Forensics for Albania

Drejtësi përmes shkencës
Justice through science

Towards a National Forensic Science Strategy for Albania: Analysis, Options and Recommendations for Consideration

Issue 3: March 2025

Professor Dr Gillian Tully CBE (gill.tully@ffa.al), Associate Professor Dr Oriola Sallavaci (oriola.sallavaci@ffa.al), Mr David Lewis (david.lewis@ffa.al)

UK International Development

Partnership | Progress | Prosperity

Table of Contents

1. Abbreviations

ASP	Albanian State Police
CPD	Continuing Professional Development
DoCM	Decision of the Council of Ministers
EHCR	European Convention on Human Rights
FfA	Forensics for Albania
GDPR	General Regulation of the Protection of Personal Data of the European Union
GoA	Government of Albania
IPSH	Scientific Police Institute
JPO	Judicial Police Officer
RRD	Review, retention and deletion (of data)
SEESAC	SouthEastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons
UNDP	The United Nations Development Programme

2. Executive Summary & Recommendations

The Forensics for Albania (FfA) project has been working with stakeholders in Albania, with the aim of setting out achievable actions for the Government of Albania (GoA) to develop and establish a strategy, legal framework and appropriate policies to support sustainable forensic science in Albania, including but not limited to:

a. Oversight, regulation, quality management and impartiality, to include alignment with EU requirements/vision for quality management and consideration of accountability and transparency in the oversight/regulatory model.

b. Ethical considerations around use of biometric and forensic science technologies.

c. Embedding forensic science more effectively into the Criminal Justice System, both procedurally and legally.

d. Future workforce planning, taking into account the likely direction of crime/criminality, technology and user demand.

e. Development of training and educational pathways, including links to academic institutions.

f. Requirements for research, development and innovation, and the role of collaboration, including with domestic and international academic institutions and international forensic science institutes.

g. Development of review, retention and deletion (RRD) policies for forensic science data and strategies for data protection.

h. Gender and social inclusion issues.

i. Conduct and anti-corruption procedures, public awareness and legitimacy, all building on the oversight and regulatory processes.

This report sets out an analysis of the current position of forensic science in Albania and consideration of what needs to change in order to secure provision of sustainable, high quality forensic science for the future, in line with the right to a fair trial, as set out in article 6 of the European Convention on Human Rights (ECHR), and the relevant European Union requirements. Options and/or recommendations for achieving that change are proposed, with actions that will need to be taken.

While the report is built on extensive consultation with stakeholders from across the criminal justice system in Albania (Appendix 1 details the organisations consulted), it should be considered as a starting point for discussion with senior stakeholders on the way forward. No jurisdiction has a 'perfect' solution to sustainable provision of high-quality forensic science and Albania is clearly best placed to identify which of the options will deliver the most effective and implementable improvements in forensic science within the Albanian context.

Nothing in this report should be taken as a criticism of individuals or organisations. The people we have spoken to, at all levels, are committed to doing the best they can within the structures in which they work. We wish to thank all those who have spoken with us, participated in workshops or contributed in any way.

Forensic Science in Albania crosses Ministerial boundaries as it does in many jurisdictions: the Ministry of Interior and Ministry of Justice both have responsibilities and interests in forensic science. There are many stakeholders, including police, prosecutors, defence advocates, judges and civil society. Therefore, it is necessary to take a broad view of how forensic science can meet the needs of all.

Change is difficult. We recognise that many stakeholders will be committed to their own organisations and structures but urge that readers consider the proposals from the perspective of how to best achieve the sustainable provision of high-quality forensic science that Albania needs, which is in line with its path to joining the European Union.

Table 1 lists our proposed recommendations, The detailed analysis to support these recommendations follows in the body of the report.

Table 1: Recommendations

1	It is recommended that structural change to organisation of forensic science provision in Albania is effected, following one of the options in Table 2. Whichever option is chosen, the budget for forensic science delivery will need to be sufficient and sustainable.
2	It is recommended that there is increased oversight of forensic science, following consideration of the options in Table 3.
3	Consideration should be given to setting up a small number of kiosk hubs (e.g. north, south and central hubs) to reduce some of the demand on the central digital forensics facility and increase capacity and capability available regionally. This consideration should be undertaken alongside recommendations arising from the CSI workstream of the FfA project.
4	It is recommended that the Institute of Legal Medicine reviews how the quality of its work will be assured, and in conjunction with the Ministry of Justice, agrees a plan for robust external assurance of quality (e.g. by accreditation to ISO 17025 or ISO 15189), beginning with toxicology.
5	Establishing and maintaining a database of DNA profiles from all of those at risk of contaminating crime scenes and/or exhibits (including police officers, prosecutors and forensic scientists) and regular searching of crime scene samples against this database is strongly recommended.
6	Ensuring that the fingerprint elimination database is kept up to date and made available for comparison against crime scene samples for elimination purposes is strongly recommended.
7	It is recommended that projected requirements for the number of staff required for each discipline are made and revisited annually, taking into account internal and external factors affecting demand and capacity.
8	It is recommended that a robust succession plan, which takes into account the number, profile and experience of current and projected staff requirements, responsibilities and knowledge within and between departments and the manner in which a vibrant, constructively challenging and scientific culture can be developed, is created, implemented, and regularly reviewed using the management review process mandated by ISO 17025.
9	It is recommended that discussions with the University of Tirana about the potential for Master's programme(s) in forensic science and/or digital forensics are pursued, with the workforce planning activities feeding in demand information to assist the University in its planning process.
10	Training needs for all forensic scientists should be identified through development of a clear competence framework for each role, incorporating not only the practical competencies

	but also the cognitive competencies for each role. The competence framework should include consideration of ongoing competence and the associated CPD required (see Table 4).
11	Opportunities to make full use of the Chevening Programme should be evaluated by IPSH, the Institute for Legal Medicine, SPAK and the private sector.
12	CPD for patrol officers, covering all necessary elements of scene preservation, should be designed by the Security Academy, in collaboration with experts from the IPSH and Institute of Legal Medicine, and delivered to all patrol officers who may be tasked with preserving crime scenes until the arrival of crime scene investigators and/or JPOs.
13	It is recommended that the Security Academy, in collaboration with current forensic scientists from the IPSH and Institute of Legal Medicine, reviews and broadens the curriculum for initial training of JPOs, including internationally agreed current good practice and guidance documents for crime scene investigation, an overview of current and emerging forensic science capabilities and optimal assessment of optimal forensic case strategy, to enable JPOs to advise and assist prosecutors effectively. The role of CSIs in advising prosecutors should also be clarified.
14	A review of the curriculum for the initial 30-hour module on criminalistics for prosecutors and judges is recommended, backed by development of new CPD training modules for judges and prosecutors, with a focus on: a. Overview of current and emerging forensic science capabilities. b. Establishing the optimal forensic case strategy, including what examinations may best answer the questions in the particular case and liaison with experts. c. Scrutiny of Acts of Expertise, to identify questions to raise concerning competence, continuity, process, methods, interpretation, data and reliability.
15	It is recommended that the School of Magistrates and Bar Advocacy Council consider how CPD similar to that described in recommendation 14 could be made available to defence advocates.
16	It is recommended that a revised approach to the definition of expert status, with the field of expertise clearly delineated, is developed, taking into consideration the options in Table 5.
17	An annually updated guidance document should be prepared, setting out the most up to date advice on preservation of exhibits, time-sensitive issues, consideration of forensic case strategy and protocol for submissions. The guidance should be made available to, and should be followed by, crime scene investigators, JPOs and prosecutors.
18	The potential to increase collaboration between operational forensic science institutes and academic institutes should be pursued, to provide Albania with increased capability to undertake research for the future.
19	Opportunities for a small number of practitioners to undertake part time PhD research alongside, and related to, their operational roles should be explored.

20	Successful implementation of the Law no. 124/2024 "On the protection of personal data" is recommended.
21	It is recommended that required changes to police by-laws and criminal codes are identified and made, following the implementation of the revised data protection legislation.
22	Following implementation of recommendations 20 and 21, it is recommended that there is a review (and update where required) of policies relating to data retention, review and disposal; the functioning and governance of forensic databases; access and use of biometric data; the submission of evidence to digital forensics units, and data breach response mechanisms.
23	It is recommended that the role of the office of the IDP is developed with suitable independence and adequate resourcing.
24	It is recommended that key roles to support the governance of good data management (e.g. Data Controller, Data Protection Officer, Data Processor, Data Administrator and also those responsible for data retention and review in Criminal Justice settings – e.g. Judiciary, Prosecutors etc.) are implemented.
25	It is recommended that the provision of forensic and biometric databases is reviewed to determine if it is fit for purpose; consider if a service responsible for Forensic Information Databases needs to be established, and what technological safeguards need to be put in place.
26	Provide education and training to all those involved in the supervision and handling of data in forensic and biometric environments.
27	A public awareness campaign is recommended, to increase awareness of the personal and biometric data held by public authorities, the safeguards in place and individual rights in relation to data.
28	It is recommended that there are amendments by law to the current provisions of the Criminal Procedure Code, setting out clear minimum time limits for disclosure to take place between the completion of investigations and the first trial hearing. These time limits should be adequately long to ensure the effective exercise of the rights of the defence as per Directive 2012/13/EU.
29	Clear policies for making and appropriately retaining contemporaneous notes of scientific analyses should be implemented within all forensic science organisations.
30	Consider an amended Article 178 of the Criminal Procedure Code or a new provision, Art 178A, which imposes a legal duty of objectivity and impartiality upon experts.
31	Identify/develop, and ensure adherence to, codes of ethics and conduct – outlining the values that forensic scientists work to, and the behaviours they display.
32	Develop public outreach initiatives which provide information and education explaining and celebrating forensic science.

33	It is recommended that an independent assessment of the current prevalence of, and potential for, corruption in the forensic science field be carried out.
34	It is recommended that forensic science staff employed by the state should be subject to vetting (checks for any potential involvement in criminality) on recruitment and at five yearly intervals, on promotion or change of post. Biometric vetting is recommended on recruitment.
35	It is recommended that more capacity is developed for forensic medical investigation in a combined health and wellbeing setting for victims of gender-based violence and sexual assault.
36	It is recommended that the equipment, consumables and skills necessary for the IPSH to provide more effective analysis of samples from victims of sexual assaults is provided.
37	A new provision regarding the form and content of an Expert's Report is recommended to be added to Part VI of the Criminal Procedure Code. Suitable wording for a proposed Article 185 A is given in section 15.1.2.
38	It is recommended that a new provision is added to the Criminal Procedure code, specifying factors which the court may take into account in determining the reliability and ultimately weight/ probative value of the expert evidence. Suitable wording for a proposed Article 185 B is given in section 15.2.2.
39	A change to the current Criminal Procedure Code is proposed, so that in cases where the judge believes the file or evidence to be inadequate and returns it for further examinations, the defendant be afforded a reduction in sentencing, *if* after the re-examination, they wish to proceed with an abbreviated trial.
40	It is recommended that the Criminal Procedure Code be amended to: 1. clearly prescribe that the respective protocols to guarantee the continuity and integrity of evidence must be followed by the proceeding authority and any other personnel handling material evidence 2. allow for experts to refuse to conduct examinations on samples that are not suitable for expertise. 3. clearly prescribe that failure to follow the procedures and protocols for the collection, preservation, storage and transporting of material samples may make their examination and any resulting expert evidence based thereof inadmissible in court.
41	It is recommended that fixed limits for drugs of abuse (and certain prescription medications) be adopted into Article 291 Criminal Code, so that impairment does not need to be proved when prosecuting driving under the influence of drugs cases.
42	It is recommended that Article 36 of the 2024 Law on State Police be amended or removed, with alternative provisions being established in a law governing the seizure, use, retention and destruction of biometric samples.
43	It is recommended that a standalone legal framework governing the operation of the Albanian DNA database should be established.

44	It is recommended that Art 201/ a of the Criminal Procedure Code be amended to specify different conditions and criteria for the consensual and non-consensual collection of intimate and non-intimate samples from the persons arrested/detained by the police, defendants and any other persons.
45	It is recommended that a procedure be developed to enable DNA database matches to be handled in a streamlined way, following the current model for fingerprint matches from AFIS. The procedure could be adopted through an administrative act.
46	It is recommended that the Albanian Criminal Code be amended to criminalise all forms of sexual abuse and sexual exploitation of children, including activities committed online and/ or through the use of computational technology.
47	It is recommended that the Albanian Criminal Code and other relevant legal and sub-legal acts be fully aligned with the Budapest Cybercrime Convention and Directive 2013/40/EU.
48	In line with recommendation 7, it is recommended that the workforce for digital forensics will be significantly expanded as a result of recommendations 46 and 47.
49	It is recommended that a National Drugs Observatory be established.
50	It is recommended that the early notification system is established in a fully functional manner to exchange information on new psychoactive substances.
51	It is recommended that the Criminal Code and Law no 7975 'On narcotic drugs and psychotropic substances' are harmonised with the Council Framework Decision 2004/757/JHA
52	It is recommended that the legal framework and the necessary mechanisms be established to ensure the continuous update of the drugs and precursors lists in line with the INCB lists and the UN Convention 1988.
53	It is recommended that article 179 of the Criminal Procedure Code be amended to allow for the non-nominal appointment of an expert.
54	It is recommended that art. 182 of the Criminal Procedure Code and a joint guideline between the Ministry of Interior and General Prosecutor's Office be amended accordingly to provide for specific requirements for information and reasoned justification to be included in the proceeding body's decision/ submission forms.
55	The Criminal Procedure Code should include specific provisions on the concept definition of the crime scene, "crime scene examination" and of the types of "examination of places", as a means for evidence search.
56	The Criminal Procedure Code should provide for the principle of efficient use of regional CSI capacities and the duty of the proceeding body to request the crime scene examination only for those technical actions which are not advisable to be performed by the prosecutor/ JPOs. The Criminal Procedure Code should provide clarity on the procedural validity of such technical actions performed by the prosecutor /JPO at the crime scene in connection to art 151 of the Criminal Procedure Code. Additional specific criteria for the types of crime scene

	and criminal offences for which CSI capacities may be used can be provided in a joint sub-legal act between the General Prosecutor's Office and ASP/ Ministry of Interior.
57	The Criminal Procedure Code should include clear provisions regarding the decision of the proceeding body to request the crime scene examination which should be made in writing and a copy of which should be provided to the CSI team as soon as practicable, in connection to art. 201.
58	The Criminal Procedure Code should provide clear rules about the crime scene management during the CSI team examination, so that the CSI team is able to perform its duties and responsibilities efficiently and effectively, especially with regard to the crime scene access control and methodology for examining the scene and recovering the exhibits, vesting the CSI teams with the primary authority to control the crime scene perimeter and carry out the examination.
59	The Criminal Procedure Code should provide clear rules about the right of the CSI team to receive a copy of the crime scene minutes kept by the proceeding body and to be countersigned by the CSI where the recovered exhibits are also recorded.

3. Structure, Governance and Oversight

3.1 Current Status

3.1.1 Summary of structure

Governance of forensic science is currently divided between different aspects of the public sector and a small but growing independent sector. Forensic Science provision in criminal investigations generally falls to the Institute of Scientific Police (IPSH) whose accountability sits within the Policing hierarchy and up to the Ministry of Interior. Medical examination and toxicology sit with the Institute of Forensic Medicine, which in turn is part of the structure of the Ministry of Justice.

Within the Scientific Police, forensic science is undertaken in the central IPSH laboratory and in regional laboratories:

a. The regional laboratories conduct crime scene investigation, test firing of weapons, and limited fingerprint and document comparison work, with all more specialist analyses being carried out at the IPSH laboratory.

b. In 2024, the regional laboratories are moving from governance under the Albanian State Police (ASP) Regional Director to governance as a core part of IPSH.

Problems highlighted by working group participants and consultees included the following:

a. Recruitment from within policing can be problematic, with the most qualified and committed people not necessarily being recruited;

b. Expertise from the wider academic and commercial sectors in specialisms such as digital forensics are not readily attracted, with those that are recruited externally to specialist roles still required to complete months of police training, which are not relevant to their specialist roles;

c. Experts (and judicial police officers (JPOs)) leave their roles in order to progress their career to a new police rank;

d. The structure and education pathway does not encourage ongoing professional development or new ways of thinking, with many people having been trained in the same way, many years ago;

e. The system whereby police ranks have better terms and conditions than civilian ranks acts against involvement of civil society and modernisation;

f. The centralised structure results in a lack of access to expertise in the regions;

g. IPSH is further considering its structure as part of its own strategy development;

h. The IPSH is in competition for budget and staff (both in terms of headcount and individuals) with all other policing directorates.

3.1.2 Role of the Criminal Justice Sector in Scrutinising Evidence

The courts appoint an expert from the Scientific Police unless one of the parties in a case objects, or unless the Scientific Police has insufficient experts.

There is little legal challenge to forensic evidence in the criminal courts, which is attributed by those within the public sector to the quality of investigative, prosecutorial and forensics processes. However, others have suggested that this could equally be the result of limited specialisation by, and training of, lawyers and judges as well as the degree of control exercised by prosecutors. This is also dealt with in section 14 but is mentioned here to identify that some consultees have reported that scrutiny, and related accountability, may not be fully exercised by the criminal justice system.

In contrast, experts are frequently and robustly questioned in civil cases (e.g. DNA experts in paternity cases).

3.1.3 Current Accountability

The IPSH is part of policing and gets its oversight and direction from policing. There is no clear arms-length relationship between forensic science expertise and policing, either on a day-to-day basis or in a structural sense. The close relationship between the IPSH and policing is also a challenge for Albanian forensic science; independence of forensic science is noted in the IPSH draft strategy as an external social factor impacting on the IPSH.

Likewise, the close relationship between the two functions and the significant role played by prosecutors in controlling investigations leads those outside of the system to have little trust in the objectivity and fairness of an investigation and its use of forensic evidence.

The impact was observed in all areas of leadership, planning and accountability. While the Director of IPSH has autonomy in day-to-day matters within the institute, he cannot, for example, refuse to analyse a disproportionate number of exhibits in a case without reference to his superior. A further example is in respect of workforce planning (see section 5), where increasing the headcount of the IPSH requires another ASP Directorate to agree to reduce its headcount, and where the terms and conditions of forensic scientists lead to them preferring to be enrolled as police officers. This clearly links to wider questions about the independence of the role.

Alongside this, a significant element of forensic science provision is housed in another government department entirely, i.e. forensic medicine and toxicology. Accountability for these functions sits with Ministry of Justice but it is unclear to the onlooker as to how this is exercised. In the meantime, the separation of the forensics functions means that synergies between them and mutual opportunities for learning are lost.

The workshops undertaken by the team and research of effective governance mechanisms demonstrate that there is still work to do to develop independent, transparent and accountable mechanisms for oversight.

It became clear from the feedback we received that the absence of an independent coordinated approach to delivering and overseeing forensic science provision contributes to a lack of transparency and clarity about the function in Albania. This in turn leads to a lack of trust and confidence in forensic science.

3.2 Changes Required

In order to give confidence in the reliability and fair use of forensic science, it is necessary to provide good governance, independence of operation and oversight which encompasses all forensic science delivery, irrespective of whether it is delivered within policing, in other state bodies, or in the private sector.

Good governance can take several forms and is likely to involve many or all of the following:

a. Clarity of oversight and leadership of the forensic function;

b. Effective regulations and potentially an independent regulatory body;

c. Accreditation to ensure the quality and reliability of forensic evidence;

d. An effective Criminal Justice system which uses and scrutinises forensic evidence robustly and effectively;

e. Professional bodies that support forensics practitioners;

f. Links to external support and development of good practice such as local advisory bodies or international partnerships.

This is particularly relevant in the context of Albania seeking membership of the European Union (EU). Chapter 23 of the National Plan for European Integration [1] deals with the efficiency of the judicial system; professionalisation and training of judges, prosecutors, and legal professionals; fundamental rights, such as equality before the law. It requires comprehensive legal reforms to align national legislation with EU standards and principles and seeks to ensure that there is a strengthening the rule of law, a robust legal framework and related institutional mechanisms.

Closely linked, Chapter 24 of the National Plan for European Integration [1] seeks, amongst other things, to promote cooperation between law enforcement agencies and judicial bodies. In order to achieve this, there needs to be compliance with EU data protection standards and regulations and independent data protection authorities. In our meeting with the office of the Independent Data Protection Commissioner we noted that there is a clear oversight of data protection matters in line with EU Directive 2016/680 [2] and relevant legislation (see section 10).

Further, if scientific excellence is to be achieved and maintained, the structure must be able to attract and retain highly skilled and talented specialists, fostering a culture of constructive scientific challenge and innovation, which requires expansion of recruitment from solely policing to a wider range of educational backgrounds.

In relation to the balance between central and local provision of services beyond crime scene investigation, a centralised approach is both less costly to maintain and more readily brought within a quality management system (see section 4). Digital forensic services, however, deserve specific consideration, given both the massive shortfall in central capacity and the availability of technology for (limited) interrogation of mobile phones in a controlled manner. Kiosk technology, which allows for some (although not all) mobile phone data to be downloaded in a manner not requiring in-depth digital skills has been used to good effect in many jurisdictions. To manage quality and risks, central control of kiosks has proven to be the optimal model: software upgrades are evaluated centrally and rolled out in a managed way to kiosks; operators can have only limited access to settings and kiosks are operated by a small cohort of staff with central training.

Consideration should be given to setting up of small number of kiosk hubs (e.g. north, south and central hubs) to reduce some of the demand on the central digital forensics facility and increase capacity and capability available regionally. This consideration should be undertaken alongside recommendations arising from the CSI workstream of the FfA project.

3.2.1 Alternative structural models

Some European jurisdictions base some of their forensic science, particularly legal medicine and DNA analysis, in academic institutes. While this has in some instances produced research excellence (e.g. the Faculty of Legal Medicine in the University of Santiago do Compostela, Spain), it can lead to fragmented provision of forensic science, with the loss of shared learning that can bring.

Other forensic regimes across Europe, for example Ireland and The Netherlands, have developed a degree of separation for forensic experts and have the state specialist forensic function sitting outside of the governance of policing.

---

1 Albanian National Plan for European Integration, 2023-2025; Minister of State and Chief Negotiator (2022)

2 Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.

Forensic Science Ireland is a non-statutory executive agency of the Department of Justice, [3] and the Netherlands Forensic Institute [4] similarly is an autonomous division of the Ministry of Security and Justice. In both these models a wide range of specialist forensic science expertise sits within the independent forensic science function, whilst initial crime scene examination is undertaken by police service crime scene examiners. The separation of the crime scene examination function can result in a variance of standards being applied. For example, in the Netherlands, there is a requirement for the laboratory to be accredited but no equivalent requirement for the police forensic functions.

An attractive option, which could work in an Albanian context, is that of Scotland where the state provision of forensic science, from crime scene examination to court, is provided alongside, but separate from, policing. It is overseen by an independent Police Authority [5] appointed by Parliament, which provides oversight and accountability for Forensic Services through its committee structure, performance management regime, and whole Board meetings, which are generally published online for the purposes of transparency. [6] This is undertaken separately to its responsibilities for holding the police to account. As in Albania, pathology remains separate from the remainder of forensic science in Scotland, although in contrast to Albania, toxicology is part of the forensic science laboratory function as opposed to being aligned with pathology.

We would not advocate charging for work, as is the case in England and Wales, since would introduce complexity and has led to financial instability among forensic science providers.

Recent learning from failings at the forensic science laboratory in Queensland, Australia, are helpful in highlighting what to avoid. Structural and governance mechanisms were ineffective, including the governance of the laboratory attached to the Department of Health, which was a poor fit, and the culture of the laboratory which did not encourage or even allow scientific disagreement. [7] The Queensland Inquiry concluded, in relation to organisational structure, that:

> The principle that must guide the government in deciding upon an organisational structure must be that:
>
> a. the structure is one that ensures that senior management of the laboratory faithfully maintains the standpoint that the function of the unit is to serve the administration of criminal justice by providing reliable information to the Queensland Police Service and reliable expert evidence to the courts; and
>
> b. the structure provides for independent oversight of the work of the laboratory and the giving of expert advice to its chief executive officer.
>
> In order to fulfil the first of these principles, it is necessary that the unit be, and be seen by the community to be, independent and impartial. An obvious structural

---

3 Republic of Ireland, Department of Justice, (2023). Oversight Agreement 2023-25 Department of Justice, Forensic Science Ireland. Available at: https://www.bing.com/search?q=forensic+science+ireland+oversight+agreement&qs=RI&pq=oversight+agreement+forens&sc=10-26&cvid=05E803E18E03412BA8A46DD88356C91A&FORM=QBRE&sp=1&ghc=1&lq=0&ntref=1 (Accessed: 20 Feb 2024)

4 Netherlands Forensic Institute: https://www.forensicinstitute.nl

5 For more information, see Scottish Police Authority website | Scottish Police Authority (spa.police.uk)

6 See for example Meeting of the Scottish Police Authority - 22 February 2024 | Scottish Police Authority (spa.police.uk) (accessed 27/02/2024)

7 For further information and the full report and government response, see The Commission of Inquiry into Forensic DNA Testing in Queensland (dnainquiry.qld.gov.au)

assertion of independence would also serve to inculcate in the unit's scientists a sense of their responsibility to serve the justice system by employing their high expertise to advance the truth.

