Project Title: Improvement of the enforcement system in Albania

Partners:

Beneficiary Country:
Albanian Ministry of Justice, General Directorate of Public Bailiffs, National Chamber of Private Bailiffs

Member States:
Public Interest Grouping - Justice International Cooperation (JCI) - Ministry of Justice of France Center for International Legal Cooperation (CILC) – the Netherlands

Date: 18 April 2016
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<table>
<thead>
<tr>
<th><strong>Twinning Contract Number</strong></th>
<th>AL/12/IB/JH/02</th>
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<tbody>
<tr>
<td><strong>Project Title:</strong></td>
<td>Improvement of the enforcement system in Albania</td>
</tr>
</tbody>
</table>
| **Twinning Partners (MS and BC)** | MS: France  
PL: Public Interest Grouping - Justice International Cooperation (JCI), Ministry of Justice of France  
JPL: Center for International Legal Cooperation – the Netherlands  
BC: Albania  
Mr. Bledar Dervishaj  
Advisor to the Minister  
Ministry of Justice of Albania  
BC Project Leader: Mr. Bledar Dervishaj |
| **Report Number:**           | 3 |
| **Period covered by the report:** | 29.10.2015 – 29.01.2016 |
| **Duration of the project:** | 18 months |
| **Rapporteur:**              | **MS Project Leader**: Ms. Sylvie Ceccaldi Guebel  

BC Project Leader: Mr. Bledar Dervishaj |
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2A – BACKGROUND

BC policy developments in the sector

Enforcement System in Albania

Albania joined the Council of Europe on 13th July 1995 and is a member of the United Nations, the Organization for Security and Cooperation in Europe, NATO, the Council of Europe and the World Trade Organization. Since June 2014, Albania has the status of a candidate member state to the European Union.

The enforcement of court decisions and the delay of court proceedings are among the questions most frequently raised against Albania before the European Court of Human Rights. European judges notified on 18 November 2004 their first judgment against Albania, in the Qufaj Co. Sh.p.k vs Albania case, specifically in the field of judicial enforcement, relating to the inability of the applicant company to secure enforcement of a final judgment in its favour. After reiterating that it was not open to a State authority to cite a lack of funds as an excuse for not honouring a judgment debt, the Court also held that the applicant company had not had a fair trial.

The Court has since found violations of Article 6, paragraph 1, of the Convention and of Article 1 of Protocol No. 1 to the Convention due to the non- or belated enforcement by the state and by state entities of final domestic judicial decisions in the applicants’ favour and of Article 13 of the Convention on account of the lack of effective domestic remedy.

In its Article 6, the European Convention on Human Rights established the right to a fair trial which means that “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”. The European Court of human rights established in several cases law criteria for assessing whether the duration of proceedings was reasonable and defined methods to calculate length of proceedings.

According to the Article 13 of the European Convention on Human Rights, everyone whose rights and freedoms as set forth in the Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

The Article 1 of Protocol No. 1 requires to set up adequate incentives to induce the authorities responsible to comply with their payment obligations. One of these incentives is the duty to pay adequate compensation to individuals who suffer losses because of the non-respect of domestic judgments. The European Court thus held that the mere fact of enforcing a domestic judgment does not deprive the applicant of his/her victim status under the Convention since no redress or compensation has thereby been offered to him/her for the delay.
Progresses to address these issues mentioned above were made by competent Albanian authorities, attempting to resolve structural problems. This led to the introduction on 1 January 2009 of the profession of private enforcement agents, licensed by the Ministry of Justice, and organized around a National Chamber of Private Enforcement Agents in accordance with the Law on Private Judicial Enforcement Service while at the same time the system of public bailiffs under the Ministry of Justice also remained to exist for the time being.

**Organisation of the two-track system of Bailiffs in Albania**

Currently, Albania has in place a double system between the public and private operators of the bailiff system. The system of private bailiffs is licensed by the Ministry of Justice, and organised around a National Chamber of Private Bailiffs. Even if the private bailiffs are generally considered more effective than their public counterparts, the rate of execution of judicial decisions in Albania remains low compared to the European Standards.

So far there are around 165 private bailiffs who have been licensed by the Ministry of Justice. The first indications show that private bailiffs are more effective and efficient and much faster than their public counterparts. They are working mainly with the bank sector. According to the new law the private bailiffs operate in private companies and are organized in the National Chamber of Private Bailiffs, as their highest representative authority.

Referring the Prime Minister Order nr. 112 dated 31.12.2011, “For the approval of the structure and the Organics of the Bailiff System” General Number of the General Directorate of Bailiffs consists of 86 people of whom 67 are state bailiffs and the others are technical staff.

The private bailiffs system was made operational recently and it is comprehensible that it needs capacity building measures in view of its consolidation.

**Principal Issues of the Enforcement System**

As highlighted in the EU-Albania partnership documents and EC progress reports, as well as in the Albanian Justice sector strategy, the main problems with the bailiff office are related to the institutional and professional capacities, and a lack of good cooperation with all actors involved in the execution process.

The generally held view is that bailiffs are seen as professionally weak, who lack institutional and professional capacities to properly carry out their tasks and duties. They are regarded as easily susceptible to undue influence, bribery or political influence. There is no transparent and objective recruitment process. There is no sustainable professional training system dedicated to their professional development. They also lack adequate material and financial resources and supporting infrastructure, which influence their motivation and commitment in carrying out their roles.

There is no good cooperation among various players involved in the enforcement process, necessary for a successful enforcement. Accountability and respective roles of different players are not entirely clear or linked-up with each other or fully discharged. Furthermore, the bailiffs do not feel empowered enough to take all the necessary measures provided under the law against those who try to delay or hinder the execution. The system also suffers from lack of transparency and little information is provided to relevant parties.
Legal or procedural problems are in fact faced by both private and public bailiffs, particularly in cases where state institutions are the defendants. The enforcement system suffers from excessive procedural delays, due to formalistic and unclear legal requirements, giving opportunities to the debtors to delay the execution process with numerous objections and appeals. Judges very often allow rather than summarily dismiss procedural objections and requests for appeals, even if they are patently technical or frivolous and no prejudice has been caused to the opposing party. Judges often do not favor execution of their decisions because rulings are unclear and do not clearly identify the property or debtor, due also to unreliable public registers or unregistered land. In addition, very often there is insufficient legal redress for debtor fraud and the hiding or transfer of assets subject of seizure. This also causes further delays during notification procedure, taking much longer than what it is strictly necessary. Even when a property is finally seized there are difficulties to sell it because of weak or informal economies and unclear legal rules.

The rate of execution of courts decisions remains low compared to European Standards and even compared to neighbor countries. In particular, a new philosophy and new way of perception is required for the execution of court judgments where the state is a debtor. The Albanian Helsinki 2011 report (http://www.ahc.org.al/index.php?lang=EN) on the execution of court decisions presented some concerns in this regard.

**Parallel or related projects in the field**

At present, there is not a related project operation which covers the field of enforcement. However, the Twinning project should build further on a three previous project which also aimed to strengthen Albania’s enforcement system: Balkans Enforcement Reform Project, Council of Europe project and EURALIUS III project.

- **Balkans enforcement reform project (BERP)**

The BERP (Balkan Enforcement Reform Project) had the aim to support the enforcement of judicial decisions in the countries of the Western Balkans. This regional project was the joint initiative of the Center for International Legal Cooperation (www.cilc.nl) in close collaboration with the International Association of Judicial Officers (Union Internationale des Huissiers de Justice et des Officiers Judiciaires (www.uihj.com) and the Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ) GmbH. This program achieved valuable results in Albania through the implementation of trainings for judges, judicial officers and private bailiffs and any other institutions concerned by enforcement. Furthermore, the BERP supported the set-up of the Chamber of private bailiff in Albania, finalised in 2010. In addition, BERP assisted in the creation of practical manuals for the new private bailiffs and the development of some informational materials for the public at large and other legal professionals.

- **Council of Europe**

https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH(2011)36&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383

Council of Europe Trust Fund for the Western Balkans project of assistance to the enforcement of decisions of the European Court of Human Rights finalized in June 2012.
HRTF 1: Removing obstacles to the enforcement of domestic court judgments.

The Human Rights Trust Fund 1 project (ended on 30 June 2012) aimed at supporting the beneficiary countries’ efforts to design and adopt effective norms and procedures at national level for a better enforcement of national court’s judgments.

Non-enforcement of domestic courts’ decisions is one of the most frequent sources of violations found by the European Court of Human Rights. Finding rapid and effective solutions to this problem was a main issue under consideration by the CoE Committee of Ministers in the framework of its supervision of execution of the Court’s judgments. The implementation of the Human Rights Trust Fund 1 project was therefore closely linked to the execution of the Court’s judgments in the field of non-enforcement of domestic court's decisions.

This project has been implemented in Albania, Azerbaijan, Bosnia and Herzegovina, Republic of Moldova, Serbia and Ukraine.

- IPA 2009 EURALIUS III project

http://www.euralius.eu/

The EURALIUS III project supported the Authorities in the following activities:

- Elaboration of a Charter of the Private Enforcement Chamber
- Rules of the private enforcement commission
- Development of IT system for enforcement of rules
- Albanian Guidelines for a Better Efficiency of Enforcement
- Analysis and Recommendations on the Status of the National Chamber of Private Bailiffs
- Recommendations of the Working Group on initial training for future enforcement agents
- Model of transitional training for state enforcement agents who become private enforcement agents and finally disciplinary proceedings
- Continuous training
- Supported to the Chamber of Bailiffs for budget planning
- Elaboration of a check-list for monitoring and control

**Link with MIPD (Multi-Annual Indicative Document)**

The MIPD underlines that the Ministry of Justice has key role to play in ensuring that the functioning of the judiciary and the rule of law is guaranteed.

Specific objectives in this sector according to the MIPD are the separation and balance between powers to increase independence, direct the court system towards the best European practices, strengthen the status and professionalism of judges and prosecutors, achieve a sustainable increase in the level of execution of court decisions and improve the infrastructure in the judicial sector, i.e. the courts.

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1 EURALIUS IV project which is under progress does not concern the bailiff system
Link with National Development Plan

According to the National Plan for the Implementation of the EU-Albania Stabilisation and Association Agreement, the Albanian Government is fully committed to implement the breadth and depth of reforms in the justice system, suggested and supported by international partners, in collaboration with other institutions involved in the constitutional reforms and performance of the justice system and in accordance with the commitments and obligations arising from the implementation of the Stabilization and Association Agreement (Article 1, 2, 13, 70 and 78 of the SAA http://ec.europa.eu/enlargement/countries/detailed-country-information/albania/index_en.htm)

Link with sector strategies and national/sectoral investment plans

The National Strategy for Development and Integration

Stresses the necessity to improve the justice system, and clearly states that it is one of the intentions of the Albanian government to “orient the judiciary and its administration towards the best European practices”.

Justice Inter-sectorial Strategy

Also, this project fiche goal is completely in line with the priorities pointed out in the Justice Inter-sectorial Strategy approved by the Council of Ministers Decision no.519, on 20.07.2011, page no. 25 such as:

- Consolidation of the justice system in order for it to be efficient and functioning with quality, willing to act in line with the Constitution, international acts and domestic legislation guided by the principle of the rule of law;
- Consolidation of public trust in the judiciary in order for the latter to be fair and respected by all;
- Consolidation of independence of the judiciary and justice system bodies concerning the structural, functional and financial aspect.
- This project complies with the priorities identified in:
- Albania’s courts suffer from a backlog of property disputes that often go through all instances, sometimes several times. The ensuing systemic problem of the non-enforcement of final domestic judgments and administrative decisions ordering restitution of properties or compensation of former owners is of serious concern. Cases relating to a breach of the principle of due process in property disputes constitute the largest amount of petitions to the European Court of Human Rights against Albania. The lack of enforcement, especially of claims against the state, is particularly worrying. These are, among other things, caused by the inefficiency of the bailiffs in enforcing court decisions, the lack of necessary funds and the lack of an effective remedy system.

The situation in Albania has reached a level of complexity which in some cases puts the principle of respect for human rights into question. Chronically unresolved disputes and legal uncertainty over title to land hinder economic and land market development, hamper foreign investment, undermine citizens’ confidence in democracy and tie up courts.
Enforcement of court decisions is weak, in particular in cases where state institutions are the defendants. The new private bailiff system has started to operate, but there is a need to improve case management for bailiffs. Further efforts are needed in order to increase enforcement rates.

Lack of secure property rights and weak enforcement of the rule of law remain causes for concern. Moreover, the business community continues to face delays in court procedures, and weak enforcement of contracts and execution of collateral. Informal methods of contract enforcement, by-passing the legal system, continued to be widespread. Steps were taken towards establishing the private bailiff office, but training and administrative capacity remains weak. Moreover, the delay in establishing the administrative court due to lack of political consensus remains an obstacle to investment.

Current context of the project

In May 2015, a process of a comprehensive legislative reform in the justice system, initiated by the new Albanian Government, leaded by the so-called Ad-Hoc Parliamentary Committee for the Reform of the Justice System (with the support of the donors, notably the EURALIUS IV Mission) presented the Analysis of the Justice System in Albania 2015.

The aim of this document was to analyze the current state of the justice system. In this analysis also the present state of affairs and main challenges of the State Bailiffs and Private Bailiffs systems are included. Based on the Analysis expert working sub-groups have been developing strategies to overcome the weaknesses and challenges ahead. For the enforcement systems, the working group on legal services prepared a so-called Strategic Document on the Justice System Reform.
### Overall objectives

<table>
<thead>
<tr>
<th>Overall Objective and indicators of achievement</th>
<th>State of achievement/ problems encountered</th>
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| Overall Objective: Development of efficient and effective enforcement systems | According to the EU Progress Report 2015 (released in 10 November 2015)  
“The functioning of the private bailiff’s service has improved since June 2014 when changes were introduced in their regulatory framework providing for the abolition of fees tying payments to the successful completion of the enforcement process” |

### Project purpose

<table>
<thead>
<tr>
<th>Project purpose and indicators of achievement</th>
<th>State of achievement/ problems encountered</th>
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<tr>
<td>Project purpose: The project purpose is to simplifying enforcement procedure, shorten the duration of enforcement procedure, reduce the courts’ workload, reduce inflow of the enforcement cases to the courts and reduce enforcement cases backlog in the courts. It should also improve the performance and professionalism.</td>
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- In this context, the foreseen activities 2.2, 3.2 and 3.3 which were planned to be organized in relation with the ALBIS System have been integrated into the training missions under the activity 3.5 (four missions - in February, March and June 2016).  
- During the reporting period no evolution has been noticed in this regard. |

- Positive assessment done by EU and SAA committee |
Policy developments

This part is dedicated to explanation of key developments on the policy area of bailiffs’ profession during the reporting period.

- On November 10, 2015, the EU Progress Report 2015 has been released concerning the achievements of Albania towards EU membership criteria and the recommendations in the key sector reforms during this pre-accession period.
- On November 13, 2015, Mr. Ylli Manjani has been appointed as the new Minister of Justice replacing Mr. Nasip Naço. During his inaugural speech he has insisted on its willingness to accelerate the EU integration process and to implement all the recommendation included in the EU progress-report.
- During the reporting period, the new Minister of Justice has accorded a particular attention to the evolution of the twinning being regularly informed on the implemented activities as well as publishing the necessary information of this progress on the Ministry’s website.
- On December 5, 2015, the Albanian Parliament voted the law 133/2015 "On statute of the private and the finalization of the compensation process". This compensation will be effective through a financial way or through the attribution of the land properties. This law should facilitate the execution process.
- On December 14, 2015, the General Assembly of the Private Bailiffs has been organized at the Ministry of Justice with the participation of the Minister of Justice. Mr. Tedi Malaveci, president of the chamber has mentioned the achievements of the profession during the last year and has presented the strategy of the Chamber with regard to the trainings, communication and business. The President has highlighted the important support of the twinning project expertise as a necessary tool for the modernization of the profession in line with the European standards. The President of the International Union of Bailiffs (IUHJ), Mrs. Francoise Andrieux has officially submitted for approval to the Minister of Justice, the Global Code of Execution recently adopted by several members of this organization.
- On December 19, 2015, the Venice Commission has delivered a draft-opinion on the constitutional modifications proposed by the Parliamentary Ad Hoc Committee on Justice Reform.
- On December 24, 2015, The Minister of Justice has organized a round table with the participation of the representatives of the judiciary professions and the groups of interest. During this event the Minister has assured the participants of his total support to the global justice reform and he praised their contributions and propositions to this process.
- On January 14, 2016, under the supervision of the Vice-Governor of the Bank of Albania was organized for the first time since the creation of the Chamber of Private Bailiffs, a meeting between the representatives of the Albanian Association of Banks and the Chamber of Private Bailiffs. All the participants have agreed to the necessity to pursue and to deepen the cooperation and coordination between the banks and bailiff professions.
- On January 15, 2015, the General Director of Public Bailiffs, Mr. Albert Pilo has presented the annual report of the activity of the profession in presence of the deputy minister of Justice, Mr. Arben Isaraj. In this occasion, Mr. Pilo has reminded the important financial contribution of the public bailiff to the state budget even though their rededications of substantial augmentation of human and financial resources have not been taken into consideration by the Government.
Project Assumptions

Since the previous quarterly report no. 2 dated December 15, 2015, no significant changes have been noted. Hence, the following project’s assumptions remain likely to be fulfilled:

- The Chamber has insufficient self-financing means because of the non-payment of the annual contributions by all the members. The lack of financial means is an important obstacle to the staff increase and their participation in the project’s activities as well as in the regional and international meetings.

