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Theme I

Third Evaluation Round

Evaluation Report on Albania on Incriminations (ETS 173 and 191, GPC 2) (Theme I)

Adopted by GRECO
at its 42nd Plenary Meeting
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I. INTRODUCTION

1. Albania joined GRECO in 2001. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2002) 9E) in respect of Albania at its 12th Plenary Meeting (9-13 December 2002) and the Second Round Evaluation Report (Greco Eval II Rep (2004) 8E) at its 22nd Plenary Meeting (14-18 March 2005). The aforementioned Evaluation Reports, as well as their corresponding Compliance Reports, are available on GRECO's homepage (<http://www.coe.int/greco>).
2. GRECO's current Third Evaluation Round (launched on 1 January 2007) deals with the following themes:
 - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
 - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).
3. The GRECO Evaluation Team for Theme I (hereafter referred to as the "GET"), which carried out an on-site visit to Albania from 17 to 18 November 2008, was composed of Mr Georgi RUPCHEV, State Expert, Directorate of International Cooperation and European Affairs, Ministry of Justice (Bulgaria) and Mrs Maria GAVOUNELLI, Assistant Professor of International Law, University of Athens (Greece). The GET was supported by Mr Michael JANSSEN from GRECO's Secretariat. Prior to the visit the GET experts were provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2008) 6E, Theme I), as well as copies of relevant legislation.
4. The GET met with officials from the following institutions: the Council of Ministers (Department of Internal, Administrative Control and Anti-Corruption), the Ministry of Justice, the Supreme Court, the State Police, the Ministry of the Interior, the First Instance Court for Serious Crimes (Tirana), the First Instance Tirana District Court, the First Instance Fieri District Court and the Prosecutor General's Office. The GET also met with a representative of a non-governmental organisation (the "Albanian Committee of Helsinki"), as well as with lawyers and academics.
5. The present report on Theme I of GRECO's 3rd Evaluation Round – Incriminations – was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the report is to evaluate the measures adopted by the Albanian authorities in order to comply with the requirements deriving from the provisions indicated in paragraph 2. The report contains a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to Albania in order to improve its level of compliance with the provisions under consideration.
6. The report on Theme II – Transparency of party funding, is set out in Greco Eval III Rep (2008) 7E, Theme II.

II. INCRIMINATIONS

Description of the situation

7. Albania ratified the Criminal Law Convention on Corruption (ETS 173) on 19 July 2001 and the Convention entered into force in respect of Albania on 1 July 2002. Albania has made a reservation to Article 17 (jurisdiction).¹ The Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) was ratified on 15 November 2004 and entered into force in respect of Albania on 1 March 2005 without any reservation.
8. The Albanian Criminal Code² (hereafter: CC) entered into force on 16 September 1995. The provisions on public sector bribery were completely revised in 2004 by legal amendments³ which aimed at adjusting national legislation to the requirements of the Criminal Law Convention on Corruption and which entered into force on 22 October 2004. At the same time, the offences of bribery committed in the private sector as well as of trading in influence were criminalised.

Bribery of domestic public officials (Articles 1-3 and 19 of ETS 173)

9. Sections 244, 245 and 319 CC establish the offence of *active bribery* and sections 259, 260 and 319/a CC that of *passive bribery*. In both cases, there are basic provisions as well as specific provisions for corruption of high State officials and locally elected persons and of judges, prosecutors and employees of the judicial bodies. The specific provisions contain exactly the same elements as the basic ones but provide for more severe sanctions.

Section 244 CC: Active corruption of persons exercising public functions

The direct or indirect proposal, offer, or giving, to a person exercising public functions, of any irregular benefit for him/herself or a third person in order to act or not act in relation to his/her duty, is punishable by a term of imprisonment of 6 months to 3 years and a fine of 300,000 to 1 million Albanian Leke (ALL).

Section 259 CC: Passive corruption by persons exercising public functions

Soliciting or taking, directly or indirectly, by a person exercising public functions, of any irregular benefit or promise for him/herself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in relation to his/her duty, is punishable by a term of imprisonment of two to eight years and by a fine of 500,000 to three million ALL.

Section 245 CC: Active corruption of high State officials and of locally elected persons

The direct or indirect proposal, offer, or giving, to high State officials or to a locally elected person, of any irregular benefit for him/herself or a third person in order to act or not act in relation to his/her duty, is punishable by a term of imprisonment of 1 to 5 years and with a fine of 500,000 to 2 million ALL.

Section 260 CC: Passive corruption by high State officials or locally elected persons

Soliciting or taking, directly or indirectly, by a high State official or a locally elected person, of any irregular benefit or of any such promise for him/herself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in relation to his/her duty, is punishable by a term of imprisonment of 4 to 12 years and a fine of 1 to 5 million ALL.

Section 319 CC: Active corruption of judges, prosecutors and employees of the judicial bodies

The direct or indirect proposal, offer, or giving to a judge, prosecutor, or employees of the judicial bodies of any irregular benefit for him/herself or a third person in order to act or not act, regarding his/her duty, is punishable by a term of imprisonment of 1 to 4 years and a fine of 400,000 to 2 million ALL.

¹ See Appendix A.

² Law No. 7895 of 27.01.1995, published in the Official Gazette 2/1995, p. 23.

³ Law No. 9257 of 16.09.2004, published in the Official Gazette 69/2004, p. 4589.

Section 319/a CC: Passive corruption of judges, prosecutors and employees of the judicial bodies
Direct or indirect soliciting or taking, by a judge, prosecutor, or employees of the judicial bodies, of any irregular benefit or any such offer for him/herself or a third person, or accepting an offer or promise deriving from an irregular benefit in order to act or not act in relation to his/her duty, is punishable by a term of imprisonment of 3 to 10 years and a fine of 800,000 to 4 million ALL.

10. In addition to the general bribery provisions, section 312 CC penalises the direct or indirect proposal, offer, or giving to a witness, expert or translator of any irregular benefit for him/herself or a third party in order to secure false declarations or testimony, expertise or translation or to secure failure to carry out their obligation to the criminal prosecution bodies and the court (sanction: imprisonment for up to 4 years and a fine of 500,000 to 2 million ALL/4,013 to 16,053 EUR).⁴
11. Moreover, section 328 CC criminalises offering or giving money, promising employment or other favours, with the intent of obtaining signatures for presenting a candidate, for voting in favour of or against a candidate or for taking part in or abstaining from taking part in elections, (sanction: fine or up to 6 months of imprisonment), as well as accepting money, promises or other favours in order to conduct the above-mentioned actions (sanction: fine).

