



COMMITTEE OF EXPERTS ON THE  
EVALUATION OF ANTI-MONEY  
LAUNDERING MEASURES AND THE  
FINANCING OF TERRORISM  
(MONEYVAL)

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# ALBANIA

## Progress report<sup>1</sup>

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<sup>1</sup> Second 3<sup>rd</sup> Round Written Progress Report Submitted to MONEYVAL

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## LIST OF ABBREVIATIONS

<b>AML/CFT Law</b>	Law 9917, May 19, 2009 “On the prevention of money laundering and terrorism financing”
<b>AASCA</b>	Agency for the Administration of Seized and Confiscated Assets
<b>ASP</b>	Albanian State Police
<b>BoA</b>	Bank of Albania
<b>CAFAO</b>	Customs and Fiscal Assistance Office
<b>CARDS</b>	Community Assistance for Reconstruction, Development and Stabilization
<b>CARPO</b>	Project “Development of reliable and functioning policing systems and enhancing of combating main criminal activities, and police co-operation”
<b>CDD</b>	Customer Due Diligence
<b>CORIP</b>	Central Office for the Registration of Immovable Property
<b>CTR</b>	Currency (or cash) Transaction Report
<b>DNFBP</b>	Designated non Financial Businesses and Professions
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force on Money Laundering
<b>FINCEN</b>	Financial Crimes Enforcement Network
<b>FSA</b>	Financial Supervisory Authority
<b>GDC</b>	General Directorate of Custom
<b>GDPMML</b>	General Directorate for the Prevention of Money Laundering
<b>GDT</b>	General Directorate of Taxation
<b>GP</b>	Office of Prosecutor General
<b>GPO</b>	General Prosecutor’s Office
<b>HIDAA</b>	High Inspectorate for Declaration and Audit of Assets
<b>ICITAP</b>	International Criminal Investigative Training Assistance Program
<b>IMF</b>	International Monetary Fund
<b>ISA</b>	Insurance Supervisory Authority
<b>JVI</b>	Joint Vienna Institute
<b>KYC</b>	“Know your customer”
<b>LPML</b>	Law “On Money Laundering Prevention” law No. 8610 May 17, 2000
<b>LMSTF</b>	Law on Measures for the Suppression of Terrorist Financing
<b>LEA</b>	Law Enforcement Agencies
<b>ML</b>	Money laundering
<b>MLRO</b>	Money Laundering Reporting Officer
<b>NDL</b>	New draft law
<b>NGO</b>	Non Governmental Organization
<b>NPO</b>	Non Profit Organization
<b>PAMECA</b>	Police Assistance Mission of the European Communities to Albania
<b>PEP</b>	Politically Exposed Person
<b>OPDAT</b>	Overseas Prosecutorial Development Assistance and Training
<b>TAIEX</b>	Technical Assistance and Information Exchange Unit
<b>SAR</b>	Suspicious Activity Report
<b>SIS</b>	State Information Service
<b>STR</b>	Suspicious transaction report
<b>UN</b>	United Nations

## ***1. General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field***

### Developments with respect to AML/CFT regime since the last evaluation

During 2008 and the first half of 2009, major changes have taken place and important reforms accomplished by the General Directorate for the Prevention of Money Laundering and other Albanian institutions involved in the fight against money laundering and financing of terrorism. These reforms have aimed at enhancing the professional capacities of the Albanian Financial Intelligence Unit, as well as those of other agencies such as the Unit for the Investigation of Economic Crimes and Corruption in the Prosecutor's Office, Albanian State Police. Meanwhile inter institutional co-operation and the exchange of information among GDPML and other law enforcement agencies has improved significantly.

According to the police data during this reporting period the predominant criminal offences consist of serious crimes against individuals, property, smuggling, drug trafficking, economic and financial crimes, corruption, money laundering, fraud, illegal border crossing, extortion, etc.

Concerning terrorist financing the situation there were no major changes during this period. Nevertheless the Albanian authorities remain alert to the risks associated with the ever evolving inherent danger that this phenomenon poses internationally and the implications it could have for our country and the region.

Upon the signature of the Stabilisation and Association Agreement (SAA) in 2006, the consolidation of rule of law, the strengthening of institutions in all levels and in particular that of the law enforcement and the administration of justice system are of a particular importance. Some of the priorities set by the Albanian Government are geared towards the fulfilment of the obligations assumed in the SAA, such as the more effective implementation of anti money laundering legislation with respect to prosecutions, asset freezing and forfeiture, improvement of the financial sector oversight, reduction of cash usage in the national economy, harmonising the anti money laundering legislation with the 40+9 FATF (Financial Action Task Force) Recommendations, the recommendations of the MONEYVAL Committee as well as the EU standards, expanding the level of co-operation with partner institutions abroad by especially using the regional financial intelligence network and the improvement of the capabilities, for GDPML, Prosecutor's Office and the Economic Crimes Unit within the police by furthering the coordination of their activities.

Along with the fulfilment of daily tasks and confronting the aforementioned challenges the GDPML during this reporting period assumed a leading role the Twinning Project with colleagues of the German Federal Criminal Office (BKA). Experts from GDPML have actively participated in the activities of this project as well as other activities such as those organised by the EGMONT Group, the Committee of Experts MONEYVAL of Council of Europe and those held at the regional level.

Based on the recommendations of MONEYVAL, the Albanian institutions have drafted a new law "On the Criminal Liability of Legal Entities", which was approved by the Albanian Parliament on June 14, 2007.

The Third Round evaluation by the MONEYVAL Committee of Albania's progress in the field of prevention of money laundering and terrorism financing was held in the summer of 2006. During this round the need and the importance of radical changes of the Albanian legislation, became apparent. Based on the recommendations of the MONEYVAL in the Council of Europe as well as those by other institutions such as the IMF, preparations for the formulation of the new law on Prevention of Money

Laundrying started in earnest in November of 2006. The first draft was put together by the Legal Office of the IMF and was discussed for over a year by a working group of experts from:

- The Ministry of Finance and the General Directorate for the Prevention of Money Laundering.
- Bank of Albania as the supervisory and regulatory authority for the banking and non-banking activities.
- General Prosecutor's Office and the State Police as the main law enforcement institutions in the Republic of Albania.

Participants from OSCE, EU Delegation in Albania, World Bank, OPDAT, PAMECA II, US Treasury Department adviser at the GDPML, had an observer status in the working Group. After the final version was prepared, the Group continued deliberations and exchange of opinions with interest groups and entities regulated by this law, their Oversight Authorities and other institutions (General Directorate of Customs, Tax Authority, Central Office for the Registration of Real Estate, High Inspectorate for the Declaration and Control of Assets, etc).

On March 26, 2008 the draft law was presented by the Council of Ministers for deliberation to the Albanian Parliament. The law was debated in the National Security and Defense Committee, the Economy and Finance Committee and the Legal Committee. Several important changes were proposed and were included in the draft law following the discussions in the committees.

The Law No. 9917 "On the prevention of Money Laundering and Terrorism Financing" was approved by the Albanian Parliament on May 19, 2008 based on the decree (Decree No.5746 June 9, 2008) of the President of the Republic, and became effective on September 10, 2008. The new law, is an expression of the necessity for sweeping improvements in these areas and demonstrates the willingness of the Albanian government in the fight against money laundering, by tackling this important challenge of our times.

Some of the major changes introduced in the new legislation compared to the existing one, are:

- The introduction for the first time of the obligation for the reporting of all cash transactions above 1.5 Million Lek. This brings the Albanian legislation a step closer to the European one, and namely the Third EU Directive on the prevention of money laundering in the financial systems. This stipulation is expected to further reduce the amount of cash transactions.
- Inclusion of pre-emptive measures with regard to terrorism financing in addition to those that address prevention of money laundering.
- Threshold reduction for all transactions reports, from 20 milion lek to 6 million lek.
- An increase in the number of reporting entities.
- An expansion of preventive measures to be undertaken by financial and non-financial institutions with respect to AML/CFT prevention policies. Such measures should also be taken by the oversight authorities
- Introduction of the obligation to perform Enhanced Due Diligence and ongoing monitoring of business relations that the obliged entities of this law establish and conduct with PEP clients and Non Profit Organizations.

Significant efforts have been directed by GDPML towards the formulation of by-laws. The inclusion in the drafting process of entities such as banks, notaries, attorneys and their supervisory authorities, Justice Ministry, Chamber of Notaries and the Albanian Banker's Association has contributed towards the creation of a spirit of co-operation that will lead to more results in the prevention of money laundering.

GDPML had completed all the by-laws that have been approved by the Ministry of Finance and the Council of Ministers during the first half 2009.