- The lack of financial resources within the General Directorate of Public Bailiffs which might have an impact on the insufficient cooperation with or involvement of counterparts and reduces the possibilities of modernization of the profession.

- Low implication of the beneficiary institution (Ministry of Justice) which is supposed to commit itself to the financial obligations as defined in the Twinning Manual and laid down in the Twinning contract. Referring to the previous quarterly report the twinning team logistical assistance which should be ensured by the Beneficiary Administration has not been improved. Until now, the Ministry of Justice has not yet disbursed the amount of 40,000 euros requested as a financial contribution of the beneficiary to Twinning project which might limit the organization of some activities foreseen in the work plan.

- The risk of political rotation related to the budgetary choices on the bailiff profession, could exacerbate the disequilibrium between public and private bailiffs.

- The ambiguous position of the Ministry of Justice on maintaining the dual system of public and private bailiffs in the context of the legislative work on the overall Reform of Justice.

- Lack of adequacy between project objectives and the real conditions of exercise of the profession, in particular for public bailiffs, very limited contribution from the Ministry of Justice.

- For the first time since the creation of the Chamber of Private Bailiffs, a meeting between the representatives of the Albanian Association of Banks and the Chamber of Private Bailiffs was organized under the supervision of the Bank of Albania. All the participants have agreed to organize periodical meetings in order to address the main issues concerning both professions (tariffs, Chamber instructions, bad loans executions, etc).

- The foreseen activities 2.2, 3.2 and 3.3 which were planned to be organized in relation with the ALBIS System have been integrated into the training missions under the activity 3.5

- It is urgent that the Ministry of Justice invests in a new and efficient data system replacing ALBIS in order to control the flow of the execution files.
## 2B – ACHIEVEMENT OF MANDATORY RESULTS

<table>
<thead>
<tr>
<th>Results and indicators of achievement</th>
<th>State of achievement/ problems encountered</th>
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<tbody>
<tr>
<td><strong>Result 1: Sustainable Capacities of the Albanian Enforcements Systems</strong></td>
<td>During the project implementation period</td>
</tr>
<tr>
<td>- Delay in the execution process of General Directorate of Public Bailiffs</td>
<td>- The activity 1.1 (mission 1), the activity 1.2 (mission 1) and the activity 1.5 (mission 2) and the activity 4.2 took place during the reporting period.</td>
</tr>
<tr>
<td>- Delay in the execution process of Chamber of Bailiffs</td>
<td>- The annual statistic methods provided by the General Directorate of Public Bailiffs and published by the Ministry of Justice don’t allow the possibility to determinate the average delay in the execution process for every single file.</td>
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<td>- According to these comparative statistics between 2015 (12 months period) and 2014 (12 months period), it is noted that the number of registered files in 2015 is 42,410 (18% increase) compared to the registered files in 2014 (34,863 files). The rate of execution has decreased only by 1 % in 2015 compared to the 2014.</td>
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<tr>
<td></td>
<td>- The private bailiff’s agents don’t communicate to the Chamber their statistics concerning the number of files and the average delay in the execution process. So it is impossible to evaluate this indicator of achievement.</td>
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<tr>
<td></td>
<td>- Furthermore, the Chamber receives and answers only to the public claims, and the internal system of information build by the Chamber (SIAIP) does not permit to know the number of cases and their execution progress in all the bailiff offices.</td>
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<tr>
<td></td>
<td>- The only statistics collected by the Ministry of Justice and published on their webpage have been produced by the General Directorate of Public Bailiffs (ALBIS is not functioning).</td>
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</table>
### Result 2. Strengthen Inter-institutional Coordination and Cooperation

**Indicator of achievement**

- Recommendation for amelioration of the communication through the ALBIS system prepared

Because the ALBIS system is not functioning at all, it has been decided at the Steering Committee that none activity related to ALBIS will be implemented, until the end of the project.

The foreseen activities 2.2, 3.2 and 3.3 which were planned to be organized in relation with the ALBIS System have been integrated into the training missions under the activity 3.5 (four missions - in February, March and June 2016).

### Result 3. Professional Training Systems and Performance Checks for Enforcement Agents

**Indicator of achievement**

- Number of trainees

  In progress

### Result 4. Regional Development and Visibility Enhanced

**Indicator of achievement**

- Number of public events and media campaigns

- The communication strategy template was prepared by the experts and discussed with the Chamber representatives. The first draft was finalized following a workshop with Chamber leadership representatives and bailiffs, conducted on 18 November. They also proposed a Calendar of Communication Activities for the same period.
**Website operational**

- Experts held a workshop with the leadership of the Chamber of Private Bailiffs, members of the Chamber of Private Bailiffs and met with other key stakeholders like e.g. the Albanian Bank Association, the media and attorneys in order to study external perceptions regarding bailiffs and the Chamber.

- The expert reviewed and analyzed the Chamber web-site and proposed recommendations for improvement of the web-site as part of the overall communication strategy.

- Due to the fact that in the time between the project inception and its start the NCHB has already developed a new website, experts reviewed it and recommended to make the website more user-friendly, introducing tabs for clients of enforcement, as well as public sales announcements and search engine optimisation. Experts also recommended the creation of a social media page and presence.

- The experts have proposed that the public relations and the regular updates of the website should be inputted by a specific person in charge of communication within the Chamber.
2C – ACTIVITIES IN THE REPORTING PERIOD

The reporting period is: from 29.10.2015 – 29.01.2016

Component 1: Strengthen and rationalize institutional capacities

Activity 1.1.1 Enhance administrative capacities of the Ministry of Justice to manage and regulate enforcement systems

Reference number and title of Activity: 1.1.1

Name of MS experts: Mrs. Sylvie Ceccaldi Guebel, Mr. Paul Rochard, Mr. Julien Lhuillier

Experts from the BC who participated and their departments of origin:

- Mr. Sokol Pasho, General Director of Strategic Planification and Inspections, Ministry of Justice
- Mrs. Edlira Bako, Director of Judicial and Prosecution Inspection, Ministry of Justice
- Mr. Bledar Kabashi, Director of Free Professions Inspections, Ministry of Justice
- Mrs. Marsida Xharfellari, Head of Inspectorate of the High Council of Justice
- Mr. Alaudin Malaj, Head of Appeal Court of Tirana
- Mr Dritan Peka, Head of Appeal Prosecution Office of Tirana
- Mr. Petrit Fusha, Head of Prosecution Office of Tirana
- Mrs. Ermonela Xhafa, General Director of Implementation of Priorities and External Jurisdictional Relations and Integration, Beneficiary Country Project Leader, Ministry of Justice
- Mr. Tedi Malaveci, President of the Chamber of Private Bailiffs
- Mr. Alban Ruli, Chairman of the Council, Chamber of Private Bailiffs
- Mrs. Genta Bungo Tafa, General Secretary, Chamber of Private Bailiffs
- Mrs. Joana Konomi, Vice-president, Chamber of Private Bailiffs
- Mr. Fabio Isufaj, Member of the General Council
- Mr. Albert Pilo, Director General of Public Bailiffs
- Mr. Arlind Kruja, Director of Inspections, General Directorate of Public Bailiffs
- Mrs. Fatmira Seferaj, Director of Finance, General Directorate of Public Bailiffs
- Mrs. Rudina Ziu, Head of Legal Department, Raiffeisen Bank
- Mr. Fuat Vjerdha, Head of Appeal Court of Shkoder
- Mrs. Besa Nikehasani, Head of Appeal Prosecution Office of Shkoder
- Mr. Arben Zefi, Head of First Instance Court of Shkoder
- Mr. Ferdinand Elezi, Head of Appeal Prosecution Office of Durres
- Mrs. Joana Qeleshi, Head of First Instance Court of Durres
- Mr. Agron Gjana, Head of Prosecution Office of Durres
- Mr. Fatri Islamaj, Head of First Instance Court of Tirana
- Mr. Sokol Sadushi, Director of School of Magistrates

Duration of the activity:
25 January - 29 January 2016
Venue: General Directorate of Public Bailiff, National Chamber of Private Bailiff, Ministry of Justice

Main outputs:

In the framework of their mission, the experts have selected three categories of bottlenecks which hamper the efficient and rapid execution of justice decisions:

1. Obstacles related to the court’s administration and to the legislative framework

   - Overload of cases faced by the judges and lack of staff. Even though the situation is not the same between the appeal courts and first instance courts, all the judges met during this mission have underlined the increase of the number of cases.
   - Deficiencies in the court’s administration. Lack of specialized judge on enforcement, the rule of the case’s dispatching in electronic way may conduct the assignment to different judges the execution procedures disputes concerning the same enforcement file. This difficulty has been resolved by the approval of the new law on bankruptcy which allows to the court’s president to join different disputes to the core execution procedure (this system is applicable only in bankruptcy cases).
   - The timing of court’s hearings related to the execution procedures disputes is not always respected in the shorter delays.
   - The surveillance of the court’s decision delays. The situation is not the same between the appeal courts and first instance courts. The control is performed visually or electronically in some courts which have installed this system.
   - The sanction procedure with regard to the non respect of the delays belongs to the Inspection Service at the High Council of Justice and the Inspection Directorate at the Ministry of Justice (instruction nr. 261/2 dated on April 14, 2010). Since three years, 11 magistrates have been penalized in regard for the deficiencies and delays of the decisions.

2. Obstacles related to the abusive behavior of the debtors

   - Insolvency of the debtors.
   - Difficulties in finding the debtor’s location. Due to the deficiencies of registrations, property’s transfers (the immovable enforcement procedures represent 5% of the total).
   - Difficulties to evaluate the assets, multiplication of expertise interventions.
   - Difficult relations between the private bailiffs and the banks, delays in the process of account seizures and multiplicity of debtor’s accounts in several banks.
   - Multiplicity of abusive actions in courts aiming at delaying or prevent the execution procedures.
3. Obstacles related to the lack of support from the police agents during the enforcement procedures

Following this analysis, the experts proposed several recommendations regarding the public bailiff profession:

- Introduce in the Civil Procedure Code a provision allowing to the president’s courts to order the join of claims constituting legal incidents of the same enforcement proceedings.
- Provide to all courts powerful IT management tools, and ensure the training of administrative staff and leaders courts to use it.
- Give to the presidents courts as part of their administrative powers, a legal duty to check the time of judgment, with a disciplinary power as is the case in France.
- Review the formulation of Articles 609 and 610 of the Civil Procedure Code.
- Align the recovery of custodies on taxation enforcement.
- Organize a specific system allowing the registration of immovable properties through the existing public administration structures as well as the development of technical support in relation with immovable properties registers.
- Assign the control of expertise’s duration to a unique judge of the court.
- Amendment of the CPC with a specific procedure related to the abusive actions.
- Obligation for every Albanian citizen to possess a bank account.
- Establishment of a national data base including overall information on debtors bank accounts.
- Amendments of the Civil Procedure Code regarding the delays (hearings, registrations of disputes which intervene during the enforcement process (Art. 609 and 610 CPC)
- Necessity to maintain the two systems of inspections (High Council of Justice and Inspection Directorate at the Ministry)
- Further digitalization of the distribution of the documentation between the bailiffs and the public administration
- Introduction in the criminal code of the offense related to the voluntary insolvency actions committed by the debtor.

*The follow-up mission planned from 8 to 11 March 2016 will concern the execution of the decisions taken by the administrative courts.*
Activity 1.2.1 Enhance administrative capacities of the Ministry of Justice and Ministry of Finance to identify immovable and movable property of debtors

Reference number and title of Activity: 1.2.1

Name of MS experts: Mr. Lionel Decotte, Mrs. Caroline Ginglinger-Poyard, Mr. Philippe Perreve

Experts from the BC who participated and their departments of origin:

- Mr. Sokol Pasho, General Director of Strategic Planification and Inspections, Ministry of Justice
- Mrs. Ermonela Xhafa, General Director of Implementation of Priorities and External Jurisdictional Relations and Integration, Beneficiary Country Project Leader, Ministry of Justice
- Mr. Tomorr Kapllani, Director of Internal Audit, Ministry of Justice
- Mr. Albert Pilo, Director General of Public Bailiffs
- Mr. Arlind Kruja, Director of Inspections, General Directorate of Public Bailiffs
- Mrs. Fatmira Seferaj, Director of Finance, General Directorate of Public Bailiffs
- Mr. Saimir Xhuglini, Director of Tirana Regional Office
- Mr. Ilirjan Muho, General Director, Immovable Property Registration Office of Albania
- Mr. Tedi Malavecji, President of the Chamber of Private Bailiffs
- Mr. Alban Ruli, Chairman of the Council, Chamber of Private Bailiffs
- Mrs. Mimoza Sadushi, President of the Public Notaries Chamber
- Mrs. Gentiana Abazi Brati, Notary
- Mr. Fiqiri Midha, Director of Vehicles Registration and Services, Tirana Office
- Mrs. Sonila Qato, General Director of Property Restitution and Compensation Agency
- Mrs. Loreta Jashari, Head of Legal Unit, National Registration Center of Business
- Mrs. Albina Hasanaj, Head of legal department, Societe Generale Bank
- Mrs. Viola Hoxha, Head of Execution of Bad Loans department, Societe Generale Bank
- Mr. Elton Lami, Head of Execution of Bad Loans department, Societe Generale Bank

Duration of the activity:
23 - 26 November 2015

Venue: General Directorate of Public Bailiff, National Chamber of Private Bailiff, Ministry of Justice
Main outputs:

The experts have carried out an overall analysis of the immovable and movable properties situation which reflects the changes occurred in the process of property transmission: Collective property to private poverty in urban and rural areas.

- Lack of initial and continuous registration at the National Register on Immovable Properties.
- Constructions without authorized permits from the public administration.
- Lack of the physical demarcation of the properties which complicates the sales and the transmission of the properties.

These issues complicate the execution procedures by the bailiffs in regard to the identification of the debtor’s properties and require the possibility of examination under a new project specialized in notary’s profession.

Independently to these problems concerning the properties, the experts have analyzed the access possibilities to different data bases crucial to the identification of debtor’s properties process:

- The civil registers are generally updated and are used especially to access other databases.
- Regional vehicles registers are generally updated but not all the vehicles sales are being registered.
- The National Register Center (QKR) is regularly updated with the information related to the companies’ statute and it does not include any information related to the other movable property transmission.
- The Bank of Albania obliges the private banks to answer to the bailiffs' requests in a 24 hour delay but due to the limited number of bank’s accounts in possession of the citizens, this procedure is not very fruitful.

Generally, the bailiffs are satisfied with their relations with the different register services, but the generalization of the digitalized network is needed (the public bailiffs communicate with the public registers through written letters).

