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PACA: Project against corruption in Albania

Matrix of Compliance of Albanian Legislation with

- **Council of Europe Criminal Law Convention on Corruption** (ETS No. 173)
- Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191)
- **Council of Europe Civil Law Convention on Corruption** (ETS No. 174)
- **European Convention on Mutual Assistance in Criminal Matters** (ETS No. 30)
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 99)
- Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182)

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1. Overview on compliance

1.1. Council of Europe Criminal Law Convention on Corruption (ETS No. 173)

Art.	Description (official title)	Compliance
1	Use of terms	Yes
2	Active bribery of domestic public officials	Yes
3	Passive bribery of domestic public officials	Yes
4	Bribery of members of domestic public assemblies	Yes
5	Bribery of foreign public officials	Yes
6	Bribery of members of foreign public assemblies	Yes
7	Active bribery in the private sector	Yes
8	Passive bribery in the private sector	Yes
9	Bribery of officials of international organizations	Yes
10	Bribery of members of international parliamentary assemblies	Yes
11	Bribery of judges and officials of international courts	Yes
12	Trading in influence	Yes
13	Money laundering of proceeds from corruption offences	Partial
14	Account offences	Partial

Art.	Description (official title)	Compliance
15	Participatory acts	Yes
16	Immunity	Yes
17	Jurisdiction	Partial
18	Corporate liability	Yes
19	Sanctions and measures	Yes
20	Specialised authorities	(Yes)
21	Cooperation with and between national authorities	(Yes)
22	Protection of collaborators of justices and witnesses	Partial
23	Measures to facilitate the gathering of evidence and the confiscation of proceeds	Yes
24	Monitoring	-
25	General principles and measures for international co-operation	-
26	Mutual assistance	-
27	Extradition	Yes
28	Spontaneous information	-
30	Direct communication	-
31	Information	-

1.2. Additional Protocol to the Criminal Law Convention on Corruption (ETS 191)

Art.	Description (official title)	Compl.
1	Use of terms	Yes
2	Active bribery of domestic arbitrators	Unclear
3	Passive bribery of domestic arbitrators	Unclear
4	Bribery of foreign arbitrators	No
5	Bribery of domestic jurors	-
6	Bribery of foreign jurors	Yes

1.3. Council of Europe Civil Law Convention on Corruption (ETS 174)

Art.	Description (official title)	Compl.
2	Definition of Corruption	Yes
3	Compensation for damage	Yes
4	Liability	Yes
5	State responsibility	Yes
6	Contributory negligence	Yes
7	Limitation periods	Yes
8	Validity of contracts	Yes

Art.	Description (official title)	Compl.
9	Protection of employees	Yes
10	Accounts and audits	Yes
11	Acquisition of evidence	Yes
12	Interim measures	Yes
13	International cooperation	Yes
14	Monitoring	-

1.4. European Convention on Mutual Assistance in Criminal Matters (ETS 30)

Art.	Description (by author)	Compliance
1	Scope	-
2	Right to refuse assistance	Yes
3	Types	Yes
4	Execution	Yes
5	Reservations	No
6	Property rights	Yes
7	Service of writs and records of judicial verdicts	Yes
8	Witnesses and experts	Yes
9	Allowances and expenses	Yes
10	Personal appearance	Yes
11	Persons in custody	-
12	Immunity of witnesses and experts	Yes
13	Communication	Yes
14	Requests for mutual assistance	Yes
15	Letters rogatory	Yes

Art.	Description (by author)	Compliance
16	Translations	Yes
17	Authentication	Yes
18	Lack of jurisdiction	Yes
19	Refusal of mutual assistance	Yes
20	No refunding of expenses	-
21	Procedure	Yes
22	Procedure	Yes

1.5. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS 99)

Art.	Description (by author)	Compliance
1	Refusing assistance for fiscal offence	Yes
2	Refusing assistance: fiscal offences/ taxes	Yes
3	Scope: enforcement of sentences	Yes
4	Changes to Article 22 of ETS 30	Yes

1.6. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS 182)

Art.	Description (official title)	Compl.
1	Scope [Replacing Article 1 ETS 30]	Yes
2	Presence of officials of the requesting Party [Replacing Article 4 ETS 30]	Yes
3	Temporary transfer of detained persons to foreign territory [Replacing Article 11 ETS 30]	Yes
4	Channels of communication [Replacing Article 15 ETS 30]	Yes
5	Costs [Replacing Article 20 ETS 30]	Yes
6	Judicial authorities [Replacing Article 24 ETS 30]	Yes
7	Postponed execution of requests	Yes
8	Procedure	Yes
9	Hearing by video conference	Yes
10	Hearing by telephone conference	Yes
11	Spontaneous information	Yes
12	Restitution	Yes
13	Temporary transfer of detained persons for investigations	Yes
14	Personal appearance of transferred sentenced persons	Yes
15	Language of procedural documents and judicial decisions to be served	Yes
16	Service by post	Yes
17	Cross-border observations	Yes

Art.	Description (official title)	Compl.
18	Controlled delivery	Yes
19	Covert investigations	Yes
20	Joint investigation teams	Yes
21	Criminal liability regarding officials	Yes
22	Civil liability regarding officials	Yes
23	Protection of witnesses	Yes
24	Provisional measures	Yes
25	Confidentiality	Yes
26	Data protection	Yes

2. Council of Europe Criminal Law Convention on Corruption (ETS No. 173)

Article (ETS 173)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 1 – Use of terms</p> <p>For the purposes of this Convention:</p> <p>a <i>"public official"</i> shall be understood by reference to the definition of "official", "public officer", "mayor", "minister" or "judge" in the national law of the State in which the person in question performs that function and as applied in its criminal law;</p> <p>b the term <i>"judge"</i> referred to in sub-paragraph a above shall include prosecutors and holders of judicial offices;</p> <p>c in the case of proceedings involving a public official of another State, the prosecuting State may apply the definition of public official only insofar as that definition is compatible with its national law;</p> <p>d <i>"legal person"</i> shall mean any entity having such status under the applicable national law, except for States or other public bodies in the exercise of State authority and for public international organisations.</p>	<p>Yes</p>	<p>a) The Criminal Code of the Republic of Albania does not have a definition of the term "public official", but in the definition of the offences of the corruption field, makes this sorting of the subject of the criminal offence:</p> <p>persons exercising public functions, high state officials or locally elected, judges, prosecutors, and other justice officials.</p> <p>Thus, the Criminal Code becomes all-inclusive, giving a wide definition the circle of the criminal offences subjects in the corruption field.</p> <p>b) In the Criminal Code of the Republic of Albania, the judge, the prosecutor and other justice officials, are subject of the same criminal provisions, articles 319 and 319/a of the Criminal Code.</p> <p>c) There is no definition of the term "Public official of another state" in the Criminal Code of the Republic of Albania.</p> <p>d) The meaning of the Juridical Person is given in the articles 24, 25 and 26 of Civil Code of Republic of Albania as follows:</p> <p>Article 24</p> <p>Juridical personalities are public and private.</p>	<p>No additional comment as far as compliance is concerned.</p>

Article (ETS 173)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>Article 25</p> <p>Public juridical personalities are the state institutions and enterprises which are self financed or from the budget of state, as well as other public institutions considered by the law as juridical personality.</p> <p>State establishments and institutions, which do not follow economic purposes, are not registered.</p> <p>Article 26</p> <p>Private juridical personalities are the associations, organizations, foundations, companies and other establishments of private character which acquire juridical personality in the way provided by law.</p>	
<p>Article 2 – Active bribery of domestic public officials</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, offering or giving by any person, directly or indirectly, of any undue advantage to any of its public officials, for himself or herself or for anyone else, for him or her to act or refrain from acting in the exercise of his or her functions.</p>	<p>Yes</p>	<p>The Criminal Code of the Republic of Albania has defined the criminal offences of the active corruption of the public officials in the following articles:</p> <p>Article 244 <i>Active corruption of persons exercising public functions</i> with this content: “The direct or indirect proposal, offer, or giving, to a person, who exercises public functions, of any irregular benefit for himself or a third person in order to act or not act in relation to his duty, is punished by imprisonment from six months up to three years, and a fine from 300 000 to one million Lek.”.</p> <p>Article 245 <i>Active corruption of the high state</i></p>	<p>No additional comment as far as compliance is concerned.</p>

Article (ETS 173)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p><i>officials and local elected representatives</i> with this content: "The direct or indirect proposal, offer, or giving, to high state officials or to a locally elected person, of any irregular benefit for himself or a third person in order to act or not act in relation to his duty, is punished by imprisonment from one up to five years, and a fine from 500 000 to two million Lek."</p> <p>Article 319 <i>Active corruption of judges, prosecutors and other officials of the justice bodies/system</i> with this content: "Direct or indirect promising, proposition or issuing of any irregular profit, for himself or a third party, to a judge, prosecutor or any other employee of the judicial bodies in order to act or not act, regarding their duty, is punished with a prison term of one to four years and a fine from 400,000 up to two million Lek. ".</p> <p>An important way of the control of the regular state activity, since the act of corruption is always linked to the misusing of the assignment, position or authority, aiming private earnings, is the obligation for the declaration of assets from the subjects of the law no. 9049, date 10.4.2003 "For the Declaration and the Control of the Properties, of Financial Obligations/Liabilities of the Elected and some Public Officials" (amended). The violation of this obligation is provided as criminal offence from the article 257/a of the Criminal Code with this content: "Refusal for declaration or non-declaration of assets of the elected persons or of the public employees in</p>	

Article (ETS 173)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>accordance with the law, when previously administrative measures have been taken, constitutes a penal contravention and is punished by fine or imprisonment up to six months.</p> <p>Hiding or false declaration of assets of the elected persons or of the public employees is punished by fine or imprisonment up to three years."</p>	
<p>Article 3 – Passive bribery of domestic public officials</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the request or receipt by any of its public officials, directly or indirectly, of any undue advantage, for himself or herself or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in the exercise of his or her functions.</p>	<p>Yes</p>	<p>The Criminal Code of the Republic of Albania has defined the criminal offences of passive corruption of public officials in the following articles:</p> <p>Article 259 Passive corruption by public officials,</p> <p>"Soliciting or taking, directly or indirectly, by a person who exercises public functions, of any irregular benefit or of any such promise for himself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in the exercise of his duty, is punished with a prison term from two up to eight years and with a fine from 500 000 up to three million Lek."</p> <p>Article 260 Passive corruption by high state officials or local elected officials,</p> <p>"Soliciting or taking, directly or indirectly, by a high state official or a local elected official, of any irregular benefit or of any such promise for himself or for a third person, or accepting an offer or promise deriving from an irregular</p>	<p>No additional comment as far as compliance is concerned.</p>

Article (ETS 173)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>benefit, in order to act or not act in the exercise of his duty, is punished with a prison term from four up to twelve years and with a fine from one up to five million Lek.”</p> <p>Article 319/a The passive corruption of the judges, prosecutors and other officials of the justice bodies/system,</p> <p>“Direct or indirect soliciting or taking, by a judge, prosecutor, or other employees of the judicial bodies, of any irregular benefit or any such offer for himself or a third person, or accepting an offer or promise deriving from an irregular benefit in order to act or not act, regarding their duty, is punished with a prison term of three up to ten years and a fine from 800 000 to four million Lek.”</p> <p>An important way of the control of the regular state activity, since the act of corruption is always linked to the misusing of the assignment, position or authority, aiming private earnings, is the obligation for the declaration of assets from the subjects of the law no. 9049, date 10.4.2003 “For the Declaration and the Control of the Properties, of Financial Obligations/Liabilities of the Elected and some Public Officials” (amended). The violation of this obligation is provided as criminal offence from the article 257/a of the Criminal Code with this content “Refusal for declaration or non-declaration of assets of the elected persons or of the public employees in accordance with the law, when previously administrative measures have been taken,</p>	

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		<p>constitutes a penal contravention and is punished by fine or imprisonment up to six months.</p> <p>Hiding or false declaration of assets of the elected persons or of the public employees is punished by fine or imprisonment up to three years."</p>	
<p>Article 4 – Bribery of members of domestic public assemblies</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any person who is a member of any domestic public assembly exercising legislative or administrative powers.</p>	<p>Yes</p>	<p>By means of this article, public national assembly in the Republic of Albania is the Parliament of the Republic of Albania and national public assembly exercising executive powers is the Council of Ministers of the Republic of Albania.</p> <p>The Albanian Criminal Code does not have any specific provisions to penalize the members of these assemblies for the criminal offences of active and passive corruption. The provisions of the articles 245 e 260 of the Criminal Code are applied to them, which provide the criminal offences of the active and passive corruption of the high state officials, including lawmakers, ministers. The full content of these articles is given in the explanations of the articles 2 and 3 above. Their criminal prosecution is done according to the constitutional provisions regarding the persons with immunity.</p>	<p>The expression of "domestic public assembly" should not be limited to the Parliament and Council of Ministers. According to the Explanatory Report of ETS 173, No. 44, "domestic public assembly" is to be understood as any assembly, may it be at "local, regional and national level". According to Art. 109 Albanian Constitution, the "representative organs of the basic units of local government are councils that are elected every three years by general direct elections". Similar holds true for the regional councils under Art. 110 par. 3 Albanian Constitution. Therefore, both types of councils fall under the definition of a "domestic public assembly". Anyhow, they are adequately covered by Albanian criminal law: The members of local and regional councils "exercise public functions" in the sense of – inter alia – Art. 244 Albanian Criminal Code, and are specifically covered by Art. 245 Albanian Criminal Code.</p>

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<p>Article 5 – Bribery of foreign public officials</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving a public official of any other State.</p>	<p>Yes</p>	<p>The foreign public official will be penally responsible based on the article 7/I and 7/II clause i) of the Albanian Criminal Code, according to which: “The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania.</p> <p>The criminal law of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits one of the following crimes against the interests of the Albanian State or an Albanian citizen:</p> <p>i) The crimes of active and passive corruption committed by persons exercising public duties/functions, as well as in the private sector.</p> <p>Regarding the criminal responsibility for the foreigners that have immunity on the international right basis, based on the article 9 of the Criminal Code, this issue is solved in diplomatic ways.</p>	<p>I would give a different explanation: Art. 5 ETS 173 is first of all addressing cases, where citizens of a state party bribe in “any foreign country” (Explanatory Report ETS 173, No. 49). Therefore, the focus should not be on foreign citizens as offenders, but on Albanian citizens bribing abroad.</p> <p>There is no special provision for the bribery of foreign officials in the Albanian Criminal Code. Nonetheless, “persons exercising public functions” (e. g. Art. 244) could also easily be understood as exercising such functions for and in a foreign country. Anyhow, it seems advisable – as currently planned by the Albanian legislator – to explicitly clarify this question in the Criminal Code. As for jurisdiction on Albanian citizens bribing abroad, see below at Art. 17 ETS 173.</p>

Article (ETS 173)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 6 – Bribery of members of foreign public assemblies</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any person who is a member of any public assembly exercising legislative or administrative powers in any other State.</p>	No	<p>The Albanian Criminal Code does not provide special provisions for the criminalization of the foreign public assemblies members, since Albania, at the ratification time of this convention with the law no. 8778, date 26.4.2001, had reserved the right to not state criminal offences for the behaviours referred from the article 6 of the Convention.</p> <p>The removal of the withdrawal is in accordance with the article 38 of the Convention, with the law no. 9369, date 14.4.2005, and there has not been any revival of the withdrawals since.</p>	<p>See the explanations above for Art. 5 ETS 173. "Persons exercising public functions" (e. g. Art. 244 Albanian Criminal Code) could also be understood as Parliamentarians, exercising their public function for and in a foreign country. Anyhow, it seems advisable – as currently planned by the Albanian legislator – to explicitly clarify this question in the Criminal Code.</p>
<p>Article 7 – Active bribery in the private sector</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally in the course of business activity, the promising, offering or giving, directly or indirectly, of any undue advantage to any persons who direct or work for, in any capacity, private sector entities, for themselves or for anyone else, for them to act, or refrain from acting, in breach of their duties.</p>	Yes	<p>The Albanian Criminal Code has defined the criminal offence of the <i>Active corruption in the private sector</i> in his article 164/a, with the following content: "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 himself or a third person, in order to act or in order to fail to act, contrary to his duty, is a criminal contravention and is punished with a prison term of three months up to two years and a fine from 200,000 to one million Lek." .</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>Article 8 – Passive bribery in the private sector</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, in the course of business activity, the request or receipt, directly or indirectly, by any persons who direct or work for, in any capacity, private sector entities, of any undue advantage or the promise thereof for themselves or for anyone else, or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in breach of their duties.</p>	Yes	<p>The Albanian Criminal Code has defined the criminal offence of the <i>Passive corruption in the private sector</i> in his article 164/b, with the following content: "Direct or indirect soliciting or taking of any irregular benefit or of any such promise, for himself or a third person, or accepting an offer or a promise that follows from the irregular benefit, of the person that exercises a management function or works in whatever position in the private sector, with the purpose to act or not to act contrary to his duty or function, is sentenced with imprisonment term of six months up to three years and a fine from 300,000 to three million Lek."</p>	<p>No additional comment as far as compliance is concerned.</p>
<p>Article 9 – Bribery of officials of international organisations</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any official or other contracted employee, within the meaning of the staff regulations, of any public international or supranational organisation or body</p>	No	<p>The Albanian Criminal Code does not provide special provisions to penalize the officials of international organizations.</p>	<p>See the explanations above for Art. 5 ETS 173. "Persons exercising public functions" (e. g. Art. 244 Albanian Criminal Code) could also be understood as officials of international organizations. Anyhow, it seems advisable – as currently planned by the Albanian legislator – to explicitly clarify this question in the Criminal Code.</p>

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<p>of which the Party is a member, and any person, whether seconded or not, carrying out functions corresponding to those performed by such officials or agents.</p>			
<p>Article 10 – Bribery of members of international parliamentary assemblies</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Article 4 when involving any members of parliamentary assemblies of international or supranational organisations of which the Party is a member.</p>	<p>No</p>	<p>The Albanian Criminal Code does not provide special provisions to penalize the members of international parliamentary assemblies.</p>	<p>See the explanations above for Art. 5 ETS 173. “Persons exercising public functions” (e. g. Art. 244 Albanian Criminal Code) could also be understood as members of international parliamentary assemblies. Anyhow, it seems advisable – as currently planned by the Albanian legislator – to explicitly clarify this question in the Criminal Code.</p>

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<p>Article 11 – Bribery of judges and officials of international courts</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3 involving any holders of judicial office or officials of any international court whose jurisdiction is accepted by the Party.</p>	No	<p>The Albanian Criminal Code does not provide special provisions to penalize judges and officials of international courts</p>	<p>See the explanations above for Art. 5 ETS 173. “Persons exercising public functions” (e. g. Art. 244 Albanian Criminal Code) could also be understood as judges and officials of international courts. Anyhow, it seems advisable – as currently planned by the Albanian legislator – to explicitly clarify this question in the Criminal Code.</p>
<p>Article 12 – Trading in influence</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, giving or offering, directly or indirectly, of any undue advantage to anyone who asserts or confirms that he or she is able to exert an improper influence over the decision-making of any person referred to in Articles 2, 4 to 6 and 9 to 11 in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in</p>	Yes	<p>The Albanian Criminal Code has provided two provisions to penalize the activities that illegally influence towards the persons exercising public functions, as well as towards the witness, experts or interpreter:</p> <p><i>Article 245/1, The exercising of unlawful influence on public officials, with this content:</i> “The direct or indirect proposal, offer, or giving an irregular benefit, for himself or a third person, to the person who promises and guarantees that he is able to exercise illegal influence on the accomplishment of the duties and on taking of decisions by the Albanian or foreign public functionaries, no matter whether the influence has been actually exercised or not and no matter whether the desirable consequences have occurred or not, is punished with a prison term from six months up to two years and a fine from 300</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result.</p>		<p>000 to one million Lek.</p> <p>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 the Albanian or foreign public functionaries, no matter whether the influence has been actually exercised or not and no matter whether the desirable consequences have occurred or not, is punished with a prison term from six months up to four years and a fine from 500 000 to two million Lek."</p> <p>Article 312, <i>Active corruption of the witness, expert or interpreter</i>, with this content: "Direct or indirect proposal, offer, or giving to a witness, expert or translator any irregular benefit for himself or a third party in order to secure false declarations or testimony, expertise or translation or to reject carrying out their obligation to the criminal prosecution bodies and the court is punished with a prison term of up to four years and a fine from 500 000 to two million Lek."</p>	
<p>Article 13 – Money laundering of proceeds from corruption offences</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred</p>	<p>Partial</p>	<p>Albanian criminal legislation provides only one criminal offence for the laundering of assets of the criminal offence, the one provided by the article 287 of the Criminal Code, which provides: "1. Laundering of proceeds of crime committed through:</p> <p>a) exchange or transfer of an asset that is</p>	<p>Art. 13 ETS 173 is almost completely implemented. Art. 6 par. 1 lit. c of ETS 173 ("the acquisition, possession or use of property, knowing, at the time of receipt, that such property was proceeds"), however, seems not to be implemented through Art. 287 Albanian</p>

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<p>to in the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Products from Crime (ETS No. 141), Article 6, paragraphs 1 and 2, under the conditions referred to therein, when the predicate offence consists of any of the criminal offences established in accordance with Articles 2 to 12 of this Convention, to the extent that the Party has not made a reservation or a declaration with respect to these offences or does not consider such offences as serious ones for the purpose of their money laundering legislation.</p>		<p>known to be a proceed of crime, for hiding or concealing the origin of the asset or for providing help to evade the legal consequences related with the committal of the crime;</p> <p>b) concealment or disguise of the nature, source, location, position, shift of ownership or other rights related to the asset that is proceed of crime;</p> <p>c) performance of financial activities and fragmented/structured transactions to avoid reporting according to the money laundering law;</p> <p>ç) abrogated</p> <p>d) counselling, incitement or public call to commit any of the offences specified above;</p> <p>dh) use and investment in economic or financial activities of the money or objects that are proceeds of crimes is punishable by three to ten years of imprisonment and by 500 000 to five million Lek fine.</p> <p>2. When this offence is committed during the exercise of a professional activity, in collaboration or more than once, it is punishable by five to fifteen years of imprisonment and by 800 000 to eight million Lek of fine, while when the offence caused grave consequences, it is punishable by not less that fifteen years of imprisonment and by three to ten million Lek of fine.</p> <p>3. Provisions of this article shall also apply in</p>	<p>Criminal Code, at least not as far as possession of property is concerned.</p> <p>I can assume Art. 6 par. 1 lit. d of ETS 173 is implemented inter alia through Art. 15 and Art. 22 Albanian Criminal Code.</p> <p>Art. 6 par. 2 lit. c of ETS 173 ("intent inferred from objective circumstances") is implemented as follows: "As regards article 6 paragraph 2 of ETS 141 which requires that knowledge, intent or purpose be inferred from objective factual, circumstances, though there is no explicit provision in the ML offence and nor in any other offence, the Criminal Procedure Code, while setting the rules of evaluation of evidence does also provide for circumstantial evidence (also called <i>indicia</i>). According to article 152 of the CPC provides that evaluation of evidence means establishing their authenticity and proving the power they have. Each evidence shall be subject to examination and shall not have any pre-determined value. The court shall evaluate the evidence based on its conviction established after their examination in entirety. The existence of a fact may not be ascertained based on <i>indicia</i>, except for where they are important, accurate and in harmony with each other. Based on such</p>

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		<p>the cases when the person that has committed the offence from which the crime proceeds derive, cannot be taken as defendant, cannot be punished, there exists a cause which obliterates the criminal offence or one of the conditions for criminally prosecuting such a criminal offence is missing. "</p> <p>These articles concur with all the criminal offences provided in the special part of this Code, including articles 164/a; 164/b; 244; 245; 245/1; 259; 260; 312; 319; 319/a that provide the criminal offences regarding corruption.</p> <p>This article comes into the application field of the law no. 10192 dt.03.12.2009 "For the prevention and striking of the organized crime and trafficking through preventive measures against property" which aims the prevention and striking organized crime and trafficking through confiscation of the properties of the persons, who have an unjustified economical level, as a result of criminal activity.</p>	<p>provision it is possible that the mental elements of the ML offence may be inferred from objective, factual circumstances." (Answer by MoJ Albania to a question by the Council of Europe expert).</p>
<p>Article 14 – Accounting offences</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as offences liable to criminal or other sanctions under its domestic law the following acts or omissions, when committed intentionally, in order to commit, conceal or disguise the offences referred to in</p>	<p>Partial</p>	<p>a) The Albanian Criminal Code does not have any specific provision regarding the actions provided by the article 14 clause a) of the Convention, but the provisions of the Chapter II, section VII, articles 186 to 192 regarding the falsification/forgery of the documents.</p> <p>b) the actions provided by the article 14 clause b) of the Convention is penalized in the Criminal Code based in the article 287/a, <i>Opening of the anonymous accounts</i> with this</p>	<p>The offence of "Opening of anonymous bank accounts" (Art. 287/a Albanian Criminal Code) does not seem relevant to me under Art. 14 ETS 173: The account offences meant by Art. 14 of ETS 173 are primarily those acts of trying to cover up the receiving or paying of bribes within the accounting records of a business (see - besides the wording of Art. 14 - the similar Art. 8 of</p>