Elements of the offence

“Domestic public official”

12. The term “public official” does not appear in the Albanian bribery provisions, which refer instead to “a person exercising public functions” (sections 244 and 259 CC).⁵ High State officials and locally elected persons are specifically covered by sections 245, 260 CC and judges, prosecutors and employees of the judicial bodies by sections 319, 319/a CC. The concept of “a person exercising public functions” and of “high State officials” is not defined by law. The authorities stated that this concept was to be understood on the basis of legal theory/doctrine and of jurisprudence, however, they did not provide the GET with a clear definition. They indicated that the concept of “a person exercising public functions” and of “high State officials” was interpreted broadly by courts to cover not only employees of public administration but every person performing certain public functions, including for example notaries (who have no employment contract with the State), lawyers or persons performing public functions on behalf of private companies with majority State ownership.⁶ The authorities furthermore stressed that the concept of “high State officials” – which entails more severe sanctions for bribery offences – had been clarified by several Supreme Court decisions,⁷ according to which this term is to be understood by reference to article 141, paragraph 1 of the Constitution and to section 75/b, item 2 of the Code of Criminal Procedure and includes the President of the Republic, the Prime Minister, members of the Council of Ministers and deputies, members of Parliament, judges of the Supreme Court and judges of the Constitutional Court. During the visit, however, various interlocutors met by the GET did not give an unambiguous and concurring explanation of this concept (for example, some of them referred to section 11 of the Law on the Status of the Civil

⁴ Exchange rate from ALL to EUR on 25 September 2008.

⁵ In order to facilitate the reading, in this report the term *public official* is used and is to be understood in the sense of “a person exercising public functions”, unless otherwise specified.

⁶ See, for example, Supreme Court decision No. 371 of 27.10.2000; No. 542 of 03.11.2004; No. 651 of 22.10.2004; No. 3 of 19.01.2005; No. 423 of 25.04.2007; No. 105 of 09.11.2007; No. 395 of 10.09.2008.

⁷ See, for example, Supreme Court decision No. 105 of 09.11.2007; No. 2 of 11.01.2008; No. 530 of 17.12.2008.

Servant⁸ which defines four different categories of civil servants, i.e. civil servants of high-level, medium-level or low-level management or of the implementing level).

“Promising, offering or giving” (active bribery)

13. The provisions of 259, 260 and 319 CC use the words “proposal”, “offer” and “giving”.

“Request or receipt, acceptance of an offer or promise” (passive bribery)

14. The provisions of sections 244, 245 and 319/a CC use the words “soliciting or taking ... of any irregular benefit or of any such promise”.

“Any undue advantage”

15. The concept of “any undue advantage” is transposed by reference to “any irregular benefit” in the penal provisions concerning active and passive bribery. The authorities indicated to the GET that this concept covers any undue material and immaterial advantages, except for very minor permissible benefits which a public official may accept without being obliged to declare them if they do not exceed the value of 1,000 ALL/8 EUR.⁹

“Directly or indirectly”

16. The relevant provisions on active and passive bribery specify expressly that the offence can be committed directly or indirectly.

“For himself or herself or for anyone else”

17. All the provisions on active and passive bribery use the term “for him/herself or for a third person”.

“To act or refrain from acting in the exercise of his or her functions”

18. Albanian legislation expressly covers both positive acts and omissions, on condition that they are in relation to the public official’s duty. The authorities indicated to the GET that the concept of the public official’s “duty” is to be understood by reference to the official’s status, authority, job description, employment contract and/or act of authority on a case-by-case basis, and that in cases where an official acts entirely outside the scope of his competence, he can be prosecuted under the criminal offences of abuse of duty (section 248 CC), fraud (section 143 CC) or, depending on the circumstances, trading in influence (section 245/1 CC), which are sanctioned by similar penalties to those provided for bribery.

“Committed intentionally”

19. The legislation on corruption makes no reference to any moral/intentional element of the offence. However, the authorities indicated to the GET that the intention to commit an offence is always required under Albanian law and is one of the very conditions of the offence, even if not explicitly stipulated in the legislation, unless dispensed with by a formal provision of the legislation. In the terms of section 15 CC, a criminal act is committed intentionally “when the person foresees the

⁸ Law No. 8549 of 11.11.1999, published in the Official Gazette 36/1999, p. 1381, entered into force on 27 January 2000.

⁹ This ceiling was fixed by a decision of the Council of Ministers (decision No. 714 of 20.10.2004) implementing the relevant provisions of the Law No. 9131 of 08.09.2003 “On the Rules of Ethics in the Public Administration”, published in the Official Gazette 83/2003.

consequences of the criminal act and wants them to occur or, although s/he foresees but does not want them, consciously allows them to occur.”