Following this analysis, the experts proposed several recommendations:

- Optimization of the properties’ registration at the Immovable property registration office by facilitating the physical delimitation of properties (geo location, stones?? etc). The complexity of the immovable property situation needs a specified mission dedicated to the notary profession.
- Reinforcement of the logistic resources as regard to the public bailiffs
- Creation of a unique data base centralizing of the bank’s accounts which will avoid to the bailiffs unnecessary requests for each bank accounts.
- Building a network of different public or private registers accessible to all the bailiffs which will facilitate the identification of debtor’s properties.
- Intensify the penal sanctions in case of vehicle sales without obtaining the new registration certificate at the regional register service.
• Further measures need to be taken to oblige the banks to answer to the bailiffs in the shortest time possible to avoid that the debtor could withdraw all the funds from his accounts.
• Encourage the majority of citizens to open a bank account

The second mission of the activity 1.2 will be held from 5th to 6th of May 2016, and it foresees the organization of a round table at the Ministry of Justice in order for the experts to present and discuss these proposals with the stakeholders and also to specify the guidelines of the final report.
Activity 1.5.2 Support sound budget analysis and planning capacities of the Ministry and the General Directorate of Public Bailiffs in this sector

Reference number and title of Activity: 1.5.2

Name of MS experts: Mr. Paul Rochard, Mr. Philippe Perreve

Number of experts from the BC who participated and their departments of origin:

- Mr. Sokol Pasho, General Director of Strategic Planification and Inspections, Ministry of Justice
- Mr. Bledar Kabashi, Director of Free Professions Inspections, Ministry of Justice
- Mr. Petrit Bakiu, Director of Budget and Finance, Ministry of Justice
- Mrs. Ermonela Xhafa, General Director of Implementation of Priorities and External Jurisdictional Relations and Integration, Beneficiary Country Project Leader, Ministry of Justice
- Mr. Tomorr Kapllani, Director of Internal Audit, Ministry of Justice
- Mr. Albert Pilo, Director General of Public Bailiffs
- Mr. Arlind Kruja, Director of Inspections, General Directorate of Public Bailiffs
- Mrs. Fatmira Seferaj, Director of Finance, General Directorate of Public Bailiffs
- Mrs. Antoneta Palaj, Inspector, General Directorate of Public Bailiffs, Ministry of Justice
- Mr. Sajmir Xhuglini, Head of State Enforcement Agents office
- Mr. Enderson Memçaj, Head of Bailiff Regional Office, Shkodra

Duration of the activity:

9 November - 10 November 2015

Venue: General Directorate of Public Bailiff, National Chamber of Private Bailiff, Ministry of Justice

Main outputs:

This follow-up mission which finalizes this activity 1.5 (mission 1 realized on September 2015) has been focused in three main topics:

1. Compiling of complementary information about the functioning of the public bailiff’s inspections.
2. Feedback received from the representatives of the Ministry of Justice (audit service, budget directorate etc) following the recommendation included in the report of the mission 1.
3. Feedback from the General Directorate of Public Bailiffs

Regarding the point 1, the inspection procedure could start based on the citizen’s complaints or under the decisions of the Ministry. Regarding the lack of clear rules between the distribution of competences between the General Direction of Strategic Planning and
Inspections and the General Directorate of Public Bailiffs as well as the lack of human resources, we can confirm that the inspections service addressed to the private and public bailiffs are very insufficient.

Concerning the feedback received from the representatives of the Ministry of Justice (audit service) except some minor remarks, this service is still working on a new proposal which aims to reinforce the capacities of the General directorate of Public Bailiffs through the reintroduction of the system of reinvestments (10% of the annual benefits) in the upcoming budget of the General Directorate.

The General Director of Public Bailiffs, Mr. Albert Pilo has partially approved the recommendations made by the experts in the report of mission 1 and noted the fact that they are addressing in the same way the urgent issues faced by them.

Concerning the territorial competency of the public bailiffs, the experts and the General Directorate have agreed to reduce the number of the regional offices but they still have to discuss on the definitive number.

In regard to the control of the public bailiffs, the experts and the General Directorate have agreed on a system organized in three levels:

- First level of control: realized by the Regional Directorate and then communication of results to the General Directorate of Public Bailiffs and eventually to the Public Prosecutor’s Office.
- Second level of control: The public prosecutor could ask to the General Directorate the beginning of an in depth inspection procedure.
- Third level of control: Penal procedure introduced by the Public Prosecutor if a fault has been committed by the bailiff, and notification to the General Directorate of Strategic Planning.

This control system has not received an approval from the General directorate of Public Bailiffs because the control exclusively realized by the General Directorate will be divided with the regional offices.

Without formulating any definitive controversial position, the public bailiffs would like to precise the modalities of:

- The establishment of an independent institution in charge to receive the funds collected from the public bailiffs (actually these fund are in deposit at the private banks).
- The introduction of a new system of accounting which differentiates the office administration account from the transit accounts related to the bailiff’s operations (actually it exists a unique account in each regional office).
- In conclusion, the public bailiffs insist on the importance of their financial contribution to the state’s budget and the lack of financial and human resources.
- The recommendations of the experts are globally accepted by the public bailiffs and need to be discussed as regard to the modalities relate to their implementation.
Component 4: Improve regional development and visibility

Activity 4.2 - Prepare and implement a visibility strategy including the development of a webpage for the Chamber of Private Bailiffs

Reference number and title of Activity: 4.2

Name of MS experts: Mrs. Zlatislava Mihailova, Mrs. Ralista Todorova Petrova

Number of experts from the BC who participated and their departments of origin:

- Mr. Tedi Malaveci, President, Albanian Chamber of Private Bailiffs
- Mr. Alban Ruli, Chairman of the Council, Albanian Chamber of Private Bailiffs
- Ms. Blerina Hoxhaj Konesha, Administrative assistant, Albanian Chamber of Private Bailiffs
- Ms. Joana Konomi, Vice-President, Albanian Chamber of Private Bailiffs
- Ms. Genta Bungo Tafa, General Secretary, Albanian Chamber of Private Bailiffs
- Ms. Kejda Seferi, Private Bailiff
- Ms. Enerjeta Zisi, Private Bailiff
- Mr. Besmir Kodra, Private Bailiff
- Mr. Dominique Durand, Resident Twinning Advisor
- Mr. Gert Kodra, RTA Administrative Assistant
- Ms. Fatbardha Lama, RTA Language Assistant
- Mr. Sokol Lama, Attorney
- Ms. Anila Nasha, A1 Report Television
- Ms. Endrita Xhaferaj, Secretary General of Albanian Association of Banks

Duration of the activity:

17 November - 20 November 2015

Venue: National Chamber of Private Bailiff

Main outputs:

During the mission (17 – 20 November 2015) the expert team studied the reputation of the NCHB and that of the private bailiffs, met with stakeholders and discussed possible messages for the different target groups and worked on the development of a communication strategy for the NCHB.

Experts held a workshop with the leadership of the Chamber of Private Bailiffs, administrative staff of its office, members of the Chamber of Private Bailiffs and met with other key stakeholders like e.g. the Albanian Bank Association, the media and attorneys.
The present report is supporting the main output of the mission, which is a draft Communication Strategy, together with a Communication Plan for 2015-2016 and a proposed Calendar of Communication Activities for the same period. The new Chamber management has invested significant efforts to improve the reputation of the NCHB and has introduced a new policy on internal and external communication.

President has strived to make as open and frequent communication and information sharing as possible through group emailing and posting on the Chamber website all necessary information updates.

**External communication**

- The field of public awareness and public education is extremely important and requires targeted efforts. The important part in this endeavour is using "one voice". The Chamber should adopt the Communication Strategy and share leading objectives and messages for the specific target audiences. Only unified messages should be communicated to the outside world to form the public image of the organization and the profession. PR function is to be carefully developed and channelled.

- Chamber should develop advocacy capacity, find allies and lobby effectively. Focus the efforts in promoting the understanding that enforcement represents the bridge between the justice and the economy.

- The Chamber is trying to continue introducing more agreements with other agencies for improving the market positioning of bailiffs.

- The twinning experts recommend that all communications channels are used, a combination of the traditional PR channels as well as more creative initiatives are implemented to project to the general public an image of a responsible, professional and accountable organization representing the bailiff profession.

- Overall an excellent basis is built for an effective communication with the different stakeholders.

- The Chamber’s website is very well structured and contains all the required attributes: organisational presentation, legal framework, a communication details, news and announcements. But it looks more oriented towards the bailiffs, rather than the general public and the user of the enforcement process. It should be more user-friendly.

- Key public information documents: the brochure (The ABC of Private Enforcement) and the FAQs published on the web-site are a very good start for publishing practical information to be used by the wider public. Making it more visible on the website will help promoting the Chamber.

- Actually, media relations are sporadic and related to specific events. The experts recommend a more structured approach, including the fast adoption and on-going implementation of the communication strategy.
Internal communication

- Internal communication happens mostly through emails; the website is where announcements are made. Apart from e-mails, telephone and personal meetings are used both at the Chamber’s and at the bailiff’s initiative. The Chamber makes an active effort to discuss and communicate positions on legal issues, unified practices and other documents that will help the everyday work of the bailiffs.

- Experts recommend joint meetings with all bailiffs to convey more efficiently the messages of the organization and unify positions.

Following this analysis, the experts proposed thirty-nine recommendations regarding the public bailiff profession. Among these recommendations, below you will find the most significant ones:

- **Media Relations** - Establish regular media relations: the Chamber has to build on the good basis created with the Anniversary Celebration and maintain regular contacts with the media, including press-releases on important issues. An informal bi-monthly meeting Media Breakfast, briefing or other form as appropriate. Another possible action is to publish op-eds in some of the media clarifying certain aspects of the enforcement process and making it easier for debtors and creditors to know their rights and the steps in the enforcement procedure.

- **Crisis Management** - Due to recent developments and experienced crisis situation, there is an urgent need for developing crisis management guidelines for the Chamber and share them with all the members.

- **Hiring a local adviser** on a contract part-time basis to support the implementation of the communication strategy and follow up on communication function.

- Use the opportunity of any international expert mission under the Twinning Project to propose interviews, information to the media, etc.

- **Performance and Perception Surveys** - At present there is no indication on the performance of the Chamber. The experts tried to collect some information from stakeholders but it was extremely difficult due to the lack of time and any collected data. Experts recommend that efforts are targeted to conducting a baseline perception survey and measure developments on an annual basis.

- There is an urgent need of training for the Board on working with the media.

- **Website** - To make the site more user-friendly the Chamber could simplify language and shorten certain sections.
• **The experts recommend the active use of social media.** A Facebook page could be created adapting some of the news and announcement on the web-page and making the information attractive to young professionals who are active users of the social media.

• **Introduce a Sales Module/ Functionality for provide access to all public sales of PB through the Chamber website.**

• **Consider the option of having on the website a calculation of the costs of enforcement** against the debt as a user-friendly tool for predictability and transparency.

• **Examine the possibilities of upgrading SIAIP** – it is already useful for the bailiffs, but it could be upgraded in order to include other useful functions.

• **Make regular member events** (conferences, workshops) and use them for interactive communication with members.

• **Organization of an Open Day** addressed to all the stakeholders in the enforcement process where bailiffs can answer questions (and use it as a media promotion opportunity).

• **Continue meetings with key groups** (such as the bank, police etc.) and consider preparing arguments from their perspective in a language they will understand.

*Most of the above recommendations are already reflected in the draft Communication Strategy. Next steps will include adopting it officially and follow through with the implementation.*
For several reasons this project started 1 year later than planned, in fact the 29 of April, date of the arrival of the RTA in Tirana.

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1.5 Support sound budget analysis and planning capacities of the Ministry and the General Directorate of Public Bailiffs in this sector

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</tr>
<tr>
<td>2.2 Further support to the development of cross-institutional IT solutions, between Enforcement agents and Banks or property services, and enhance the use/implementation of the ALBIS (Albanian Electronic Bailiff Case Management) system (<a href="http://www.justice.gov.al/">http://www.justice.gov.al/</a>)</td>
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<td>2.3 Strengthen the inter-institutional coordination capacities of the State Advocate to enhance the execution of decisions of the European Court of Human Rights</td>
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<th>Component 3 - Strengthen Professionalism of Enforcement Agents and other Relevant Actors</th>
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<td>3.1 Develop a training strategy and curricula for initial and transitional trainings for enforcement agents along European Standards. Support the respective preparation</td>
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<th>Activity</th>
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<td>3.2</td>
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<td>3.6</td>
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### Component 4 - Improve Regional Development and Visibility

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<td>Support awareness raising actions in Tirana and in the regions</td>
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**Activities/actions Planned**
- Activity 3.3, Activity 3.4; Activity 4.1, Activity 4.3

**Activities/actions Performed**
- Activity 1.3, activity 1.4, activity 1.5, activity 4.2
Activities delayed for more than 3 months – Activity 1.1 (mission 2, 3), Activity 1.2 (Mission 2); Activity 2.1; Activity 3.1 (Mission 2), Activity 3.2, Activity 3.5 (Missions 1, 2, 3); Activity 3.6 (mission 1, 2)

Activity 2.2 has been cancelled because the ALBIS system does not work
Activities 3.2 and 3.3 have been integrated into the activity 3.5 (training of the trainers)
2E – ASSESSMENT

Overall Assessment of progress

During the reporting period, four activities were conducted without difficulty and participants have demonstrated their total involvement and cooperation.

The mission 1 of the activity 1.1 focused on the obstacles which may be considered as the causes on the delays and difficulties faced by the bailiffs during the execution process. These obstacles are essentially related to the internal organization of the judicial courts and the legislative framework (Civil Procedure Code). Other external obstacles intervene through the abusive behavior of the debtors and the increasing number of abusive actions in courts aiming at delaying or prevent the execution procedures.

The major problems encountered by the bailiffs arise also from the difficulties in communication with the private banks and their representative, the Albanian Association of Banks as well as to the lack of support from the police agents during the enforcement procedures.

The identification of the immovable and movable properties situation has been realized under the mission 1 of the activity 1.2. Without analyzing in depth the overall system of properties’ identification and transmission, the experts have studied the various data bases and the means used by the bailiffs in order to identify the debtor’s properties.

Some of the main issues complicating the execution procedures are: the limited access to the public and private registers, non updated registers, the delays in answering the bailiff’s requests etc. These issues complicate the execution procedures by the bailiffs in regard to the identification of the debtor’s properties and require the possibility of examination under a new project specialized in notary’s profession.

In their report concerning the first mission of the activity 1.5, the experts have pointed out a strong imbalance between the two categories of bailiffs weakening the public bailiffs and recommended the strengthening of their financial and human means will strengthen their commitment to their mission and will increase their legitimacy over the private bailiffs.

The follow-up mission of the activity 1.5 has demonstrated an adequacy between the public demands with the expert’s recommendations which need an immediate intervention of the Ministry of Justice in order to improve the situation of the public bailiffs. These recommendations are as follows: the reorganization of the control’s system, decrease of the number of regional offices, increase of the financial and human resources, reintroduction of the system of reinvestments (10% of the annual benefits) in the upcoming budget of the General Directorate.

The analysis realized during the activity 4.2 has witnessed the significant efforts to improve the reputation of the NCHB and the new policy on internal and external communication developed by the new management of the Chamber. The mission’s report is supporting the main output of the mission, which is a draft Communication Strategy, together with a Communication Plan for 2015-2016 and a proposed Calendar of Communication Activities for the same period.
One of the main recommendations made by the experts was related to the improvement of the Chamber’s webpage as regard to the internal and external communication focusing even more on the general public and the enforcement process users (debtors and creditors).

In another hand, the necessity to establish regular media relations by the Chamber including press-releases on important issues was pointed out by the experts.

The President of the Chamber and the Director General of Public Bailiffs, have continue to demonstrate an unwavering cooperation within the twinning team and the experts.

Issues

No major problem has been encountered by the twinning team during the reporting period.

Recommendations

- Regarding the participation of the Ministry of Justice in the management and regulation of the enforcement system

1. According to the report of the first mission of the activity 1.1 “Enhance administrative capacities of the Ministry of Justice to manage and regulate enforcement systems” realized from 25-29 January 2016, the experts proposed six key recommendations regarding the public bailiff profession:

   - Establishment of a national data base including overall information on debtors bank accounts
   - Amendments of the Civil Procedure Code regarding the delays (hearings, registrations of disputes which intervene during the enforcement process (Art. 609 and 610 CPC)
   - Necessity to maintain the two systems of inspections (High Council of Justice and Inspection Directorate at the Ministry)
   - Further digitalization of the distribution of the documentation between the bailiffs and the public administration
   - Introduction in the criminal code of the offense related to the voluntary insolvency actions committed by the debtor.
   - Increase and improve the police services support during the execution procedures

In addition to the above-mentioned recommendations, the experts insisted on the importance of the respect of the court’s decisions delays and the role of the Inspection Service at the High Council of Justice as well as the Inspection Directorate at the Ministry.

