



EVALUATION REPORT

D-REX: SUPPORTING EFFECTIVE  
DOMESTIC REMEDIES AND  
FACILITATING THE EXECUTION OF  
ECtHR JUDGMENTS

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<http://horizontal-facility-eu.coe.int>

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## ACRONYMS & ABBREVIATIONS

ATP	Agency for the Treatment of Property
CC-AL	Constitutional Court of Albania
CoE	Council of Europe
CPC	Civil Procedures Code
EC	European Commission
ECHR	European Convention on Human Rights
ECM	Expertise Co-ordination Mechanism
ECtHR	European Court of Human Rights
EU	European Union
HF	European Union/Council of Europe Horizontal Facility for the Western Balkans and Turkey
L-O	Luli and Others
MoJ	Ministry of Justice
MP-O	Manushaqe Puto and Others, 2015
SA	State Advocate
SC-AL	High Court of Albania
SoA	School of Advocacy
SoM	School of Magistrates
ToT	Training of Trainers

## PREFACE

This assessment covers, ex-post - an evaluation of the inputs, activities, outputs, outcomes and sustainability of the Action entitled “*Supporting effective domestic remedies and facilitating the execution of judgments in Albania*” [hereinafter: ‘D-REX’ or the ‘Action’] implemented as a part of the European Union (EU) and Council of Europe (CoE) programmatic framework “Horizontal Facility for the Western Balkans and Turkey” from 1 January 2017 to 23 May 2019.

The objective of the Action is to contribute to the efforts in Albania to improve the capacity of the judiciary to apply the European Court of Human Rights (ECtHR) case law at the national level and more specifically to enable legal professionals to effectively apply remedies related to non-enforcement of national judgments closely targeting undue length of proceedings, compensation/restitution of property, and fairness of criminal proceedings.

The evaluation was carried out in May 2019. This report was prepared following the completion of the evaluation’s field phase (6-8 May 2019); an in-depth analysis of documents provided by the CoE prior to and during the field phase informed the research in the field.

The bulk of the evaluation report deals with property issues - this is a reflection of the importance given by the evaluator’s interlocutors to this issue which remains a highly emotional issue in Albania and continues to be a source of cases that can (potentially) end up before the European Court of Human Rights (ECtHR) in Strasbourg, France.

The evaluator wishes to thank all the people who gave of their time and insights for this evaluation.

## EXECUTIVE SUMMARY

The Action contribute to the implementation of the EU Association Agreement by supporting the efforts of the Republic of Albania to consolidate the rule of law and to strengthen the independence of the judiciary - and as identified in the 2015 EU Albania Progress Report, there was a need for increased reform efforts in the three areas the action addresses.

Overall, the Action entitled “*Supporting effective domestic remedies and facilitating the execution of judgments in Albania*” can be qualified as successful in the sense that the national partners in the project - the courts, the State Advocate, the School of Magistrates - and civil society organisations all agree that the assistance provided by the *Horizontal Facility for the Western Balkans and Turkey* (a joint EUropean Union/Council of Europe initiative) was pertinent and responded to the needs of the judiciary of Albania as a whole.

The various types of trainings - paired with handbooks and a commentary - were highly appreciated and the international and Albanian experts that the Council of Europe was able to mobilise throughout the project were seen by all interlocutors as the key factor to the success of the Action.

In this respect, support to continued training of the judiciary should remain a priority for the Council of Europe in Albania. in the absence of mandatory continued training for lawyers, the need for increased and specific training on appeals procedures and challenges before domestic courts based on ECtHR judgments for lawyers would be beneficial.

Study visits have been identified as particularly useful. First and foremost to the ECtHR but also to countries, which have (successfully) undergone similar transformations.

Given the fact that legal reform processes take time and that legal procedures do too, there is a case for continues - albeit in a different form perhaps - of support to the judiciary, but it would be beneficial to ensure that the CoE has a mechanism in place for monitoring the outcome of proceedings targeted under this Action.

# 1 - BACKGROUND AND CONTEXT

## PROPERTY RIGHTS & RESTITUTION IN ALBANIA

The importance of this issue stems from the adoption of the pilot judgment of the European Court of Human Rights (“the European Court”) in *Manushaqe Puto and Others v. Albania* (see hereafter), which dealt with violations of the European Convention resulting from the non-enforcement of domestic court rulings requiring the payment to the applicants of compensation in lieu of the restitution of property that had been expropriated between 1944 and 1978.

