



International Monitoring Operation: Support to the process of temporary re-evaluation of Judges and Prosecutors in Albania - Phase II

1st Annual Report

Reporting period: 01 October 2019 – 31 March 2021

Project Title	International Monitoring Operation: Support to the process of temporary re-evaluation of Judges and Prosecutors in Albania - Phase II
Implementing Agency	ADA
Reporting Timeframe	01 October 2019 – 31 March 2021
Project No. (EU/ADA)	<ul style="list-style-type: none"> • EU project No. IPA/2019/412-370 • ADA project No. 6548-00/2020
Project Start Date/ End Date	01 October 2019 – 31 March 2023
Donors	EU and ADC
Overall Project Objective	<ul style="list-style-type: none"> • To align the Albanian justice system the EU acquis and best international practices.
Specific Project Objectives	<ul style="list-style-type: none"> • To increase the professional quality of judges and prosecutors. • To reduce the impact of organised crime, politics and corruption in the delivery of justice. • To enhance the integrity and accountability of judicial institutions.
Final beneficiaries	<ul style="list-style-type: none"> • Albanian citizens
Target groups	<ul style="list-style-type: none"> • First instance Independent Qualification Commission (the Commission), • Second-instance Specialised Chamber of the Constitutional Court (Appeal Chamber), • Public Commissioners, • Inspectorate of the High Council of Justice, • High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest (HIDAACI), • High Judicial Council, • General Prosecution Office, • School of Magistrates



Executive Summary

This is the first Annual Report of the project “International Monitoring Operation II – Support to the process of re-evaluation of Judges and Prosecutors in Albania”, or in short, the IMO II project. The report describes the achievements, the outcomes and the challenges which IMO II addressed.

In 2016, with a number of constitutional amendments and the adoption of secondary legislation, Albania started a much-needed judicial reform process. One of the major elements of this process was the "Transitional Qualification Assessment" for all members of the judiciary – an extraordinary process for the re-evaluation of all judges, prosecutors within the judiciary of Albania. The basis for the implementation of this vetting process was the Law 84/2016 on the transitional re-evaluation of judges and prosecutors in the Republic of Albania ("Vetting Law"), which entered into force on 8 October 2016.

The re-evaluation process has three pillars:

1. Asset assessment,
2. Background assessment, and
3. Proficiency assessment.

As provided in Article B of the Annex to the Constitution, and as further disposed in the Vetting Law, an International Monitoring Operation (IMO) was set up by the European Commission and the United States of America to support the re-evaluation process through the competence of monitoring the entire exercise.

The operational and administrative environment of the IMO is secured by a project. While the technical work of the IMO is guided by the relevant legislation, this project format allows appropriate financial, human resources and security-related management of the Operation.

Between February 2017 and February 2020 (which from an implementation point of view can be considered as the first phase of the IMO), the IMO's project structure was managed by a Consortium of the Austrian Federal Ministry of Justice, the Agency for Economic Cooperation and Development (aed) and the Italian Consiglio Superiore della Magistratura (CSM).

As the end of IMO I approached, the EU Delegation to Albania identified ADA as a suitable delegated body and implementing agency to implement IMO Phase II. In November 2019, the EU Delegation to Albania officially informed the Albanian Ministry of Justice that it had officially entered the negotiation process with ADA regarding the second phase of IMO. A preparation and transition phase of 4.5 months was agreed between ADA and the EU Delegation and commenced on 01 October 2019, which represents the start date of the action and eligibility of all related preparatory costs.

IMO II, from the technical intervention point of view, is a mere continuation of IMO I. Therefore, it continues to implement the mandate according to the legal basis provided for it in the Constitution and the Vetting Law. The transfer between IMO I and IMO II is an administrative transfer of management which did not affect the technical operations. In the report IMO I will refer to the project period of 17 February 2017 – 16 February 2020, while IMO II will refer to the project period of 01 October 2019 – 31 March 2023, and IMO will refer to the Operation as a unit fulfilling its Constitutional mandate.

From an information management point of view, the reporting period can be separated into two distinct periods:



- Transition of IMO under ADA management – this period reflects all preparatory activities for the transition of IMO under ADA management. This phase preceded the *de facto* start of the IMO-II project, i.e. 17 February 2020. These were immediately followed by the operational activities related to the handover of the project between the Austrian Ministry of Justice and the Austrian Development Agency and the finalisation of the activities foreseen for the consolidation of ADA management.
- A second part of the report reviews the period in question from the initial project design point of view, i.e. according to the mandate, reflecting on the nature of the intervention, and reviewing progress taking into considerations the objectives, results and activities.