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<p>Articles 2 to 12, to the extent the Party has not made a reservation or a declaration:</p> <p>a creating or using an invoice or any other accounting document or record containing false or incomplete information;</p> <p>b unlawfully omitting to make a record of a payment.</p>		<p>content: "Opening of deposits or bank accounts, anonymously or with fictitious names, is punished by imprisonment of up to three years, and with fine from 200 000 up to two million Lek."</p>	<p>the OECD-Convention: „[...] to prohibit the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions, the recording of non-existent expenditures, the entry of liabilities with incorrect identification of their object, as well as the use of false documents [...]). Law No 9228 of 29.4.2004 CONCERNING ACCOUNTING AND FINANCIAL STATEMENTS does not contain any possible offences; its Art. 23 refers to the Criminal Code as far as penalties are concerned:</p> <p>As for Art. 14 lit. b ETS 173, Art. 165 and Art. 168 Albanian Criminal Code should cover the case of "unlawfully omitting to make a record of a payment" to or by the company, as – according to a statement by the MoJ and according to possible translations – the word "derdhje" of Art. 165 CC covers cash flow, both, to and from the company.</p> <p>As for Art. 14 lit. a ETS 173, Art. 186 to 192 Albanian Criminal Code will only cover the case, where the document is falsified, i.e., where the statement contained in the document and the alleged authorship do not coincide. However, where the statement contained in the document and the alleged authorship do fully coincide, but</p>

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			<p>the statement is factually wrong ("written lie"), it seems to be at least unclear, whether the term "falsification" in Art. 186 to 192 Albanian Criminal Code would also cover this case. The expert has not been presented with case law that would support such an interpretation of the law. It is also not probable that a "written lie" would automatically mean a "false statement of payments" under Art. 165 Albanian Criminal Code: The invoice could show the correct amount of money being paid with only the reason for the payment or the payee being factually wrong in order to cover up a bribe.</p> <p>After all, Art. 14 ETS 173 seems to be implemented quite comprehensively but not fully.</p>
<p>Article 15 – Participatory acts</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law aiding or abetting the commission of any of the criminal offences established in accordance with this Convention.</p>	<p>Yes</p>	<p>The Albanian Criminal Code does not provide specific provisions to penalize persons that assist or favour/support the execution of criminal offences regarding corruption, but it is applied the provision of the article 302 of the Criminal Code <i>Harbouring a fugitive</i>, which provides: "Supplying the perpetrator of a crime with food, other means of living, or providing him housing, lodging or with any other assistance with the intent of preventing his discovery from search, apprehension or arrest, is punishable by a fine or up to five years of imprisonment.</p>	<p>To me, in the context of Art. 15 ETS 173, primarily Art. 27 Albanian Criminal Code (helpers and instigators), seems relevant.</p>

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		<p>The same crime when committed in association to criminal crimes provided in articles 73, 74, 75, 79, 219, 220, 221, 230, 230/a, 230/b, 231, 232, 232/a, 234/a, 234/b, 284/a, 333, 333/a, of this Code, it is punished with imprisonment for a term of from two to seven years.</p> <p>Linear ascendants and offspring, brothers and sisters, spouses, adoptive parents and adopted children are excluded from criminal responsibility."</p>	
<p>Article 16 – Immunity</p> <p>The provisions of this Convention shall be without prejudice to the provisions of any Treaty, Protocol or Statute, as well as their implementing texts, as regards the withdrawal of immunity.</p>	Yes	<p>Article 9 of the Albanian Criminal Code has defined that: "Any case concerning the responsibility of a foreign citizen who commits a criminal act within the territory of the Republic of Albania and enjoys immunity according to international law is resolved diplomatically."</p>	<p>There is no legislative obligation originating from this Article.</p>
<p>Article 17 – Jurisdiction</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over a criminal offence established in accordance with Articles 2 to 14 of this Convention where:</p> <p>a the offence is committed in</p>	Partial	<p>The Albanian State has ratified the Criminal Convention for the Corruption with the law no. 8778, date 26.4.2001, reserving the right to not state criminal offences according to its domestic law, partly or fully, to behaviours referred in the articles 4, 6 to 8, 10 to 12 or passive corruption offences, provided by the article 5 of the Convention (article 31/1).</p> <p>In accordance with the article 38 of the Convention, with the law no. 9369, date</p>	<p>I do not think Albania is non-compliant with Art. 17 ETS 173, because it applies the principle of dual criminality:</p> <p>Albanian citizens bribing abroad are punishable under Albanian law only if dual criminality is given (Art. 6 par. 2 Albanian Criminal Code¹). This limit is – formally – acceptable under ETS 173: The OECD Anti-Bribery Convention allows state parties to apply the</p>

1 Consolidated version as of 13 October 2009, English translation provided for by Council of Europe PACA office Tirana.

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<p>whole or in part in its territory;</p> <p>b the offender is one of its nationals, one of its public officials, or a member of one of its domestic public assemblies;</p> <p>c the offence involves one of its public officials or members of its domestic public assemblies or any person referred to in Articles 9 to 11 who is at the same time one of its nationals.</p> <p>2 Each State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1 b and c of this article or any part thereof.</p> <p>3 If a Party has made use of the reservation possibility provided for in paragraph 2 of this article, it shall adopt such measures as may</p>		<p>14.4.2005, has reviewed its reservations and based on the second paragraph of the article 37 of the Convention, the Republic of Albania reserves the right to apply articles 17 paragraphs 1/b and 1/c, only if the criminal offence, is provided as such, according to the legislation of the party state where it is committed (double criminalisation), and it weakens the possibility to prosecute and punish corruption.</p> <p>Therefore, we can conclude that Albanian legislation at this point fails to fully address the requirements of Article 17 of Criminal Law Convention on Corruption.</p>	<p>principle of dual criminality (see No. 26 of the Official Commentary²: One admissible national principle is “dual criminality”). ETS 173 goes beyond the OECD-Convention “in two respects”, but apparently not on dual criminality (Explanatory Report of ETS 173, No. 49). Furthermore, the Explanatory Report of ETS 173 (No. 21) implies dual criminality as an accepted principle: “By harmonising the definition of corruption offences, the requirement of dual criminality will be met by the Parties to the Convention [...]”.³</p> <p>However, as dual criminality could form an unnecessary obstacle to prosecuting cases of transnational corruption, especially outside Europe, it is advisable to not apply this principle at least in cases of transnational corruption. In this context it has to be noted that even though many countries do apply the principle of dual criminality in cases of transnational corruption, some countries like, e. g., Germany, Hungary or Poland, do not (see relevant Country reports on the implementation of the OECD Anti-</p>

2 www.oecd.org/dataoecd/4/18/38028044.pdf.

3 See also GRECO Evaluation Report on Albania on Incriminations (Theme I), 3rd Round, 15 May 2009, No. 56: The report asks Albanian “to *consider* abolishing the requirement of dual criminality with respect to the offences of bribery and trading in influence committed abroad”, but does not find Albania to be non-compliant with Art. 17 ETS 173.

4 www.oecd.org/document/24/0,3343,en_2649_34859_1933144_1_1_1_1,00.html.

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<p>be necessary to establish jurisdiction over a criminal offence established in accordance with this Convention, in cases where an alleged offender is present in its territory and it does not extradite him to another Party, solely on the basis of his nationality, after a request for extradition.</p> <p>4 This Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with national law.</p>			<p>Bribery Convention⁴).</p> <p>Partial non-Compliance with Art. 17 ETS 173 originates from the following problem:</p> <p>) Albania does extradite its nationals only if provided for by international agreements (Art. 39 par.2 Albanian Constitution). With almost all foreign countries, Albania does not have such an agreement. In these cases therefore, it would have to establish jurisdiction over offences committed abroad without the principle of dual criminality whenever it does not extradite (Explanatory Report ETS 173, No. 82: "extradite or punish"). A practical case could be the following: An Albanian citizen commits fraud and trading in influence abroad, where only fraud is punishable, but not trading in influence. The foreign state in questions wants the extradition of the Albanian. He/she would not be extradited and at the same time, the offence of trading in influence would not be punished in Albania due to the lack of double criminality.</p> <p>b) Art. 7 lit. i Albanian Criminal Code covers only jurisdiction over foreign persons exercising public functions and only in cases of active and passive corruption, but not in cases of trading in influence (Art. 12 ETS 173) or cases</p>

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			of account offences (Art. 14 ETS 173). Insofar Albanian law is non-compliant with Art. 17 par. 1 lit. b ETS 173.
<p>Article 18 – Corporate liability</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that legal persons can be held liable for the criminal offences of active bribery, trading in influence and money laundering established in accordance with this Convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:</p> <ul style="list-style-type: none"> – a power of representation of the legal person; or – an authority to take decisions on behalf of the legal person; or – an authority to exercise control within the legal person; <p>as well as for involvement of such a natural person as accessory or instigator in the above-mentioned offences.</p> <p>2 Apart from the cases already provided for in paragraph 1, each</p>	Yes	<p>Albanian criminal legislation does not provide special provisions regarding active corruption, influence and money laundering criminal offences of a juridical person, but recognizes the responsibility of the judicial person for all the criminal offences committed on its behalf or its benefit from its organs and representatives.</p> <p>The criminal responsibility of the judicial persons is provided in the article 45 of the Albanian Criminal code with the following content: "The legal persons, with the exception of the state, are criminally responsible for criminal acts performed by their bodies or representatives on their behalf or for their benefit.</p> <p>The local government entities are criminally responsible only for the actions performed during the exercise of their activity that may be exercised by the delegating public services.</p> <p>The criminal responsibility of the legal persons does not exclude that of the physical persons that have committed criminal acts or are collaborators for the committal of the same criminal acts.</p> <p>The criminal acts and the sanctioning measures taken against the legal entities, as well as the procedures for the approval and</p>	No additional comment as far as compliance is concerned.

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<p>Party shall take the necessary measures to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of the criminal offences mentioned in paragraph 1 for the benefit of that legal person by a natural person under its authority.</p> <p>3 Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators of, or accessories to the criminal offences mentioned in paragraph 1.</p>		<p>application of these measures are regulated by a special law.”</p> <p>Law no. 9754, date 14.6.2007 “For the criminal responsibility of the judicial persons”, which determines the rules for the responsibility, penal proceeding and types of punitive measures, for committing the criminal offence, provides that the judicial person is responsible for criminal offences done:</p> <p>a) on its behalf or benefit, from its organs and representatives;</p> <p>b) on its behalf or benefit, from a person that is under the authority of the person that represents, runs and administers the judicial person;</p> <p>c) on its behalf or benefit, because of the lack of the control or supervision from the person that runs, represents or administers the judicial person.</p>	
<p>Article 19 – Sanctions and measures</p> <p>1 Having regard to the serious nature of the criminal offences established in accordance with this Convention, each Party shall provide, in respect of those criminal offences established in accordance with Articles 2 to 14, effective, proportionate and dissuasive sanctions and measures, including, when committed by natural persons, penalties involving</p>	Yes	<p>1. Criminal offences regarding the corruption provided in the articles 164/a; 164/b; 244; 245; 245/1; 259; 260; 312; 319; 319/a of the Criminal Code include the following punishments:</p> <p>-Article 164/a, Active corruption in the private sector, is a criminal contravention and it is punished by imprisonment from three months up to two years and a fine from two hundred thousand up to one million Lek;</p> <p>Article 164/b, Passive corruption in the private sector is punished imprisonment of 6 months up to three years and by fines from three</p>	<p>The Technical Paper of July 2010 compiles comprehensive information on sanctions and measures provided for by the Albanian Criminal Code. However, there is no assessment why those national sanctions and measures comply with ETS 173. To assess the effectiveness, proportionality and dissuasiveness of sanctions, one should probably ask at least the following three questions:</p> <p>1. Are sanctions in line with other economic crimes (national level)?</p>

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<p>deprivation of liberty which can give rise to extradition.</p> <p>2 Each Party shall ensure that legal persons held liable in accordance with Article 18, paragraphs 1 and 2, shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.</p> <p>3 Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences established in accordance with this Convention, or property the value of which corresponds to such proceeds.</p>		<p>hundred thousands up to three million Lek;</p> <p>Article 244, Active corruption of the persons exercising public functions, is punished by imprisonment of 6 months up to three years and by fines from three hundred thousands up to three million Lek;</p> <p>Article 245, active corruption of the high state officials or local elected representatives, is punished imprisonment of one year to three years and by fines from five hundred thousands up to two million Lek;</p> <p>Article 245/1, exercising unlawful influence on public officials is punished imprisonment of 6 months up to four years and by fines from five hundred thousands up to two million Lek;</p> <p>Article 259, passive corruption of persons exercising public functions, is punished imprisonment of two to eight years and by fines from five hundred thousands up to three million Lek;</p> <p>Article 260, passive corruption of high state officials or local elected representatives, is punished by four to twelve years imprisonments and fines from one to five million Lek;</p>	<p>2. Are sanctions within the range of international standards?</p> <p>3. Is the totality of sanctions reasonable (penalties for active and passive bribery, ordinary and serious cases, custodial and monetary sanctions, etc.)?</p> <p>As for question 1: It can be affirmed (see the sanctions in Chapter III of the Albanian Criminal Code).</p> <p>As for question 2: It can be affirmed. The custodial sanctions range within levels 2 to 4 of altogether 4 levels according to EU Framework Decisions⁵. For sanctions for bribery in the private sector see Technical Paper of May 2010⁶, p. 16.</p> <p>As for question 3: The mix of monetary and custodial sanctions, the distinction between active and passive corruption, ordinary and serious cases is well within international standards (see GRECO 3rd evaluation round; OECD country reports⁷). Furthermore, the same sanctions applying for the bribery of domestic and foreign officials, either</p>

5 Green paper on the approximation, mutual recognition and enforcement of criminal sanctions in the European Union, COM(2004)334 final, No. 2.1.5 Custodial sentences, page 17, http://eur-lex.europa.eu/LexUriServ/site/en/com/2004/com2004_0334en01.pdf.

6 PACA Technical Paper ECD/12/2010 "on the Compliance of the relevant Albanian Legislation with Recommendations of 3rd Round GRECO Evaluation Concerning Criminal Liability and Incriminations", by Bostjan Penko (May 2010).

7 See above, Fn. 4.

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		<p>Article 312, active corruption of the witness, expert or interpreter is punished by imprisonment up to four years and fines from five hundred thousand to two million Lek;</p> <p>Article 319, active corruption of the judge, prosecutor and other justice officials is punished by one to four years imprisonment and fins from four hundred thousand to two million Lek;</p> <p>Article 319/a, passive corruption of the judges, prosecutors and other justice officials is punished by three to ten years imprisonment and fines from eight hundred thousand to four million Lek.</p> <p>By comparing the criminal offences, the punishment is harder for the passive corruption offences than for active corruption ones.</p> <p>By comparing the subjects of the criminal offence, the punishment is in descending order from harder to easier for:</p> <p>high state officials and local elected representatives,</p> <p>judges, prosecutors, and other justice officials</p> <p>persons exercising public functions</p> <p>persons exercising leading functions in commercial companies or work at any level in</p>	<p>under current legislation or <i>de lege ferenda</i>⁸ complies with the principle of assimilation⁹.</p> <p>As for other measures, see column to the left.</p>

8 See for draft amendments to the Criminal Code: Technical Paper of May 2010, p. 9.

9 See for this principle Art. 4 Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, Official Journal C 195, 25 June 1997, p. 2.

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		<p>the private sector.</p> <p>2. The types of punitive measures towards the judicial persons are:</p> <p>a) main punishments;</p> <p>i) fine;</p> <p>ii) ending of the judicial person. The main punishment, defined in the clause a), is not applied to local government unit, for public judicial persons and political parties and trade unions,</p> <p>b) complementary punishments: One or more of these complementary punishments can be given towards judicial persons that are responsible for committing the criminal offence:</p> <p>i) closing one or more activities or structures of the judicial person;</p> <p>ii) placing the judicial person under controlled administration;</p> <p>iii) prohibition to participate in public procurement procedures;</p> <p>iv) taking away the right to talk or use the licenses, authorizations, concessions or subsidies</p> <p>v) stopping to publicly request financial funds and resources;</p> <p>vi) taking away the right of exercising of one or more activities or operations;</p> <p>vii) obligation for the publication of the judicial</p>	

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		<p>award.</p> <p>3. The confiscation of the means or products of the criminal offence is done according to the article 36 of the Criminal Code</p> <p><i>Confiscation of means for committing the criminal crime and criminal crime proceeds</i> has provided that: "1. Confiscation is given necessarily by the court and has to do with reception and transfer in the state's favour:</p> <p>a) of the objects that have served or are specified as means for committing the criminal act;</p> <p>b) of criminal act proceeds, where it is included any kind of asset, as well as legal documents or instruments verifying other titles or interests in the asset waiting upon or gained directly or indirectly from the criminal act committal;</p> <p>c) of the promised or given remuneration for committing the criminal act;</p> <p>ç) of any other asset, whose value corresponds to the criminal act proceeds;</p> <p>d) of objects, whose production, use, holding or their alienation make a criminal act crime, and when the sentence decision is not given;</p> <p>2. If the criminal act's proceeds are transformed or partly or fully converted into other assets, the latter is subject to confiscation;</p> <p>3. If criminal act's proceeds are merged with</p>	

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		<p>assets gained legally, the latter are confiscated up to the value of the criminal act proceeds;</p> <p>4. Subject to confiscation are also other incomes or profits from the criminal act proceeds, from assets that are transformed or altered to criminal act proceeds, or from assets with which these proceeds are involved, in the same amount and manner as the criminal act proceeds.”</p>	
<p>Article 20 – Specialised authorities</p> <p>Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. The Party shall ensure that the staff of such entities has adequate training and financial resources for their tasks.</p>	<p>Yes</p>	<p>In the Republic of Albania it is the prosecutor’s office that exercises the criminal prosecution. To strengthen the fight against criminality, a memorandum of collaboration is signed between General Prosecution Office, Albanian Information Service, Ministry of Finance, Ministry of Inner Affairs, High State Control and High Inspectorate of Property Declaration and Checking, which has formalized the establishment of a Task Force Units. In October 2009 has started the functioning of six new units, at first only with prosecutors and judicial police officers of the prosecution’s office sections and at the beginning of 2010 the judicial police of the State Police, Taxes and Customs officers have joined them. The selection and designation of these units is done through a vetting process, regarding their professional abilities as well as integrity ones.</p>	<p>No legislative obligation</p>

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<p>Article 21 – Co-operation with and between national authorities.</p> <p>Each Party shall adopt such measures as may be necessary to ensure that public authorities, as well as any public official, cooperate, in accordance with national law, with those of its authorities responsible for investigating and prosecuting criminal offences:</p> <p>a by informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the criminal offences established in accordance with Articles 2 to 14 has been committed, or</p> <p>b by providing, upon request, to the latter authorities all necessary information.</p>	<p>Yes</p>	<p>Inter-institutional cooperation in this context has been marked with the signing of the Cooperation Memorandum of 6 May 2009, among General Prosecution Office, Albanian Information Service, Ministry of Finance, Ministry of Inner Affairs, High State Control and High Inspectorate of Property Declaration and Checking.</p> <p>On the other side, article 281 of the Albanian Criminal Code has defined the obligation of the public officials to report for a criminal offence that is <i>ex-officio</i> prosecuted and it is discovered during the exercise of the task or their public functions. This article literally states that: "1. Public officials, who during the course of their work or because of their functions or service, receive notice of a criminal offence that is prosecuted <i>ex-officio</i>, are bound to lodge a written criminal report even if the person to whom the criminal offence is attributed is not identified.</p> <p>2. The criminal report is presented to a prosecutor or judicial police officer.</p> <p>3. Where during civil or administrative proceedings, a fact which constitutes a criminal offence prosecuted <i>ex-officio</i> is uncovered; the relevant authority lodges a criminal report to the prosecution office.</p> <p>4. The criminal report contains the essential elements of the fact (act), the sources of evidence, personal details, residence and anything else which serves to identify the</p>	<p>No legislative obligation</p>

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		<p>person whom the fact (act) is attributed to, of the injured person and those who are able to clarify the circumstances of the fact (act)".</p> <p>To stimulate the cooperation and simultaneously to protect all those employees that might have consequences in case of exercising the above mentioned obligation, article 10/1 of the law no.7961, date 12.7.1995 "Labour Code of the Republic of Albania", (amended), has provided that: "1. Any unjustified administrative measure or sanction, taken against employees, which have reason to suspect for corruption and present this suspicion to the responsible persons or competent authorities, is invalid.</p> <p>2. the employee has the right to file a claim at the court against the decision given in an unjustified way for the above mentioned clause.</p> <p>3. reporting facts that regard the corruption, does not constitute violation of the obligation of the professional secrecy."</p> <p>So, in the framework of stimulating the public participation in the reporting of corruption, the law no. 9508 date 3.4.2006 "For the cooperation of the public in the fight against corruption" is approved, which protects and encourages the persons that report the corruptive practices of abusing with the public authority.</p>	
Article 22 – Protection of	Partial	The law no.10173, date 22.10.2009 "For the	No additional comment as far as

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<p>collaborators of justice and witnesses</p> <p>Each Party shall adopt such measures as may be necessary to provide effective and appropriate protection for:</p> <p>a those who report the criminal offences established in accordance with Articles 2 to 14 or otherwise co-operate with the investigating or prosecuting authorities;</p> <p>b witnesses who give testimony concerning these offences.</p>		<p>protection of witnesses and justice collaborators”, defined that its provisions are applied in the framework of the criminal proceedings for intentional offences, for which the law provides an imprisonment not less than 4 years, as minimum. In accordance with this provision, only in the proceedings regarding the criminal offence provided by the article 260 of the Criminal Code, <i>Passive corruption of high state officials or local elected representatives</i>, the protective measures towards the witnesses and justice collaborators provided in this law are applied.</p>	<p>compliance is concerned.</p>
<p>Article 23 – Measures to facilitate the gathering of evidence and the confiscation of proceeds</p> <p>1 Each Party shall adopt such legislative and other measures as may be necessary, including those permitting the use of special investigative techniques, in accordance with national law, to enable it to facilitate the gathering of evidence related to criminal offences established in accordance with Article 2 to 14 of this Convention and to identify, trace, freeze and seize instrumentalities and proceeds of corruption, or property the value of which corresponds to such proceeds,</p>	<p>Yes</p>	<p>The Criminal Procedures Code provides provisions that enable the identification, tracing and searching of evidence. So, at Title IV, Chapter III, articles 198 to 226 of the law no.7905, date 21.3.1995 “The Criminal Procedures Code of the Republic of Albania” (amended), has provided as means to search the evidence, Examination, Checks, Sequestrations, Surveillance/interceptions (attached the annexes with the relevant provisions) and a special investigative technique Simulated actions in the article 294/a is provided , the first paragraph of which defines that: “1.A judicial police officer and agent or a person authorized by them may be assigned to make a simulated purchase of items that derive from a crime or to simulate a corrupt act or to commit other simulated acts in order to uncover financial or</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>liable to measures set out in accordance with paragraph 3 of Article 19 of this Convention.</p> <p>2 Each Party shall adopt such legislative and other measures as may be necessary to empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized in order to carry out the actions referred to in paragraph 1 of this article.</p> <p>3 Bank secrecy shall not be an obstacle to measures provided for in paragraphs 1 and 2 of this article.</p>		<p>ownership information of a person who is suspected of committing a crime, concealing the cooperation with the police or their duty as police personnel.”</p> <p>Also the provisions of the article 36 of Criminal Code of Republic of Albania and the provisions of law no.10192 date 03.12.2009 “On preventing and striking at organised crime and trafficking through preventive measures against assets” are applied, as literally stated in the answer of paragraph 3 of article 19 above.</p> <p>2. The power requested by article 23/2 of Convention, is given to the court or prosecutor by articles 208 to 221 of Criminal Procedure Code, on sequestrations.</p> <p>The law no.9917, date 19.5.2008 “On the prevention of money laundering and financing of terrorism”, is applied case by case, which in the article 25/1, Exclusion from speculation with professional secrecy or its benefits, provides: “1. Entities shall not use professional confidentiality or benefits deriving from it as a rationale for failing to comply with the legal provisions of this law, when information is requested or when, in accordance with this law, the release of a document, which is relevant to the information, is ordered.”. In terms of this law, "Entity" is: “is a person or legal entity, which establishes business relations with clients in the course of its regular activity or, as part of its commercial or</p>	

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		<p>professional activity”.</p> <p>3. Bank secrecy poses no obstacles for above measures, because it is treated in accordance with article 211 of Criminal Procedure Code, which states that: “ 1. Persons bound to maintain professional or state secrecy must immediately hand over to the proceeding authority acts and documents, even in the original copies, and anything else being kept by them because of their duty, service or profession, except when they declare that it is a state secret or a secret related to their duty or profession. In the latter case, the necessary verifications shall be conducted and, when it results that the declaration is groundless, the proceeding authority shall order for the sequestration.</p> <p>2. When the competent authority confirms the state secrecy status and the evidence is crucial to the solution of the case, the proceeding authority shall decide to acquire the evidence.</p> <p>3. When within thirty days from the request the competent authority does not confirm the secrecy status the proceeding authority shall order for [its] sequestration. ”</p> <p>Law no. 9662, date 18.12.2006 “On Banks on the Republic of Albania” in article 9 provide: “1. The subjects of this Law, and the Bank of Albania shall implement the requirements emanating from the Law “On the prevention of money laundering” and Law “On measures</p>	

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		against financing of terrorism" and other by-laws in force."	
24 Monitoring	-		No legislative obligation
25 General principles and measures for international co-operation	-		No legislative obligation
26 Mutual assistance	-		covered by ETS 30
<p>27 Extradition</p> <p>1 The criminal offences established in accordance with this Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between or among the Parties. The Parties undertake to include such offences as extraditable offences in any extradition treaty to be concluded between or among them.</p> <p>2 If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any criminal offence established in accordance with this</p>	Yes	<p>Article 11 of the Albanian Criminal Code "Extradition" states that: "Extradition may be granted only when explicitly provided for by international treaties in which the Republic of Albania is a party.</p> <p>Extradition shall be granted when both Albanian law and foreign law provide for the criminal act, which constitutes the object of the request for extradition, as such simultaneously.</p> <p>Extradition shall not be granted:</p> <p>a) if the person to be extradited is an Albanian citizen, unless otherwise provided for by the treaty;</p> <p>b) if the criminal act constituting the object of the request for extradition is of a political or military nature;</p> <p>c) when there is reasonable ground to believe that the person requested to be extradited will be persecuted, punished or wanted because of</p>	No additional comment as far as compliance is concerned.