Law no. 133/2015 “*On the treatment of property and finalisation of the process of compensation of property*” (“the 2015 Property Act”) is supposed to address a very complex situation in Albania, namely, that resulting from the lack in the past of concrete and practical measures to enforce the acknowledged and accepted rights for property restitution and compensation and solve the underlying problems.

Prior to its entry into force, the Albanian Government reported some 53,115 decisions had been issued since the inception of the process in 1993 and that there were a further 10,131 pending applications. The decisions were originally taken by the Agency on Restitution and Compensation of Property, then the Commission on Restitution and Compensation of Property. The body currently responsible for the process of restitution and compensation is the **Agency on the Treatment of Property**.

Only 900 out of the 26,000 decisions providing for compensation were (partially) executed from the Albanian authorities during the period of time 2004 – 2014

The 2015 Property Act enshrines the will of the Albanian Government to complete the process of restitution and compensation of properties to the original owners in a manner that is compatible with Article 41 of the Albanian Constitution and the Article 1 of Protocol No. 1 of the European Convention on Human Rights and differs from the predecessor (1993 and 2004) Property Acts as it thoroughly restructures the evaluation methodology in respect of the properties subject to its scope of application.

The adoption of the 2015 Property Act was however not immediate and there were challenges to (certain) provisions of the law; proceedings to challenge the compatibility of the 2015 Property Act with the Albanian Constitution and the European Convention on Human Rights were brought before the Constitutional Court of Albania by the President of the Republic of Albania, the Ombudsman, members of the Albanian Parliament as well as from the Associations of the Expropriated Owners.

Based on a request of the Albanian Constitutional Court, the Venice Commission adopted an *Amicus Curiae Opinion* in October 2016 and the Constitutional Court of Albania largely upheld the constitutionality of the Act- except for two issues pertaining to certain aspects of the new method of evaluation of the compensation that were scrapped on grounds of incompatible with the principle of right to legal certainty.

The Committee of Ministers, noted with satisfaction in September 2017 that as a result of sustained efforts by the Albanian authorities, this mechanism is now fully operational.

## LANDMARK CASES

Manushaqe Puto and Others, 2015 (MP-O), 2015

**Issue:** Longstanding structural problem of the absence of an adequate mechanism to honour the commitment made by the State to compensate for property nationalised under the Communist regime and to enforce final domestic judicial and administrative decisions recognising the right to compensation.

**Measures taken by the State:** Introduction of a new compensation mechanism, including the Law no. 133/2015 “On the treatment of property and finalisation of the process of compensation of property” and creation of the Property Management Agency - also known as the Agency for the Treatment of Property.

**Status of execution:** closed in September 2018.

“It appears from the action report that the new compensation mechanism is fully operational, functions in an efficient manner and that a monitoring system has been put in place which can intervene whenever appropriate and adopt or suggest any necessary corrective measures”.

**Contribution of the Action:**

- Comprehensive analysis of the situation and measures taken by the State. The results of analysis were shared with the Department of the Execution of Judgments of the Council of Europe, providing them with necessary information to close the supervision of general measures under the judgment.
- Close cooperation with the State Advocate and the Property Management Agency in harmonising the application of the Law no. 133/2015 nationwide (Tirana, Shkoder, Durres, Vlore, Korca and Gjirokaster), which facilitated smooth functioning of the compensation mechanism.
- Creation of a unified commentary / guide on application of the Law no. 133/2015 with view to unifying national judicial practice when it comes to dealing with property compensation / restitution cases.
- Development of a comprehensive training curriculum (incorporated in regular curriculum of the School of Magistrates) and establishment of a pool of national trainers to conduct trainings on the right to property, related case law of the ECtHR and practical application of the Law no. 133/2015.

**Luli and Others, 2014 (L-O, 2014)**

**Issue:** The excessive length of proceedings before civil courts and administrative bodies (principally the former Commission on Restitution and Compensation of Properties) between 1996 and the present. The European Court criticised, in particular, the failure of the judicial system to manage properly a multiplication of proceedings before various courts on the same issue and repeated remittals of cases back to lower levels of jurisdiction.

**Measures taken by the State:** Legislative measures in autumn 2017, including Law 38/2017 “Amendments of Civil Procedure Code” Law 99/2016 “Amendments of the Law on the organisation and functioning of Constitutional Court on 'reasonable time' and length of proceedings”.