Although it has been said before many times, when reporting on IMO, it has to be emphasised that the intervention is very particular and unique. This uniqueness arises from the peculiar, restrictive mandate it received, from the interpretational challenges of the legal environment, from the peculiar working arrangements of its national stakeholders, or from its own peculiar working arrangements. Due to this “one-of-a-kind” status, all technical and operational aspects of the action require special attention from the IMO Senior Management, ADA and/or the EU.

The main challenges and issues the IMO faced and addressed during the implementation period were the following:

1. The preparation for the transition between IMO I and IMO II;
2. The transition itself between the two project phases (IMO I and IMO II), the migration of the administration of the project under the auspices of ADA and the assurance of a seamless continuation of the activities of the Operation;
3. The timely and appropriate responding to the COVID-19 pandemic;
4. Improvement of IMO space allocation and finding additional office space;
5. Continuously assessing the state of play in the judicial reform activities;
6. Carrying out investigations of the assessees.

IMO I was implemented by the Austrian Federal Ministry of Justice in cooperation with the Agency for Economic Cooperation and Development (aed) and the Italian Consiglio Superiore della Magistratura (CSM). As the mandate of IMO anticipates that it monitors the entire vetting process, it is not bound to the timeframe of a project; a solution was to be found to ensure the operational and administrative management of the IMO beyond IMO I. The European Commission eventually identified ADA as a suitable delegated body and implementing agency to implement IMO II. In order to best enable ADA to assume this role, a preparation and transition phase of 4.5 months was agreed with the EU Delegation that commenced on 1 October 2019. This date therefore represents the start date of the action and of eligibility of all related preparatory costs. Activities carried out by ADA in the preparation and transition phase of IMO II were such as the legal preparation for the transition of staff from IMO I into IMO II, the preparation for the renewal and conclusion of two lease agreements and contracts with service providers with regard to insurance for staff, phone/telecommunication, internet, cloud services, reviewing the policies and rules of IMO I and ensuring harmonisation with ADA rules and regulations, and hand-over of the existing IMO-inventory (assets and documentation) from the consortium implementing IMO I to ADA.

De facto implementation phase - After the preparation phase ended on 16 February 2020, the *de facto* operational implementation phase for IMO II started on 17 February 2020, with the following specific set of action items that were foreseen and planned to consolidate ADA management of the project:



1. Finalisation of transition of staff from IMO I into IMO II.
2. Recruitment of additional staff for IMO II.
3. Ensuring that telecommunication, internet, cloud services, insurance are uninterrupted.
4. Procurement of insurance, ICT equipment and ICT services for IMO II.
5. Reviewal of existing IMO Operating Procedures and start the drafting of an ADA Project Operational Manual (POM).
6. Setting up a sound financial management, controlling and accounting system in order to keep all records up to date ensure a smooth cash flow of the action (e.g., payment of staff salaries)

All the foreseen activities of the transition between the two projects have been completed by the time of the reporting. In terms of human resources management, the transition of the staff members and the foreseen recruitment of additional staff at the time of the reporting were completely finalised. In terms of resources management, the handover of equipment, the setting up of a financial management system, the reviewal of the operating procedures were fully completed, the uninterrupted continuation of the IMO operation had been ensured and appropriately managed. Due to its complexity and value, the procurement of the insurance for the international staff has not been finalised yet at the time of the reporting. However, to ensure the continuation of the coverage, ADA has extended the existed insurance contract for the provisional period.

Soon after the handover and the operational start of the project, COVID-19 global pandemic affected the regular activity and implementation of IMO II. Following the order of the High Judicial Council (HJC) on 13 March 2020, both the vetting institutions and the IMO II decided to suspend their hearing activities and soon afterwards adopted the telework mode. However, despite the circumstances, the vetting process itself was never suspended: neither the IMO nor the vetting organs stopped performing their constitutional tasks and continued to investigate, send out questionnaires, conduct panel discussions through alternative exchange tools, draft reports and decisions.

At the time of the report, the global pandemic situation did not yet return to regular. However, with appropriate alternation of office work and teleworking mode, the implementation of the mandate continues without affecting the expected outcomes.