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<p>Convention.</p> <p>3 Parties that do not make extradition conditional on the existence of a treaty shall recognise criminal offences established in accordance with this Convention as extraditable offences between themselves.</p> <p>4 Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds on which the requested Party may refuse extradition.</p> <p>5 If extradition for a criminal offence established in accordance with this Convention is refused solely on the basis of the nationality of the person sought, or because the requested Party deems that it has jurisdiction over the offence, the requested Party shall submit the case to its competent authorities for the purpose of prosecution unless otherwise agreed with the requesting Party, and shall report the final outcome to the requesting Party in due course.</p>		<p>his political, religious, national, racial or ethnic beliefs;</p> <p>d) if the person requested to be extradited has been tried by a competent Albanian court for the same criminal act for which extradition is requested.</p> <p>Regarding point 1 of the article 27 of the Convention, in accordance with paragraph 3 clause b of the Criminal Code cited above, which expressly provides the criminal acts for which extradition may not be granted, the offences established in accordance with this Convention are extraditable.</p> <p>Regarding point 2 of the article 27 of the Convention as from the moment of ratification, the Republic of Albania, makes this Convention part of its legal order, by placing in the hierarchy of acts above the laws, based on the article 122/1 and 2 of the Constitution of the Republic of Albania, what it states is obligatory, even to consider this Convention the legal basis for extradition, when there is no agreement between the parties.</p> <p>Regarding point 3 of the article 27 of the Convention the first paragraph, of the article 11 of Criminal Code cited above, provides that: "Extradition may be granted only when explicitly provided for by international treaties in which the Republic of Albania is a party".</p> <p>Regarding point 4 of the article 27 of the Convention, in the Republic of Albania, extradition is subject to the conditions</p>	

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		<p>provided by the European Convention on Extradition, the article 11 of the Criminal Code, the articles 488 to 505 of Criminal Procedure Code, law no.10193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", and those provided in bilateral or multilateral treaties which the Republic of Albania is a party.</p> <p>Regarding point 5 of the article 27 of the Convention as from the moment of ratification, the Republic of Albania, makes this Convention part of its legal order, by placing in the hierarchy of acts above the laws, based on the article 122/1 and 2 of the Constitution of the Republic of Albania, what it states is obligatory, so in cases when albanian party will reject the request for extradition, shall submit to its competent authorities for shall submit the case to its competent authorities for the purpose of prosecution in accordance with this Convention and with unless otherwise agreed with the requesting Party European Convention on Extradition which is ratified by law no 8322 date 02.04.1998.</p>	
28 Spontaneous information	-		covered by ETS 30
29 Direct communication	-		covered by ETS 30
30 Information	-		covered by ETS 30

3. Additional Protocol to the Criminal Law Convention on Corruption (ETS 191)

Article (ETS 191)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 1 – Use of terms</p> <p>For the purpose of this Protocol:</p> <p>Par. 1. The term “<i>arbitrator</i>” shall be understood by reference to the national law of the States Parties to this Protocol, but shall in any case include a person who by virtue of an arbitration agreement is called upon to render a legally binding decision in a dispute submitted to him/her by the parties to the agreement.</p>	Yes	<p>1. The Albanian legislation does not have a definition of the term “arbitrator”. The Provisions of the Civil Procedure Code, articles 400 to 439, draw the conclusion that, the mission of an arbitrator is entrusted only to a person who has full legal capacity to act, to whom, with the arbitration agreement, is required to give a compulsory decision for a dispute in relation with a claim or request that arises from a property relationship.</p>	No additional comment as far as compliance is concerned.
<p>Article 1, par. 2. The term “<i>arbitration agreement</i>” means an agreement recognised by the national law whereby the parties agree to submit a dispute for a decision by an arbitrator.</p>		<p>2. The Civil Procedure Code does not have a definition for “arbitration agreement”, but the provisions of its articles 403 and 404, draw the conclusion as to what is meant by the arbitration agreement and the conditions that it must contain.</p> <p>So, article 403, <i>Agreement on arbitration</i> defines: “The trial through arbitration procedure may be conducted only if there is an agreement between the parties, by means of which they admit to submit to arbitration the disputes that have arisen, or may arise, from a contract between them.”</p> <p>Article 404 <i>Invalidity of agreement on arbitration</i> defines: “The condition for the trial</p>	No additional comment as far as compliance is concerned.

Article (ETS 191)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>of the dispute through arbitration is invalid, in case it is not recorded in writing in the main agreement itself between the parties, or in another written document referring to it, such as a telegram, a telex, and any other accurate means constituting documentary evidence.</p> <p>The agreement between the parties, according to paragraph (I), is invalid, in case it does provide for the manner of designating an arbiter or arbiters, as well as for the subject of dispute, in case the latter has effectively arisen.</p> <p>The agreement on the trial through arbitration procedure is nullified, in case the arbiter designated in accordance with this procedure does not accept the entrusted mission.”</p>	
<p>Article 1, par. 3. The term “<i>juror</i>” shall be understood by reference to the national law of the States Parties to this Protocol but shall in any case include a lay person acting as a member of a collegial body which has the responsibility of deciding on the guilt of an accused person in the framework of a trial.</p>	-	<p>3. The Albanian judicial system has no jury, justice is given by the courts of law that adjudicate by panels of judges.</p>	<p>No additional comment as far as compliance is concerned.</p>
<p>Article 1, par. 4. In the case of proceedings involving a foreign arbitrator or juror, the prosecuting State may apply the definition of arbitrator or juror only in so far as that definition is compatible with its</p>	-	<p>4 The Albanian judicial system has no jury, justice is given by the courts of law that adjudicate by panels of judges.</p>	<p>No additional comment as far as compliance is concerned.</p>

Article (ETS 191)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
national law.			
<p>Article 2 – Active bribery of domestic arbitrators</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the promising, offering or giving by any person, directly or indirectly, of any undue advantage to an arbitrator exercising his/her functions under the national law on arbitration of the Party, for himself or herself or for anyone else, for him or for her to act or refrain from acting in the exercise of his or her functions.</p>	Unclear	<p>The Albanian Criminal Code does not have any specific provisions to penalize domestic arbitrator for active bribery.</p> <p>Since they perform a function in the service and interest of the public, the provisions of the article 244 of Criminal Code of Republic of Albania, <i>Active corruption of persons exercising public functions</i>, which states: “The direct or indirect proposal, offer, or giving, to a person, who exercises public functions, of any irregular benefit for himself or a third person in order to act or not act in relation to his duty, is punished by imprisonment from six months up to three years, and a fine from 300 000 to one million Lek.” are applied to arbitrators.</p>	<p>The Technical Paper of July 2010 bases its assessment on the following observation: “Arbitrators perform a function in service and interest of the public” and are therefore covered by Art. 244 f. Albanian Criminal Code. I cannot draw this conclusion from the relevant provisions in the Albanian Civil Procedure Code¹⁰: Arbitrators are appointed on the basis of <i>private</i> agreements (Art. 403, 408 Albanian Civil Procedure Code); they might act instead of the state judicative but not in its place and function – in other words, performing in the interest of the public is not the same as performing a public function. Furthermore, whereas arbitrators are regulated by the Albanian Civil Procedure Code in a similar way as in, e.g., the German Civil Procedure Code, German courts¹¹ do not regard them as performing a public function, and their bribery therefore falls under a separate provision in the German Criminal Code (see Art. 331 par. 2, Art. 337 Strafgesetzbuch).</p>

10 Version of 1 June 1996, www.coe.int/t/e/legal_affairs/legal_co-operation/legal_professionals/enforcement_agents/3_information_from_member_states/Civil_Procedure_Code_Albania.pdf

11 Federal Supreme Court (BGH), Judgement of 15 May 1986, III ZR 192/84: A lack of neutrality of a foreign arbitration judgment might violate the *ordre public*, but the neutrality of an arbitrator is primarily in the interest of the (private) parties.

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			<p>On the other hand, it would be possible – if one sees arbitrators as not performing a public function – to regard them as “any other person in the private sector” under Art. 164/a Albanian Criminal Code (Corruption in the private sector); however, this conclusion would not be a 100% compelling.</p> <p>After all it seems advisable – as currently planned by the Albanian legislator – to add a clarification to the Albanian Criminal Code as to domestic arbitrators.</p>
<p>Article 3 – Passive bribery of domestic arbitrators</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally, the request or receipt by an arbitrator exercising his/her functions under the national law on arbitration of the Party, directly or indirectly, of any undue advantage for himself or herself or for anyone else, or the acceptance of an offer or promise of such an advantage, to act or refrain from acting in the exercise of his or her functions.</p>	Unclear	<p>The Albanian Criminal Code does not have any specific provisions to penalize domestic arbitrator for passive bribery.</p> <p>Since they perform a function in the service and interest of the public, the provisions of the article 259 of Criminal Code of Republic of Albania <i>Passive corruption by public officials</i>, with this content: “Soliciting or taking, directly or indirectly, by a person who exercises public functions, of any irregular benefit or of any such promise for himself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in the exercise of his duty, is punished with a prison term from two up to eight years and with a fine from 500 000 up to three million Lek.” are applied to arbitrators.</p>	See at Art. 2.

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<p>Article 4 – Bribery of foreign arbitrators</p> <p>Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving an arbitrator exercising his/her functions under the national law on arbitration of any other State.</p>	No	<p>The Albanian Criminal Code does not have any specific provisions to penalize foreign arbitrators for bribery.</p> <p>The provisions of the article 7/I e 7/II clause i) of Albanian Criminal Code, according to which: “The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania.</p> <p>The criminal law of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits one of the following crimes against the interests of the Albanian State or an Albanian citizen:</p> <p>i) The crimes of active and passive corruption committed by persons exercising public duties/functions, as well as in the private sector.” are applied to them.</p> <p>Regarding the criminal responsibility for the foreigners that have immunity on the international right basis, based on the article 9 of the Criminal Code, this issue is solved in diplomatic ways.</p>	<p>I would give a different explanation than the Technical paper of July 2010: Foreign arbitration procedures are regulated by foreign law (see Art. 400 Albanian Civil Procedure Code). Therefore it cannot be said – at least in all cases – that foreign arbitrators are performing a public function; e.g. in Germany, arbitrators do not perform a public function according to case law by the Supreme Court.¹²</p> <p>However, there is an amendment to the Albanian Criminal Code under way that would remedy the situation.</p>
<p>Article 5 – Bribery of domestic jurors</p> <p>Each Party shall adopt such legislative and other measures as</p>	-	<p>The Albanian judicial system has no jury, criminal justice is given by courts of law that adjudicate by panels of judges, to whom the provisions of articles 319 e 319/a of Albanian</p>	Not relevant.

¹² See above Fn. 11.

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<p>may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any person acting as a juror within its judicial system.</p>		<p>Criminal Code are applied.</p>	
<p>Article 6 – Bribery of foreign jurors Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences under its domestic law the conduct referred to in Articles 2 and 3, when involving any person acting as a juror within the judicial system of any other State.</p>	<p>No</p>	<p>The Albanian Criminal Code does not have any specific provisions to penalize foreign jurors for bribery.</p>	<p>It seems contradicting to me if arbitrators are deemed performing a public function (see above at Art. 2), but jurors are not. To me, jurors are clearly performing a public function (in deciding, e.g., in criminal courts over guiltiness), and therefore should be covered – inter alia – by Art. 244 Albanian Criminal Code (if the condition of dual criminality is fulfilled, see above at Art. 5 ETS 173). Anyhow, a clarification would seem advisable (see proposed Art. 319/e Albanian Criminal Code, Technical Paper of May 2010¹³, p. 11).</p>

13 PACA Technical Paper ECD/12/2010 “on the Compliance of the relevant Albanian Legislation with Recommendations of 3rd Round GRECO Evaluation Concerning Criminal Liability and Incriminations”, by Bostjan Penko (May 2010).

4. Council of Europe Civil Law Convention on Corruption (ETS 174)

Article (ETS 174)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 2 – Definition of corruption</p> <p>For the purpose of this Convention, "<i>corruption</i>" means requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof.</p>	Yes	<p>The Convention covers issues that are exempt from the strict definitions of the criminal law. The definition of the corruption in the Albanian legislation is given at the Criminal Code of the Republic of Albania.</p> <p>The articles, 164/a, 164/b, 244, 245, 259, 260, 319 and 319/a regarding the active corruption meant the direct or indirect proposal, offer, or giving, to a person, (subject of criminal offence), of any irregular benefit for himself or a third person in order to act or not act in relation to his duty while the passive corruption means soliciting or taking, directly or indirectly, by a person (subject of criminal offence) of any irregular benefit or of any such promise for himself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in the exercise of his duty</p>	No additional comment as far as compliance is concerned.
<p>Article 3 – Compensation for damage</p> <p>1 Each Party shall provide in its internal law for persons who have suffered damage as a result of corruption to have the right to initiate an action in order to obtain full compensation for such damage.</p>	Yes	<p>Clause 1- The opportunity to protect the legitimate rights and interests (including the right to compensation for damage caused by acts of corruption) is guaranteed by articles 42, 43, 44 of the Constitution, with the following content:</p> <p>"Article 41</p>	No additional comment as far as compliance is concerned.

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<p>2 Such compensation may cover material damage, loss of profits and non-pecuniary loss.</p>		<p>1. The right of private property is guaranteed</p> <p>2. Property may be gained by gift, inheritance, purchase, or any other classical means provided by the Civil Code.</p> <p>3. The law may provide for expropriations or limitations in the exercise of a property right only for public interests.</p> <p>4. The expropriations or limitations of a property right that are equivalent to expropriation are permitted only against fair compensation.</p> <p>5. For disagreements connected with the extent of the compensation, a complaint may be filed in court.</p> <p>Article 42</p> <p>1. The freedom, property, and rights recognized in the Constitution and by law may not be infringed without due process.</p> <p>2. Everyone, to protect his constitutional and legal rights, freedoms, and interests, or in the case of an accusation raised against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.</p> <p>Article 43</p> <p>Everyone has the right to appeal a judicial decision to a higher court, except when the Constitution provides otherwise.”</p> <p>The article 12 of the Convention is compatible</p>	

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		<p>with these articles.</p> <p>Also, the liability for causing the damage is regulated in the civil material law, articles 608 to 612 of the Civil Code.</p> <p>In the procedural civil law, the issue raised by article 3, is regulated by articles 31 to 34 (lawsuit), 153 to 162 (filing of lawsuit), 510 to 515 (executive titles), by article 296, clause 2 (securing of evidence).</p> <p>Clause 2 - the principle of full compensation for property damage (the damage that has been caused and the expected profit) is regulated by the articles 640 to 647 of the Civil Code, while the non-property damage is regulated by the articles 265, 641 to 646 of the Civil Code.</p>	
<p>Article 4 – Liability</p> <p>1 Each Party shall provide in its internal law for the following conditions to be fulfilled in order for the damage to be compensated:</p> <p>(i) the defendant has committed or authorised the act of corruption, or failed to take reasonable steps to prevent the act of corruption;</p> <p>ii the plaintiff has suffered damage; and</p> <p>iii there is a causal link between the act of corruption and the</p>	Yes	<p>Clause 1: the forecasts and conditions required by paragraph 1 of article 4, for the damage to be compensated, are covered by the article 608 of Civil Code, according to which: “The person who illegally and for his fault, causes a damage to another person or to his property, is obliged to recompense the damage caused.</p> <p>The person who has caused the damage is not liable if he proves that he is innocent. The damage is illegal when it results from the violation of the interests and rights of the other person, which are protected by law, judicial order, or custom.”</p>	No additional comment as far as compliance is concerned.

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<p>damage.</p> <p>2 Each Party shall provide in its internal law that, if several defendants are liable for damage for the same corrupt activity, they shall be jointly and severally liable.</p>		<p>Clause 2: the joint and several liability and the suit of restitution are covered by the articles 626 and 627 of Civil Code with the following content:</p> <p>“Joint and severed liability</p> <p>Article 626</p> <p>When damage is caused by many persons together, they are jointly and severally liable to the damaged person.</p> <p>The suit of restitution</p> <p>Article 627</p> <p>The person who has compensated the damage has the right to require from each of the other persons responsible for the damage his share of the damage, in direct proportion to the level of responsibility of each person and of the resulting consequences. When each party’s proportionate share cannot be defined, the guilt is presumed to be equal.</p> <p>Parents or tutors who have paid compensation for the damage caused by minors or by people unable to act, have no right to require from them the restitution of the compensation for the damage they paid.”</p>	
<p>Article 5 – State responsibility</p> <p>Each Party shall provide in its internal law for appropriate procedures for persons who have suffered damage as a result of an</p>	<p>Yes</p>	<p>State responsibility is partially covered by the article 201 of the Labour Code (civil sanctions) according to which: “1. in case of violation of his rights, the violated person has the right to request the compensation of damage.</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>act of corruption by its public officials in the exercise of their functions to claim for compensation from the State or, in the case of a non-state Party, from that Party's appropriate authorities.</p>		<p>2. The employer or the employee can not request the physical compensation, excluding when otherwise provided by the law",</p> <p>As well as by the articles 9, 10, 14 of the Administrative Procedure Code which provide:</p> <p>"Article 9</p> <p>Principle of Legitimacy</p> <p>1. The Bodies of the Public Administration Offices exercise their activity pursuant to the law and principles of law, within the limits of the competencies granted to them and in conformity with the purpose for which these competencies have been granted.</p> <p>2. The administrative acts issued in an emergency state contrary to the provision of this Code, are valid only if the required result can not be achieved by other means. The damaged parties by the above-mentioned acts have the right to be reimbursed for the eventual losses based on the legal provisions, which regulate the responsibility of the Public Administration Offices.</p> <p>3. The Public Administration Offices can not directly apply the constitutional provisions if in the field in question laws of common order exist.</p> <p>Article 10</p> <p>Principle of Protection of Public Interest and Citizens Rights</p> <p>The Public Administration offices protect the</p>	

Article (ETS 174)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>public interest as well as the legitimate and constitutional private person's rights and interests.</p> <p>Article 14</p> <p>Principle of Responsibility</p> <p>The bodies of public administration and the employees are responsible for the damages they cause to the private persons through:</p> <ul style="list-style-type: none"> - unlawful decision-making - unlawful denial of decision-making: and - issuing inaccurate written information to the private persons, as well as for any other cause or other case provided by law. <p>There is also a special arrangement for this issue even in the law no. 8510 date 15.07.1999 "For non-contracting liabilities of the state administration institutions" amended by the law no. 10005 date 23.10.2008 "For an addition to the law no. 8510 date 15.07.1999 "For non-contracting liabilities of the state administration institutions", whose article 3, after letter "d", letter "dh" is added with this content: "dh) when commit a corruptive act during the exercising of their functions".</p>	
<p>Article 6 – Contributory negligence</p> <p>Each Party shall provide in its internal law for the compensation to be reduced or disallowed having regard to all the circumstances, if</p>	<p>Yes</p>	<p>There is not any particular provision in the legislation that fix this provision of the Convention, but the general rules provided in the Civil Code of the Republic of Albania are applied.</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>the plaintiff has by his or her own fault contributed to the damage or to its aggravation.</p>		<p>Usually the damage come as a result of non-fulfilment of the liability of the debtor (action or inaction form), but in certain cases, it can concur the liability of the debtor with the liability of the creditor regarding the consequence. This is called mixed liability in the Albanian legislation and it is fixed by the articles 493 and 629 of the Civil Code, with the following content:</p> <p>“Article 493 When the damage caused by the non-performance is caused or is added also by the actions or inactions because of the fault of the creditor, or when he has not shown the required care of the diminishment of this damage, the court according to the case can diminish the amount of the compensation of the damage or can release completely the debtor form the obligation of this compensation.</p> <p>Article 629</p> <p>The manufacturer's liability is reduced or annulled when, according to circumstances, the damage is caused both by the product's defects and the injured person, or by a person to whom the damaged person is responsible. The manufacturer's liability is not reduced when the damage is a common result of the product's defects and the behaviour of unrelated third parties.”</p>	

Article (ETS 174)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 7 – Limitation periods</p> <p>1 Each Party shall provide in its internal law for proceedings for the recovery of damages to be subject to a limitation period of not less than three years from the day the person who has suffered damage became aware or should reasonably have been aware, that damage has occurred or that an act of corruption has taken place, and of the identity of the responsible person. However, such proceedings shall not be commenced after the end of a limitation period of not less than ten years from the date of the act of corruption.</p> <p>2 The laws of the Parties regulating suspension or interruption of limitation periods shall, if appropriate, apply to the periods prescribed in paragraph 1.</p>	Yes	<p>In accordance with the article 7 of the Convention, for the prescription of requesting the compensation of the damage, the articles 115, letter “dh” and article 120 of the Civil Code are applied, which provide that:</p> <p>“There it is not prescribed within terms of:</p> <p>dh) three years are actions for payment of rent of apartments, shops, bars and other immovable properties”,</p> <p>“For the demand of compensation of non contractual damage the prescription of action starts from the day when the harmed person was informed or must have been informed of the damage he received or the person who has caused it.”</p> <p>It is proposed to change the statute of limitation concerning lawsuits for the compensation of non-contractual damage (that may come as a result of corruption) in accordance with the minimum term provided by the Convention</p>	No additional comment as far as compliance is concerned.
<p>Article 8 – Validity of contracts</p> <p>1 Each Party shall provide in its internal law for any contract or clause of a contract providing for corruption to be null and void.</p> <p>2 Each Party shall provide in its internal law for the possibility for all parties to a contract whose</p>	Yes	<p>The obligation provided in the first paragraph of the article 8 of the Convention, determines that the contract or any clause of the contract, whose object is a corruptive act, in null.</p> <p>There is not any special provision in the civil Albanian legislation literally providing contract nullity because of corruption, but based on the article 663 of the Civil Code <i>Necessary conditions for contracting and validity of the</i></p>	No additional comment as far as compliance is concerned.

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<p>consent has been undermined by an act of corruption to be able to apply to the court for the contract to be declared void, notwithstanding their right to claim for damages.</p>		<p><i>contract</i> according to which : "The requisites of the contract are: agreement of the party that has undertaken the obligation, the legal motive for the obligation, the object that forms the content of the contract, and in the form as prescribed by law" and in the article 677 <i>Unlawful Motive according to which</i>: "In a contract, the motive is unlawful when it is contrary to mandatory rules, public policy, or when the contract becomes a means to avoid the fulfilment of a rule.", a contract based on an illegal motive as corruption is, is null.</p> <p>The second paragraph is applicable also according the general rules provided by the Civil Code of Albania</p>	
<p>Article 9 – Protection of employees Each Party shall provide in its internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities.</p>	<p>Yes</p>	<p>Law no.10 053, date 29.12.2008 "For an addition to the law no.7961, date 12.7.1995 "Labour Code of the Republic of Albania", amended, provide in article 10/1, with this content, that:</p> <p>"Article 10/1</p> <p>"1. Any unjustified administrative measure or sanction, taken against employees, which have reason to suspect for corruption and present this suspicion to the responsible persons or competent authorities, is invalid.</p> <p>2. the employee has the right to file a claim at the court against the decision given in an unjustified way for the above mentioned clause.</p>	<p>No additional comment as far as compliance is concerned.</p>

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		<p>3. reporting facts that regard the corruption, does not constitute violation of the obligation of the professional secrecy.”</p> <p>Based on this article of the Convention the Law no. 9508 date 3.4.2006 “For the cooperation of the public in the fight against corruption” is approved, which in article 7 provides that: “The state institutions can not initiate the administrative, civil or criminal proceeding for the person that has made the report even if it results untrue, excluding the occasion when this person is an employee of the institution and deliberately has presented report for a practice which is clearly legal.”</p>	
<p>Article 10 – Accounts and audits</p> <p>1 Each Party shall, in its internal law, take any necessary measures for the annual accounts of companies to be drawn up clearly and give a true and fair view of the company's financial position.</p> <p>2 With a view to preventing acts of corruption, each Party shall provide in its internal law for auditors to confirm that the annual accounts present a true and fair view of the company's financial position.</p>	Yes	<p>The transparency relating the above mentioned obligation is also achieved through the law no. 9228, date 29.04.2004 “For accountability”, amended.</p>	<p>No additional comment as far as compliance is concerned.</p>
<p>Article 11 – Acquisition of evidence</p> <p>Each Party shall provide in its internal law for effective</p>	Yes	<p>Regarding this obligation, the general provisions of obtaining the evidence provided by the articles 213 to 224/ ç of the Civil</p>	<p>I think there is an assessment necessary, whether the provisions in the Civil Procedure Code are comprehensive</p>

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procedures for the acquisition of evidence in civil proceedings arising from an act of corruption.		Procedure Code are applied.	enough if – inter alia – compared internationally. However, to my opinion this can be affirmed as the usual forms of evidence such as documents, witnesses, experts, examinations and party testimony are admitted, and are regulated in detail.
<p>Article 12 – Interim measures</p> <p>Each Party shall provide in its internal law for such court orders as are necessary to preserve the rights and interests of the parties during civil proceedings arising from an act of corruption.</p>	Yes	Regarding this obligation, the provisions on securing the lawsuit and preservation of evidence, provided by the articles 202 to 212 and 292 to 296 of the Civil Procedure Code are applied.	I think, there is an assessment necessary, whether the provisions in the Civil Procedure Code are comprehensive enough if – inter alia – compared internationally. However, to my opinion this can be affirmed, with measures to secure the lawsuit or evidence being sufficiently regulated.
<p>Article 13 – International co-operation</p> <p>The Parties shall co-operate effectively in matters relating to civil proceedings in cases of corruption, especially concerning the service of documents, obtaining evidence abroad, jurisdiction, recognition and enforcement of foreign judgments and litigation costs, in accordance with the provisions of relevant international instruments on international co-operation in civil and commercial matters to which they are Party, as well as with their internal law.</p>	Yes	<p>Communication, notification, obtaining evidence abroad, jurisdiction, recognition and enforcement of foreign judgments and litigation costs etc, are covered by the domestic legislation and especially:</p> <p>Articles 128 to 144/a of the Civil Procedure Code (acts notification and delivery)</p> <p>Articles 213 to 222 of the Civil Procedure Code (obtaining evidence abroad)</p> <p>Chapter IX of the Civil Procedure Code (recognition and enforcement of foreign judgments);</p> <p>Chapter II of the Civil Procedure Code (jurisdiction, articles 36-40);</p>	No additional comment as far as compliance is concerned.