**Status of execution: pending (December 2018)** A general acceleratory and compensatory remedy for excessively long civil, criminal and administrative judicial proceedings and for enforcement proceedings has been operational since November 2017. The remedy has been used so far in only a small number of cases and it is not yet clear whether it will be applied to delays predating its introduction.



**Contribution of the Action:**

- Comprehensive analysis of the situation and measures taken by the State. The results of analysis were shared with the Department of the Execution of Judgments of the Council of Europe, providing them with necessary information to carry out the supervision of general measures under the judgment.
- Development of a comprehensive training curriculum (incorporated in regular curriculum of the School of Magistrates) and establishment of a pool of national trainers to conduct trainings on the right to trial within a reasonable time, related case law of the ECtHR and application of the newly introduced legislative amendments - a major measure to prevent that similar cases come to the ECtHR.

**Caka, 2010**

**Issue:** Re-examination and re-opening of criminal proceedings following the finding of a violation by the European Court of Human Rights.

**Measures taken by the State:** Law no.35/2017 “On some amendments to the Criminal Procedural Code of Albania”, which provided for the reopening of criminal proceedings following a decision of ECtHR.

**Status of execution:** closed in December 2017.

**Contribution of the Action:**

- Comprehensive analysis of the situation and measures taken by the State. The results of analysis were shared with the Department of the Execution of Judgments of the Council of Europe, providing them with necessary information to close the supervision of general measures under the judgment.
- Development of a comprehensive training curriculum (incorporated in regular curriculum of the School of Magistrates) and establishment of a pool of national trainers to conduct trainings on fairness of criminal proceedings, related case law of the ECtHR as well as awareness-raising about application of newly-introduced legislative amendments.

## 2 - DESCRIPTION OF THE ASSIGNMENT

### EVALUATION OBJECTIVES & SCOPE

The purpose of the assignment:

- to assess sustainability and the link to domestic reforms and developments
- to assess the inclusion of cross-cutting dimensions
- to assess how communication and visibility were ensured
- to identify lessons to learn for the Council of Europe, the beneficiaries and the donor

Following an in-depth conversation with the Deputy Head of Office of the CoE in Tirana Mr Dekovi and with the Programme Manager in Strasbourg, Ms Gruss, the evaluator also asked each project partner and beneficiaries about possible assistance they believe the HF could provide in the future.

As to the scope,

### EVALUATION METHODOLOGY

The evaluator reviewed documents (see list in Annex 1) and based on initial observations undertook a field trip to Tirana. The majority of information was gathered during the field trip through in-depth interviews with key informants: (a) CoE project staff & managers and; (b) the project’s beneficiaries - the School of Magistrates, the Ministry of Justice (Agency for the Treatment of Property and State Advocate), the Supreme Court, the Constitutional Court and the Prosecution General’s Office - at various levels and (c) other stakeholders such as the Albanian bar association, academia and CSO representatives.

A survey developed sent (via email) to 45 beneficiaries and partners of the action to poll their satisfaction with, and the relevance of the intervention yielded unfortunately only two answers, one of which from the Project Manager - and these results have not been used in this report .

### DIFFICULTIES ENCOUNTERED

There were no particular difficulties encountered during the evaluation of this Action - the collaboration with both the Council of Europe staff in Tirana and with the beneficiaries was excellent.

The fact that the vetting process of the judiciary in Albania is still ongoing and that a great number of posts are currently vacant, made the choice of interlocutors in the institutions limited, but the advisors in the Constitutional and High Courts were well-informed and forthcoming with information.

The Brief Narrative Synopsis Reports of the Horizontal Facility were only made available after the field visit; it would have been better had the Council of Europe made them available during the desk phase of the research but overall, this had no impact on the evaluation process.

## 3 - ASSESSMENT FINDINGS

### THE RULE OF LAW: IT WORKS WHEN IT CREATES A CULTURE OF JUSTICE

#### MAIN CRITERIA

##### Impact and Sustainability

As to measuring the impact, it is impossible to draw a direct causal relation between the Action and the impact it has on the number of challenges or the success of domestic legislation. Legal reforms - and the outcomes - need to be viewed from the perspective of Albania’s needs as perceived by the Government, the Assembly, the judiciary and the general public, on the one hand, and its needs as perceived by the CoE and the EU, on the other hand. The latter two entities regard these needs from the perspective of human rights, rule of law and EU integration.