The Committee for the Coordination of the Fight Against Money Laundering is the highest authority in the country that engages in general governmental policy making in the area of prevention of money laundering and the fight against terrorism financing.

The Committee is chaired by the Prime Minister and it counts among its members: the Minister of Finance, the Minister of Foreign Affairs, the Minister of Defense, the Interior Minister, the Minister of Justice, the General Prosecutor, the Governor of the Bank of Albania, the Director of Intelligence Service and the General Inspector of HIDAA. In the meeting of this committee in December 16, 2008, each member reported on the measures taken towards implementing the National Program "On the control of cash in the Republic of Albania", approved by the Prime Minister in August of 2006.

Within the scope of the reduction of use of cash several measures have been undertaken by the Albanian institutions, some of which are listed below:

- A more effective implementation of a regulatory and oversight regime for bureaux de change, that has contributed towards formalizing this segment of the Albanian economy.
- Strengthening of the controls in the border crossings with regard to undeclared cash or other valuables.
- Increase of information exchange regarding prosecutions and penal proceedings related to persons conducting unlicensed currency exchange transactions, or those attempting to transport cash illegally across the border.
- Modification of taxation procedures that make it obligatory the execution of all private sector transactions above 300 thousand lek through the banking system.

The Prime Minister Berisha emphasized the obligation for an ever increasing commitment against this challenging phenomenon, by labeling money laundering a extremely dangerous phenomenon and a highway of crime. The Prime Minister pointed out the fact that the organised crime cannot be fought successfully without an unfaltering fight against money laundering and therefore he demanded zero tolerance in the fight against money laundering and organised crime.

The strengthening of the inter institutional co-operation in the fight against money laundering and terrorism financing was also an important topic during the reporting period. To this end it was demanded to provide to GDPML access to all government databases and public registers.

During 2008, despite the limited human resources, GDPML was involved in the implementation of two projects and has also actively participated in the definition of terms of reference as well as technical specifications for a third project regarding the analytical software. All these projects were made possible thanks to the support of the European Delegation.

The acquirement of an analytical software will enable the collection, detection and the analysing of the reports received by the reporting entities. During the year 2008 the terms of reference and technical specifications were designed in co-operation with the colleagues of BKA and experts of EU Delegation in Tirana. The implementation of the analytical software project commenced in November 2008 and was completed in six months.

During 2008, a significant increase has been observed in the number of referrals to the Prosecution and the reports sent to the police. The total number of referrals to the law enforcement/General Prosecutor's Office during the 2008 was 72 and during the first of half of 2009 the number of referrals reached 93. The

total amount of proceeds frozen in 2008 was 1 192 721 EUR while for the first half of 2009 the total amount of proceeds frozen 2 250 000 EUR is and the amount seized is 2 million EUR.

The above mention results have been achieved through the increase of commitment and accountability from the staff of GDPML, the introduction of the use of information of technology, the increase of the level of management and the improvement of co-operation in the exchange of information with partner institutions and LEA.

### Institutional development

The Joint Investigation Unit against economic crime and corruption attached to the Prosecution Office was created on 22 May, 2007 by joint order of the Minister of Finance, Prosecutor General, the Minister of Interior and State Information Service. This unit includes in its ranks prosecutors, members of Judicial Police, specialists from Tax and Customs authorities, State Information Service and GDPML. Since its creation, this unit has played an increasing role in investigating a wide range of crimes in general and in particular those with an economic background. Its experts have received ongoing training in the framework of OPDAT technical service. Six additional units have been created recently in several districts in Albania.

### National Co-operation

In the framework of the Technical Working Group, the representatives from the General Directorate of Taxation, from the General Directorate of Customs, General Prosecution Office, State Informative Service, Bank of Albania, have organised eight meetings in which the following issues were discussed: Co-operation in the framework of the National Program for the control of the movement of cash in the Republic of Albania and the reduction of the use of physical money, co-operation with police and coordination with the Prosecutor's Office, the increase of reporting from CORIP and the Notary Offices, organizing joint onsite inspections of the financial institutions including staff from the GDPML and the Bank of Albania, ongoing information on the progress of twinning project with the BKA, the increase of the transmission and accuracy of the exchange of information with all Law Enforcement Agencies and beyond, the provision of access for FIU in various data bases of the Law Enforcement Agencies, state institutions and public registers, preparation of a medium term and long term national strategy regarding the investigation of financial crime

The frequent meetings (which have often been held fortnightly) with representatives of the Money Laundering Sector in the Directorate of the Economic and Financial Crime at the General Directorate of the State Police, have resulted to be very productive bearing in mind the fact that the majority of cases sent by GDPML for further inquiries have been finalized by these institutions with referrals to the Prosecution.

### International Co-operation

The General Directorate of the Prevention of Money Laundering has been since July 23, 2003 a full member of EGMONT Group. This has contributed in a significant way in accessing fully all the different forums and activities of the Working Groups as well as the increase of the information exchange with other FIUs. To advance further the level of co-operation GDPML has signed to date 31 Memorandums of Understanding (MoU).

In the framework of the regional co-operation, the Albanian FIU has established good relations and has exchanged information on a continuous basis with Croatia, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia and Slovenia,. The regional co-operation has been enhanced, with the signing on April 29, 2008, in Podgorica, of the Regional Protocol of the war against money laundering and financing

of terrorism, by the Directors of FIU Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia, and Slovenia. This protocol is expected to be signed by other FIUs in the region.

The enhancement of the co-operation at the national, regional and international level, the strengthening of the AML/CFT regime, the consolidation of the supervisory role of the various institutions as well as the advancement of the professional and technical capabilities will continue to provide a solid foundation for the effectiveness of the Law Enforcement Agencies and the Government Institutions in Albania to both prevent and suppress acts of Money Laundering and Terrorism Financing.

The Albanian Government in the framework of the Stabilization and Association Agreement and visa liberalization process is also committed to further strengthen the civil confiscation regime. To this end the National Strategy for the Investigation of Financial Crime has formulated clear measures and actions to be undertaken by Law Enforcement Institutions and government institutions. The implementation of these measures would further enhance such regime.

## 2. Key recommendations

Please indicate which improvements have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

<b>Recommendation 1 (Money Laundering offence)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To make it clear preferably in the Criminal Code that Albania has jurisdiction over money laundering offences when the predicate offence was committed abroad by a foreign citizen.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Although such amendment to the Penal Code is planned, it has not yet been affected.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>On the basis of Article 6 and 7 of the Criminal Code the predicate offences for money laundering extend to conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred domestically. When the predicate crime is committed abroad by an Albanian Citizen, money laundering in Albania is prosecuted domestically on the basis of Article 6 of the Criminal Code.</p> <p>Where the offender is a foreign citizen, and the offence is committed outside the territory of the Republic of Albania, money laundering is prosecutable in Albania where it is committed against the interests of the Albanian State or an Albanian citizen, on the basis of Article 7 of the Criminal Code. The jurisprudential developments and interpret that money laundering is also prosecutable in Albania, if the predicate offence occurred in another country, and it constitutes a criminal offence in both countries.</p> <p><u>This is also possible on the basis of Article 7/a providing as follows:</u></p>



	<p><b>Article 7/a Universal Jurisdiction</b></p> <p>The Criminal Law of the Republic of Albania can be implemented on a foreign citizen that lives in the territory of the Republic of Albania and has not been extradited, that has committed one of the following crimes outside the territory of the Republic of Albania:</p> <ul style="list-style-type: none"> <li>a. crimes against humanity</li> <li>b. war crimes</li> <li>c. genocide</li> <li>ç. actions with terrorist purposes</li> <li>d. torture</li> </ul> <p>The Criminal Law of the Republic of Albania can be implemented even on foreign citizens that outside the territory of the Republic of Albania have committed any of the criminal offences on which individual laws and international agreements to which the Republic of Albania is a party to determine the application of the Albanian Penal Legislation.</p>
<b>(Other) changes since the last evaluation</b>	Amendments to the Criminal Code are planned by the end of 2009.
Recommendation of the MONEYVAL Report	<i>To specify that self-laundering is covered (bearing in mind that Albania has accepted this principle).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Although such amendment to the Penal Code is planned, it has not yet been affected
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>Albania has criminalised money laundering through Article 287 of the Criminal Code of the Republic of Albania (Law No.7895 dated 27.01.1995 amended by Law No. 9275 dated 16.09.2004, and by Law No. 9686, dated 26.02.2007):</p> <p>Article 287. Laundering of the proceeds of crime.</p> <p>1. Laundering of proceeds of crime committed through:</p> <ul style="list-style-type: none"> <li>a. The conversion or transfer of property, that is known to be a product of criminal offence, with the purpose of hiding, concealing the origin of the property or aiding to avoid legal consequences related to the commission of the criminal offence.</li> <li>b. The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property derived from criminal activity</li> <li>c. Performance of financial activities and fragmented/ structured transactions to avoid reporting according to the money laundering.</li> <li>ç. Advise, encouragement, or public call for the commission of any of the</li> </ul>