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		Chapter III of the Civil Procedure Code (objection to jurisdiction and power, articles 59-63)	
<p>Article 15 – Signature and entry into force</p> <p>1 This Convention shall be open for signature by the member States of the Council of Europe, by non-member States that have participated in its elaboration and by the European Community.</p> <p>2 This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.</p> <p>3 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which fourteen signatories have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1. Any such signatory, which is not a member of the Group of States against Corruption (GRECO) at the time of ratification, acceptance or approval, shall</p>			No legislative obligation.

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<p>automatically become a member on the date the Convention enters into force.</p> <p>4 In respect of any signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of their consent to be bound by the Convention in accordance with the provisions of paragraph 1. Any signatory, who is not a member of the Group of States against Corruption (GRECO) at the time of ratification, acceptance or approval, shall automatically become a member on the date the Convention enters into force in its respect.</p> <p>5 Any particular modalities for the participation of the European Community in the Group of States against Corruption (GRECO) shall be determined as far as necessary by a common agreement with the European Community.</p>			
<p>Article 16 – Accession to the Convention</p> <p>1 After the entry into force of this</p>			No legislative obligation.

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<p>Convention, the Committee of Ministers of the Council of Europe, after consulting the Parties to the Convention, may invite any State not a member of the Council and not having participated in its elaboration to accede to this Convention, by a decision taken by the majority provided for in Article 20.d. of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Parties entitled to sit on the Committee.</p> <p>2 In respect of any State acceding to it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe. Any State acceding to this Convention shall automatically become a member of the GRECO, if it is not already a member at the time of accession, on the date the Convention enters into force in its respect.</p>			
<p>Article 17 – Reservations</p> <p>No reservation may be made in respect of any provision of this</p>	Yes	Law no.8635, date 6.7.2000 "For the ratification of European Convention on Corruption", the Republic of Albania has made	No additional comment as far as compliance is concerned.

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Convention.		no reserves to this Convention.	

5. European Convention on Mutual Assistance in Criminal Matters (ETS 30)

Article (ETS 30)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 1</p> <p>The Contracting Parties undertake to afford each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party.</p> <p>This Convention does not apply to arrests, the enforcement of verdicts or offences under military law which are not offences under ordinary criminal law.</p>	-	Replaced with the Additional Protocol	Replaced by Art. 1 of ETS 182 (see below).
<p>Article 2</p> <p>Assistance may be refused:</p> <p>if the request concerns an offence which the requested Party considers a political offence, an offence connected with a political offence, or a fiscal offence;</p> <p>if the requested Party considers that execution of the request is likely to prejudice the sovereignty,</p>	Yes	<p>The article 2 of this convention is applicable under the rules of articles 491 and 505 of Criminal Procedure Code of Republic Albania which provides:</p> <p>Article 505</p> <p>Ministry of Justice Powers</p> <p>1. The Minister of Justice decides to grant support to a letter of application of a foreign authority regarding communications, notifications and the taking of proofs, except</p>	No additional comment as far as compliance is concerned.

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<p>security, <i>public</i> order or other essential interests of its country.</p>		<p>when evaluates that the requested actions impair the sovereignty, the security and important interests of the state.</p> <p>2. The Minister does not grant support to the letter of application when it is certain that the requested actions are prohibited expressly by law or contradict the fundamental principles of the Albanian rule of law. The Minister does not grant support to the letter of application when there are motivated reasons to think that the considerations regarding race, religion, sex, nationality, language, political beliefs or the social state may cause a negative influence to the performance of the process, and when it is certain that the defendant has expressed freely his consent for the letter of application.</p> <p>3. In cases the letter of application has as subject the summons of the witness, expert or a defendant before a foreign judicial authority, the Minister of Justice does not grant support to the letter of application when the requesting state does not give sufficient guarantee for the un-encroachment of the cited person.</p> <p>4. The Minister has the right to not grant support to the letter of application in case the requesting state does not give the necessary guarantee of reciprocity.</p> <p>Article 491 Dismissal of the extradition application</p>	

Article (ETS 30)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>1. The extradition may not be provided:</p> <p>a) for an offence of a political nature or when it results that it is requested for political reasons.</p> <p>b) when there are grounds to think that the person subject to extradition shall be subjected to persecution or discrimination due to race, religion, sex, citizenship, language, political belief, personal or social state or cruel, inhuman or degrading punishment or treatment or acts which constitute violation of fundamental human rights.</p>	
<p>Article 3</p> <p>The requested Party shall execute in the manner provided for by its law any letters rogatory relating to a criminal matter and addressed to it by the judicial authorities of the requesting Party for the purpose of procuring evidence or transmitting articles to be produced in evidence, records or documents.</p> <p>If the requesting Party desires witnesses or experts to give evidence on oath, it shall expressly so request and the requested Party shall comply with the request if the law of its country does not prohibit</p>	<p>Yes</p>	<p>The article 3 of this convention is applicable under the rules of articles 7, 8 and 16 of the Law no.1093, date 03.12.2009, "On jurisdictional relations with foreign authorities in criminal matters"</p> <p>Article 7 of the Law no.1093 date 03.12.2009, "On jurisdictional relations with foreign authorities in criminal matters"</p> <p>Forwarding a letter request to the competent authority</p> <p>1. The Ministry of Justice opens the way to a foreign letter request after it evaluates the conditions defined in the domestic legislation. Subsequently, the letter request is forwarded to the prosecutor of the district where the letter request is to be executed, through the</p>	<p>"Paragraph 1 sets forth the purposes for which letters rogatory may be sent." (Explanatory Report ETS 30, Art. 3). In this context, Art. 505 par. 1 Albanian Criminal Procedure Code¹⁴ would seem the relevant provision implementing Art. 3 par. 1 ETS 30.</p>

14 Version as of 5 April 1995, http://pbosnia.kentlaw.edu/resources/legal/albania/crim_pro.htm.

Article (ETS 30)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>it.</p> <p>The requested Party may transmit certified copies or certified Photostat copies of records or documents requested, unless the requesting Party expressly requests the transmission of originals, in which case the requested Party shall make every effort to comply with the request.</p>		<p>General Prosecutor.</p> <p>Article 8</p> <p>Refusal of the letter request</p> <p>1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.</p> <p>Article 16</p> <p>Presence of foreign judicial authorities in the receipt of evidence</p> <p>1. At the express request of a foreign judicial authority, the local judicial authority gives information about the time and place of execution of the letter rogatory.</p> <p>2. The court may permit representatives of foreign judicial authorities to take part in the receipt of evidence and to address questions to the person who is questioned according to the rules of the Code of Criminal Procedure.</p> <p>Article 511</p> <p>(Criminal Procedure Code)</p> <p>Value of the documents received through letter rogatory</p> <p>1. When the foreign country has imposed conditions for the use of the requested acts, the Albanian proceeding authority must respect them in case they do not run against the prohibitions provided by law.</p>	

Article (ETS 30)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 4</p> <p>On the express request of the requesting Party the requested Party shall state the date and place of execution of the letters rogatory. Officials and interested persons may be present if the requested Party consents.</p>	<p>Yes</p>	<p>Article 5/1/e/ë of the Law Nr. Nr.1093 date 03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>General rules about a letter request</p> <p>1. A letter request of local judicial authorities is submitted in writing and except when this law provides otherwise should contain:</p> <p>e) a declaration of whether the case is urgent and the time period within which execution is necessary, together with the reasons of the urgency or the time period;</p> <p>ë) all other information that may be of importance for the procedure of execution of the letter request.</p> <p>Article 5/6</p> <p>General rules about a letter request</p> <p>6. Local judicial authorities execute letter requests without delay.</p> <p>Article 10</p> <p>Notifications</p> <p>1. At the request of a foreign judicial authority, a local judicial authority that is proceeding gives notification of the beginning of execution of the letter request, except when the execution is immediate.</p> <p>2. If the letter request is not fulfilled within the time period requested in the letter request</p>	<p>Art. 16 Law No. 1093:</p> <p>Presence of foreign judicial authorities in the receipt of evidence</p> <p>1. At the express request of a foreign judicial authority, the local judicial authority gives information about the time and place of execution of the letter rogatory.</p> <p>2. The court may permit representatives of foreign judicial authorities to take part in the receipt of evidence and to address questions to the person who is questioned according to the rules of the Code of Criminal Procedure.</p>

Article (ETS 30)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>and this has consequences in the proceeding that the foreign judicial authority is conducting, the local judicial authority that is proceeding immediately notifies the foreign judicial authority as to when it is possible for the letter request to be executed.</p> <p>Article 24</p> <p>Postponing the execution of requests</p> <p>1. A local judicial authority may postpone or condition the execution of requests if it may affect the good conduct of criminal proceedings started by local judicial authorities.</p> <p>2. The local judicial authority notifies the foreign judicial authority, declaring the reasons for postponement or conditioning. If the notification is made directly to the foreign judicial authority, the local judicial authority informs the Ministry of Justice at the same time.</p>	
<p>Article 5</p> <p>Any Contracting Party may, by a declaration addressed to the Secretary General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, reserve the right to make the execution of letters</p>	<p>No</p>	<p>Article 506 C.Pr.C</p> <p>Judicial Proceedings</p> <p>4. The execution of the letter of applications not accepted:</p> <p>a) in cases the Minister of Justice does not grant support to the letter of application</p> <p>b) when the fact for which the foreign authority proceeds is not provided as a</p>	<p>Art. 5 par. 1 ETS 30 allows reservations only for letters rogatory "for search or seizure of property". Art. 506 par. 4 lit. b Albanian Criminal Procedure Code, on the other hand, applies the principle of dual criminality to all types of letters rogatory.</p> <p>Art. 491 Albanian Criminal Procedure Code, as cited in the left column,</p>

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<p>rogatory for search or seizure of property dependent on one or more of the following conditions:</p> <p>a. that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party;</p> <p>b. that the offence motivating the letters rogatory is an extraditable offence in the requested country;</p> <p>c. that execution of the letters rogatory is consistent with the law of the requested Party.</p> <p>Where a Contracting Party makes a declaration in accordance with paragraph 1 of this article, any other Party may apply reciprocity.</p>		<p>criminal offence by the Albanian law.</p> <p>Article 507 C.Pr.C</p> <p>Execution of letters rogatory</p> <p>1. The decision for the execution of the letter of application shall appoint the panel that must carry out the requested action.</p> <p>2. For the performance of the requested actions the provisions of this Code shall apply, except in case the special rules requested by the foreign judicial authority, which are not in contrary with the principles of the Albanian rule of law, must be observed.</p> <p>Article 518/5 C.Pr.C</p> <p>The confiscated objects shall be delivered to the Albanian state. They are delivered, upon its request, to the state where the decision subject to recognition is rendered when this state is under the same circumstances should have decided the delivery in the Albanian state.</p> <p>Article 491</p> <p>Dismissal of the extradition application</p> <p>1. The extradition may not be provided:</p> <p>a) for an offence of a political nature or when it results that it is requested for political reasons.</p> <p>b) when there are grounds to think that the person subject to extradition shall be</p>	<p>concerns extradition. ETS 30, though, does not cover extraditions.</p>

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		<p>subjected to persecution or discrimination due to race, religion, sex, citizenship, language, political belief, personal or social state or cruel, inhuman or degrading punishment or treatment or acts which constitute violation of fundamental human rights.</p> <p>d) when the criminal offence is not provided as such by the Albanian legislation;</p> <p>e) the Albanian state has provided an amnesty for this offence;</p> <p>g) when the law of the requesting state does not provide the prosecution or the punishment for the same.</p> <p>Article 22 the Law No. Nr.1093 date.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>Searching for and sequestration of objects</p> <p>1. At the request of foreign judicial authorities, a local judicial authority may order the permission of a search of places or the sequestration of items that can be confiscated which are located in the territory of the Republic of Albania in connection with the facts specified in the letter rogatory. The decision may be appealed within 10 days from the day following receipt of knowledge according to the rules of the Coder of Criminal Procedure.</p> <p>2. The competent local judicial authority</p>	

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		performs the search and sequestration in compliance with the rules of the Code of Criminal Procedure.	
<p>Article 6</p> <p>The requested Party may delay the handing over of any property, records or documents requested, if it requires the said property, records or documents in connection with pending criminal proceedings.</p> <p>Any property, as well as original records or documents, handed over in execution of letters rogatory shall be returned by the requesting Party to the requested Party as soon as possible unless the latter Party waives the return thereof.</p>	Yes	<p>Article 511 C.Pr.C</p> <p>Value of the documents received through letter rogatory</p> <p>1. When the foreign country has imposed conditions for the use of the requested acts, the Albanian proceeding authority must respect them in case they do not run against the prohibitions provided by law.</p> <p>Article 24 the Law Nr. Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>Postponing the execution of requests</p> <p>1. A local judicial authority may postpone or condition the execution of requests if it may affect the good conduct of criminal proceedings started by local judicial authorities.</p> <p>2. The local judicial authority notifies the foreign judicial authority, declaring the reasons for postponement or conditioning. If the notification is made directly to the foreign judicial authority, the local judicial authority informs the Ministry of Justice at the same time.</p> <p>Article 22 the Law Nr. Nr.1093dt.03.12.2009,</p>	<p>Art. 6 par. 1 ETS 30 is covered by Art. 24 Law No. 10193.</p> <p>Art. 6 par. 2 ETS 30 deals (only) with the case, where Albanian authorities received foreign property/documents in response to Albanian letters rogatory. However, the Technical Paper of July 2010 lists only provisions, which deal with the opposite case (foreign authorities receiving property/documents in response to foreign letters rogatory). Nonetheless, there is no need for legislative action: ETS 30 is part of Albanian law and is binding Albanian authorities; there seems to be no reason for a separate/additional regulation.</p>

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		<p>“ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS”</p> <p>Searching for and sequestration of objects</p> <p>1. At the request of foreign judicial authorities, a local judicial authority may order the permission of a search of places or the sequestration of items that can be confiscated which are located in the territory of the Republic of Albania in connection with the facts specified in the letter rogatory. The decision may be appealed within 10 days from the day following receipt of knowledge according to the rules of the Coder of Criminal Procedure.</p> <p>2. The competent local judicial authority performs the search and sequestration in compliance with the rules of the Code of Criminal Procedure.</p> <p>3. When a third party, who has gained the right in good faith, a state authority or an injured party who has [his] residence or domicile in Albania claims ownership of the objects, documents or profits, the object provided in point 1 of this article are sent only if the foreign judicial authority guarantees their return at the end of the proceedings in connection with the evidence.</p> <p>4. The sending may be postponed for as long as the objects, documents or profits are necessary for criminal proceedings that have</p>	

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		<p>begun in Albania.</p> <p>Article 23 the Law Nr. Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>Delivery of sequestered objects</p> <p>1. The objects sequestered are send to the foreign judicial authority at its request, in execution of the letter rogatory, to be confiscated or to be returned to the lawful owner.</p> <p>2. These objects include:</p> <p>a) objects used for the commission of a criminal offence;</p> <p>b) objects that come from the commission of a criminal offence or values equivalent to them;</p> <p>c) profits from a criminal offence or values equivalent to them;</p> <p>ç) other objects given with the purpose of inciting the commission of a criminal offence as well as compensation for a criminal offence.</p> <p>3. The objects or profits may be kept in a permanent manner in Albania if:</p> <p>a) their owner has [his] residence or domicile in the Republic of Albania;</p> <p>b) there are serious claims of the Albanian</p>	

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		<p>state authorities in connection with the objects or profits;</p> <p>c) a person, who has not taken part in the commission of a criminal offence and whose claims are not guaranteed by the requesting state proves that he has earned the right to those objects and profits in good faith, as well as that the person has [his] residence in Albania.</p>	
<p>Article 7</p> <p>The requested Party shall effect service of writs and records of judicial verdicts which are transmitted to it for this purpose by the requesting Party.</p> <p>Service may be effected by simple transmission of the writ or record to the person to be served. If the requesting Party expressly so requests, service shall be effected by the requested Party in the manner provided for the service of analogous documents under its own law or in a special manner consistent with such law.</p> <p>Proof of service shall be given by means of a receipt dated and signed by the person served or by means of a declaration made by the requested Party that service has been effected and stating the</p>	Yes	<p>Article 505 C.Pr.C</p> <p>Ministry of Justice Powers</p> <p>1. The Minister of Justice decides to grant support to a letter of application of a foreign authority regarding communications, notifications and the taking of proofs, except when evaluates that the requested actions impair the sovereignty, the security and important interests of the state.</p> <p>2. The Minister does not grant support to the letter of application when it is certain that the requested actions are prohibited expressly by law or contradict the fundamental principles of the Albanian rule of law. The Minister does not grant support to the letter of application when there are motivated reasons to think that the considerations regarding race, religion, sex, nationality, language, political beliefs or the social state may cause a negative influence to the performance of the</p>	No additional comment as far as compliance is concerned.

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<p>form and date of such service. One or other of these documents shall be sent immediately to the requesting Party. The requested Party shall, if the requesting Party so requests, state whether service has been effected in accordance with the law of the requested Party. If service cannot be effected, the reasons shall be communicated immediately by the requested Party to the requesting Party.</p> <p>Any Contracting Party may, by a declaration addressed to the Secretary General of the Council of Europe, when signing this Convention or depositing its instrument of ratification or accession, request that service of a summons on an accused person who is in its territory be transmitted to its authorities by a certain time before the date set for appearance. This time shall be specified in the aforesaid declaration and shall not exceed 50 days.</p> <p>This time shall be taken into account when the date of appearance is being fixed and when the summons is being transmitted.</p>		<p>process, and when it is certain that the defendant has expressed freely his consent for the letter of application.</p> <p>Article 507/2 C.Pr.C Execution of letters rogatory</p> <p>2. For the performance of the requested actions the provisions of this Code shall apply, except in case the special rules requested by the foreign judicial authority, which are not in contrary with the principles of the Albanian rule of law, must be observed.</p> <p>Article 11 Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>Completion of letter requests and impediments to executing them</p> <p>1. If a foreign letter request does not contain information necessary for its execution, the Ministry of Justice notifies the foreign judicial authority to complete it, without forwarding it to the organ of the prosecutor's office. The letter request is forwarded by the Ministry of Justice after its completion</p>	

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		<p>by the foreign judicial authority</p> <p>Article 14 Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>Actions for the execution of letters rogatory</p> <p>1. After opening the way, the Ministry of Justice forwards the acts to the prosecutor of the district where the letter rogatory is to be executed, through the General Prosecutor, within 10 days from receipt of the acts. In urgent cases, the Ministry of Justice may forward the acts to the district prosecutor, notifying the General Prosecutor at the same time.</p> <p>2. The district prosecutor submits a request in court to decide on [lit. dispose of] the execution of the letter rogatory by decision, according to the rules of the Code of Criminal Procedure. This rule is not applicable when it is otherwise provided in international agreements to which the Republic of Albania is a party.</p> <p>Article 16 Law Nr.1093dt.03.12.2009,</p>	

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		<p>“ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS”</p> <p>1. At the express request of a foreign judicial authority, the local judicial authority gives information about the time and place of execution of the letter rogatory.</p>	
<p>Article 8 A witness or expert who has failed to answer a summons to appear, service of which has been requested, shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of restraint, unless subsequently he voluntarily enters the territory of the requesting Party and is there again duly summoned.</p>	<p>Yes</p>	<p>Article 19 the Law Nr. Nr.1093dt.03.12.2009, “ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS”</p> <p>Untouchability of the person summoned</p> <p>1. When a person who is requested to be notified of a summons to a proceeding in Albania does not succeed in acting in conformity with the act of summons issued by the requesting state, no mandatory [or] coercive measure or criminal sanction are taken against him.</p> <p>2. If the local judicial authorities call a witness or expert with a residence or domicile outside the state, during the time of [his] stay in Albania, he will not be subjected to a criminal proceeding for an offence committed before [his] appearance in Albanian territory nor will he be sent to serve a criminal sentence given by a local judicial decision rendered before his</p>	<p>No additional comment as far as compliance is concerned.</p>

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		<p>appearance.</p> <p>3. Point 2 of this article is not applicable if the witness or expert, although he has been given the possibility, has not left Albanian territory within 15 days after being notified that his presence is no longer necessary. This time period does not include the period during which the witness or expert could not have left Albanian territory for lawful documented reasons.</p>	
<p>Article 9</p> <p>The allowances, including subsistence, to be paid and the travelling expenses to be refunded to a witness or expert by the requesting Party shall be calculated as from his place of residence and shall be at rates at least equal to those provided for in the scales and rules in force in the country where the hearing is intended to take place.</p>	<p>Yes</p>	<p>Article 25 the Law Nr. Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>Expenses</p> <p>1. The Albanian state, through the Minister of Justice, may waive the reimbursement of expenses of execution of letters rogatory from the requesting state.</p> <p>2. The expenses of execution of local letters rogatory are paid by the local judicial authority who has asked for the letter rogatory.</p> <p>3. A witness or expert who appears in execution of a letter rogatory of local judicial authorities has the right of reimbursement of the expenses of travel and food, which are documented as a part of the procedural expenses in conformity with the Code of</p>	<p>Art. 9 ETS 30 deals with the financial obligations of a foreign state towards a witness or expert on Albanian territory. The Technical Paper of July 2010 on the other hand deals almost exclusively with the financial obligations of Albanian authorities towards foreign states in case of Albanian letters rogatory (Art. 25 Law Nr. 10193). Only Art. 25 par. 6 refers to foreign letters rogatory, stating, Albanian authorities do not cover costs for persons summoned. However, this provision does not specify that foreign letters rogatory are only executed if they fulfil Art. 9 ETS 30.</p> <p>Nonetheless, there is no need for legislative action: ETS 30 is part of Albanian law and is binding Albanian authorities; there seems to be no reason for a separate/additional regulation. Since witnesses or expert might not be aware of their "rights"</p>

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		<p>Criminal Procedure.</p> <p>4. In case a letter rogatory of a local judicial authority has the object of the giving of testimony of an expert, then the local judicial authority may deposit ahead of time an amount for coverage of the expenses of the testimony of the expert if the foreign judicial authority expressly requests it.</p> <p>5. The letters rogatory of local juridical authorities in the cases of points 2 and 3 of this article show the expenses payable and those that are reimbursable. At the request in writing of the persons summoned, they are given ahead of time a sum to cover the expenses.</p> <p>6. Local judicial authorities do not pay the expenses of executing foreign letters rogatory for:</p> <ul style="list-style-type: none"> a) the travel and stay of persons summoned to be questioned or to perform a procedural action; b) the temporary transferring of detained persons; c) the holding of hearing sessions through telephonic or audio-visual connections; c) the preservation or administration of evidence or objects; d) the performance of procedural actions with high or extraordinary expenses. 	<p>under Art. 9 ETS 30, it might be worth considering to either make a reference in the respective Albanian provisions or make it standard to instruct witnesses or experts in relevant cases on their "rights".</p>

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<p>Article 10</p> <p>If the requesting Party considers the personal appearance of a witness or expert before its judicial authorities especially necessary, it shall so mention in its request for service of the summons and the requested Party shall invite the witness or expert to appear. The requested Party shall inform the requesting Party of the reply of the witness or expert.</p> <p>In the case provided for under paragraph 1 of this article the request or the summons shall indicate the approximate allowances payable and the travelling and subsistence expenses refundable.</p> <p>If a specific request is made, the requested Party may grant the witness or expert an advance. The amount of the advance shall be endorsed on the summons and shall be refunded by the requesting Party.</p>	<p>Yes</p>	<p>Article 25 the Law Nr. Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>Expenses</p> <ol style="list-style-type: none"> 1. The Albanian state, through the Minister of Justice, may waive the reimbursement of expenses of execution of letters rogatory from the requesting state. 2. The expenses of execution of local letters rogatory are paid by the local judicial authority who has asked for the letter rogatory. 3. A witness or expert who appears in execution of a letter rogatory of local judicial authorities has the right of reimbursement of the expenses of travel and food, which are documented as a part of the procedural expenses in conformity with the Code of Criminal Procedure. 4. In case a letter rogatory of a local judicial authority has the object of the giving of testimony of an expert, then the local judicial authority may deposit ahead of time an amount for coverage of the expenses of the testimony of the expert if the foreign judicial authority expressly requests it. 5. The letters rogatory of local juridical authorities in the cases of points 2 and 3 of this article show the expenses payable and 	<p>No additional comment as far as compliance is concerned.</p>

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		<p>those that are reimbursable. At the request in writing of the persons summoned, they are given ahead of time a sum to cover the expenses.</p> <p>6. Local judicial authorities do not pay the expenses of executing foreign letters rogatory for:</p> <p>a) the travel and stay of persons summoned to be questioned or to perform a procedural action;</p> <p>b) the temporary transferring of detained persons;</p> <p>c) the holding of hearing sessions through telephonic or audio-visual connections;</p> <p>c) the preservation or administration of evidence or objects;</p> <p>d) the performance of procedural actions with high or extraordinary expenses.</p>	
<p>Article 11</p> <p>A person in custody whose personal appearance as a witness or for purposes of confrontation is applied for by the requesting Party shall be temporarily transferred to the territory where the hearing is intended to take place, provided that he shall be sent back within the period stipulated by the</p>	Yes	Replaced with the additional protocol	See below at Art. 3 ETS 182.