Domestic changes to the law have been already described above and they are not the object of this evaluation.

There is however unanimity among all interviewees that, without the support from the Council of Europe the reforms would simply not have taken place - or at least not in the past years. As Ms Ploska - an advisor to the Constitutional Court of Albania - pointed out that “ *the number of cases before the ECtHR are a testimony of the difficulties in solving the property-related issues in the first place and that the training and the different **publications** were invaluable tools for the judiciary.*”

Although it is too early to assess whether the number of cases that will still be referred to the ECtHR, some figures<sup>1</sup> provided by the Agency for the Treatment of Property (ATP) on challenges to their decisions can provide some insight:

*... pursuant to Law 133/2015 regarding claims filed during the past three years, there were 9 512 decisions taken pursuant to Article 29 of the Law and only 559 lawsuits were filed with the Courts of civil appeals, of which only 44 decisions were in favor of the plaintiff ...*

All stakeholders were asked if they believed the reforms and the ensuing processes were ‘**robust**’ or **resilient** enough to withstand pressure for change (for the worse) as a measure of the **sustainability** of the Action. The advisor to the Constitutional Court and her counterparts at the High Court believe that, even though they differ in opinion as to the solutions offered under national legislation - not in the least because high-level officials are also touched by the regulations - the reforms were needed.

It is important to note that according to both the State Advocate and the advisors to the High Court, judicial decisions **refer to ECtHR judgments**. Precise figures to allow for comparison to earlier periods falls outside the scope of this evaluation.

The same interlocutors underlined that although the reforms are the direct result of the ECtHR judgments that ‘tipped the scales’, the laws that have not only been adopted in Albania but also - in

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<sup>1</sup> Agency for the Treatment of Property (2019): Report for period 2016, 2017, 2018 and January 1 – March 1, 2019

the case of the Property Law of 2015 challenged in the Constitutional Court - have brought enduring change and that the correct application of the law is a matter of **training for the judiciary system as a whole**.

**Training** as a vehicle towards local capacity building and hence sustainability - is ensured through local organisations - School of Magistrates, School of Advocacy and NGOs - with the support of the Council of Europe. Training-of-Trainers has enhanced the capacity of these training institutions but, as the Head of Continuous Training at the SoM, Mr Berberi underscored, one of the main achievements of the Council of Europe’s support was ensuring both **domestic and international** expertise.

Mr. Berberi underlined that however there were no effective ways to measure the outcome of the continued training - not only for the training under this Action - and he regretted that there was no way of verifying the impact of the training in the long term.

Together with the various publications (see hereafter), training is the most concrete input provided under this Action.

It is the evaluator’s impression that all stakeholders are vested in the reforms that have been implemented and that the three pillars of the justice system - the courts, the prosecution/state advocate and the lawyers - have embraced the reforms. Most of not all see solving the outstanding property return and compensation of property as the last vestige of communism and want to see the issue solved.

But perhaps as a vehicle for a more **enduring culture of human rights** based justice, it is important to highlight the satisfaction of the CSOs and Universities that worked with the CoE. The students that participated in the trainings at Tirana and Durres universities all professed that the training sessions provided on property rights, on fairness of criminal proceedings and on the right to fair trial were very useful.

## Mainstreaming

As per Neimanis A. (2001), one of the goals of gender mainstreaming efforts in the judiciary is “...to enhance the capacity of the judiciary so that the principles of gender equality can be fully and effectively integrated into legal judgments.” Neimanis also underscores the importance of “...the systematic and full integration of gender issues into monitoring and reporting mechanisms on all international human rights obligations...”

The African Development Bank addresses both capacity building of the judiciary and equitable access to justice by women and men to claim their rights to land and property, in particular “...(the) percentage of women and men accessing justice through the courts... (the) percentage of poor women and men who receive legal aid... and (the) percentage who have confidence in the legal system to treat them fairly” (ADB, 2013)

The direct beneficiaries of the Action were - based on the scarce data on training participants provided - both men and women and according to Ms Elsa Ploska, and advisor to the Constitutional Court of ALbania, women are slightly highly represented in the judiciary as a whole. Mr Sokol Berberi, the Head of Continuous Training at the School of Magistrates confirmed this. However, it needs to be noted that none of the domestic institutions the evaluator spoke to systematically reports disaggregated statistics by gender or vulnerability.

