

Reorganization of the prosecutor's office according to the constitutional changes in the Republic of Albania

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Abstract

The mission of the Prosecutor's Office is to carry out criminal prosecution, represent the accusation in court, on behalf of the state, as well as performing other duties specified by law.¹ The Prosecutor's Office is one of the constitutional bodies, with important functions in the administration of justice, which for a long time has functioned as a centralized body in the Republic of Albania. It has been a body often discussed not only for its functioning as a centralized body but also for its activity.

The constitutional legislator, with the reform of the justice system, has paid special attention to the establishment of the mechanism for the effective combating criminal offenses against corruption, organized crime and abuse of office. For this purpose, in addition to the establishment of special courts, it determines at the constitutional level the formation of the Special Prosecutor's Office and the Special Investigation Unit for the prosecution and investigation of these offenses.

The constitutional provisions aim to guarantee the independence, impartiality and accountability of the Prosecutor's Office in the exercise of constitutional functions. The Prosecutor's Office, as a specialized structure, is a constitutional body that carries out criminal prosecution and represents the prosecution on behalf of the state before the Court of First Instance, the Court of Appeals and the Supreme Court against corruption and organized crime. This paper aims to provide a summary analysis of constitutional changes in all levels of the Prosecution System in Albania and the problems that accompany this system.

Keywords: prosecutor's office, crime, criminal prosecution.

Introduction

In our country, the overthrow of dictatorial regimes required the establishment of a new state and democratic legislation and only after the 1990s were the first steps of progress marked.

With the adoption of the main constitutional provisions of 1992, the Prosecutor's Office was sanctioned as a body independent of other powers, unique and centralized.² The changes have been successive and with the referendum of November 22, 1998, the Prosecutor's Office was sanctioned as a constitutional body that prosecutes and represents the prosecution in court, on behalf of the state but again as a centralized body. Both the Constitution and the Law no. 8737, dated 12.02.2001, "*On the organization and functioning of the Prosecutor's Office*", conceive the prosecutor's office as a body of a special kind, "*sui generis*". Therefore, in the way it is conceived by the Constitution and the Law, the prosecution body is neither in the judiciary nor

¹ Article 3 of Law no. 97/2016 "On the organization and functioning of the Prosecutor's Office in the Republic of Albania".

² Article 13 of Law no. 7561, dated 29.09.1992 "On the main constitutional provisions".

in the executive³. Prosecutors are organized and operate within the judiciary as a centralized body. This normative framework aimed to guarantee the non-interference and non-influence of other powers in the exercise of criminal prosecution functions by them, in all three stages of criminal proceedings, preliminary investigations, filing and representation of charges in court, as well as the execution of criminal decisions.

1. The necessity of reorganizing the Prosecutor's Office

In all these years of its operation, the Prosecutor's Office has had an unclear position regarding the executive and the judiciary. Appearing sometimes as a body with executive powers, sometimes as a body with judicial powers, this has also affected its dual dependence. The overlapping of the competencies of the Prosecutor's Office has caused the lack of effectiveness and realization of its objectives.