	<p>offences described above.</p> <p>d. The use and investment in economic or financial activities of money laundering or means that derive from a criminal offence is punishable by three to ten years of imprisonment and a fine from 500 thousand to 5 million ALL.</p> <p>2. If the same 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 a fine from 800 thousand to 8 million ALL. If the same offence has brought grave consequences, it is punishable by no less than fifteen years of imprisonment and a fine from 3 million to 10 million ALL.</p> <p>3. Provisions of this article apply even in the case when a person that has committed the offence from which derive the proceeds of crime, cannot be a defendant, cannot be convicted, or there is a cause that wipes out the offence or one of the conditions for the criminal proceeding of such an offence is lacking.</p> <p>Since Article 287 of the Criminal Code (specifically paragraphs b, c,) does not explicitly exclude self laundering, it can be interpreted that it covers it as well.</p>
Recommendation of the MONEYVAL Report	<i>To specify that knowledge, intent or purpose can be inferred from objective facts and circumstances.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Although such amendment to the Penal Code is planned, it has not yet been affected.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The Ministry of Justice has already created a working group that is going to make the necessary amendments.
Recommendation of the MONEYVAL Report	<i>To review the order of the sub-paragraphs of art. 287 1) and to insert the ancillary offence of «helping» or assisting also in sub-para 1d) (and to move this sub-para at the end of sub-para. 1)).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Although such amendment to the Penal Code is planned, it has not yet been affected.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>The general provisions of the Criminal Code (article 22-28) on attempt, collusion and collaborating are applicable on the money laundering offence, as they are applicable to all criminal offences provided by this Code or other specific laws (on the basis of article 72 of the Criminal Code).</p> <p>Article 287/1/ç provides for “advise, encouragement, or public call” for the commission of any of the money laundering offences.</p>

	<p>Article 287/b as amended in 2007 includes “assistance” in the embezzlement of money or stolen goods that result from a criminal offence.</p> <p>The Criminal Code of the Republic of Albania (Law No.7895 dated 27.01.1995 amended by Law No. 9275 dated 16.09.2004, and by Law No. 9686, dated 26.02.2007):</p> <p>Article 287. Laundering of the proceeds of crime.</p> <p>1. Laundering of proceeds of crime committed through:</p> <ul style="list-style-type: none"> <li>a. The conversion or transfer of property, that is known to be a product of criminal offence, with the purpose of hiding, concealing the origin of the property or aiding to avoid legal consequences related to the commission of the criminal offence.</li> <li>b. The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property derived from criminal activity</li> <li>c. Performance of financial activities and fragmented/ structured transactions to avoid reporting according to the money laundering</li> <li>ç. Advise, encouragement, or public call for the commission of any of the offences described above.</li> <li>d. The use and investment in economic or financial activities of money laundering or means that derive from a criminal offence is punishable by three to ten years of imprisonment and a fine from 500 thousand to 5 million ALL.</li> </ul> <p>2. If the same 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 a fine from 800 thousand to 8 million ALL. If the same offence has brought grave consequences, it is punishable by no less than fifteen years of imprisonment and a fine from 3 million to 10 million ALL.</p> <p>3. Provisions of this article apply even in the case when a person that has committed the offence from which derive the proceeds of crime, cannot be a defendant, cannot be convicted, or there is a cause that wipes out the offence or one of the conditions for the criminal proceeding of such an offence is lacking.</p> <p>Article 287/b Embezzlement of money or stolen goods</p> <p>Whoever purchases, receives, hides or, in any other way, embezzles for himself or a third party, or assists in purchasing, taking, hiding of money or other goods, knowing that another person has obtained these money or goods, as a result of a criminal offence, is punished by six months to three years of imprisonment and a fine up to 100 000 ALL.</p> <p>The irresponsibility of the person or the barrier for the prosecution of the related criminal offence does not exclude the responsibility of the person that committed the criminal offence of embezzlement of stolen money or goods in the meaning of this article</p>
Recommendation of the MONEYVAL	<i>To examine whether greater use should be made of the provisions criminalising</i>

Report	<i>money laundering when investigating all major proceeds-generating offences.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The Prosecutor's Office lacking experience in financial crime prosecution is concerned about increasing its burden of proof in such cases, as proving money laundering is often more difficult to prove than the primary offence. Nevertheless, the Prosecutor General has agreed to attempt to add a ML charge where warranted in future financial crime prosecutions.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The full array of provisions listed in the Penal Code are used when investigating all proceeds – generating offences. (Art. 208, 270, 274 of the Penal Procedures Code and Art. 36 of the Penal Code)
(Other) changes since the last evaluation	

<b>Recommendation 5 (Customer due diligence)</b>	
<b>I. Regarding financial institutions</b>	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To introduce general requirements in the LPML on the basis of the elements of FATF Recommendation 5, in particular as regards the concept of customer due diligence, identification of beneficial and ultimate ownership, on-going due diligence on the business relationship, “know your customer” principle.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The New Draft Law, hereinafter the NDL, introduces and sets out provisions for customer due diligence (CDD); requires the identification of beneficial owner; and requires reporting subjects to maintain on-going due diligence of clients according to the KYC concept. See generally NDL, Art. 2 and 4-6 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The AML/CFT Law, introduces and sets out provisions for customer due diligence (CDD, KYC) and requires from the obliged entities to identify the beneficial owner as well as perform on-going client due diligence accordingly. ( <i>See Appendix IV, Annex 1, Art. 2,4,6 of the AML/CFT Law</i> ).
Recommendation of the MONEYVAL Report	<i>To make it a duty for obliged entities to perform CDD measures in line with the FATF approach (risk-based etc.)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL requires obligated reporting subjects to perform CDD measures, including enhanced due diligence, on a risk sensitive basis depending upon the type of customer, business relationship or transaction. See NDL, Art. 6 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The AML/CFT Law requires obligated reporting subjects to perform CDD measures, including enhanced due diligence, on a risk sensitive basis depending upon the type of customer, business relationship or transaction. ( <i>See, Art. 6 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL	<i>To include the identification of customers when establishing a business relationship (as it is envisaged in the draft new LPML).</i>

Report	
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL sets out exacting provisions for client identification of the client when establishing a business relationship. See NDL, Art. 4 (Appendix III , Section I , Annex 1). In addition, once the NDL is finalized and passed into law, the Bank of Albania (BoA) will amend its customer identification rules for financial institutions under its supervision so as to be in accord.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The AML/CFT Law, includes a provision for client identification when establishing a business relationship. ( <i>See See Appendix IV, Annex 1, Art. 4 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To make it clear that CDD measures apply also in case of FT suspicion.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL provides that CDD measures specifically apply in transactions where terrorist financing is suspected. See NDL, Art. 6(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law requires the obliged entities to apply CDD measures to all transactions therefore including those suspected of terrorism financing. ( <i>See See Appendix IV, Annex 1, Art. 6 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To make sure there is a unique definition of the client or customer which is broad enough to include also persons requesting one-off transactions and clients with whom there is no contractual relationship.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL includes definition of a “Client,” as including every natural and legal persons, resident or non-resident, Albanian or foreign, public or private person that is party to a business relationship with a subject. This definition includes also the term “occasional client” which covers persons requesting one-off transactions and clients with whom there is no contractual relationship. See NDL, Art. 2, para.4 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The AML/CFT Law defines “Client,” as every person, who is or seeks to be party in a business relation with one of the entities referred to in Article 3 of the law, thus including every natural and legal person, resident or non-resident, Albanian or foreign, public or private person that is party to a business relationship with a subject. This definition includes also the term “occasional client” which covers persons requesting one-off transactions and clients with whom there is no contractual relationship. ( <i>See See Appendix IV, Annex 1, Art. 2 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To include in the LPML a general prohibition of anonymous accounts (to be understood broadly) as envisaged in the draft new LPML.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	According to the NDL, subjects are prohibited from allowing anonymous accounts; anonymous business relationships; business relationships using fictitious client names; or opening or maintaining accounts identifiable only by account number. See NDL, Art. 12 para. 2 (Appendix III ,Annex 1),. In addition, pursuant to BoA AML regulations, its supervised subjects are allowed to open or maintain