Assessing whether Albanians in general have equal access to the judiciary (in property or other procedures) is beyond the scope of the evaluation; looking at the number of either cases submitted to

the domestic institutions such as the Agency for the Treatment of Property would - according to the Agency’s director Ms Jonida Baci - not however always give the impression of gender equality since inheritance traditions and *usus* in Albania makes that men inherit property more often than women.

## Visibility and communication

Visibility and communication goes back to the question whether "*If a tree falls in a forest and no one is around to hear it, does it make a sound?*" - given the importance of property-related issues in Albania, the forest was not void of people.

The Action constantly strove to raise awareness of the implemented activities and achieved results during the reporting period making use of communication channels such as the Horizontal Facility, Human Rights National Implementation and Council of Europe Programme Office in Tirana websites, as well as through the social media accounts of the Horizontal Facility, by posting a short news item on each completed event on the websites of the Horizontal Facility, Human Rights National Implementation and Council of Europe Programme Office in Tirana and shared with the EU Delegation.

High quality photographs, taken by a professional photographer, were gathered where possible to document the impact of the implemented interventions and at events, visibility items were distributed, including Action information sheets, brochures, leaflets and promotional items (pens, block notes and folders). All items included the Horizontal Facility logo and title of the Action.

Ms Tidita Fshazi from the EU Delegation to Albania told the evaluator that, in her opinion, more communication activities with a reach beyond the Action’s beneficiaries and partners would have been beneficial - the evaluator was not in a position to evaluate to what extent the general Albanian public was aware of the Action and the activities of the Horizontal Facility but the Logical Framework Matrix did not specifically mention outreach activities as such.

The State Advocate of Albania - Mr Artur Metani - explained that in his day-to-day work he tried to inform the media and create awareness of the work of his office but that except for high-visibility criminal cases there was not a great deal of interest in the media and he regretted that there were no journalists dedicated or specialised in legal reforms; he suggested that it would perhaps be useful if future actions could include specific training for journalists on reporting on (complex) legal issues.

As to **communication with the beneficiaries and project partners** - there was sufficient evidence that all were aware of the goals of the Action and what could be expected from the Council of Europe.

And although not a visibility tool as such, the evaluator saw that the **training manuals and the commentary** were prominently available in the offices of the judiciary and that the School of Advocates actively participated in their dissemination.





## ADDITIONAL CRITERIA

### Coherence & Added value

**Coherence** is the extent to which the Action complemented Albania’s policies and other interventions - by the EU, the CoE or other development partners.

Overall, the Action is part of the broader Horizontal Facility of the EU and CoE and as such part of a wider approach to general, at several points during the interviews for the evaluation, interlocutors referred to other EU & CoE initiatives, especially the SEJ II and the vetting as part of a broader approach.

The vetting issue was seen as somewhat of a complication - not the principle of vetting - but the lack of judges in the constitutional and high courts and the fact that some of the people that were targeted through training might no longer be deemed fit to serve in the judiciary.



Expert retreat on property law in Tirana 30 May - 1 June 2018 -

*Mr Claus Neukirch, Head of Office Council of Europe in Tirana, Dr. Agnes Bernhard, Team Leader EURALIUS V, Ms Romana Vlahutin, Head of EU Delegation in Albania, Ms Etilda Gjonaj, Minister of Justice (© Horizontal Facility, June 2018)*

## LOGFRAME

In the logical Framework Matrix underpinning the Action, a number of outcomes were formulated:

### Under outcome 1:

- To identify the shortcomings concerning the non-enforcement of national judgments/decisions and length of proceedings and to propose national effective remedies;
- To strengthen the capacity of the School of Magistrates to develop and implement human rights training curricula and materials in line with European human rights standards;
- To strengthen capacities of legal professionals to interpret and apply the provisions of Article 6§1 of the ECHR.

### Under outcome 2:

- To ensure that requirements to render the mechanism to execute judgments in relation to compensation or restitution of property are effective and clear;
- To assess legislative measures concerning non-execution of judgments and administrative decisions in context of compensation/restitution of property;
- To improve knowledge of legal professionals on the issue of enforcement of judgments in the context of compensation/restitution of property.

**Under outcome 3:**

- To propose amendments for the national criminal legislation allowing for the reopening of criminal proceedings in case of violation of the right to fair trial;
- To strengthen capacity of the School of Magistrates to train judges and prosecutors on the reopening of criminal proceedings and fair trial;
- To strengthened capacity of judges and prosecutors to apply the requirements of Article 6 of the ECHR and the relevant case law of the ECtHR with regards to the fairness and reopening of criminal proceedings.