Learning from the Queensland inquiry points clearly away from maintaining the *status quo* in relation to the structure of forensic science in Albania, where there is no independent oversight and IPSH has no structural assertion of independence.

3.2.2 Independent Insight

It is acknowledged that Albanian forensics has taken great strides over the past few years, supported by input from a range of supportive nations. The ability to gather helpful, supportive, independent perspectives and advice is a valuable aspect of good governance. There is great value in opening up the sector to independent scrutiny and feedback, and the forensics sector could consider embedding this as part of its ongoing structures.

Versions of Forensic Science advisory bodies have worked in Ireland and the UK. These involve a wide range of professionals, predominantly from the criminal justice and science communities, who scrutinise the work of the forensics sector and offer advice and guidance. In England and Wales, forensic science is regulated by a Forensic Science Regulator who has an independent role covering the whole forensic science sector, specifically laying down codes of practice and conduct and leading in the drive for accreditation.

In Albania an oversight concept is embedded in another part of the Criminal Justice system, where Ethics Advisors support the judiciary in delivering effective, ethical justice.

The Queensland Inquiry [7] recommended that forensic science be overseen by a non-executive advisory board, including:

a. Eminent forensic scientists from a different jurisdiction;

b. Representatives of prosecution and defence legal services;

c. A representative of a victims' support organisation.

An independent advisory board for Albanian forensic science is an attractive option, as it could provide oversight of all organisations providing forensic services and could include the setting of standards and monitoring the effectiveness of implementation. Transparency of oversight could be enhanced if such a board were required to publish minutes of its meetings.

Embedding relationships with other bodies who drive research and work across different nations would also provide an independent perspective and drive up standards. The European Network of Forensic Science Institutes [8] is a useful source of support, sharing of good practice and developing expertise. There is also potential to establish a network which supports forensic science practitioners in their development and in the implementation of high professional standards, particularly those outside the public sector. In the UK the Chartered Society of Forensic Sciences [9] is a helpful example of this.

3.3 Summary, Options & Recommendations

In summary, when establishing a more effective governance and oversight regime for forensics in Albania the following areas should be considered:

- Structural independence;

---

8 https://enfsi.eu/

9 See Chartered Society of Forensic Sciences | Recognised Professional Body (csofs.org) (accessed 06/03/24)

- Regulation;
- Accreditation;
- Strengthened scrutiny of evidence in criminal justice;
- Independent insight from advisory and professional bodies.

Options are identified in the following tables. These proposals are not mutually exclusive. For example, it may be that a first step of reform is for IPSH to gain functional and operational independence, while remaining part of ASP; after a period of stabilisation, the position could then be reviewed to determine if further independence is required.

No specific options/actions are presented in relation to accreditation or crime scene investigation structures, since these are dealt with under other workstreams in the FfA project.

3.3.1 Options

Table 2: Options for structural change

	Fully independent function incorporating IPSH and Institute of Legal Medicine	**IPSH becomes fully independent function; Institute of Legal Medicine remains as-is**	**IPSH becomes a functionally and operationally independent unit, within the administrative structure of ASP; Institute of Legal Medicine remains as-is**
Description	Create a single autonomous forensic science function (encompassing the current IPSH and Institute of Legal Medicine) which has independent leadership and operates at least at arm's length from policing, in a similar model to Scotland. Potential homes for this function could be the Ministries of Interior or Justice.	IPSH (including the regional laboratories) is set up as an autonomous forensic science function with independent leadership, operating at least at arm's length from policing, under the Department for Public Safety in Ministry of Interior, or potentially in the Ministry of Justice. Institute of Legal Medicine remains unchanged.	IPSH (including the regional laboratories) gains functional and operational independence, with the Director empowered, within a set (and realistic) budget, to organise and deliver forensic science effectively for the purposes of justice, including: - the ability to recruit personnel from outside as well as within policing; - definition of competencies required for each role and specification of resulting training needs/curriculum.

			- control over all technical, operational and disciplinary processes. Institute of Legal Medicine remains unchanged.
Anticipated impact	Greater independence of operation and clearer lines of accountability leading to increased trust and confidence in forensics. Ability to recruit, train and develop the right people, from a range of academic backgrounds. Opportunity to develop a scientific organisational culture. Cooperation, learning and potential efficiencies from bringing together IPSH and the Institute of Legal Medicine. Would facilitate creation of a National Drug Observatory and an early warning system for the exchange of information regarding new	Greater independence of operation and clearer lines of accountability leading to increased trust and confidence in forensics. Ability to recruit, train and develop the right people, from a range of academic backgrounds. Opportunity to develop a scientific organisational culture.	Somewhat greater independence of operation and clearer lines of accountability. May increase trust and confidence. Opportunity to develop a scientific organisational culture. Opportunity to broaden the potential recruitment pool.

	psychoactive substances. [10]		
Advantages	As per impact: clarity of accountability, greater confidence in the independence and effectiveness of forensic science and its use in the criminal justice system. Strengthened Albanian response to Chapters 23 and 24 of the national plan for European Integration.	As per impact: clarity of accountability, greater confidence in the independence and effectiveness of forensic science and its use in the criminal justice system. Strengthened Albanian response to Chapters 23 and 24 of the national plan for European Integration.	As per impact. Level of change is manageable; police officers need not change status. Readily achievable in the short term.
Disadvantages	Significant change to current arrangements, likely to be met with resistance from multiple perspectives. Some cost involved. Loss of experienced staff who wish to remain as police officers.	Significant change to current arrangements, likely to be met with resistance from multiple perspectives. Some cost involved. Loss of experienced staff who wish to remain as police officers.	Still bound by ASP terms and conditions, which may hamper the ability to attract the right people, from a range of academic backgrounds, with terms and conditions to suit. Remaining within police structure may limit perception of independence.
Actions required to progress	Consultation between Ministry of Interior and Ministry of Justice on most suitable home for forensic science. Structural reorganisation.	Consultation between Ministry of Interior and Ministry of Justice on most suitable home for forensic science. Structural reorganisation.	Changes to ASP laws. Agreement on budget.

[10] Creation of the National Drug Observatory an Early Warning System for the exchange of information regarding new psychoactive substances are key priorities in relation to cooperation in the field of the war against drugs, in chapter 24 of the National Plan for European Integration, 2023-2025. See section 15.8.

	Changes to legislation and Criminal Procedure Code.	Changes to legislation and Criminal Procedure Code.	

Table 3: Options for achieving the required oversight.

	Regulation	**Strengthen scrutiny of evidence in criminal justice system**	**Independent insight**
Description	Create a clear regulatory framework which provides clarity of standards and means of accountability. This would encompass accreditation and could include an independent regulator and/or inspection regime.	Provide prosecutors, defence lawyers and judiciary with the tools to understand, challenge and scrutinise forensic evidence.	Identify independent insight opportunities, for example an independent advisory body for forensics, and a Chartered Institute of Forensic Practitioners. Enhancing links to the European Network of Forensic Science Institutes would assist alongside any of the options for oversight.
Anticipated impact	Ensures that the provision of forensic science services across the criminal justice system is subject to an appropriate regime of scientific quality standards.	Improvement in quality of forensic evidence in response to challenge of successful presentation of evidence in court.	Shared good practice, development of expertise, research, external support and guidance. Improved quality in forensics. Increased confidence in forensics.
Advantages	As above. Improved criminal justice processes	As above.	Independent insight,

	and standards of evidence across whole sector. Will drive progress to accreditation. Demonstrably independent. Makes system more fit for purpose for EU accession.	Less likelihood of miscarriages of justice. Greater transparency and accountability through the criminal justice system. National Integration Plan Chapter 23 compliant.	identification of good practice. Improved quality in forensics. Depending on precise model adopted, could be demonstrably independent and make system more fit for purpose for EU integration.
Disadvantages	Significant change to current working arrangements. Increased cost.	Risk of loss of cases in court. Longer criminal justice timescales. Increased cost.	Depending on route chosen, may need to set up new structures. Potential cost implication.
Actions required to progress	Legislative change. Consultation on feasibility and appetite for regulatory role. Implementation of Regulator/Inspection role.	Change to legislation/procedures to enable defence to challenge. Increase capacity in independent forensics. Training and development for prosecutors, defence lawyers and judiciary.	Consultation. Identification of suitable mechanism for Albanian context. Implementation process including definition of terms of reference for advisory body/professional body.

Recommendation 1: It is recommended that structural change to organisation of forensic science provision in Albania is effected, following one of the options in Table 2. Whichever option is chosen, the budget for forensic science delivery will need to be sufficient and sustainable.

Responses to recommendation 1:

- The Institute of Legal Medicine suggests that it should remain unchanged and have a sufficient and stable budget.
- The IPSH suggests that it should become a functionally and operationally independent unit, within the administrative structure of ASP and that the Institute of Legal Medicine should remain as-is.

Recommendation 2: It is recommended that there is increased oversight of forensic science, following consideration of the options in Table 3.

Recommendation 3: Consideration should be given to setting up a small number of kiosk hubs (e.g. north, south and central hubs) to reduce some of the demand on the central digital forensics facility

and increase capacity and capability available regionally. This consideration should be undertaken alongside recommendations arising from the CSI workstream of the FfA project.

4. Quality Assurance

4.1 Current Status

Quality assurance is defined by the International Organization for Standardisation (ISO) as the assembly of all planned and systematic actions necessary to provide adequate confidence that a product, process, or service will satisfy given quality requirements.

Accreditation is a mechanism of third-party assessment that the quality assurance within an organisation meets a given international standard. No accreditation is currently held by the Scientific Police, either within the IPSH or in regional hubs, or by the Institute for Legal Medicine.

The current lack of accreditation was a theme running through individual consultations and the working groups. The specific issue of fingerprints from police officers not always being available for elimination purposes has been highlighted in the draft IPSH strategy. A similar issue exists for DNA: there is ample evidence to demonstrate that police officers, even when well-equipped and trained, contaminate crime scenes/exhibits. For example, in the UK, as of 1 April 2022, 2680 potential contamination events had been identified for investigation through use of a police elimination database. [11]

A lack of accreditation does not mean that the work provided is necessarily of poor quality, but there is a lack of systematic assurance about quality. While each organisation and members of staff are keen to deliver a high-quality service and achieve accreditation, in IPSH and the regional hubs, there is some way to go in moving from individual best efforts to the systematic approach required. In IPSH, audits by subject matter experts (conducted under workstream 1 of the FfA project) have shown a lack of detail in standard operating procedures and a lack of compliance with the procedures. There has not been an audit at the Institute of Legal Medicine.

4.2 Changes Required

Adherence to international standards such as ISO 17025 is a requirement for international exchange of DNA profiles and fingerprints through the EU Prüm decisions (EU Council Decisions 2008/615/JHA, [12] 2008/616/JHA [13]). EU Council Decision 2009/905/JHA [14] further requires that for DNA and Dactyloscopy undertaken in a laboratory (not a crime scene), Member States shall ensure that their forensic service providers carrying out laboratory activities are accredited by a national accreditation body as complying with ISO/IEC 17025.

---

[11] Forensic Information Databases Annual Report, 2021 – 2022, available at: Forensic Information Databases annual report 2021 to 2022 - GOV.UK (www.gov.uk) (accessed 26/02/24).

[12] EU Council decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (Prüm decision).

[13] EU Council decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. It requires that Member States shall take the necessary measures to guarantee the integrity of the DNA profiles made available or sent for comparison to the other Member States and to ensure that these measures comply with international standards such as ISO 17025.

[14] EU Council Decision 2009/905/JHA of 30 November 2009 on Accreditation of forensic service providers carrying out laboratory activities. This requires that Member States shall ensure that their forensic service providers carrying out laboratory activities are accredited by a national accreditation body as complying with EN ISO/IEC 17025.

The EU vision for forensic science 2020 (see Appendix 2) emphasises the importance of accreditation and quality assurance in order to foster cooperation between police and judicial authorities across the European Union, aiming to ensure the even-handed, consistent and efficient administration of justice and the security of citizens.

The EU vision for forensic science 2030 (see Appendix 2) reiterates the need to strengthen the quality assurance of non-accredited forensic services, existing and forthcoming, to ensure their validity.

Given Albania's work towards joining the EU, achieving accreditation, initially for DNA and dactyloscopy is critically important.

It is important to emphasise that accreditation is not the end of achieving high quality outcomes from forensic science, but simply one tool to ensure that the requisite basic systematic quality assurance required is in place. High quality forensic science demands ongoing investment in staff development, innovation and infrastructure. Innovation is considered further in section 9.

Embedding quality assurance effectively and achieving accreditation is not a quick process, and requires understanding, commitment, and investment to do well. It is not, nor can it ever be, a simple lift of another country or organisation's quality management documents. Workstream 1 of the FfA project is dedicated to assisting IPSH to acquire and fully embed the skills, knowledge, and systems to achieve and maintain accreditation to ISO 17025, and workstream 2 is focusing on crime scene examination; this report will not detail that work.

Ongoing maintenance of quality assurance and high-quality forensic science requires a strategic commitment to continue to invest in and prioritise quality, staff and infrastructure. No recommendations are made in respect of IPSH, since achieving accreditation is already a priority within the draft IPSH strategy and clearly a priority of the Ministry of Interior. This is being supported by workstream 1 of the FfA project.

Our understanding is that quality assurance for the digital forensics undertaken at SPAK is being considered in conjunction with assistance from the United States, so no recommendation has been made in this respect.

4.3 Recommendations

Recommendation 4: It is recommended that the Institute of Legal Medicine reviews how the quality of its work will be assured, and in conjunction with the Ministry of Justice, agrees a plan for robust external assurance of quality (e.g. by accreditation to ISO 17025 or ISO 15189), beginning with toxicology.

Responses to recommendation 4:

- To ensure the quality of work, the Institute of Legal Medicine in cooperation with the Ministry of Justice (after the approval of the Draft law on the organisation and functioning of the service of legal medicine in the Republic of Albania) will approve the quality assurance plan (accreditation for ISO 17025) starting with the toxicology laboratory.
- The Institute of Legal Medicine notes that it is part of the ICE (International Collaboration Exercises) program organized by the scientific section of UNODC Vienna and participates in the annual reporting of overdose deaths to the EMCDDA (European Monitoring Center for Drugs And Drug Addiction) Lisbon.

Recommendation 5: Establishing and maintaining a database of DNA profiles from all of those at risk of contaminating crime scenes and/or exhibits (including police officers, prosecutors and forensic scientists) and regular searching of crime scene samples against this database is strongly recommended.

Recommendation 6: Ensuring that the fingerprint elimination database is kept up to date and made available for comparison against crime scene samples for elimination purposes is strongly recommended.

5. Workforce Planning

5.1 Current Status

A picture has emerged of positions being vacant for upwards of 2 years, retention in some disciplines being poor and expertise built over many years in other disciplines not being systematically transferred to more junior staff, to enable their development and ensure that succession plans are in place. The growth in digital evidence in recent years has not resulted in sufficient growth in skilled digital forensics staff.

The workforce profile of specialist disciplines such as chemistry and biology is very different from that of comparative disciplines such as dactyloscopy, ballistics and graphical examination, for which entry was solely from police ranks, from a pool of Crime Scene Examiners. There are few female members of staff in the disciplines recruited from police ranks and few members of staff with a 'hard science' academic background.

When many experts across multiple teams in the IPSH were trained in the same way, often many years ago and with little continuing professional development since, creating a vibrant and innovative scientific culture is challenging.

We have not been able to find any evidence of forecasting of future demand based on anticipation of future crime trends, although the changing nature of crime is noted in the draft IPSH Strategy.

Added to these issues is the fact that pay and conditions is not competitive for some disciplines in particular (e.g. digital forensics, forensic medical examiners). Pay and conditions for civilian staff is poorer than for police officer staff, which has led civilian staff to apply for police officer roles, resulting in abstraction for months of police training, which has no applicability to their specialist roles, has resulted in a backlog of casework samples building up and has slowed progress towards accreditation for the DNA reference line by at least 6 months.

5.2 Changes Required

Effective workforce planning requires an understanding of future demand. Ideally, demand would be forecast built on a combination of projections from past and current demand, supplemented by intelligence on future crime trends. In practice in most jurisdictions, only projections based on past and current demand are used and are a reasonable starting point. Such projections should be made for all disciplines as a baseline.

From the baseline demand projections, the number of staff required for each discipline in a 1-5 year timescale can be projected, taking into account any external factors (such as the growth in crime with a digital element), and internal factors (such as planned and achievable efficiency gains; additional work required to gain accreditation).

Alongside projections for numbers of staff, the profile of existing staff in age and experience should be used to create a robust succession plan. The succession plan should also take into account how responsibilities and knowledge within and between departments could be allocated to ensure opportunities for all staff to develop and be valued, and to ensure that opportunities for leadership are not male-dominated. The succession plan should be reviewed and updated regularly. The recommended option for regular review would be via the management review process required by the standard ISO 17025, one mandatory element of which is "adequacy of resources."

In planning the workforce of the future, it is as important to consider the overall skill set required as it is to consider the number of staff. Diversity of thought and a culture of constructive scientific

challenge and debate is critically important for a scientific organisation and should be considered in workforce planning so that entire departments are not staffed by individuals with very similar professional backgrounds and training. This will necessitate a different approach to recruitment, not solely from police ranks, and a different approach to training, whereby the Security Academy is not the sole provider of training for experts in dactyloscopy, ballistics, graphical examination and crime scene examination. See sections 3 regarding structural change and 6 regarding training.

5.3 Recommendations

Recommendation 7: It is recommended that projected requirements for the number of staff required for each discipline are made and revisited annually, taking into account internal and external factors affecting demand and capacity.

Recommendation 8: It is recommended that a robust succession plan, which takes into account the number, profile and experience of current and projected staff requirements, responsibilities and knowledge within and between departments and the manner in which a vibrant, constructively challenging and scientific culture can be developed, is created, implemented, and regularly reviewed using the management review process mandated by ISO 17025.

Responses regarding recommendations 7 & 8:

The Institute of Legal Medicine:

- recruits alumni who have completed the second cycle of studies in General Medicine and have completed the third cycle of specialization in Forensic Medicine at the Faculty of Medicine, University of Tirana approved from the Ministry of Education and Sports (MES); and
- notes that recruitment of forensic toxicologists remains problematic, since MES does not have a third-cycle program “Long-term specialization” in forensic toxicology (Department of Pharmacy at the University of Medicine).

6. Training

6.1 Current Status

6.1.1 Training for Scientists

A theme recurring across multiple working groups was the suggestion that there should be more academically trained forensic scientist experts, particularly for specialist areas such as digital forensics. Recruiting and training solely from within police ranks was not seen as the most effective approach. The danger of having all experts in a section being trained in the same way by the same institute has been previously highlighted (see sections 3.2 and 5.2), as it restricts the flow of new ideas and challenge to the *status quo*. The draft IPSH Strategy [15] echoes concern about recruitment of specialists not being based on suitable criteria.

Scientific police officers trained through the Security Academy are considered to be experts in dactyloscopy, ballistics and graphical examination as well as crime scene examination. This approach is out of step with practice in most other jurisdictions, where individuals gain expertise in a single discipline, often in conjunction with practice of that discipline at crime scenes. This approach, in our view, does not support the development of competence in a particular field over time. It is difficult to see how an individual can maintain expertise in many different disciplines that is up to date with the current scientific literature and evolution of thought.

[15] Draft Scientific Police Strategy 2024 - 2027

The need to improve the clarity of conclusions in Acts of Expertise and to ensure that scientific experts stay within their area of expertise and do not stray into giving legal answers was also discussed in more than one working group, indicating that there may be a shortfall in the training of scientists specifically to be experts in court cases. [16]

The requirement to draw on expertise from overseas was highlighted, particularly in relation to digital forensics. In relation to DNA, interpretation of the evidential value of matching DNA profiles is not generally provided by IPSH and additional training in this area is required (also noted in the IPSH draft strategy). A need for training in areas where there is little or no previous experience was flagged as a weakness in the draft IPSH Strategy, although a high level of knowledge and skills of IPSH staff within their field of specialization was noted as a strength. The need for an advanced expert training curriculum was flagged.

There appears to be insufficient continuing professional development (CPD) for forensic experts and insufficient access to scientific literature.

6.1.2 Training for Patrol Officers

Advocates and experts noted that the first officers to attend a crime scene do not always have sufficient expertise to secure and preserve the scene prior to arrival of crime scene examiners and judicial police officers (JPOs).

6.1.3 Training for Prosecutors and Officers of Judicial Police (JPOs)

While the attendees at the Investigators [17] Working Group considered that prosecutors ask specific questions to the laboratory, there was a shared view from other working groups and from prosecutors who attended the process mapping workshop in October 2023 that prosecutors would benefit from further training in how to establish a forensic science strategy in a case and better frame the questions to experts. This was considered to be a particular issue for digital exhibits and cases involving a large number of exhibits (e.g. where a decision from a prosecutor required every exhibit to be examined for DNA, or for digital evidence). Issues with lack of clarity in prosecutors' decisions, or submission of too many items, are noted as problems in the IPSH draft strategy and building the knowledge of prosecutors and JPOs is an objective of that draft strategy.

For digital forensics in particular, CPD is required as the technology changes so quickly.

Prosecutors and independent experts highlighted that Acts of Expertise can be difficult for prosecutors to understand: the underlying training need may be a mix of a requirement for scientists to be trained in communicating findings and for prosecutors to be trained in the principles of forensic science.

Transfers of JPOs between sectors may need to be accompanied by training, since a JPO coming from traffic or narcotics sections may have little expertise in handling murder scenes.

6.1.4 Training for Defence Advocates

The advocates highlighted because lawyers in Albania are generalists, they are not trained specifically in forensic science issues. [18]

---

16 See also section 15.1.

17 We use the term 'investigator' to refer to both prosecutors and officers of judicial police.

18 An undergraduate law degree is normally one of the minimum requirements to qualify as a lawyer, defence lawyer, JPOs, prosecutor and judge in Albania. At the University of Tirana, Faculty of Law, the modules on criminalistics, forensic medicine and forensic psychology traditionally taught as compulsory modules at the undergraduate level for over 50 years, are currently offered as elective/ optional modules

6.1.5 Training for Judges

Judges, experts, prosecutors and JPOs all highlighted a need for a level of training for judges in forensic science issues, the better enable them to scrutinise scientific evidence.

Specific briefing to ensure judicial understanding will be required by the time biostatistical analysis of matching DNA profiles is introduced by IPSH.

Action 7 of the 'Demonstrating Reliability in Forensic Results' pillar of the European Forensic Science Area 2030 (see Appendix 2) is to facilitate training and disseminate training material for end-users of forensic evidence on how to interpret forensic science results and comprehend the strength of the evidence.

6.2 Changes Required

6.2.1 Training New Forensic Scientists

We consulted with Professors of Chemistry, Biology and Informatics at the University of Tirana. There is currently no specific forensic science course at the University. However, from September 2024, a Batchelor's degree in Pharmaceutical Chemistry will be offered, which would potentially be useful for future toxicologists. The Master's programme in molecular biology covers human genetics, including laboratory experience in DNA analysis that is relevant to forensic science. There has been initial contact between the Informatics Department and the ASP, although a quantitative study on demand for digital forensics education has not yet been undertaken.

It is clear that there is insufficient demand in forensic chemistry or biology for a Master's programme to be established for a single discipline. For example, there are currently 7 forensic biologists and 8 forensic chemists at the IPSH, together with 2 toxicologists at the Institute of Legal Medicine. However, the growth in digital forensics and the requirement for cybersecurity skills may present an opportunity to establish a Master's programme in that field. There may also be the potential to develop a cross-disciplinary Master's programme in forensic science. Internationally, the importance of developing the discipline of forensic science has been gaining increasing traction, with emphasis on the importance of its scientific foundations, to avoid repeating the miscarriages of justice caused by disciplines lacking a sound scientific basis.