	anonymous accounts. In BoA supervisory practice, compliance with this regulation is regularly checked on-site.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the AML/CFT Law, The entities shall be prohibited to start or maintain business relations with anonymous clients or clients using fake names. The entities shall not be allowed to open or maintain accounts that may be identified only based on the account number.. In addition, pursuant to BoA AML regulations, its supervised subjects are not allowed to open or maintain anonymous accounts. In BoA supervisory practice, compliance with this regulation is regularly checked during on-site examinations. <i>(See Appendix IV, Annex 1, Art. 11, para. 2 of the AML/CFT Law)</i>
Recommendation of the MONEYVAL Report	<i>To clarify the issue of bearer negotiable instruments available in Albania and to apply the CDD requirements in their respect</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	According to the BoA, bearer negotiable instruments most actually used in Albania are cheques and travellers' cheques. Nevertheless, the NDL defines the term "bearer negotiable instruments" according to the very broad FATF definition. See NDL, Art 2, para. 8 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the BoA, bearer negotiable instruments mainly used in Albania are cheques and travellers' cheques. Nevertheless, the AML/CFT Law defines the term "bearer negotiable instruments" according to the very broad FATF definition. <i>(See Appendix IV, Annex 1 Art 2, para. 5 of the AML/CFT Law).</i>
Recommendation of the MONEYVAL Report	<i>To provide in the LPML for a general definition of transaction which would encompass the broadest range of services/operations (including those with cheques)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL defines the term "transaction" according to the FATF definition. See NDL, Art. 2, para. 19(Appendix III , Annex 1) .
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The definition of the term "transaction" in the AML/CFT Law is all inclusive. <i>(See Appendix IV, Annex 1, Art. 2, para. 16 of the AML/CFT Law).</i>
Recommendation of the MONEYVAL Report	<i>To reduce to the equivalent of 15,000 USD/€ the threshold of transactions triggering the identification of customers (as it is envisaged in the draft new LPML).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL reduces the reporting threshold to 1,500,000 lek (approximately \$15,000 USD). Obligated subjects are required to verify customer identities in all transactions equal or exceeding the threshold amount; whether conducted as a single transaction or several transactions that appear to be linked with each other. Further, if the amount of the transaction is not known at the time it is conducted, identification is required to be made as soon as the amount becomes known and the threshold is reached. See NDL, Art. 4 (Appendix III ,Annex 1).

<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law has reduced the customer identification threshold to 1,500,000 ALL (approximately 12,000 EUR). Obligated entities are required to perform customer identification in all transactions equal or exceeding the above threshold; whether conducted as a single transaction or several transactions that appear to be linked with each other. Furthermore, if the amount of the transaction is not known at the time it is conducted, identification is required to be made as soon as the amount becomes known and the threshold is reached. (See Appendix IV, Annex 1, Art. 4 of the AML/CFT Law )
(Other) changes since the last evaluation	
<b>Recommendation 5 (Customer due diligence) II. Regarding DNFBP<sup>1</sup></b>	
Recommendation of the MONEYVAL Report	<i>To cover explicitly real estate agents when they are involved in transactions for a client concerning the buying and selling of property.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Real estate agents become reporting subjects when involved in transactions for a client concerning the buying and selling of property or when they are engage in arranging the financing of property or property construction. See NDL, Art. 3 and Art. 8 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the AML/CFT Law, real estate agents are obliged entities when involved in the following transactions on behalf of their clients; <ul style="list-style-type: none"> <li>• buying and selling of property</li> <li>• engage in arranging the financing of property or property construction. (See Art. 3 of the AML/CFT Law)</li> </ul>
Recommendation of the MONEYVAL Report	<i>To introduce a clear requirement for traders in precious metals and stones to apply CDD principles when they engage in any cash transaction with a customer equal or above €/USD 15,000.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Traders in precious metals and stones are specifically made obligated reporting subjects and as such are required to apply CDD principles when engaging in any customer transaction equal to or above the threshold of 1,500,000 lek. See NDL, Art. 3 and Art. 8 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the AML/CFT Law, traders of precious metals and stones are obliged entities and as such are required to apply CDD when carrying out transactions equal to or above the threshold of 1,500,000 ALL. (See Appendix IV, Annex 1 Art. 3 and Art. 6 of the AML/CFT Law).
Recommendation of the MONEYVAL Report	<i>To cover attorneys, notaries, other independent legal professions and accountants in the circumstances provided for in recommendation 12.</i>
Measures reported as of 5 June 2007 to implement the	Attorneys, notaries, other independent legal professions and accountants are reporting subjects when they prepare for or carry out transactions for their client concerning the activities named in FATF Recommendation 12. See NDL, Art. 3,

<sup>1</sup> i.e. part of Recommendation 12

Recommendations of the report	letter k (Appendix III , Annex 1) .
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the AML/CFT Law, attorneys, notaries, other independent legal professions and accountants are obliged entities when they prepare or carry out transactions for their clients in the following activities: i) transfer of immovable properties, administration of money, securities and other assets; ii) administration of bank accounts; iii) administration of capital shares to be used for the foundation, operation or administration of commercial companies; iv) foundation, functioning or administration of legal entities; v) legal agreements, securities or capital shares transactions and the transfer of commercial activities; ( <i>See Appendix IV, Annex 1 Art. 3, letter k of the AML/CFT Law</i> )
(Other) changes since the last evaluation	

<b>Recommendation 10 (Record keeping)</b> <b>I. Regarding Financial Institutions</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To consider removing the current requirements of Article 4 and 5 of the LPML which deal with the threshold approach concerning registration of transactions</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL does not limit registration of transactions to only those equal to the threshold and above.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law does not include any requirement concerning the registration of transactions by the obliged entities.
Recommendation of the MONEYVAL Report	<i>To review the structure of art. 6 of the LPML so as to make a separate provision on the information and record-keeping requirement rather than these being included with other provisions dealing with “tipping-off”.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL provides specific rules on record keeping in an article wholly dealing with record keeping. See NDL, Art. 11. Non-disclosure requirements, including “tipping-off” provisions, are set out separately. See NDL, Art. 10 (Appendix III , Annex 1) .
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law provides specific rules on record keeping in a separate article. Non-disclosure requirements, including “tipping-off” provisions, are set out separately. ( <i>See Appendix IV, Annex 1 Art. 15&amp;16 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL	<i>To introduce a clear requirement to store information on transactions for a period of 5 years (or more if requested by a competent authority) following completion of</i>



Report	<i>transactions, whatever their amount.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL provides specific requirements for the storage of information on transactions for a period of at least five years. See NDL, Art. 11 (Appendix III , Annex 1) .
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law provides specific requirements with regard to keeping transactional data for a period of five years or more when requested by the Competent Authority. (See Appendix IV, Annex 1 Art. 16 of the AML/CFT Law)
Recommendation of the MONEYVAL Report	<i>To be more explicit as to the information to be kept for a period of 5 years (or more if requested by a competent authority) after the termination of the relationship (to keep account files, a copy of the identification document and business correspondence, as well as information on the beneficiary).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL provides specific requirements for the storage of information on transactions for a period of five years, even after the termination of the business relationship. However, such requirement already exists in BoA regulations for banks and other licensed non-bank financial institutions. See NDL, Art. 11 (Appendix III , Annex 1) .
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the AML/CFT Law, the entities must store the documentation used for the identification of the client and the client's beneficiary owner for 5 years from the date of the termination of the business relation with the client. (See Appendix IV, Annex 1 Art. 16 of the AML/CFT Law).
(Other) changes since the last evaluation	
<b>Recommendation 10 (Record keeping)</b> <b>II. Regarding DNFBP<sup>2</sup></b>	
Changes since the last evaluation	According to the Instruction no 11, 5 Feb 2009 "On the reporting methods and procedures of the non financial businesses and professions" of the Minister of Finance the DNFBP are subject to the same Record Keeping requirements stipulated in AML/CFT Law. (See Appendix IV, Annex 3, Art 7 of the instruction)

<b>Recommendation 13 (Suspicious transaction reporting)</b> <b>I. Regarding Financial Institutions</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To take the appropriate measures to make it clear that obliged entities, as a rule, need to report directly to the GDPML and not to their supervisor (subject to the admissible exceptions for certain DNFBP)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL provides that obligated subjects should report directly to the Responsible Authority rather than their supervisory authority. See NDL, Art. 8 (Appendix III , Annex 1) .
<b>Measures taken to</b>	AML/CFT Law contains a specific article that specifically requires from the obliged