The logical framework matrix provides a set of quantifiable indicators - e.g. the number of people trained - that should be traceable through the project reports. Although the evaluator was not provided with detailed lists of participants in trainings, the **annual reports** provided summary figures that indicate that the Action progressed according to the work plan - with adaptations to professed needs of beneficiaries within an unstable national context.

In 2017, the Action produced exhaustive **assessments** on each of the three aspects of the intervention (Property, length of procedures and re-opening of cases) that detailed the history of the issue, the cases brought to the ECtHR and the legal reforms completed. These assessments were used - as per the former programme managers Ms Papa and Ms Skenderi - to develop **training materials** and organise - in cooperation with the various stakeholders - **training-of-trainers** and **cascade trainings**.

The reach of the activities is listed in the table hereunder:

1. Training of Trainers (for 3 manuals)	6-7 Nov. 2017	57 part.
2. Cascade training on property issues	5-6 Feb. 2018	26 Part.
3. Cascade training on effective length of proceedings	26-27 Feb. 2018	17 Part.
4. Study visit to Council of Europe and the European Court of Human Rights	13-14 Mar 2018	20 Part.
5. Cascade training on fair trial and re-opening of criminal proceedings	19-20 Mar 2018	16 Part.
6. Cascade training on property rights and implementation of the 2015 Property Act (Gjirokaster)	24-25 May 2018	16 Part.
7. Study visit of representatives Agency of the Treatment of Property to the Romanian National Authority for Property Restitution	28-30 May 2018	4 Part.
8. Retreat on property law	30 May-1 June 2018	30 Part.
9. Regional training seminar on property rights and implementation of the 2015 Property Act (Korçë)	31 May-1 June 2018	28 Part.
10. Cascade training on Article 6 in cooperation with School of Advocacy	6 Apr. 2018	38 Part.
11. Regional training seminar on property rights and implementation of the 2015 Property Act (Vlore)	7-8 Jun. 2018	29 Part.
12. Regional training seminar on property rights and implementation of the 2015 Property Act (Shkodër )	12-13 Jun. 2018	17 Part.
Cascade training on property issues in cooperation with School of Advocacy	9 Jul. 2019	40 Part.
13. Study visit to the Federal Office for Central Services and Unresolved Property Issues in Berlin	9-10 Oct.r 2018	17 Part.

14. Regional cascade training on effective remedies for length of proceedings (Shkodër)	7-8 Nov. 2018	30 Part.
15. Regional cascade training on effective remedies for length of proceedings (Korçë)	26-27 Nov. 2018	20 Part.
16. Working Group Retreat on drafting a commentary to the Law 133/2015 “On treatment of property and finalisation of the process of compensation of property” (Korçë)	10-12 Dec. 2018	11 Part.
17. Regional cascade training on effective remedies for length of proceedings (Vlore)	13-14 Dec. 2018	20 Part.
18. Regional training on harmonised application of Property Act in 3 different regions of Albania (Shkodër)	17-18 Jan. 2019	15 Part.
19. Regional training on harmonised application of Property Act in 3 different regions of Albania (Vlora)	24-25 Jan. 2019	15 Part.
20. Regional training on harmonised application of Property Act in 3 different regions of Albania (Korçë)	31 Jan.-1 Feb. 2019	15 Part.
21. The study visit to the International Court of Arbitration, French Association for Arbitration in Paris	25-26 Feb. 2019	13 Part.
22. Study visit to the Department for the Execution of Judgements of the ECtHR	27-28 Feb. 2019	13 Part.
23. Regional training on protection of the right to property (Fier)	21-22 Feb. 2019	20 Part.
24. Regional training on protection of the right to property (Tirane)	27-28 Feb. 2019	30 Part.
25. Regional training on protection of the right to property (Durrës)	4-5 Mar. 2019	20 Part.
26. Placements of two representatives of the SA to the Department for the Execution of Judgements of the ECtHR	Aprl 2019	2 Part.
27. Training on the application of the commentary to the Law 2015/133 for the ATP (Tirane)	5 Apr. 2019	30 Part.
28. Training on the application of the commentary to the Law 2015/133 for the ATP (Tirane)	12 Ap. 2019	30 Part.
29. Training courses for student in Durrës University on fairness of criminal proceedings	Mar.-Apr. 2019	500 Part,
30. Training courses for student in Durrës University on property rights		
31. Training courses for student in Durrës University on fairness of criminal proceedings		
32. Training course for students in Tirana University on the right to fair trial		
33. Training course for students in Tirana University on property rights		
34. Training course for students in Tirana University on fairness of criminal proceedings		