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<p>requested Party and subject to the provisions of Article 12 in so far as these are applicable.</p> <p>Transfer may be refused:</p> <ul style="list-style-type: none"> if the person in custody does not consent; if his presence is necessary at criminal proceedings pending in the territory of the requested Party; if transfer is liable to prolong his detention, or if there are other overriding grounds for not transferring him to the territory of the requesting Party. <p>Subject to the provisions of Article 2, in a case coming within the immediately preceding paragraph, transit of the person in custody through the territory of a third State, Party to this Convention, shall be granted on application, accompanied by all necessary documents, addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the Party through whose territory transit is requested.</p> <p>A Contracting Party may refuse to grant transit to its own nationals.</p>			

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<p>The transferred person shall remain in custody in the territory of the requesting Party and, where applicable, in the territory of the Party through which transit is requested, unless the Party from whom transfer is requested applies for his release.</p>			
<p>Article 12</p> <p>A witness or expert, whatever his nationality, appearing on a summons before the judicial authorities of the requesting Party shall not be prosecuted or detained or subjected to any other restriction of his personal liberty in the territory of that Party in respect of acts or convictions anterior to his departure from the territory of the requested Party.</p> <p>A person, whatever his nationality, summoned before the judicial authorities of the requesting Party to answer for acts forming the subject of proceedings against him, shall not be prosecuted or detained or subjected to any other restriction of his personal liberty for acts or convictions anterior to his departure from the territory of the requested Party and not specified</p>	<p>Yes</p>	<p>Article 19 the Law Nr. Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS"</p> <p>Untouchability of the person summoned</p> <p>1. When a person who is requested to be notified of a summons to a proceeding in Albania does not succeed in acting in conformity with the act of summons issued by the requesting state, no mandatory [or] coercive measure or criminal sanction are taken against him.</p> <p>2. If the local judicial authorities call a witness or expert with a residence or domicile outside the state, during the time of [his] stay in Albania, he will not be subjected to a criminal proceeding for an offence committed before [his] appearance in Albanian territory nor will he be sent to serve a criminal sentence given by a local judicial decision rendered before his appearance.</p> <p>3. Point 2 of this article is not applicable if the</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>in the summons.</p> <p>The immunity provided for in this article shall cease when the witness or expert or prosecuted person, having had for a period of fifteen consecutive days from the date when his presence is no longer required by the judicial authorities an opportunity of leaving, has nevertheless remained in the territory, or having left it, has returned.</p>		<p>witness or expert, although he has been given the possibility, has not left Albanian territory within 15 days after being notified that his presence is no longer necessary. This time period does not include the period during which the witness or expert could not have left Albanian territory for lawful documented reasons.</p> <p>Article 510 C.Pr.C</p> <p>Inviolability of the person summoned</p> <p>1. The person summoned on basis of the letter of application, when appears, may not be subjected to restrictions of personal freedom due to facts occurred before the writ of summons.</p> <p>2. The un-encroachment provided by paragraph 1 shall cease when the witness, the expert or the defendant, even having the possibility, has not left the territory of the Albanian state, after the expiration of fifteen days from the moment his presence is no longer requested by the judicial authority or when, after has left, he has come back voluntarily.</p>	
<p>Article 13</p> <p>A requested Party shall communicate extracts from and information relating to judicial records, requested from it by the judicial authorities of a Contracting</p>	<p>Yes</p>	<p>Article 29 the Law Nr. Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES</p> <p>IN CRIMINAL MATTERS</p> <p>Criminal judicial register of Albanian citizens</p>	<p>Art. 13 ETS 30 concerns all judicial information on all citizens (Albanians and foreigners, in- or outside the country). The Technical Paper of July 2010 only refers to Albanians convicted abroad.</p>

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<p>Party and needed in a criminal matter, to the same extent that these may be made available to its own judicial authorities in like case.</p> <p>In any case other than that provided for in paragraph 1 of this article the request shall be complied with in accordance with the conditions provided for by the law, regulations or practice of the requested Party.</p>		<p>convicted outside the state</p> <ol style="list-style-type: none"> 1. The Office of the Judicial Register registers in a special register abbreviated versions of decisions about Albanian citizens criminally convicted outside the state, also including Albanian citizens born outside the state. For this purpose, a special register is created at that office. 2. If the foreign judicial authorities forward information about the conviction of Albanian citizens in foreign languages, their translation is accomplished by the Ministry of Justice through the service of official translation. 3. For the use, administration and protection of information, as well as for the removal of notations in this register, the rules of domestic legislation are applied. 	<p>Nonetheless, there is no need for legislative action: ETS 30 is part of Albanian law and is binding Albanian authorities; there seems to be no reason for a separate/additional regulation.</p>
<p>Article 14</p> <p>Requests for mutual assistance shall indicate as follows:</p> <p>the authority making the request, the object of and the reason for the request,</p> <p>where possible, the identity and the nationality of the person concerned, and</p> <p>where necessary, the name and address of the person to be served.</p> <p>Letters rogatory referred to in</p>	<p>Yes</p>	<p>Article 5 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES</p> <p>IN CRIMINAL MATTERS</p> <p>General rules about a letter request</p> <ol style="list-style-type: none"> 1. A letter request of local judicial authorities is submitted in writing and except when this law provides otherwise should contain: <ol style="list-style-type: none"> a) the authority that has submitted the letter request, the name of the requested state and, when possible, the name of the authority to which the letter request is addressed; 	<p>No additional comment as far as compliance is concerned.</p>

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<p>Articles 3, 4 and 5 shall, in addition, state the offence and contain a summary of the facts.</p>		<p>b) a precise definition of the type of request that creates international jurisdictional relations, the reasons for sending the letter request and the legal basis;</p> <p>c) a description of the criminal proceeding that is being conducted;</p> <p>ç) a description of the criminal fact, showing its time and place, the legal designation of the criminal offence, as well as a copy of the text of the domestic legal provisions applied;</p> <p>d) general personal information, mentioning the citizenship of the person who has a relation to the object of the letter request, as well as his position in the criminal proceeding;</p> <p>dh) the acts that are attached to the letter request, if any, also shown in a list;</p> <p>e) a declaration of whether the case is urgent and the time period within which execution is necessary, together with the reasons of the urgency or the time period;</p> <p>ë) all other information that may be of importance for the procedure of execution of the letter request.</p> <p>2. A letter request of the foreign judicial authorities and the attached documents, if they are not accompanied by a copy in the Albanian language, are translated by the Ministry of Justice.</p> <p>3. A letter request is submitted by the local</p>	

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		<p>judicial authorities signed and sealed, and accompanied by a translation into the language of the country to which the letter request is addressed. When a foreign state has specified that it accepts letter requests in another language, the local judicial authority may submit the request in the accepted language. In a case of urgency or a language that is not very well known, the translation is done by the Ministry of Justice, at the motivated request of the local judicial authority. The expenses of translation are noted [lit. evidenced] and forwarded to the local judicial authority to be included in prepaid procedural expenses according to article 485 of the Code of Criminal Procedure. More detailed rules about the form of the letter request, the procedure and the translation of the acts are regulated by joint instructions of the Minister of Justice and the General Prosecutor.</p> <p>4. A local judicial authority, if it considers it necessary, may make additions to the letter request in conformity with the conditions of this article.</p> <p>5. A letter request is delivered through the postal service, diplomatic courier. It may also be delivered through other appropriate technical means, but provided that receipt of delivery shall be confirmed.</p> <p>6. Local judicial authorities execute letter requests without delay.</p>	

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<p>Article 15</p> <p>Letters rogatory referred to in Articles 3, 4 and 5 as well as the applications referred to in Article 11 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels.</p> <p>In case of urgency, letters rogatory may be addressed directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party. They shall be returned together with the relevant documents through the channels stipulated in paragraph 1 of this article.</p> <p>Requests provided for in paragraph 1 of Article 13 may be addressed directly by the judicial authorities concerned to the appropriate authorities of the requested Party, and the replies may be returned directly by those authorities. Requests provided for in paragraph 2 of Article 13 shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party.</p>	<p>Yes</p>	<p>Article 6 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS</p> <p>Central authority</p> <p>1. A letter request of local judicial authorities is forwarded to the foreign judicial authorities through the Ministry of Justice, except for the case when this law provides otherwise. If the Ministry of Justice observes that the letter request does not meet with conditions of article 5 of this law, it returns it to the local judicial authority for filling in the defects.</p> <p>2. In urgent cases, the local judicial authorities may forward letter requests directly, except for cases when the domestic legislation provides otherwise. In a case of direct forwarding of letter requests, the local judicial authority notifies the Ministry of Justice at the same time.</p> <p>3. The letter requests of foreign judicial authorities are transmitted to the local judicial authorities through the Ministry of Justice, except for cases when the domestic legislation provides otherwise.</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>Requests for mutual assistance, other than those provided for in paragraphs 1 and 3 of this article and, in particular, requests for investigation preliminary to prosecution, may be communicated directly between the judicial authorities.</p> <p>In cases where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).</p> <p>A Contracting Party may, when signing this Convention or depositing its instrument of ratification or accession, by a declaration addressed to the Secretary General of the Council of Europe, give notice that some or all requests for assistance shall be sent to it through channels other than those provided for in this article, or require that, in a case provided for in paragraph 2 of this article, a copy of the letters rogatory shall be transmitted at the same time to its Ministry of Justice.</p> <p>The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between</p>			

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Contracting Parties which provide for the direct transmission of requests for assistance between their respective authorities.			
<p>Article 16</p> <p>Subject to paragraph 2 of this article, translations of requests and annexed documents shall not be required.</p> <p>Each Contracting Party may, when signing or depositing its instrument of ratification or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, reserve the right to stipulate that requests and annexed documents shall be addressed to it accompanied by a translation into its own language or into either of the official languages of the Council of Europe or into one of the latter languages, specified by it. The other Contracting Parties may apply reciprocity.</p> <p>This article is without prejudice to the provisions concerning the translation of requests or annexed documents contained in the agreements or arrangements in force or to be made between two or more Contracting Parties.</p>	Yes	<p>Article 5 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS</p> <p>General rules about a letter request</p> <p>2. A letter request of the foreign judicial authorities and the attached documents, if they are not accompanied by a copy in the Albanian language, are translated by the Ministry of Justice.</p> <p>3. A letter request is submitted by the local judicial authorities signed and sealed, and accompanied by a translation into the language of the country to which the letter request is addressed. When a foreign state has specified that it accepts letter requests in another language, the local judicial authority may submit the request in the accepted language. In a case of urgency or a language that is not very well known, the translation is done by the Ministry of Justice, at the motivated request of the local judicial authority. The expenses of translation are noted [lit. evidenced] and forwarded to the local judicial authority to be included in prepaid procedural expenses according to</p>	No additional comment as far as compliance is concerned.

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		<p>article 485 of the Code of Criminal Procedure. More detailed rules about the form of the letter request, the procedure and the translation of the acts are regulated by joint instructions of the Minister of Justice and the General Prosecutor.</p> <p>Article 53/3 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS General provisions When a request comes from the sentencing state in a foreign language for the recognition of a foreign criminal decision, the Ministry of Justice may ask the sentencing state for its translation into the Albanian language. If the translation is done by the Ministry of Justice, evidence is taken of the expenses of translation to be included as a part of the procedural expenses.</p> <p>Article 63 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS EXECUTION OF ALBANIAN CRIMINAL DECISIONS OUTSIDE THE STATE Procedure of submission of the request 1. A request submitted to a foreign state for</p>	

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		<p>the execution of a criminal decision of a local court is accompanied by the documents provided by article 55 of this law.</p> <p>2. The request is submitted in the language of the state where the recognition and execution of the decision is sought or in another language accepted by it.</p> <p>Article 69/3 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS TRANSFERRING CRIMINAL PROCEEDINGS TO FOREIGN STATES Forwarding the request</p> <p>3. The acts are translated by the Ministry of Justice into the language of the requested state or a language accepted by it. The expenses of translation are noted and forwarded to the organ of the prosecutor's office to be included in prepaid procedural expenses according to article 485 of the Code of Criminal Procedure.</p>	
<p>Article 17 Evidence or documents transmitted pursuant to this Convention shall not require any form of authentication.</p>	<p>Yes</p>	<p>No specific predictions in our legislation, this provision applies directly Convention</p>	<p>No additional comment as far as compliance is concerned.</p>
<p>Article 18</p>	<p>Yes</p>	<p>Article 7 of the Law Nr.1093dt.03.12.2009,</p>	<p>No additional comment as far as</p>

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<p>Where the authority which receives a request for mutual assistance has no jurisdiction to comply therewith, it shall, <i>ex officio</i>, transmit the request to the competent authority of its country and shall so inform the requesting Party through the direct channels, if the request has been addressed through such channels.</p>		<p>“ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS</p> <p>Forwarding a letter request to the competent authority</p> <p>1. The Ministry of Justice opens the way to a foreign letter request after it evaluates the conditions defined in the domestic legislation. Subsequently, the letter request is forwarded to the prosecutor of the district where the letter request is to be executed, through the General Prosecutor.</p> <p>2. If the local judicial authority has competence for the execution of one or more of the actions requested, then it may proceed with the execution of all the actions, if such a thing is appropriate.</p> <p>3. When a local judicial authority that receives a letter request does not have competence for its execution, it forwarded the request without delay to the competent local judicial authority and notifies the Ministry of Justice at the same time.</p>	<p>compliance is concerned.</p>
<p>Article 19 Reasons shall be given for any refusal of mutual assistance.</p>	<p>Yes</p>	<p>Article 8/4 of the Law Nr.1093 dt.03.12.2009, “On jurisdictional relations with foreign authorities in criminal matters Refusal of the letter request 4. The decision of refusal of a letter request</p>	<p>No additional comment as far as compliance is concerned.</p>

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		contains the reasons of refusal and the legal basis. Article 505 and following of Criminal Penal Code	
<p>Article 20</p> <p>Subject to the provisions of Article 10, paragraph 3, execution of requests for mutual assistance shall not entail refunding of expenses except those incurred by the attendance of experts in the territory of the requested Party or the transfer of a person in custody carried out under Article 11.</p>	-	Replaced with the additional protocol	See below ETS 182.
<p>Article 21</p> <p>Information laid by one Contracting Party with a view to proceedings in the courts of another Party shall be transmitted between the Ministries of Justice concerned unless a Contracting Party avails itself of the option provided for in paragraph 6 of Article 15.</p> <p>The requested Party shall notify the requesting Party of any action taken on such information and shall forward a copy of the record of any verdict pronounced.</p> <p>The provisions of Article 16 shall</p>	Yes	No specific predictions in our legislation, this provision applies directly Convention	The Technical Paper of July 2010 sees no need for legislative implementation of Art. 21 ETS 30. However, one might wonder, whether Law No. 8517 on "Personal Data Protection" would allow such transfer of data abroad: In other words, is such a broad article of an international treaty (Art. 21 ETS 30) "permitting law" in the sense of Art. 14 lit. b Law No. 8517, or would this only be true for a more detailed legislation? However, Art. 27 of Law No. 10193, mentioned in the Technical Paper of July 2010 at Art. 22 ETS 30, deals with this matter in a satisfactory way.

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apply to information laid under paragraph 1 of this article.			
<p>Article 22</p> <p>Each Contracting Party shall inform any other Party of all criminal convictions and subsequent measures in respect of nationals of the latter Party, entered in the judicial records. Ministries of Justice shall communicate such information to one another at least once a year. Where the person concerned is considered a national of two or more other Contracting Parties, the information shall be given to each of these Parties, unless the person is a national of the Party in the territory of which he was convicted.</p>	Yes	<p>Article 27 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS</p> <p>Forwarding data without a request</p> <p>1. Local judicial authorities even on their own initiative forward to foreign judicial authorities information that is related to criminal offences collected during a criminal proceeding, if they judge that forwarding such information may assist in the opening of a criminal proceeding or the submission of a request for legal assistance from the foreign state. This information is forwarded if the progress of the criminal proceeding in Albania is not hindered and respecting the conditions of reciprocity.</p> <p>2. The competent local judicial authority may ask the foreign judicial authorities that have received the information mentioned in the first point of this article for data about the measures taken in connection with the information forwarded. In addition, the competent local judicial authority may establish other conditions related to the use of this information in the state to which the information has been forwarded.</p> <p>Article 28 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH</p>	No additional comment as far as compliance is concerned.

Article (ETS 30)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>FOREIGN AUTHORITIES IN CRIMINAL MATTERS</p> <p>Forwarding information about foreign citizens proceeded against or convicted</p> <p>1. Every three months, the Ministry of Justice sends information to the foreign judicial authority about final criminal decisions rendered against citizens of that state. This information is taken from the register of judicial status.</p> <p>2. At the request of the competent foreign judicial authorities, the Ministry of Justice forwards an abbreviated version of the final criminal decision or a certification of judicial status.</p> <p>3. At the request of a foreign state, the Ministry of Justice may forward data about persons who are citizens of the requesting state and who are subjects of a criminal proceeding that has been started in the Republic of Albania. For fulfilling this request, the Ministry of Justice cooperates with the General Prosecutor.</p> <p>Article 29 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS</p> <p>Criminal judicial register of Albanian citizens convicted outside the state</p> <p>1. The Office of the Judicial Register registers</p>	

Article (ETS 30)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>in a special register abbreviated versions of decisions about Albanian citizens criminally convicted outside the state, also including Albanian citizens born outside the state. For this purpose, a special register is created at that office.</p> <p>2. If the foreign judicial authorities forward information about the conviction of Albanian citizens in foreign languages, their translation is accomplished by the Ministry of Justice through the service of official translation.</p> <p>3. For the use, administration and protection of information, as well as for the removal of notations in this register, the rules of domestic legislation are applied.</p>	

6. Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS 99)

Article (ETS 99)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 1</p> <p>The Contracting Parties shall not exercise the right provided for in Article 2.a of the Convention to refuse assistance solely on the ground that the request concerns an offence which the requested Party considers a fiscal offence.</p>	Yes	No specific predictions in our legislation, this provision apply directly the first additional protocol of the Convention.	No legislative consequence from this article as Art. 505 Albanian Criminal Procedure Code makes no exceptions to supporting foreign letters rogatory for fiscal offences.
<p>Article 2</p> <p>In the case where a Contracting Party has made the execution of letters rogatory for search or seizure of property dependent on the condition that the offence motivating the letters rogatory is punishable under both the law of the requesting Party and the law of the requested Party, this condition shall be fulfilled, as regards fiscal offences, if the offence is punishable under the law of the requesting Party and corresponds to an offence of the same nature under the law of the requested Party.</p> <p>The request may not be refused on the ground that the law of the</p>	Yes	No specific predictions in our legislation, this provision applies directly the first additional protocol of the Convention	No additional comment as far as compliance is concerned.

Article (ETS 99)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
requested Party does not impose the same kind of tax or duty or does not contain a tax, duty, customs and exchange regulation of the same kind as the law of the requesting Party.			
<p>Article 3</p> <p>The Convention shall also apply to: the service of documents concerning the enforcement of a sentence, the recovery of a fine or the payment of costs of proceedings;</p> <p>measures relating to the suspension of pronouncement of a sentence or of its enforcement, to conditional release, to deferment of the commencement of the enforcement of a sentence or to the interruption of such enforcement.</p>	Yes	<p>Comment</p> <p>Article 13 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS</p> <p>Types of letters rogatory and field of application</p> <p>1. The types of letters rogatory are:</p> <p>b. a notification of the orders, decisions of judicial authorities and of other necessary documents related to the criminal proceeding in the requesting state;</p> <p>c. measures of property security for purposes of a criminal proceeding;</p> <p>dh. other investigative actions that are not prohibited by law.</p>	<p>Art. 13 Law No. 10193 ("decisions of judicial authorities") probably covers all types mentioned in Art. 3 ETS 30.</p>
<p>Article 4</p> <p>Article 22 of the Convention shall be supplemented by the following text, the original Article 22 of the Convention becoming paragraph 1 and the below-mentioned</p>	Yes	<p>Article 27 of the Law Nr.1093dt.03.12.2009, "ON JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS</p> <p>Forwarding data without a request</p>	<p>Art. 4 ETS 99 requires state parties to provide each other a "copy of the conviction"; Art. 28 par. 2 Law No. 10193 only foresees the forwarding of an "abbreviated version of the final criminal decision". Furthermore, Art. 4</p>

Article (ETS 99)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>provisions becoming paragraph 2: "2 Furthermore, any Contracting Party which has supplied the above-mentioned information shall communicate to the Party concerned, on the latter's request in individual cases, a copy of the convictions and measures in question as well as any other information relevant thereto in order to enable it to consider whether they necessitate any measures at national level. This communication shall take place between the Ministries of Justice concerned."</p>		<p>1. Local judicial authorities even on their own initiative forward to foreign judicial authorities information that is related to criminal offences collected during a criminal proceeding, if they judge that forwarding such information may assist in the opening of a criminal proceeding or the submission of a request for legal assistance from the foreign state. This information is forwarded if the progress of the criminal proceeding in Albania is not hindered and respecting the conditions of reciprocity.</p> <p>2. The competent local judicial authority may ask the foreign judicial authorities that have received the information mentioned in the first point of this article for data about the measures taken in connection with the information forwarded. In addition, the competent local judicial authority may establish other conditions related to the use of this information in the state to which the information has been forwarded.</p> <p>Article 28 of the Law Nr.1093dt.03.12.2009 Forwarding information about foreign citizens proceeded against or convicted</p> <p>1. Every three months, the Ministry of Justice sends information to the foreign judicial authority about final criminal decisions rendered against citizens of that sate. This information is taken from the register of judicial status.</p> <p>2. At the request of the competent foreign judicial authorities, the Ministry of Justice</p>	<p>ETS 99 requires state parties to provide each other "any other information relevant thereto", a matter that is not dealt with by Art. 27 or Art. 28 Law No. 10193.</p> <p>Nonetheless, there is no need for legislative action: ETS 182 is part of Albanian law and is binding Albanian authorities; there seems to be no reason for a separate/additional regulation.</p>

Article (ETS 99)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>forwards an abbreviated version of the final criminal decision or a certification of judicial status.</p> <p>3. At the request of a foreign state, the Ministry of Justice may forward data about persons who are citizens of the requesting state and who are subjects of a criminal proceeding that has been started in the Republic of Albania. For fulfilling this request, the Ministry of Justice cooperates with the General Prosecutor.</p> <p>Article 29 of the Law Nr.1093dt.03.12.2009 Criminal judicial register of Albanian citizens convicted outside the state</p> <p>1. The Office of the Judicial Register registers in a special register abbreviated versions of decisions about Albanian citizens criminally convicted outside the state, also including Albanian citizens born outside the state. For this purpose, a special register is created at that office.</p> <p>2. If the foreign judicial authorities forward information about the conviction of Albanian citizens in foreign languages, their translation is accomplished by the Ministry of Justice through the service of official translation.</p> <p>3. For the use, administration and protection of information, as well as for the removal of notations in this register, the rules of domestic legislation are applied.</p>	