<sup>2</sup> i.e. part of Recommendation 12

<b>implement the Recommendation since the adoption of the first Report</b>	entities to report directly to the Competent Authority. ( <i>See Appendix IV, Annex 1, Art. 12 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To introduce the obligation of the reporting of attempted transactions in the LPML</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Reporting subjects are now required to report even attempted transactions to the Responsible Authority. See NDL, Art. 8 (Appendix III , Annex 1) .
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Obligated entities are also required to report even attempted transactions to the Competent Authority. ( <i>See Appendix IV, Annex 1 Art. 12 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To enlarge the reporting threshold to all transactions (not only cash and transfers) – except those which present limited risks (e.g. commodity service payments, transfers with the BoA) - and adapt the amount to the situation of Albania</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL requires reporting of all financial transactions equal to or exceeding the threshold. The only exclusions are transactions between banks; transactions between reporting subjects and the BoA; and, transactions of certain public entities exempted by the Minister of Finance, upon the recommendation of the Responsible Authority. See NDL, Art. 8 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law requires reporting of all transactions equal to or exceeding the threshold with the exception of cross bank transactions (excluding the ones performed on behalf of their customers), transactions between entities of this law and the Bank of Albania and transactions performed on behalf of public institutions and entities. ( <i>See Appendix IV, Annex 1, Art. 12, 13 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To <u>urgently</u> amend art. 11 which introduces restrictions as to the categories of transactions that are subject to reporting; a list could be established that provide on the contrary for circumstances and transactions that need not to be reported</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	As indicated above, the only non-reporting exclusions contemplated by the NDL are a few low risk transactions. See NDL, Art. 8 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	As indicated above, the only non-reporting exclusions included in the AML/CFT Law are a limited number of transactions considered to be low risk.
Recommendation of the MONEYVAL Report	<i>To consider, in this relation, to exclude those transactions that are deemed to be of no value in preventing or detecting money laundering or the financing of terrorism (commodity service payments, transfers involving the BoA etc.)</i>
Measures reported	As set out just above, only a few low risk transactions are excluded from reporting

as of 5 June 2007 to implement the Recommendations of the report	requirements. See NDL, Art. 8 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law excludes the reporting of transactions carried out between entities of this law and the Bank of Albania. ( <i>See Appendix IV, Annex 1, Art. 12, 13 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To amend art. 6 on “duty not to disclose” so as to cover also reports connected with terrorist financing and to clarify that the “duty not to disclose” applies also to entities apart from those listed under art. 3 (customs and tax authorities, licensing bodies) and to any unauthorised person even though not connected with the transaction.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	According to the NDL, a “duty not to disclose” relates to reports on money laundering as well as terrorist financing. Likewise, the duty applies not only to entities and persons connected to the transaction, such subjects and their employees; but also to all other entities and persons, authorized or unauthorized, coming into possession of knowledge of the contents of any such reports. See NDL, Art. 10 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law has introduced a comprehensive “Tipping off” provision on all reports that covers all the above. ( <i>See Appendix IV, Annex 1, Art. 15 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To take measures to enhance awareness of all obliged entities about the reporting of suspicious transactions.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	According to the yearly inspection and training program of the Department of Inspections in the GDPML, measures are being taken to ensure the reporting of CTRs and SARs to the Responsible Authority. See Appendix III, Annex 4.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the yearly inspections and training program of the Department of Inspections and Legislation in the GDPML, measures are being taken to ensure the reporting of CTRs and SARs to the Responsible Authority. In the framework of the Twinning Project with the German Federal Criminal Office GDPML has carried out several outreach activities to that end. ( <i>See Appendix IV, Annex 8&amp;9</i> )
(Other) changes since the last evaluation	

<b>Recommendation 13 (Suspicious transaction reporting)</b> <b>II. Regarding DNFBP<sup>3</sup></b>	
Recommendation of the MONEYVAL Report	<i>To develop an on-going dialogue between the GDPML and the various sectors of the DNFBPs so that legislative conflicts are identified and appropriate solutions proposed.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	A good dialogue has been established between the GDPML and various sectors of the DNFBP, notaries and attorneys in particular. For example, a series of meetings with the Bar Association and notary entities in various geographical areas were held to receive further comments and input regarding the NDL. This is in addition to an earlier solicitation by GDPML for written comments on the draft law. Moreover, the Ministry of Justice, which is the supervisory body for both the Bar Association and notary associations, is in process of drafting a new law to reconcile and settle legislative conflicts between the requirements of the LPML and internal procedures of such DNFBP.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	GDPML has continuously maintained an open and constructive dialogue with the various sectors of the DNFBP, such as notaries, attorneys, accountants and real estate agents. The valuable input that they have provided during the drafting of the AML/CFT Law as well as the bylaws was most of the time incorporated in the final documents. GDPML has also organised training sessions for the above entities where various trends and typologies related to ML and FT have been presented.
Recommendation of the MONEYVAL Report	<i>To arrange a scheduled and continuous training program for the various non financial entities that have to report to the GDPML</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	In a desire to encourage voluntary reporting compliance, training and outreach programs have been conducted by the GDPML for financial and non-financial reporting subjects. See Appendix III, Annex 5 attached. Such seminars and trainings will be a continuing responsibility of the Department of Inspections.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The compliance with voluntary remains an important endeavour for the GDPML. And this is achieved through training and outreach programs conducted by the GDPML for financial and non-financial reporting subjects. Workshops and training sessions will continue to be carried out by the Inspections and Legislation Department within GDPML. (See Appendix IV, Annex 9)
Recommendation of the MONEYVAL Report	<i>To issue directives for all the sectors that is the supervisory authority and to assist in preparing a directive from other supervisory authorities.</i>
<b>Measures reported as of 5 June 2007 to implement the Recommendations of the report</b>	Such directives will be issued upon passage of the NDL into law. Upon the proposal of the Minister of Finance, the Council of Ministers issues detailed rules in relation to reporting forms, methods and procedures in compliance with this Law for licensing and supervisory authorities, etc. Also the Minister of Finance, by proposal of the Responsible Authority, issues detailed rules for different sectors within three months after official publication of the Law. See NDL, Art. 23 (Appendix III, Annex 1).
Measures taken to	Following the enactment of AML/CFT Law and its legal obligation, directives based

<sup>3</sup> i.e. part of Recommendation 16.

implement the Recommendation since the adoption of the first Report	on the proposal of the Competent Authority, have already been issued by the Council of Ministers and the Minister of Finance. They contain detailed rules regarding reporting methods, procedures as well as forms to ensure compliance with the Law for licensing and supervisory authorities, etc. ( <i>See Appendix IV, Annex 1 Art. 23&amp;28 of the AML/CFT Law</i> ).
Recommendation of the MONEYVAL Report	<i>To review the reporting requirements and thresholds for DNFBP, along the lines of Recommendation 16.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	These entities are reporting subjects under the NDL; therefore they are subject to all the requirements of this law according the ways and thresholds of reporting to the Responsible Authority.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law has already brought the reporting requirements for DNFBPs broadly in line with Recommendation 16 ( <i>See Appendix IV, Annex 1 Art 3 of the AML/CFT Law</i> ).
Recommendation of the MONEYVAL Report	<i>To consider the utility of a system where certain professions (e.g. lawyers) report through their organisation.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	This recommendation has been considered but though premature and unwarranted at this time. This is due to the apparent lack of voluntary compliance in certain professions and the relative infancy of AML/CTF reporting in Albania.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	This recommendation has been considered and findings show that relying on voluntary compliance could turn out to be counterproductive and would weaken the AML/CFT reporting regime in Albania.
(Other) changes since the last evaluation	

<b>Special Recommendation II (Criminalise terrorist financing)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	To review the current Criminal Code provisions criminalising the financing of terrorism to make them more consistent and ensure they explicitly cover the various elements (terrorist acts, terrorist organisations, individual terrorists) and the collection of funds, along the lines of the UN Convention and FATF Special Recommendation II.
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Earlier this year, a number of changes were made to penal code articles, including those relating to the criminalisation of terrorist financing. See Annex 2 attached, Changes On Criminal Code. In order to be consistent with UN Convention and FATF SR2, the following changes were enacted: 1) terrorist organizations are specifically defined; 2) actions for terrorist purposes replaced the term terrorist acts; 3) actions for terrorist purposes were named; and, 4) the jurisdiction of Albania in terrorist financing cases was extended to resident and non-resident foreign citizens.