2. According to the report of the first mission of the activity 1.2 “Enhance administrative capacities of the Ministry of Justice and Ministry of Finance to identify immovable and movable property of debtors” realized from 23-26 November 2016, the experts have pointed out the following existing issues:
• lack of initial and continuous registration at the National Register on Immovable Properties.
• constructions without authorized permissions from the public administration.
• lack of the physical demarcation of the properties which complicates the sales and the transmission of the properties.

Furthermore, the experts proposed several recommendations:

• Optimization of the properties’ registration at the Immovable property registration office by facilitating the physical delimitation of properties (geolocation, stones etc).
• Creation of a unique data base centralizing of the bank’s accounts which will avoid to the bailiffs unnecessary requests for each bank’s accounts.
• Building a network of different public or private registers accessible to all the bailiffs which will facilitate the identification of debtor’s properties.
• Intensify the penal sanctions in case of vehicles sales without obtaining the new registration certificate at the regional register service.
• Further measures need to be taken to oblige the banks to answer to the bailiffs in the shortest time possible to avoid that the debtor could withdraw all the funds from his accounts.
• Encourage the majority of citizens to open a bank account

We appreciate that the issue of the identification of the debtor’s properties by the bailiffs is in close relation with the complexity issue of the property origin-certification-transfert which would require the possibility of examination under a new project specialized in notary’s profession.

Regarding the improvement of the internal organization of the National Chamber of Private Bailiffs

According to the Report on the Activity 4.2 “Prepare and implement a visibility strategy including the development of a webpage for the Chamber of Private bailiffs” realized from 17-20 November 2016, this mission is supporting the main output of the mission, which is a draft Communication Strategy, together with a Communication Plan for 2015-2016 and a proposed Calendar of Communication Activities for the same period.

The experts proposed thirty-nine recommendations regarding the public bailiff profession. Among these recommendations, below you will find the most significant ones:

• The importance of the establishment of regular media relations by the chamber
• Urgent need for developing crisis management guidelines within the Chamber
• Use the opportunity of any international expert mission under the Twinning Project to propose interviews, information to the media, etc.
• urgent need of trainings for the Board on working with the media.
• Simplification of the webpage language and shorten certain sections.
• The experts recommend the active use of social media like the creation of a Facebook page in order to publish news and announcement
• **Introduction of a Sales Module/ Functionality for provide access to all public sales of PB through the Chamber website.**

➢ **Regarding the reinforcement of the financial and human resources of the General Directorate of Public Bailiffs**

- According to the conclusion of the Final Report of **Activity 1.5: Support sound budget analysis and planning capacities of the Ministry and the General Directorate of Public Bailiffs in this sector, concluded with the follow-up mission realized from** 9-10 November 2015, the most relevant recommendations are the following:

**Strengthening financial and human resources allocated to public bailiffs:**

- Conservation of a percentage (10 %) on their revenues
- Granting the state 's debt collection monopoly
- Increase the personnel: target 200 persons (public bailiffs agents and administrative staff)

During the follow-up mission, the General Director of Public Bailiffs, Mr. Albert Pilo has partially approved the recommendations made by the experts in the report of mission 1 and noted the fact that they are addressing in the same way the urgent issues faced by them. We strongly approve the position of the General Director with regard to the expert’s recommendations.

Concerning the territorial competency of the public bailiffs, the experts and the General Directorate have agreed to reduce the number of the regional offices but they still have to discuss on the definitive number.

In regard to the control of the public bailiffs, the experts and the General Directorate have agreed on a schema organized in three levels:

- First level of control realized by the Regional Directorate and then communication of results to the General Directorate of Public Bailiffs and eventually to the Public Prosecutor’s Office.
- Second level of control: The public prosecutor could ask to the General Directorate the beginning of an in depth inspection procedure.
- Third level of control: Penal procedure introduced by the Public Prosecutor if a fault has been committed by the bailiff, and notification to the General Directorate of Strategic Planning.
Without formulating any definitive controversial position, the public bailiffs would like to precise the modalities of:

- The establishment of an independent institution in charge to receive the funds collected from the public bailiffs (actually these fund are in deposit at the private banks).
- The introduction of a new system of accounting which differentiates the office administration account from the transit accounts related to the bailiff’s operations (actually it exists a unique account in each regional office).
2F – ANNEXES

I. 3rd Financial Quarterly Report
II. Mission Report of the Activity 1.1 (mission 1)
III. Mission Report of the Activity 1.2 (mission 1)
IV. Mission Report of the Activity 1.5 (mission 2)
V. Mission Report of the Activity 4.2
VI. Minutes of 3rd Steering Committee Meeting
Section 3: Expenditures

Please refer to Annex I – Financial Quarterly Report
ENHANCE ADMINISTRATIVE CAPACITIES OF THE MINISTRY OF JUSTICE TO MANAGE AND REGULATE ENFORCEMENT SYSTEMS

PRELIMINARY REPORT

Activity 1.1 (Mission 1)

25 - 29 January 2016

Experts:

- Mrs. Sylvie Ceccaldi-Guebel, project leader, honorary magistrate

- M. Paul Rochard, Ex-President of French National Chamber of Bailiffs, bailiff in Angers;

- M. Julien Lhuillier, French judge
ACTIVITY 1.1 First part, provisory report

Activity 1.1: Enhance administrative capacities of the Ministry of Justice to manage and regulate enforcement systems

Objectives and methodology of experts

Experts remind that the specific objectives of the twinning, outlined in the contract are the following:

- Simplifying the execution procedure
- Reducing the duration of enforcement procedure
- Reducing the workload of courts for enforcement cases
- Reducing the pending cases at courts and decisions waiting for judgment

Consequently, the result #1 assigned by contract to the Twinning operators is to provide a sustainable capacity of Albania to meet the above mentioned objectives.

With the aim to give in their report information elements on the current capacities of Albania in the execution of court decisions, the experts conducted interviews with key structures involved in this topic: Ministry of Justice, Inspections of Ministry of Justice and inspection of the High Council of justice, judges, bailiffs, Raiffeisen Bank of Albania.

As per judges and bailiffs, experts wanted to cross the responses of their interlocutors moving in three different appeal courts: Tirana, Shkoder and Durres.

Because of the number of scheduled hearings, experts have decided to divide the activity 1.1 into two parts, before organizing the round table to give to their recommendations an adversarial character (13 and 14 June 2016)

The period from 25 to 29 January was devoted to the hearings:

- at the Ministry of Justice
- at the courts
- at the private and public bailiffs
- at the legal department of principal Bank of Albania (Raiffeisen Bank).

The experts based their findings and recommendations on statements collected from people whose list is attached to this report.
I – Barriers to the execution are rooted in the judicial system

I-1: the workload of judges and the lack of staff to affront this

The mismatch between workload of civilian courts and human resources available to them, was reported to experts, although this must be qualified referring to the courts.

CF Analysis: Annexe first pages + Bulher report

Thus, it appears that neither the trial court nor the Tirana Court of Appeals of this city, whose presidents are however reported a high workload of judges, cannot rely on this argument about decisions delays.

All judges met by the mission recognize, however, that in the flow of cases handled, execution issues are many and growing in number.

I-2 : the internal organization of courts

The experts examined whether the rules of internal organization of the civil courts do not constitute causes of delay in execution cases.

I-2-1 : the lack of specialization of judges for enforcement

Albania doesn’t know judge specializing in the enforcement of civil decisions, as is the case in France with the institution, since a law of 9 July 1991, the execution judge (juge de l’exécution).

Any file constituting an execution incident of a court decision can be processed by any of the judges of the court (trial court, Court of Appeal), by the effect of the rule of electronic distribution.

Therefore these records are for the judges hearing other cases an additional workload, which may seem they have a minor interest.

I-2-2: the distribution of electronic records rule

In reality the failure of this organization consist elsewhere: it is in the mandatory system of electronic distribution of cases in the court rule, imposed by the High Council of Justice by applying Article 9 of the Law of 18 February 2008, which impose the principle.

The application of this rule allows that multiple execution incidents involving the same procedure are treated by different judges, with also different issues, and without consulting between them. Some presidents courts agreed by experts readily acknowledge the disadvantages of this situation and are trying to remedy.

Thus the president of the court of first instance of Shkoder told to the experts that a recent bankruptcy
law can attach incident procedures in the main proceedings in which a judge is seized. All incidents involving a bankruptcy can be treated well; but he told to the experts that he can’t extend the provision beyond its legal scope.

The president of Tirana Court, for his part, underlined that a president or a designated judge may identify related files and contacting judges to be informed. This is what the judges of Tirana do. As president, this judge has made an application to the High Council of Justice in 2014 to be amended the instruction of 2008 and get what enforcement incidents regarding the same case can be centralized in the hands of the same judge.

It points out that Article 57 of the Civil Procedure Code provides that the connection allows grouping multiple requests into the hands of the same judge, but it cannot be applied in this state because the text does not specifically designate that judge.

Introduce in the Civil Procedure Code a provision allowing to the president courts to order the join of claims constituting legal incidents of the same enforcement proceedings.

I-2-3- The audience of issues

Presidents of courts interviewed by the experts all said that the audience records are within the powers of the president of the court.

They see it as a way to judge in priority the old files; the President of Tirana Appeals Court requires that enforcement incident files "are treated as soon as possible", and stresses that this practice can be found on the web page of the court. The president of the court in Tirana estimated that the execution files are processed much more quickly than others in its jurisdiction.

I-2-4 Monitoring time of judgment

The distribution of IT tools to monitor the time of judgment appears uneven in Albanian courts. The president of the court in Tirana told to the experts the use of the ARK-IT system that enables it to check this (This would be eventually replaced by the ICCMIS system, financed by the EU, as soon as it reveal operational).

But this president told to the experts that many other court presidents done this check manually. So, the president of the court of first instance of Durres, who said to the experts not be equipped with IT tools and not be in the capacity to do this work manually. She noted that the CEPEJ, in the framework of SATURN program, highlighted the lack of human resources of the court in relation to the increased number of files, and recommended the promotion of IT resources.

CF ICMIS, COE report p. 9

Provide to all courts powerful IT management tools, and ensure the training of administrative staff and leaders courts to use it.

I-2-5: Excessive trial delays sanction
The magistrates met by the experts have confirmed that the period of time prescribed by the Civil Procedure Code, which aim to ensure rapid processing of files (deadlines and delays audience judgment) are not applicable in the Courts of Appeal.

All presidents courts met declare to the experts they do not have their own power to sanction judges who do not make their decisions within the normal time, and they do not feel legitimate to make a such control.

The President of first instance court of Shkoder, magistrate with extensive professional experience, believes that the law on the organization of the judiciary (Article 18) is unclear when it gives to the president the powers of "supervision".

For magistrates heard the penalty of excessive delays belongs to the disciplinary authority, which is to say to the High Council of Justice, after a finding of fault by the Inspectorate of this institution.

These delays are also "calibrated" by an instruction of the High Council of Justice No. 261/2 of 14 April 2010; the indicators in this statement are for reference to the authorities responsible for the evaluation of judges.

At most, the president of the trial court in Durres, she told to the experts that in the case of the delays, she calls the judge to remind him of his duty of care; the HCJ referral threat is then sufficient; it states that she also organizes weekly meetings with the judges, reminding them of the priority treatment of old records.

Regarding the mobilization of two inspectorates that exist in the Albanian judicial system (Inspection Service at the Ministry of Justice and Inspectorate of the High Council of Justice), there is no programming jurisdictions operating controls as there are in France to evaluate trial delays by type of case and analyze the objective causes. The head of the inspection department of the Ministry of Justice told to the experts that the implementation "of planned inspections" was facing a problem of lack of staff; the General Inspector of HCJ, for her part, said her department was empowered to conduct inspections of the courts, but for now these inspections were only "thematic".

However the two inspectorates carry out individual investigations "pre-disciplinary" for the judges who could misconduct professionally and the Inspectorate of the HCJ is responsible for the evaluation of judges.

Both inspections’ services have indicated to the experts that the delay in making decisions is a disciplinary offense, and that inspections were triggered by complaints against judges by litigants.

All judges interviewed by the experts acknowledged receiving complaints from individuals in the field of enforcement records.

The head of Inspection at the Ministry of Justice stressed that to constitute a disciplinary breach, delays should be repeated, and have had damaging consequences for the parties; since 3 years, 11 judges have been prosecuted and punished for delays and deficiencies in the notification of decisions. Two of them were written off, others would have jurisdictional transfer object or warnings for this pattern.

The evaluation of judges conducted by the Inspectorate of the HCJ, takes into account their diligence in the time of judgment, as stated above. Specific evaluation criteria are used, taking into account the reasons for the (complexity of cases, behavior of litigants, the judge’s personal conduct).

Give to the presidents courts as part of their administrative powers, a legal duty to check the time of judgment, with a disciplinary power as is the case in France: the right to issue a warning to the judge,
that will be erased from his record in the absence of recurrence or disciplinary conviction within three years (Article 44 of the Ordinance of 22 December 1958 status of the judiciary)

I-3: The failure of some texts of the civil procedure code.

Most of the judges interviewed by the experts pointed out the inadequacy of the Civil Procedure Code texts on enforcement delays. The current code was written in 1995 on the Italian model, and amended several times.

However, despite these changes, uncertainty of interpretation by judges leads to different practices regarding the delays, considered unrealistic and therefore not observed, or hearings at which the parties are not convened, to save time, which is contrary to the adversarial principle.

The experts found with the president of the Civil Court of Tirana, who received us in the presence of two judges with good knowledge of execution problems, an illustration of the difficulties of interpretation.

In terms of judicial action seeking the executive title (Article 609 of CPC amended in 2013), or execution acts carried out by the bailiffs (Article 610 of the Code), these judges have stated that:

The contestation of the title (Art 609) obliges judges to meet a deadline, "the court examines applications within 5 days." In practice, 100% of the judges respect the deadline of 5 days for audience of the first session.

But according to the magistrates met, that provision is unrealistic; simply record already takes 3 days; must be added the time of the notification (legal time 10 days), one lawyer, and reconciled with Article 158 which imposes a preparatory session for any adversarial trial ... Moreover this provision contradicts the art. 155 CPC which provides a period of 10 days from the time it notified the audience.

Also one of the judges present at the interview pointed out that Article 609 can be interpreted as including two applications: an application challenging the validity of the executive title, which involves discussions and exchanges and demand of suspension of execution, based on the emergency; where the judge does not apply the period of 5 days to the contestation of executive title.

Regarding Article 610 (contestation of the bailiff acts, providing for a period of 20 days) 2 heard judges argued that the text is also impractical because the application involves a suspension application, itself subject to the 5-day period; they therefore apply the 10-day period for the audience followed by the normal period of judgment.

Experienced judges during the hearing by the experts conclude without hesitation to the need to harmonize the deadlines in the Civil Procedure Code.

Review the redaction of Articles 609 and 610 of the Civil Procedure Code
II – Barriers to execution resulting from the situation or conduct of the parties

II-1 : the situation or the comportment of the debtors

II- 1-1: Insolvability of the debtors

Respondents repeatedly noted that many enforcement proceedings do not go to an end because of the insolvency of Debtors. The director of planning and strategy of inspections at the Ministry of Justice noted that the impossibility of enforcement of custody support decisions, he said is a "cultural barrier".

Banks sometimes arrange with customers, including through negotiations by the bailiffs in the amicable phase of execution, agreements modifying the debt payment terms.

Align the recovery of custody on the tax.

II-1- 2 The difficulties of finding the debtors

Most of the persons interviewed by the experts emphasized the difficulty of the unknown address of debtors, which is a major obstacle to the execution of court decisions, including the notification of judgments and prevent that they become enforceable.

Provide validation rules of enforceable title inspired by the art 659 of the Civil Procedure Code in France which provides that "where the person to whom the act is to be served has no domicile, residence or place of known work, the bailiff draws up a trial in which he recounts precisely the procedures he performed to search for the destination of the act. Provisions are applicable to the signification of a document concerning a society that hasn’t anymore known establishment indicated as headquarters by the commercial register and of societies”.