The process of developing a Master's programme would take some time, and would be predicated on there being sufficient demand for the course. The advantage of a Master's programme from the University of Tirana would be to increase the emphasis on the scientific foundations of forensic science and provide an alternative training route for forensic scientists, to encourage a more varied workforce, with the confidence and scientific background to engage in the robust scientific challenge that is necessary to embed high quality forensic science. A second advantage would be the potential to increase the research base for forensic science in Albania (see section 9).

It is therefore recommended that discussions with the University of Tirana about the potential for Master's programme(s) in forensic science and/or digital forensics are pursued, with the workforce planning activities feeding in demand information to assist the University in its planning process.

at the Master in Law degree level. At the School of Magistrates, Criminalistics is delivered in the second year of the Judge/Prosecutor programme as an elective/optional module. The School of Magistrates is in charge of organising continuous professional education (CPD) events for prosecutors and judges. According to their website, only three CPD events organised by the School in the past six years were in any way related to forensic aspects of criminal investigations.

6.2.2 Continuing Professional Development

CPD is required for existing forensic scientists, patrol officers, prosecutors, JPOs, defence advocates, and judges.

6.2.2.1 CPD for Scientists

For forensic scientists (including crime scene investigators), training needs should be identified through development of a clear competence framework for each role, incorporating not only the practical competencies but also the cognitive competencies for each role. This approach is in line with the requirements of ISO 17025 and ISO 17020. The competence framework should include consideration of ongoing competence and the associated CPD required.

While training will form part of the CPD requirement, it is critical that relevant scientific journals are available for scientific experts to access, and that keeping up to date with relevant scientific literature is documented and supported as a core part of the role of experts.

Options for achieving the required training and CPD for scientists are detailed in Table 4. Not all CPD need follow the same option; it is likely that a combination of approaches will be required. In addition, The Chevening Programme [19] provides opportunities for attendance at short courses (such as the cybersecurity course being delivered at Cranfield University) and Master's programmes in the UK. Opportunities to make full use of this programme should be explored.

In addition, attending working groups of the European Network of Forensic Sciences (ENFSI), to share and understand current and forthcoming developments and engage in discussion with international colleagues could contribute to CPD.

Table 4: Options for CPD for Scientists

	1: Bespoke delivery by international experts	**2: Participation in international training events**	**3: Delivery by academic institutes in Albania**
Description	Bespoke course (e.g. biostatistical evaluation of matching DNA profiles or methods for geolocation from mobile phone data) developed and delivered, in Albania, by leading international experts to Albanian experts.	Relevant existing training courses and CPD workshops organised by professional bodies and/or commercial companies are identified and attended by 1 or 2 experts from Albania, who disseminate the learning to colleagues.	New courses are developed and delivered by academic institutes in Albania (e.g. in summer schools), to cover the identified gaps in training/CPD for experts.
Anticipated impact	Increase in expertise for all experts in the field	Increase in expertise for some experts in the field	Increase in expertise for all experts in the field
Advantages	Rapid way of disseminating latest	Opportunity for networking with peers	Opportunity to grow Albanian capacity for

[19] More information is available at: Scholarships | Chevening (accessed 26/02/2024)

	knowledge from the international forensic science community. Bespoke course can be designed and delivered to meet identified competence requirements in line with ISO 17025/ ISO 17020. Can be opened to experts from multiple organisations, if applicable (e.g. IPSH, Institute for Legal Medicine, independent experts)	from a range of countries Perspectives from other trainees as well as trainers may bring new ideas and approaches into IPSH.	training, to ensure sustainability after the project ends. Can be opened to experts from multiple organisations, if applicable (e.g. IPSH, Institute for Legal Medicine, independent experts). There is the potential to grow a research base as well as inter-disciplinary teaching in forensic science at the University of Tirana.
Disadvantages	Can be costly. If not followed up, learning may not be consolidated.	Can be costly (travel expenses and course fees). Courses are not bespoke: need to any course to be attended is sufficiently close to support development of identified competence requirements. Not all scientists will be able to attend, so relies on effective cascade of knowledge from those who attended to those who did not.	May not currently have all of the forensic science-specific knowledge required within Albanian academic institutes. Capacity and resources are constrained for development of new courses at the University of Tirana; it must be clear that there is sufficient market for any new course and the number of forensic scientists in Albania is small.
Actions required to progress	Identify which training/CPD requirements would be best met through this route. Liaise with international donors to identify potential funding and delivery routes. Tender for bespoke training course(s) to meet identified	Identify which training/CPD requirements would be best met through this route. Identify suitable courses, budgets and attendees.	Identify which training/CPD requirements would be best met through this route. Continue liaison with academic institutes in Albania to agree what can be delivered and ensure syllabus is developed to meet identified competence requirements.

	competence requirements.		

6.2.2.2 CPD for Patrol Officers

The requirement is that an incident scene where a crime may have been committed should be secured and preserved until investigators arrive to take charge.

The Security Academy is the obvious route for any new and/or refresher training to be delivered. Input to the curriculum should be sought from experts from the IPSH and Institute of Legal Medicine, to ensure that all necessary elements of preservation are included (e.g. for digital devices).

6.2.2.3 CPD for Police JPOs

JPOs of the ASP undertake a 3-year training course at the Security Academy, which includes a module on crime scene investigation and forensic science. CPD requirements are determined by the training sector of the Human Resources department of the Albanian State Police (ASP). The requirements are transmitted from the General Director of the ASP to the Academy each January; the Academy organises and monitors training.

The textbooks used are written by the Director of the Academy. Alongside these texts, it is recommended that a broader range of source material is included, to add a range of perspectives.

In conjunction with the Security Academy, review the curriculum for initial training of JPOs, based on internationally agreed current good practice for crime scene investigation and guidance documents (e.g. ILAC G19; [20] ENFSI Best Practice Manual for Scene of Crime Examination). [21] An overview of current and emerging forensic science capabilities to ensure up to date knowledge (e.g. relating to methods of preserving volatile digital traces) is required, along with assessment of optimal forensic case strategy, to enable JPOs to advise and assist prosecutors effectively.

6.2.2.4 CPD for Prosecutors and Judges

Initial training for prosecutors and judges in respect of forensic science is an optional 30-hour secondary subject, delivered as part of a 3-year programme by the School of Magistrates.

The CPD requirement for judges is 5-40 hours per annum and currently, forensic science related CPD is not routine. The CPD requirement for prosecutors is 5 days per annum.

In conjunction with the School of Magistrates, a review of the curriculum for the initial 30-hour module and development of new CPD training modules for judges and prosecutors would be helpful, with a focus on:

a. Overview of current and emerging forensic science capabilities.
b. Establishing the optimal forensic case strategy, including what examinations may best answer the questions in the particular case and liaison with experts.
c. Scrutiny of Acts of Expertise, to identify questions to raise concerning competence, continuity, process, methods, interpretation, data and reliability.
d. The significance, evidential value and weight of the forensic evidence in the context of a case and in relationship with other types of evidence in the case.

Options for e-learning CPD modules could be considered, if the IT infrastructure permits.

---

[20] ILAC-G19:06/2022 Modules in a Forensic Science Process, available at: » Revised ILAC-G19 document published International Laboratory Accreditation Cooperation (accessed 26/02/2024).

[21] ENFSI Best Practice Manual for Crime Scene Examination, available at: Best Practice Manuals and Forensic Guidelines | ENFSI (accessed 26/02/2024).

Such training would assist Albania to fulfil action 7 of the 'Demonstrating Reliability in Forensic Results' pillar of the European Forensic Science Area 2030 (Appendix 2).

6.2.2.5 CPD for defence Advocates

While the Bar Advocacy Council has responsibility for training and CPD for advocates, the broad range of areas covered by advocates means that forensic science has not generally featured in the CPD offering and is unlikely to do so without intervention.

Developing new CPD course material specifically for advocates is an option, but if defence advocates could access the material being proposed for prosecutors and judges at the School of Magistrates, this would be a more efficient approach. Alternatively, training sessions for advocates could be organised in collaboration between the Chamber of Advocacy and the Ministry of Justice.

6.3 Recommendations

Recommendation 9: It is recommended that discussions with the University of Tirana about the potential for Master's programme(s) in forensic science and/or digital forensics are pursued, with the workforce planning activities feeding in demand information to assist the University in its planning process.

Recommendation 10: Training needs for all forensic scientists should be identified through development of a clear competence framework for each role, incorporating not only the practical competencies but also the cognitive competencies for each role. The competence framework should include consideration of ongoing competence and the associated CPD required (see Table 4).

Recommendation 11: Opportunities to make full use of the Chevening Programme should be evaluated by IPSH, the Institute for Legal Medicine, SPAK and the private sector.

Recommendation 12: CPD for patrol officers, covering all necessary elements of scene preservation, should be designed by the Security Academy, in collaboration with experts from the IPSH and Institute of Legal Medicine, and delivered to all patrol officers who may be tasked with preserving crime scenes until the arrival of crime scene investigators and/or JPOs.

Recommendation 13: It is recommended that the Security Academy, in collaboration with current forensic scientists from the IPSH and Institute of Legal Medicine, reviews and broadens the curriculum for initial training of JPOs, including internationally agreed current good practice and guidance documents for crime scene investigation, an overview of current and emerging forensic science capabilities and optimal assessment of optimal forensic case strategy, to enable JPOs to advise and assist prosecutors effectively.

Recommendation 14: A review of the curriculum for the initial 30-hour module on criminalistics for prosecutors and judges at the School of Magistrates is recommended, backed by development of new CPD training modules for judges and prosecutors, with a focus on:

a. Overview of current and emerging forensic science capabilities.

b. Establishing the optimal forensic case strategy, including what examinations may best answer the questions in the particular case and liaison with experts.

c. Scrutiny of Acts of Expertise, to identify questions to raise concerning competence, continuity, process, methods, interpretation, data and reliability.

Recommendation 15: It is recommended that the School of Magistrates and Bar Advocacy Council consider how CPD similar to that described in recommendation 14 could be made available to defence advocates.

7. Definition of Expert Status

7.1 Current Status

Section VI of the Criminal Procedure Code (CrPC) regulates the procedural aspects of expertise and experts.

Article 178 (1) of the CrPC specifies that "An expert examination shall be allowed where it is necessary to carry out research or acquire information or evaluations which require special technical, scientific or cultural knowledge". The code does not specify the criteria as to who can qualify as an expert. According to art 179 (1) "the expert is designated among persons registered in the register kept for this purpose or among those who have special knowledge on a relevant topic".

Both criminal and civil courts as well as the public have access to a register of experts maintained by the Ministry of Justice (available at https://www.drejtesia.gov.al/regjistri-elektronik-i-eksperteve/) which includes a wide range of disciplines. Article 224/d of the Albanian Civil Procedure Code is the legal basis for the establishment of this register and provides as follows:

> "1. Ministry of Justice shall establish, administer and make available to the public an online register for experts. This register shall be split up into various sections to group experts referring to their field of expertise and the place of their work.
>
> 2. The judge shall appoint an expert off the online register, only when for the needs of the process, the expert is required to come from specific areas of expertise, for which the law does not provide for their licensing.
>
> 3. The Ministry of Justice accepts the registration of experts in the online registry, if they meet the following criteria:
>
> a) ten years of professional experience in a specific or similar field; Five years of professional experience of the same type shall be sufficient as long as the applicant has completed a professional training in the pertinent field;
>
> b) Full capacity to act;
>
> c) Be registered and have regularly fulfilled the obligations with the tax authorities.
>
> 4. The online register should provide a separate section, where the interested parties can evaluate the expert about his acts of expertise in the past, by using a scoring system".

All the independent experts we spoke to agreed that the requirement for 5 years' experience was inequitable with IPSH, whose staff could be declared experts immediately on qualification. One independent expert felt that the criteria for inclusion on the Ministry of Justice register should be liberal and that presently there is more emphasis on the financial obligations as a requirement for inclusion than on the expertise and qualifications of the expert.

Investigators we spoke to, pointed to the fact that there are licensed and unlicensed experts. The Ministry of Justice holds the above-mentioned list of licensed experts and can suspend licenses. At times the needs of investigation may require an unlicensed expert for a specific field of expertise, in which case they will generally approach the relevant professional body or an academic expert. This is authorised by Article 179 (3) of the CrPC which provides that:

> Where the demands and the evaluations appear to be very complex or they require respective knowledge from different fields, the proceeding authority shall assign the accomplishment of the expertise to many experts. In specific instances, where the expertise cannot be provided from the list of experts registered with the court, the proceeding authority shall, after taking the opinion of the parties in advance, assign other, foreign or local, experts, from outside the list.

A judge highlighted that there is need for an effective assessment of expertise, both of state and independent experts. Independent experts felt that the Procedural Codes do not adequately regulate expertise and that there is no clear legal framework.

When questioned how they would assess the quality of an expert, investigators mentioned that where private (independent) experts are instructed they would check their curriculum vitae, qualifications/studies, they would then call them and have a general discussion of the case, expertise needs and case requirements. One prosecutor mentioned that there are good and bad aspects of a small country - generally they know each other, and this helps when appointing an expert.

As discussed in section 6, there are disadvantages to designating individuals to be expert in multiple disciplines (e.g. dactyloscopy, ballistics and graphical examination). A clearer definition of expert status in each field would be helpful.

Experience from other jurisdictions has shown that a centrally held list of experts, which is not backed by any robust mechanism of assessing competence, does not give any assurance about quality and can, instead, result in a false sense of security. In particular, basing a scheme on feedback from previous cases can be deeply flawed, since an expert should be impartial, but the feedback may be based on how useful the expert's testimony had been in securing the particular party's desired outcome.

7.2 Changes Required

In order to give confidence in the reliability of forensic science, it is important to address more clearly the criteria as to who qualifies as a forensic expert. This needs to be done in a manner which is equitable to private and state experts.

Any list of licenced (forensic) experts should reflect the need for continuous professional development and up to date qualifications.

7.2.1 Options

Table 5: Options for Establishing who is an Expert.

	Independent Register of Experts based on examination of previous cases	**Chartered Professional Body established, which registers experts**	**Accreditation of all organisations providing forensic science**
Description	The Netherlands has the optimal model for a register of experts. [22] Entry to the register is permitted only after evaluation of completed casework against published standards for the discipline in question, by a committee	A professional body is established for forensic scientists, with a mandate to confer chartered status on those with sufficient skills, knowledge and competence. In contrast to the independent register, this model is self-regulating:	Requirements for standards (such as accreditation) are applied to all organisations providing forensic science. Accreditation requires demonstration of competence, so individuals

[22] Home | Nederlands Register Gerechtelijk Deskundigen (NRGD)

	consisting of a judge and one or two other experts in the discipline. For new experts who do not have their own reported cases to submit, cases in which they have carried out the work under the supervision of an existing expert are used.	the professional body is run by forensic scientists, for forensic scientists.	working for accredited organisations will have had to demonstrate their competence.
Anticipated impact	The register provides confidence in the competence of all experts.	If the award of chartered status is robust, provides confidence in the competence of all experts.	If accreditation process is robust, provides confidence in the competence of all experts.
Advantages	As above for impact. Register run by an independent body would increase trust and confidence.	As above for impact. A professional body could also offer CPD and mutual learning.	As above for impact. Accreditation by an independent body would increase trust and confidence.
Disadvantages	Costly: the NRGD is funded by the Netherlands Government. A former scheme in the UK (funded by fees to experts) collapsed when it became financially unsustainable. It can be difficult to separate organisational competence from individual competence.	The cost of professional bodies is usually paid by subscription from members. This may not be financially sustainable in Albania. The lack of independence in a self-regulatory model may not provide the level of trust and confidence required.	Costly. Accreditation is not well suited to very small organisations. It would be many years before all organisations in Albania providing forensic science were accredited.
Actions required to progress	Establish which body could host and run such a register. Develop clear criteria for inclusion	Establish professional body. Develop clear criteria for inclusion	Set standards requirements. All bodies providing forensic science

	of experts for each discipline. Develop assessment approach.	of experts for each discipline. Develop approach to granting chartered status.	work towards achieving accreditation.

7.3 Recommendations

Recommendation 16: It is recommended that a revised approach to the definition of expert status, with the field of expertise clearly delineated, is developed, taking into consideration the options in Table 5.

Responses to recommendation 16: Regarding the status of the expert according to the options in table 5, the Institute of Legal Medicine agrees that: a chartered professional body be established, which registers experts and set the criteria for expert registration in the electronic register according to their specialties.

8. Existence and Effectiveness of Supporting Protocols

8.1 Current Status

In order to ensure effective provision of forensic science, it is necessary to ensure that there are effective protocols for those involved in decision making, collection and submission of exhibits.

We were told that JPOs of ASP have manuals setting out protocols for seizure, submissions, and questions to ask. However, we were also told of problems with digital items being seized for examination and the need for a harmonised protocol, which is kept up to date as technology changes.

Independent experts involved in digital forensics reported that the submission of a large number of digital devices in a single decision from a prosecutor caused problems, as the fee per decision is capped at $400, which can be inadequate for the huge amount of data in multiple exhibits.

Experts from the IPSH and Institute of Legal Medicine were of the opinion that policy and guidelines for what items should be submitted for analysis are required, as decisions from prosecutors are not currently all optimal. An example was that if a report of a sexual offence is made 10 days after the incident, the complainant is still subjected to a medical examination, despite the fact that after such a time interval, recovery of trace evidence for scientific analysis is vanishingly unlikely.

8.2 Changes Required

An annually updated guidance document should be prepared, setting out the most up to date advice on preservation of exhibits, time-sensitive issues (e.g. urine for drug driving offences, sexual offence medical examinations etc.), consideration of forensic case strategy and protocol for submissions. In the first instance, this should be prepared collaboratively by the IPSH and Institute of Legal Medicine, but if a professional body for forensic science is set up (see section 3), it would be ideally placed to take over updating of the guidance.

The guidance should be made available to, and should be followed by, crime scene investigators, JPOs and prosecutors.

8.3 Recommendations

Recommendation 17: An annually updated guidance document should be prepared, setting out the most up to date advice on preservation of exhibits, time-sensitive issues, consideration of forensic case strategy and protocol for submissions. The guidance should be made available to, and should be followed by, crime scene investigators, JPOs and prosecutors.

9. Research & Development

9.1 Current Status

While there were no specific observations made on research and development by judges, advocates or investigators, experts from both the independent and state sectors were clear that innovation should increase. We were told of practices that were formerly used to encourage operationally led innovation that were no longer in use.

Draft IPSH strategic priority 2 includes innovation and expansion of the range of expert examinations. The proposed new examinations set out in the draft strategy are already in routine practice in laboratories elsewhere in the world, so their adoption into IPSH would be a modernisation activity requiring validation and implementation, rather than research and development.

The EU vision for forensic science 2020 (Appendix 2) commits Member States and the Commission to work together to make progress in use of advances in forensic science in the fight against terrorism, organised crime and other criminal activities, and to undertake research and development projects to promote further development of the forensic science infrastructure.

The EU vision for forensic science 2030 (Appendix 2) has as its objective "ensuring continuous development of key forensic science capabilities in order to secure and strengthen its current and future relevance within the judicial system." Albania is currently far from meeting this objective and the accompanying action plan. [23]

Given the extent of work to be carried out to achieve accreditation and the modernisation work described in the draft IPSH strategy, it is not feasible within the current resource available to IPSH for true research & development to be undertaken internally in the next 5 years.

There is, however, research ongoing and in the planning stages within the University of Tirana's Informatics department, which is highly relevant to forensic science (for example, using artificial intelligence and the Internet of Things to document crime scenes, using drones and 3D modelling; analysis of video streams to detect violence). One member of IPSH is currently undertaking PhD research at the University of Tirana, in the field of forensic genetics.

9.2 Changes Required

The first priority is clearly to achieve the required accreditation of current scientific methods, then to expand the available analyses to implement other established methodologies from forensic science practice internationally, including those set out in the draft IPSH strategy.

In parallel, increasing collaboration between operational forensic science institutes and academic institutes should be pursued, to provide Albania with increased capability to undertake research for the future. Experience from other jurisdictions has shown that implementation of innovative methods is most effective when research is carried out in close collaboration between researchers and practitioners.

Opportunities for a small number of practitioners to undertake part time PhD research alongside, and related to, their operational roles should be explored. This would both enhance staff development and retention and would provide a pathway to develop novel methods for implementation into operational practice.

---

[23] Council Conclusions on the Action Plan for the European Forensic Science Area 2.0, approved by the Council (Justice and Home Affairs) at its 3936th meeting held on 9 March 2023. Available at: pdf (europa.eu) (accessed 06/03/24)

9.3 Recommendations

Recommendation 18: The potential to increase collaboration between operational forensic science institutes and academic institutes should be pursued, to provide Albania with increased capability to undertake research for the future.

Recommendation 19: Opportunities for a small number of practitioners to undertake part time PhD research alongside, and related to, their operational roles should be explored.

Responses to recommendations 18 & 19: The Institute of Legal Medicine notes that it has:

- a cooperation agreement with the University of Tirana, Faculty of Medicine, for student's practice classes during the academic years in the subject of Forensic Medicine and Deontological Ethics, for post-graduate specializations in forensic medicine (3 years), and for the preparation of diploma and doctorate theses; and
- institutional agreements with UHCT (University Hospital Center "Mother Teresa" Tirana), PSA (Police Supervision Agency), SIS (State Information Service) and cooperation agreements with the Institute of Forensic Medicine of Kosovo, the Department of Forensic Medicine and Toxicology of the University of Medicine in Athens Greece, the Department of Forensic Medicine of the Faculty of Medicine Crete Greece, the Department of Forensic Medicine Kagawa Faculty of Medicine, Japan.
- A Scientific Council composed of academic staff appointed by public higher education institutions in the field of medicine and of forensic experts of IFM. The Scientific Council is an advisory body of the Institute of Forensic Medicine whose function is the unification and implementation of innovations in carrying out forensic expert examinations.

10. Data Management, Review, Retention and Deletion

10.1 Current Status

Albania has a range of measures in place to deal with the capture, review, retention and deletion of personal information and biometric data, described in brief as follows (a further, more detailed, review can be found at Appendix 3). Measures should ensure that anyone who processes personal information must comply with a framework of legislation and policy. This should ensure that data is protected from misuse or inappropriate loss or disclosure. It should provide individuals with rights, including the right to know what information is held about them and the right to access that information.

10.1.1 Legislative provisions

In respect of the legislation, several provisions lay out the requirements of authorities.

a. The collection, retention, and destruction of biological samples for the purposes of DNA profiling is prescribed in the Criminal procedure Code Article 201/a, and 201/b respectively.

    i. Article 201 (a) deals with both consensual and non-consensual collection of biological samples defining the respective procedures.

    ii. Article 201/b (1) specifies that biological samples shall be preserved as long as they serve the purposes of proceedings and details timescales for the destruction of samples which are linked to the length of the maximum sentence for the offence.

    iii. According to article 201/b (2) The profiles of DNA samples taken at the crime scene, which are not attributed to anyone, shall be kept until the time limit for criminal prosecution has expired.

iv. According to article 201/b (8) "The way of conservation of the samples, the procedure and the competent body for their destruction, shall be established by a joint instruction of the minister responsible for public security and minister responsible for health." We have been unable to identify the relevant administrative provision.

b. Further provisions set out the conditions for the collection of fingerprints and DNA from a person who is stopped or arrested, including authorised non-consensual collection of such data. These state that the police shall create a database, and the General Director of the State Police has responsibility for ordering the deletion of such data if criminal proceedings against the data subject are stopped, or they are declared innocent.

c. Law no. 124/2024, on the Protection of Personal Data sets out the general provisions for the protection of personal data.

d. Sublegal Act "On protection of health-related personal data" (Instruction No. 49 dated 02.03.2020) sets out the provisions for the protection of personal health data, including genetic data collected and processed for the purposes of criminal proceedings.

    i. This includes general rules on the storage of personal health data, the rights of the subject of the health data and the duties and obligations of the data controller and processor.

    ii. Article 11 deals with the transnational cross border transfer of personal health data.

10.1.2 Issues raised in our research and consultation.

Several studies have highlighted that the Albanian approach to data protection falls short of what is required. They suggest that revised legislation is required, the independence and capacity of the Information and Data Protection Commissioner needs enhancing, and that awareness raising measures should be put in place. [24]

To illustrate this, there have been recent examples of cyber-attack and major data breaches (most recently an Iranian attack on the Institute of Statistics (INSTAT) on the 31st January 2024).