Sanctions

20. *Active bribery* is punishable by 6 months to 3 years of imprisonment and a fine of 300,000 to 1 million ALL (2,408 to 8,027 EUR). If the offence involves high State officials or locally elected persons, sanctions increase to imprisonment for 1 to 5 years and a fine of 500,000 to 2 million ALL (4,013 to 16,053 EUR); if it involves judges, prosecutors or employees of the judicial bodies, the offence is punishable by imprisonment for 1 to 4 years and a fine of 400,000 to 2 million ALL (3,211 to 16,053 EUR). *Passive bribery* offences carry prison sentences of 2 to 8 years, as well as fines of 500,000 to 3 million ALL (4,013 to 24,081 EUR). If the offence is committed by high State officials or locally elected persons, sanctions range between 4 to 12 years' imprisonment, as well as a fine of 1 to 5 million ALL (8,027 to 40,135 EUR); if it is committed by judges, prosecutors or employees of the judicial bodies, the offence is punishable by imprisonment for 1 to 10 years and a fine of 800,000 to 4 million ALL (6,422 to 32,108 EUR). The authorities explained that in all these cases, both sanctions i.e. imprisonment and fine are imposed cumulatively.¹⁰
21. Similar sanctions are available for other comparable criminal offences such as fraud (section 143 CC) and abuse of duty (section 248 CC).
22. According to section 47 CC, the court determines the punishment in consideration of the dangerousness of the criminal act, the dangerousness of the person who committed the act, the level of guilt, as well as both mitigating and aggravating circumstances. Mitigating circumstances are listed in section 48 CC, including *inter alia* situations where the act is committed under the influence of wrong actions or instructions of a superior, where the person has compensated for the damage caused by the criminal act or has actively helped to eliminate or decrease its consequences, or where the person gives himself over to the competent authorities after committing the criminal act. Aggravating circumstances are specified in section 50 CC and include *inter alia* situations where an offence is committed after a sentence was decided for a previous offence, where the crime is committed by abusing the public office, or where the act is committed in collaboration or more than once.
23. In addition to the above-mentioned principal punishments, “supplementary punishments” as provided by section 30 CC, e.g. the denial of the right to exercise public functions, the confiscation of the instruments and proceeds of crime or the removal of the right to stay in one or more administrative units, can also be imposed on perpetrators of bribery offences, under the conditions specified by the law. For example, according to section 35 CC, the denial of the right to exercise public functions can be applied for a period of 3 to 5 years for cases in which the court has given a sentence of 5 to 10 years' imprisonment, and for a period of 1 to 3 years, when the sentence given is up to 3 years' imprisonment; it is obligatorily applied, for a period of at least 5 years, to a person who has committed an office-related crime by abusing his public function or who has committed a crime which carries a sentence of at least 10 years' imprisonment. Finally, section 30 CC stipulates that in particular cases, “when the criminal punishment is deemed to be inappropriate and when the law provides for imprisonment of up to 3 years or other lighter punishments,” the court may decide only to apply the supplementary sentence; the authorities indicated, however, that this provision was of no practical importance and had probably never been applied so far.

¹⁰ See section 29, paragraph 3 CC.

Bribery of members of domestic public assemblies (Article 4 of ETS 173)

24. The authorities indicated that members of domestic public assemblies are covered by sections 245 and 260 CC which criminalise active and passive corruption involving high State officials (e.g. members of Parliament) or locally elected persons (e.g. mayors). The elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of members of domestic public assemblies.

Bribery of foreign public officials (Article 5 of ETS 173)

25. The authorities claimed that foreign public officials can be considered “persons exercising public functions” or “high State officials” for the purpose of bribery offences and are therefore covered by the different bribery provisions. However, there is no explicit reference to foreign officials in sections 244, 245, 259, 260, 319 and 319/a CC. The authorities affirmed that the elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of foreign public officials. There is no case law/court decision concerning bribery of foreign public officials.

Bribery of members of foreign public assemblies (Article 6 of ETS 173)

26. The authorities claimed that members of foreign public assemblies can be considered “high State officials” or “locally elected persons” for the purpose of bribery offences and are therefore covered by sections 245 and 260 CC. However, there is no explicit reference to members of foreign public assemblies in these provisions. The authorities affirmed that the elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of members of foreign public assemblies. There is no case law/court decision concerning bribery of members of foreign public assemblies.

Bribery in the private sector (Articles 7 and 8 of ETS 173)

27. Active and passive bribery in the private sector have been criminal offences under Albanian law since 22 October 2004 when sections 164/a and 164/b CC entered into force, by virtue of legal amendments to the Criminal Code of 16 September 2004.¹¹

Section 164/a CC: Active corruption in the private sector

The direct or indirect promise, offer, or giving to a person who exercises a management function in a commercial company or who works in any other position in the private sector, of any irregular benefit for him/herself or for other persons, in order to act or to fail to act contrary to his/her duty, constitutes a criminal contravention and is punishable by a term of imprisonment of 3 months to 2 years and a fine of 200,000 to 1 million ALL.

Section 164/b CC: Passive corruption in the private sector

Direct or indirect soliciting or taking of any irregular benefit or any promise of such kind, for him/herself or for other persons, or the acceptance of an offer or promise that derives from the irregular benefit, by the person that exercises a management function or works - in whatever position - in the private sector, with the purpose of acting or not acting contrary to his/her duty, is punishable by a term of imprisonment of 6 months to 3 years and a fine of 300,000 to 3 million ALL.

¹¹ Law No. 9257 of 16.09.2004, published in the Official Gazette 69/2004, p. 4589.

Elements of the offence

28. The elements described under bribery of domestic public officials also apply to bribery in the private sector, in accordance with the following particular elements:

“Persons who direct or work for, in any capacity, private sector entities”

29. The concept of “persons who direct private sector entities” is transposed into sections 164/a and 164/b CC by use of the words “a person who exercises a management function in a commercial company” and the concept of “persons who work for, in any capacity, private sector entities”, by use of the words “a person who works in any other position in the private sector”.

“In the course of business activity”; “...in breach of duties”

30. Sections 164/a and 164/b CC use the words “in order to act or to fail to act/with the purpose of acting or failing to act contrary to his/her duty”.

Sanctions and court decisions

31. *Active bribery* in the private sector is punishable by 3 months to 2 years of imprisonment and a fine of 200,000 to 1 million ALL (1,605 to 8,027 EUR). *Passive bribery* offences committed in the private sector carry prison sentences of 6 months to 3 years, as well as a fine of 300,000 to 3 million ALL (2,408 to 24,081 EUR). “Supplementary punishments” (section 30 CC) as detailed under bribery of domestic public officials also apply to bribery in the private sector. There is no case law concerning bribery in the private sector.

Bribery of officials of international organisations (Article 9 of ETS 173)

32. The authorities claimed that officials of international organisations can be considered “persons exercising public functions” for the purpose of bribery offences and are therefore covered by the bribery provisions. However, there is no explicit reference to officials of international organisations in sections 244 and 259 CC. The authorities affirmed that the elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of officials of international organisations. There is no case law/court decision concerning bribery of officials of international organisations.