<p><b>Measures taken to implement the Recommendation since the adoption of the first Report</b></p>	<p>Albania has ratified the UN Convention for the suppression of the financing of terrorism, in 2002. Terrorist acts are criminalized by article 230 of the Criminal Code. It was complemented in 2003, 2004 and 2007 by further provisions criminalising activities related to the financing of terrorism: article 230 (changed in 2007), article 230/a (inserted in 2003), 230/b, 230/c and 230/ç (inserted in 2004), article 230/d (inserted in 2007).</p> <p><b>Article 230</b></p> <p><b>Actions with terrorist purposes</b></p> <p>The commission of the following acts, that have the purpose to intimidate the public or compel an Albanian or foreign governmental agencies to do or refrain from doing any act, or seriously destroy or destabilize, essential political, constitutional, economical and social structures of the Albanian State, or another State, institution or international organization, is punishable by no less than 15 years of imprisonment or by life imprisonment.</p> <p>The actions for terrorist purposes include but are not limited to:</p> <ul style="list-style-type: none"> <li>a. actions against person, that might cause death or serious body harm</li> <li>b. hijacking or kidnapping</li> <li>c. serious destruction of public property, public infrastructure, transport system, information system, fixed platforms on the continental shelf, private property in large scale</li> <li>d. hijacking of aircrafts, vessels and other means of transport</li> <li>e. the production, possession, procurement, transportation or trading of explosive materials, fire arms, biological, chemical and nuclear weapons as well as the scientific research for the production of weapons of mass destruction, named above.</li> </ul> <p><b>Article 230/a</b></p> <p><b>Financing of terrorism</b></p> <p>Financing of terrorism or its support of any kind is punished by not less than fifteen years of imprisonment or with life imprisonment and with a fine from 5 million ALL up to 10 million ALL.</p> <p><b>Article 230/b</b></p> <p><b>The hiding of funds and other wealth/goods that finance terrorism</b></p> <p>The transfer, conversion, concealing, movement or change of property of the funds and of other goods, which are put under measures against terrorism financing, in order to avoid the discovery and their location, is punished from 4 to 12 years of imprisonment and with a fine from 600 thousand to 6 million ALL.</p> <p>When committed during the exercise of a professional activity, in co-operation or more than one time, this crime is punished from 7 to 15 years of imprisonment and with a fine from 1 to 8 million ALL, whereas when it caused serious consequences, it is punished by no less than 15 years of imprisonment and with a fine from 5 to 10</p>
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	<p>million ALL.</p> <p><b>Article 230/c</b></p> <p><b>Giving information from persons carrying public functions or persons on duty or in exercise of the Profession</b></p> <p>Getting acquainted identified persons or of other persons with data regarding the verification or the investigation of funds or other goods towards which measures against terrorism financing are applied, from persons exercising public functions or in exercise of their duty, is punished by 5 to 10 years of imprisonment and with a fine from 1 to 5 million ALL.</p> <p><b>Article 230/ç</b></p> <p><b>The performance of services and activities with identified persons</b></p> <p>The giving of funds and other wealth for the performance of financial services as well as of other transactions with identified persons towards whom measures of terrorism financing are applied, is punished by 4 to 10 years of imprisonment and with a fine from 400 thousand to 5 million ALL.</p> <p><b>Article 230/d</b></p> <p><b>Collection of funds for the financing of terrorism</b></p> <p>The collection of any type of financial means, directly or indirectly, fro the financing of terrorist organizations or the commission of acts for terrorism purposes, is punishable by 4-12 years of imprisonment and by a fine varying from 600 thousand to 6 million ALL.</p> <p><b>Article 234/a</b></p> <p><b>Terrorist organizations</b></p> <p>The establishment, organization, leading and financing of the terrorist organizations is punishable by no Less than fifteen years of imprisonment. The participation in terrorist organizations is punishable by 7 to 15 years of imprisonment.</p>
Recommendation of the MONEYVAL Report	<p><i>To explicitly provide for the applicability of terrorist financing provisions regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist organisation is located or the terrorist act occurred.</i></p>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	<p>As indicated above, Albania asserts universal jurisdiction over terrorist financing perpetrators. See Changes On Criminal Code (Appendix III , Annex 2).</p>
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>On the basis of Article 7/a of the Criminal Code, terrorist financing offences apply regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist organisation is located or the terrorist acts occurred/ will occur.</p> <p><b>Article 7/a Universal Jurisdiction</b></p> <p>The Criminal Law of the Republic of Albania can be implemented on a foreign citizen that lives in the territory of the Republic of Albania and has not been extradited, that has committed one of the following crimes outside the territory of</p>

	<p>the Republic of Albania:</p> <p>ç. actions with terrorist purposes</p> <p>The Criminal Law of the Republic of Albania can be implemented even on foreign citizens that outside the territory of the Republic of Albania have committed any of the criminal offences on which individual laws and international agreements to which the Republic of Albania is a party to determine the application of the Albanian Penal Legislation.</p> <p>This situation does also result from the following Articles:</p> <p><b>Article 230</b></p> <p><b>Actions with terrorist purposes</b></p> <p>The commission of the following acts, that have the purpose to intimidate the public or compel <u>an Albanian or foreign governmental agencies</u> to do or refrain from doing any act, or seriously destroy or destabilize, essential political, constitutional, economical and social structures <u>of the Albanian State, or another State, institution or international organization</u>, is punishable by no less than 15 years of imprisonment or by life imprisonment.</p> <p><b>Article 231</b></p> <p><b>Recruiting of persons for the commission of acts with terrorist purposes or for terrorism financing,</b></p> <p>Recruiting of one or more persons for the commission of acts with terrorist purposes or for terrorism financing, <u>even when those acts are intended against another state, an international institution or organization</u>, if it does not constitute another criminal offence, is punishable by no less than 10 years of imprisonment.</p> <p><b>Article 232</b></p> <p><b>Training for the commission of acts with terrorist purposes</b></p> <p>Preparation, training and provision of any type of guidelines either anonymously or via electronic means, for the production or use of explosive substances, fire arms and other fighting munitions, or other weapons of chemical, bacteriological or nuclear nature, harmful and dangerous to people and property, as well as techniques or other means for the commission of acts with terrorist purposes and the participation in such activities, <u>even when these acts aim at another State, international organization or institution</u>, if it does not constitute another criminal offence, is punishable by no less than 7 years of imprisonment.</p> <p><b>Article 232/b</b></p> <p><b>Threatening with the commission of an act for terrorist purposes</b></p> <p>Serious threat of the commission of acts with terrorist purposes, <u>against a public authority, even of another state, international institution or organization</u>, is punishable by 8 to 15 years of imprisonment</p>
Recommendation of the MONEYVAL Report	<i>To specify that knowledge, intent or purpose can be inferred from objective factual circumstances.</i>
Measures reported as of 5 June 2007	Although such amendment to the Penal Code is planned, it has not yet been affected.



to implement the Recommendations of the report	
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Amendments to the Criminal Code are planned by the end of 2009.
Recommendation of the MONEYVAL Report	<i>To provide explicitly for the applicability to legal persons of sanctions for terrorist financing.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Although such amendment to the Penal Code is planned, it has not yet been affected.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>The Albanian Parliament has approved on 14.06.2009 Law no. 9754 “On the criminal liability of the legal entities”. Article 1 of this law states:</p> <p><i>This law defines the rules regarding the responsibility, penal proceedings and of types punitive measures applied against legal persons for the commission of penal offences.</i></p>
(Other) changes since the last evaluation	

<b>Special Recommendation IV (Suspicious transaction reporting)</b> <b>I. Regarding Financial Institutions</b>	
<b>Rating: Largely compliant</b>	
Recommendation of the MONEYVAL Report	<i>To extend the scope of reporting in relation to terrorist financing, to the various elements contemplated in Recommendation 13 and SR.IV (“terrorism”, “terrorist acts”, “terrorist organisations”, “those who finance terrorism”).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL requires reporting for purposes of combating the financing of terrorism and terrorist acts. See NDL, Art. 8 (Appendix III , Annex 1) .
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law requires reporting for purposes of combating the financing of terrorism and terrorist acts. ( <i>See Appendix IV, Annex 1, Art. 12, para 1 of the AML/CFT Law</i> ).
Recommendation of the MONEYVAL Report	<i>To keep statistics on reports concerning terrorist financing.</i>
Measures reported as of 5 June 2007 to implement the Recommendations	The NDL provides special requirements for the Responsible Authority to issue by the end of first quarter of each year a public annual report on the operation, which should include detailed statistics concerning terrorist financing. See NDL,

of the report	Art.18(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law sets out the obligation of publishing an annual report whereby detailed statistics are provided. ( <i>See Appendix IV, Annex 1, Art. 22, para 'o' of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To review the drafting of the LPML together with the various secondary texts ("Guidelines-regulations", sectoral texts etc.) to ensure consistency; special care should be taken to the effect that these provisions are also consistent with the Criminal Code (e.g. definition of terrorist financing).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	An extensive review of existing guidelines and regulations as well as changes to the penal code has been undertaken preparatory to drafting the new LPML. It is believed that all material elements of secondary sources have been incorporated into the draft law.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	An extensive review of existing guidelines and regulations as well as changes to the Criminal Code has been undertaken during the drafting of the new LPML and all material elements of secondary sources have been incorporated into the law.
(Other) changes since the last evaluation	
<b>Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP</b>	
Changes since the last evaluation	