Certainly, the position of the Prosecutor's Office was not the only reason for the non-functioning of this body. Since the time of communism in Albania we have had a centralized prosecutor's office, thus maintaining a hierarchy among prosecutors. Due to a non-functional system in our country, the prosecution has also been influenced by politics. We can say with conviction that this influence has found support in the constitutional provisions, starting from the proposal and dissolution of the General Prosecutor to the appointment and dismissal of other prosecutors⁴. So, politics has elected a Chief Prosecutor, who appoints and controls subordinate prosecutors in cooperation with the President. Excessive centralization has also affected the quality of the investigation conducted by prosecutors, as the highest-ranking prosecutor controlled their activity. The lack of involvement of an independent self-governing body such as the Prosecution Council in the process of selection, career and discipline of the General Prosecutor and other prosecutors has affected the functioning of the prosecution. Lack of cooperation between the Prosecutor's Office and the judicial police has been another issue that has highlighted the need for constitutional changes. Uncertainties in the hierarchical, subject-matter and territorial jurisdiction of the Prosecutor's Office as well as in the relations between the Prosecutor's Office and the Judicial Police have led to inefficiency in the work of the prosecution, lack of proactive investigations and unjustified cessation of criminal investigations. The organization and functioning of the Prosecutor's Office has also encountered problems related to transparency, both in the institutional organization and during the work of the prosecutor in the criminal process, which has reduced the credibility of the citizens. Respect for human rights is an objective that always remains unfulfilled in all law enforcement institutions. In the investigations of the Prosecutor's Office we often find violations of procedural nature where we can highlight the questions that are asked in contradiction with the rules provided by law or the imposition of security measures that do not comply with their nature. It is true that the Prosecutor's Office faces a large number of files that complicate its work and therefore I think that there should be support structures such as today's Bureau of Investigation.

³ Article 148/2 of the Constitution of the Republic of Albania and Law no. 8737, dated 12.02.2001, "On the organization and functioning of the Prosecution".

⁴ Article 149/1 of the Constitution of the Republic of Albania (1998), "The General Prosecutor is appointed by the President of the Republic, with the consent of the Assembly, for a five-year term, with the right of reappointment".

2. Overview of constitutional and legislative amendments for the Prosecutor's Office

In our country, a comprehensive and comprehensive reform was undertaken to strengthen the independence, accountability, efficiency and professionalism of the judiciary as an important step to set a positive turning point on the consolidation and rule of law in the country⁵. Due to all the problems mentioned above, it was deemed necessary to undertake a series of constitutional and legislative amendments in the prosecution body. Initially these changes were reflected in the Constitution of the Republic of Albania, which provided for an independent prosecution body in the exercise of its functions and away from any internal or external influence. It was a very positive step because we cannot have an effective justice if this body is controlled and functions as a centralized body, this is certainly due to the comprehensive impact that politics has in Albania. In the framework of the changes in the prosecution body, the General Prosecutor's Office has also experienced innovations, starting from the competence, organization until the selection of the General Prosecutor with a qualified majority. A number of new bodies have been established and another part has changed, such as the High Council of the Prosecution, which has been transformed from a body with advisory powers into a body with decision-making functions. Two specialized structures have been set up to effectively investigate and prosecute complex corruption and organized crime issues⁶. These are the Special Prosecution and the Bureau of Investigation which operates under the control of the Special Prosecutor's Office. Prior to the establishment of these constitutional bodies, all prosecutors who will be their members and not only will be subject to the re-evaluation process. An Independent Qualification Commission has been set up to carry out the re-evaluation process, which will evaluate all and all prosecutors, regardless of level and jurisdiction. The re-evaluation process will include the full control of prosecutors in three important components such as asset assessment, background assessment and proficiency. The High Justice Inspector has been set up to investigate disciplinary violations and complaints against prosecutors of all levels, to initiate disciplinary proceedings against them and to inspect the prosecutor's offices. The Prosecutor General and the Chief Special Prosecutor have the obligation to cooperate with the High Justice Inspector on matters within his jurisdiction and to inform about disciplinary violations and problems encountered in the exercise of their activities. Of course, the constitutional and legal changes have not only affected the institutional organization of the prosecution but also the functions of the prosecutor under investigation. The prosecutor no longer has the competence to dismiss the case for trial, but to submit a request to the preliminary hearing for the dismissal or not of the case, also as a guarantee for the defendant⁷. Exactly the judge of this preliminary hearing reviews the validity and adequacy of the evidence, which will then be subject to judicial debate. When the court deems that the investigations are incomplete, it

⁵ The Constitution of the Republic of Albania of 1998 with the amendments of 2016.

⁶ Law no. 95/2016 "on the Organization and Functioning of Institutions for Combating Corruption and Organized Crime".