Bribery of members of international parliamentary assemblies (Article 10 of ETS 173)

33. The authorities claimed that members of international parliamentary assemblies can be considered “persons exercising public functions” or, depending on the circumstances, “high State officials” or “locally elected persons” for the purpose of bribery offences and are therefore covered by the bribery provisions. However, there is no explicit reference to members of international parliamentary assemblies in sections 244, 245, 259 and 260 CC. The authorities affirmed that the elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of members of international parliamentary assemblies. There is no case law/court decision concerning bribery of members of international parliamentary assemblies.

Bribery of judges and officials of international courts (Article 11 of ETS 173)

34. The authorities claimed that judges and officials of international courts can be considered “judges or employees of the judicial bodies” for the purpose of bribery offences and are therefore covered by the bribery provisions of sections 319 and 319/a CC. However, there is no explicit reference to judges and officials of international courts in these provisions. The authorities affirmed that the elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of judges and officials of international courts. There is no case law/court decision concerning bribery of judges and officials of international courts.

Trading in influence (Article 12 of ETS 173)

35. Trading in influence has been criminalised in section 245/1 CC both in its active (paragraph 1) and passive form (paragraph 2) since 22 October 2004 when the legal amendments to the Criminal Code of 16 September 2004¹² entered into force.

Section 245/1 CC: Exercising illegal influence over persons exercising public functions

(1) The direct or indirect proposal, offer, or giving an irregular benefit, for him/herself or a third person, to the person who promises and guarantees that s/he is able to exercise illegal influence on the accomplishment of the duties and on taking of decisions by Albanian or foreign persons exercising public functions, no matter whether the influence has been actually exercised or not and no matter whether the desirable consequences have occurred or not, constitutes a criminal contravention and is punishable by a term of imprisonment from 6 months to 2 years and a fine of 300,000 to 1 million ALL.

(2) The direct or indirect soliciting, receiving, or accepting whatever irregular benefit for oneself or a third person, by promising and confirming the ability to exercise illegal influence on the accomplishment of the duties and on adoption of decisions by Albanian or foreign persons exercising public functions, no matter whether the influence has been actually exercised or not and no matter whether the desirable consequences have occurred or not, is punishable by a term of imprisonment of 6 months to 4 years and a fine of 500,000 to 2 million ALL.

Elements of the offence

“Asserts or confirms that s/he is able to exert an improper influence over the decision-making of [public officials]”

36. This concept is implemented in section 245/1 CC by use of the words “who promises and guarantees that he is able to exercise illegal influence on the accomplishment of the duties and on taking of decisions by Albanian or foreign persons exercising public functions”. It is not relevant whether the influence was actually exerted or if it led to the intended result.

Other constitutive elements

37. The constitutive elements of bribery offences largely apply with regard to active and passive trading in influence.

¹² Law No. 9257 of 16.09.2004, published in the Official Gazette 69/2004, p. 4589.

Sanctions and court decisions

38. *Active trading in influence* is punishable by between 6 months and 2 years of imprisonment and a fine of 300,000 to 1 million ALL (2,408 to 8,027 EUR). The sanctions applicable to *passive trading in influence* are imprisonment for 6 months to 4 years and a fine of 500,000 to 2 million ALL (4,013 to 16,053 EUR). “Supplementary punishments” (section 30 CC), as detailed under bribery of domestic public officials, also apply to trading in influence. There is no case law concerning trading in influence.

Bribery of domestic arbitrators (Article 1, paragraphs 1 and 2 and Articles 2 and 3 of ETS 191) and bribery of foreign arbitrators (Article 4 of ETS 191)

39. The authorities claimed that domestic and foreign arbitrators are covered by the bribery provisions of sections 319 and 319/a CC which apply to “judges, prosecutors and employees of the judicial bodies”. However, there is no explicit reference to domestic and foreign arbitrators in these provisions. The authorities affirmed that the elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of domestic and foreign arbitrators. There is no case law/court decision concerning bribery of domestic and foreign arbitrators.

Bribery of domestic jurors (Article 1, paragraph 3 and Article 5 of ETS 191) and bribery of foreign jurors (Article 6 of ETS 191)

40. The authorities claimed that the concept of “judges, prosecutors and employees of the judicial bodies” as employed by sections 319 and 319/a CC is broad enough to cover domestic and foreign jurors, although these categories of persons are not explicitly mentioned. However, they stressed that there are no domestic jurors in the Albanian justice system. The authorities affirmed that the elements of the offence and the applicable sanctions detailed under bribery of domestic public officials also apply to bribery of foreign jurors. There is no case law/court decision concerning bribery of foreign jurors.

Other questions

Participatory acts

41. Aiding and abetting the commission of all of the abovementioned criminal offences is criminalised under Albanian legislation. In accordance with section 27 CC the same sanctions can be imposed on aiders (“helpers”) and abettors (“instigators”) as on the principal offender but the court has to take into account the level of participation and the role played by everyone in committing the criminal act.

Section 27 CC: Responsibility of collaborators

(1) Organisers, instigators, and helpers bear the same responsibility as the executors for the criminal act committed.

(2) In deciding the sentencing of collaborators, the court should consider the level of participation and the role played by everyone in committing the criminal act.

Jurisdiction

42. According to section 6, paragraph 1 CC and section 7, paragraph 1 CC which apply to all offences criminalised by the Criminal Code, jurisdiction is established over acts committed within the territory of Albania, by Albanian or foreign citizens (principle of territoriality). Section 76 of the Code of Criminal Procedure contains more specific regulations on how to determine territorial jurisdiction, i.e. primarily on the basis of the place where the offence is committed or is attempted, or alternatively on the basis of the place where the consequences of the act have materialised.
43. As regards offences committed abroad, Albania has made a reservation in respect of Article 17, paragraphs 1.b and 1.c of the Criminal Law Convention on Corruption in order to apply those provisions only if the offence also constitutes an offence under the legislation of the State Party in which it has been committed (requirement of dual criminality).¹³ In accordance with section 6, paragraph 2 CC the Albanian criminal law is to be applied to Albanian citizens who have committed an offence abroad (principle of nationality), under the condition of dual criminality. Furthermore, section 7, paragraph 2 CC stipulates that the Albanian criminal law is also applicable to foreign citizens committing abroad one of a number of specified crimes “against the interests of the Albanian State or an Albanian citizen”, *inter alia*, crimes of “active and passive corruption committed by persons exercising public functions, as well as in the private sector”.