### 3. Other Recommendations

In the last report the following FATF recommendations were rated as “partially compliant” (PC) or “non compliant” NC (see also Appendix 1). Please, specify for each one which measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

<b>Recommendation 3 (Confiscation and provisional measures)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To provide explicitly for confiscation from third parties along with the legal protection for bona fide third parties.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation.
<b>Measures taken to implement the</b>	Article 36/1/b and article 36/4 of the Criminal Code apply to property that is derived directly or indirectly from proceeds of crime; including income, profits or other

<p><b>Recommendation since the adoption of the first Report</b></p>	<p>benefits from the proceeds of crime.</p> <p>Article 36 does not provide explicitly for the confiscation from third parties.</p> <p>On the basis of article 210 of the Criminal Procedure Code, confiscation from the third parties can be applicable (proceeds kept by banks).</p> <p><b>Article 210</b></p> <p>The Court may order the seizure of bank documents, negotiable instruments, sums deposited in current accounts and any other thing, even if they are in safety vaults, when there are reasonable grounds to think that they are connected to the criminal offence, even though they do not belong to the defendant or are not under his name. In urgent cases this decision may be taken by the prosecutor.</p> <p>On the basis of Article 58 to 68 of the Criminal Procedure Code, injured parties are allowed to intervene during the process. These articles provide for the civil dispute in the criminal proceeding.</p> <p>Law No. 9258 , dated 15.07.2004 “On measures for the Suppression of Terrorism Financing” provides for a system of judicial appeals by any interested person against temporary freezing, thus protecting the rights of bona fides third parties. Article 17 of this law provides as follows:</p> <p><b>Article 17</b></p> <p><b>Appeal against the temporary freezing</b></p> <ol style="list-style-type: none"> <li>1. The interested person may file a special complaint against the Minister of Finance’s order to temporarily freeze funds and other assets pursuant to article 16, paragraph 1, at Tirana District Court.</li> <li>2. The court examines the case within 10 days, implementing provisions for administrative cases. In any case, the complaint does not suspend immediate execution of the Minister of Finance’s order.</li> <li>3. The interested person shall be obliged to prove to the Court that he/ she: <ol style="list-style-type: none"> <li>a. has a legitimate right in the funds and other assets of the designated person</li> <li>b. has legal resources for the rights and interests in the funds and assets; and that the funds and assets being regarded by the Court are not related to terrorists, terrorist entities, persons financing terrorism or other persons related to them.</li> </ol> <p>The interested person is considered notified from the date of being in the knowledge of the issuance of the order. In any case, the case is examined within the deadline set forth in paragraph 2 above, if the Minister or his designee presents sufficient data for the failure to find the address, location of the interested person or his presence within the legal deadline for trying the case.</p> </li> <li>4. In the case of freezing real estate, a copy of the freeze order and the court’s decision shall be sent to the respective real estate office. The latter is obligated to take measures for enforcing them immediately.</li> </ol> <p>According to Article 16 of the Law No. 9284, dated 30.09.2004 “On the Prevention and Striking of Organised Crime”, when during the proceeding sequestered</p>
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	property is found to belong to a third party, the latter is summoned to Court to intervene in the proceeding.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	Amendments to the Criminal Code are planned by the end of 2009.
Recommendation of the MONEYVAL Report	<i>To consider reviewing the legal framework so as to allow for the application of provisional measures before opening a formal investigation.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation.
Measures taken to implement the Recommendation since the adoption of the first Report	<p>The Criminal Procedure Code provides for temporary measures to prevent dealing, transfer or disposal of property subject to confiscation. Articles 208-220 of the Criminal Procedure Code provide for the seizure of items which are of probative value. Articles 274-276 deal with the seizure of instruments of crime and criminal assets. The provisions of the Criminal Code concerning seizure of instruments of crime and criminal assets are as follows:</p> <p><b>Article 274</b></p> <p><b>Object of preventive seizure</b></p> <ol style="list-style-type: none"> <li>1. When there is a danger that free possession of an item connected to the criminal offence may aggravate or prolong its consequences or facilitate the commission of other criminal offences, the competent court, on the application of the prosecutor, orders its seizure by reasoned decision.</li> <li>2. Seizure may also be ordered against items, proceeds of the criminal offence and against any other kind of property that is permitted to be seized conform Article 36 of the Criminal Code.</li> <li>3. When the application conditions alter, the court, on the application of the prosecutor or interested person, cancels the seizure.</li> </ol> <p><b>Article 275</b></p> <p><b>Cessation of seizure</b></p> <ol style="list-style-type: none"> <li>1. The court or prosecutor with the decision of acquittal or dismissal of the case, orders the return of items seized to the one they belong, unless they must be confiscated because they have served or were assigned to commit a criminal offence or because they are product or profit of the of the criminal offence.</li> <li>2. When a decision of conviction has been issued, the effects of seizure continue if the confiscation of the items seized has been ordered.</li> <li>3. The items seized are not returned if the court decides to maintain the seizure to</li> </ol>

	<p>guarantee the credits.</p> <p><b>Article 276</b></p> <p><b>The appeal against the decision</b></p> <ol style="list-style-type: none"> <li>1. Whoever has an interest may appeal against the issue or rejection of seizure order.</li> <li>2. The appeal may be filed within ten days from the issuing of the decision or from the day the interested person received knowledge of the seizure.</li> <li>3. The appeal is filed with the secretariat of the court which issued the decision.</li> <li>4. The appeal does not suspend the execution of the order.</li> <li>5. The court of appeal rules on the appeal within fifteen days from receiving the documents.</li> <li>6. The court may decide, as the case warrants, the overruling, amending or approval of the decision appealed.</li> <li>7. When the decision is not announced or executed within the specified time, the decision of seizure ceases to have any effects.</li> </ol> <p>The Law “On the Prevention of Money Laundering and Terrorist Financing” gives the FIU the adequate powers to identify and trace property that is or may become subject to confiscation or is suspected of being the proceeds of crime.</p> <p>On the basis of Article 22 of the Law no. 9917, dated 19.05.2008 “On the Prevention of Money Laundering and Terrorist Financing”, the FIU is given the abovementioned powers including the power of ordering the seizure or freezing of transactions when on factual grounds there are reasons to suspect of money laundering or terrorist financing (para. g).</p>
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	Amendments to the Criminal Code and to the Criminal Procedure Code are planned by the end of 2009.
Recommendation of the MONEYVAL Report	<i>To allow for the application of provisional measures under Articles 274-276 directly by the prosecutor in case of urgency (with ex post approval by the judge).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation.
Measures taken to implement the	Amendments to the Criminal Code are planned by the end of this year.

<b>Recommendation since the adoption of the first Report</b>	
Recommendation of the MONEYVAL Report	<i>To analyse the reasons for the moderate use of temporary and final measures in money laundering cases and to take measures to encourage their use (e.g. training, internal circulars etc.)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	<p>The moderate use of these temporary and final measures is a result of the absence of cases that need to be regulated as for in articles 274-276 of Criminal Code.</p> <p>Trainings are carried out for the specialists of the field to encourage the use of these measures. According to CARDS 2004 there is in process a twinning project between the Federal Office of German Police and GDPML, Ministry of Interiors of Albania and GP, which includes financial, technological and practical assistance like trainings for the analysis of the investigation of financial crimes in general, etc. Other trainings have been carried out during 2006 according the projects of CARPO, PAMECA, ICITAP, and Ministry of Interiors of France. Actually there is in process a training program by the Austrian counterpart. These trainings include not only strategical or performance analysis for financial crimes, but also trends and methodology of investigations.</p>
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The use of all provisions of the Penal Code are mandatory in all penal cases including money laundering ones.
Recommendation of the MONEYVAL Report	<i>To examine the functioning in practice of the automatic cessation of temporary measures under Art. 276 (when the court does not render a decision within 15 days of the application) to make sure that measures applied against criminal proceeds are not revoked for undue reasons (court overload, insufficient file management etc.).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Upon the examination of the practical implications regarding temporary cessations it was concluded that the aforementioned factors do not create obstacles or lead to revocation for undue reasons.
Recommendation of the MONEYVAL Report	<i>To review in the Law N° 9284, the definition of terrorism financing, in line with the similar recommendation already made concerning the Criminal Code.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	No changes since the last evaluation.
<b>(other) changes since the first progress report</b>	