Given the growth in digital forensics and the volume of data available there was a strong feeling that the absence of a data retention policy is increasingly problematic, and one needs to be developed. This was felt to be important for personal data protection reasons, as well as being a technical issue because laboratory capacity and capability can collapse if too much data is held, particularly when parameters for seizure and analysis of data are too wide.

The absence of an effective and transparent system to deal with retention and destruction of biometric data was highlighted. Prosecutors must inform IPSH regarding specific cases that cannot be prosecuted due to the statute of limitations so that the evidence held in databases is removed. Generally, there appears to be little understanding of, or systems supporting, the triggering of reviews of retention and deletion of data.

Our respondents highlighted that the new (then draft) Law for the State police was drafted with EU input and now also includes the collection of voice/face data. They emphasised that the Police legal framework and by-laws need to be updated in line with the reorganisation envisaged by the Institute of Scientific Police strategy.

[24] EU Commission report on Albania 2023; OSCE Presence in Albania report on the intersection of Data Protection and Artificial Intelligence; Albanian National Plan for European Integration 2023-2025.

The United Nations Development Programme (UNDP) SouthEastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) programme recently highlighted that retention of firearms images in the Open Case File on EVOFINDER should be governed by law not the Prosecutors' view.

Respondents noted that there is a unique identification system for fingerprints, which enables retention until the individual is deceased. It was stated that the ASP can restrict access to data held on the fingerprint database (AFIS) which is not available to Prosecutors without a court order. There are felt to be similar issues for DNA data retention.

Having said that, it was noticeable how little engagement there was in issues relating to data protection and data sharing, which seemed to speak of the need to improve awareness and to educate practitioners at all levels.

10.1.3 Role of the Information and Data Protection Commissioner

Colleagues at the Office of the Information and Data Protection Commissioner (IDP) were, however, naturally very engaged in this issue and were able to speak of progress.

New data protection legislation, developed with EU support has now been enacted. Law no. 124/2024 "On the Protection of Personal Data", effective from January 31, 2025, signifies a substantial shift in data protection practices, aligning closely with the European Union's General Data Protection Regulation (GDPR). The legislation introduces several changes that have a direct impact on all parties involved including law enforcement professionals and forensic experts. In turn this will require changes to police by-laws and codes which the legislation specifies should be put in place within 3 months of enactment of the law.

In brief, notable changes for policing, forensic science, and the criminal justice system include:

- Enhanced Data Subject Rights,
- Data Protection by Design and by Default,
- Data Breach Notification Obligations,
- Data Protection Impact Assessments (DPIAs).
- Appointment of Data Protection Officers (DPOs)

Law no. 124/2024 imposes material responsibilities on law enforcement and forensic professionals in Albania. Proactive measures, including policy updates, staff training, and the implementation of robust data protection practices, are essential to align with the new legal framework and uphold the rights of individuals, as detailed in the recommendations below.

Successful implementation of the legislation is important for Albania to fulfil its commitments as an EU candidate country. Cooperation and exchange of data with counterparts in the European Union require a regulatory framework with appropriate safeguards.

There is also a healthy collaboration with Eurojust which explores how data is processed by Law Enforcement, what measures should be taken and how these should be provided for in law. This has involved study-visits to the Hague and a report to EUROJUST is being drafted, as an obligation pursuant to point 2, of article 19, of Law no. 113/2018 "On the ratification of the cooperation agreement between the Republic of Albania and Eurojust". It was noticeable that officials in the office of the IDP expressed how keen they were to exchange experience and learn from others.

Active thought is being given to the Prüm data sharing arrangements, [25] at the office of the IDP as well as within IPSH. It was understood how important this was to Albanian law enforcement and to

[25] EU Council Decision 2008/616/JHA, known as the Prüm Decision

Albania as an EU candidate country. The Republic of Albania is part of the SEE Prüm-like Agreement through law no. 13/2019 "On the ratification of the agreement between the parties to the police cooperation convention for Southeast Europe for the automated exchange of DNA, dactyloscopic and vehicle registration data and its implementing agreement" and law no. 13/2024, "On the ratification of the amending protocol of the agreement between the parties to the Police Cooperation Convention for South-Eastern Europe, for the Automated Exchange of DNA, Dactyloscopic and Vehicle Registration Data". The responsibilities involved in this were understood by the by the office of the IDP who expect to assume monitoring and inspection responsibilities in relation to Prüm.

10.2 Changes Required

The latest EU Commission report on Albanian accession found that:

> On the protection of personal data, Albania needs to put in place strong legal and institutional safeguards to prevent further massive breaches of privacy by private companies and the public administration and adopt the necessary legislation to align with the EU acquis on personal data. [26]

This was echoed by a recent OSCE Presence in Albania report on the intersection of Data Protection and Artificial Intelligence:

> It is the opinion of the author that at the current stage, *considering that the data protection regulation in the country is not in compliance with GDPR and the numerous recent cases of data breaches, that the reform of the data protection framework should be regarded as the basis towards examining the readiness to implement advanced technologies in any systemic way*. In addition, relying on the findings of the General Privacy Assembly, *the need for knowledge sharing as well as providing sufficient human, material and financial resources to the data protection authority should be addressed*. [27] (Italics added for emphasis).

The recommendation of the EU Commission report on Albanian accession was to:

> improve data protection, in particular by adopting the revised Law on personal data protection in full alignment with the EU acquis, by strengthening the independence and capacity of the Information and Data Protection Commissioner, and by awareness raising measures. [26]

This was confirmed in our consultation with stakeholders, and the alignment of legislation for the protection of personal data with the General Regulation of the Protection of Personal Data of the European Union 2016/679 (GDPR) [28] and Directive 2016/680 [29] is currently one of the Government's priorities. Chapter 23 of the National Plan for European Integration 2023-2025 outlines this legislative response in some detail and lists amongst the priorities for the government:

---

[26] European Commission (2023). *Albania 2023 Report.* Brussels. Commission Staff Working Document.

[27] OSCE Presence in Albania (2022). Tirana. Report on the intersection of Data Protection and Artificial Intelligence.

[28] General Regulation of the Protection of Personal Data of the European Union 2016/679 (GDPR)

[29] Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, L 119/89. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016L0680&from=EN.

- Approval of the draft law "On the protection of personal data", aligned with the EU acquis in this field and the by-laws in its implementation;
- Raising the capacities of the staff of the Commissioner's Office in the framework of the harmonization of data protection legislation with the EU acquis;
- Increasing institutional capacities within the framework of legal improvements, with a special focus on information management security systems. [30]

In its response to Chapter 24 of the National Plan, the following is highlighted:

> The Scientific Police Institute has approved legislation regarding its organization and operation as well as legislation regarding the administration and acquisition of DNA profiles and dactyloscopic data. Albania has also signed the Police Cooperation Agreement between the countries of the Southwest Balkans, PCC SEE, "For the automatic exchange of dactyloscopic data, DNA profiles and vehicle data", and has ratified this agreement in the Parliament.
>
> In the framework of meeting the ISO 17025 standards, the project of the new building of the Scientific Police Institute was approved and the fund of 6 million Euros was allocated for the construction of this building. [30]

These are positive developments and are likely to support the development of data exchange opportunities in the future. In addition, it would be helpful if there was clarity in addressing the following matters in developing the capacity and capability described in the National Plan document:

a. The apparent gap in procedure and arrangements for the destruction of biometric data needs to be addressed. Notice must be provided to ensure that personal data are deleted.

b. In addition, thought should be given to the value these profiles may have in solving cold cases and a change in the Criminal Procedure Code would be required to amend article 201/b (2).

c. A service responsible for the management of forensic information databases (particularly the national DNA database and the national fingerprint database) may need to be established and specific provisions and policies need to be developed in respect of the functioning and governance of forensic databases, as well as for access and use of DNA samples, DNA profiles, fingerprints, images etc. [31]

Appendix 3 includes a list of questions used in our workshops which was developed to test the effectiveness of the data management regime in place, and it may be helpful for the reader to review these when considering next steps and practical actions that can be taken.

10.2.1 Recommendations

Table 6: Recommendations for achieving the required management of data.

	Legislation	**Amendment of By-laws and Codes**	**Policies and Systems**
Description	**Recommendation 20:** Successful implementation of the	**Recommendation 21:** Changes to police by-laws and criminal codes	**Recommendation 22:** Review (and amend

[30] Albanian Ministry of State (2022). Tirana. National Plan for European Integration 2023-2025

[31] See section 15.6 on DNA database

	Law no. 124/2024 "On the protection of personal data".	following the implementation of the revised data protection legislation.	where required) policies relating to: Data retention, review and disposal; The functioning and governance of forensic databases; Access and use of biometric data; The submission of evidence to digital forensics units**;** Data breach response mechanisms. Particularly in light of new legislation.
Anticipated impact	Alignment of legislation for the protection of personal data with the General Regulation of the Protection of Personal Data of the European Union 2016/679 (GDPR) and Directive 2016/680.	Alignment of relevant by-laws and codes with new legislation for the protection of personal data. Coherent programme of legislation and subordinate legal provisions.	Aligns policies to new legislation, by-laws and codes. Addresses gap in triggering of reviews of retention and deletion of data. Improved personal data protection. Resolves risks relating to laboratory capacity and capability.
Advantages	Greater security of data and strengthened rights of citizens, leading to improved trust and confidence. More clarity in respect of the roles of all parties involved. Improved oversight by the IDP. Alignment with the EU Acquis. Greater potential for data sharing with international partners.	As above. Greater security of data and strengthened rights of citizens, leading to improved trust and confidence. More clarity in respect of the roles of all parties involved. Greater potential to solve cold cases (if appropriate changes made).	As above. More clarity re security of data and strengthened rights of citizens, leading to improved trust and confidence. Alignment with the EU Acquis. Greater potential for data sharing with international partners.

Disadvantages	Increased costs. Increased bureaucracy.	Time and resource taken to undertake review and implement.	Time and resource taken to undertake review and implement.
Actions required to progress	Review legislation in light of any recommendations of this report. Conclude consultation phase. Implement legislation. Review impact.	Review relevant by-laws and codes in light of the new legislation and this report. Draft changes. Consult stakeholders. Implement. Review.	Review policies. Draft changes. Consult stakeholders. Implement. Keep under constant review.

Response to recommendation 21: IPSH recommends that any changes be harmonized with the law on the State Police

	Governance and oversight capacity	**Governance and oversight capacity**	**Review of Database provision**
Description	**Recommendation 23:** Develop the role of the office of the IDP with suitable independence and adequate resourcing.	**Recommendation 24:** Implement key roles which support the governance of good data management (e.g. Data Controller, Data Protection Officer, Data Processor, Data Administrator, but also those responsible for data retention and review in Criminal Justice settings – e.g. Judiciary, Prosecutors etc.)	**Recommendation 25: Review** the provision of forensic and biometric databases **and ensure it** is fit for purpose**; consider** if a service responsible for Forensic Information Databases needs to be established, and what technological safeguards need to be put in place.
Anticipated impact	Provision of leadership, accountability and supervision of the management of data.	Provision of leadership, accountability and supervision of the management of data.	Provision of effective systems and services which are within a properly resourced dedicated and specialised department.
Advantages	Strengthened governance of data management**, with clear independence.** Greater security of data and strengthened rights of citizens, leading to	Strengthened governance and oversight of data management by all parties. Greater security of data and strengthened rights	As above. Strengthened governance and leadership of data management by all parties.

	improved trust and confidence. Increased confidence of partner nations and EU in independent, objective oversight of data management and alignment with EU Acquis.	of citizens, leading to improved trust and confidence. More clarity in respect of the roles of all parties involved.	Addresses gap in triggering of reviews of retention and deletion of data Greater security of data and strengthened rights of citizens, leading to improved trust and confidence. More clarity in respect of the roles of all parties involved.
Disadvantages	Additional cost of enhancing IDP role.	Investment of time and resources in identifying relevant individuals and upskilling them for the role.	Cost.
Actions required to progress	Implement draft legislation "On the protection of personal data". Identify additional resource required. Implement. Review.	Review and identify roles, working with IDP. Identify individuals occupying those roles. Implement by training and supporting individuals (see training). Review.	Review effectiveness of databases. Review effectiveness of oversight and management and/or proposed **new body.** Identify good practice models. Develop Albanian model. Implement. Review.

	Education/Training	**Public Awareness**
Description	**Recommendation 26:** Provide education and training to all those involved in the supervision and handling of data in forensic and biometric environments.	**Recommendation 27:** Undertake public awareness information campaign.
Anticipated impact	Greater understanding of data management, policies and requirements, and the roles and responsibilities of all involved. **This in turn leads to improved use of forensic and biometric data in the criminal justice system.**	Greater awareness of **personal and biometric** data held **by public authorities**, **what** safeguards **are** in place and **what** individual rights **are** in relation to data.

Advantages	As above. Strengthened governance of data management by all parties. More clarity in respect of the roles of all parties involved. Alignment with the EU Acquis. Greater potential for data sharing with international partners.	Strengthened understanding of rights of citizens. Greater recognition of safeguards that protect citizens. Improved trust and confidence. Challenge from citizens which in turn strengthens the management of data.
Disadvantages	Cost. Investment of time.	Cost. Risk if suitable safeguards and oversight does not exist.
Actions required to progress	Identification of relevant roles for targeting. Develop bespoke training which ranges from general awareness to role specific training. Implement. Review.	Consultation about what information gaps exist and how best to fill them. Develop campaign. Implement. Review.

11. Defence's right to information - Disclosure

11.1 Current Status

One of the key obligations for Albania's access to the EU is its compliance with the EU acquis guaranteeing procedural rights to citizens in criminal proceedings and the right to a fair trial. One such instrument is Directive 2012/13/EU on the right to information in criminal proceedings. As recognised by the Albanian government in its National Plan for the European Integration 2023 – 2025, the amendments to the Code of Criminal Procedure made in 2017 provided additional safeguards to suspects, arrestees or accused persons regarding the right to be informed. However, Directive 2012/13/EU has not been fully implemented in the Code. Particularly problematic is the terminology used which does not cover all the rights and guarantees prescribed by the Directive. According to the government report there is need to implement the directive more fully and accurately in the domestic legislation. [32]

Article 7 of the DIRECTIVE 2012/13/EU provides for the defence's right of access to the materials of the case:

> 1. Where a person is arrested and detained at any stage of the criminal proceedings, Member States shall ensure that documents related to the specific case in the possession of the competent authorities which are essential to challenging effectively, in accordance with national law, the lawfulness of the arrest or detention, are made available to arrested persons or to their lawyers.

[32] Republika e Shqiperise, Kryeministria, PLANI KOMBËTAR PËR INTEGRIMIN EVROPIAN 2023 – 2025 Available at https://www.drejtesia.gov.al/wp-content/uploads/2023/03/PLANI-KOMB%C3%8BTAR-P%C3%8BR-INTEGRIMIN-EVROPIAN-2023-2025.pdf page 127

> 2. Member States shall ensure that access is granted at least to all material evidence in the possession of the competent authorities, whether for or against suspects or accused persons, to those persons or their lawyers in order to safeguard the fairness of the proceedings and to prepare the defence.
>
> 3. Without prejudice to paragraph 1, access to the materials referred to in paragraph 2 shall be granted in due time to allow the effective exercise of the rights of the defence and at the latest upon submission of the merits of the accusation to the judgment of a court. Where further material evidence comes into the possession of the competent authorities, access shall be granted to it in due time to allow for it to be considered.

Numerous provisions in the Albanian Code of Criminal Procedure provide for the defence's right to access the case materials and for the prosecution's obligation to disclose case information. [33] As one of the judges highlighted, before a case reaches the court, the prosecutor presents the file to the defendant so that they can make a decision whether to apply for an abbreviated trial. According to Art 327 of CrPC:

> 1. After carrying out the necessary investigation actions, the judicial police shall send the acts to the prosecutor, together with an explanatory report on the act and evidence, as well as his/her suggestions on the conclusion of investigations.
>
> 2. The prosecutor shall, within the time limit provided for in Article 324 of this Code, notify the defendant, their defence lawyer, as well as the victim or their heirs, when their identity and domicile result from the proceedings acts, of the termination of the preliminary investigations.
>
> 3. The notice shall consist of a summarized description of the criminal act under proceedings, the time and location it has been committed, its legal qualification, the notice for depositing acts with the secretary and their right to access the acts and receive copies.
>
> 4. The defendant shall also be notified of their right to submit information and documents, within ten days, to request the prosecutor to carry out additional investigations, to make statements or ask to be questioned. In cases when the defendant asks to be questioned, the prosecutor has an obligation to proceed with their questioning.
>
> 5. When the prosecutor accepts the defendant's request to carry out additional investigations, they should be completed within 30 days from the date the request was submitted. This time limit may be extended only once, and no more than 2 months, but in any case, without exceeding the overall investigation time limits. When the request of the defendant is not accepted, the prosecutor issues reasoned decision, pursuant to paragraph 2, of article 110, of this code.

According to Art 323 of the Code the overall time limit to complete an investigation is 3 months, but the prosecution can extend this period in the circumstances specified in art 324.

Our research found that there are problems in practice. Defence lawyers raised significant concerns regarding a timely disclosure. They specified that the disclosure of all the relevant information is slow and inconsistent. It wholly depends on the discretion of the prosecutor and when approached for information their requests are at times ignored, the response is incomplete or delayed. The

---

[33] See for instance Criminal Procedure Code Art 34 (a); Art 34 (b); Art 327; Art 332 (a); Art 335; and Art 179 dealing specifically with the disclosure of expert evidence: 2. The ruling of the proceeding authority to appoint an expert shall be served to the defendant or his/her defence lawyer, informing him about his/her right to ask for exclusion of the expert, to propose other experts, to participate in the expert examination, when possible, and to ask present questions to the expert.

advocates pointed out that there are delays in receiving case information including expert reports, which make it difficult for the defence to adequately scrutinise them and to prepare for trial thus preventing the effective exercise of the defendant's rights according to Article 7 of the Directive 2012/13/EU paragraph 3. Furthermore, independent experts pointed out that sometimes the documents provided by the prosecution e.g. via a photocopy are not suitable to conduct an independent expert analysis, thus making disclosure ineffective.

Defence advocates were in favour of a minimum period of time for the defence to receive the completed prosecution file prior to trial to be prescribed by the Criminal Procedure Code as a remedy for delays and inconsistent practices.

We asked the prosecutors and judicial police participants specifically on the issue raised by the defence advocates regarding insufficient time to review case files. The attendees generally did not see any issues with the current procedures and practices. They responded that normally, the defence advocate is kept informed throughout the investigation and that the Criminal Procedure Code clearly stipulates the timescale for each part of the process.

In addition to Article 327 discussed above, Article 332/a deals with Court's preparatory actions:

> 1. The preliminary hearing judge shall notify the defendant and the victim or victim's heirs, when their identities and domiciles are known because of proceeding acts, informing them about the date, time and location where the hearing will take place. The judge shall also warn the defendant that the hearing will take place in their absence, if they fail to appear.
>
> 2. The hearing date shall also be notified to the Prosecutor and the defence lawyer of the defendant, informing the latter of the right to be acquainted with the deposited acts, as well as to submit information or documents. The prosecutor shall be invited to deposit all acts carried out after submitting the request to send the case to court.
>
> 3. The notifications pursuant to paragraphs 1 and 2 shall be made at least 10 days before the hearing date.

Note that the deadline on paragraph 3 is for the notification by the judge, not for the disclosure of the case file by the prosecution which in practice can occur later, thus not giving sufficient time to the defence to prepare. As confirmed by the defence advocates we spoke to, they would often access the prosecution file only a few days before the trial and sometimes the expert report would be accessed for the first time just before the trial or even during the trial.

Problems with Defence's right to information are also recognised by the European Commission in its Report SWD (2023) 690 which recommends that:

> On the right to information in criminal proceedings, the refusal or failure to grant access to a case file should be subject to judicial review, with effective remedies. [34]

11.2 Changes Required

In order to give confidence in the justice system and ensuring compliance with the EU acquis, which is imperative for Albania's EU integration, improvements in the disclosure process are essential to ensure effective defence's rights to information and a fair trial, in line with article 6 of the EHCR. Improvements in the defence's access to all evidence, but particularly to forensic evidence are necessary. This can be done by introducing clear minimum time limits in the Criminal Procedure

[34] European Commission, Brussels, 8.11.2023 SWD(2023) 690 final COMMISSION STAFF WORKING DOCUMENT Albania 2023 Report available at https://neighbourhood-enlargement.ec.europa.eu/document/download/ea0a4b05-683f-4b9c-b7ff-4615a5fffd0b_en?filename=SWD_2023_690%20Albania%20report.pdf page 39

Code for disclosure to take place from the completion of investigations to the first trial hearing. These time limits should be adequately long to ensure the effective exercise of the rights of the defence as per Directive 2012/13/EU. The quality of contemporaneous notes made, and appropriate retention policies should be improved as part of the work towards accreditation to ISO 17025 (see section 4).

In addition, the refusal or failure to grant timely access to a case file should be subject to judicial review, with effective remedies – a requirement enshrined in the Directive itself and highlighted by the EU commission in the above-mentioned report.

11.3 Recommendations

Recommendation 28: It is recommended that there are amendments by law to the current provisions of the Criminal Procedure Code, setting out clear minimum time limits for disclosure to take place between the completion of investigations and the first trial hearing. These time limits should be adequately long to ensure the effective exercise of the rights of the defence as per Directive 2012/13/EU.

Recommendation 29: Clear policies for making and appropriately retaining contemporaneous notes of scientific analyses should be implemented within all forensic science organisations.

12. Trust and Confidence

12.1 Current Status

Following our research and our workshops with a cross-section of relevant people from across the criminal justice system, there appear to be some challenges in respect of trust and confidence in forensic science experts. This in turn is likely to be problematic for the overall sense of confidence in the judicial and criminal justice system in Albania.

The concerns raised with us, giving rise to mistrust in forensics, may be divided into two broad headings: impartiality and competence.

Firstly, concerns with impartiality. Many respondents identified this as an issue, either voicing it as a concern they had, or recognising it as a concern for others. It was noted that the IPSH staff were police-employed and were often seen as a tool of the prosecution. It was proposed by one group that the IPSH should sit under the Ministry of Justice. The importance of civil, independent forensic investigation was identified (the Northern Ireland model was cited and others, such as Ireland and the Netherlands have been raised elsewhere in this report as potential examples).

The question of a Code of Ethics for forensic experts was raised, as was the potential for a professional body for Albanian forensic science. The latest European Council Group of States against Corruption (GRECO) Evaluation of Albania noted that:

> Part III of the State Police Regulation (art. 105 to 124) contains the ethical principles governing police activity and the rules of conduct applicable to police employees. Among them are the principles of legality, accountability, protection of public and citizen interests, equality and non-discrimination, proportionality of the use of force, impartiality, integrity and confidentiality.

However, it felt that these principles were worded in too general a way for practical application and recommended:

> that the ethical principles and rules of conduct contained in the State Police Regulation are complemented with a manual containing practical guidance that takes into account the State's Police specificity, variety of duties and vulnerabilities. [35]

Their evaluation, published last year, concluded that this recommendation had not been implemented. [36] It seems that there is little practical guidance for practitioners of forensic science as to the ethical standards and consequent behaviours that they should be adhering to.

Secondly, competence. It was said to us that where the prosecutor is concerned about an expert's report, it is difficult to determine whether there is a lack of competence or whether the expert has been influenced by one of the parties. There is also a mistrust of DNA results and forensic collision investigation. It was recognised that accreditation has not yet been achieved and that many experts practice their expertise across a range of disciplines, rather than one specialism. However, the structure of the legal framework means that challenge of forensic science is difficult – for example prosecutors control whether a second opinion can be sought, and defence advocates have little specialised criminal and forensic experience.

As well as a general lack of confidence, some specifics were also noted. For example: state experts are trusted more than independent experts and the courts sometimes seek additional expertise from experts from outside Albania, but it was felt by independent Albanian experts that the courts should have more trust in them. Advocates stated that if they have questions regarding an expert's report, they can ask the expert, but they find that the answers are often evasive and leave room for ambiguity.