Statute of limitations

44. In accordance with section 66 CC, the period of limitation is determined by the severity of sanctions which can be imposed for the offence in question.

Section 66 CC: Statute of limitations for criminal prosecution

Criminal prosecution shall not be conducted if, from the moment the act was committed until the moment that the person is held defendant, have elapsed:

- a) twenty years on offences for which the law provides sentences of no lower than ten years of imprisonment or other heavier punishment;*
- b) ten years on offences for which the law provides sentences between five and ten years of imprisonment;*
- c) five years on offences for which the law provides sentences up to five years of imprisonment or fine;*
- ç) three years for criminal contraventions that provide sentences up to two years of imprisonment;*
- d) two years for criminal contraventions that provide fines.*

On this basis, the limitation period provided for active bribery offences is 5 years or, if the offence involves high State officials/locally elected persons, 10 years. In cases of passive bribery offences the limitation period is 10 years or, if the offence involves high State officials or locally elected persons, 20 years. The limitation period provided for offences of active bribery in the private sector and active trading in influence is 3 years, and 5 years for passive bribery in the private sector as well as passive trading in influence.

¹³ See Appendix A. – The reservation deposited by the Government of Albania on 27 June 2005 was renewed on 30 March 2006. The reservation remains valid for three years until 2009.

Defences

45. A special defence is provided for all active bribery offences committed in the public or in the private sector. Section 245/2 CC, which was introduced by the legal amendment of 2004,¹⁴ stipulates that the perpetrator may benefit from exemption from the sentence or the reduction of it, "if he makes a report and provides a contribution to the criminal proceeding" of the crime. The decision is taken by the competent court, which has to take into account the time when the report is made and the consequences of the criminal act. The authorities indicated to the GET that the decision to exempt the perpetrator from punishment, or to reduce it, is at the discretion of the court, but this presupposes a request made by the defence or by the prosecution.

Section 245/2 CC: Exemption from execution or reduction of the sentence

(1) The person who has promised or given a reward or other benefits, in accordance with Sections 164/1, 244, 245, 312, 319 and 328 of this Code, may benefit from exemption from the sentence or the reduction of it, in compliance with the provisions of Section 28 of this Code, if he makes a report and provides a contribution to the criminal proceeding of these crimes.

(2) In giving this decision the court considers the time when the report is made and the consequences of the act.

Statistics

46. Statistics show that, during the period 2005-2007, 37 cases of active bribery of public officials were investigated by the prosecutor's office, 15 cases were filed to court, 15 persons were convicted by district courts (in 2005: 5; in 2006: 1; in 2007: 9) and 7 persons by courts of appeals (second instance). During the same period 108 cases of passive bribery of public officials were investigated by the prosecutor's office, 60 cases were filed to court, 51 persons were convicted by district courts (in 2005: 17; in 2006: 24; in 2007: 10) and 34 persons by courts of appeals (second instance).
47. In respect of private sector bribery, statistics show that during the period 2005-2007, 2 cases of active bribery were investigated by the prosecutor's office, no case was filed to court and no person convicted. During the same period 4 cases of passive bribery were investigated by the prosecutor's office, 3 cases were filed to court and 3 persons were convicted by district courts (all of them in 2006). As for trading in influence, the statistics submitted by the authorities do not present any cases, however, the GET was informed during the visit by police officers and prosecutors that they had investigated several cases over recent years.

IV. ANALYSIS

48. In Albania, bribery in the public and private sectors, as well as trading in influence, are criminalised both in their active and passive form. Following legal amendments in 2004, the relevant provisions of the 1995 Albanian Criminal Code (hereafter: CC) meet to a great extent the requirements of the Criminal Law Convention on Corruption (ETS 173) (hereafter: the Convention) and its Additional Protocol (ETS 191) under review. It is clear that the relevant provisions on public sector bribery cover the different types of corrupt behaviour laid down in the Convention (promising, offering or giving and requesting, receiving or accepting), direct and indirect bribery, as well as third party beneficiaries. It should be noted that the 2004 amendments (followed by some additional later amendments) were aimed at adapting the national legislation

¹⁴ Law No. 9257 of 16.09.2004, published in the Official Gazette 69/2004, p. 4589, entered into force on 22 October 2004.

to international standards, *inter alia*, to the requirements of the Convention, and that a completely new system of corruption offences has thus been established. The current system comprises altogether ten bribery provisions – complemented by provisions on trading in influence and on abuse of duty, including basic provisions on bribery in the public sector as well as specific provisions for bribery of high State officials and locally elected persons, of judges, prosecutors and employees of the judicial bodies, active bribery of witnesses, experts or translators, corruption in the election process and bribery in the private sector. The GET acknowledges the authorities’ spirit of cooperation and willingness to adjust to new challenges, which are reflected in the aforementioned significant legal reform and were equally conveyed during the on-site visit.

49. Nevertheless, the GET was left with the clear impression that frequent legal amendments have lead to a complicated and partly incoherent system, thus hampering the implementation of the existing legislation, and during the interviews held on-site it was suggested that a new Criminal Code would now be needed. One concrete example of inconsistent legislation in the area of corruption offences is the concept of “any irregular benefit” employed in various bribery provisions. All the interlocutors met by the GET agreed on a common understanding of this concept which would include any material and immaterial advantages¹⁵ as required by the Convention, and the GET has no reason to doubt this interpretation; however, the GET noted that the provision on the offence of “abuse of duty” (section 248 CC) explicitly mentions material and immaterial benefits. Such – apparently unintended – different wording in the Criminal Code may well be misleading and warrant systematic harmonisation. Moreover, the general impression of the GET was that practitioners were uncertain in their understanding of several legal concepts, partly due to the fact that there are no legal definitions of key terms used by the Criminal Code. Some concrete examples in the area of corruption are “a person exercising public functions” and “high State officials” which designate possible perpetrators of bribery offences. All in all, however, the GET identified only a limited number of shortcomings in the current corruption-related provisions of the Criminal Code, as outlined below.
50. Concerning the categories of persons covered by public sector bribery offences, the GET notes that the Albanian Criminal Code does not provide a definition of public official. The provisions on active and passive bribery – and on trading in influence – refer to three different categories of public officials, i.e. to “persons exercising public functions” (sections 244, 245/1, 259 CC), to “high State officials and locally elected persons” (sections 245, 260 CC) and to “judges, prosecutors and employees of the judicial bodies” (sections 319, 319a CC). The authorities explained to the GET that, according to Albanian legal tradition, the scope of the terms used in the Criminal Code is not defined by law but by the legal doctrine/theory, to which the courts refer on a case-by-case basis. On this basis, the concept of a public official is interpreted by reference to functional criteria, covering persons exercising temporary or permanent authority and/or public functions, either in connection with the official activity of public agencies (at central or local level) or in connection with public services provided by persons such as notaries, lawyers or employees of public enterprises/private companies with majority State ownership.¹⁶ As concerns the term “high State officials” which entails more severe sanctions for the relevant bribery offences, the authorities furthermore explained after the visit that according to several Supreme Court decisions,¹⁷ this concept is to be understood by reference to article 141, paragraph 1 of the