II-1-3 The difficulties of apprehension and evaluation of debtors' assets

Immovable assets of the debtors:

The authors of this report refer this issue to the report produced as part of the activity 1.2 of the Twinning program, Ms Ginglinger-Poyard, notary, Mr. Decotte, Bailiff and Mr Perreve, board member of the prospective and economics of free professions at the French Ministry of Justice.
These experts pointed out that half of the real estate properties were not registered in the land register, that parcels were often attributed generally to families by creating them an undivided; that do not comply with planning rules structure and may be a regular transfer of property. These experts write: "It is impossible to know, to date, the percentage population of the owner of a property. This has notably resulted in the seizure of impossibility of such property by the creditor ... the foreclosures represent only 5% of enforcement proceedings”.

Provide a system for the identification of a property via the existing administrations and the development of technical materials developed in line with the cadastral records and other. (See recommendation in the report of the activity 2-1).

Moreover, the co-property obliges the bailiffs to take legal action for the cantonment of the debtors' rights over part of the building prior actions which cause delays of several months, especially if the defendants appeal made decisions; Mr. Malaveci quotes the figure of 6 to 8 months to slow the initial proceedings on this ground.

Regarding issues related to the valuation of buildings belonging to debtors, all the bailiffs heard by the experts agree that disputes generate very significant delays. Expertises, against then-appraisals are ordered by the courts, procedures can be lengthened by 2 to 3 years.

Establish a control expertise duration, and entrust the surveillance, possible to a single judge of the court.

In the case of public auctions of real estate, establish a procedure giving the single creditor the power to set the property value to be placed on sale; it will be performed by a bailiff at the bar of a court and under the control of a judge. (Article L 322-6 of the code of civil enforcement procedures)

Debtors' movable assets:

Regarding the movable debtors' assets, the above report notes the existence since 2011 of a central register paperless registration of vehicles, which can be interrogated by the bailiffs, and a QKR register, the French equivalent register of companies, which appear to operate normally.

The same report, corroborated by interviews performed as part of this mission; establish the great difficulty of execution on bank accounts.

Despite the legal requirement in Albania for citizens to hold a bank account, applying the principle of the deduction of tax at source, many debtors do not have it.

Or conversely, as highlighted by the experts, the President of the Chamber of Private bailiffs, Mr. Malaveci, some people have multiple accounts open in many of the 16 banks of Albania or accounts in the same bank but in several foreign currencies.

The requirement for the bailiffs to ask the 16 banks singularly complicates their task and slows the execution procedure.

Moreover, according to the statements of Mr. Malaveci, banks require to the bailiffs themselves to open accounts in their institutions, for such transfer of funds belonging to debtors; simultaneous management by bailiffs of multiple accounts increases their workload and there also causes delays that could be avoided.

Provide in the regulation of the profession of bailiff obligation for any bailiff to have one customer account in the bank of his choice which will collect all funds from the debtor.
II-1-4 : The debtor’s maneuvers

II-1-4-1: The multiplication of Judiciary contestations

All judges interviewed by the experts, without exception, have highlighted the problem of the multiplication of lawsuits by debtors with the sole objective to slow or prevent the execution.

This phenomena, compounded by the difficulties set out above as to the interpretation by the judges of the deadlines in the matter, and no junction of incidents relating to the same enforcement proceedings, generates considerable delays to the detriment of creditors.

Mr. Malaveci considers the procedures of judiciary contestation of executions acts existing in 80% of the cases. He told to the experts about the application of Article 610 of Civil Procedure Code (relating to the dispute acts of enforcement proceedings): "This is the article on which the debtor is abusing the process to the maximum. The debtor may contest each act of the bailiff. (For example: the simple notification to implement voluntary compliance is followed by a challenge). In 70% of cases, debtors contest alone, without a lawyer, because it is not mandatory, they don’t have money, and the cost of the lawyer exceeds the cost of the contested claim. Finally, if you do 12 transactions, 12 were contested."

The implementation by the debtors of legal actions offered by the law raises the delicate question of the right of individuals to take legal action to protect their interests and the abuse of that right.

The possibility to order the joint of multiple procedures in the hands of a single magistrate would allow it to better assess the abusive nature of certain requests and reject them.

Create in the Civil Procedure Code an action for damages and a civil fine for abusive or dilatory procedure (Article 32-1 of the French CPCV) and dilatory or abusive appeal (Article 559 of the French CPCV)

Mr. Malaveci also denounces a practice that lawyers advise their clients to put a barrier to enforcement proceedings, which is to send the bailiff to the criminal court. He said to the experts: "The prosecutors appoint experts to decide (when we are in civil mater, but seen that the mission has a public service nature, it is considered an abuse of power). In addition, the file becomes "object of the offense," he is criminally seized and deadlines are still lengthened a year. The President Malaveci, agrees to return it if and only if it is in a case of forgery, but not in the case of a valuation dispute of property. 20 bailiffs have been cases of seizure files on the last 3 years."

Here again there is no question of condemning the principle criminal prosecution if an offense has been committed by a bailiff, but the abuse of complaints is, one must admit, a way for unscrupulous debtors to block in their advantage enforcement procedures.
II-1-4-2: The patrimonial strategies

The hearing bailiffs have told to the experts that the manoeuvres of debtors to hide their assets are common.

Thus they make transfers from their bank account to the account of third parties, and then delete the account, and so much more easily than the obligation to the bank by law to inform the bailiff is not accompanied by a deadline. Debtors can also consent to third parties gifts for the exclusive purpose of emptying their heritage.

With regard to the debtor's obligation under Article 44 of the Law of 11 December 2008 on private bailiffs to accurately describe the composition of its assets, "under the penalties provided by law", bailiffs consider this text is too vague.

Adopt the procedure of granting entry that allows the bailiff to be assigned immediately by the bank amounts held by the debtor's bank accounts. The law prohibiting the bank to dispose of it as soon as it was informed by the bailiff. The injunction of the bailiff has an almost immediate effect since it can be done electronically.

Create into law a Paulian action allowing the creditor to cancel the legal acts performed by the debtor to third parties in fraud of his rights.


Create in the penal code offense fraudulent organization of insolvency (Articles 314-7 to 314-9 of the French Penal Code)

II-1-5: The reluctance of others to collaborate in the execution procedure

The execution of a court decision awarding a debtor to pay often involves the collaboration of third parties in possession of money belonging to the debtor, or holders of a debt to him.

The Albanian Civil Procedure Code provides for that situation, and requires these third parties to cooperate in the proceedings, on pain of financial penalties (fines imposed by the bailiff) and even criminal prosecution (Article 46 of the Law of 11 December 2008 on private bailiffs).

Prosecutors met by the experts confirmed that criminal proceedings are exercised.

Regarding their power to impose fines, bailiffs heard said they put it out a little, on the grounds that 90% of them remain unpaid, and they do not clearly see the legal status.

Generally, bailiffs consider that despite the existence of the obligation to inform the bailiffs on banks by Article 46 of the Law on Private bailiffs, with penal sanctions for knowingly concealing, the evidentiary difficulties oppose the application of the text. They denounce the maneuvers of the banks, the current law does not crack. So Mr. Malaveci he gives the example of banks that oppose the bailiff that the debtor ordered to make payments to third parties (eg employees or tax liabilities). In the absence of order priority among creditors, the bailiff of the faces of the account supply fault. Mr. Malaveci, in his capacity as president of the Chamber of Private Bailiffs, expressed his wish for legislative reform on this point.

Create a national register of bank accounts (in France, FICOBA file) that is accessible to bailiffs to know the existence of bank accounts held by the debtor in any bank in the territory.
III : Barriers to implementation, difficulties born of obtaining the assistance of the police

Article 46 of the Law of 11 December 2008 on private bailiffs, and Article 523 of the Civil Procedure Code expressly provide the right for the bailiffs to request the assistance of the police force as part of the procedure for execution.

The interlocutors of the mission given contrasting responses on this to the experts.

The president of the Chamber of Private Bailiffs recognizes that this is a major problem, since in 70% of cases the police do not come; However, to maintain good relations with these authorities, bailiffs are not to use, despite the existence of Article 248 of the Criminal Procedure Code, which allows a conviction of the police ("we did not want completely break relations with the police ... there are individual responses "). Several interlocutors with the experts indicated that private bailiffs would appeal to appeal to private policing structures.

The Director of General Directorate of Public Bailiffs at the Ministry of Justice, for its part considers that the regions' public force is less evil then in Tirana ", although in the capital quality of public officials greater incentive the police to lend their support.

Sylvie Ceccaldi Guebel Paul Rochard Julien Lhuilier
ENHANCE ADMINISTRATIVE CAPACITIES OF THE MINISTRY OF JUSTICE AND THE MINISTRY OF FINANCE TO IDENTIFY IMMOVABLE AND MOVABLE PROPERTY OF DEBTORS

REPORT

Activity 1.2 (Mission 1)

23 November - 26 November 2015

Experts:

- Mrs. Caroline GINGLINGER-POYARD, notary à SAINT QUENTIN FALLAVIER (Isère),
- Mr. Lionel DECOTTE, judicial bailiff in MORNANT (Rhône),
- Mr. Philippe PERREVE, Deputy-Head of prospective and economy office of free professions at the French Ministry of Justice
In the framework of the participation of France in calls for proposals on the European financial aid instrument for pre-accession, the Ministry of Justice, represented by its operator GIP JCI, won a twinning on the improvement of civil court decisions in Albania. Lasting 18 months, the twinning's objectives are already to improve the enforcement procedures in Albania.

The activity 1.2 of this twinning concerns the enhance administrative capacity of the Ministries of Justice and Finance in identifying movable and immovable properties of the debtors.

**Activity 1.2: Enhance administrative capacities of the Ministry of justice and the Ministry of finance to identify immovable and movable property of debtors.**

Ms Caroline GINGLINGER-POYARD, notary in SAINT QUENTIN FALLAVIER (Isère), Mr Lionel DECOTTE, bailiff in MORNANT (Rhône), and Mr. Philippe PERREVE, Deputy Head of Office of Foresight and Economy Occupational at the Ministry of Justice, visited TIRANA from Monday 23 November 2015 to Thursday, 26 November to study the current system (I) and propose recommendations to improve its effectiveness (II). The experts met the following authorities:

- The direction of strategic plan and inspection at the Ministry of Justice;
- The director of intern audit at the Ministry of Justice;
- The General Directorate of Immovable Properties Registry;
- General Directorate of Public Bailiffs;
- National Chamber of Private Bailiffs;
- National Chamber of Notaries;
- Ms. Gentiana Abazi Brati, notary;
- National registration centre of societies and professions;
- Restitution and compensation properties agency;
- The direction of Albanian filial of Société Générale Bank;

The mission was particularly sensitive of sympathy testified by most of our interlocutors following recent attacks in Paris.

Consistent with the objectives assigned to them, the experts essentially considered their work in terms of bailiffs who theoretically act by delegation of the State for the exercise of a public service mission.

**I) Current situation**

**A) Immovable properties**

1) The transmission process of collective ownership to private property and its practical consequences

The particular situation in Albania, the country in which was abolished any form of private ownership of immovable property during the period of the dictatorship, between 1945 and 1990 required to devote a specific section to the transfer of property when returning to the democracy.

The right to property was again devoted in Albania in the 1990s. In April 1991 a constitutional law recognized the right to private property of individuals, legal entities and State.

The second constitution of the post-communist time in Albania on 28 November 1998 provides the transfer of collective ownership to private property with the guarantees associated with it.
Between 1991 and 2001, 10 laws were voted on the modalities of the transition from collective property to private property, the main are:

- Law 7501 date 19.07.1991 on farmland;
- Law 7652 date 23.12.1992 on privatisation of rental properties;
- Law 7698 date 15.04.1993 on restitution and compensation properties;
- Law 8405 date 17.09.1998 on urbanisation.

Agencies have been instructed to assign the ownership:

- Between 1993-2004: commissions of restitution and compensation of properties relevant to the communal, departmental and national level;
- Between 2004-2006: a national commission composed of five members elected by Parliament replaced the commissions created in 1993;
- in 2006: the National Commission is deleted and replaced by the National Agency for the Restitution and Compensation of Properties with the creation of departmental offices;
- in 2009, disappearance of departmental offices, currently exists only the National Agency for the Restitution and Compensation of Properties.

Unlike the French system in which the deed confers the status of the owner, the Albanian system requires the issuance of a certificate of ownership (CP) to be granted the status of owner. This certificate is issued by the land registry service.

In Albania, the land registry service has two missions:

- The physical identification of goods. The cadastral records are kept on paper and a small part (10% were mentioned), supported dematerialized, partly funded by the World Bank (LAM project).
- Keeping the land register land book types: registration of property title is (the deed does not track, like in France, the origin of the property to establish the reality of it). There are several registries that cover certain areas. In Tirana, there are 12 areas. There are 35 areas (decentralized offices) in all the country.

The profession of notary was created in 1994 and today, the use of this profession is required to find the mutation of an immovable property. The notary can therefore regulate his act if the property owner submits a land certificate. Since 2012, the selling price is paid into a bank account opened in the name of the notary who reverses to the recipient after registration of the transfer in the Register. Notaries have direct access to the land registry to verify the origin of property (ALBS REP program).

We note that the total land area in Albania is 2,800,000 ha and divided respectively-in - forests to about 2,000,000 ha, of agricultural land to 700,000 ha, and urban land for around 100,000 ha.

2) The problems encountered following the recognition of property rights.
a) Legal rules of attribution of ownership did not contribute to the security of property rights.

To understand the problem, it is necessary to review some historical moments:

- Allocation of urban property

In 1994, during the transfer of collective property to private property the state awarded to individuals plots that belonged to him. It was necessary for the individual to save this assignment to the register in order to be issued a certificate of ownership.

Some individuals, insufficiently informed, have not performed these procedures. However, it seems that for these individuals, the procedures are relatively simple, but they do not always realize the importance of the approach.

- The assignment of ownership to the operators of agricultural land under the law 7501.

The allocation of agricultural lands, which were part of the agricultural cooperatives, took place under a special procedure: Realty tenement which had been operated by the cooperative was cut in order to allot land to families who were part of this cooperative. The local official of the land registry has moved to accept the parcel noting the capacity, establishing a plan, noting the neighbouring owners and situating the plot in a broader plan.

These documents have been signed by the Mayor of the Municipality and the Prefect. In the absence of opposition, registration could be made in the register.

Note that these plots were often granted to families and so many people in joint ownership.

To date, it has been clarified to the mission’s experts that more than half of the properties were not included in the register. Families do not see the interest of such registration. In possession of an official document, families consider themselves owners.

Moreover, the joint ownership does not facilitate the registration given the number of stakeholders.

- Constructions with non-compliance urban planning permission

Without detailing the process of sale in the future state of completion in Albania, which does not seem source of legal certainty in the current state of law, we will return to a particularity on construction domain. Indeed, the building was built by the builder or developer and it is only after the issuance of the building certificate of conformity that the transfer of ownership can take place in the register.

Now it seems that in many cases, buildings do not conform to urban planning permissions.

Accordingly, the transfer of ownership cannot be performed. Albanian law considers as the land remains the property of the individual and the building is the property of the promoter.

In some cases, the "private agreement property transfers" are performed by the promoter (a price is paid, a person occupies the apartment) but no title is issued.

In conclusion, the immovable property of many debtors can’t be identified and therefore is not subject to be prosecuted by the bailiff.
The bailiff has the ability to query the registry Maps to know the extent of the debtor's assets. It may proceed with the seizure of property by an inscription on the register. This registration lasts until the release of the bailiff. In the meantime, the notary cannot proceed with the sale of the property and only a public auction is possible.

b/ Physical demarcation problems plots

Another problem was revealed to us during our expertise: the overlap between two properties, particularly in agricultural areas. Indeed, there is no physical demarcation of plots.

3) Appreciation of modalities in the allocation and acquisition of the property and its inventory

The issue of restitution and compensation of properties will not be mentioned in this report as outside the theme of the mission. It will still be noted that the estimated amount to pay compensation to all owners dispossessed by the communist regime (whose material property restitution is impossible or whose plots were built) is estimated at 12 billion € for a country whose budget is 3 billion €.

The mission noted several deficiencies that affect the identification of the debtor's assets:

- Whether the goods are not physically identified and therefore have no owner. On this point, it is likely that the state has not relinquished all property that was appropriate.

- Whether the goods are physically identified, their owner is known but it is not registered.

- Whether assets are identified but are sold without certificate of ownership, they are not registered (illegal construction problems).