⁷ Article 329/a/1 of the Code of Criminal Procedure: "Upon termination of the preliminary investigations, when it is being proceeded for crimes and when any of the cases provided for in paragraph 1 of Article 328 of this Code occurs, the prosecutor asks the judge of the preliminary hearing to dismiss the charge or the case".

orders the completion of the investigations, defining the main directions in which the prosecutor will focus and the deadline within which they should be completed.

3. Organizational structure of the Prosecutor's Office in the Republic of Albania

The Prosecution, based on its competencies, also exercises its constitutional and legislative functions for prosecuting and representing the Prosecutor's Office in court on behalf of the state⁸. As the law divides criminal offenses, the Prosecutor's Office also has a structure of its internal organization. Below we will talk about the organization and functioning of each of the mentioned prosecution bodies.

4.1 General Prosecutor's Office

The General Prosecutor's Office is a body that has jurisdiction over the entire territory of the Republic of Albania and represents cases before the Supreme Court and the Constitutional Court, with the exception of cases that are part of the jurisdiction of the Special Prosecutor's Office⁹. The Prosecutor's Office used to be a deeply centralized institution, directly controlled by the President.

4.1.1 Prosecutor General

The Prosecutor General is the head of the General Prosecutor's Office and is responsible for the work of this Prosecutor's Office and the prosecutor's offices at the courts of general jurisdiction, courts of appeal and courts of first instance. In the 1998 constitution, the Prosecution was a centralized institution, with the Prosecutor General having broad powers over all investigative processes. He was elected by the President with the consent of the Assembly. Prosecutors are appointed and dismissed by the President on the proposal of the Prosecutor General.

The 2008 political agreement that brought about constitutional changes, which stipulated that, the Prosecutor General would have a five-year term with the right to be re-elected. His appointment and dismissal were again left to the jurisdiction President of the Republic with the consent of the parliament.

In the current system, we have another body that is already provided in the constitution and takes over some competencies of the Prosecutor General specifically, the High Prosecution Council as the institution responsible for the appointment and dismissal of prosecutors¹⁰. Competencies have been diminished in terms of decision-making and currently, the Prosecutor General exercises a series of competencies, provided by Article 38 of the Law "On the organization and functioning of the Prosecution". We notice that a number of functions have been removed, such as the proposal for the appointment, transfer, promotion, dismissal and dismissal of prosecutors and the issuance of normative acts (regulations, orders and instructions), for the exercise of defined duties which were mandatory for prosecutors and judicial police. In addition, Prosecutor General is no longer competent to order inspections, initiate disciplinary proceedings and decide on disciplinary measures, because this already belongs to

⁸ Article 3 of the Law no. 97/2016 "On the organization and functioning of the Prosecutor's Office in the Republic of Albania".

⁹ Law no. 138/2015 "On guaranteeing the integrity of persons elected, appointed or exercising public functions".

¹⁰ Law no. 115/2016 "On the Governing Bodies of the Justice System".

the High Inspector of Justice. All the competencies enjoyed by Prosecutor General are more in function of the organization and internal functioning of the prosecution, unlike the controlling and decision-making nature that it had before.

The Prosecutor General will be elected by three-fifths of the parliamentary members, but parliament will have to choose between three nominations proposed by the High Prosecution Council. The mandate of the Chief Prosecutor is increased to seven years out of the current five as his role diminishes in terms of decision-making powers. Recent legal changes define an open and transparent process for the selection of the Prosecutor General, based on transparent, objective and meritocratic criteria, such as qualifications, moral and professional integrity, professional skills and purity of judicial status. Before the constitutional and legislative amendments, the Prosecutor General served for a 5-year term with the right of reappointment, but with the constitutional amendments, he will serve for a 7-year term without the right of reappointment¹¹. We think it was a very fair choice because we would not have a democratic and effective system if we give a lot of power to certain people.