¹⁵ Except for very minor permissible benefits which a public official may accept without being obliged to declare them if they do not exceed the value of 1,000 ALL/8 EUR, according to a decision of the Council of Ministers (decision No. 714 of 20.10.2004) implementing the relevant provisions of the Law No. 9131 of 08.09.2003 “On the Rules of Ethics in the Public Administration”, published in the Official Gazette 83/2003.

¹⁶ See, for example, Supreme Court decision No. 371 of 27.10.2000; No. 542 of 03.11.2004; No. 651 of 22.10.2004; No. 3 of 19.01.2005; No. 423 of 25.04.2007; No. 105 of 09.11.2007; No. 395 of 10.09.2008.

¹⁷ See, for example, Supreme Court decision No. 105 of 09.11.2007; No. 2 of 11.01.2008; No. 530 of 17.12.2008.

Constitution and to section 75/b, item 2 of the Code of Criminal Procedure and includes the President of the Republic, the Prime Minister, members of the Council of Ministers and deputies, members of Parliament, judges of the Supreme Court and judges of the Constitutional Court. The GET accepts the clarifications provided by the authorities and therefore refrains from making a formal recommendation in this respect; it however remains somewhat concerned about the lack of a clear and common understanding among legal practitioners of the precise scope of application of the corruption provisions as evidenced during the talks held on site.

51. Moreover, the GET notes that the current bribery provisions do not explicitly mention foreign and international officials, in contrast with the provisions on trading in influence which employ the terms “Albanian or foreign persons exercising public functions” (section 245/1 CC). Nevertheless, the majority of interlocutors declared that the very absence of a distinction between domestic and foreign public officials in the bribery provisions would allow their application to the former and the latter likewise. They furthermore referred to the generally broad concept of a public official as developed by legal doctrine and to the provisions of section 7 CC which establish jurisdiction – within certain limits – over offences committed by foreign persons. On the basis of this understanding, foreign public officials, officials of international organisations, members of foreign public assemblies, members of international parliamentary assemblies, as well as judges and officials of international courts, would be covered by the terms “persons exercising public functions”, “high State officials and locally elected persons” and “judges, prosecutors and employees of the judicial bodies” employed in various bribery provisions. However, the GET notes that several interlocutors expressed clear doubts about this interpretation. It is obvious to the GET that the lack of an explicit reference to the crucial notion of foreign and international officials makes uncertain the applicability of bribery provisions to these categories of persons. In this connection, the GET was interested to learn that until now no investigations have ever been initiated for bribery of foreign or international public officials. Furthermore, the GET wishes to stress that jurisdiction rules are not relevant to the question of whether foreign or international public officials are covered by the elements of bribery offences. In addition, it appears to be unclear on which basis the distinction between foreign and international “persons exercising public functions” and “high State officials” should be made. In light of the foregoing, the GET is of the firm opinion that current legislation needs to be amended in order to include without any doubt foreign and international officials. **The GET recommends to take the legislative measures necessary to ensure that active and passive bribery of foreign public officials, members of foreign public assemblies, officials of international organisations, members of international parliamentary assemblies, as well as judges and officials of international courts, are explicitly criminalised in accordance with Articles 5, 6, 9, 10 and 11 of the Criminal Law Convention on Corruption (ETS 173).**
52. Jurors and arbitrators, who are addressed by the Additional Protocol to the Convention, are not specifically referred to in the bribery provisions of the Criminal Code. The authorities claimed that the concept of “judges, prosecutors and employees of the judicial bodies” as employed by sections 319 and 319/a CC was broad enough to encompass both jurors and arbitrators (concerning arbitrators, they indicated that sections 400 to 439 of the Code of Civil Procedure referred to the concept of “judges of arbitration”). However, several practitioners met by the GET expressed doubts in this regard or even affirmed clearly, especially in respect of arbitrators, that they would not be covered by Albanian bribery provisions; others suggested a possible application of sections 164/a and 164/b CC (bribery in the private sector) to arbitrators. In the absence of clear legal provisions and of any relevant case law or court decision in respect of jurors and arbitrators, the GET is not convinced that corruption committed by or against such persons would indeed be addressed by the Albanian Criminal Code. In addition, the coverage of *foreign* jurors and arbitrators appears all the more doubtful as the Albanian bribery provisions do

not refer to *foreign* public officials, judges, prosecutors and justice officials (see paragraph 51 above). As concerns *domestic jurors*, the GET notes that the current Albanian judicial system does not provide for the participation of jurors or lay judges in court proceedings. Therefore, the GET considers that no measures to ensure the coverage of domestic jurors are required at present, but that they would become necessary if the use of jurors in the meaning of Article 1, paragraph 3 of the Additional Protocol were to be introduced in the future. In view of the above, the GET recommends **to take the necessary legislative measures in order to ensure that foreign jurors as well as domestic and foreign arbitrators are explicitly covered by the bribery provisions of the Criminal Code in conformity with the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191).**