**7. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters
(ETS 182)**

Article (ETS 182)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 1 – Scope</p> <p>Article 1 of the Convention shall be replaced by the following provisions:"1 The Parties undertake promptly to afford each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings in respect of offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party.</p> <p>2 This Convention does not apply to arrests, the enforcement of verdicts or offences under military law which are not offences under ordinary criminal law.</p> <p>3 Mutual assistance may also be afforded in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested Party by virtue of being infringements of the rules of law,</p>	<p>Yes</p>	<p>Article 122/1 and 2 of the Constitution of the Republic of Albania provides that: "1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, are done with the same majority.</p> <p>2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it."</p> <p>In accordance with what is above mentioned, European Convention On Mutual Assistance In Criminal Matters and its additional Protocols, are directly implemented from law enforcement bodies in Republic of Albania and prevails over domestic laws.</p> <p>Apart from what is stated above, rules in the field of jurisdictional relations with foreign authorities in criminal matters are also set in the articles 6 to 11 of the Criminal Code,</p>	<p>No additional comment as far as compliance is concerned.</p>

Article (ETS 182)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.</p> <p>4 Mutual assistance shall not be refused solely on the grounds that it relates to acts for which a legal person may be held liable in the requesting Party."</p>		<p>articles 488 to 525 of the Criminal Procedure Code and law no.10 193, date 3.12.2009 " On jurisdictional relations with foreign authorities in criminal matters."</p>	
<p>Article 2 – Presence of officials of the requesting Party</p> <p>Article 4 of the Convention shall be supplemented by the following text, the original Article 4 of the Convention becoming paragraph 1 and the provisions below becoming paragraph 2: "Requests for the presence of such officials or interested persons should not be refused where that presence is likely to render the execution of the request for assistance more responsive to the needs of the requesting Party and, therefore, likely to avoid the need for supplementary requests for assistance."</p>	<p>Yes</p>	<p>Article 16 of law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", provides the <i>Presence of foreign judicial authorities in the receipt of evidence</i>. The content of this article is as follows: "1. At the express request of a foreign judicial authority, the local judicial authority gives information about the time and place of execution of the letter rogatory.</p> <p>2. The court may permit representatives of foreign judicial authorities to take part in the receipt of evidence and to address questions to the person who is questioned according to the rules of the Code of Criminal Procedure."</p>	<p>Art. 16 par. 2 Law No. 10193 focuses only on letters rogatory dealing with evidence and is thus narrower than Art. 4 ETS 30. However, it seems rather theoretical that the presence of a foreign official would be necessary if not in cases where the receipt of evidence was the matter in one way or other.</p>

Article (ETS 182)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>Article 3 – Temporary transfer of detained persons to the territory of the requesting Party</p> <p>Article 11 of the Convention shall be replaced by the following provisions:</p> <p>"1 A person in custody whose personal appearance for evidentiary purposes other than for standing trial is applied for by the requesting Party shall be temporarily transferred to its territory, provided that he or she shall be sent back within the period stipulated by the requested Party and subject to the provisions of Article 12 of this Convention, in so far as these are applicable.</p> <p>Transfer may be refused if:</p> <p>a the person in custody does not consent;</p> <p>b his or her presence is necessary at criminal proceedings pending in the territory of the requested Party;</p> <p>c transfer is liable to prolong his</p>	<p>Yes</p>	<p>Law no.10193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters" has provided <i>Temporary transfer of detained persons</i>, in its article 21, which defines that: "1. When a foreign judicial authority summons a person detained in Albania for questioning, he may be temporarily transferred to the requesting state.</p> <p>2. The temporary transferring of the person is decided by the Minister of Justice if the requesting state gives guarantees for the protection and return of the person within a defined period.</p> <p>3. The transferring is refused when:</p> <p>a) the detained person does not give consent. If the detained person has given consent, he cannot revoke it;</p> <p>b) the transferring may extend his detention;</p> <p>c) there are other fundamental reasons for not transferring him.</p> <p>4. When the presence of the detained person is necessary in criminal proceedings being conducted by local judicial authorities, the transferring may be postponed.</p>	<p>According to Art. 21 par. 3 lit. a Law No. 10193, if "the detained person has given consent [to being transferred abroad], he cannot revoke it". This limitation might seem as not being in line with Art. 3 par. 1 lit. a ETS 182, which does not limit the consent of the detained person. There is no indication in the Explanatory Report of ETS 182, nor – as a supplementary means of interpretation according to Art. 32 Vienna Convention on the Law of Treaties – in the Legislative Guide on UNCAC (at No. 602) on the respective provision in Art. 46 par. 10 lit. a UNCAC, on whether such a limitation would be acceptable. Besides, there seems to be no international standard on this, with, e.g., Austrian legislation¹⁵ not having such limitation, whereas German¹⁶ or UK¹⁷ legislation does. However, if the detained person is properly instructed about the non-revocable consequence of its consent, at best if done so by a judge¹⁸, this limitation would seem acceptable for practical reasons.</p>

15 § 54 par. 1 No. 1 Law on Extradition and Mutual Legal Assistance (ARHG).

16 § 62 par. 1 No. 1 Law on International Cooperation in Criminal Matters (IRG).

17 Art. 47 par. 6 Crime (International Co-operation) Act 2003.

18 See for this requirement in the respective provision in German law, § 62 par. 1 No. 1 IRG: "consent of the detained person after having been instructed by a judge and this being documented by protocol".

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<p>or her detention, or</p> <p>d there are other overriding grounds for not transferring him or her to the territory of the requesting Party.</p> <p>2 Subject to the provisions of Article 2 of this Convention, in a case coming within paragraph 1, transit of the person in custody through the territory of a third Party, shall be granted on application, accompanied by all necessary documents, addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the Party through whose territory transit is requested. A Party may refuse to grant transit to its own nationals.</p> <p>3 The transferred person shall remain in custody in the territory of the requesting Party and, where applicable, in the territory of the Party through which transit is requested, unless the Party from whom transfer is requested applies for his or her release."</p>		<p>5. When a third state is requested to transfer a detained person through Albanian territory, his transit passage is permitted if he is not an Albanian citizen.</p> <p>6. The office of Interpol, in cooperation with the homologous authority of the requesting state takes technical measures to realise the delivery of the detained person and immediately notifies the Ministry of Justice of the place and date of delivery of the temporarily transferred person. The delivery of the transferred person is performed by the Interpol Office, which immediately notifies the Ministry of Justice and the General Prosecutor.</p> <p>7. The time of detention in the requesting state is calculated in the amount of the sentence served in Albania.</p> <p>8. The rules provided by this article are also applicable to a person detained in Albanian territory or who has been transferred to serve a sentence given by the requesting state, when his personal appearance has been requested for purposes of a review of the decision by the requesting state."</p>	
<p>Article 4 – Channels of communication</p> <p>Article 15 of the Convention shall</p>	Yes	<p>1. Regarding requests for extradition, the Criminal Procedure Code has provided, in the article 489/1, extradition abroad with this</p>	<p>No additional comment as far as compliance is concerned.</p>

Article (ETS 182)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>be replaced by the following provisions:</p> <p>"1 Requests for mutual assistance, as well as spontaneous information, shall be addressed in writing by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels. However, they may be forwarded directly by the judicial authorities of the requesting Party to the judicial authorities of the requested Party and returned through the same channels.</p> <p>2 Applications as referred to in Article 11 of this Convention and Article 13 of the Second Additional Protocol to this Convention shall in all cases be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party and shall be returned through the same channels.</p> <p>3 Requests for mutual assistance concerning proceedings as mentioned in paragraph 3 of Article 1 of this Convention may also be forwarded directly by the administrative or judicial authorities of the requesting Party</p>		<p>content: "1. The extradition is permitted only upon request submitted to the Minister of Justice." And in article 504/1 extradition from abroad: "1. The Minister of Justice is competent to request from a foreign state the extradition of the proceeded or sentenced person, who must be subjected to a measure that restricts the individual freedom. In this case, the prosecutor in the court of the territory where the proceedings take place or the sentence is rendered makes a request to the Minister of Justice, sending the necessary acts and documents. In case does not accept the request, the Minister notifies the authority which has made it."</p> <p>Regarding rogatory letters from abroad, the article 505/1 of the Criminal Procedure Code, defines the powers of the Ministry of Justice: "1. The Minister of Justice decides to grant support to a letter of application of a foreign authority regarding communications, notifications and the taking of proofs, except when evaluates that the requested actions impair the sovereignty, the security and important interests of the state."</p> <p>For rogatory letters for abroad, articles 509/1 and 4, of the Criminal Procedures Code define: "1. The letters of application of the courts and prosecution offices, addressed to foreign authorities for notification and the taking of the proofs, shall be sent to the</p>	

Article (ETS 182)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
<p>to the administrative or judicial authorities of the requested Party, as the case may be, and returned through the same channels.</p> <p>4 Requests for mutual assistance made under Articles 18 and 19 of the Second Additional Protocol to this Convention may also be forwarded directly by the competent authorities of the requesting Party to the competent authorities of the requested Party.</p> <p>5 Requests provided for in paragraph 1 of Article 13 of this Convention may be addressed directly by the judicial authorities concerned to the appropriate authorities of the requested Party, and the replies may be returned directly by those authorities. Requests provided for in paragraph 2 of Article 13 of this Convention shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party.</p> <p>6 Requests for copies of convictions and measures as referred to in Article 4 of the Additional Protocol to the Convention may be made directly to the competent authorities. Any Contracting State may, at any</p>		<p>Minster of Justice who takes the measures to send them through diplomatic channel.</p> <p>4. In case of urgency the proceeding authority may order the sending of the letter of application through diplomatic channel informing the Minister of Justice”.</p> <p>Regarding recognition of foreign criminal awards, the article 512 defines: “1. The Minister of Justice, when receives a sentence rendered abroad for Albanian citizens or foreigners or persons without citizenship, but residing in the Albanian state or for persons proceeded criminally in the Albanian state shall send to the prosecutor in the district court of the domicile or residence of the person a copy of the decision and relevant documents, along with the translations in Albanian language.</p> <p>2. The Minister of Justice demands the recognition of a foreign sentence when judges that in accordance with an international convention this decision must be executed or must be recognised other effects in the Albanian state.</p> <p>3. The prosecutor shall submit a request to the district court for the recognition of the foreign sentence. Through the Minister of Justice he may request from foreign authorities the necessary information.”</p> <p>The execution abroad of Albanian criminal awards is defined in the article 519/1: “1. In</p>	

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<p>time, by a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of this paragraph, deem competent authorities.</p> <p>7 In urgent cases, where direct transmission is permitted under this Convention, it may take place through the International Criminal Police Organisation (Interpol).</p> <p>8 Any Party may, at any time, by a declaration addressed to the Secretary General of the Council of Europe, reserve the right to make the execution of requests, or specified requests, for mutual assistance dependent on one or more of the following conditions:</p> <p>a that a copy of the request be forwarded to the central authority designated in that declaration;</p> <p>b that requests, except urgent requests, be forwarded to the central authority designated in that declaration;</p> <p>c that, in case of direct transmission for reasons of urgency, a copy shall be transmitted at the same time to its Ministry of Justice;</p> <p>d that some or all requests for</p>		<p>cases provided by international conventions or by article 501, paragraph 2, the Minister of justice requests the execution of the sentences abroad or gives the consent when it is requested by a foreign state.”</p> <p>Law no.10193, date 3.12.2009 “On jurisdictional relations with foreign authorities in criminal matters”, follows the same line with Criminal Procedure Code provisions and Convention provisions and provides in its article 6 that: “1.A letter request of local judicial authorities is forwarded to the foreign judicial authorities through the Ministry of Justice, except for the case when this law provides otherwise. If the Ministry of Justice observes that the letter request does not meet with conditions of article 5 of this law, it returns it to the local judicial authority for filling in the defects.</p> <p>2. In urgent cases, the local judicial authorities may forward letter requests directly, except for cases when the domestic legislation provides otherwise. In a case of direct forwarding of letter requests, the local judicial authority notifies the Ministry of Justice at the same time.</p> <p>3. The letter requests of foreign judicial authorities are transmitted to the local judicial authorities through the Ministry of Justice, except for cases when the domestic legislation provides otherwise.” And in his article 7/1: “1. The Ministry of Justice opens the way to a foreign letter request after it evaluates the conditions defined in the domestic legislation.</p>	

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<p>assistance shall be sent to it through channels other than those provided for in this article.</p> <p>9 Requests for mutual assistance and any other communications under this Convention or its Protocols may be forwarded through any electronic or other means of telecommunication provided that the requesting Party is prepared, upon request, to produce at any time a written record of it and the original. However, any Contracting State, may by a declaration addressed at any time to the Secretary General of the Council of Europe, establish the conditions under which it shall be willing to accept and execute requests received by electronic or other means of telecommunication.</p> <p>10 The provisions of this article are without prejudice to those of bilateral agreements or arrangements in force between Parties which provide for the direct transmission of requests for assistance between their respective authorities."</p>		<p>Subsequently, the letter request is forwarded to the prosecutor of the district where the letter request is to be executed, through the General Prosecutor."</p> <p>Regarding rogatory letters, this law, in article 15/1 and 2 provides the exception that: "1. In addition to the ways of forwarding letter requests provided in articles 6 and 7 of this law and only for purposes of this Chapter, letters rogatory may also be forwarded directly between local and foreign judicial authorities in urgent cases.</p> <p>2. In this case, the local judicial authority sends a copy of these letters rogatory to the Ministry of Justice at the same time."</p> <p>Regarding spontaneous information, the law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", article 27, states as follows: "1. Local judicial authorities even on their own initiative forward to foreign judicial authorities information that is related to criminal offences collected during a criminal proceeding, if they judge that forwarding such information may assist in the opening of a criminal proceeding or the submission of a request for legal assistance from the foreign state. This information is forwarded if the progress of the criminal proceeding in Albania is not hindered and respecting the conditions of reciprocity.</p> <p>2. The competent local judicial authority may ask the foreign judicial authorities that have received the information mentioned in the</p>	

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		<p>first point of this article for data about the measures taken in connection with the information forwarded. In addition, the competent local judicial authority may establish other conditions related to the use of this information in the state to which the information has been forwarded.”</p> <p>2. Law no.10193, date 3.12.2009 “On jurisdictional relations with foreign authorities in criminal matters”, has provided in the article 21/2 that: “2. The temporary transferring of the person is decided by the Minister of Justice if the requesting state gives guarantees for the protection and return of the person within a defined period.”</p> <p>3. In cases provided from clause 3 of article 15 of the Convention (amended from its second additional protocol); the provisions of this article are directly implemented in accordance with article 122/1 and 2 of Constitution of the Republic of Albania.</p> <p>4. The cooperation provided in the articles 18 e 19 of the second additional protocol of Convention, is not literally stated by law in the Republic of Albania, but in accordance with the article 122/1 the provisions of the Convention and its additional protocols are directly implemented.</p> <p>5. 6.In addition to the requests of clauses 5 and 6 of the article 15 of the Convention, (amended from article 4 of its second additional protocol), law no.10193, date 3.12.2009 “On jurisdictional relations with</p>	

Article (ETS 182)	Compl.	Notes by Edlira Jorgaqi	Notes by Tilman Hoppe
		<p>foreign authorities in criminal matters”, in the article 28 defines: “1. Every three months, the Ministry of Justice sends information to the foreign judicial authority about final criminal decisions rendered against citizens of that sate. This information is taken from the register of judicial status.</p> <p>2. At the request of the competent foreign judicial authorities, the Ministry of Justice forwards an abbreviated version of the final criminal decision or a certification of judicial status.</p> <p>3. At the request of a foreign state, the Ministry of Justice may forward data about persons who are citizens of the requesting state and who are subjects of a criminal proceeding that has been started in the Republic of Albania. For fulfilling this request, the Ministry of Justice cooperates with the General Prosecutor.”.</p> <p>7. The Republic of Albania, by the law no.8427, date 14.12.1998 “For the accession of Republic of Albania in the international criminal police organization – Interpol”, is a member of this organization. In urgent cases, where direct transmission is permitted under this Convention, clause 7 of the article 15 of Convention is directly implemented, and it is processed through Interpol.</p> <p>8. The Albanian State, with the law no. 8498, date 10.6.1999 “For the ratification of European Convention on Mutual Assistance in Criminal Matters and his additional protocol”,</p>	

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		<p>in the article 2 defines that the Albanian State declares that: "1. In accordance with the article 15 clause 6 a copy of all requests for assistance addressed directly by the judicial authorities with the relevant documents, shall be transmitted at the same time to the Ministry of Justice."</p> <p>Otherwise in law no. 8883, date 18.4.2002 "For the ratification of second additional Protocol of European Convention on Mutual Assistance in Criminal Matters" there are no reservations or statements regarding this article.</p> <p>9. Article 5/5 of law no.10193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters" provides that : "5. 5. A letter request is delivered through the postal service, diplomatic courier. It may also be delivered through other appropriate technical means, but provided that receipt of delivery shall be confirmed."</p>	
<p>Article 5 – Costs</p> <p>Article 20 of the Convention shall be replaced by the following provisions:</p> <p>"1 Parties shall not claim from each other the refund of any costs resulting from the application of this Convention or its Protocols, except:</p>	<p>Yes</p>	<p>Article 503 of the Criminal Procedure Code specifically regulates: " <i>The costs of extradition</i></p> <p>1. The expenses done in the Albanian territory are covered by the Albanian party when there is no other agreement".</p> <p>Article 25 of the law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters",</p>	<p>For one unclear point see above at Art. 9 ETS 30. Besides, see Technical Paper of July 2010.</p>

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<p>a costs incurred by the attendance of experts in the territory of the requested Party;</p> <p>b costs incurred by the transfer of a person in custody carried out under Articles 13 or 14 of the Second Additional Protocol to this Convention, or Article 11 of this Convention;</p> <p>c costs of a substantial or extraordinary nature.</p> <p>2 However, the cost of establishing a video or telephone link, costs related to the servicing of a video or telephone link in the requested Party, the remuneration of interpreters provided by it and allowances to witnesses and their travelling expenses in the requested Party shall be refunded by the requesting Party to the requested Party, unless the Parties agree otherwise.</p> <p>3 Parties shall consult with each other with a view to making arrangements for the payment of costs claimable under paragraph 1.c above.</p> <p>4 The provisions of this article shall apply without prejudice to the provisions of Article 10, paragraph 3, of this Convention."</p>		<p><i>Expenses</i>, defines that: "</p> <p>1. The Albanian state, through the Minister of Justice, may waive the reimbursement of expenses of execution of letters rogatory from the requesting state.</p> <p>2. The expenses of execution of local letters rogatory are paid by the local judicial authority who has asked for the letter rogatory.</p> <p>3. A witness or expert who appears in execution of a letter rogatory of local judicial authorities has the right of reimbursement of the expenses of travel and food, which are documented as a part of the procedural expenses in conformity with the Code of Criminal Procedure.</p> <p>4. In case a letter rogatory of a local judicial authority has the object of the giving of testimony of an expert, then the local judicial authority may deposit ahead of time an amount for coverage of the expenses of the testimony of the expert if the foreign judicial authority expressly requests it.</p> <p>5. The letters rogatory of local juridical authorities in the cases of points 2 and 3 of this article show the expenses payable and those that are reimbursable. At the request in writing of the persons summoned, they are given ahead of time a sum to cover the expenses.</p> <p>6. Local judicial authorities do not pay the expenses of executing foreign letters rogatory</p>	

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		<p>for:</p> <p>a) the travel and stay of persons summoned to be questioned or to perform a procedural action;</p> <p>b) the temporary transferring of detained persons;</p> <p>c) the holding of hearing sessions through telephonic or audio-visual connections;</p> <p>ç) the preservation or administration of evidence or objects;</p> <p>d) the performance of procedural actions with high or extraordinary expenses.</p>	
<p>Article 6 – Judicial authorities</p> <p>Article 24 of the Convention shall be replaced by the following provisions: “Any State shall at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, define what authorities it will, for the purpose of the Convention, deem judicial authorities. It subsequently may, at any time and in the same manner, change the terms of its declaration.”</p>	<p>Yes</p>	<p>Law no 8498, date 10.6.1999 “For the ratification of European Convention on Mutual Assistance in Criminal Matters and his additional protocol”, in article 2/3 states that: “3. Judicial authorities in the terms of article 24 of this Convention, is the Ministry of Justice.”</p> <p>In statements is expressed: “judicial authorities in the terms of this Convention are Ministry of Justice of the Republic of Albania, courts and prosecutor’s offices”</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>Article 7 – Postponed execution of requests</p> <p>1 The requested Party may postpone action on a request if such action would prejudice investigations, prosecutions or related proceedings by its authorities.</p> <p>2 Before refusing or postponing assistance, the requested Party shall, where appropriate after having consulted with the requesting Party, consider whether the request may be granted partially or subject to such conditions as it deems necessary.</p> <p>3 If the request is postponed, reasons shall be given for the postponement. The requested Party shall also inform the requesting Party of any reasons that render impossible the execution of the request or are likely to delay it significantly.</p>	<p>Yes</p>	<p>Article 24 of law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", <i>Postponement of the execution of requests</i> provides that:" 1. A local judicial authority may postpone or condition the execution of requests if it may affect the good conduct of criminal proceedings started by local judicial authorities.</p> <p>2. The local judicial authority notifies the foreign judicial authority, declaring the reasons for postponement or conditioning. If the notification is made directly to the foreign judicial authority, the local judicial authority informs the Ministry of Justice at the same time."</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>Article 8 – Procedure</p> <p>Notwithstanding the provisions of Article 3 of the Convention, where requests specify formalities or procedures which are necessary under the law of the requesting Party, even if unfamiliar to the requested Party, the latter shall comply with such requests to the extent that the action sought is not contrary to fundamental principles of its law, unless otherwise provided for in this Protocol.</p>	Yes	<p>Law no.10 193, date 3.12.2009 “On jurisdictional relations with foreign authorities in criminal matters”, in its article 17 has provided the <i>Special procedure</i>, with this content: “If a foreign judicial authority asks in a letter rogatory for special conditions to be fulfilled related to form and procedure, the local judicial authority acts for its execution in conformity with those requests, provided that the requests shall not be in violation of the fundamental principles of the legal order of the Republic of Albania.”</p>	<p>No additional comment as far as compliance is concerned.</p>
<p>Article 9 – Hearing by video conference</p> <p>1 If a person is in one Party’s territory and has to be heard as a witness or expert by the judicial authorities of another Party, the latter may, where it is not desirable or possible for the person to be heard to appear in its territory in person, request that the hearing take place by video conference, as provided for in paragraphs 2 to 7.</p> <p>2 The requested Party shall agree to the hearing by video conference provided that the use of the video conference is not contrary to fundamental principles of its law and on condition that it has the technical means to carry</p>	Yes	<p>Law no.10193, date 3.12.2009 “On jurisdictional relations with foreign authorities in criminal matters”, in its article 20 has provided the <i>Hearing sessions through telephonic or audio-visual connections</i>, with the following content: “1. Local judicial authorities may address a request to foreign judicial authorities for questioning at a distance of a witness or expert located outside the state, through telephonic or audio-visual connections.</p> <p>2. A request addressed to a foreign judicial authority for the holding of a session through telephonic or audio-visual connections should contain, in addition to the information provided by point 1 of article 5 of this law:</p> <p>a) the name of the local judicial authority and of the persons that will direct the hearing</p>	<p>The explicit reference in Art. 20 par. 4 Law No. 10193 to international conventions and thus to Art. 9 ETS 182 is sufficient implementation.</p>

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<p>out the hearing. If the requested Party has no access to the technical means for video conferencing, such means may be made available to it by the requesting Party by mutual agreement.</p> <p>3 Requests for a hearing by video conference shall contain, in addition to the information referred to in Article 14 of the Convention, the reason why it is not desirable or possible for the witness or expert to attend in person, the name of the judicial authority and of the persons who will be conducting the hearing.</p> <p>4 The judicial authority of the requested Party shall summon the person concerned to appear in accordance with the forms laid down by its law.</p> <p>5 With reference to hearing by video conference, the following rules shall apply:</p> <p>a a judicial authority of the requested Party shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the</p>		<p>session;</p> <p>b) the reason why it is not possible for the witness or expert to participate personally.</p> <p>3. Local judicial authorities execute foreign letters rogatory with the object of holding hearing sessions through telephonic or audiovisual connections when:</p> <p>a) the witness or expert does not desire or does not have the possibility to appear at the foreign judicial authorities, and also has given consent for the holding of the session in this form;</p> <p>b) the competent court has approved the request of the requesting state for holding the session in this form.</p> <p>4. The questioning of witnesses or experts at a distance is done by the local judicial authorities while respecting the rules of international agreements and the provisions of the Code of Criminal Procedure.”</p>	

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<p>fundamental principles of the law of the requested Party. If the judicial authority of the requested Party is of the view that during the hearing the fundamental principles of the law of the requested Party are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles;</p> <p>b measures for the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the requesting and the requested Parties;</p> <p>c the hearing shall be conducted directly by, or under the direction of, the judicial authority of the requesting Party in accordance with its own laws;</p> <p>d at the request of the requesting Party or the person to be heard, the requested Party shall ensure that the person to be heard is assisted by an interpreter, if necessary;</p> <p>e the person to be heard may claim the right not to testify which would accrue to him or her under the law of either the requested or</p>			