*4.1.2 Deputy Prosecutor General, a new figure in the General Prosecutor's Office*¹²

The Deputy Prosecutor General represents the Prosecutor General, in the absence and with the authorization of the Prosecutor General or when his/her position is temporarily vacant. The Deputy Prosecutor General performs only the duties that are deemed necessary for the functioning of the General Prosecutor's Office, or of Prosecutor's offices at the courts of general jurisdiction and of the Judicial Police and represents the Prosecution with third parties.¹³ S/he is elected, within 30 days of the appointment of the Prosecutor General, from the ranks of the prosecutors of the General Prosecutor's Office with at least 10 years of experience and who have been assessed with "very good" in the last three evaluations of their ethical and professional performance. He is appointed by the Prosecutor General, for a two-year term with the right of reappointment, after getting the opinion of other prosecutors in a special meeting, which is not necessarily mandatory. This is a new position added upon the law amendments and I think it is very necessary in terms of facilitating the work of the General Prosecutor's Office, and also a good solution in cases when the position remains vacant, which happens quite infrequently in our country.

4.2 Special Prosecution Office

The Special Prosecution Office as a specialized structure is a constitutional body that exercises criminal prosecution and represents the claims on behalf of the state before the Court of First Instance, the Court of Appeals and the Supreme Court against corruption and organized crime.¹⁴ This body sets the conditions for the effective investigation and prosecution of complex issues of corruption and organized crime. Furthermore, this prosecution takes measures and supervises the execution of criminal decisions and performs all the other duties assigned by law independently,

¹¹ Article 148 / a of the Constitution of the Republic of Albania "The Prosecutor General is appointed by three-fifths of the members of Assembly among three candidates proposed by the High Prosecutorial Council, for a seven-year mandate, without the right to re-appointment".

¹² Article 39 of Law no. 97/2016 "On the Organization and Functioning of the Prosecutor's Office in the Republic of Albania".

¹³ Ibidem.

¹⁴ Article 15, ibid.

unaffected by internal or external influences. Special prosecutors, when exercising their functions, act and take decisions independently, based on the principles of legality, objectivity and impartiality. They follow the general instructions, given in writing by the highest prosecutor, according to the law, but do not necessarily follow them when it comes to the substance of the investigation or case. The law guarantees the necessary independence and autonomy for the prosecutors when taking any decisions in the exercise of their constitutional and legal function, regardless of illegal internal or external influence, by any public or private authority. Prosecutors of the Special Prosecution Office, based on the principle of accountability when they have reasonable suspicions of a criminal offense being committed; investigate and prosecute other Prosecutors of the Special Prosecution Office or Judges against corruption and organized crime.

4.2.1 The competences of the Special Prosecution Office

The Special Prosecution Office is competent to review, investigate, prosecute criminal offenses included in Article 75/a of the Code of Criminal Procedure.¹⁵ Many of these offenses have been added and transformed with the amendments that the Criminal Code of the Republic of Albania has undergone.¹⁶ All deeds of corruption will be prosecuted by the Special Prosecution, in order to fight as effectively as possible this widespread phenomenon. The 1998 Constitution provided that criminal charges against the President of the Republic, the Prime Minister and Ministers, MPs, Judges of the Supreme Court and the Constitutional Court would be tried by the Supreme Court. Given that the prosecution is organized and functions within the judiciary, consequently the investigation phase will also be carried out by the General Prosecutor's Office. Whereas, mayors, deputy ministers, judges and prosecutors, heads of independent and central institutions and other senior justice officials will be tried by the respective district courts for any criminal offenses committed when they exercised of their duties.

In 2014, amendments to the Criminal Procedure Code provided that active and passive corruption of senior state officials and local elected officials, other than those

¹⁵ - active corruption of persons exercising public functions; active corruption of foreign public officials; active corruption of senior state officials or local elected officials; illegal influence over persons exercising public functions; violation of the equality of participants in public tenders or auctions; passive corruption of persons exercising public functions; passive corruption of foreign public officials; passive corruption of senior state officials or local elected officials; active corruption of a witness, expert or translator; active corruption of judges, prosecutors and other justice officials; active corruption of a judge or official of the international courts; active corruption of domestic and foreign arbitrators; active corruption of members of foreign judicial juries; passive corruption of judges, prosecutors and other officials of the judiciary; passive corruption of a judge or official of international courts; passive corruption of domestic and foreign arbitrators; passive corruption of members of foreign judicial juries.