53. The offences of active and passive bribery in the private sector are criminalised under sections 164/a and 164/b CC. Overall, these provisions meet the standards of Articles 7 and 8 of the Convention, but the specific element “in the course of business activity” is not reflected in Albanian law. The GET notes, however, that according to paragraph 53 of the Explanatory Report to the Convention “nothing would prevent a signatory State from implementing this provision without the restriction ‘in the course of business activities’” thus enlarging the scope of application of the private sector bribery provision, and concludes that the absence of this element is not to be regarded as a shortcoming in relation to the standards established by the Convention.
54. Trading in influence is criminalised both in its active and passive form. The new provisions of section 245/1 CC – introduced in 2004 – are close in wording to Article 12 of the Convention and present no major shortcomings. However, the GET notes that the term “illegal influence” used in section 245/1 CC was interpreted by some interlocutors to imply the violation of a norm, i.e. in a narrower sense than the term “improper influence” as employed by Article 12 of the Convention, whereas others suggested a broader interpretation, namely “any kind of influence which leads to an unfair decision” or “influence exerted out of the competence of the person involved”. The authorities indicated to the GET that this broader concept was correct and confirmed by recent court practice, and that the implementation of section 245/1 CC was therefore not hampered by the use of the term “illegal influence”, even in cases where the influence peddler is not a public official and thus does not have to comply with official regulations. The GET accepts this explanation by the authorities who referred to several courts, including Supreme Court, decisions.¹⁸
55. The sanctions available for bribery offences committed in the public sector – up to 12 years of imprisonment – and for trading in influence offences – up to four years of imprisonment – under Albanian law appear to conform to the requirements relating to effectiveness, proportionality and dissuasiveness established under Article 19, paragraph 1 of the Convention. By contrast, the GET is concerned that the available maximum penalties in respect of private sector bribery – two years of imprisonment for active bribery and three years of imprisonment for passive bribery, as well as a fine – are significantly lower than those foreseen for public sector bribery. The GET has serious doubts whether these sanctions could be considered proportionate and sufficiently dissuasive. The authorities gave several reasons for the lower sanctions available for private sector bribery, *inter alia*, the low number of detected cases of private sector bribery, the assessment that private sector corruption is not considered and perceived as being of the same gravity as public sector corruption as well as the general approach of the Albanian legislator which would tend towards facilitating business operations. The GET is, however, concerned

¹⁸ The authorities referred to, *inter alia*, Supreme Court decision No. 67 of 16.04.2008; No. 258 of 29.10.2008; No. 199 of 30.05.2008.

about this approach in Albanian law which inevitably leads to the presumption that private sector bribery is a much less serious offence than public sector bribery. The GET recalls the preference expressed in the Explanatory Report to the Criminal Law Convention¹⁹ to limit the differences between public and private sector bribery as corruption in this form may cause significant damage to society at large, not least with regard to public functions being carried out increasingly by the private sector – a trend that can be seen in many GRECO member States. Consequently, the GET recommends **to increase the maximum penalties for bribery offences in the private sector**. This would also lead to an extension of the limitation period (currently not more than three years for offences of active bribery in the private sector) which is essential for an effective fight against corruption in this area.

56. Whereas jurisdiction is established over all offences penalised by the Criminal Code if committed within the territory of Albania, by Albanian or foreign citizens (see section 6, paragraph 1 CC and section 7, paragraph 1 CC – principle of territoriality), the GET noticed several shortcomings in the current legislation with respect to offences committed abroad which need to be remedied. First of all, concerning acts committed abroad by Albanian citizens, section 6, paragraph 2 CC provides that the Albanian criminal law is to be applied (principle of nationality) under the condition of dual criminality, and Albania has made a reservation to the Convention in this respect.²⁰ This means that Albanian citizens can only be prosecuted for corruption offences committed abroad if the offence is punishable in the foreign State. The GET is of the firm opinion that the requirement of dual criminality is an obstacle to the prosecution of corruption offences committed abroad and that it weakens the possibility to punish corruption of domestic public officials. The authorities argued that corruption offences were criminalised in GRECO member States and thus the requirement of dual criminality was already met. However, it is to be noted, firstly, that the full range of bribery and trading in influence offences is not yet criminalised in all member States and, secondly, that the principle of nationality as laid down in Article 17, paragraph 1.b of the Convention is not limited to jurisdiction over offences committed in other member States. Therefore, in line with GRECO's previous pronouncements on this issue, the GET recommends **to consider abolishing the requirement of dual criminality with respect to the offences of bribery and trading in influence committed abroad and thus withdrawing or not renewing the reservation relating to Article 17 of the Criminal Law Convention on Corruption (ETS 173)**.
57. Moreover, the GET is concerned that section 6, paragraph 2 CC only applies to *crimes* and therefore excludes "*contraventions*" – i.e. offences for which the maximum sanctions available are not more than two years of imprisonment – such as active bribery in the private sector and active trading in influence from the jurisdictional principle of nationality, even if the established requirement of dual criminality is met. This legal situation is clearly at variance with the standards established by Article 17, paragraph 1.b of the Convention which includes the offences of active bribery in the private sector and active trading in influence. Likewise, section 7, paragraph 2 CC, which extends the applicability of the Albanian criminal law to foreign citizens committing abroad one of a number of specified offences, only applies to crimes but not to "*contraventions*". Therefore, this provision is not fully in line with Article 17, paragraph 1.b of the Convention – as regards "*contraventions*" of bribery or trading in influence committed abroad by Albanian public officials or members of Albanian public assemblies without Albanian citizenship – and with Article 17, paragraph 1.c of the Convention – as regards "*contraventions*" of bribery or trading in influence committed abroad and involving Albanian public officials or members of Albanian public assemblies with Albanian citizenship. Furthermore, the GET notes that section 7, paragraph 2 CC

¹⁹ Explanatory report to the Criminal Law Convention, paragraph 52.