Many Albanians believe, wrongly, owners while legally they are not. This state of mind is linked to the existing system under communist Albania where private property did not exist. However, this phenomenon seems to fade with the new generations and the entry into the market economy.

As indicated above, it is clear that access to immovable assets was not accompanied by a precise inventory of goods both in terms of their definition / physical identification that under their registration. Many goods thus remain undivided. It is also impossible to know, to date, the population percentages who are owner of an immovable property. This has notably resulted in the impossibility seizure of such goods by the creditor. All these difficulties can be explained the fact that seizures represent only 5% of enforcement proceedings.

Regardless of the problems concerning the way in establishing legal ownership (or title), the mission notes that the allocation of the property was not made in full transparency conditions.

This situation is likely to affect not only citizens' rights but also the political and economic development of the country, as legal uncertainty. It is worth remembering that the economic development of Western societies was done through the recognition of property rights enshrined in the basic texts as a basic right of the citizen.

B) Movable property

Personal property poses less sensitive identification problems those immovable properties. Before the war, Albania was not a rich country, fortune was mostly real estate. However, the recent economic development provides access to a small part of the population in the personal property of a certain value (company shares, cars ...).
C) The files available for the bailiffs in the exercise of their mission.

Movable and immovable property is mainly identified through the files described below. Every bailiff conducting a forced execution systematically questions the civil registration file, the (cadastre) Maps file, registration cards, the 16 banks in the country and the French equivalent of RCS (National Center Registration of Societies).

1) Different files

Besides the land records (physical identification of the property and holder of property rights) mentioned above in the section of the report on the immovable property, the bailiffs have the following files (or information sources).

a) The register of civil status:

This register provides only civility people (name, surname, date and place of birth) but not the addresses. Generally speaking, marital status is reliable and is the key to access other files to identify the debtor's assets.

b) The register of vehicle registration:

The service vehicle registration cards deliver all registration cards to vehicles on Albanian territory. Any sale of the vehicle is regulated by authentic deed notary. A recent order of the Ministry of Justice and the Ministry of Finance has mandated interrogation by the notary service to obtain a certificate of no pledge and registration of the mutation in the register concerned.

There is since 2011 a central register of dematerialized registration of vehicles that can be interrogated by the bailiffs to see if a seizure is in progress and the reasons. For this, they only need to provide the complete civil status of the debtor without having to mention the registration number. This service also has a connection to the register of the traffic police, customs and the French equivalent of RCS (national centre registration of societies).

Although some improvements could be made, this service generally brings satisfaction to both categories of bailiffs.

c) The register QKR (national centre of registration of societies)

This register existed since 2007, is the French equivalent of SCR (commercial societies register) and list of trades together. It is based on the principle of self declaration. It records the company and makes formalities center office informing the other institutions of the existence of the society. Are listed on this register all legal and natural persons engaged in commercial, artisanal and liberal. Each business structure has a unique identification number, the equivalent of our KBIS which can be viewed online.

The information referred to an individual is the subject, place of business, turnover and classification by category of activity. For legal entities, are mentioned also the company's representative and the statutes or, failing statutes, a declaration of activity.

Our interlocutors have guaranteed the completeness of the file, that all holders of economic activity were listed. That assertion has to be viewed. There is in fact in Albania a large informal trade (vendor streets, craftsmen ...) that it is not certain that its members meet all their reporting obligations.

The bailiff has direct access to this file using the KBIS (NIPT identification number, company name, his representative, partner or number of the identity card of one of the aforementioned persons.
There is no commercial court in Albania, it is the civil courts which ensure that skill. If the service manager of the register told us that they inform the civil court of the liquidation of a company, doubts may exist about the quality of information provided to the justice that could be used by bailiffs.

This file is public and all citizens and governments can interrogate it. Today, the file feed on foreclosures and bankruptcies is done by the post and request within 48 hours for the office to seize this information on the extract of the company. A project is underway for the information of the bankruptcy or seizure of the shares to be instant and filled by the courts and the customs services.

The registration shall be done without filing the status. Simply, in the absence of such provisions, to take out a joint declaration of will, this is the equivalent of a declaration of commitment, with some sufficiently explicit references to testify to affectio societatis associates.

d) Information of Banks

The Central Bank of Albania requires banks to meet the demands of bailiffs or face a financial penalty, they must respond within approximately 24 hours unless particular difficulty for lack of precision on civil identification of the debtor. Societe Generale reported dealing with between 8000 and 10 000 inquiries per month, 60% of the requests provided by the bailiffs. Bailiffs simultaneously interrogate the 16 banks in the country, the debtor does prove customer of the bank that in 20-30% of the cases.

This figure demonstrates that, despite the law requiring all citizens to hold a bank account due to the levy of tax at source, the practice of the bank account does not seem widespread in the country. The bailiffs consider that the identification of bank accounts system is reliable, making the effective seizure procedure on salaries, where the debtor actually has a bank account. The file also identifies the debtor's employer.

2) The appreciation of bailiffs on files

Overall, public and private bailiffs are satisfied with relations with the services in charge of managing files that are indispensable in the search of movable and immovable property of debtors. In theory, private and public bailiffs who obey the same rules of procedure have equal right of access to all files. In practice, we find that private bailiffs are privileged compared to their public colleagues. Private Bailiffs have dematerialized direct access with files of cadastre and registration cards, which is not the case of public bailiffs for lack of efficient IT equipment.

Moreover, all public and private bailiffs face the same challenges:

- The legal status of many goods prevents execution. Indeed, as indicated above, many properties are in joint and, as such, difficult to grasp unless recourse to the courts to demand a partition. He also noted the existence of numerous illegal buildings that cannot be seized.

- The records are not always updated. For example, the records of registration cards do not always reveal the ownership of a vehicle by the debtor;
II) Propositions

The mission has the following recommendations.

1. **Essential and a necessary improvement of the registration system, land, parcel identification and transcription of immovable property**

If it is indisputable that a substantial effort was made in this area, it is clear that this system remains largely perfectible. To date, the territory is neither identified nor cadastral level recorded at the Land Registry. This situation is a source of serious legal uncertainty, likely to seriously undermine the quality of the rule of law and economic development. The bailiff can’t, in addition, identify the debtor's assets.

The proposals are:

- Securing the physical boundaries of properties by modern means (terminals, geolocation);
- Only a strong political will to move forward on both the physical identification of the property and the deliverances of ownership certificates.

An awareness and communication campaign managed at the national level is essential in order to make citizens aware of the importance of the concept of private property, whether it is movable or immovable.

- We have seen, the procedure for the issuance of the certificate of ownership of agricultural land is quite complex and requires the involvement of state officials in each municipality, as well as the intervention of the decentralized Maps Office.

It seems necessary to provide an action plan which spearheaded could be the notary profession. Specific compensation should be provided to accompany individuals to the issuance of the certificate of ownership. The territorial network of the profession facilitates relations with the authorities and local governments.

- We discussed the land sales to a builder. In Albania, the transfer of ownership is observed and recorded after the construction of the building and the issuance of the certificate of conformity. To avoid the problems mentioned, it would be necessary to transfer the property prior to the construction of the property. Any non-compliance in the construction will be managed by the developer.

- As indicated above, the notaries check Maps Office service if no foreclosure was performed by bailiffs on the property the mutation is envisaged. In case of registration, the notary does not proceed with the sale and the property will be auctioned. The outcome of the auction is still uncertain, it is proposed that an amicable sale can be organized and secured so that the notary can regulate the sale and record funds. The product of private (amicable) sales will better satisfy the creditors vis-a-vis the bailiff, without more depleting the debtor in this case.

- Concerning these proposals and considering the complexity of the real estate situation in Albania, it would be appropriate to provide a specific mission to identify the best techniques to implement in the field.
2. Strengthened capacity for public bailiffs

The differential treatment of public bailiffs in access to information compared to private bailiffs is abnormal. It is reminded that one law applies to both categories.

- The Ministry of Justice and the Ministry of Finance must give to public bailiffs, as soon as possible, electronic access to all files which already have access the private bailiffs.

3. Increased organizational capacity for all bailiffs

- Creating a file of all bank accounts on the French model FICOBA that will allow to bailiffs a faster identification of debtor’s accounts and the bailiff has not to systematically examine the 16 banks in the country as is the case today;

- Expand the interconnection of all files in charge of public data management (concept to be defined in relation to the situation in this country) that could be questioned directly by all the bailiffs and administrations;

- Obligation for the notary to inform the bailiff that made the vehicle unavailable for it to make a seizure of the selling price in his hands.

- Establish a fine for not registering the vehicle to the service registration cards. The fine paid by the vehicle owner, be recoverable by public bailiffs (it would be an additional source of income for the profession). This measure is likely to encourage vehicle owners to register, which will improve information bailiffs.

- Financial incentive to regularize the situation of persons who have not yet registered their vehicles so that the vehicle registration file is more reliable and, in the same vein, thinking about how to update all the files.

- Forcing banks to respond immediately to bailiffs requests. To require an answer on the spot avoids any suspicion of understanding between the bank and its customer that it does not balance his account. Immediate response indicating the time to determine at a given time the position of account. On the same day between 0 and 24 hours, there may be money withdrawals or entries that affect the account balance.

- Making constitutive of a penal violation if non response by Maps service (the cadastre) to a request for information to the bailiff. As indicated above, it is recalled that response time for this service may allow the debtor to sell their property before implementation of enforcement measures, which constitutes a form of indirect interference with the action of justice.

- To promote by all means the obligation of every Albanian citizen to have a bank account. The generalization of this system will curb the importance of cash movements and to traceability better the goods therefore better identification of debtors and their property.

These proposals can be implemented and carried out only by a strong impulsion from the ministries of justice and the budget involved at the forefront of these measures which will eventually benefit all citizens and securing contractual relationships.

The mission will visit again Albania, in 2016, to present and discuss these proposals with various partners.
Annexes

Mission Program

Model of a certificate of ownership and an extract from the cadastre (one document)
ANNEX IV

EU Twinning Contract No. AL/12/IB/JH/02

“Improvement of the enforcement system in Albania”

SUPPORT SOUND BUDGET ANALYSIS AND PLANNING CAPACITIES OF THE MINISTRY AND THE GENERAL DIRECTORATE OF PUBLIC BAILIFFS IN THIS SECTOR

REPORT

Activity 1.5 (Mission 2)

9 November - 10 November 2015

Experts:

- Mr. Paul ROCHARD, Former President of National Chamber of Private Bailiffs, Bailiff in Angers;

- Mr. Philippe PERREVE, Deputy Head of the office of prospects and economy of free professions at the French Ministry of Justice
In the framework of the participation of France in calls for proposals on the European financial aid instrument for pre-accession, the Ministry of Justice, represented by its operator GIP JCI, won a twinning on the improvement of civil court decisions in Albania. Lasting 18 months, the twinning’s objectives are already to improve the enforcement procedures in Albania.

The activity 1.5 of this twinning concern to budget analyses and organizational capacities of the Ministry of Justice and the General Directorate of Public Bailiffs to identify weakness and needs of the system and propose ways to remedy.

**Activity 1.5: Support sound budget analysis and planning capacities of the Ministry and the General Directorate of the Public Bailiffs in this sector.**

Mr. Paul ROCHARD, former President of the National Chamber of French Bailiffs, bailiff in Angers, and Mr. Philippe PERREVE, deputy head of the prospects and economy office for the free professions at the Ministry of Justice, have visited again Tirana, on Monday 9 and Tuesday 10 November with the aim to represent the conclusions of their propositions.

This report complements and specifies the conclusion expressed in the report written at the end of the first part of the mission in late September 2015 (I) and present stakeholder responses to the report (II) and its proposals (III).

The mission met with various authorities:

- The General Director of Strategic Planning and Inspection of the Ministry of Justice;
- Budget and Finance Director of the Ministry of Justice;
- The Director of Internal Audit of the Ministry of Justice;
- National Chamber of Private Bailiffs;
- General Directorate of Public Bailiffs.

**I) Supplements on inspections of public bailiffs by their supervisors.**

They are conducted by the General Directorate of Strategic Planning and Inspection, under the direct authority of the Minister of Justice, and the general Directorate of public bailiffs. Public bailiffs are also subject to the supervision of the Audit Department of the Ministry of Justice.

a) The general directorate of public bailiffs conducts periodic and unannounced inspections that are conducted by two services: finance directorate and inspections directorate.

The general directorate controls each year its 22 regional offices. Each inspection results in a report that includes tracking of all files by ensuring the process. The report finds any deficiencies affecting the files. In case of problems, the General Directorate may impose sanctions against the bailiff and propose to the Minister of Justice the sanctions that can even be an expulsion.

It can also expedite thematic inspections on a particular subject, conducted by a group of inspectors, which result in a report with recommendations.

The general directorate of public bailiffs can also intervene in cases of complaints from citizens who live the place to an investigation.

b) The General Directorate of Strategic Planning and Inspection intervenes in case of complaints of citizens and in litigation involving a bailiff and other free profession. In theory, this directorate proceeds to the control of public and private bailiffs, but in reality, its controls are almost entirely
on private bailiffs (in 2014: twenty private bailiffs and only one public bailiff are controlled ...).
The directorate may have to intervene when the general directorate of public bailiffs, previously entered, has not given a satisfactory response by the complainant.

If this general directorate of Strategic Planning and Inspection is in principle competent to deal with citizens' complaints, it appears in practice that the Ministry of Justice seized more frequently first for instruction the General Directorate of Public bailiffs which has more resources. The General Directorate of Strategic Planning and Inspection provides only a staff of 4 people to check a very large number of legal professionals.

The mission concludes some confusion in the attribution rules of files between these two services. Responses to requests for clarification made by the experts are not satisfactory.

II) Reactions by local actors on the report

1. Reactions of Audit Department of the Ministry of Justice on mission report.

- page 3, paragraph 2, it is written: the action of this service is limited: for the mission, this sentence targeted a lack of resources. The Audit Service has interpreted as a finding of a reduced competence on a limited number of services. Now it has jurisdiction over all departments of the Ministry of Justice receiving funds, the directorate of public bailiffs. It should complete the sentence of the report "the action of this service is limited due to a lack of resources"

- page 3, under 5: control of the funds, it is written in the report: Management of Intern Audit may also occur occasionally. This direction rectifies indicating intervenes punctually. Duly noted:
- Page 3: the mission seeks clarification on the concept of proper use of funds raised by this service during the appointment of September. The audit service states that the basis of the controls is based on three criteria: effectiveness, economy and efficiency of public funds.

2. Reactions of the Director of the Budget of the Ministry of Justice on the mission report

He emphasizes that public bailiffs have paid to the state budget a sum four times greater than their cost of operation. Given this figure, he will propose to the competent authorities a greater dimension of public bailiffs directorate, namely from 2 B to 2 A, which will be a recognition of the work of this service and increased capacity. It is stated that the Albanian government and authorities are ranked 1 to 5 in order of decreasing liability. Levels 1 and 2 correspond to very important positions in the administrative hierarchy (1 = minister, 2 = general director).

3. Clarification of the proposed restoration of the profit received by public officers until 2005, the rate would be increased from 5 to 10%.

This is an incentive on the revenue from the tax, not on the amount of funds recovered as has been written in the report. This proposal of the audit service has resulted in a common order of the Ministry of Justice and Ministry of Finance on the implementation of a 10% rate on income of public bailiffs (see paragraphs 12 and 14 of instruction). This order, produced in the annex is still being investigated.

III) Reactions of local actors to the proposals made by the mission

Interested reacted favourably to the proposals of the two experts except on the issue of inspections under the new jurisdiction of territorial competence. They also expressed reservations about some proposals.
1. A review on territorial competence

Today there are 22 regional offices (1 office corresponding to the equivalent of a TGI in France) and no regional offices. The mission proposed to revise the current territorial jurisdiction decreasing to 7 or 9, the number of regional offices, with a change of control rules of the activity of public bailiffs.

The general directorate of public bailiffs proposes the creation of 12 regional branches modeled on the administrative organization of the country (divided into 12 prefectures) with the removal of some small offices according to criteria to be specified.

As regards to control of the bailiffs, the general directorate of public bailiffs agrees in principle to the proposals of the mission but on different terms that remain unclear.