The principle that not only must justice be done, but it must also be seen to be done, applies to forensic science, as much as it does in the rest of the criminal justice system. To that end the following areas should be considered in strengthening the perception and practice of forensic science:

- Quality Assurance and Accreditation
- Strengthening the Independence of Forensic Science
- Enhancing Transparency and Accountability
- Improving Access to Justice
- Tackling Corruption
- Public Awareness and Education
- Collaboration with partners

12.2 Changes Required

Building on the areas outlined above, in order to strengthen trust and confidence in Albanian forensic science the following areas should be explored:

12.2.1 Quality Assurance and Accreditation

It is important to ensure that accreditation for forensic science and quality assurance measures are put in place. Where Albanian forensic science can be clearly seen to meet a set of objective standards, especially where they are recognised internationally, then trust in its reliability will increase. These issues are dealt with in depth by workstream 1 of the FfA project and are considered in outline in section 4 of this report.

---

[35] GRECO 5th Round Evaluation Report 2020 pp 36-37

[36] GRECO 5th Round Compliance Report 2023 pp 16-17

12.2.2 Strengthening the Independence of Forensic Science

Ensuring that forensic science is conducted not by law enforcement, but autonomously from it, is a key aspect of establishing trust and confidence. This will help the function to avoid bias or undue influence, or allegations of bias and influence. As well as structural change (see section 3) this involves quality assurance and accreditation as indicated above. There is also value in developing guidelines for conducting forensic examinations in an objective and unbiased manner. To this end a legislative change is proposed below (section 12.2.8) which sees Article 178 of the Criminal Procedure Code amended, or a new provision (Article 178 A) inserted. This would impose a legal duty of objectivity and impartiality upon experts, requiring them to serve the purposes of the court and of justice. This duty is outlined in detail at Appendix 4A.

12.2.3 Enhancing Transparency and Accountability

Opening the field to scrutiny fosters trust in the integrity of forensic science. It can be achieved through activities detailed elsewhere in this report, for example by documenting and disclosing methodologies and procedures, and explaining both how they can be used and what their limitations are. Likewise, the mechanisms for independent review and scrutiny that are advocated in section 3 will develop confidence in the system.

12.2.4 Improving Access to Justice

Being able to access justice is a key part of Chapter 23 of the National Plan for European Integration, and issues surrounding who controls access to forensic expertise, the quality of the science available, and questions about the impartiality of the experts is something that we explore in section 14 of the report and so the recommendations are not duplicated here.

12.2.5 Tackling Corruption

Clearly perceptions of corruption, undue influence and partiality would harm trust and confidence in forensic science. Whilst it is seen as a lower risk area of business within the policing portfolio, there are still steps that can be taken. Some of these are dealt with in the corruption section, but in response to the challenge of some respondents, it would also assist scientists to develop or subscribe to codes of ethics and conduct. This would enable scientists and experts to detail a set of values that they subscribe to, and also to outline the behaviours that they display in course of their work. Codifying ethics and conduct in this way demonstrates to onlookers, and participants in the criminal justice system, what they can expect and provides clarity of purpose and direction to forensic practitioners.

An example of the potential content of such a code can be found in the England and Wales Forensic Science Regulator's Standards of Conduct, replicated in Appendix 4B. Likewise, the Council of Europe has published a Recommendation on Codes of Conduct for Public Officials. Each of these provides helpful detail of suitable behaviours. Whilst it is also noted that there are some broad-brush principles in Police Regulations, it appears that these have not been fleshed out in guidance; and in any case, if forensic scientists are to have a degree of separation from policing, it seems sensible to develop bespoke principles for them. Appendix 4C contains the information displayed at workshops describing the 'Hallmarks of an effective ethical regime'.

12.2.6 Public Awareness and Education

Communicating with the public, and other key constituents such as legal professionals, policy makers, victims' groups etc., about the capacity, capabilities and limitations of forensic science should lead to greater understanding and better-informed decision-making, thereby building trust in forensic evidence. It is therefore proposed that public outreach initiatives are developed which provide this form of information and education. Examples could include: publications and brochures, the broadcasting of news stories and documentaries, briefings for targeted groups of people, a National Forensic Science Week (as in the USA), public lectures and seminars, and so on.

12.2.7 Collaboration with partners

There is great value in developing strong relationships which promote knowledge sharing and help practitioners stay abreast of best practice whilst identifying areas for improvement. This should include collaborative research, peer review and, when allied with international partnerships, will support capacity building and help in incorporating global advancements into practice. This activity in turn promotes confidence in the openness of the forensic science sector to evolve and improve. Recommendations in respect of this collaborative approach can be found in sections 3.3.1 and 9.

12.2.8 Recommendations

Table 7: Proposed changes to improve trust and confidence in forensic science.

	Amend Criminal Procedure Code	**Code of ethics and conduct**	**Public Awareness and Education**
Description	**Recommendation 30:** Consider an amended Article 178 of the Criminal Procedure Code or a new provision, Art 178A, which imposes a legal duty of objectivity and impartiality upon experts.	**Recommendation 31:** Identify/develop, and ensure adherence to, codes of ethics and conduct – outlining the values that forensic scientists work to, and the behaviours they display.	**Recommendation 32:** Develop public outreach initiatives which provide information and education explaining and celebrating forensic science.
Anticipated impact	The objectivity and impartiality of experts is prescribed in law and enforceable. Sends a clear message about their role as servants of the court and the rule of law. Results in greater transparency and credibility of experts.	Demonstrates to onlookers and participants in the criminal justice system what they can expect of experts. Provides clarity of purpose and direction to forensic practitioners. Results in greater transparency and credibility of experts	Greater understanding of forensic science and forensic evidence. Better-informed decision-making. Increased trust in forensic science and the evidence it provides to court. Increased trust in Albanian justice.
Advantages	As above. Increased trust and confidence. Further step towards EU Acquis compliance.	As above. Greater clarity of purpose and direction. Increased trust and confidence.	As above. Potential for more applicants to become forensic scientists.
Disadvantages	Time and resource to draft and implement change to Code. Potential loss of some experts unable to meet required standard.	Time and resource to draft and implement Codes of ethics and conduct.	Time and cost.
Actions required to progress	Consult and draft updated/new provision. Pass legislation. Implement and publicise.	Consult and draft Codes. Implement and publicise.	Undertake needs analysis. Devise programme. Implement and review.

13. Tackling Corruption

13.1 Current Status

Corruption remains one of the most significant challenges facing Albania, and the nation currently sits at 98 out of 180 in Transparency International's Corruption Perceptions Index, [37] a well-regarded global indicator of public sector corruption. Clearly this is a barrier to EU Accession and the latest European Commission report on accession observed that:

> Albania has some level of preparation in the fight against corruption. Despite some progress and continued efforts in fighting corruption, including a number of high level convictions and financial investigations at high level, it remains an area of serious concern. Anti-corruption measures continue to have a limited impact in particularly vulnerable areas. Corruption remains prevalent in the health and property sectors and within the police. Targeted action is urgently needed. Internal checks and inspection mechanisms in the public administration remain weak and ineffective. [38, 26]

It went on to state that: "The sectors that are most vulnerable to corruption require targeted risk assessments and dedicated actions" and then recommended that the Albanian government:

> adopt a new anti-corruption strategy to effectively curb corruption, including dedicated action plans and indicators for the sectors most vulnerable to corruption, and address effectively the recommendations of the Council of Europe's Group of States against Corruption (GRECO) [38]

In respect of GRECO's recommendations, we explore in section 12 the recommendation relating to ethical principles and rules of conduct which are contained in the State Police Regulation. GRECO found that there was an absence of a manual containing practical guidance. The lack of an effective, bespoke, code of ethics and conduct is a gap which needs to be filled and is dealt with in that section. In addition, GRECO spent some time exploring the vetting situation and stated:

> Therefore, the GET [GRECO Evaluation Team] is convinced that the current transitional vetting process should be replaced by a mechanism for assessing the integrity of staff on a regular basis throughout their career and for the purposes of promotion. In the meantime, and at the very least, transitional vetting should focus on the functions more exposed to integrity risks. **GRECO recommends i) that the functions more exposed to integrity risks are prioritised during the vetting process, in relation with the integrity plan and other existing risk management tools; and ii) that checks on candidates' integrity are carried out in the context of changes of post and promotion and at regular intervals over the course of police staff's careers.** [39]

Its subsequent evaluation found that:

> As regards part (ii), GRECO welcomes that the proposed legislative amendments provide for periodic vetting, every five years, for the staff members who have undergone the initial vetting. In addition, it should point out that the requirements of part (ii) also demand that the authorities carry out checks on candidates' integrity in the context of changes of post and promotion. In these circumstances, GRECO considers that this part of the recommendation has not been complied with more than partly.

---

37 https://www.transparency.org/en/countries/albania

38 European Commission (2023). *Albania 2023 Report.* Brussels. Commission Staff Working Document. pp 24-25

39 GRECO 5th Round Evaluation Report 2020 p42

This absence of vetting affects forensic scientists. The general picture is that policing has been assessed to be vulnerable to corruption, but staff in the IPSH were not considered to be amongst the higher risk policing functions, and reports of the corruption of forensic scientists are not frequent. The corruption profile of policing, and the judicial system, is likely to feature bribery, favours, the misuse of public funds or assets, abuse of power, tampering with evidence or use of violence. Senior officers, the narcotics and drug-trafficking department and the Traffic Police are seen as being amongst the functions at the highest risk of corruption. [40]

It was however, pointed out to us in one workshop that where the prosecutor is concerned about an expert's report, it is difficult to determine whether there is a lack of competence or whether the expert has been influenced by one of the parties in the case. We were also told that in the General Prosecution Office Report on Criminalistics (2022), [41] 16 cases of false expertise were identified, and so far one expert has been sentenced following prosecution.

So, whilst it is understood that forensic science is seen as a lower risk for corruption than other potentially high risk areas, and therefore forensic scientists are a lower priority for vetting, it is not the case that there is no vulnerability in this field.

We have found that there are some gaps to be filled.

Firstly, the understanding of the corruption vulnerabilities in forensic science is limited – there is little reference to it in the literature relating to corruption. However, some colleagues suspect (or are uncertain) that it is at play, and some scientists have been investigated and convicted as a result of their false reports.

Secondly, there is the lack of clear code of ethics and conduct issue, which is dealt with elsewhere in this report (section 12) and therefore not subject of comment here.

Finally, there is the vetting issue. Amendments to the Police Vetting Act have specifically identified the functions more exposed to integrity risks, who will be subject to the initial and periodic vetting process. This does not at this point include forensic science, but the GRECO report makes it clear that there should be an expansion of vetting across the public sector, and it is acknowledged that policing and criminal justice are generally high-risk sectors.

13.2 Changes Required

13.2.1 Targeted Assessment

In order to give increased confidence in the integrity of forensic evidence, it is important to develop a clear picture of the nature of the corruption threat. Without a clear understanding of the challenges it is hard to plan for or mitigate the risk. We recommend therefore that an assessment of the current prevalence of, and potential for, corruption in the forensic science field is undertaken and any mitigation required is put in place. This should be independent of the IPSH and State Police in order to guarantee an objective review.

13.2.2 Vetting

Given the observations on vetting above it is our opinion that, if forensic science is to be beyond reproach, forensic science staff employed by the state should be subject to a vetting process to continually ensure their integrity. This should occur both on recruitment and then at five-yearly intervals, or on promotion or change of post. Whilst, given the resource implication, it is not expected that this will happen immediately, it is suggested that a reasonable timetable is outlined. It might also

---

[40] Institute for Democracy and Mediation - Police Integrity and Corruption in Albania 3.0 2020

[41] We have thus far been unable to locate the source document referred to by our working group participant.

be that this timetable is brought forward if the assessment of the threat of corruption changes following the review proposed above.

Biometric vetting, whereby fingerprints and DNA of prospective forensic scientists are taken and checked against the fingerprint and DNA databases prior to offers of employment, would form a helpful part of the vetting process on appointment.

13.2.3 Recommendations

Table 8: Recommendations to reduce the risk of corruption affecting forensic science.

	Targeted Assessment	**Vetting of Staff**
Description	**Recommendation 33:** An independent assessment of the current prevalence of, and potential for, corruption in the forensic science field.	**Recommendation 34:** Forensic science staff employed by the state to be subject to vetting on recruitment and at five yearly intervals, on promotion or change of post. Biometric vetting is recommended on recruitment.
Anticipated impact	Understanding of the corruption vulnerabilities in forensic science. Clarity about the action required to mitigate the threat. Increased confidence in the integrity of forensic evidence.	Identify and mitigate/remove corruption vulnerabilities in forensic science workforce. Fewer investigations and convictions for false expertise. Increased confidence in the integrity of forensic evidence.
Advantages	As above. Improved quality of expert scientific evidence. Greater alignment with EU Acquis.	As above. Improved quality of expert scientific evidence. Greater alignment with EU Acquis.
Disadvantages	Cost and time.	Significant resource and time implication.
Actions required to progress	Commission and undertake Assessment. Review and implement follow up actions.	Consult on how to bring forensics into the vetting regime. Outline timescales and implement. Review.

Responses to recommendation 34: the Institute of Legal Medicine agrees with the recommendation for the vetting process of forensic experts.

14. Human Rights

14.1 Current Status

14.1.1 EU Accession Considerations

Human rights are an important underpinning of the work of the criminal justice sector and thereby forensic science. In relation to Judiciary and fundamental rights, the 2023 EU Accession Progress Report notes that:

> The EU's founding values include the rule of law and respect for human rights." It makes it clear that this is a key area for Albania in respect of its application for EU membership. The Commission found that "Albania's legal framework sets out an overall good basis for the protection of fundamental rights. However, overall efforts at implementation of the legal and policy frameworks need to intensify. [42]

It found that there is still work to do to bring the legislation to life in some areas. This was described in the latest United States State Department Country Report on Human Rights Practices in Albania, which identified that:

> Significant human rights issues included: problems with the independence of the judiciary as it continued to undergo vetting; restrictions on free expression and the press; and pervasive corruption in all branches of government and municipal institutions. [43]

Other areas of concern raised in the commentary on this subject include gender inequality, gender-based violence, and discrimination against minority groups such as LGBTQI, disabled, and Roma groups. It should also be acknowledged that progress has been made in Albania in respect of human rights, particularly in the development of legal reforms, action plans and awareness campaigns.

Forensic science is not specifically identified in the literature, but as one of the judges we spoke to explained, the criminal justice system in Albania is aiming to achieve fair justice: to convict the guilty and acquit the innocent. Defence advocates were less convinced that the justice system was working effectively in this regard. Forensic science has an important part to play as it can exclude suspects from the crime or link them to it.

In respect of criminal justice, the Albanian National Plan for European Integration includes a 2021-2025 Cross-Sectoral Strategy for Justice, and its action plan has four policy goals, one of which is particularly relevant here:

> *Policy Goal 3:* A criminal justice system based on modern principles of justice, which guarantees resocialization, reintegration, and rehabilitation, as well as respect for human rights and freedoms and gender equality within an integrated approach and with solid prevention of crime practices. [44]

14.1.2 European Convention on Human Rights [45]

Forensic science engages several of the articles which are considered below.

14.1.2.1 Article 6: Right to a Fair Trial

In order to achieve a fair trial, forensic evidence must be obtained and presented fairly and impartially. This prevents miscarriages of justice and ensures that the courts, including both prosecution and defence, have access to accurate and reliable forensic science.

---

[42] EU Report on Albanian Accession Progress 2023 pp 18 & 28

[43] United States State Department (2022) 2021 Country Report on Human Rights Practices: Albania

[44] Albanian National Plan for European Integration p65

[45] European Court of Human Rights. (2021) European Convention on Human Rights. Strasbourg.

An important element of this right is an individual's right to legal representation and assistance, described in Article 6 as

> the right…
>
> (b) to have adequate time and facilities for the preparation of his defence;
>
> (c) to defend himself in person or through legal assistance of his own choosing...[46]

This right to legal representation and assistance should exist throughout the investigation and subsequent prosecution and should include access to competent legal counsel who is able to challenge forensic evidence effectively.

Our field work demonstrated some significant issues in respect of the fair balance of representation and access to justice, described as Equality of Arms.

Equality of Arms

During our consultation our respondents observed the following:

The judiciary recognised that it is the responsibility of the court to scrutinise the investigation, but questioned whether there can be equality of arms if the majority of expertise lies in police institutions.

Defence advocates observed that they experience several disadvantages, including:

a) Timeliness

Advocates sometimes get the prosecution file very close to the court date, and we heard examples of the defence receiving expert reports while at court which gave the advocate and defendant no time to properly review the evidence.

b) Second Opinions

Defendants can experience difficulty in getting a second expert opinion on forensic evidence. The IPSH draft strategy notes that cumbersome procedures to pay for expert examination acts when a decision is taken by the court to make free payments from the Legal Aid Department are problematic. In DNA cases obtaining a second opinion that is truly independent from the first is difficult, as there is little capacity outside IPSH and the experts within IPSH work in a small team.

Investigators and prosecutors pointed out that a defendant is able to request their own expert: and this happens many times. They conceded that the second expert may also be from the IPSH, but not always. Sometimes, they explained there may be three experts hired in a case and then there is a subsequent evaluation of the evidence by the IPSH.

Independent experts expressed a general feeling that independent expertise is not appreciated by courts and prosecutors. They observed that the criteria for being an expert differ between the IPSH and the Ministry of Justice register of experts. Also, they stated that independent experts do not have the same rights before the courts as police experts, and that when the defence require the court to order a second opinion often the court will often appoint another police expert.

This led to a general feeling that the use of expert scientific opinion tends to serve the prosecution and not be used in the fair and balanced way that is intended by the ECHR.

c) Advocate experience and training.

It was noted that defence advocates are drawn from a pool of general practitioners who rarely specialise in criminal defence work. This limited experience particularly extends to forensic science, which is a highly specialised discipline, and is compounded by a lack of training or

[46] EHCR Article 6 section 3

continuous professional development. Additionally, it was also pointed out that fees for advocates have remained unchanged since 2005.

If a key tenet of article 6 is access to competent legal counsel who can challenge forensic evidence effectively; the data presented to us suggests that the Albanian system is falling short of achieving that.

All in all, the picture given to us is of one where the defendant is at a disadvantage compared to the prosecution when it comes to the timely provision and effective scrutiny of forensic evidence, supported by experienced and highly trained advocacy.

14.1.2.2 Article 8: Right to respect for private and family life

When considering an individual's right to privacy: it is recognised that forensic procedures can involve the collection and analysis of personal data, including biometric samples and data. In the data section of this report (section 10), we cover the importance of safeguarding citizens' right to privacy by ensuring that forensic practices comply with data protection laws and international human rights standards. This particularly requires the organisation and protection of forensic databases, and adherence to data retention and disposal policies, in order to protect the privacy of individuals.

14.1.2.3 Article 14: Prohibition of discrimination

Forensic science should be undertaken and presented without discrimination, and it is important to address systemic biases and ensure that forensic practices do not contribute to discrimination or inequality in the criminal justice system. We were presented with some evidence in respect of failings in forensic practices in the following areas:

14.1.3 Gender Inequality and gender based violence

Issues of gender inequality continue to be an issue for the nation as a whole, [47] and this is reflected in the findings of our consultation.

Advocates noted that it can be challenging for female advocates if in court they are facing a male judge, male prosecutor, and male expert (as is often the case).

In our working groups female representation was generally low; for example, only one of the independent scientists attending was female. The IPSH is a male dominated organisation, aside from the biology and chemistry sections (where the intake is made up of specialists from universities rather than via police recruitment), and all the IPSH Directors to date have been male.

Advocates also raised an issue which might impact on the protection of the vulnerable, in that interpreters can be unavailable in some cases. This means that the special safeguards that should be in place to protect the rights of those who cannot understand proceedings are not in place, infringing the rights of the disadvantaged person. The problems this causes are exacerbated in scientific cases, given their complexity, and the right to a fair trial is compromised.

Members of the project team also participated in a Gender Equality and Social Inclusion (GESI) workshop which confirmed the general findings of the UNDP Violence against Women Project that "In Albania, violence against women and girls remains a very concerning issue". Related survey work in 2018 by the National Population Survey, Violence Against Women and Girls in Albania, concluded:

> Data in this report provides evidence that VAWG in Albania is widespread. Given the data, VAWG cannot be seen as a marginal issue that touches only some women's lives in Albania. VAWG affects the majority of women, as well as results in children's exposure to violence in

[47] United Nations Development Programme - End Violence Against Women in Albania, available at: https://www.undp.org/albania/projects/un-joint-programme-end-violence-against-women-albania-evawia (accessed 06/03/2024)

the home, particularly when children witness violence against their mothers and become direct and/or indirect victims of domestic violence.[48]

The findings of the GESI workshop were that, despite some encouraging pilot work, there is insufficient provision of support and forensic medical examination facilities for victims of gender-based violence and sexual violence. Centres exist in Fier, Shkodër and Tirana, but victims of these forms of violence need access to safe locations where they will be examined in a sympathetic way, with appropriate medical facilities.

Victims should also have the choice to be examined by a physician of their own gender, which is currently not possible due to the lack of female medical examiners.

The provision of integrated forensic medical investigation, health and wellbeing appears to be in its infancy and there is still work to be done to improve in this area.

The IPSH lacks the equipment to perform the optimal DNA extraction procedure for many sexual assault cases, which would assist in separating male from female DNA.

14.2 Changes Required

Many of the issues in the Human Rights area are naturally crosscutting with other areas covered in this report, and to avoid duplication we will highlight where recommendations to tackle challenges have been made elsewhere.

14.2.1 Equality of Arms

Timeliness

The defence not having sufficient time to review expert reports undermines the criminal justice process and fair access to justice for defendants. It is likely to result in poorer outcomes and will impact on Albanian alignment with Chapter 23 of the National Plan for European Integration (see section 11 and recommendation therein).

Second opinion

The issues surrounding defendants having trouble in getting a second opinion are multi-faceted.

Advocate experience and training

Many of the issues surrounding the challenges of sourcing appropriate expertise and developing capacity are dealt with in sections 5, 6 and 7 of this report.

Training and equipping of those involved in the court system, particularly the judiciary and defence advocates, will encourage greater use of expert opinion and scrutiny of forensic evidence. The training and equipping of participants in the criminal justice system has been dealt with in section 6.

14.2.2 Right to respect for private and family life

Issues relating to privacy and forensic procedures can involve the collection and analysis of personal data, as well as biometric samples and data. These issues are dealt with in section 10.

[48] INSTAT (2019) National Population Survey, Violence Against Women and Girls in Albania, 2018. Tirana. p125

14.2.3 Gender Inequality and gender-based violence

Measures to promote careers in forensic science for women and to improve gender equality have been touched on in section 5.

The outcomes of the GESI workshop are reported separately elsewhere with recommendations, but it seems clear that greater capacity needs to be developed to cater for the investigative, health and wellbeing needs of victims of gender-based violence and sexual assault.

Investing in sexual assault referral centres and forensic medical examiner capacity, and in the technology to better examine evidence in sexual assault cases would improve service to victims of gender-based and sexual violence, improve the quality of evidence and increase victim confidence in the criminal justice system, in addition to providing greater alignment with EU Acquis.

14.3 Recommendations

Recommendation 35: It is recommended that more capacity is developed for forensic medical investigation in a combined health and wellbeing setting for victims of gender-based violence and sexual assault.

Recommendation 36: It is recommended that the equipment, consumables and skills necessary for the IPSH to provide more effective analysis of samples from victims of sexual assaults [49] is provided.

15. Legal and Procedural Aspects

This section considers legal and procedural changes in relation to the content of expert reports, judicial scrutiny of expert reports, provisions concerning the integrity and continuity of evidence, drug driving offences, collection of samples and the Albanian National DNA Database, as well as the harmonisation of the Albanian legal framework with the EU acquis in the fields of cybercrime, sexual offences against children and drugs.

15.1 Expert Reports

15.1.1 Current Status

The Institute of the Scientific Police operates based on its Internal Regulation which is approved by the Minister of the Interior. Article 16 of the Regulation details the types of criminalistic expert analysis conducted at the Institute and article 18 details the rules applicable by the experts when conducting expert analysis. The Regulation does not deal with the form and the content of an expert report.

The draft law "On the organisation and functioning of the medico-legal service in the Republic of Albania' on the other hand, proposes in article 44 a set of requirements for the form and content of a medico-legal expert report, thus acknowledging its importance.