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<p>the requesting Party.</p> <p>6 Without prejudice to any measures agreed for the protection of persons, the judicial authority of the requested Party shall on the conclusion of the hearing draw up minutes indicating the date and place of the hearing, the identity of the person heard, the identities and functions of all other persons in the requested Party participating in the hearing, any oaths taken and the technical conditions under which the hearing took place. The document shall be forwarded by the competent authority of the requested Party to the competent authority of the requesting Party.</p> <p>7 Each Party shall take the necessary measures to ensure that, where witnesses or experts are being heard within its territory, in accordance with this article, and refuse to testify when under an obligation to testify or do not testify according to the truth, its national law applies in the same way as if the hearing took place in a national procedure.</p> <p>8 Parties may at their discretion also apply the provisions of this article, where appropriate and with the agreement of their competent</p>			

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<p>judicial authorities, to hearings by video conference involving the accused person or the suspect. In this case, the decision to hold the video conference, and the manner in which the video conference shall be carried out, shall be subject to agreement between the Parties concerned, in accordance with their national law and relevant international instruments. Hearings involving the accused person or the suspect shall only be carried out with his or her consent.</p> <p>9 Any Contracting State may, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that it will not avail itself of the possibility provided in paragraph 8 above of also applying the provisions of this article to hearings by video conference involving the accused person or the suspect.</p>			
<p>Article 10 – Hearing by telephone conference</p> <p>1 If a person is in one Party's territory and has to be heard as a witness or expert by judicial authorities of another Party, the latter may, where its national law so provides, request the assistance</p>	Yes	<p>Law no.10193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", in his article 20 has provided <i>Hearing sessions through telephonic or audio-visual connections, with content:</i> "1. Local judicial authorities may address a request to foreign judicial authorities for questioning at a distance of a witness or</p>	<p>The explicit reference in Art. 20 par. 4 Law No. 10193 to international conventions and thus to Art. 9 ETS 182 is sufficient implementation.</p>

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<p>of the former Party to enable the hearing to take place by telephone conference, as provided for in paragraphs 2 to 6.</p> <p>2 A hearing may be conducted by telephone conference only if the witness or expert agrees that the hearing take place by that method.</p> <p>3 The requested Party shall agree to the hearing by telephone conference where this is not contrary to fundamental principles of its law.</p> <p>4 A request for a hearing by telephone conference shall contain, in addition to the information referred to in Article 14 of the Convention, the name of the judicial authority and of the persons who will be conducting the hearing and an indication that the witness or expert is willing to take part in a hearing by telephone conference.</p> <p>5 The practical arrangements regarding the hearing shall be agreed between the Parties concerned. When agreeing such arrangements, the requested Party shall undertake to:</p> <p>a notify the witness or expert concerned of the time and the</p>		<p>expert located outside the state, through telephonic or audio-visual connections.</p> <p>2. A request addressed to a foreign judicial authority for the holding of a session through telephonic or audio-visual connections should contain, in addition to the information provided by point 1 of article 5 of this law:</p> <p>a) the name of the local judicial authority and of the persons that will direct the hearing session;</p> <p>b) the reason why it is not possible for the witness or expert to participate personally.</p> <p>3. Local judicial authorities execute foreign letters rogatory with the object of holding hearing sessions through telephonic or audiovisual connections when:</p> <p>a) the witness or expert does not desire or does not have the possibility to appear at the foreign judicial authorities, and also has given consent for the holding of the session in this form;</p> <p>b) the competent court has approved the request of the requesting state for holding the session in this form.</p> <p>4. The questioning of witnesses or experts at a distance is done by the local judicial authorities while respecting the rules of international agreements and the provisions of the Code of Criminal Procedure.”</p>	

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<p>venue of the hearing;</p> <p>b ensure the identification of the witness or expert;</p> <p>c verify that the witness or expert agrees to the hearing by telephone conference.</p> <p>6 The requested Party may make its agreement subject, fully or in part, to the relevant provisions of Article 9, paragraphs 5 and 7.</p>			
<p>Article 11 – Spontaneous information</p> <p>1 Without prejudice to their own investigations or proceedings, the competent authorities of a Party may, without prior request, forward to the competent authorities of another Party information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings, or might lead to a request by that Party under the Convention or its Protocols.</p> <p>2 The providing Party may, pursuant to its national law, impose conditions on the use of such information by the receiving</p>	Yes	<p>Law no.10 193, date 3.12.2009 “On jurisdictional relations with foreign authorities in criminal matters”, in article 27 has provided <i>Forwarding data without a request</i>, as follows: “1. Local judicial authorities even on their own initiative forward to foreign judicial authorities information that is related to criminal offences collected during a criminal proceeding, if they judge that forwarding such information may assist in the opening of a criminal proceeding or the submission of a request for legal assistance from the foreign state. This information is forwarded if the progress of the criminal proceeding in Albania is not hindered and respecting the conditions of reciprocity.</p> <p>2. The competent local judicial authority may ask the foreign judicial authorities that have received the information mentioned in the first point of this article for data about the measures taken in connection with the</p>	<p>Art. 11 ETS 182 creates an obligation for Albanian authorities to deal with information received from foreign authorities. However, the Technical Paper of July 2010 deals only with the case where Albanian authorities forward information abroad. Nonetheless, there is no need for legislative action: ETS 182 is part of Albanian law and is binding Albanian authorities; there seems to be no reason for a separate/additional regulation.</p>

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<p>Party.</p> <p>3 The receiving Party shall be bound by those conditions.</p> <p>4 However, any Contracting State may, at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to be bound by the conditions imposed by the providing Party under paragraph 2 above, unless it receives prior notice of the nature of the information to be provided and agrees to its transmission.</p>		<p>information forwarded. In addition, the competent local judicial authority may establish other conditions related to the use of this information in the state to which the information has been forwarded."</p>	
<p>Article 12 – Restitution</p> <p>1 At the request of the requesting Party and without prejudice to the rights of bona fide third parties, the requested Party may place articles obtained by criminal means at the disposal of the requesting Party with a view to their return to their rightful owners.</p> <p>2 In applying Articles 3 and 6 of the Convention, the requested Party may waive the return of articles either before or after handing them over to the requesting Party if the restitution of such articles to the rightful owner</p>	<p>Yes</p>	<p>Law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", has stated in its article 23 the <i>Delivery of sequestered objects</i> with this content: "1. The objects sequestered are send to the foreign judicial authority at its request, in execution of the letter rogatory, to be confiscated or to be returned to the lawful owner.</p> <p>2. These objects include:</p> <p>a) objects used for the commission of a criminal offence;</p> <p>b) objects that come from the commission of a criminal offence or values equivalent to them;</p> <p>c) profits from a criminal offence or values</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>may be facilitated thereby. The rights of bona fide third parties shall not be affected.</p> <p>3 In the event of a waiver before handing over the articles to the requesting Party, the requested Party shall exercise no security right or other right of recourse under tax or customs legislation in respect of these articles.</p> <p>4 A waiver as referred to in paragraph 2 shall be without prejudice to the right of the requested Party to collect taxes or duties from the rightful owner.</p>		<p>equivalent to them;</p> <p>ç) other objects given with the purpose of inciting the commission of a criminal offence as well as compensation for a criminal offence.</p> <p>3. The objects or profits may be kept in a permanent manner in Albania if:</p> <p>a) their owner has [his] residence or domicile in the Republic of Albania;</p> <p>b) there are serious claims of the Albanian state authorities in connection with the objects or profits;</p> <p>c) a person, who has not taken part in the commission of a criminal offence and whose claims are not guaranteed by the requesting state proves that he has earned the right to those objects and profits in good faith, as well as that the person has [his] residence in Albania."</p>	
<p>Article 13 – Temporary transfer of detained persons to the requested Party</p> <p>1 Where there is agreement between the competent authorities of the Parties concerned, a Party which has requested an investigation for which the presence of a person held in custody on its own territory is required may temporarily transfer that person to the territory of the</p>	Yes	<p>Law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", provides in article 21, <i>Temporary transfer of detained persons</i> that: "1. When a foreign judicial authority summons a person detained in Albania for questioning; he may be temporarily transferred to the requesting state.</p> <p>2. The temporary transferring of the person is decided by the Minister of Justice if the requesting state gives guarantees for the</p>	<p>Art. 13 ETS 182 deals with the transfer of a detained person for an <i>investigation</i> abroad. The Technical Paper of July 2010, though, deals only with the case of transfer for <i>questioning</i> a detained person (Art. 21 Law No. 10193). Nonetheless, it can be assumed that Art. 13 ETS 182 will be complied with by Albanian authorities directly applying Art. 13 ETS 182 as part of Albanian law or by analogously applying Art. 21 Law No. 10193.</p>

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<p>Party in which the investigation is to take place.</p> <p>2 The agreement shall cover the arrangements for the temporary transfer of the person and the date by which the person must be returned to the territory of the requesting Party.</p> <p>3 Where consent to the transfer is required from the person concerned, a statement of consent or a copy thereof shall be provided promptly to the requested Party.</p> <p>4 The transferred person shall remain in custody in the territory of the requested Party and, where applicable, in the territory of the Party through which transit is requested, unless the Party from which the person was transferred applies for his or her release.</p> <p>5 The period of custody in the territory of the requested Party shall be deducted from the period of detention which the person concerned is or will be obliged to undergo in the territory of the requesting Party.</p> <p>6 The provisions of Article 11, paragraph 2, and Article 12 of the Convention shall apply <i>mutatis mutandis</i>.</p>		<p>protection and return of the person within a defined period.</p> <p>3. The transferring is refused when:</p> <p>a) the detained person does not give consent. If the detained person has given consent, he cannot revoke it;</p> <p>b) the transferring may extend his detention;</p> <p>c) there are other fundamental reasons for not transferring him.</p> <p>4. When the presence of the detained person is necessary in criminal proceedings being conducted by local judicial authorities, the transferring may be postponed.</p> <p>5. When a third state is requested to transfer a detained person through Albanian territory, his transit passage is permitted if he is not an Albanian citizen.</p> <p>6. The office of Interpol, in cooperation with the homologous authority of the requesting state takes technical measures to realise the delivery of the detained person and immediately notifies the Ministry of Justice of the place and date of delivery of the temporarily transferred person. The delivery of the transferred person is performed by the Interpol Office, which immediately notifies the Ministry of Justice and the General Prosecutor.</p> <p>7. The time of detention in the requesting state is calculated in the amount of the sentence served in Albania.</p>	

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<p>7 Any Contracting State may at any time, by means of a declaration addressed to the Secretary General of the Council of Europe, declare that before an agreement is reached under paragraph 1 of this article, the consent referred to in paragraph 3 of this article will be required, or will be required under certain conditions indicated in the declaration.</p>		<p>8. The rules provided by this article are also applicable to a person detained in Albanian territory or who has been transferred to serve a sentence given by the requesting state, when his personal appearance has been requested for purposes of a review of the decision by the requesting state.</p>	
<p>Article 14 – Personal appearance of transferred sentenced persons</p> <p>The provisions of Articles 11 and 12 of the Convention shall apply <i>mutatis mutandis</i> also to persons who are in custody in the requested Party, pursuant to having been transferred in order to serve a sentence passed in the requesting Party, where their personal appearance for purposes of review of the judgement is applied for by the requesting Party.</p>	<p>Yes</p>	<p>Inviolability of the person summoned is secured in:</p> <p>Article 510 of the Criminal Procedure Code according to which: "1.The person summoned on basis of the letter of application, when appears, may not be subjected to restrictions of personal freedom due to facts occurred before the writ of summons.</p> <p>2.The un-encroachment provided by paragraph 1 shall cease when the witness, the expert or the defendant, even having the possibility, has not left the territory of the Albanian state, after the expiration of fifteen days from the moment his presence is no longer requested by the judicial authority or when, after has left, he has come back voluntarily."</p> <p>Article 19 of the law no.10193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters"</p>	<p>Art. 14 ETS 182 deals with the special case of a sentenced person appearing in the requesting state. The Technical Paper of July 2010, though, does not specifically deal with this case. Nonetheless, it can be assumed that Art. 14 ETS 182 will be complied with by Albanian authorities directly applying Art. 14 ETS 182 as part of Albanian law or by analogously applying, among others, Art. 19 Law No. 10193.</p>

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		<p>according to which: "1. When a person who is requested to be notified of a summons to a proceeding in Albania does not succeed in acting in conformity with the act of summons issued by the requesting state, no mandatory [or] coercive measure or criminal sanction are taken against him.</p> <p>2. If the local judicial authorities call a witness or expert with a residence or domicile outside the state, during the time of [his] stay in Albania, he will not be subjected to a criminal proceeding for an offence committed before [his] appearance in Albanian territory nor will he be sent to serve a criminal sentence given by a local judicial decision rendered before his appearance.</p> <p>3. Point 2 of this article is not applicable if the witness or expert, although he has been given the possibility, has not left Albanian territory within 15 days after being notified that his presence is no longer necessary. This time period does not include the period during which the witness or expert could not have left Albanian territory for lawful documented reasons."</p>	
<p>Article 15 – Language of procedural documents and judicial decisions to be served</p> <p>1 The provisions of this article shall apply to any request for service under Article 7 of the Convention or Article 3 of the</p>	Yes	<p>European Convention on Mutual Assistance in Criminal Matters and its additional protocol is ratified by Albania with the law no 8498, date 10.6.1999 with reservations and statements, among which is the one for the language of documents.</p> <p>So, in article 2 of this law is provided that:</p>	No additional comment as far as compliance is concerned.

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<p>Additional Protocol thereto.</p> <p>2 Procedural documents and judicial decisions shall in all cases be transmitted in the language, or the languages, in which they were issued.</p> <p>3 Notwithstanding the provisions of Article 16 of the Convention, if the authority that issued the papers knows or has reasons to believe that the addressee understands only some other language, the papers, or at least the most important passages thereof, shall be accompanied by a translation into that other language.</p> <p>4 Notwithstanding the provisions of Article 16 of the Convention, procedural documents and judicial decisions shall, for the benefit of the authorities of the requested Party, be accompanied by a short summary of their contents translated into the language, or one of the languages, of that Party.</p>		<p>"Regarding the Convention, the Albanian party states: 2. regarding article 16 paragraph 2, the request and acts attached to it, it must be accompanied by a translation either of the official languages of the Council of Europe, in cases when there doesn't exist a different reciprocity agreement".</p> <p>Article 5/2 and 3 of the law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", <i>General rules about a letter request</i>, defines: "2. A letter request of the foreign judicial authorities and the attached documents, if they are not accompanied by a copy in the Albanian language, are translated by the Ministry of Justice.</p> <p>3. A letter request is submitted by the local judicial authorities signed and sealed, and accompanied by a translation into the language of the country to which the letter request is addressed. When a foreign state has specified that it accepts letter requests in another language, the local judicial authority may submit the request in the accepted language. In a case of urgency or a language that is not very well known, the translation is done by the Ministry of Justice, at the motivated request of the local judicial authority. The expenses of translation are noted [lit. evidenced] and forwarded to the local judicial authority to be included in prepaid procedural expenses according to article 485 of the Code of Criminal Procedure.</p>	

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		<p>More detailed rules about the form of the letter request, the procedure and the translation of the acts are regulated by joint instructions of the Minister of Justice and the General Prosecutor."</p> <p>Article 53/3 of the law no.10193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", regarding the execution of foreign criminal awards, provides: "3. When a request comes from the sentencing state in a foreign language for the recognition of a foreign criminal decision, the Ministry of Justice may ask the sentencing state for its translation into the Albanian language. If the translation is done by the Ministry of Justice, evidence is taken of the expenses of translation to be included as a part of the procedural expenses."</p> <p>Article 63/2 of the law no.10193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", for submissions of requests for execution abroad of Albanian Criminal awards provides: "2. The request is submitted in the language of the state where the recognition and execution of the decision is sought or in another language accepted by it."</p> <p>Article 69/3 of the law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", in cases of transferring the criminal proceedings to foreign states provides: "3. The acts are</p>	

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		<p>translated by the Ministry of Justice into the language of the requested state or a language accepted by it. The expenses of translation are noted and forwarded to the organ of the prosecutor's office to be included in prepaid procedural expenses according to article 485 of the Code of Criminal Procedure."</p> <p>Article 72/2 of the law no.10 193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters", in cases of transferring the criminal proceedings from foreign states, provides "2. The acts are translated by the Ministry of Justice. The expenses of translation are evidence and forwarded to the organ of the prosecutor's office, to be included in the procedural expenses prepaid according to article 485 of the Code of Criminal Procedure. In complicated cases, because of the volume of acts for translation, the time period defined in point 1 may be extended for an additional 15 days."</p>	
<p>Article 16 – Service by post</p> <p>1 The competent judicial authorities of any Party may directly address, by post, procedural documents and judicial decisions, to persons who are in the territory of any other Party.</p> <p>2 Procedural documents and judicial decisions shall be accompanied by a report stating</p>	Yes	<p>There is no special regulation, regarding this provision in domestic Albanian legislation, but according to the article 122/1 and 2 of the Constitution of the Republic of Albania, according to which: "1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>that the addressee may obtain information from the authority identified in the report, regarding his or her rights and obligations concerning the service of the papers. The provisions of paragraph 3 of Article 15 above shall apply to that report.</p> <p>3 The provisions of Articles 8, 9 and 12 of the Convention shall apply <i>mutatis mutandis</i> to service by post.</p> <p>4 The provisions of paragraphs 1, 2 and 3 of Article 15 above shall also apply to service by post.</p>		<p>issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, are done with the same majority. 2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.”, The European Convention on the mutual judicial Assistance on Criminal Field and its added Protocols, are directly applicable by the law enforcement bodies in the Republic of Albania and prevails on domestic laws.</p>	
<p>Article 17 – Cross-border observations</p> <p>1 Police officers of one of the Parties who, within the framework of a criminal investigation, are keeping under observation in their country a person who is presumed to have taken part in a criminal offence to which extradition may apply, or a person who it is strongly believed will lead to the identification or location of the above-mentioned person, shall be authorised to continue their observation in the territory of another Party where the latter has authorised cross-border</p>	Yes	<p>There is no special regulation, regarding Cross-border observations in the domestic Albanian legislation, but according to the article 122/1 and 2 of the Constitution of Republic of Albania, according to which: “1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, are done with the same majority. 2. An international agreement that has been ratified by law has superiority</p>	<p>One point might be added to the notes in the left column: Even though there is no obligation for legislative action arising from Art. 17 ETS 182, its par. 4 asks Parties to “indicate officers and authorities that they designate for the purposes of par. 1 and 2” of Art. 17. There has been no such indication by Albania in connection with the ratification of ETS 182. It would be advisable if such an indication would be made, even though without such an indication – on an international level – no harm is to be expected, since all communication from other Parties could always be addressed to the Ministry of Justice.</p>

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<p>observation in response to a request for assistance which has previously been submitted. Conditions may be attached to the authorisation.</p> <p>On request, the observation will be entrusted to officers of the Party in whose territory it is carried out.</p> <p>The request for assistance referred to in the first sub-paragraph must be sent to an authority designated by each Party and having jurisdiction to grant or to forward the requested authorisation.</p> <p>2 Where, for particularly urgent reasons, prior authorisation of the other Party cannot be requested, the officers conducting the observation within the framework of a criminal investigation shall be authorised to continue beyond the border the observation of a person presumed to have committed offences listed in paragraph 6, provided that the following conditions are met:</p> <p>a the authorities of the Party designated under paragraph 4, in whose territory the observation is to be continued, must be notified immediately, during the observation, that the border has</p>		<p>over laws of the country that are not compatible with it.”, The European Convention on the mutual judicial Assistance on Criminal Field and its added Protocols, are directly applicable by the law enforcement bodies in the Republic of Albania and prevails on domestic laws.</p>	

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<p>been crossed;</p> <p>b a request for assistance submitted in accordance with paragraph 1 and outlining the grounds for crossing the border without prior authorisation shall be submitted without delay.</p> <p>Observation shall cease as soon as the Party in whose territory it is taking place so requests, following the notification referred to in a. or the request referred to in b. or where authorisation has not been obtained within five hours of the border being crossed.</p> <p>3 The observation referred to in paragraphs 1 and 2 shall be carried out only under the following general conditions:</p> <p>a The officers conducting the observation must comply with the provisions of this article and with the law of the Party in whose territory they are operating; they must obey the instructions of the local responsible authorities.</p> <p>b Except in the situations provided for in paragraph 2, the officers shall, during the observation, carry a document certifying that authorisation has been granted.</p>			

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<p>c The officers conducting the observation must be able at all times to provide proof that they are acting in an official capacity.</p> <p>d The officers conducting the observation may carry their service weapons during the observation, save where specifically otherwise decided by the requested Party; their use shall be prohibited save in cases of legitimate self-defence.</p> <p>e Entry into private homes and places not accessible to the public shall be prohibited.</p> <p>f The officers conducting the observation may neither stop nor question, nor arrest, the person under observation.</p> <p>g All operations shall be the subject of a report to the authorities of the Party in whose territory they took place; the officers conducting the observation may be required to appear in person.</p> <p>h The authorities of the Party from which the observing officers have come shall, when requested by the authorities of the Party in whose territory the observation took place, assist the enquiry subsequent to the operation in</p>			

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<p>which they took part, including legal proceedings.</p> <p>4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate both the officers and authorities that they designate for the purposes of paragraphs 1 and 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.</p> <p>5 The Parties may, at bilateral level, extend the scope of this article and adopt additional measures in implementation thereof.</p> <p>6 The observation referred to in paragraph 2 may take place only for one of the following criminal offences:</p> <ul style="list-style-type: none"> - assassination; - murder; - rape; - arson; - counterfeiting; 			

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<ul style="list-style-type: none"> - armed robbery and receiving of stolen goods; - extortion; - kidnapping and hostage taking; - traffic in human beings; - illicit traffic in narcotic drugs and psychotropic substances; - breach of the laws on arms and explosives; - use of explosives; - illicit carriage of toxic and dangerous waste; - smuggling of aliens; - sexual abuse of children. 			
<p>Article 18 – Controlled delivery</p> <p>1 Each Party undertakes to ensure that, at the request of another Party, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences.</p> <p>2 The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Party, with due regard to</p>	Yes	<p>There is no special regulation, regarding controlled delivery in domestic albanian legislation, but according to the article 122/1 and 2 of the Constitution of the Republic of Albania, according to which: “1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the</p>	<p>No additional comment as far as compliance is concerned. Even though there is no obligation for legislative action arising from Art. 18 ETS 182, its par. 4 asks Parties to “indicate authorities that are competent”. There has been no such indication by Albania in connection with the ratification of ETS 182. It would be advisable if such an indication would be made, even though without such an indication – on an international level – no harm is to be expected, since all communication from other Parties could always be addressed</p>

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<p>the national law of that Party.</p> <p>3 Controlled deliveries shall take place in accordance with the procedures of the requested Party. Competence to act, direct and control operations shall lie with the competent authorities of that Party.</p> <p>4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.</p>		<p>Assembly, for the effect of ratifying an international agreement, are done with the same majority. 2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.”, The European Convention on the mutual judicial Assistance on Criminal Field and its added Protocols, are directly applicable by the law enforcement bodies in the Republic of Albania and prevails on domestic laws.</p>	<p>to the Ministry of Justice.</p>
<p>Article 19 – Covert investigations</p> <p>1 The requesting and the requested Parties may agree to assist one another in the conduct of investigations into crime by officers acting under covert or false identity (covert investigations).</p> <p>2 The decision on the request is taken in each individual case by the competent authorities of the requested Party with due regard to its national law and procedures.</p>	<p>Yes</p>	<p>This form of cooperation is not literally stated by a law, but according to the article 122/1 and 2 of the Constitution of the Republic of Albania, according to which: “1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the</p>	<p>No additional comment as far as compliance is concerned. Even though there is no obligation for legislative action arising from Art. 19 ETS 182, its par. 4 asks Parties to “indicate authorities that are competent”. There has been no such indication by Albania in connection with the ratification of ETS 182. It would be advisable if such an indication would be made, even though without such an indication – on an international level – no harm is to be expected, since all communication from</p>

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<p>The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert investigations shall be agreed between the Parties with due regard to their national law and procedures.</p> <p>3 Covert investigations shall take place in accordance with the national law and procedures of the Party on the territory of which the covert investigation takes place. The Parties involved shall cooperate to ensure that the covert investigation is prepared and supervised and to make arrangements for the security of the officers acting under covert or false identity.</p> <p>4 Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of paragraph 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.</p>		<p>Assembly, for the effect of ratifying an international agreement, are done with the same majority. 2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.", The European Convention on the mutual judicial Assistance on Criminal Field and its added Protocols, are directly applicable by the law enforcement bodies in the Republic of Albania and prevails on domestic laws.</p>	<p>other Parties could always be addressed to the Ministry of Justice.</p>

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<p>Article 20 – Joint investigation teams</p> <p>1 By mutual agreement, the competent authorities of two or more Parties may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Parties setting up the team. The composition of the team shall be set out in the agreement.</p> <p>A joint investigation team may, in particular, be set up where:</p> <p>a a Party’s investigations into criminal offences require difficult and demanding investigations having links with other Parties;</p> <p>b a number of Parties are conducting investigations into criminal offences in which the circumstances of the case necessitate co-ordinated, concerted action in the Parties involved.</p> <p>A request for the setting up of a joint investigation team may be made by any of the Parties concerned. The team shall be set up in one of the Parties in which the investigations are expected to</p>	<p>Yes</p>	<p>There is no special regulation, regarding – Joint investigation teams in the domestic Albanian legislation, but according to the article 122/1 and 2 of the Constitution of the Republic of Albania, according to which: “1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, are done with the same majority. 2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.”, The European Convention on the mutual judicial Assistance on Criminal Field and its added Protocols, are directly applicable by the law enforcement bodies in the Republic of Albania and prevails on domestic laws.</p>	<p>No additional comment as far as compliance is concerned.</p>

