judges/prosecutors, according to proposals made in the subtitle "Judicial Power" and "Criminal Justice".

VII. FUNDING OF THE JUSTICE SYSTEM

273.	Three major objectives should be announced for the funding of the justice system : - Consolidation and guarantee of the financial independence of the justice system, to ensure the independent administration of the judicial/prosecutors' office budget, improvement of interagency cooperation and ensuring a functional funding scheme. - The necessary financial support to the judicial system, to ensure the efficiency and effectiveness of its bodies and accomplish the mission to administer justice without any hindrance or delay. - The necessary financial support to other bodies of the justice system, to improve the infrastructure and increase the efficiency and effectiveness of their work.
274.	Our first desired solution is that the High Council of Justice be invested with the power to manage the judicial budget.
275.	If the option of transferring to HCJ the power to manage the budget is deemed as an overload, we consider that it is necessary to draft a new law on the compilation and management of the judicial budget, which should provide for a review of the structure of existing bodies.
276.	The Executive Board of the Office for the Administration of Judicial Budget OAJB, is the highest decision-making authority of the institution. As such, it should be responsible to properly plan the judicial budget, defend the draft-budget, implement and manage the judicial budget, control the manner of implementation and management of the approved budget, ensure the normal financial functioning of courts, develop long-term budget plans, approve priority investments/projects, harmonize its policies with the government policies for the judicial system, set up rules and procedures for the implementation of budget by the financial structures of courts within the permitted levels of expenditure, as well as any other decision regarding the resource allocation according to predefined objectives and the economical, efficient and effective use of court budgets.
277.	The Executive Board of OAJB shall consist of: - President of the Supreme Court of the Republic of Albania; - A Chairman of the Court of Appeal elected by the National Judicial

	Conference; - Two chairmen of the courts of first instance, elected by the National Judicial Conference; - A senior officer and representative of the finance department in courts, elected by lottery by the other members of the Board. - A member of the HCJ, elected by a majority vote of the members of this body; - Secretary General of the Ministry of Justice; - Secretary General of the Ministry of Finance.
278.	The law should provide rules on staying in office of the Board members (the members' mandate, which should not be too short, but equal to the duration of medium-term plans) and expiry of mandate (excluding the President of the Supreme Court), convening of meetings, determining and notifying of the agenda, quorum and form of voting, keeping the meeting minutes, calling the third meeting of the Board, the necessary mechanism to guarantee the implementation of Board decisions and active participation of members of the Board for any problems or issues related to the management of the judicial budget.
279.	OAJB rules of operation should ensure the observance of functioning, transparency, legality, independence of the judiciary; non-discrimination and proportionality. The activity of the Executive Board should be guided by these management criteria: - Economical, efficient and effective use of financial resources; - Predictability; - Inclusion; - Unity and universality in the management of budgetary funds.
280.	The law should provide for the necessary mechanism for the cooperation between the Executive Board and OAJB Director, in order to fulfil the joint mission of judicial budget management. In the meantime, the mechanism delivering continuous information to the Executive Board on the problematic issues and the daily operations of OAJB should be foreseen.
281.	In order to upgrade the performance of the Director of OAJB it is necessary for the law to foresee the establishment of committees composed of members of the Executive Board, who should follow/monitor closely the activities of the Director and OAJB administration on a monthly basis.
282.	In order to select the most appropriate person in the position of Director of OAJB it is necessary that the law provides for the criteria for his appointment. Selection procedures should be determined to ensure the principle of transparency and competitiveness. Setting of the Director's mandate increases his responsibility in accomplishing the tasks. In any case it should be taken into account that the Director's mandate must not be brief, but at least 5 years, to ensure continuity in fulfilling the tasks and priorities for several years. The setting of the Director's mandate must be backed up by specification in the law of cases of release and dismissal from duty.
283.	The law should provide that the administration of OAJB enjoys the status of civil servants. The inclusion of the OAJB administration in the civil service is a guarantee for increasing its capacity.
284.	Rules and procedures to be followed in the preparation, review, approval, implementation and management of the court budget should be specific and particular. The management of court budgets and coordination procedures with

	the ministry in charge of finances should not and cannot be the same for OAJB, and the line ministries.
285.	OAJB should increase its control over the use of budget funds by the courts, pursuant to the law no. 10296/2010, taking into account the specifics represented by this body. The audit activity of OAJB does not seem to be in accordance with the legislation in force on the audit of public sector funds, namely, law no. 9720/2007 and therefore it is necessary for the law to provide special audit rules pursuant to the legislation in force.
286.	It is necessary that the law provides for appropriate mechanisms of cooperation/interaction between OAJB, judiciary bodies and other state institutions.
287.	HCJ should be financed in such a way as to allow its proper functioning. It must have the means to operate independently and autonomously as well as the power and capacity to negotiate and organize its own budget effectively.
288.	The law should stipulate that the ratio of court budgets and GDP should not be below 0.20%. In providing this funding the possibility that the judicial system must be enabled to use its own funds secured by court fees, should be considered.
289.	It is necessary to establish an action plan which estimates the courtrooms or prosecutor's offices that will be built or refurbished in the next 5 years. To identify them, the system stakeholders should play a crucial role.
290.	The further digitalization of the judicial system activity not only helps to increase the efficiency in the delivery of services to citizens, but also to reduce financial costs. In this regard, we consider it necessary to identify accurately the activities that should be digitized. In order to monitor the system, it would be appropriate to include the possibility for video recording of the hearings as a form that enhances the judges' accountability and the authorities' ability to supervise them.
291.	It is necessary to establish an action plan that determines which institutions of execution of sentences will be built or refurbished in the next 5 years.
292.	Strengthening the capacity of the School of Magistrates and strengthening its financial support.
293.	The law should provide for a convenient mechanism for the judicial system to use revenues collected from court fees, to a higher degree.
294.	As far as the remuneration of judges / prosecutors is concerned, it should undergo a gradual annual increasing by 30% extending to 5 years.