¹⁶ The Special Prosecution Office is also competent for: any criminal offense committed by a structured criminal group, criminal organization, terrorist organization and armed gang, as defined in the Criminal Code; criminal charges against the President of the Republic, the Head of the Assembly, the Prime Minister, a Member of the Council of Ministers, a Judge of the Constitutional Court and the Supreme Court, the Prosecutor General, the High Inspector of Justice, the Mayor, MP, Deputy Minister, Member of the Council the High Judiciary and the High Council of the Prosecution, and the heads of central or independent institutions defined in the Constitution or by law; criminal charges against the former officials mentioned above, when the offense was committed in while holding office.

tried in the first instance by the Supreme Court under the Constitution, would no longer be tried by judicial district courts, but by the Serious Crimes Court. The same provision was passed for the criminal offenses of active and passive corruption of judges, prosecutors and other justice officials. Normally, unless otherwise provided, all the above officials, except for the exception, for all other criminal offenses committed while on duty are investigated by the prosecutor of the respective district and consequently tried by the court of the respective district

Upon the adoption of the latest constitutional amendments in the Assembly, it was provided that the preliminary investigation phase and the indictment in court for all criminal offenses of corruption, of organized crime and all criminal charges against the President of the Republic, Head of the Assembly, Prime Minister, Ministers, Members of the Constitutional Court, Members of the Supreme Court, Mayors, Deputy Ministers, the General Prosecutor, MPs, Members of the High Judicial Council and the High Prosecution Council, heads of central or independent institutions as defined in the Constitution or by law, as well as all charges against the former officials mentioned above, will be held by the Special Prosecution Office.¹⁷ Among other functions of the Special Prosecution Office is the competence to review, investigate and prosecute any other criminal offense that is closely related to the investigation or criminal case within the competencies provided in Article 8 of the law "On the Organization and Functioning of Institutions to Combat Corruption and Organized Crime, as well as to request from judges of anti-corruption and organized crime courts, the implementation of the provisions of the law in force on preventing and striking organized crime, trafficking, corruption and other crimes through preventive measures against assets." It also has the right to seek the implementation of the provisions of applicable law for the protection of witnesses and collaborators of justice.

The Prosecutors of the Special Prosecution Office are appointed by the High Prosecution Council, and this process is also guaranteed by the Constitution.¹⁸

4.3 National Bureau of Investigation

The National Bureau of Investigation is a specialized structure of the Judicial Police, which investigates criminal offenses in the criminal jurisdiction of the Special Prosecution, according to the provisions of the Criminal Procedure Code. This investigative body has been set up at the constitutional level and its objective is the investigation of criminal offenses of corruption and organized crime. The National Bureau of Investigation designed before the constitutional changes would be a central directorate under the Prime Minister whose function would be the coordination of all services, through a coordination office. A group of MPs submitted to the Constitutional Court the lawsuit to declare the Bureau of Investigation unconstitutional. In defense of the lawsuit it was stated that the Bureau of Investigation is a structure which receives the exclusive services of the State Prosecutor's Office and therefore it is conceived as a severe blow to the democratic system and violates the main principles of the Constitution. This structure would be totally under the political control of people appointed by the Minister of Interior or the Prime Minister who would investigate

¹⁷ Article 135/2 of the Constitution of the Republic of Albania with the amendments of 2016.

¹⁸ Article 148 / dh of the Constitution of the Republic of Albania with the amendments of 2016.

corruption in the Prime Ministry or in agencies close to the Prime Minister. The Constitutional Court rightly declared that the establishment of the Bureau of Investigation was incompatible with the Fundamental Law of the Country. The court held that the prosecution and representation of the state is the exclusive competence of the Prosecutor's Office and not of the Ministry of Interior. Moreover, this structure would cause overlapping competencies between independent institutions and the executive.