Based on our discussions, the following control scheme could be retained:

1st degree: control by the Regional Directorate of the district offices (or regional offices) with disclosure of the report to general directorate (intern control) and to the Public Prosecutor for information (external audit);

2nd degree: following the control of the 1st degree, if it is found an administrative deficiency, the prosecutor may request control of the General Directorate of Public Bailiffs.

3rd degree: Following the control of the General Directorate of Public Bailiffs and in case of serious incidents, an instruction is conducted by the Public Prosecutor for prosecution. In this case, there is information of the Planning Directorate of the Ministry of Justice for a new control.

In this system, the general directorate controls the regional branches.

Today, public bailiffs are solely under the control of their general directorate. The latter is reluctant to judicial review and control of their peers as is done in France where the members of a regulated profession inspect each other without the system that has proved its effectiveness arouses criticism.

2. Reserves about the report's proposals

- The creation of an independent body to secure the funds collected by bailiffs

This recommendation was taking the French model of the Caisse des Dépôts and Consignations as a starting point for a such organization. Interested parties are agreed in principle, but they want the terms to be specified.

- Another studies accounting system

It was recommended the establishment of a system study account / client account which is for experts a pledge of transparency, security of funds and a better monitoring of procedures. Again, the interested parties are agreed in principle but they want the terms to be specified.

- Grant to public bailiffs additional resources with a guaranteed income position that could be the claims of the state.

3) This measure is already being developed. The draft is attached in annex part (see page 3).
On Tuesday, November 10, the mission attended at the invitation of the Executive Board, at the annual meeting of public bailiffs in the country who took place in Shkoder. This event showed again the problems facing daily this profession: understaffed, lack of investment and equipment, exercise difficulties etc.

Despite these problems, balance sheet presentation of activity of each of the 22 offices reported substantial recovery amounts and demonstrates the existence of great potential for business development if additional resources were given.

The mission took advantage of this meeting to present his proposals to the members of the profession who are very interested...

Annexes

Draft regulations confiding to the public bailiffs’ recovery of the State Debts

Project proposing the restoration of a profit on the amounts collected by public bailiffs
Report on the Communication Strategy
of the National Chamber
of Private Bailiffs in Albania

Authors:

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Mrs. Ralitsa Petrova

23rd November 2015

The content of this publication is the sole responsibility of the expert team and can in no way be taken to reflect the views of the European Union
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Introduction

The current report is the result of the expert mission of activity 4.2 "Prepare and implement a visibility strategy including the development of a webpage for the Chamber of Private Bailiffs" of European Union funded Twinning project “Improvement of the Enforcement System in Albania” (AL/12/IB/JH/02).

The expert team conducting the mission, consists of:

- Ms. Zlaty Mihailova, communication, enforcement and institutional capacity expert, representative of CILC in Bulgaria;

- Ms. Ralitsa Petrova, communication expert representative of CILC in Bulgaria;

During the mission (17 – 20 November 2015) the expert team studied the reputation of the NCHB and that of the private bailiffs, met with stakeholders and discussed possible messages for the different target groups and worked on the development of a communication strategy for the NCHB.

Experts held a workshop with the leadership of the Chamber of Private Bailiffs, administrative staff of its office, members of the Chamber of Private Bailiffs and met with other key stakeholders like e.g. the Albanian Bank Association, the media and attorneys.

The present report is supporting the main output of the mission, which is a draft Communication Strategy, together with a Communication Plan for 2015-2016 and a proposed Calendar of Communication Activities for the same period. Due to the very limited time of the mission and the fact that no further missions were planned on supporting the implementation of the Communication Strategy, experts felt that they need to provide a more detailed analysis, including key findings and recommendation in connection to communication.

Analysis of Current Status

The new Chamber management has invested significant efforts to improve the reputation of the NCHB. It has set up the basis for effective internal communication. President has strived to make as open and frequent communication and information sharing as possible through group emailing and posting on the Chamber website all necessary information updates.

Public Awareness and Education

The field of public awareness and public education is extremely important and requires targeted efforts. The important part in this endeavour is using "one voice". The Chamber should adopt the Communication Strategy and share leading objectives and messages for the specific target audiences. Only unified messages should be communicated to the outside world to form the public image of the organization and the profession. PR function is to be carefully developed and channelled.

Establishing Communication Protocols

The main institutional partners for the National Chamber are the Ministry of Justice, the Ministry of Finance, the Ministry of Economy, National Bank of Albania, Courts and
different government agencies and other authorities, as well as the Association of Banks, commercial banks and other economic agents. Chamber should develop advocacy capacity, find allies and lobby effectively. Focus its efforts in promoting the understanding that enforcement represents the bridge between the justice and the economy.

The Chamber is trying to continue introducing more agreements with other agencies for improving the market positioning of bailiffs. A careful follow up of the already executed agreements is recommended. Chamber should look closely at the results of the execution of cases entrusted and provide regular information and update on developments. There should be an account and analysis of the bilateral benefits of such cooperation. These results can serve as a promotional tool for extending further cooperation agreements.

There is a broad spectrum of activities that can be employed to achieve results. Twinning advisors will work closely with the Chamber to propose and develop comprehensible visibility materials and campaigns.

**Celebrating the 5th year Anniversary of the NCHB**

The marking of the 5th anniversary was the first public event of this rank for the NCHB and the initiative was very successful. The Chamber managed to mobilize and produce a short movie presenting the past, present and future of the organization and show the different users of the services. The video is on the website and is a good example of effective communication tools.

The twinning experts recommend that all communications channels are used, a combination of the traditional PR channels as well as more creative initiatives are implemented to project to the general public an image of a responsible, professional and accountable organization representing the bailiff profession.

**Performance and Perception Surveys**

At present there is no indication on the performance of the Chamber. The experts tried to collect some information from stakeholders but it was extremely difficult due to the lack of time and any collected data. Experts recommend that efforts are targeted to conducting a baseline perception survey and measure developments on an annual basis.

**Image and Reputation**

Overall an excellent basis is built for an effective communication with the different stakeholders. At the same time there are clear signals that the Chamber needs to do more in terms of building its image:

- The media coverage in the past two weeks was covering negative issues only with no reaction or joint position from the Chamber. Therefore the positive articles from the Anniversary Event were offset by the events in the following weeks, which is significantly undermining the prior publicity work. It is of course natural that sad events and incidents will occur. But the Chamber needs to react immediately and tell the public what actions it is undertaking and give their perspective. In addition the relationships with the media have to be cooperative so that journalist should always consider using the Chamber as its first source of information.
- What we heard about the reputation of the Chamber and the bailiffs in our meetings with stakeholders was also quite diverse. About the Chamber we heard: “not known”,

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“very strong”, “not sure what they do”, and about the bailiff: “professionalism differs very much from one office to the other”, “suspicions of illegal/corrupt practices”, “old mentality” etc. No matter if these perceptions are truthful or not, the Chamber has to address them and throw a positive light on the bailiffs’ work and its own role. As public relations experts know perceptions are reality, so it is up to the Chamber to amend the reality so that stakeholders and general public can have a more clear and objective view of the enforcement process.

**Own Communication Channels**

- **Web-site.** The site is very well structured and contains all the required attributes: organisational presentation, legal framework, a communication details, news and announcements. But it looks more oriented towards the bailiffs, rather than the general public and the enforcement process user. It should be more user-friendly.
- **Key public information documents:** the brochure (The ABC of Private Enforcement) and the FAQs published on the web-site are a very good start for publishing practical information to be used by the wider public. Making it more visible on the website will help promoting the Chamber.

**Media Relations**

- The Chamber Anniversary was used as an opportunity for promotion and received positive feedback from institutional partners, as well as substantial media coverage. The Chamber issued a press-release, invited journalists and got coverage in TV channels, newspaper and an online news agency. The Chamber has organised a media archive and has published links to the media coverage in article on their web-site.
- The media coverage of the event was positive and diverse covering different aspects and ranging from a full publication of the President’s speech to practical aspects of the enforcement process of relevance to the general public.
- Right now media relations are sporadic and related to specific events. The experts recommend a more structured approach, including the fast adoption and on-going implementation of the communication strategy
- Chamber can look for cooperation with the Albanian Institute of Media to promote its own training initiatives for journalists. There are also other media organisations which may provide useful insights to the Chamber.
- The Chamber needs to be positioned in the media and tied with the ongoing Justice Sector Reform which is the main point of interest at the moment

**Internal Communication**

- Internal communication happens mostly through emails; the website is where announcement are made. Apart from e-mails, telephone and personal meetings are used both at the Chamber’s and at the bailiff’s initiative. The Chamber makes an active effort to discuss and communicate positions on legal issues, unified practices and other documents that will help the everyday work of the bailiffs.
- Although communication is dynamic and interactive, there is still no sense of community created.
- Experts recommend joint meetings with all bailiffs to convey more efficiently the messages of the organization and unify positions.
Communication with parties in the enforcement process

- Debtors and creditors can use the website to get information, write by e-mail or come to the offices of the Chamber. Most people ask how to start a procedure, or seek information on practical steps. Responses to e-mail queries are sent as soon as possible (and usually not later than 10 days).
- More active communication is necessary to educate the general public.

Key Findings

1. There is an urgent need of a training for the Board on working with the media.

2. Past two weeks represent a crisis situation and were not adequately addressed in terms of media relations and decreasing the negative effect on public perceptions.

3. Further efforts are required to form and project a consolidated public image.

4. A local adviser has to be hired on a temporary contract to establish the connection with media and advise the Chamber.

5. No public awareness initiatives have been undertaken by the Chamber. The only exception is the 5th Anniversary celebration and the regularly maintained website of the National Chamber and credit should be given for keeping it up to date and informative.

6. No coaching in the implementation of the Communication Strategy is planned under the Twinning project.

7. Initiating stakeholder dialogue requires good preparation and reasonable argumentation in understandable language.

Recommendations

Overall an excellent basis is built for an effective communication with the different stakeholders:

Media Relations

- Establish regular media relations: the Chamber has to build on the good basis created with the Anniversary Celebration and maintain regular contacts with the media, including press-releases on important issues (such as the Chamber involvement in the Ministry of Economy Action plan to reduce debt), an informal bi-monthly meeting (Media Breakfast, Briefing or other form as appropriate. Another possible action is to publish op-eds in some of the media clarifying certain aspects of the enforcement process and making it easier for debtors and creditors to know their rights and the steps in the enforcement procedure.

- Crisis Management: Due to recent developments and experienced crisis situation, there is an urgent need for developing crisis management guidelines for the Chamber and share them with all the members.

- Provide training for Board on working with the media.
• Develop showcase results - statistics and positive examples. Disseminate success stories. Collect statistics, summaries of international practices and recommendations and all other data which can be used to generate the interest of the media.
• Organize a training seminar for media representatives on enforcement issues. The journalists will not necessarily understand legal and enforcement related issues, so developing a short workshop on key stages in the process and key issues of enforcement in Albania would be of mutual benefits to the Chamber and the media.
• Get a local adviser on a contract part-time basis to support the implementation of the communication strategy and follow up on communication function.
• Use the opportunity of any international expert mission under the Twinning Project to propose interviews, information to the media, etc.

Website
• Add strategic plan, mission and vision, include information on upcoming events. Update FAQs on a frequent basis, have a section of upcoming events, expand survey on website to include identification (company, type of responder), as well as other attributes of the enforcement service, for example integrity, protection of rights etc. To make the site more user-friendly the Chamber could simplify language and shorten certain sections.
• We also recommend the active use of social media. A Facebook page could be created adapting some of the news and announcement on the web-page and making the information attractive to young professionals who are active users of the social media.
• Introduce a Sales Module/ Functionality for provide access to all public sales of PB through the Chamber website.
• Consider having on the website a calculation of the costs of enforcement against the debt as a user-friendly tool for predictability and transparency.
• Implement search optimisation of the website so that it is easier for the users to find the site and access the information which is on it.

Internal communication
• Examine the possibilities of upgrading SIAIP – it is already useful for the bailiffs, but a research may be done could it be upgraded to include other functions.
• Make regular member events (conferences, workshops) and use them for interactive communication with members.
• Collect good practices in different areas of expertise. The Chamber may do a contest among members or find another way to encourage participation among members. This will increase the engagement in the life of the Chamber and will at the same time produce a large body of information about current practices.
• Organize National Conferences on a regular basis - at least twice per year.

Communication with key stakeholders
• For parties in the enforcement process: have an Open Day where bailiffs can answer questions (and use it as a media promotion opportunity). This will both raise the visibility of the Chamber and will highlight the social function of the Chamber by giving the public an opportunity to ask questions. The questions asked during this
event can be summarised so that FAQ document is enriched with new relevant information.

- Organize networking events for the business community - "Meet the Private Bailiffs", etc.
- Continue meetings with key groups (such as the bank, police etc.) and consider preparing arguments from their perspective in a language they will understand.

Most of the above recommendations are already reflected in the draft Communication Strategy. Next steps will include adopting it officially and follow through with the implementation.
ANNEX VI

EU Twinning Project
“Improvement of the enforcement system in Albania”
AL/12/IB/JH/02

MINUTES
THIRD STEERING COMMITTEE MEETING


Monday, April 18, 2016

1. Mrs. Sylvie Ceccaldi – Guebel, Member State Senior Project Leader
2. Mrs. Bledar Dervishaj, Beneficiary Country Project Leader, Advisor to the Minister of Justice
3. Mr. Tidita Fshazi, Attaché Justice and Home Affairs, Project Manager, EU Delegation in Albania
4. Mr. Albert Pilo, General Director of Public Bailiffs, RTA Counterpart
5. Mr. Tedi Malaveci, President of National Chamber of Private Bailiffs, RTA Counterpart
6. Mrs. Karima Zouaoui, General Director, Justice Coopération Internationale (JCI)
7. Mr. Dominique Durand, Resident Twinning Advisor
8. Mrs. Elda Spasse, Advisor to the Minister of Justice on Foreign Relations and Projects
9. Mr. Gert Kodra, Resident Twinning Advisor Assistant
10. Mrs. Fatbardha Lama, Language Assistant, Interpreter
11. Mrs. Enida Qoli, Specialist, Directorate of Integration and Projects, Albanian Ministry of Justice
12. Mrs. Antoneta Palaj, Inspector, General Directorate of Public Bailiffs

Agenda/ topics:

- Opening remarks
- Brief information on the project progress
- Approval of the third quarterly report and signature of missing administrative documents since the departure of former BC PL (period: 15 February 2016 - until now)
- Feedbacks of the participants to the study visit in France
- Discussions on the upcoming activities
- Any other business

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- **Mrs. Sylvie Ceccaldi–Guebel** started the 3rd Steering Committee by welcoming all the participants and the new members, Mr. Bledar Dervishaj, the new Albanian project leader and Mrs. Elda Spasse, Advisor to the Minister of Justice. According to her role as the MS PL, she underlined two points:

Firstly, the immediate involvement of Mr. Bledar Dervishaj, Mr. Enton Lita (Director of Cabinet of the Minister of Justice) and Mrs. Elda Spasse in the implementation of the twinning because it was not easy for them to understand all the topics in such a short term as this project was in the middle of its implementation. She also thanked the full assistance and support provided to them during this period by Mr. Dominique Durand, RTA and Mr. Gert Kodra, RTA Assistant.

Secondly, she mentioned the successful study visit that took place last week in Paris with the participation of the representatives from the Private Chamber of Bailiffs, the General Directorate of Public Bailiffs and the Ministry of Justice. She also regretted the failure of the junior partner of this project (CILC) in the implementation of the half part of this study visit, following a proposal made by Mr. Eric Vincken, junior project leader, to share this visit in two periods: one part of the visit taking place in Paris and the other part in Hague. Mrs. Ceccaldi – Guebel didn’t want to blame anyone and she expressed her feeling that they had a good reason in doing that. As a consequence, she putted all her energy in organizing the most professional study visit in profit of the Albanian friends and selected the relevant topics which were the most interesting for them. She also mentioned the very active involvement of the French National Chamber of Bailiffs in this organization. Bearing in mind, the recent request received from the Minister of Justice, Mr. Ylli Manjani on the establishment of the public center on auctions and the good will to answer to this request, the program has foreseen visits in the French courts (immovable properties auctions procedures) and in a center for movable properties auctions in order to get an illustration of the French system on auction’s procedures.

She noticed that in the framework of the process of the legal reform in Albania, the bailiffs should take the opportunity to widen and deepen their present status and consolidate their position as partners of state authority and trustworthy profession.