The Institute of Legal Medicine noted that it has standard procedures on the drafting of various forensic expert reports (forensic medical expert report, forensic toxicological expert report, forensic psychiatric expert report, forensic biological expert report). The introductory part of the expert report indicates the expert carrying out the expert examination, miscellaneous information about the subject of the expert examination, the circumstances of the case and the questions that must be answered. The narrative -explanatory part of the expert report indicates a detailed description of the examination steps and all the results obtained during this process substantiated on scientific

[49] This would include a centrifuge to enable differential extraction of DNA from sperm, Y chromosome DNA analysis kits and training, as a minimum.

arguments. The conclusion indicates the accurate and unambiguous findings of the examination in response to the questions.

Both the Institute of Scientific Police and ILM experts confirmed that every expert report is accompanied by a statement with reference to Article 183 of the Criminal Procedure Code.

Judges, advocates, prosecutors and investigators we spoke to, raised the issue that greater clarity is needed in Expert reports. They pointed out that expert reports often lack the information necessary to evaluate the quality of the evidence and to enable the court to determine its admissibility and probative value. We were told that at times it is not clear how the expert has arrived at particular conclusions; the conclusions are not clear and do not follow from the explanatory part of the report; the language used leaves room for different interpretations to be given to expert findings and conclusions.

Participants agreed that it would be beneficial to prescribe the form and the content of an expert report in the Criminal Procedure Code.

15.1.2 Changes Required

In order to give confidence in the reliability of forensic evidence, to improve the quality of expert reporting, to ensure harmonisation and to facilitate the judicial scrutiny of the evidence it is recommended that the Criminal Procedure Code prescribes clearly the form and content of the expert report.

We propose, as a starting point for discussion, the following new provision regarding the form and content of an Expert's Report to be added to Part VI of the Criminal Procedure Code:

Proposed Article 185 A:

1. An expert's report should be addressed to the court and not to the party or proceeding authority from whom the expert has received instructions.

2. An expert's report must:

(a) give details of the expert's qualifications, relevant experience and accreditation;

(b) give details of any literature or other information which the expert has relied on in making the report;

(c) contain a statement setting out the substance of all facts given to the expert which are material to the opinions expressed in the report, or upon which those opinions are based;

(d) make clear which of the facts stated in the report are within the expert's own knowledge;

(e) where the expert has based an opinion or inference on a representation of fact or opinion made by another person for the purposes of criminal proceedings (for example, as to the outcome of an examination, measurement, test or experiment)—

(i) identify the person who made that representation to the expert,

(ii) give the qualifications, relevant experience and any accreditation of that person, and

(iii) certify that that person had personal knowledge of the matters stated in that representation;

(f) where there is a range of opinion on the matters dealt with in the report—

(i) summarise the range of opinion, and

(ii) give reasons for the expert's own opinion;

(g) if the expert is not able to give an opinion without qualification, state the qualification;

(h) include such information as the court may need to decide whether the expert's opinion is sufficiently reliable to be admissible as evidence;

(i) contain a summary of the conclusions reached;

(j) contain a statement that the expert understands an expert's duty to the court, and has complied and will continue to comply with that duty; and

3. An expert's report must be verified by a statement of truth in the following form:

"I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I understand that criminal proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth."

The third paragraph of the proposed article 185/a may also require an amendment of article 183 of the Criminal Procedure Code.

15.1.3 Recommendations

Recommendation 37: A new provision regarding the form and content of an Expert's Report is recommended to be added to Part VI of the Criminal Procedure Code. Suitable wording for a proposed Article 185 A is given in section 15.1.2.

15.2 Judicial scrutiny of expert evidence including scientific evidence

15.2.1 Current Status

As pointed out by the legal participants, expert evidence as any other type of evidence is subject to the court scrutiny where the judge will decide on its admissibility and probative value / weight. A decision will ultimately be made based on the evidence presented in the case.

Article 149 (1) defines evidence as:

> the information on the facts and circumstances related to the criminal offence, which are obtained from sources provided for by the criminal procedural law, as well as in compliance with the rules defined by it, and serve to prove whether the criminal offence was committed or not, its ensuing consequences, the guilt or innocence of the defendant the level of his/her accountability.

According to art 149 (2):

> If evidence is requested and it is not regulated by law, the court may introduce it if it is deemed suitable to determine the facts and does not compromise the moral freedom of the person. After hearing the parties on the methods for gathering evidence, the court shall decide on the admission of evidence.

Expert evidence is dealt with specifically in part VI of the CrPC. There are no specific criteria (i.e. a statutory test) regarding the admissibility and evaluation of the probative value of the expert

evidence by the court, however adopting a broad interpretation of the existing CrPC provisions arguably there is a recognition that expert evidence, as any other evidence, should be relevant to a matter in issue in the proceedings (art 151 (2) CrPC); that it is needed to provide the court with information likely to be outside the court's own knowledge and experience (art 178 (1)) and that the expert should be competent to give that opinion (Art 179 (1))

According to Article 151:

> 1. During preliminary investigations, evidence shall be admitted by the proceeding authority, in compliance with the rules provided for by this Code.
>
> 2. In trial, evidence shall be admitted upon request of a party. The court shall promptly decide, excluding any evidence that is not allowed by law or manifestly irrelevant.
>
> 3. Evidence gathered in violation of the prohibitions set out by law shall not be used. The exclusion of evidence may be declared also ex officio at any stage and instance of the proceedings.

As confirmed by a Court of Appeal judge, re-examinations of forensic evidence in the Court of Appeal take place frequently. According to Art 427 (1):

> If a party in the act of appeal or in its completion, requests the re-obtaining of the evidence allowed during the court examination at first instance or obtaining of new evidence, the court, if it deems that it cannot decide in the current state of acts, repeats the trial.

In addition art 427 (4) provides that:

> When the defendant has been declared innocent, the Court of Appeal may not declare him guilty based only on a different evaluation of the evidence obtained at the first instance trial. In this case the court of appeal shall repeat the trial.

According to our respondent in such cases, the original expert may be called, particularly if their Act of Expertise has been challenged. A new report can be prepared, instructing new experts if necessary.

As confirmed by the prosecutors we spoke to, expert questioning in trial proceedings is rare and under the Criminal Procedure Code experts can be questioned in court only about what is in their Act of Expertise. They do not currently have the status of the witness, as expert witnesses have in other jurisdictions, which could be beneficial and allow for a greater scrutiny of the expert evidence in criminal trials.

Article 152 of the Criminal Procedure Code deals with the evaluation of evidence and specifies that:

> No evidence shall have a value predetermined by law. After examining each piece of evidence in their entirety, the court shall evaluate their authenticity and probative value, specifying the reasons at the grounds of its judgement. (paragraph 1)

As confirmed by our respondents from the judiciary this is a challenging task, made even more difficult from the fact that at present, there are no criteria in the CrPC or any judicial guidance to aid the judiciary in scrutinising and evaluating expert evidence, in deciding regarding its reliability and weight (i.e. its 'probative value'). This is a major issue gaining importance considering recent technological developments and new forms of methods and expertise that increasingly are being engaged for the purposes of criminal proceedings.

Expert evidence plays a unique role in assisting the court with specific, technical, scientific knowledge therefore it has the capacity to greatly influence the decisions of the proceeding

authority during the investigative stage as well as of the court during the trial process.[50] The international practice reveals a great number of miscarriages of justice attributed to erroneous and unreliable expert evidence.

15.2.2 Changes Required

In order to give confidence in the reliability of forensic science, and to improve the judicial scrutiny it is necessary to provide clear criteria based on which decisions on the admissibility and weight of scientific evidence are made.

We recommend below several factors which the court may take into account in determining the reliability and ultimately weight/ probative value of the expert evidence. We propose that a new provision is added to the Criminal Procedure code specifying the following, or similar:

(proposed) Article 185 B

Factors which the court may take into account in determining the reliability and probative value of the expert opinion, in particular of the scientific expert opinion:

(a) the extent and quality of the data on which the expert's opinion is based, and the validity of the methods by which they were obtained;

(b) if the expert's opinion relies on an inference from any findings, whether the opinion properly explains how safe or unsafe the inference is (whether by reference to statistical significance or in other appropriate terms);

(c) if the expert's opinion relies on the results of the use of any method (for instance, a test, measurement or survey), whether the opinion takes proper account of matters, such as the degree of precision or margin of uncertainty, affecting the accuracy or reliability of those results;

(d) the extent to which any material upon which the expert's opinion is based has been reviewed by others with relevant expertise (for instance, in peer-reviewed publications), and the views of those others on that material;

(e) the extent to which the expert's opinion is based on material falling outside the expert's own field of expertise;

(f) the completeness of the information which was available to the expert, and whether the expert took account of all relevant information in arriving at the opinion (including information as to the context of any facts to which the opinion relates);

(g) if there is a range of expert opinion on the matter in question, where in the range the expert's own opinion lies and whether the expert's preference has been properly explained; and

(h) whether the expert's methods followed established practice in the field and, if they did not, whether the reason for the divergence has been properly explained.

2. In addition, in considering reliability, and especially the reliability of expert scientific opinion, the court should be astute to identify potential flaws in such opinion which detract from its reliability, such as:

---

[50] On these issues see Sallavaci, O (2014) The impact of the scientific evidence on the criminal trial: the case of DNA evidence Routledge: London ISBN 978-0-415-72020-5 https://doi.org/10.4324/9781315849782

(a) being based on a hypothesis which has not been subjected to sufficient scrutiny (including, where appropriate, experimental or other testing), or which has failed to stand up to scrutiny;

(b) being based on an unjustifiable assumption;

(c) being based on flawed data;

(d) relying on an examination, technique, method or process which was not properly carried out or applied, or was not appropriate for use in the particular case; or

(e) relying on an inference or conclusion which has not been properly reached.

The proposed changes would be anticipated to bring about improved quality and judicial scrutiny of expert evidence.

15.2.3 Recommendations

Recommendation 38: It is recommended that a new provision is added to the Criminal Procedure code, specifying factors which the court may take into account in determining the reliability and ultimately weight/ probative value of the expert evidence. Suitable wording for a proposed Article 185 B is given in section 15.2.2.

15.3 Abbreviated trials

15.3.1Current Status

Another problem concerning the judicial scrutiny of the forensic evidence relates to cases where a defendant has requested an abbreviated trial. As confirmed by the prosecutors, judges and advocates we spoke to, the majority of criminal trials in Albania take the form of abbreviated trials where the defendant agrees to be tried on the evidence as is in the prosecutor's file, in return for a shorter sentence. The procedure is specified in Section II of the Criminal Procedure Code.

One of the judges we spoke to pointed out that, when the court scrutinises the prosecution file, if scientific evidence for example is found to be incomplete or unreliable, the judge can refuse the request for an abbreviated trial and request a new examination to be conducted. This however means that the process will then take place in a full trial and consequently, the defendant loses the sentence reduction afforded by the abbreviated trial.

According to Article 405 (7):

> "The request for abbreviated trial shall not be admitted if the defendant or his defence lawyer raise claims on the validity of the acts or usability of the evidence collected during the preliminary investigation or when new evidence is required to be taken in trial. The request for abbreviated trial shall not be admitted if the Court *ex officio* finds an absolute invalidity or non-usability of evidence, as a result of which it deems that the case may not be resolved under the existing state of the acts. In this case, in its decision refusing the request, the court shall also identify the acts which are absolutely invalid or the pieces of evidence which are non-usable in trial. This rule shall not apply if evidence concerning the character of the defendant, or his personal, family or economic conditions is requested."

15.3.2 Recommendations

In order to uphold the integrity of the criminal justice system, fairness of the proceedings and avoid miscarriages of justice we propose (**Recommendation 39**) a change in the current Criminal Procedure Code that in cases where the judge believes the file or evidence to be inadequate and returns it for further examinations, the defendant be afforded a reduction in sentencing if after the re-examination they wish to proceed with an abbreviated trial.

15.4 Continuity and integrity of evidence

15.4.1Current Status

Expert respondents raised concerns with regard to the continuity, integrity and ultimately reliability of evidence. They pointed out that these requirements are not enshrined in the Criminal Procedure Code and that the procedures/ protocols related to these aspects for instance in terms of packaging, storage, transport, time-limits etc are not respected by the proceeding authorities either due to lack of resources, lack of awareness or negligence.

Experts in the field of toxicology and drugs analysis highlighted the Joint Instruction of the General Prosecutor, the Minister of the Interior, the Minister of the Environment and the Minister of the Public Health no 2487 of 15/05/2017 [51] which details the requirements concerning the chain of evidence from the collection, storage, transport, to the destruction of narcotic and psychotropic substances and their precursors. The Joint Instruction seeks to align the domestic legislation with the International legal requirements, best practice and the EU acquis in this area. The toxicology experts however pointed out the limited applicability of the Joint Instruction to a. solely the narcotic and psychotropic substances and their precursors i.e. not to any other type of evidence, b. samples analysed at the Institute of the Scientific Police only, i.e. not at the Institute of Forensic Medicine (IFM) for instance. We were informed that IFM applies its own Technical Specifications concerning the collection, packing, transport and delivery of the material evidence for medico-legal expert analysis at the Institute. [52]

According to article 179 (4) of the Criminal Procedure Code:

> The expert shall be obliged to perform the entrusted task, except for the cases where grounds which exclude him from being an expert exists, or when he claims not to be competent or not to be able to carry out the expert examination and his/her request is accepted by the proceeding authority.

Even though in principle an expert may refuse to examine samples that have been damaged or degraded, our respondents emphasised that often this is met with resistance from the proceeding authority who will order the examination without taking into account the observations noted by the experts with regard to the quality of samples. The respondents noted a lack of awareness and responsibility on behalf of the investigators and prosecutors, in how the requirements for the integrity and continuity of the evidence may impact the quality of the evidence itself, the expert examination and the subsequent decisions made by the proceeding authority, defence or the court.

ISO 17025 requires that, if a customer insists on an item being examined despite a question over its suitability, the resulting report must include a disclaimer, indicating which results may be affected by the deviation from accepted conditions.

15.4.2 Recommendations

Given the importance that the continuity and integrity of the evidence has for the criminal proceedings and given that it is reflected directly in the quality, validity and reliability of forensic expert evidence we propose (**Recommendation 40**) that the Criminal Procedure Code be amended to:

---

[51] Udhezimi i perbashket i Prokurorit te Pergjithshem ,Ministrit te Puneve te brendeshme,Ministrit te Mjedisit dhe Ministrit te Shendetesise* nr 2487,date 15/05/2017

[52] Specifikimet teknike në lidhje me marrjen, ambalazhimin, transportin dhe dorëzimin e provave materiale për ekspertim ligjor në Insitutin e Mjekësisë Ligjore -Tiranë

1. clearly prescribe that the respective protocols to guarantee the continuity and integrity of evidence must be followed by the proceeding authority and any other personnel handling material evidence

2. allow for experts to refuse to conduct examinations on samples that are not suitable for expertise.

3. clearly prescribe that failure to follow the procedures and protocols for the collection, preservation, storage and transporting of material samples may make their examination and any resulting expert evidence based thereof inadmissible in court.

Responses to recommendation 40: The Institute of Legal Medicine agrees with the requirement for technical specifications and a procedure on obtaining, packaging, transportation and delivery of material evidence and the right to refuse the expert examination in cases of unsuitable samples is added and implemented in the Criminal Procedure Code.

15.5 Driving under the Influence of Drugs

15.5.1 Current Status

Judges raised the issue that often, expert reports are not sufficiently clear or helpful in proving a fact in issue. They recognised that this could be partly due to the expert report and partly due to the lack of clarity in the existing criminal law as to when a criminal offence has occurred and what elements of the offence must be proved.

One such example is establishing whether a person has been driving under the influence of drugs. An expert's report would not take into consideration the gender, age, weight and other relevant physical conditions of a defendant but simply report on the technical aspects e.g. how much of a specific substance was found in the defendant's body. The judicial task of deciding whether the defendant has been truly under the influence is a difficult one given the physical differences between people. The judge questioned whether this can be resolved either through expertise taking into account an individuals' characteristics or through a change in substantive criminal law concerning driving under the influence (Article 291 Criminal Code).

15.5.2 Changes Required

Following the experience in other jurisdictions we propose that the use of fixed limits in the legislation would be the better solution. The impairment i.e. how much if at all a person has been affected does not need to be proved.

15.5.3 Recommendations

Recommendation 41: It is recommended that fixed limits for drugs of abuse (and certain prescription medications) be adopted into Article 291 Criminal Code, so that impairment does not need to be proved when prosecuting driving under the influence of drugs cases.

Responses to recommendation 41: The Institute of Legal Medicine suggests that, in close cooperation with the toxicology laboratory at IFM, fixed limits for drugs of abuse in biological fluids are determined, because such limits vary depending on the laboratory methods and equipment.

15.6 DNA Database

15.6.1 Current Status

15.6.1.1 Legal Basis for Obtaining DNA Samples

Article 36 of the Law no 82/2024 on State Police has significantly changed the conditions under which biological samples, including non-intimate samples such as mouth swab samples, can be taken for inclusion on the Albanian National DNA Database.

There are two scenarios under which samples may be taken in order to obtain a DNA profile:

1. When there is a specific criminal case in which a suspect has already been identified and is under investigation; and
2. Building an intelligence database of arrestees and detainees for identifying perpetrators where there is no known suspect.

In the first scenario, Article 201(a) of the Criminal Procedure Code can theoretically be used to obtain a biological sample from the suspect: a prosecutor is leading the specific investigation and can request a sample. However, prosecutors are unlikely to be present at a police station when an individual is arrested, so managing the process of consent and sampling, within the timeframe of legal detention, is anticipated to be difficult. Further, it could be argued that consent is not an appropriate basis for obtaining non-intimate biological samples in this situation because the data subject could be argued not to be in full control (see for example Draft outline for WP29 opinion on "consent" (europa.eu) and Article 35 of DIRECTIVE (EU) 2016/680 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL). There is a concern that prosecutors or courts will not have capacity to deal with the instances where consent is not given, and it is unclear on what basis courts will reach a determination.

Article 201(a) does not appear to be an effective approach to the second scenario, building an intelligence database of arrestees and detainees (sharing of which is a key aim of the EU Prüm decisions).

In this scenario, the taking of a DNA sample on arrest/detention is not solely concerned with the specific reason for which the individual has been arrested or detained. Neither is it for confirming identity, which would be carried out by fingerprint analysis (currently much quicker and cheaper than DNA analysis). The purpose of obtaining a sample is also to add the DNA profile to an intelligence database of arrestees and detainees, for searching against DNA profiles obtained from crime scenes which remain unsolved. This is the power of such a database: to identify suspects in cases where DNA was obtained from the crime scene, but where police/prosecutors have no known suspects.

Under the previous Law on State Police, these samples were taken without involvement of a prosecutor or Judicial Police Officer. The arrestee/detainee was brought to a commissariat or directorate of police, where their DNA and fingerprints were taken by a crime scene expert under a Standard Operating Procedure (SOP) agreed with the IPSH. There were some thousands of samples taken this way every year. The issues outlined for the first scenario also apply, but to a much greater extent, including due to the number of arrestees/detainees: prosecutors will not be present in person, consent may not be given and/or may not be the appropriate basis for obtaining biological samples and it is unclear how prosecutors or courts will have the capacity to deal with the instances where consent is not given.

15.6.1.2 Procedure for Reporting DNA Matches

The current procedures from the crime scene to the court are complex and require numerous orders being issued by the prosecutors and which may result in delays, slow and ineffective investigative procedures.

In the view of Albania's current and future participation in the DNA and biometric data cross border exchange networks, which will be accompanied by a vast increase in demand for fast data processing and exchange, we sought the respondents' opinions as to how the process could be streamlined and simplified in cases where there is an unknown suspect and a DNA database search is needed.

15.6.2 Changes Required

15.6.2.1 Legal Basis for Obtaining DNA Samples

In our view, a change to article 36 of the 2024 Law on State Police is required in order to enable the Albanian national DNA database to be an effective tool for tackling crime. There must be an operationally effective way to take samples from suspects and detainees, with appropriate policies for retention and destruction of the biological samples and DNA profiles derived from those samples. One approach, which has been widely used in other jurisdictions, is to establish a standalone law governing the operation of the national DNA database.

We also recommend that article 201/a of the criminal Procedure Code be amended to ensure a distinction is made regarding the collection procedures, authorisation, information, warning and consent between intimate and non–intimate biological samples. This is because there are different levels of interference and potential impact that arise from the collection of these samples from a human rights and body integrity perspective.

In line with the legislative provisions in other jurisdictions the following classification is proposed:

(a) An 'intimate sample' means a sample of blood, semen or any other tissue fluid, urine, or pubic hair, or a swab taken from any part of a person's genitals or from a person's body orifice other than the mouth;

(b) a 'non-intimate sample' means: (i) a sample of hair, other than pubic hair, which includes hair plucked with the root; (ii) a sample taken from a nail or from under a nail; (iii) a swab taken from any part of a person's body other than a part from which a swab taken would be an intimate sample; (iv) saliva;

Art 201/a should specify different conditions for the collection with and without consent of the intimate and non-intimate samples from persons arrested/ detained by the police, defendants and any other persons.

15.6.2.2 Procedure for Reporting DNA Matches

In the view of the responses and our experience we would like to propose that a procedure be developed to enable DNA database matches to be handled in a streamlined way, following the current model for fingerprint matches from AFIS.

Once the process has been mapped (which would be an action for the IPSH), implementation can potentially be achieved through an administrative act.

15.6.3 Recommendations

Recommendation 42: It is recommended that Article 36 of the 2024 Law on State Police be amended or removed, with alternative provisions being established in a law governing the seizure, use, retention and destruction of biometric samples.

Recommendation 43: It is recommended that a standalone legal framework governing the operation of the DNA database should be established.

Recommendation 44: It is recommended that Art 201/ a of the Criminal Procedure Code be amended to specify different conditions and criteria for the consensual and non-consensual collection of intimate and non-intimate samples from the persons arrested/detained by the police, defendants and any other persons.

Recommendation 45: It is recommended that a procedure be developed to enable DNA database matches to be handled in a streamlined way, following the current model for fingerprint matches from AFIS. The procedure could be adopted through an administrative act.

15.7 Harmonisation with EU Aquis: Cybercrime

15.7.1 The Sexual Abuse of Children, Including Online Abuse

15.7.1.1 Current Status

Albania is only partially in compliance with the EU acquis in the area of the sexual abuse of children including online abuse. The Albanian legislation complies with the First Additional Protocol to the Convention on Cybercrime (the Budapest Convention), concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189), Council Decision 2000/375/JHA of 29 May 2000 to combat child pornography on the Internet and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) (CETS No. 201) (ratified via Law no. 10071 of 9.02.2009). The Albanian legislation is fully in line with the Council Decision 2000/375/JHA of 29 May 2000 to combat child pornography on the Internet and partly in line with the EU Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and with Regulation 2021/1232 of the EU Parliament and of the Council of 14 July 2021. At the Directory for the Investigation of Cybercrime a sector has been established for the investigation of child pornography, which investigates criminal offences committed through the use of the technology. Eleven circuits of the Albanian Police employ two cybercrime specialists who conduct the investigation of online child pornography. [53]

15.7.1.2 Changes Required

According to the European Commission, violence and sexual violence, including online, remains an area of concern in Albania. [54] In 2022, Child Protection Units managed 2 496 cases of children in need of protection (mainly cases of 38 children at risk or victims of violence, abuse, neglect or exploitation). The number of child protection workers (241 in all 61 municipalities) remains far below the total number needed. Two centres with emergency services for child victims of sexual abuse and other forms of violence have been set up and are operational in Fier and Shkodra. The European Commission has noted that a comprehensive legal framework on the status and responsibilities of social workers needs to be adopted. [55] Further efforts are needed to ensure an adequate and systematic response to all types of violence against children. Albania lacks legislation criminalising travel companies that facilitate opportunities to engage in the sexual exploitation of children. As a member of the Lanzarote Committee, Albania needs to provide cross sector training to professionals for the provision of integrated services for children victims of sexual abuse and other serious forms of violence. The full inclusion of unaccompanied or separated foreign minors in the national child

---

53 Programi Kombetar per Aderimin ne Bashkimin Europian 2024-2030 dhe Plani Kombetar per Integrimin Europian 2024 -2026 available at https://eurokonventa.al/en/documents/ document link https://docs.google.com/document/d/1OayT7jneTIt6y14_80_Q6H1n7aNEtQNM/edit?pli=1

54 European Commission, Albania 2023 report at pp37-38 available at https://neighbourhood-enlargement.ec.europa.eu/document/download/ea0a4b05-683f-4b9c-b7ff-4615a5fffd0b_en?filename=SWD_2023_690%20Albania%20report.pdf

55 ibid

protection system is needed. Child labour prohibition needs to be effectively implemented, and working conditions of young people need continuous monitoring. [56]

The legal framework concerning this area of cybercrime is only partially in line with the EU acquis. Albania should amend the existing legislation to criminalise all forms of child sexual abuse on the internet. The Criminal Code must become fully compliant with the EU Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, given the wide range of problems that arise in relation to the criminal offences against sexual integrity. The Directive offers a more detailed legal framework regarding the criminalisation of sexual abuse and sexual exploitation of children and prescribes for instance the need to criminalise the online grooming of children [57] and their exposure to sexual activities without the need to participate in any sexual activities, the inclusion of children in sexual activities etc. Sentencing provisions prescribed in the Criminal Code must also be amended in line with the purpose of the Directive. The Directive prescribes offences and elements which are missing in the domestic legislation such as the inclusion of a child in sexual activities with a third party through force, threats and/or other forms of coercion, as well as the incrimination of the acquisition of child pornography materials.