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<p>be carried out.</p> <p>2 In addition to the information referred to in the relevant provisions of Article 14 of the Convention, requests for the setting up of a joint investigation team shall include proposals for the composition of the team.</p> <p>3 A joint investigation team shall operate in the territory of the Parties setting up the team under the following general conditions:</p> <p>a the leader of the team shall be a representative of the competent authority participating in criminal investigations from the Party in which the team operates. The leader of the team shall act within the limits of his or her competence under national law;</p> <p>b the team shall carry out its operations in accordance with the law of the Party in which it operates. The members and seconded members of the team shall carry out their tasks under the leadership of the person referred to in sub-paragraph a, taking into account the conditions set by their own authorities in the agreement on setting up the team;</p> <p>c the Party in which the team</p>			

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<p>operates shall make the necessary organisational arrangements for it to do so.</p> <p>4 In this article, members of the joint investigation team from the Party in which the team operates are referred to as "members", while members from Parties other than the Party in which the team operates are referred to as "seconded members".</p> <p>5 Seconded members of the joint investigation team shall be entitled to be present when investigative measures are taken in the Party of operation. However, the leader of the team may, for particular reasons, in accordance with the law of the Party where the team operates, decide otherwise.</p> <p>6 Seconded members of the joint investigation team may, in accordance with the law of the Party where the team operates, be entrusted by the leader of the team with the task of taking certain investigative measures where this has been approved by the competent authorities of the Party of operation and the seconding Party.</p> <p>7 Where the joint investigation team needs investigative measures</p>			

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<p>to be taken in one of the Parties setting up the team, members seconded to the team by that Party may request their own competent authorities to take those measures. Those measures shall be considered in that Party under the conditions which would apply if they were requested in a national investigation.</p> <p>8 Where the joint investigation team needs assistance from a Party other than those which have set up the team, or from a third State, the request for assistance may be made by the competent authorities of the State of operation to the competent authorities of the other State concerned in accordance with the relevant instruments or arrangements.</p> <p>9 A seconded member of the joint investigation team may, in accordance with his or her national law and within the limits of his or her competence, provide the team with information available in the Party which has seconded him or her for the purpose of the criminal investigations conducted by the team.</p> <p>10 Information lawfully obtained by a member or seconded member</p>			

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<p>while part of a joint investigation team which is not otherwise available to the competent authorities of the Parties concerned may be used for the following purposes:</p> <p>a for the purposes for which the team has been set up;</p> <p>b subject to the prior consent of the Party where the information became available, for detecting, investigating and prosecuting other criminal offences. Such consent may be withheld only in cases where such use would endanger criminal investigations in the Party concerned or in respect of which that Party could refuse mutual assistance;</p> <p>c for preventing an immediate and serious threat to public security, and without prejudice to sub-paragraph b. if subsequently a criminal investigation is opened;</p> <p>d for other purposes to the extent that this is agreed between Parties setting up the team.</p> <p>11 This article shall be without prejudice to any other existing provisions or arrangements on the setting up or operation of joint investigation teams.</p>			

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<p>12 To the extent that the laws of the Parties concerned or the provisions of any legal instrument applicable between them permit, arrangements may be agreed for persons other than representatives of the competent authorities of the Parties setting up the joint investigation team to take part in the activities of the team. The rights conferred upon the members or seconded members of the team by virtue of this article shall not apply to these persons unless the agreement expressly states otherwise.</p>			
<p>Article 21 – Criminal liability regarding officials</p> <p>During the operations referred to in Articles 17, 18, 19 or 20, unless otherwise agreed upon by the Parties concerned, officials from a Party other than the Party of operation shall be regarded as officials of the Party of operation with respect to offences committed against them or by them.</p>	<p>Yes</p>	<p>There is no specific regulation in the domestic law regarding the articles 17, 18, 19 and 20 above, and therefore, even for officials criminal liability, but according to the article 122/1 and 2 of the Constitution of the Republic of Albania, according to which: "1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, are done with the same majority. 2. An international agreement</p>	<p>No additional comment as far as compliance is concerned.</p>

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		that has been ratified by law has superiority over laws of the country that are not compatible with it.", The European Convention on the mutual judicial Assistance on Criminal Field and its added Protocols, are directly applicable by the law enforcement bodies in the Republic of Albania and prevails on domestic laws.	
<p>Article 22 – Civil liability regarding officials</p> <p>1 Where, in accordance with Articles 17, 18, 19 or 20, officials of a Party are operating in another Party, the first Party shall be liable for any damage caused by them during their operations, in accordance with the law of the Party in whose territory they are operating.</p> <p>2 The Party in whose territory the damage referred to in paragraph 1 was caused shall make good such damage under the conditions applicable to damage caused by its own officials.</p> <p>3 The Party whose officials have caused damage to any person in the territory of another Party shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.</p> <p>4 Without prejudice to the</p>	Yes	There is no specific regulation in the domestic law regarding articles 17, 18, 19 and 20 above, and therefore, even for officials civil liability officials, but according to the article 122/1 and 2 of the Constitution of the Republic of Albania, according to which: "1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, are done with the same majority. 2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.", The European Convention on the mutual judicial Assistance on Criminal Field and its added Protocols, are directly applicable by the law enforcement bodies in the Republic of Albania and prevails on	No additional comment as far as compliance is concerned.

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<p>exercise of its rights vis-à-vis third parties and with the exception of paragraph 3, each Party shall refrain in the case provided for in paragraph 1 from requesting reimbursement of damages it has sustained from another Party.</p> <p>5 The provisions of this article shall apply subject to the proviso that the Parties did not agree otherwise.</p>		<p>domestic laws.</p>	
<p>Article 23 – Protection of witnesses</p> <p>Where a Party requests assistance under the Convention or one of its Protocols in respect of a witness at risk of intimidation or in need of protection, the competent authorities of the requesting and requested Parties shall endeavour to agree on measures for the protection of the person concerned, in accordance with their national law.</p>	<p>Yes</p>	<p>Law no.10173, date 22.10.2009 “For the protection of justice witnesses and collaborators”, in its article 27 <i>International Cooperation</i>, provides that:</p> <p>“1. The international cooperation is realized based on rights and obligations, deriving from international agreements in which the Republic of Albania is party, or through agreements, for concrete cases, signed by the director of the directorate with similar units of other countries.</p> <p>2. Agreements for concrete protection programmes may provided the mutual application of the protection programme, including changing the domicile and establishment of the protected persons in the respective party territories.</p> <p>3. Agreements for concrete cases constitute “Classified Information” and the general rules, provided by the legislation in force, applied for international agreements are not applied for</p>	<p>No additional comment as far as compliance is concerned.</p>

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		their signature.”	
<p>Article 24 – Provisional measures</p> <p>1 At the request of the requesting Party, the requested Party, in accordance with its national law, may take provisional measures for the purpose of preserving evidence, maintaining an existing situation or protecting endangered legal interests.</p> <p>2 The requested Party may grant the request partially or subject to conditions, in particular time limitation.</p>	Yes	<p>Law no.10193, date 3.12.2009 “On jurisdictional relations with foreign authorities in criminal matters”, in its article 26 has provided, <i>taking preliminary measures for the purpose of preserving evidence</i>, as follows: “At the request of the foreign judicial authorities and in conformity with the domestic legislation, a local judicial authority takes preliminary measures for the safekeeping of evidence, of objects that can be confiscated, of the existing situation or the defence of lawful interests that are endangered.”</p>	No additional comment as far as compliance is concerned.
<p>Article 25 – Confidentiality</p> <p>The requesting Party may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.</p>	Yes	<p>Law no.10193, date 3.12.2009 “On jurisdictional relations with foreign authorities in criminal matters”, in its article 12 provides that: “1. At the request of a foreign judicial authority, the Ministry of Justice and the competent local judicial authority apply the rules on keeping state secrets and protection of personal data in connection [with] the information indicated in the letter request.</p> <p>2. If the request referred to in paragraph 1 of this article cannot be fulfilled, the Ministry of Justice or the local judicial authority notifies the foreign judicial authority within five days.”</p>	No additional comment as far as compliance is concerned.
<p>Article 26 – Data protection</p> <p>1 Personal data transferred from</p>	Yes	Law no.10193, date 3.12.2009 “On jurisdictional relations with foreign authorities	No additional comment as far as compliance is concerned.

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<p>one Party to another as a result of the execution of a request made under the Convention or any of its Protocols, may be used by the Party to which such data have been transferred, only:</p> <p>a for the purpose of proceedings to which the Convention or any of its Protocols apply;</p> <p>b for other judicial and administrative proceedings directly related to the proceedings mentioned under (a);</p> <p>c for preventing an immediate and serious threat to public security.</p> <p>2 Such data may however be used for any other purpose if prior consent to that effect is given by either the Party from which the data had been transferred, or the data subject.</p> <p>3 Any Party may refuse to transfer personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols where</p> <ul style="list-style-type: none"> - such data is protected under its national legislation, and - the Party to which the data 		<p>in criminal matters”, in its article 12/1 provides that: “1. At the request of a foreign judicial authority, the Ministry of Justice and the competent local judicial authority apply the rules on keeping state secrets and protection of personal data in connection [with] the information indicated in the letter request.”</p> <p>Rules regarding protection of personal data are established by the law no.9887, date 10.3.2008 “On protection of personal data”.</p> <p>The article 6/2 of this law defines: “2. Processing of personal data in the framework of crime prevention and prosecution activities, in cases of a criminal offence against the public order and other violations in the field of criminal law, defence and national security, shall be performed by official authorities as stipulated in the law.”</p> <p>The article 8 of this law, <i>International transfer states:</i>” 1. The international transfer of personal data is done with recipients from states which have an adequate level of personal data protection. The level of personal data protection for a state is established by assessing all circumstances related to processing, nature, purpose and duration of processing, country of origin and final destination, legal provisions and security standards in force in the recipient state. States that have an adequate level of data protection are specified by a decision of the Council of Ministers.</p>	

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<p>should be transferred is not bound by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, done at Strasbourg on 28 January 1981, unless the latter Party undertakes to afford such protection to the data as is required by the former Party.</p> <p>4 Any Party that transfers personal data obtained as a result of the execution of a request made under the Convention or any of its Protocols may require the Party to which the data have been transferred to give information on the use made with such data.</p> <p>5 Any Party may, by a declaration addressed to the Secretary General of the Council of Europe, require that, within the framework of procedures for which it could have refused or limited the transmission or the use of personal data in accordance with the provisions of the Convention or one of its Protocols, personal data transmitted to another Party not be used by the latter for the purposes of paragraph 1 unless with its previous consent.</p>		<p>2. International transfer of personal data with a state that does not have an adequate level of personal data protection may be done when:</p> <p>a) it is authorised by international acts ratified by the Republic of Albania and are directly applicable;</p> <p>b) data subject has given his/her consent for the international transfer;</p> <p>c) it constitutes a contractual obligation concluded between the controller and data subject or a third party to the interest of the data subject;</p> <p>ç) it is a legal obligation of the controller;</p> <p>d) it is necessary for protecting vital interests of the data subject;</p> <p>dh) it is necessary or constitutes a legal requirement over an important public interest or for exercising and protecting a legal right;</p> <p>e) transfer is done from a register that is open for consultation and provides information to the general public.</p> <p>3. Exchange of personal data to the diplomatic representations of foreign governments or international institutions in the Republic of Albania shall be considered an international transfer of data."</p> <p>Article 9 of this law <i>International transfer of data that need to be authorized</i> provides: "1. In cases other than those provided for in</p>	

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		<p>Article 8 herein, the international transfer of personal data with a state that does not have an adequate level of data protection, shall be carried out upon an authorization from the Commissioner.</p> <p>2. The Commissioner, after making an assessment, may give the authorisation for transfer of personal data to the recipient State by defining conditions and obligations.</p> <p>3. The Commissioner issues instructions in order to allow certain categories of personal data international transfer to a state that does not have an adequate level of personal data protection. In these cases, the controller is exempted from the authorization request.</p> <p>4. The controller shall submit a request for authorisation to the Commissioner prior to the data transfer. In the authorization request, the controller shall guarantee the observance of the interests of the data subject to protection of confidentiality outside the Republic of Albania.”</p> <p>The provisions of this article are directly applied, for matters not literally expressed by the domestic law, according to the article 122/1 and 2 of the Constitution of the Republic Albania, as described above.</p>	

8. Additional narrative explanations

by Edlira Jorgaqi

a) NARRATIVE EXPLANATION ON COMPLIANCE WITH THE CRIMINAL CONVENTION ON CORRUPTION

The aim of the Criminal Convention on Corruption is the adherence to a common criminal policy and an effective fight against corruption, including adaptation of the domestic legislation and taking preventive measures. Meanwhile one of the most important challenges faced by Albania is the fight against corruption thus protecting the society from a phenomenon that damages the rule of law, democracy and human rights, decreases the level of good governance, transparency and social justice, prevents competition, economic development and endangers the stability of democratic institutions and the moral foundations of the society.

The Republic of Albania ratified the Criminal Convention on Corruption with the law no. 8778, date 26.4.2001, with the following reserves:

1. Reserves the right to not set as criminal offences, according to its domestic law, partly or fully, behaviours referred in articles 4, 6 to 8, 10 to 12 or passive corruption offences, provided in the article 5 of the Convention (article 37/1).
2. Declaring the usage by Albania of the reserve provided in the article 17/2 of the Convention (37/2).

With this reserves, Albania had the right, within first three years after the ratification of the Convention, to not establish or to partly establish provisions for the penalization of the actions that constitute active and passive corruption from national public assembly members, foreign public assembly members, private sector, international parliamentary assembly members, judges and international court officials, and exercising influence.

Based on the commitments that this convention made towards party states, it was necessary the adaptation of the criminal legislation with the provisions of the convention provisions.

By the law no. 9275, date 16.9.2004 "For some changes and additions to the law no. 7895, date 27.1.1995 "Criminal Code of the Republic of Albania ", (amended), new provisions were added regarding active and passive corruption in the private sector, the existing provisions regarding active and passive corruption of the persons exercising public functions, high state officials and local elected representatives, active corruption of the witness, expert or interpreter/translator, as well as active corruption of the judge, prosecutor and other justice officials were changed. A provision was added that regulated the exercising of illegal influence towards the persons that exercise public functions, and a provision for the exclusion from punishment of the persons that report and assist in the investigation of these offences, as well as another provision that stated the passive corruption of the judge, prosecutor and other justice officials.

Changes were also done to the Criminal Procedures Code, with the law no. 9187, date 12.2.2004 "For some changes and additions to the law no. 7905, date 21.3.1995 "Criminal Procedures Code of the Republic of Albania ", (amended)"

The above mentioned changes created the possibility of withdrawing the reserves with which the Convention was ratified. In accordance with the article 38 of the Convention, with the law no. 9369, date 14.4.2005, Albania reviewed its reserves and based on the second paragraph of the article 37 of the Convention, the Republic of Albania today reserves the right to implement the article 17 paragraphs 1/b and 1/c, only if the criminal offence is provided as such, according to the legislation of the party state where it is committed (double criminalization).

This paper concludes that Albania is still partially incompliant with regard to articles 13, 14, 17 and 22, of the Criminal Law Convention which need legislative intervention and has unclear regulation with regard to articles 2 and 3 of the Additional Protocol to the Criminal Law convention. More precisely, further interventions to the Criminal Code of Republic of Albania are needed in order to reach full compliance with the aforementioned articles of the Convention.

It is worth to be noted that the legislative initiative to make the necessary changes to the Criminal Code is under way (the draft is already finalized by the Ministry of Justice of the Republic of Albania).

b) NARRATIVE EXPLANATION ON COMPLIANCE WITH CIVIL LAW CONVENTION ON CORRUPTION

In view of fulfilling its international commitments, the Republic of Albania has ratified Council of Europe Civil Law Convention on Corruption with the Law No 8635 of 06.07.2000.

The Albanian legal system recognizes the principle according to which international law is part of the domestic law and it prevails over the latter. Article 122 of the Constitution provides that "Any international agreement that has been ratified constitutes part of the internal juridical system upon its publication in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law."

Considering that the Civil Law Convention on Corruption has no direct implementation in the domestic jurisdictions, the state parties have the obligation to establish efficient mechanisms and procedures in favour of the persons who claim damages as a result of a corruptive act, with the aim to provide protection to their rights and interests, including the possibility for damage compensation.

The Convention defines for the first time common rules at the international level for the civil rights in fighting corruption. The Convention is the result of a series of initiatives undertaken by the Council of Europe to fight corruption. In the 101st session of 6 November 1997, the Committee of Ministers of the Council of Europe endorsed the Resolution no 24 that determines 20 direct principles in the fight against corruption. Principle 17 of this resolution literally provides that the states should "secure that their civil law takes into consideration the necessity of the fight against corruption, and especially provide efficient means for the protection of persons, whose rights and interests have been violated by corruptive actions."

The Convention was open for signature on 4 November 1999 and entered into force on 1 November 2003. Actually, it has been ratified by 14 states.

The Convention is divided into three chapters: Measures to be taken at National Level, Implementation and Final Clauses. The Convention treats the following aspects:

The compensation of damage.

The liability (including the state liability in the case where the corruption act is committed by public officials).

Contributory negligence reducing or disallowing the compensation case by case;

Validity of contracts;

Protection of employees that report corrupt activity;

International cooperation through communication, notification, obtaining evidence, and recognition and enforcement of foreign judgments.

As a conclusion, these obligations are generally reflected in Albanian legislation. Based on the obligations deriving from this convention, Albania has adopted amendments to several laws as follows:

On an Addendum to Law no 7961 of 12.7.1995, "Labour Code of the Republic of Albania."

On an Addendum to Law no 8510, of 15.07.1999, "On Non-contracting Liabilities of State Administration Institutions".

It is in this framework that the draft-law "On some Amendments and Addenda to Law no 7850 of 29.07.1994, "Civil Code of Republic of Albania" is proposed.

It has been suggested that a new chapter that provides in detail issues related to the liability from corruptive acts is included in the Civil Code. In the spirit of the Convention, a provision that defines the liability arising from corrupt practices, while determining the latter as an integral part of the illegal act, which violates the interests and rights of others, protected by the legal order or good customs, is proposed to be added to the Civil Code.

At the same time, a new provision has been proposed to be added to the Civil Code, which deals with the terms of prescription (statute of limitation). In the provisions governing the prescription of the lawsuit, the articles that fix the term of prescription of lawsuits with respect to the compensation of non-contractual damage, are in accordance with the minimum term provided by the Convention. The new provision defines not only the three-year and the moment from which such term is calculated, but also the maximum term of 10 years since the moment when the act of corruption has occurred.

This draft law, prepared by the Ministry of Justice, has been endorsed by the Council of Ministers of the Republic of Albania and is pending approval by the Assembly of the Republic of Albania.

Another important obligation derives from Article 8 of the Convention regarding the nullity of contracts. The obligation provided in the first paragraph of Article 8 of the Convention specifies that the contract or any clause of the contract, which is the subject of a corruption act, is null.

By interpreting the provisions, in particular, Article 663 of the Civil Code, "Necessary conditions for contracting and validity of the contract," which provides necessary condition for contracting the object and the legal motive for the obligation, and article 677, which provides the unlawful motive, and in the spirit of general provisions on legal transaction, this paper reaches the conclusion that these contracts are indeed null under Albanian law. But the insertion of a specific provision in the Civil Code to that effect would clarify the situation and would not leave room to interpretation, especially in order to prevent the possibility of entities that may seek damages as a result of damage contractor.

Article 4 paragraph 2 of the Convention presumes that when some subjects have committed corruptive acts, which result in damage, due reward must be paid in favour of the victim of the illegal action. Despite the vague wording of the Convention, we believe that provisions of Article 626 of the Civil Code shall apply in this aspect and there will be a joint responsibility of entities. Solidarity of debtors is in favour of the victim of the corruption acts, because it facilitates the procedures by suing only one of the authors, but it especially excludes it from the risk of insolvency of one of the authors, risk, which of course will be held by other authors.

Based on the commitment deriving from the Article 9 of the Convention, to prevent sanctions against employees who signal suspect corruption cases, Albania has approved amendments to the Labour Code, which include a provision aimed at encouraging workers to notify suspect corruptive acts, but eliminating eventual abuses thereof.

In the spirit of this Convention, a more correct legal adjustment is proposed for the cases where the author of the corruptive action is a state institution. Consequently, a needed amendment has been made to the Law No 8510, "On Non-contracting Liabilities of State Administration Institutions". Specifically, in Article 3 of this law has been added the commission of corruptive acts exercising their functions, as a case of responsibility by state institutions.

This paper concludes that Albanian law is compatible with the provisions of this Civil Law Convention on Corruption.

c) NARRATIVE EXPLANATION ON COMPLIANCE WITH CONVENTION ON MUTUAL ASSISTANCE ON CRIMINAL MATTERS

On 03.12.2009, the Assembly of the Republic of Albania passed the Law no. 10193, on Jurisdictional Relations with Foreign Authorities in Criminal Matters. This law transposed in into Albanian domestic legislation all forms of international judicial cooperation in a summary form. Further to provisions made by the Criminal Procedure Code on the requests for legal assistance in criminal matters, extradition, recognition and enforcement of foreign criminal judgments, this law has included the transfer of criminal proceedings in foreign countries and the transfer of criminal proceedings from foreign states. Earlier this cooperation was realized through the direct application of the European Convention "On the Transfer of Criminal Proceedings" ratified by Albania.

With the aforementioned law, additional procedural rules are defined in the are of jurisdictional relations with foreign authorities in criminal matters. More specifically the following aspects of cooperation, are detailed:

- Types of legal requests that create international jurisdiction relations and their accurate compilation;
- Types of requests for legal assistance in criminal matters, and their applicability.
- Form of communication and authority to perform the delivery, reception and execution of requests for international judicial assistance in criminal matters.
- In the chapter on Extradition as a form of international judicial cooperation, defined in detail the conditions for extradition, the actions of the Ministry of Justice, the Prosecutor's actions, so step by step all the actions are determined, the competent authority that will execute the request as and completion deadlines in an extradition request.
- In the chapter on recognition and enforcement of criminal judgments, beyond the terms provided for in article 514 of Criminal Procedure Code, fulfilled the other conditions to the fulfilment of which can be recognized and executed a foreign decision.
- documents that are defined in detail the state should enclose a demand for recognition condemnatory decision.
- It defined the range of procedural conduct of the deposition request that the Court until the execution of foreign criminal.
- So even if we compare the code contains provisions that Criminal Procedure Code regarding recognition and enforcement of foreign criminal judgments, we see that the seven provisions of this Code, are extended to nine provisions of Law No. 10 193, dated 3.12.2009.

This paper concludes that the Albanian legislation is non compliant with article 5 of the European Convention on Mutual Legal Assistance. The Albanian legislation adequately addresses the rest of the requirements of the European Convention on Mutual Assistance in Criminal Matters and its First Additional Protocol.

d) NARRATIVE EXPLANATION ON COMPLIANCE WITH THE SECOND ADDITIONAL PROTOCOL OF THE EUROPEAN CONVENTION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The Republic of Albania has ratified the Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters, with law no. 8883, date 18.4.2002.

This protocol improves and increases certain aspects of the European Convention on Mutual Assistance in Criminal Matters and its additional protocol, contributing further to the protection of human rights, respecting the rule of law and the fight against crime.

With its ratification, the Republic of Albania makes this protocol part of its internal legal system, since its provisions are directly applied and prevail over domestic laws, when they are in conflict with each other.

The status of international agreements in Albanian law is given by the Constitution of the Republic of Albania, which, in article 116, establishes the position of ratified international agreements in the hierarchy of normative acts, immediately after the Constitution, and in article 122/1 and 2 of the Constitution according to which: "1. Any international agreement that has been ratified constitutes part of the domestic juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, are done with the same majority.

2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it".

In 2009 the Assembly of the Republic of Albania adopted the law no.10193, date 3.12.2009 "On jurisdictional relations with foreign authorities in criminal matters" which aims determining complementary procedural rules in the field of jurisdictional relations with foreign authorities.

This paper concludes that the Albanian legislation adequately addresses the requirements of the Second Protocol to the European Convention on Mutual Assistance in Criminal Matters.

9. Methodology

This matrix summarizes the compliance of the legislation of Albania with Council of Europe Conventions ETS 30, 173 and 174, as well as Additional Protocols ETS 99, 182 and 191 insofar their provisions establish legislative obligations for signatories. All mentioned conventions have been signed and ratified by the Republic of Albania (with some reservations).

The matrix contains in one column the conclusions reached by Council of Europe expert Edlira Jorgaqi in PACA Technical Paper ECD/24/2010, Evaluation of Compliance of Albanian Legislation with the Council of Europe Criminal Law Convention on Corruption, Council of Europe Civil Law Convention on Corruption and the European Convention on Mutual Assistance in Criminal Matters (July 2010). Observations by Council of Europe expert Tilman Hoppe, based on Technical Paper ECD/24/2010, on additional sources (as cited in the footnotes and the text) and on exchanges during a two day field mission are shown in a second column. The conclusion on the compliance status (yes/no/partial/unclear) has been jointly reached by both experts.