²⁰ See Appendix A.

contains additional restrictions, in that it only applies to a number of *specified crimes, inter alia*, to crimes of “active and passive corruption committed by persons exercising public functions, as well as in the private sector”, and only if they are committed “against the interests of the Albanian State or an Albanian citizen”. It would appear that these additional restrictions are not compatible with the requirements of Article 17, paragraphs 1.b and 1.c of the Convention in two respects. Firstly, the GET doubts that the expression “offences of corruption” also covers offences of trading in influence, and it notes that the interlocutors met on-site expressed conflicting views on this question. Secondly, it seems that the concept of offences committed “against the interests of the Albanian State or an Albanian citizen” does not cover offences of bribery (or trading in influence) committed abroad involving foreign public officials, members of foreign or international parliamentary assemblies or judges or officials of international courts. In the absence of any court decision in this respect, the GET is not convinced that such instances of bribery or trading in influence would indeed be covered by Albanian nationality jurisdiction. In the light of the foregoing, and in order for Albanian legislation to fully meet the requirements of Article 17, paragraphs 1.b and 1.c of the Criminal Law Convention on Corruption (ETS 173), the GET recommends **to ensure jurisdiction over all offences of public and private sector bribery and trading in influence committed abroad (i) by Albanian nationals, Albanian public officials or members of Albanian public assemblies; or (ii) involving Albanian public officials, members of Albanian public assemblies or officials of international organisations, members of international parliamentary assemblies or judges/officials of international courts with Albanian citizenship.**

58. Turning to the practical application of the Albanian bribery and trading in influence provisions, the incriminations contained in the Criminal Code appear to provide a quite solid basis for the prosecution and adjudication of corruption offences, with the exception of the lacunae mentioned in the paragraphs above. However, it appears that the experience with application of the law has so far been very limited, especially concerning certain key provisions such as active bribery in the public sector (only 15 cases filed with the courts during the period 2005-2007), private sector bribery (only 3 cases filed to court during the period 2005-2007) and trading in influence (apparently no cases filed during the same period), which raises the question of whether law enforcement officials and judges are sufficiently aware and informed about these relatively new provisions (which were introduced and/or amended in 2004) and have the requisite skills to investigate and adjudicate the various corruption offences. The interviews held on-site left the GET with the clear impression that the numerous recent amendments to the Criminal Code, including the corruption provisions, have made its correct application difficult. Some of the GET’s interlocutors suggested that specialised training on corruption would be needed in order to develop a common understanding of legal concepts which are defined neither by law nor by binding court decisions. In this context, the authorities stressed that the number of detected and adjudicated cases of corruption had been increasing over recent years, due to the establishment of the “Joint Unit for the Investigation of Economic Crime and Corruption in the Tirana Prosecution Office”, and that training on corruption was provided to police officers (e.g., in the framework of international programmes) judges and prosecutors (organised by the School of magistrates). The GET wishes to stress that such practical measures need to be pursued and further developed in order to support the full implementation of the existing incriminations of corruption offences.

V. CONCLUSIONS

59. The Albanian legal framework for the incrimination of corruption complies to a large extent with the requirements of the Criminal Law Convention on Corruption (ETS 173). With legal reforms of the Criminal Code in 2004, which introduced thoroughly revised provisions on public sector

bribery as well as completely new provisions on private sector bribery and trading in influence, Albania has shown a serious will to adopt the standards established by the Convention. Nevertheless, a significant deficiency in the current regime resides in the limited scope of application of the public sector bribery and trading in influence offences which mainly refer to the concept of a “person exercising public functions” and of “high State officials and locally elected persons”. In particular, this concept does not take account of foreign or international officials as required by the Convention. Moreover, arbitrators and jurors, as addressed by the Additional Protocol to the Convention (ETS 191), are not mentioned in the bribery provisions. Furthermore, the available sanctions in respect of private sector bribery are particularly low in comparison to those foreseen for public sector bribery. Another area of concern is the legislation on jurisdiction over offences of bribery and trading in influence committed abroad, which contains several shortcomings if compared to the Convention and is further restricted by the condition of dual criminality: Albania should reconsider its position concerning the reservation made to the Convention in this respect in order to ensure that a corruption offence committed abroad can be prosecuted even if it is not punishable in the foreign State. Finally, despite a generally positive assessment of the relevant criminal legislation in force, its implementation needs to be further encouraged as it appears to suffer from a lack of information and common understanding of the corruption-related provisions and the underlying legal concepts among those entrusted with applying the law.

60. In view of the above, GRECO addresses the following recommendations to Albania:
- i. **to take the legislative measures necessary to ensure that active and passive bribery of foreign public officials, members of foreign public assemblies, officials of international organisations, members of international parliamentary assemblies, as well as judges and officials of international courts, are explicitly criminalised in accordance with Articles 5, 6, 9, 10 and 11 of the Criminal Law Convention on Corruption (ETS 173) (paragraph 51);**
 - ii. **to take the necessary legislative measures in order to ensure that foreign jurors as well as domestic and foreign arbitrators are explicitly covered by the bribery provisions of the Criminal Code in conformity with the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) (paragraph 52);**
 - iii. **to increase the maximum penalties for bribery offences in the private sector (paragraph 55);**
 - iv. **to consider abolishing the requirement of dual criminality with respect to the offences of bribery and trading in influence committed abroad and thus withdrawing or not renewing the reservation relating to Article 17 of the Criminal Law Convention on Corruption (ETS 173) (paragraph 56);**
 - v. **to ensure jurisdiction over all offences of public and private sector bribery and trading in influence committed abroad (i) by Albanian nationals, Albanian public officials or members of Albanian public assemblies; or (ii) involving Albanian public officials, members of Albanian public assemblies or officials of international organisations, members of international parliamentary assemblies or judges/officials of international courts with Albanian citizenship (paragraph 57).**

61. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Albanian authorities to present a report on the implementation of the above-mentioned recommendations by 30 November 2010.
62. Finally, GRECO invites the authorities of Albania to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.

APPENDIX A

ETS 173:

Reservation contained in a Note Verbale from the Ministry of Foreign Affairs of Albania, dated 27 June 2005 and in a Note Verbale from the Permanent Representation, dated 18 July 2005- Or. Engl.

In accordance with Article 37, paragraph 2, of the Convention, the Republic of Albania reserves the right to apply Article 17, paragraphs 1.b and 1.c, only if the offence also constitutes an offence under the legislation of the State Party in which it has been committed (double criminality).

Note by the Secretariat : By a Note verbale from the Permanent Representative of Albania, dated 30 March 2006 - Or. Engl. - the Government of Albania has informed the Secretary General of its intention to uphold wholly this reservation for a period of 3 years (Article 38 of the Convention).

Period covered: 1/7/2002 -

The preceding statement concerns Article(s) : 37