- **Mr. Bledar Dervishaj** also adheres to Mrs. Ceccaldi-Guebel in approving the excellent cooperation during these last 2 months that he has been appointed as the new beneficiary project leader. He also highlighted the fact that thanks to the understanding of all the stakeholders and the excellent cooperation with Mr. Dominique Durand, Mr. Gert Kodra and Mrs. Sylvie Ceccaldi-Guebel which were essential in order to be acquainting with all the benefits of the project presented during the 1st year of existence of the project, the staff and the Minister of Justice have also identified new areas of cooperation within this project. He mentioned the importance that the Minister of Justice attaches to the activities of the project in order to be the most profitable for our country.

He also expressed his concerns on the cancellation of this part of the study visit which was foreseen also to be jointly organized in the Hague and in Paris but also praised the excellent involvement of the French side in order to maintain this foreseen and valuable study visit in France. Referring to the study visit’s agenda, Mr. Dervishaj appreciates the meetings realized on the political level (French ministry of Foreign Affairs, Ministry of Justice) as well as on the technical level (Civil Court of Bobigny, National Chamber of Bailiffs, Justice Cooperation International and Bailiffs Offices). During these days, the participants have received a global view on the French system and this experience will be a valuable asset for them in order to transpose different procedures into the Albanian system of enforcement. He also thanked Mrs. Karima Zouaoui for her support to the Albanian delegation during this successful study visit.

As you already know, Albania is facing a global reform of its judiciary system and actually the constitutional legislative package is under discussion and after its approval by the parliament, legislative amendments will concern the enforcement legislative framework. Taking into account these legislative developments, the implementation of this project in the same period is considered as very relevant for us in order that the entire intermediary and the final recommendations should be addressed to the Ad Hoc Parliamentary Committee.
Regarding the Third Quarterly Report prepared by the Twinning Team, Mr. Dervishaj has proposed to include in this report some initiatives taken by the Ministry of Justice which he will announce further during the discussions. He thanked the experts for their recommendations made in the framework of this project and noticed the real impact of these recommendations on the improvement of the bailiffs system in Albania.

- **Mr. Albert Pilo** praised also the good cooperation with Mrs. Ceccaldi-Guebel, Mr. Dominique Durand and also with all the experts participating with their expertise in this project. He mentioned the very important study visit realized in France offering an excellent insight on the French system which was very well organized and highly performing. He highlighted its readiness on the necessity to discuss immediately with the project’s experts in order to finalize the recommendations on the improvement of the bailiff system in Albania, especially related to several execution procedures in the French system which might be implemented in the pour Albanian system as soon as possible through the necessary legal amendments of the legislative enforcement framework.

Referring to Mr. Dervishaj’s statement related to the ongoing reform on the judiciary system, he pointed out the opportunity to benefit from the high level project’s expertise in order to propose the necessary legal amendments related to the bailiff’s profession.

- **Mr. Tedi Malaveci** also praised all the efforts made so far in the framework of this project in order to improve our enforcement service itself and its status within our justice system. The chamber has getting many advantages from the twinning project implementation, ranking them from the simplest technical to the most logical and general ones. He mentioned as the most important one, the harmonization of ideas, practices and models towards EU standards.

With this reporting period, twinning ambitions were very high and touched some of the most sensitive part of our enforcement system, such as the issues of the capacity, visibility and inter-institutional relationship, trainings covering in this way the whole area of our bailiff’s needs system.

The recommendations are the product that the Chamber would like to absorb and adapt in accordance with the current needs, because they come from a real context and are practical ways of interpreting the reality.

The present quarterly report states also one of the problems that the Chamber as always considered as one of the biggest: low public perception of the profession, which is an accumulated problem and not only depending from the bailiffs.

The Chamber is striving to resolve problems inherited from the past in improving the communication with the most relevant stakeholders of the system such as, the Albanian Association of Banks, the awareness raising towards the public in showing the public role of the bailiffs as a public functionary with an important public duty on behalf of the balance between creditor interest and debtor rights. His main limits and base is only and must be only the law.

In conclusion, he emphasized the twinning’s role as a source of energy and motivation to restore the trust of the profession towards the public.

- **Mrs. Karima Zouaoui**, expressed her satisfaction of attending the steering committee for the first time and highlighted the fact that this project is having very good results considering various projects that Justice Cooperation Internationale is implementing all around the world. She emphasized the recent study visit in France and the remarkable fact that all the participants were present and very attentive during all the meetings even though the program was very dense. The participants had the opportunity to see the technical and the practical aspects of the French system as a high European standard which is specific and close to the Albanian system. During this visit they had the opportunity to have a view on the French School of Bailiffs which is an important element of capacity building.
and also to notice the importance of the judge on execution in this system (visit to the Bobigny’s civil court).

- Mr. Dominique Durand made a presentation on the project’s progress during the third quarter. He stated that during the reporting period (November 2015-January 2016) one activity and three missions have been implemented:

Activity 1.1 (mission 1) - Enhance administrative capacities of the Ministry of Justice to manage and regulate enforcement systems;
Activity 1.2 (mission 1) - Enhance administrative capacities of the Ministry of Justice and Ministry of Finance to identify immovable and movable property of debtors;
Activity 1.5 (mission 2) - Support sound budget analysis and planning capacities of the Ministry and the General Directorate of Public Bailiffs in this sector;
Activity 4.2 - Prepare and implement a visibility strategy including the development of a webpage for the Chamber of Private bailiffs.

- Mr. Bledar Dervishaj stated that in regard to the Quarterly Report Nr. 3 which he has been closely analyzed, expressed his will that some additional information should be integrated to this report. Some of the recommendations made by the experts until know have been taken into account by the Ministry of Justice in some of the legal initiatives undertaken in order to improve the enforcement system. As Mr. Malaveci mentioned before, last year, the Albanian Government and the Bank of Albania have prepared and approved an action plan with the assistance of the World Bank in order to improve the situation of the bad loans level in Albania. In regard to the enforcement legislative framework, the action plan has foreseen amendments to the civil procedure code (still under discussion between all the stakeholders), the bailiff’s law (still under discussion between all the stakeholders) and the law on the registration of immovable property (already approved in the begging of 2016).

Last week, the Minister of Justice has conducted a joint meeting between the Public and Private Bailiff Service, Association of Banks, General Prosecutor’s Office, Ministry of Finance, Directorate of Codification, World Bank, expressing the urgent need to address the bad loans issue and to finalize as soon as possible the action plan of the Albanian Government.

1. In this framework, Ministry of Justice has prepared a legal package of amendments to the Civil Procedure Code, Law on State and Private Bailiff Service and has consulted with the above stakeholders, a package which was distributed for opinion to all relevant institutions and then it will be transmitted to the Council of Ministers for approval. The aim is to shorten the time of enforcement of an executive title, to avoid the possible delays of judicial processes or unfair objection of titles and procedures by the debtors. In the meantime, the Chamber of Private Bailiffs has already transmitted to the Ministry of Justice their objection to these legal amendments and the General Directorate of Public Bailiffs has expressed their approval to these amendments.

Except these legal amendments initiatives, Mr. Dervishaj express the willingness to include in the report some other initiatives undertaken by the Ministry of justice in order to improve the situation of bailiff’s profession.

2. In the light of the recommendations made by the project’s experts as regard to the reinforcement of the institutional capacities of the General Directorate of Public Bailiffs and the improvement of relations with the Ministry of Justice, the Ministry has assessed the proposal of the General Directorate of State Bailiff for legislative amendments in the organizational structure as well as the proposal aiming to reinvest 10% of the benefits within the State Bailiff’ budget (draft-instruction of Ministry of Justice and Ministry of Finance no. 33/2014 “On the determination of service fee”).

The first draft proposed the increase of 72 persons within the General Directorate of State Bailiffs (41 bailiffs and 31 support staff). This proposal has been already sent by the ministry of Justice to the
Ministry of Finance and Department of Public Administration. This intervention was urgent, because the average workload per bailiff is 800 execution cases and in addition of 120 execution cases related to the custodies.

3. The redesigning of the ALBIS system by the Ministry of Justice is under progress and the fund of 15 million ALL for the year 2016 regarding its re-design and maintenance has been foreseen. Last year, the Ministry of Justice has set up a joint working group (MoJ, State Police General Directorate, Private Bailiff National Chamber),

On September 16th 2015, this working group transmitted a report to the Minister of Justice “Report on the situation of judicial case management system “ALBIS”, and also recommended solutions and drafted the New Terms of Reference for an integrated and improved solution for ALBIS electronic system.

Further, in October 2015 the Ministry of Justice has set up a working group for drafting the Terms of Reference for a redesigned ALBIS system.

This investment provides for the development, improvement and maintenance of ALBIS system for years 2016-2017. According to the Working Group Documentation, the redesigned solution, apart from the main duty of the digitalization of files under administration of the Bailiff Service (state and private ones) is designed as an integrated information system which will help the bailiffs in terms of the consultation in real time from the system with other state database or not, in support of the maximum reduction of time required for the case execution. According to the working group assessment, the vision is to develop a case processing electronic system in a digital medium, thus preventing the written communication, increasing efficiency and accuracy of the judicial bailiff information management.

Following the operation of the new ALBIS system, Ministry of Justice aims to enhance transparency and strengthen fight against corruption. Based on the implementation of this unified solution, the aim is to correlate on-line records and calculate statistics in real time. Indicators produced at global or analytical level will serve the policy-making process, good management and analytical studies on the progress of bailiff service, with a view of identifying proper interventions.

Referring to the fact that the Private Bailiff Service is regarded as a main part of the process, the Minister of Justice has formally invited the Chairman of the National Chamber of Private Judicial Bailiffs to contribute to the phase of analysis of the requirements of users of the electronic re-designed ALBIS system. (Letter of the Ministry of Justice with Prot. no. 2012/1 dated 18.03.2016). National Chamber of Private Judicial Bailiffs has appointed two representatives for the final formulation of the Terms of Reference to proceed the phase of system implementation (Reply letter of the National Chamber of the Private Judicial Bailiffs with Prot. no. 207, dated 25.03.2016).

Currently, the Ministry of Justice, in cooperation with the General Bailiff Directorate and the National Chamber of Private Judicial Bailiffs is under discussion/final consultation regarding software application modeling, which will be made available to active judicial bailiffs.

Accordingly, the activities 2.2, 3.2 and 3.3 foreseen in the framework of the initial work plan related to ALBIS computer-based system were replaced by training activities redesign of the activity 3.5 on trainings) following the decision taken at the Second Steering Committee held in December 2015, because ALBIS was not functioning.

Considering that MoJ is in a phase where ALBIS system’s terms of reference specifying the method of its operation are designed with all related stakeholders, consultation with the project experts is a prerequisite. It is crucial that the project’s experts deliver opinions and their assessment on the modalities for ALBIS system construction and consulting of the terms of reference prepared by the working group at the Ministry of Justice.

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The establishment and full operation of this system is highly significant for the Ministry of Justice, which has foreseen a fund of 15 million ALL for year 2016 regarding its re-design and maintenance.

4. Regarding the proposal shared by the Ministry of Justice (beneficiary country obligation) for local costs, the Albanian Government has allocated the necessary funds of an total amount of 5.2 million LEK (40.000 EUR) as foreseen in the twinning contract which has been transferred by the Ministry of Justice to the General Directorate of Public Bailiffs to be used as local costs in the realization of the twinning activities. The payment of the return flight tickets for all the Albanian participants to the study visit was financed by the General directorate of Public Bailiffs through this fund.

5. Within this year the Ministry of Justice will propose the necessary amendments to a new Criminal Code which might also include several recommendations already made the twinning experts.

- Mr. Tedi Malaveci added that in addition of Mr.Dervishaj’s statement he also emphasized the fact that the chamber of Private Bailiffs is frequently facing the situation of the already done fact. The Chamber has made twice a real and constant opposition to this Action Plan on Bad Loans drafted by a very small group of experts from the financial and bank sector excluding both times the bailiff’s contribution. The Chamber has also prepared a strong legal opponent to this Plan, because it considers the proposals to amend the Law on Private Bailiff’s profession and the Civil Procedure Code as anti-constitutional and based on the bank sector proposals.

Mr. Malaveci said that the Chamber supports a fully analysis of bad loans in Albania during these last five years before being engaged in a process of legislative modifications. The successive governments in cooperation with the bank sector have made several legal proposals in order to address this situation and until now nothing has changed, but still the private bailiffs are pointed out as guilty. In conclusion, I would like to fully embrace the findings and the recommendations prepared following our study visit in Paris based on the French system which addressed today to the minister of Justice.

- Mr. Albert Pilo stated that as we have discussed also with the Project Leader and the RTA, this problem of bad loans in Albania, he agreed with Mr. Dervishaj that this situation is seriously damaging all the Albanian society and a strong intervention is urgent. According to him, the private bailiff system which was created in 2008, is not accomplishing its mission as its counterparts in France, because it does not exist any mechanism to control it. The level of bad loans in Albania is a consequence of the irresponsibility of the private bailiffs dealing exclusively with the banks in regard to the bad loans executions. Mr. Pilo referring to the French system said that it is urgent to include in the Civil Procedure Code, the scale of tariffs and the obligation for the bailiffs to reimburse the prepaid amount to creditor if they will not succeed to execute the file. He agreed with Mr. Malaveci in one point, to verify and assess all the non-executed files related to the bad loans in order to clearly share on the responsibilities between the banks and the bailiffs, because in some cases that I have consulted I had the impression that the loans granted with the conviction that they we never been collected.

The other essential element to have a wealthy system is to restore a new efficient system of control and monitoring like in France. I’m in favor of several legal amendments in order to improve the situation and I will prepare different proposals on auctions procedures, success fees, trainings etc, and will discuss them with the twinning’s experts.

- Mrs. Karima Zouaoui reminded to Mr. Pilo that in France they have the private bailiffs system which has a public delegation of power from the Ministry of Justice that’s why it is a mixed system as in Albania (private bailiffs under control of the pubic authority). This system is the same for all the legal professions (lawyers especially in the field of legal aid, notaries and bailiffs). Few state bailiffs exist in field of tax recoveries but even in this field the private bailiffs execute these files. The judge on enforcement is making the check and balance between the parties in this system.
- Mrs. Tidita Fshazi said that it is important to respect the agenda and not to be too long on the interventions. Regarding the substantial issues related to the legal amendment expertise another meeting will be set with the experts of EURALIUS IV at the technical level.

- Mrs. Elda Spasse, Adviser to the Minister and SPO regarding IPA II funds, states that since we are approving the quarterly report, she kindly informs the members of the steering committee that for the Ministry of Justice it is crucial to meet all its legal/contractual obligations. Minister of Justice is very clear and determined to respect all contract obligations, especially regarding the local costs. Further, I inform you that even in 2015 local funds were allocated, committed to this project as the Twinning Project has not filed an official request or the previous Project Manager told us we do not have them at this time but fund reallocations have been made in June 2015. Additionally, for year 2015, the Finance Directorate at the Ministry of Justice has confirmed that funds are allocated but they are not disbursed since no requests have been filed. We inform you that funds allocated for VAT and local costs are available for year 2016. The Twinning Project may file an official request based on the contractual obligations of the Ministry of Justice and we are ready to comply with such obligations.

- According to the agenda Mr. Dominique Durand addressed the meeting regarding the signature of the missing administrative documents (Side Letter, Mission Certificates) after the sudden departure of the former beneficiary project leader, Mrs. Ermonela Xhafa. Since the last February until now all the missions’ certificates related to the expertise realized by the twinning experts have not been signed and as a consequence the experts have not being paid yet. This situation should be addressed very quickly and the representatives of the EU delegation should confirm the availability of Mr. Dervishaj, new project leader to sign these documents on behalf of Mrs. Ermonela Xhafa.

- Mrs. Tidita Fshazi has confirmed that the addendum related to the replacement of the beneficiary project leader has been approved, so it is possible starting from now, that Mr. Dervishaj could sign these administrative documents.

- Mr. Bledar Dervishaj apologized on the internal changes and procedures which have reflected these delays in our partners, but he confirms that this will not happen again in the future. If it will be the case, he will inform accordingly by letter or email the members of the Steering Committee for the raisons he will not sign the twinning documents.

- Mrs. Elda Spasse confirmed that the report is endorsed with considering the possibility to add the above mentioned initiatives undertaken by the Ministry of Justice.