## 4 - CONCLUSIONS & RECOMMENDATIONS

### CONCLUSIONS

**1 - Pertinence:** all interlocutors were unanimous that the CoE Action addressed the needs of the Albanian judiciary

**2 - Impact:** (A) Although the impact is not quantifiable, there seems to be an increasing **culture of human rights** in the judiciary. Advisors to the courts and the State Advocate professed that there are more references to ECtHR decisions in domestic judgments and remedies.

(B) The same culture of human rights is also growing through **continued training** of the judiciary and the seminars organised for law students

(C) The availability of handbooks and the commentaries are indispensable to ensure coherent interpretation and correct referencing of decisions.

**3 - Visibility:** Although within the community of practice there is ample awareness of both the Action, its goals and principles and the role of the CoE, there is scope to better inform the public (through the media) of the Action and its results. This however can be best achieved through assisting the project partners and the media rather than through increasing direct communication by the CoE.

### RECOMMENDATIONS

The recommendations formulated hereafter are based on both findings during the evaluation and on the question as to what form of support the Council of Europe could best provide in the future.

#### Sustaining the reform agenda

**1 - Continued support:** All interlocutors agreed that continued support from the Council of Europe would be beneficial. This continued support should encompass: (a) training on legal issues that have the potential of becoming human rights issues; (b) making domestic and international experts available for Training-of-Trainers and provide cascade training and (c) production of assessments and training manuals and commentaries.

In this respect, in the absence of mandatory continued training for lawyers, the need for increased and specific training on appeals procedures and challenges before domestic courts based on ECtHR judgments for these beneficiaries has been highlighted by several interlocutors.

**2 - Study visits** have been identified as particularly useful. First and foremost to the ECtHR but also to countries which have (successfully) undergone similar transformations.

**3 - Evaluation:** Given the fact that legal reform processes take time and that legal procedures do too, the number of cases following decisions taken under the new laws (e.g. Property law) that might end up at higher courts or even at the ECtHR in the future, it would be important to ensure that the CoE has a mechanism in place for monitoring the outcome of proceedings targeted under this Action.

In light of the remark made by Mr Berberi from the School of Magistrates regarding measuring the outcome of training and the impact of such training on decisions, the CoE could envisage assistance in this field as well through providing (a) training on training evaluation and (b) providing funding for

research into the substance of judicial decisions and their link to training provided under this and other Actions.

## Visibility

1 - **Specific training for media** on ECtHR Decisions and their transposition into national law would be useful. Similarly, training the judiciary in media relations was highlighted as an important issue and would be welcomed.

## Mainstreaming

It would be helpful to encourage domestic partners in the Judiciary to maintain and report disaggregated data on the caseload and where possible the impact of decisions. The following indicators should be considered

- the female/male ratio of beneficiaries targeted and reached for the judicial training and capacity building components of the Action;
- The female/male ratio of decisions taken by the domestic institutions;
- The number of vulnerable categories (elderly, handicapped or chronically ill persons, prisoners, minors ...) that made use of the judiciary and the decisions which were taken in cases that involved vulnerable people.

Such data would allow to verify if all Albanian citizens have equal access to justice and to assess whether decisions taken by courts do not favour one category over others.