Upon the new constitutional changes the Bureau of Investigation has been affirmed as a body, which operates at and under the supervision of the Prosecutor's Office, which is completely different from what was previously foreseen.¹⁹ The Special Prosecution Office controls the functioning and organization of this structure, but despite this dependency relationship, they must cooperate among them not only to provide a full investigation, but also to face together the danger posed by these criminal offenses.

4.4 Prosecution Office at the Courts of First Instance and Prosecutors of Courts of Appeal

The functions of the Prosecution Office at each Court of Appeal of general jurisdiction are exercised by the Prosecutors of Courts of Appeal. Their jurisdiction extends to the jurisdiction of the respective court, which is competent to review the appealed cases. The functions of the Prosecution Office at each Court of First Instance of general jurisdiction exercised by the Prosecutors of Courts of First Instance. Their jurisdiction extends to the jurisdiction of the respective court. So for all offenses that fall within the scope of the Courts of First Instance, the prosecution and representation of the charge will be carried out by the Prosecutors who exercise their duty at the first instance. It may occur that during the preliminary investigation the prosecutor may consider that the criminal offense is in the competence of a court other than the one where he exercises his functions, and then he immediately passes the procedural acts to the prosecutor at the competent court. If the latter claims that it is not competent, it notifies the General Prosecutor, who after reviewing the acts determines which prosecutor should proceed the case. The same happens for the acts within the competence of the Special Prosecution which has the obligation to accept the acts, when it is proved that the latter is competent. Even when two Prosecution Offices prosecute a person for the same case, they must make a request and determine which one is competent. All previous investigations are usable even after the passing of acts in full compliance with the law.

4.4.1 Special Investigation Sections

The reform of the prosecution also provided for the obligation to establish Special Sections. Thus in each Prosecution Office, for certain categories of criminal offenses, when possible and necessary, the head of the Prosecution Office creates sections with not less than three prosecutors, upon getting the opinion of prosecutors from the general meeting. Their establishment is based on other aspects too, in the number and specialization of prosecutors, the type, prevalence and categories of criminal

¹⁹ Article 148/4 of the Constitution of the Republic of Albania (1998)

“The Special Prosecution Office and the Special Investigation Unit for the prosecution and investigation of criminal offences of corruption, organized crime and crimes in accordance with Article 135 paragraph 2 of the Constitution shall be independent from the Prosecutor General. The Special Investigation Unit shall be subordinated to the Special Prosecution Office”.

offenses, subjects, as well as in the recommendations of the Council of Ministers in the fight against crime. Currently, several sections have been established and the subject competence of these sections will be the criminal offenses referred to in the Special Sections, according to the Substantive and Territorial Jurisdiction by the Central Special Task Force, Regional Special Task Force, as follows:

- Criminal offenses in relation to narcotics and laundering the proceeds of crime or criminal activity.
- Criminal offenses in relation to corruption.
- Criminal offenses against assets, in relation to economy and companies.
- Criminal offenses in relation to taxes.
- Seizure and confiscation of criminal assets, according to law no. 10192, dated 03.12.2009, "On preventing and striking organized crime, trafficking, corruption and other crimes through preventive measures against assets" amended in the framework of justice reform.
- Criminal offenses committed by Special Entities, defined in Article 135/2 of the Constitution of the Republic of Albania.²⁰

5. High Prosecution Council

The High Prosecution Council is a body of constitutional nature that guarantees the independence, accountability, discipline, status and career of prosecutors in the Republic of Albania. The Constitution has assigned to it a number of important responsibilities, starting with the appointment, evaluation, transfer and promotion of prosecutors at all levels. Prior to the changes, they were appointed and dismissed by the President of the Republic on the proposal of the General Prosecutor. This means that this body no longer has an advisory role but a decision-making role regarding the organization of the Prosecution Office. Upon the amendments made in the framework of the justice reform, the proposal for General Prosecutor to the Assembly is now made by the said body. Also another function exercised by the High Prosecution Council is the approval of rules of ethics and their supervision. Reporting on the work and progress of each institution is very important, therefore this Council should report and inform the public, the Assembly on the progress of the Prosecution Office. The High Council of the Prosecution proposes and administers its budget in accordance with the law and exercises any other function assigned to it by law.