Recommendation 46: It is recommended that the Albanian Criminal Code be amended to criminalise all forms of sexual abuse and sexual exploitation of children, including activities committed online and/ or through the use of computational technology.

15.7.2 Cybercrime and Cybersecurity

15.7.2.1 Current Status

Albania is party to the Budapest Convention on Cybercrime and in February 2023 signed the Second Additional Protocol to the Convention on enhanced co-operation and disclosure of electronic evidence. Based on the 2020-2025 National Cyber Security Strategy, new legal and sub-legal acts on cybercrime will need to be adopted to bring the domestic legal framework in line with the international and the EU legal instruments. In July 2022, Albania was victim to a large-scale cyberattack, which led to the temporary disruption of most online public services. [58]

15.7.2.2 Changes Required

Cases of cybercrime and internet fraud have increased in recent years. According to the European Commission, Albania should provide a more effective law enforcement response that focuses on the detection, traceability and prosecution of cybercriminals. Albania should encourage prosecutors to make greater use of the 24/7 network of contact points set up by the Council of Europe Convention on Cybercrime. The ASP's cybercrime unit has a central forensic laboratory but should increase its

---

56 European Commission, Albania 2023 report at pp37-38 available at https://neighbourhood-enlargement.ec.europa.eu/document/download/ea0a4b05-683f-4b9c-b7ff-4615a5fffd0b_en?filename=SWD_2023_690%20Albania%20report.pdf

57 i.e. Solicitation of Children for sexual purposes, see Art 6 of the Directive 2011/93/EU.

58 European Commission, Albania 2023 report p 46 available at https://neighbourhood-enlargement.ec.europa.eu/document/download/ea0a4b05-683f-4b9c-b7ff-4615a5fffd0b_en?filename=SWD_2023_690%20Albania%20report.pdf See also Chapter 31 – Foreign Security and Defence Policy and Chapter 10 – Information Society and Media.

capacity to deal with such cases. The capacities for investigating and prosecuting cybercrime and specifically crimes against children committed through the internet need to be strengthened. [59]

From a legal perspective, amendments to the existing criminal law framework are required to ensure the compatibility of the Albanian legislation with the Second Protocol to the Budapest Convention and with Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems which replaces Council Framework Decision 2005/222/JHA. The Directive prescribes minimum standards concerning the criminal offences, sentencing and measures for the prevention of cyberattacks. Several offences and other elements prescribed by the Convention and the Directive do not yet exist in the Albanian legislation. Given the technological developments and the digitalisation of public and private services, according to the National Cyber Security Strategy and Action Plan 2020-25 the protection of the information systems is one of the key priorities of the Albanian government. The alignment of the domestic legislation with the EU acquis is expected to remain a priority and be reflected in the forthcoming National Strategy of Cybercrime Investigation and Action Plan 2026- 2030.

Recommendation 47: It is recommended that the Albanian Criminal Code and other relevant legal and sub-legal acts be fully aligned with the Budapest Cybercrime Convention and Directive 2013/40/EU.

Recommendation 48: In line with recommendation 7, it is recommended that the workforce for digital forensics be significantly expanded as a result of recommendations 46 and 47.

15.8 Harmonisation with EU Aquis: Cooperation in the Field of Drugs

15.8.1 Current Status

The Ministry of the Interior, the Ministry of Health and Social Protection and the Institute of Public Health are the lead bodies in the fight against drug trafficking and drug abuse, respectively. Albania still does not have a dedicated national drugs strategy. Several security aspects are covered by the 2021-2025 National Strategy Against Organised Crime and Serious Crime and its successive action plans. Under the Strategy Against Organised Crime, annual action plans on preventing and cracking down on criminal activity in the cultivation of narcotic plants are adopted.

Drug trafficking is one of the most common forms of serious crime in Albania. Albanian criminal groups continue to play a prominent role in the global traffic of drugs, in particular the trafficking of cocaine from Latin and South America to Europe. International police operations, often with the active involvement of the Albanian State Police, have led to the dismantling of some of these groups. The EU Commission has noted that Albania's law enforcement authorities have maintained a good level of cooperation with their counterparts in EU Member States in tackling the trafficking of narcotics. Albania continues to implement the working arrangement with the European Union Drugs Agency (EUDA), however stronger efforts are needed, including through better inter-institutional coordination, in increasing its reporting capacity on drug-related issues in line with EUDA guidelines/protocols and in allocating sufficient resources for this task. [60]

15.8.2 Changes Required

In its 2023 report, the European Commission noted that Albania needs to make greater efforts in the area of drugs policy, notably by adopting a national drug strategy covering the supply, demand and harm reduction aspects, and by fully aligning the domestic legislation with the EU acquis and

---

[59] European Commission, Albania 2023 report p 46 available at https://neighbourhood-enlargement.ec.europa.eu/document/download/ea0a4b05-683f-4b9c-b7ff-4615a5fffd0b_en?filename=SWD_2023_690%20Albania%20report.pdf

[60] ibid

international practices. The activity of the working group established in May 2022 to review the legislation on narcotic drugs and psychotropic substances should be stepped up and should reflect the changes made to the psychotropic substances lists by the International Narcotics Control Board (INCB). In December 2023 Albania updated the lists in accordance with INCB via Law no 99/ 2023 on some additions and changes to the Law no 7975 of 26.07.1995. Our respondents noted that Albania needs to establish the legal framework and the necessary mechanisms to ensure the continuous update of these lists in line with the INCB lists. In addition, Albania needs to update the list of the precursors which has not been done since 2011. The list of the precursors needs to be updated in line with the UN Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988.

The establishment of a National Drugs Observatory (NDO) is still pending. Albania should set up an operational observatory with the necessary human and financial resources, which is crucial for implementing a comprehensive data collection system on drugs, coordinating a drug information system, and for associating Albania to the EU's Reitox network. [61]

Although there is a national early warning system (NEWS) coordinator at the Ministry of Health, some Albanian experts have undergone training and the IPSH reports to the Albanian focal point, there is no exchange of information between Albanian institutes and the information reported to the focal point has not reached the European Union Drugs Agency (EUDA). Not all of the relevant institutions have the equipment, training or even laboratory facilities to detect new psychoactive substances in the blood of individuals. As such, there is still no operational NEWS on the detection of new psychoactive substances. The European Commission has called for the NEWS to be made operational without delay. [62]

Albania adopted a law on controlling the cultivation and processing of the cannabis plant and the production of its by-products for medical and industrial purposes in August 2023. Albania should continue to consult the EU on the envisaged implementing legislation and ensure that mechanisms are in place to effectively prevent cannabis from being diverted to unintended use.

According to the European Commission Albania should drastically increase its capacity to collect, store and report data for all drug-related indicators and in line with EU standards and should increase the capacities of the law enforcement authorities with regards to drugs. The lack of safe and secure storage for seized drugs and drug precursors prior to destruction remains a concern. Our respondents noted that until now the seized precursors have not been destroyed due to the lack of safe procedures how this should be conducted, due to lack of expertise in this field and/or lack of tools and resources. Albania needs to establish the legal base for an appropriate process for the destruction of precursors and of seized drugs, and the practice of keeping only a small sample as material evidence for court proceedings (instead of the entire quantity seized). [63]

One of the aims of the National Plan for European Integration 2023-25 is the harmonisation of the Criminal Law Code and Law No 9754 of 14 June 2007 'On the criminal liability of the legal persons' and Law no 7975 'On narcotic drugs and psychotropic substances' with the Council Framework Decision 2004/757/JHA which sets out the minimum rules concerning drug trafficking offences and penalties (as amended by Directive (EU) 2017/2103).

Recommendation 49: It is recommended that a National Drugs Observatory be established.

---

61 On Reitox see https://www.euda.europa.eu/about/partners/reitox_en

62 European Commission, Albania 2023 report p 46 available at https://neighbourhood-enlargement.ec.europa.eu/document/download/ea0a4b05-683f-4b9c-b7ff-4615a5fffd0b_en?filename=SWD_2023_690%20Albania%20report.pdf

63 ibid

Recommendation 50: It is recommended that the early notification system is established in a fully functional manner to exchange information on new psychoactive substances.

Recommendation 51: It is recommended that the Criminal Law Code and Law no 7975 'On narcotic drugs and psychotropic substances' are harmonised with the Council Framework Decision 2004/757/JHA.

Recommendation 52: It is recommended that the legal framework and the necessary mechanisms be established to ensure the continuous update of the drugs and precursors lists in line with the INCB lists and the UN Convention 1988.

16. Acknowledgements

We would have been unable to gain a picture of the current status and potential changes required to support future forensic science in Albania without the support and input of a large number of people: scientists and managers from forensic science and forensic medicine institutes, representatives of prosecutors, JPOs, ASP General Directorate, judges, educational institutes, Government Ministries and others. We are very grateful for your open and constructive contribution.

Thanks are also due to the full Forensics for Albania team, both the team from the UK and the local staff, and to the driving force behind initiation of the project, Richard Bone, MBE.

The project is funded as part of the UK International Development programme and we have had fruitful discussions with other UK partners based in the British Embassy in Tirana. We are grateful to all.

Appendix 1

Organisations consulted

Table 9: Organisations invited to working groups held in Albania the week commencing 29 January 2024. Organisations who attended, or sent a representative, are in italics.

Judges	Defence Advocates	Independent (non-State) experts	Experts from State Institutions	Investigators (Prosecutors and Judicial police)
High Judicial Council *Court of Appeal Judges* First Instance Court Judges	Albanian Chamber of Advocacy Tirana Chamber of Advocacy Albanian Criminal Lawyers' Association *Lawyers from the list of court appointed lawyers for 2022*	*Independent Experts from the Ministry of Justice list*	*Institute of Legal Medicine* *IPSH* *Digital forensics experts from SPAK*	*Nominees of the General Prosecutor's Office* *Nominees of the ASP*

In addition to the working groups, meetings were held with the following organisations:

- IPSH
- Institute of Legal Medicine
- Ministry of Interior
- Ministry of Justice
- ASP General Directorate: Finance, Human Resources and Criminal Police Departments
- Security Academy
- School of Magistrates
- University of Tirana (Chemistry, Biology and Informatics departments)
- National Civil Protection Agency
- General Directorate of Accreditation
- EU4FOCAL
- Office of the Independent Data Protection Commissioner
- Judges from first instance and appeal courts

Appendix 2

EU vision for forensic science 2020

3135th JUSTICE and HOME AFFAIRS Council meeting: Council conclusions on the vision for European Forensic Science 2020 including the creation of a European Forensic Science Area and the development of forensic science infrastructure in Europe:

In order to foster cooperation between police and judicial authorities across the European Union with a view to creating a European Forensic Science Area by 2020, Member States and the Commission will work together to make progress in the following areas, aiming to ensure the even-handed, consistent and efficient administration of justice and the security of citizens:

- accreditation of forensic science institutes and laboratories;
- respect for minimum competence criteria for forensic science personnel;
- establishment of common best practice manuals and their application in daily work of forensic laboratories and institutes;
- conduct of proficiency tests/collaborative exercises in forensic science activities at international level;
- application of minimum quality standards for scene-of-crime investigations and evidence management from crime scene to court room;
- recognition of equivalence of law enforcement forensic activities with a view to avoiding duplication of effort through cancellation of evidence owing to technical and qualitative differences, and achieving significant reductions in the time taken to process crimes with a cross-border component;
- identification of optimal and shared ways to create, update and use forensic databases;
- use of advances in forensic science in the fight against terrorism, organised crime and other criminal activities;
- forensic awareness, in particular through appropriate education and training of the law enforcement and justice community;
- research and development projects to promote further development of the forensic science infrastructure.

EU vision for forensic science 2030

3936th JUSTICE and HOME AFFAIRS Council meeting: Council Conclusions on the Action Plan for the European Forensic Science Area 2.0 The European Forensic Science Area (EFSA) 2.0 Action Plan aims to shape the future of the forensic field by 2030.

Objective:

Ensuring continuous development of key forensic science capabilities in order to secure and strengthen its current and future relevance within the judicial system.

Outcome:

Forensic science that provides efficient and scientifically based services that utilizes modern technologies and methods. Thus, ensuring that forensic science remains a valuable resource for the judicial system, helping to facilitate fair and accurate decision-making.

Actions specifically involving Member States for the 3 pillars of the EFSA 2.0		
Biometrics	*Strengthening the Impact of Forensic Results*	*Demonstrating Reliability in Forensic Results*
1. Explore biometrics capabilities and the application of multimodal biometrics for use in criminal investigation 3. Develop and implement AI-based tools targeting the forensic science area. 4. Develop a strategic plan for validation and implementation of AI into forensic work, taking into account legislative developments at Union level. 5. Engage judiciary regarding acceptance of AI as a tool within the legal framework through legislative review and relevant education. 6. Develop guidelines on how to create procedures on introducing digitalisation and use of technology in forensic science. 7. Adapt the processes and workflow within forensic science to embrace and adapt to the possibilities enabled by the digital transformation. 8. Monitor and horizon scan developments in other scientific areas (including emerging biological and chemical evidence types '-omics' and nanotechnology) for potential application to forensic science. Create an academic and industry engagement plan for emerging technologies that have potential for forensic use. 9. Adapt, validate and implement new emerging technologies for forensic science application.	2. Develop a uniform approach for source and activity level reporting across forensic disciplines. 3. Explore the feasibility of implementing a system (or systems) including standardised data formats for efficient and quality assured exchange similar to the Prüm frameworks. The framework should consider the need of data for development and evaluation of forensic data science tools. 6. Review technology solutions and end user needs for intelligence and multidisciplinary approaches to optimize the use of forensic evidence. 7. Determine the individual and combined evidential value of forensic evidence types and define pathways for the operational implementation of intelligence and multidisciplinary evidence types.	2. Develop studies to understand and determine background prevalence, transfer and persistence of forensic evidence types. 3. Develop technologies to optimize the recovery of forensic evidence. 7. Facilitate training and disseminate training material for end-users of forensic evidence on how to interpret forensic science results and comprehend the strength of the evidence. 8. Strengthen the quality assurance of non-accredited forensic services, existing and forthcoming, to ensure their validity.

Appendix 3

Legislative provisions in respect of data management

The collection, retention and destruction of biological samples for the purposes of DNA profiling is prescribed in the Criminal procedure Code Article 201/a and 201/b respectively.

Article 201 (a) deals with both consensual and nonconsensual collection of biological samples defining the respective procedures. According to paragraph 3 consent shall be provided in writing, whereas paragraph 5 specifies that non-consensual collection will be requested by the prosecutor and authorised by the court. Paragraph 6 details the content of the court decision. According to article 210/b (7) if the taking of samples is carried out in defiance of the provisions of this Code, the proceeding authority shall order their destruction.

Article 201/b (1) specifies that biological samples shall be preserved as long as they serve the purposes of proceedings. Where the defendant is acquitted by a final decision, the court shall order the destruction of biological samples taken from him (para 2; note also para 3). Where the defendant is convicted, biological samples taken from him shall be preserved for 20 years from the date the decision has become final (para 4). The court may order the maintenance of the samples up to 40 years as long as the defendant has been declared guilty of criminal offence whereof the Criminal Code provides for an imprisonment sentence of not less than 10 years maximum. (para 5)

According to art 201/b (2) The profiles of DNA samples taken at the crime scene and which are not attributed to a certain person shall be kept until prescription of the time limits for criminal prosecution is completed.

According to article 201/b (8) “The way of conservation of the samples, the procedure and the competent body for their destruction, shall be established by a joint instruction of the minister responsible for public security and minister responsible for health.”

Law on State Police LIGJ Nr. 108/2014 PËR POLICINË E SHTETIT Article 112 set out the conditions for the collection of inter alia fingerprints and DNA from a person who was stopped or arrested (paragraph 3) including authorised non-consensual collection of such data (para 4). For the data collected by the persons accompanied, stopped or arrested the police would create a database (para 5) and the General Director of the State Police could order the deletion of such data if the criminal proceedings against the data subject were stopped, or they were declared innocent by a final court decision (para 6). The current Law on State Police LIGJ Nr. 82/2024 PËR POLICINË E SHTETIT Article 36 significantly changes the police powers to collect personal data. It simply prescribes that such collection is to be done with respect to privacy rights (para 2) and that the manner of organization and administration of data collected from detainees and arrestees, time limits of storage, control and deletion shall be determined by joint order of the Minister and of the Commissioner for the right to information and Protection of Personal Data (para 3).

Law No. 124/2024 "On the Protection of Personal Data" establishes the legal framework for the protection of personal data in Albania. Under this law, law enforcement agencies are permitted to process biometric and forensic data, provided such processing is authorised by law and includes appropriate safeguards to protect the rights and freedoms of data subjects. This legislation allows agencies to continue collecting and retaining biometric and forensic data necessary for lawful activities such as criminal investigations and public safety, as long as they adhere to the following key principles:

- Purpose Limitation: Biometric and forensic data must be processed for specific, explicit, and legitimate purposes.
- Data Minimisation: Only the minimum amount of data necessary for the intended purpose should be collected and processed.

- Storage Limitation: Data should not be stored for longer than necessary and must comply with legal retention requirements.
- Accountability: Law enforcement agencies must implement measures to ensure compliance with data protection principles and obligations.
- Data Subject Rights: Individuals have the right to access, rectify, and, in certain cases, erase their personal data, including biometric and forensic data.

In addition to these principles, the law introduces further requirements that law enforcement agencies must comply with:

- Data Protection by Design and by Default: Agencies must integrate data protection measures into their processes from the outset, ensuring that personal data is protected throughout its lifecycle.
- Data Protection Impact Assessments (DPIAs): Before engaging in high-risk processing activities, such as large-scale biometric data collection, agencies must conduct an assessment to identify and mitigate potential risks.
- Data Breach Notification: In the event of a data breach that may impact individuals' rights and freedoms, agencies must notify the supervisory authority within 72 hours and take corrective action.
- Appointment of Data Protection Officers (DPOs): Organisations that process large amounts of sensitive personal data must designate a DPO to oversee compliance with data protection regulations.

Therefore, while law enforcement agencies are not required to delete biometric and forensic data they lawfully hold, nor are they broadly restricted from collecting such data in the future, they must ensure that all processing activities comply with the enhanced safeguards outlined in the new law. Additionally, existing sub-legal acts will need to be reviewed and amended to align with the new overarching legislation.

Administrative Act for the Protection of Personal Health Data - Udhezim i Komisionerit Nr 49 dt 02.03.2020 PER MBROJTJEN E TE DHENAVE SHENDETESORE sets out the provisions for the protection of personal health data, including genetic data collected and processed for the purposes of criminal proceedings (see Article 3 (3)). Article 5 provides the general rules on the storage of the personal health data under conditions prescribed by the specific legislation and Article 6 sets out the rights of the subject of the health data to inter alia request the amendment and or deletion of the personal data, to access information regarding the purpose(s) of the processing of personal data. Article 7 sets out the duties and obligations of the data controller and processor. Article 11 deals with the transnational cross border transfer of personal health data.

Hallmarks of an effective data management regime

Legal and Ethical Framework:

- Is there a data management regime established in legislation. Does it comply with international law, and are ethical standards/an ethical framework in place?
- Are there clear guidelines on data collection, storage, sharing and deletion to protect individuals' privacy and rights? [64]

Governance:

- Is there a data governance framework in place?

[64] Alignment of the legislation for the protection of personal data specifically with the General Regulation of the Protection of Personal Data of the EU 679/2016 and Directive 680/2016

- Are individual and corporate responsibilities, decision-making processes, and accountability clear?
- Are roles and responsibilities for those who use, manage and hold data within the criminal justice system clear?

Data Quality and Accuracy:

- How is the accuracy and quality of the data ensured? Are there data quality standards and data quality assurance processes, such as data validation, verification, and cleansing processes.
- To what extent are there standardised data entry procedures (and training given to staff involved in data collection).

Security Measures:

- Are there robust security measures to protect sensitive forensic data from unauthorized access, manipulation, or theft?
- Are there encryption, access controls, and regular security audits to identify and address vulnerabilities?
- Are there established standards for the handling of digital evidence, clear continuity chains to ensure its integrity, and validated, trusted digital forensic tools and procedures?

Interoperability and Integration:

- Can forensics practitioners share data easily with different parts of the criminal justice system (e.g. prosecutors, police, courts, defence, etc)?
- Is there a framework for data sharing including data sharing principles?
- Are standardised data formats and protocols in place for data exchange between agencies, and particularly are these compliant for exchange with EU and other international partners?
- Is there collaboration with different agencies and stakeholders within the criminal justice system to ensure a range of perspectives and expertise in shaping the data management regime?

Data Retention and Disposal Policies:

- Are there effective policies on the retention and disposal of data which comply with legal requirements and minimise the risk of unnecessary/unlawful data storage?
- Are these regularly complied with, audited, and do the public have access to information relating to the policies and the management, retention and disposal of their own data?

Training and Capacity Building:

- Are staff involved in data management continuously trained and updated to ensure they are aware of the latest policy/legislation and best practice?
- Is there work to improve the capacity for data management? (Including the development/acquisition of an appropriate and effective technology infrastructure).

Transparency and Accountability:

- Is information about data management legislation, policies, and procedures accessible to the public?
- What mechanisms are in place to ensure accountability, including regular audits and reporting, oversight bodies and procedures to address any breaches or misuse of data?

Evaluation and Continuous Improvement:

- Are mechanisms in place for continuous evaluation of the data management regime to identify areas for improvement?
- Are policies and procedures updated in response to changing legal requirements (for example to harmonise with EU legislation), technological advancements, and lessons learned?

Appendix 4

4A: The role of the expert and impartiality issues:

1. Expert evidence should be the independent product of the expert uninfluenced by the pressures of litigation, private interest, or any of the parties in the proceedings.

2. Experts should assist the court by providing objective, unbiased opinions on matters within their expertise, and should not assume the role of an advocate.

3. Experts should refrain from expressing opinions on legal matters which are for the court to decide.

In order to address as far as possible the issue of trust and impartiality of experts we propose that Article 178 of the Criminal Procedure Code be amended or a new provision Art 178 A be inserted as follows, or in similar terms:

(1) An expert must help the court to achieve its principal objective that criminal cases be dealt with justly:

(a) by giving opinion which is:

(i) objective and unbiased, and

(ii) within the expert's area or areas of expertise; and

(b) by actively assisting the court and the proceeding authority in fulfilling their duties of case management by:

(i) complying with directions made by the court and / or proceeding authority, and

(ii) at once informing the court and / or proceeding authority of any significant failure (by the expert or another) to take any step required by such a direction.

(2) This duty overrides any obligation to the proceeding authority or party from whom the expert receives instructions or by whom the expert is paid.

(3) This duty includes obligations:

(a) to define the expert's area or areas of expertise:

(i) in the expert's report, and

(ii) when giving evidence in person;

(b) when giving evidence in person, to draw the court's attention to any question to which the answer would be outside the expert's area or areas of expertise;

(c) to consider all material facts, including those which might detract from their opinions.

(d) to inform all parties and the court if the expert's opinion changes from that contained in a report served as evidence or given in a statement; and

(e) to disclose to the court, proceeding authority and the party for whom the expert's evidence is commissioned anything of which the expert is aware, and which might reasonably be thought capable of:

(i) undermining the reliability of the expert's opinion, or

(ii) detracting from the credibility or impartiality of the expert.