## ANNEX 1 - LIST OF DOCUMENTS REVIEWED

ADB (2013) - Tool Kit on Gender Equality Results and Indicators, Asian Development Bank
CHINKIN, C. (2001) - Gender Mainstreaming in Legal and Constitutional Affairs, Commonwealth Secretariat
COE (2016/1) - D-REX Action H8: Brief narrative synopsis report Oct-Dec 2016, Council of Europe
COE (2017/1) - D-REX Action H8: Brief narrative synopsis report Jan-Mar 2017, Council of Europe
COE (2017/2) - D-REX Action H8: Brief narrative synopsis report Oct-Dec 2017, Council of Europe
COE (2017/3) - D-REX Action H8: Brief narrative synopsis report Apr-May 2017, Council of Europe
COE (2017/4) - D-REX Action H8: Brief narrative synopsis report Jun-Aug 2017, Council of Europe
COE (2017/5) - D-REX Action H8: Brief narrative synopsis report Sep-Oct 2017, Council of Europe
COE (2017/6) - D-REX Action H8: Brief narrative synopsis report Oct-Dec 2017, Council of Europe
COE (2018/1) - D-REX Action H8: Brief narrative synopsis report Jan-Mar 2018, Council of Europe
COE (2018/2) - D-REX Action H8: Brief narrative synopsis report Oct-Dec 2018, Council of Europe
COE (2018/3) - D-REX Action H8: Brief narrative synopsis report Apr-May 2018, Council of Europe
COE (2018/4) - D-REX Action H8: Brief narrative synopsis report Jun-Aug 2018, Council of Europe
COE (2018/5) - D-REX Action H8: Brief narrative synopsis report Sep-Oct 2018, Council of Europe
COE (2018/6) - D-REX Action H8: Brief narrative synopsis report Oct-Dec 2018, Council of Europe
COE (2019/1) - D-REX Action H8: Brief narrative synopsis report Jan-Mar 2019, Council of Europe
NEIMANIS, A. (2001) - Gender mainstreaming in practice: A handbook, United Nations Development Programme
OHCHR (2012) - Human Rights Indicators: A Guide to Measurement and Implementation, Office of the High Commissioner for Human Rights
WORLD BANK (2012) - World Development Report 2011: Conflict, Security and Development, The World Bank

## ANNEX 2 - LIST OF PERSONS INTERVIEWED

ABDIU, Rezarta (School of Advocacy | International Cooperation and Continuous Training) - Beneficiary

BACI, Jonida (Agency for the treatment of Property | General Director) - Beneficiary

BERBERI, Sokol (School of Magistrates | Head of Continuous Training) - Beneficiary

BOZO, Aurela (Center for Legal Civic Initiative | ) - Partner NGO

DEKOVI, Olsi (Council of Europe - Albania office | Deputy Head of Office) - Project management

DEMAJ, Rovena (Council of Europe - Albania office | Senior Project Officer) - Project management

FSHAZI, Tidita (EU Delegation | Programme Manager) -

GOXHAI, Ina (Balkan Youth Link Albania | ) - Partner NGO

GRUSS, Ksenia (CoE | Programme manager) - Project management

KALAJA, Florian (High Court | Advisor) - Beneficiary

KOPANI, Miran (High Court | Advisor) - Beneficiary

KRASNIQI, Afrim (Albanian Institute of Political Studies | ) - Partner NGO

LALA, Edmond (Agency for the treatment of Property | Director of Legal Department) - Beneficiary

METANI, Artur (State Advocate | Head of State Advocate Office) - Beneficiary

PAPA, Helena (High Judicial Council | Former Project Manager) - Project management

PAPA, Ina (Council of Europe - Albania office | Project Assistant) - Project management

SKENDERI, Antuen (High Judicial Council | Former Project Manager) - Project management

TOSKA, Elsa (Constitutional Court | Advisor) - Beneficiary

## ANNEX 3 - EVALUATION TERMS OF REFERENCE

### Basic data on the Action

<b>Theme</b>	Ensuring Justice
<b>Title of the Action</b>	HF 8 – Albania - the implementation of judgments of the European Court of Human Rights (ECtHR)
<b>Geographical focus</b>	Supporting effective domestic remedies and facilitating the execution of ECtHR judgments “D-REX” Republic of Albania
<b>Beneficiaries /Partners</b>	School of Magistrates, Ministry of Justice (Property Treatment Agency and State Advocate), Supreme Court
<b>Total Budget</b>	700,000 EUR
<b>Start - End dates of the Action (including inception)</b>	1 December 2016 – 23 May 2019
<b>Relevance for the EU Action Plan / EU Association Agreement / EU Association Agenda</b>	<p>The Action will contribute to the implementation of the EU Association Agreement to support the efforts of the Republic of Albania to consolidate the rule of law and to strengthen the independence of the judiciary, as laid down in Article 1 and reiterated in Article 78.</p> <p>The 2015 EU Albanian Progress Report identifies the need for increased reform efforts in the areas the action addresses. Under Chapter 23, the need to strengthen the accountability of judges and prosecutors is emphasised. Further progress with the implementation of the 2012-2020 strategy on property rights, and the processes of property registration, restitution and compensation should be made.</p> <p>All actions will be implemented bearing in mind other projects funded by the EU and in close synergy with them.</p>