5.1 Organization and functioning of the High Prosecution Council

Organization and functioning of the High Prosecution Council is regulated by the Constitution of the Republic of Albania. This body consists of 11 members where six of them are elected from the ranks of prosecutors, and five from the Assembly from the ranks of jurists.²¹ Members who are transparently and publicly elected from the ranks of prosecutors should have high morals and professional integrity. The

²⁰ Article 135/2 of the Constitution of the Republic of Albania "Specialized courts shall be competent to adjudicate corruption and organized crime, as well as criminal charges against the President of the Republic, Speaker of the Assembly, Prime minister, the member of the Council of Ministers, the judge of the Constitutional Court and Supreme Court, the Prosecutor General, High Justice Inspector, the Mayor, Deputy of the Assembly, deputy minister, the member of the High Judicial Council and High Prosecutorial Council, and heads of central or independent institutions as defined by the Constitution or by law, as well as charges against former officials as mentioned above".

²¹ Article 149/2 of the Constitution of the Republic of Albania (as amended).

members elected from the ranks of jurists must have a minimum of fifteen years of work experience in the profession and have not held political functions in public administration or leading positions in political parties during the last ten years. It goes without saying that the latter must also have high morals and professional integrity. Jurists should be: two from the ranks of attorneys at law, two from the academia of the Faculty of Law or the School of Magistrates and the last from civil society. The Chairman of the High Prosecution Council is elected at the first meeting of the Council from the ranks of jurists. The Chairman of the High Prosecution Council is dismissed by the Constitutional Court in case he commits serious professional or ethical violations and when he is convicted by a final form decision for committing a crime. He can also be suspended by a decision of this court when he is tried with the security measure "arrest in prison" or "house arrest" for committing a criminal offense, when he assumes the status of a defendant for a serious premeditated crime and when against the member is initiated a disciplinary proceeding.

6. Priorities of the Prosecution Office in performing its functions

The mission of the prosecution is to serve the public by prosecuting criminal offenses responsibly, fairly, impartially and objectively, to protect the rights of the individual and to cooperate with all actors in the justice system to strengthen law enforcement and rule of law.²² To achieve this, the prosecution must focus its work on several objectives which will be analyzed below:

Effectiveness of investigation; We cannot deny that the investigation is still a problem in our country and has always been an unfulfilled objective, given that the main objective of the prosecution remains to increase the effectiveness of the investigation and bring to justice anyone who violates the law. In many cases the investigation was either incomplete or conducted in violation of human rights. The fulfillment of this mission is aimed to be achieved through several measures

- Strengthening inter-institutional cooperation
- Increasing the quality of assets investigation
- Efficient use of electronic communications interceptions
- Strengthening human resource capacities
- Strengthening the fight against cybercrime

Fight against organized crime and corruption; In the framework of Albania's development and integration into the European Union, Albania seeks to achieve a society free of trafficking, organized crime and terrorist threats, in order to adapt to the European standard. The primary objective has been and remains the further deepening of the fight against organized crime. In the framework of meeting these objectives and international obligations, the aim is to strengthen inter-institutional coordination in the fight against organized crime, terrorism, trafficking in all its forms and the prevention of money laundering. Another objective is to weaken the finances of criminal networks of organized crime and terrorism through the targeting, seizure and confiscation of assets and proceeds from criminal activity, which we have

²² The medium-term strategy of the General Prosecutor's Office 2018-2020 and the action plan for the Prosecutor's Office.

addressed above. It is necessary to strengthen cooperation between the police and the prosecution in order to effectively detect criminal networks. Financial investigations for those suspected of being members of criminal groups are not systematic and effective.