1. Examples of matters that should be disclosed pursuant to those rules include (this is not a comprehensive list), both in relation to the expert and in relation to any corporation or other body with which the expert works, as an employee or in any other capacity:

(a) any fee arrangement under which the amount or payment of the expert's fees is in any way dependent on the outcome of the case

(b) any conflict of interest of any kind, other than a potential conflict disclosed in the expert's report

(c) adverse judicial comment;

(d) any case in which an appeal has been allowed by reason of a deficiency in the expert's evidence;

(e) any adverse finding, disciplinary proceedings or other criticism by a professional, regulatory or registration body or authority;

(f) any such adverse finding or disciplinary proceedings against, or other such criticism of, others associated with the corporation or other body with which the expert works which calls into question the quality of that corporation's or body's work generally;

(g) conviction of a criminal offence in circumstances that suggest:

(i) a lack of respect for, or understanding of, the interests of the criminal justice system (for example, perjury; acts perverting or tending to pervert the course of public justice),

(ii) dishonesty (for example, theft or fraud), or

(iii) a lack of personal integrity (for example, corruption or a sexual offence);

(h) lack of an accreditation or other commitment to prescribed standards where that might be expected;

(i) a history of failure or poor performance in quality or proficiency assessments;

(j) a history of lax or inadequate scientific methods;

(k) a history of failure to observe recognised standards in the expert's area of expertise;

(l) a history of failure to adhere to the standards expected of an expert witness in the criminal justice system.

2. In a case in which an expert, or a corporation or body with which the expert works, has been criticised without a full investigation, for example by adverse comment in the course of a judgment, it would be reasonable to expect those criticised to supply information about the conduct and conclusions of any independent investigation into the incident, and to explain what steps, if any, have been taken to address the criticism.

4B: England and Wales Forensic Science Regulator's Standards of Conduct

Standards of conduct

The Regulator sets out, for all practitioners carrying out any FSA [forensic science activity] to which this Code applies (and this Code specifies compliance in the FSA definition), the values and ideals the profession stands for. These standards of conduct provide a clear statement to commissioning parties, the CJS and the public of what they have a right to expect.

12.1.2 As a practitioner undertaking an FSA you shall:

a. recognise your overriding duty is to the court and to the administration of justice;
b. act with honesty, integrity, objectivity, and impartiality;
c. comply with the legal obligations imposed on practitioners (and specifically expert witnesses) in England and Wales;

d. declare, at the earliest opportunity, any personal, business, financial, and/or other interest or situation that could be perceived as a potential conflict of interest;
e. act and, in particular, provide expert advice and evidence, only within the limits of your professional competence;
f. maintain and develop your professional competence, taking account of material research and developments within the relevant field;
g. inform those commissioning you, in writing, of any information which may reasonably be considered to undermine your credibility as a practitioner or the reliability of the material you produce and include this information with/within any written report provided to those commissioning you;
h. establish the integrity and continuity of items/exhibits as they come into your possession and ensure these are maintained whilst the items/exhibits remain in your possession;
i. seek access to items/exhibits/information that may have a significant impact on the output from your work, particularly any conclusions included in any report of evidence, and record both the request for the items/exhibits/information and the result of that request;
j. conduct casework using demonstrably valid methods;
k. be prepared to review any casework if any new information or developments are identified that would significantly impact on the output from your work, particularly any conclusions included in any report of evidence;
l. where you have grounds for believing a situation may result in a miscarriage of justice, ensure that the relevant commissioning party is informed either by: (a) invoking the appropriate organisational processes for addressing potential miscarriages of justice; or (where you do not operate as part of an organisation or the organisation does not have appropriate procedures) (b) by informing the party directly; and
m. preserve confidentiality unless the law obliges, a court/tribunal orders, or a commissioning party explicitly authorises disclosure.

4C: Hallmarks of an effective ethical regime for the use of Biometric and Forensic Science Technologies

Legal and Ethical Framework:

- Is there a supportive legislative framework in place? [65] Does it comply with international law, (e.g. ECHR) and are ethical standards/an ethical framework used in decision making (for example when balancing competing priorities such as public safety and individual rights)?
- To what extent are ethical considerations supported by a clear set of values or a code of conduct (for example are the principles to be used in carrying out activity by Judicial Police applicable [66])?

Governance:

- Is there clear and transparent governance and independent oversight of Biometrics and Forensic Science?
- Is it underpinned by an effective quality regime which includes scientific scrutiny of processes, accreditation and validation?
- Are individual and corporate responsibilities, decision-making processes, and accountability clear?

---

[65] Criminal Procedure Rules and the Penal Code.

[66] Albanian Legislation setting out duties of Judicial Police.

- Are roles and responsibilities defined for those who those who exercise ethical oversight? Is there a role for an Office of the Ethics Advisor (as exists in the Judiciary[67]), or is it transferrable good practice?

Justice System:

- Are there, within the Justice system, checks and balances to ensure that Biometrics and Forensic Science is being used consistently and fairly? Do procedural rules in the justice system support this?
- What access does the defence have to effective forensic services? What external scrutiny exists of the use of forensic techniques?
- Is there recourse to independent review of forensic evidence, or the use of biometrics? Do citizens have access to a right of appeal or a right of redress in relation to the use of Biometrics or Forensic Science?

Privacy and data management:

- See 'Hallmarks of an effective data management regime'.

Collaboration and Cooperation:

- Is there collaboration and communication with partner agencies to ensure a whole system approach, including assessment of potential impacts and risks for society?
- Is there collaboration with other nations and international partners (especially EU member states) to share best practice and research?
- Are international standards complied with, in order to promote consistency and interoperability?
- Is collaboration with the scientific community in place, to ensure that technological advancements and research and development involve ethical considerations?

Broader Ethical Considerations:

- Are measures that prevent discriminatory practices, and ensure that citizens are treated fairly and without bias, in place?
- Are environmental sustainability considerations factored in? And is there consideration of how resources/public funding are used ethically for the public good?

Training and Capacity Building:

- Is guidance provided to staff to support them in behaving in an ethical manner?
- Are all staff involved in Biometrics and Forensic Science continuously trained and updated to ensure they are aware of the latest policy/legislation and best practice?
- Is there a system of anti-corruption and vetting for staff in those business areas?

Transparency and Accountability:

- Is information accessible to the public in respect of policies, and procedures, the use of biometric and forensic technologies, their rights, and the safeguards that are in place?
- Are there mechanisms in place to consult the public over significant changes in the use of new technologies?

---

[67] Albanian Legislation on Governance of the Justice System

- What mechanisms are in place to ensure accountability, including regular audits and reporting, oversight bodies and procedures?

Evaluation and Continuous Improvement:

- Are mechanisms in place for continuous evaluation of the ethical framework in the light of technological advancements, societal changes, and emerging ethical considerations?
- Are policies and procedures updated in response to changing requirements and lessons learned?

Appendix 5: Feedback from Stakeholders

General Directorate of Personal Data Protection

Following your email and after we have consulted the attached document "***Towards a National Forensic Science Strategy for Albania: Analysis, Options and Recommendations for Consideration***", please find below, some suggestions of the IDP Office, on several points of the Draft Strategy.

(Page 36 - English version)

1. In letter "d", the phrase "Administrative act" should be replaced with "Sub-legal act" as well as the correct title of the instruction as follows:

   " d. Administrative Act for the Protection of Personal Health Data Sublegal Act "On protection of health-related personal data" (Instruction No. 49 dated 02.03.2020) sets out the provisions for the protection of personal health data, including genetic data collected and processed for the purposes of criminal proceedings.": **Agreed and amended**

   (Page 37 - English version)

   In point 10.1.3, we consider to be reflected the following suggestions:

2. In paragraph 2, should be specify that the new personal data protection law is expected to be adopted in the third quarter of 2024;

   " New data protection legislation, developed with EU support, is due to come into force by the end of 2024 is expected to be adopted in the third quarter of 2024– this provides greater clarity in respect of the roles of all the parties involved and strengthens the oversight of the IDP.": **Agreed and amended**

3. The 5th paragraph should be reformulated by specifying that a report to EUROJUST is currently being drafted, as an obligation pursuant point 2, of article 19, of Law no. 113/2018 "On the ratification of the cooperation agreement between the Republic of Albania and Eurojust"; **Agreed and amended**

   "There is also a healthy collaboration with Eurojust which explores how data is processed by Law Enforcement, what measures should be taken and how these should be provided for in law. This has involved study-visits to the Hague and a report on its findings is currently being drafted by Eurojust a report to EUROJUST is being drafted, as an obligation pursuant point 2, of article 19, of Law no. 113/2018 "On the ratification of the cooperation agreement between the Republic of Albania and Eurojust". It was noticeable that officials in the office of the IDP expressed how keen they were to exchange experience and learn from others." **Noted but not added to the document**

4. In paragraph 6, should be specify that the Republic of Albania is part of the PRUM Agreement.

   "Active thought is being given to the Prüm data sharing arrangements, at the office of the IDP as well as within IPSH. It was understood how important this was to Albanian law enforcement and to Albania as an EU candidate country. Albania is seeking to be part of the agreement, The Republic of Albania is part of the PRUM Agreement through law no. 13/2019 "On the ratification of the agreement between the parties to the police cooperation convention for Southeast Europe for the automated exchange of DNA, dactyloscopic and vehicle registration data and its implementing agreement" and law no. 13/2024, "On the ratification of the amending protocol of the agreement between the parties to the Police Cooperation Convention for South-Eastern Europe, for the Automated Exchange of DNA, Dactyloscopic and Vehicle Registration Data" and the responsibilities involved in this were understood by the by the office of the IDP who expect to assume monitoring and inspection responsibilities in relation to Prüm." **The agreement to**

date is the SEE Prüm-like agreement and not the Prüm agreement itself. The wording has been added, with this adjustment.

5. (Page 79 –Albanian version)

   In 2nd paragraph, to be corrected the number and date of the Commissioner's Instruction no. 49, dated 02.03.2020 "On the protection of health data" and not Instruction No. 429 dt. .2020.
   Agreed and amended

With the inclusion of the above suggestions, the IDP Office considers this document in accordance with its competences and agrees on it.

Institute of Legal Medicine

The forensic service in the Republic of Albania is organized at the central level in the Institute of Forensic Medicine (forensic experts, forensic toxicologists, forensic psychiatrists, forensic pathologists, forensic anthropologists) and at the local level represented by forensic experts (who perform autopsies and forensic outpatient visits to the injured, case documents). All types of laboratory examinations are performed in the center at the Institute of Forensic Medicine in Tirana.

The Institute of Forensic Medicine is an institution under the jurisdiction of the Ministry of Justice. Currently, we are waiting for the approval of the draft law "ON THE ORGANIZATION AND FUNCTIONING OF THE INSTITUTE OF FORENSIC MEDICINE AND MEDICAL SERVICES IN THE REPUBLIC OF ALBANIA" (by the government and the parliament).

Regarding the organization of forensic sciences in Albania according to the options in table 2, we suggest that the IFM remain unchanged and have a sufficient and stable budget.

To ensure the quality of work, the Institute of Forensic Medicine in cooperation with the Ministry of Justice (after the approval of the Draft law) will approve the quality assurance plan (accreditation for ISO 17025) starting with the toxicology laboratory.

Regarding the status of the expert according to the options in table 5 IFM agrees that: “A certified professional body is created to register forensic experts” and set the criteria for expert registration in the electronic register according to their specialties.

IFM has a cooperation agreement with the University of Tirana, Faculty of Medicine, for student’s practice classes during the academic years in the subject of Forensic Medicine and Deontological Ethics, for post-graduate specializations in forensic medicine (3 years), and for the preparation of diploma and doctorate theses.

IFM also has institutional agreements with UHCT (University Hospital Center “Mother Teresa” Tirana), PSA (Police Supervision Agency), SIS (State Information Service) and cooperation agreements with the Institute of Forensic Medicine of Kosovo, the Department of Forensic Medicine and Toxicology of the University of Medicine in Athens Greece, the Department of Forensic Medicine of the Faculty of Medicine Crete Greece, the Department of Forensic Medicine Kagawa Faculty of Medicine, Japan.

IFM is part of the ICE (International Collaboration Exercises) program organized by the scientific section of UNODC Vienna and participates in the annual reporting of overdose deaths to the EMCDDA (European Monitoring Center for Drugs And Drug Addiction) Lisbon.

Regarding the forensic staff recruitment, IFM recruits alumni who have completed the second cycle of studies in General Medicine and have completed the third cycle of specialization in Forensic Medicine at the Faculty of Medicine, University of Tirana approved from the Ministry of Education and Sports (MES).

The recruitment of forensic toxicologists remains problematic, since MES does not have a third-cycle program “Long-term specialization” in forensic toxicology (Department of Pharmacy at the University of Medicine).

Within the research activity at IFM, the Scientific Council is operational and is composed of academic staff appointed by public higher education institutions in the field of medicine and of forensic experts of IFM. The Scientific Council is an advisory body of the Institute of Forensic Medicine whose function is the unification and implementation of innovations in carrying out forensic expert examinations. The Scientific Council carries out basic research activities, studies, developmental projects, and other creative and research activities in the field of forensic medicine, with the aim of supporting and developing the quality of expert examinations provided by the Institute of Forensic Medicine.

The Scientific Council proposes to the director of the Institute of Forensic Medicine:

a) scientific cooperation agreements with domestic and foreign counterpart institutions;

b) continuing professional education programs of the Institute's senior technical staff;

c) programs of scientific conferences and symposiums at the national and international levels, where IFM forensic experts can regularly participate to present their practice-based papers, as well as workshops at the national and international levels; IFM holds lectures with foreign lecturers in the fields of forensic expertise where all forensic experts participate;

ç) the Institute's cooperation agreements with higher education institutions in order to implement long-term specialization programs and continuing education programs provided by these institutions;

IFM has its own ISSN-equipped periodical publication, “Journal of Forensic Medicine” where the Scientific Council is responsible for approving articles therein.

The Institute of Forensic Medicine suggests the revision of the educational curricula on Forensic Medicine not only in the Security Academy but also in the School of Magistrates, due to the observed gaps in the training of prosecutors, judges, lawyers and judicial police officers (formulation of questions in the decision, objects of expertise, types of expertise, etc.).

IFM agrees that the technical specifications procedure on obtaining, packaging, transportation and delivery of material evidence and the right to refuse the expert examination in cases of unsuitable samples is added and implemented in the Criminal Procedure Code.

Regarding the proposal to establish fixed limits for drugs of abuse (and some prescription drugs), we suggest that, in close cooperation with the toxicology laboratory at IFM, fixed limits for drugs of abuse in biological fluids are determined, because such limits vary depending on the laboratory methods and equipment.

The Institute of Forensic Medicine agrees with the recommendation for the vetting process of forensic experts.

The Institute of Forensic Medicine has standard procedures on the drafting of various forensic expert reports (forensic medical expert report, forensic toxicological expert report, forensic psychiatric expert report, forensic biological expert report). The introductory part of the expert report indicates the expert carrying out the expert examination, miscellaneous information about the subject of the expert examination, the circumstances of the case and the questions that must be answered. The narrative -explanatory part of the expert report indicates a detailed description of the examination steps and all the results obtained during this process substantiated on scientific arguments.

The conclusion indicates the accurate and unambiguous findings of the examination in response to the questions. The expert report is compiled in two original copies, one of which is sent to the requesting body or subject, within the specified deadlines, with a cover letter, while the other copy is stored in the archive of the Institute of Forensic Medicine. Both copies are sealed and signed by the responsible expert. Every expert report is accompanied by a statement with reference to Article 183 of the Criminal Procedure Code.

Thank you for your cooperation

Prepared by

Working group

Director of the Institute of Forensic Medicine

PhD Bledar Xhemali

Institute of Scientific Police

After the presentation of the recommendations at the high-level meeting dated 20.03.2024, all the heads of the ISP (Institute of Scientific Police) were presented with the prepared material and carefully read all the recommendations. Several meetings were held to discuss and express their comments. There was a general agreement regarding the recommendations related to the ISP.

Recommendations 1,21,37,38,40 are to be discussed and more extensive comments are to be expressed.

Recommendation no.1 It is recommended that a structural change be made in the organization of the provision of legal sciences in Albania, following one of the options in Table 2. Whichever option is chosen, the budget for the provision of legal sciences must be sufficient and sustainable.

We recommend that the ISP becomes an independent functional and operational unit, within the administrative structure of SP; the IFM remains as it is.

Recommendation no.21 It is recommended to identify and make the necessary amendments to the legal and sub-legal acts for the police, and criminal codes, after the implementation of the revised data protection legislation.

We recommend that it be harmonized with the law on the State Police.

Recommendation no.37 It is recommended to add to Title VI of the Criminal Procedure Code a new provision regarding the form and content of the Expertise Act. The appropriate wording for proposed Article 185 A is given in section 15.1.2.

Recommendation no.38 It is recommended that a new provision be added to the Criminal Procedure Code, specifying the factors that the court can consider in determining the reliability and probative value of expert evidence. The appropriate wording for proposed section 185B is given in Section 15.2.2.

Recommendation no. 40 It is recommended that the Criminal Procedure Code be amended so as to: 1. clearly provide that the relevant protocols, in order to guarantee the continuity and integrity of the evidence, must be followed by the prosecution authority and every staff member who handles material evidence. 2. allow experts to object to conducting examinations on samples that are not suitable for expertise. 3. clearly provide that non-compliance with the procedures and protocols for

the collection, maintenance, storage and transportation of material samples may make their examination and any results based on them considered inadmissible in the court.

Appendix 6

Recent legal issues concerning the Institute of the Scientific Police and Crime Scene Investigation

Context:

Unlike the previous Law on State Police 2014, Law Nr. 82/2024 in Article 53 makes specific reference to the Institute of the Scientific Police (IPSH). In line with Art 53 (2) a new Decision of the Council of Ministers (DoCM) on IPSH has been prepared and is pending adoption.

The improved quality of the IPSH services provided in the draft DoCM, is supported by changes in the status, organization and treatment of the IPSH employees, all designed to achieve the main policy objective of the ASP and IPSH that is to achieve and maintain relevant international accreditation of forensic laboratory and crime scene examination capacities to support an equitable and fair justice within the Criminal Justice system of Albania.

This upgrade also aims to support Albania's inclusion in regional and international law enforcement and relevant mutual legal assistance MLA agreements/treaties with EU member states and international partners.

Main structural changes introduced by the DoCM include:

- A unified and centrally managed IPSH structure (covering the central level – Lab and regional level (CSI units), in order to ensure effective management and quality assurance, as required by international accreditation standards;
- No local police level subordination of the CSI units;
- It introduces the role of the Deputy IPSH Director as the highest technical scientific role within the IPSH;
- It upgrades the Quality Management Sector to an Accreditation and Quality Management Directorate, with added responsibilities under the accreditation process, for quality management, competence, training and research for both the Lab and CSIs;

6A: Identified issues in the Criminal Procedure Code regarding the IPSH functioning

As provided by the ASP Law Art. 53, pg. 1 the role of the Institute of the Scientific Police is *"to support the criminal justice system and investigation process, through the collection of potential evidence at the crime scene, and qualitative, impartial and reliable forensic expertise, in accordance with the applicable criminal procedure and criminal justice legislation, contemporary scientific methods and international standards in the area of forensic science."*

The draft DoCM provides that its provisions shall be interpreted in line with the criminal justice legislation, international police and judicial cooperation in criminal matters, human rights protections, etc.

With regard to the status and role of the CSIs and forensic examiners in the criminal justice and investigation process, relevant criminal procedure and criminal justice rules (including the Criminal Procedure Code; MLA agreements etc.) shall apply directly, while provisions in the DoCM, which are not mandated as *lex specialis* in this regard, shall be in line with and interpreted according the former.

It is recommended that article 179 of Criminal Procedure Code be amended to allow for the non-nominal appointment of an expert as is the current practice when the proceeding body requests that

a forensic examination be done by the experts of the IPSH. The following is a suggested amendment of the first paragraph of the existing provision:

> **Article 179 (1)**
>
> The expert is designated among persons registered in the register kept for this purpose or among those who have special knowledge on a relevant topic. **The expert appointment by the proceeding authority can be nominal or non-nominal.** In cases where the expertise is declared invalid or a new one is needed to be performed, the proceeding authority shall take measures, where possible, that the new task is entrusted to another expert.

In addition to the above, concerns have been raised regarding the decisions (submission forms) of the proceeding body to conduct a forensic examination which often do not contain the necessary information and lack justification which is essential for an efficient use of forensic capacities at the Lab, especially with regard to the examination of digital devices. It is therefore recommended that art. 182 of the Criminal Procedure Code and a joint Instruction between the Ministry of Interior and General Prosecutor's Office be amended accordingly to provide for specific requirements for information and reasoned justification to be included in the decision/ submission forms.

Recommendations

Recommendation 53: It is recommended that article 179 of the Criminal Procedure Code be amended to allow for the non-nominal appointment of an expert.

Recommendation 54: It is recommended that art. 182 of the Criminal Procedure Code and a joint guideline between the Ministry of Interior and General Prosecutor's Office be amended accordingly to provide for specific requirements for information and reasoned justification to be included in the proceeding body's decision/ submission forms.

6.B Conclusions and recommendations regarding the process of crime scene examination and the role of crime scene examiners

With regard to the crime scene examination, the Criminal Procedure Code does not regulate specific aspects of mandate and procedure for the activation of crime scene examination capacities. Criminal Procedure Code only refers to the "examinations" in general, as a means of searching for evidence (Chapter III).

More specifically, art. 198 of the Criminal Procedure Code which deals with "cases and forms of examinations" provides that the "*examination of persons, places and objects are decided by the proceeding body where necessary to discover the trace evidence and other material consequences of the criminal offence*".

The same article provides that "*the proceeding body may order the performance of technical photography, video recording and any other technical actions at the place being examined"* but without specific reference to the crime scene as a concept definition, neither to the crime scene examination or crime scene examiners as the "experts" to be assigned to perform such actions. Moreover, the said provision provides the proceeding bodies with an unlimited discretion to request that such technical actions (crime scene examination) to be performed at the crime scene, regardless of the seriousness of the crime and complexity of the crime scene, which in practice has led to more than 40% of CSI capacities wasted on unnecessary engagements.

Art 201 of the Criminal Procedure Code which regulates some procedural aspects of the examination of places and objects, refers to the copy of the decision for the conduct of such examinations. The practice has been that CSI teams are called to conduct crime scene examinations without a written decision by the proceeding body as required by the Criminal Procedure Code.

In terms of the authority to collect evidence, the Criminal Procedure Code in art. 151 provides that *"during the preliminary investigations the evidence is collected by the proceeding body,* in line with the Criminal Procedure Code rules on evidence types and their collection. The Criminal Procedure Code is however silent in terms of the rights and responsibilities of the crime scene examiner at the crime scene.

Regarding the exhibits as material evidence, the Criminal Procedure Code in art. 187 provides that *"exhibits are the objects that have served as instruments of the crime or on which traces are found, or have been subject to the actions of the defendant, and proceeds of crime, and other objects which may help in the investigation … "*

Art. 188 of the Criminal Procedure Code provides that "*the exhibits are recorded in detail in the minutes, and where possible photographed and video recorded and upon the order of the proceeding body are part of the court file".* The Criminal Procedure Code is silent on the role of the crime scene examiner in the recording of recovered exhibits.

Recommendations

Recommendation 55: The Criminal Procedure Code should include specific provisions on the concept definition of the crime scene, "crime scene examination" and of the types of "examination of places", as a means for evidence search.

Recommendation 56: The Criminal Procedure Code should provide for the principle of efficient use of regional CSI capacities and the duty of the proceeding body to request the crime scene examination only for those technical actions which are not advisable to be performed by the prosecutor/ JPOs. The Criminal Procedure Code should provide clarity on the procedural validity of such technical actions performed by the prosecutor /JPO at the crime scene in connection to art 151 of the Criminal Procedure Code. Additional specific criteria for the types of crime scene and criminal offences for which CSI capacities may be used can be provided in a joint sub-legal act between the General Prosector's Office and ASP/ Ministry of Interior.

Recommendations 57: The Criminal Procedure Code should include clear provisions regarding the decision of the proceeding body to request the crime scene examination which should be made in writing and a copy of which should be provided to the CSI team as soon as practicable, in connection to art. 201.

Recommendations 58: The Criminal Procedure Code should provide clear rules about the crime scene management during the CSI team examination, so that the CSI team is able to perform its duties and responsibilities efficiently and effectively, especially with regard to the crime scene access control and methodology for examining the scene and recovering the exhibits, vesting the CSI teams with the primary authority to control the crime scene perimeter and carry out the examination;

Recommendation 59: The Criminal Procedure Code should provide clear rules about the right of the CSI team to receive a copy of the crime scene minutes kept by the proceeding body and to be countersigned by the CSI where the recovered exhibits are also recorded.