Promoting respect for human rights; Albania is committed to fulfilling international obligations in the field of human rights and is a party to a number of human rights conventions in the framework of the UN, the Council of Europe, as well as a party to the Framework Convention of the Council of Europe "For the protection of national minorities". One of the biggest priorities of our country remains the respect and protection of the rights of individuals of vulnerable groups, and especially of minors, in conflict with the law.

Strengthening cooperation with international partners; The fight against crime, especially organized crime, requires a coordinated international response. The Prosecution aims to strengthen cooperation with counterpart authorities, not only through its timely and efficient response to the handling of letters of request of foreign authorities, but also at the operational level. The main goals in international cooperation will be achieved through increasing the speed, quality and effectiveness of international judicial cooperation and efficient coordination among them. Secure communication channels need to be established in order to fight the crime faster.

Increase transparency in communication and public relations; It is the obligation of the prosecution to guarantee the right to inform the public about its activity, within the limits set by the criminal procedural law. On the other hand, the prosecution sees communication with the public as an opportunity to increase trust in the prosecution system, as an opportunity for the public to recognize the work of the prosecution in protecting its rights and consequently to promote the denunciation of crime.

Conclusions

- In the framework of all the constitutional and legal changes of 2016, the prosecution also had a series of substantial changes in the way it functions and is organized. Its main function is to prosecute and represent the Prosecution Office on behalf of the state in court. It is a body that has an important role in the administration of justice, therefore the lawmakers saw the need to intervene to improve and regulate those issues that have accompanied the Prosecution Office for a long time.
- The Prosecution Office has functioned for a long time as a centralized body within the judiciary. Currently with the new changes it will function as an independent body, a principle which has been raised at the constitutional level. In exercising their functions, prosecutors perform actions, submit requests and take decisions independently, based on the principles of legality, objectivity and impartiality. This implies the internal independence of prosecutors both in the exercise of criminal prosecution and in the representation of the claim in court. Another principle that the prosecutor will follow during his work will be the obligation of criminal prosecution, which greatly restricts the freedom and scope of action of the Prosecution Office, but at the same time affects the effectiveness of the

administration of justice.

- The High Prosecution Council is a new Constitutional body which guarantees the independence, accountability, discipline, status and career of prosecutors in the Republic of Albania. This means that this body no longer has an advisory role but a decision-making role in regards with the organization of the Prosecution Office. If during his work a prosecutor takes disciplinary measures, the High Prosecution Council will review them and decide on measures against them. The High Prosecution Council is organized and exercises its activity in commissions or plenary meetings, which are analyzed in detail in the paper.
- In addition to radically changing the way the Prosecution Office is organized and functions, the main purpose of justice reform has been to re-evaluate judges and prosecutors with the aim of clearing the current system of corrupt and incompetent individuals. High levels of corruption, unsatisfactory levels of quality of work of judges and prosecutors, as well as the non-functioning of existing mechanisms for their control in cases of violations of the law during the exercise of duty have been the main reasons that prompted this process.
- In some areas the prosecution has not been effective in carrying out its mission, and I think its work should focus on several key points ranging from the fight against corruption and organized crime to increasing the quality of the investigation. A number of special techniques have been added to increase the quality of the investigation, especially with regards to the investigation of assets, and all that is left is to implement them effectively.
- Great importance should be given to the respect of human rights during the criminal proceedings, as well as to the increase of transparency and public trust.
- Justice reform, especially with regards to the prosecution body, has been a necessary step. Now measures should be taken in order to implement and enforce all constitutional and legal changes. Albania aspires to be a member of the European Union and to enjoy this status, it must take progressive steps in delivering effective justice. The prosecution body in cooperation with other bodies has an essential role in carrying out this mission.

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The medium-term strategy of the General Prosecutor's Office 2018-2020 and the action plan for the Prosecutor's Office.