(e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	
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Recommendation 6 (Political Exposed Persons)	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To implement in the LPML, and to detail in sectoral rules as appropriate, the requirements of Recommendation 6 on politically exposed persons.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL provides special rules consistent with Recommendation 6 for enhanced due diligence for PEPs. See NDL, Art. 6 (Appendix III , Annex 1) .
Measures taken to implement the Recommendation since the adoption of the first Report	AML/CFT Law provides special rules consistent with Recommendation 6 for enhanced due diligence regarding Politically Exposed Persons. The obliged entities are also required to develop internal rules and regulations regarding PEPs.( <i>See Appendix IV, Annex 1, Art. 8 of the AML/CFT Law</i> )
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

Recommendation 7 (Corresponding banking)	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To implement in the LPML, and to detail in sectoral rules as appropriate, the requirements of Recommendation 7 on correspondent banking relationships.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Consistent with Recommendation 7, the NDL defines the requirements concerning cross-border correspondent banking (see NDL, article 2, point 5 (Appendix III , Section I , Annex 1) services provided by banks. See NDL, Art. 6, para. 6 (Appendix III , Annex 1).
Measures taken to implement the Recommendation since the adoption of the first Report	AML/CFT Law defines the requirements concerning cross-border correspondent banking services provided by banks. The definition is fully in line with Recommendation 7, ( <i>See Appendix IV, Annex 1, Art. 9, para. 1&amp;2 of the AML/CFT Law</i> ).
(other) changes since the first progress report	

(e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	
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<b>Recommendation 8 (New technologies &amp; non- face-to-face business)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To implement in the LPML, and to detail in sectoral rules as appropriate, the requirements of Recommendation 8 on risks associated with new technologies and non-face to face transactions.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL requires subjects to have policies in place, or take such measures as may be needed, to prevent the misuse of new technological developments for the purpose of money laundering or financing of terrorism. See NDL, Art. 6(Appendix III , Annex 1). Further, the BoA regulation on e-banking has KYC requirements.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law requires obliged entities to have policies in place, or take such measures as may be needed, to prevent the misuse of new technological developments for the purpose of money laundering or financing of terrorism. <i>(See Appendix IV, Annex 1 , Para 8, Art. 9 of the AML/CFT Law)</i>
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

<b>Recommendation 11 (Unusual transactions)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>When finalising the new draft AML Law, to pay special attention to the requirements of FATF Recommendation 11 to introduce a requirement to examine the background and purpose of transactions.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL specifically requires enhanced due diligence with regard to complex or unusually large transactions, etc. and calls for transaction background and purpose investigation See NDL, Art. 6, para. 8 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law requires from the obliged entities to apply enhanced due diligence with regard to complex or unusually large transactions, etc. and calls for measures to be taken to ascertain the background as well as the purpose of the transaction. <i>(See Appendix IV, Annex 1 Art. 9, para. 3 of the AML/CFT Law)</i>
(other) changes since the first	



progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	
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Recommendation 12 (DNFBP)	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<ol style="list-style-type: none"> <li>1. To cover explicitly real estate agents when they are involved in transactions for a client concerning the buying and selling of property.</li> <li>2. To introduce a clear requirement for traders in precious metals and stones to apply CDD principles when they engage in any cash transaction with a customer equal or above €/USD 15,000.</li> <li>3. To cover attorneys, notaries, other independent legal professions and accountants in the circumstances provided for in recommendation 12.</li> </ol>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	See responses to Recommendation 5 above.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>AML/CFT Law explicitly covers real estate agents when they perform buying and selling of property. With regard to dealers of precious stones and metals the law is very clear on the need to apply CDD principles when engaging in transactions above 1.5 million ALL (€/USD 15,000.).</p> <p>The notaries, attorneys and other legal professions are covered with reference to circumstances provided for in recommendation 12. (See Appendix IV, Annex 1 Art 3 and 4(1) of the AML/CFT Law )</p>
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

Recommendation 14 (Protection & no tipping-off)	
<b>Rating: Partially Compliant</b>	
Recommendation of the MONEYVAL Report	<i>To review the provision on the protection of reporting persons in the LPML (to cover only the reports to the FIU and to specify that it applies to reporting in good faith) and in the LMSTF (to cover explicitly protection against civil actions).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	These provisions are reviewed by the NDL but no changes have been made in the LMSTF. See NDL, article 9 and 10(Appendix III , Annex 1).
<b>Measures taken to implement the</b>	AML/CFT Law clearly states that the entities or supervising authorities, their managers, officials or employees who report or submit information in good faith in

<b>Recommendation since the adoption of the first Report</b>	compliance with the provisions of this law, shall be exempted from penal, civil or administrative liability arising from the disclosure of professional or banking secrecy. LMSTF also contains a provision that provides protection to persons reporting in good faith from penal and all other actions. (See Appendix IV, Annex 1 article 14 of the AML/CFT Law).
Recommendation of the MONEYVAL Report	<i>To review the drafting of “Guideline-Regulation” N°5 of 2004 so as to make it clear that reports filed in good faith are not subject to sanctions.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	After the approval of the NDL on AML will be considered the drafting of “Guideline-Regulation” N°5 of 2004.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The entities or supervising authorities, their managers, officials or employees who report or submit information in good faith in compliance with the stipulations of this law, shall be exempted from penal, civil or administrative liability arising from the disclosure of professional or banking secrecy (See article 14 of the AML/CFT Law).
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

<b>Recommendation 15 (Internal controls, compliance &amp; audit)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To introduce a requirement for internal procedures to address CDD measures.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL has introduced requirements for internal procedures on CDD measures to be taken from the reporting subjects. See NDL, Art. 12(Appendix III , Annex 1).
Measures taken to implement the Recommendation since the adoption of the first Report	AML/CFT Law requires from the obliged entities to assign the internal audit to check the compliance with the obligations of this law and of the relevant sublegal acts; (See Appendix IV, Annex 1 article 11 of the AML/CFT Law).
Recommendation of the MONEYVAL Report	<i>To review the function of the institution of the “money laundering reporting officer”(MLRO) and to make this officer responsible not only for the reporting of transactions but also for the effective implementation of internal AML/CFT procedures and mechanisms (and to clarify on that occasion, as appropriate, the distinction between the MLRO and the central unit for the centralisation of reports; alternatively, the content of Guideline-Regulation N°5 of 2004 could be reminded to reporting entities)</i>
Measures reported as	Such a function is reviewed by the requirements of the NDL and most of the

of 5 June 2007 to implement the Recommendations of the report	reporting subjects have already implemented these requirements even though the NDL is not yet approved. See NDL, Art. 12(Appendix III , Annex 1).
Measures taken to implement the Recommendation since the adoption of the first Report	The MLRO function is clearly specified in the AML/CFT Law and is responsible not only for the reports sent to the Competent Authority but also for the overall implementation of internal rules and procedures concerning the AML/CFT regime. ( <i>See, Art. 11 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To include in internal training programmes and awareness raising measures information on trends and techniques in the field of ML/FT.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL includes preventive measures to be undertaken by the subjects according internal training programmes and awareness raising measures information on trends and techniques in the field of ML/FT. See NDL, Art. 12(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law introduces a clear requirement on the obliged entities to provide regularly training of their employees on the prevention of money laundering and terrorism financing as well as trends and techniques.( <i>See Appendix IV, Annex 1, Art. 11 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To provide for manager and employee screening.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL includes preventive measures to be undertaken by the subjects according internal training programmes and awareness raising measures information on trends and techniques in the field of ML/FT. See NDL, Art. 12(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law stipulates the obligation for the application of fit and proper procedures by the obliged entities when hiring new employees, to ensure their integrity ( <i>See Appendix IV, Annex 1, Art. 11 of the AML/CFT Law</i> ).
Recommendation of the MONEYVAL Report	<i>To require the establishment of computerised information and data management systems in all financial institutions (apart from the banking and insurance sector), and non financial institutions as appropriate.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The preventive measures settled out in the NDL are requirements for all the subjects of this law and as such they are applicable not only to the financial institutions but to all the subjects designated in article 3 of this Law. A computerised information system is established in all the 2d tier banks (17 in all). It is a database called AML which enables the storing of data gathered by the SAR and CTR received from the banks. Improvements have been made even in the tax offices (till now there are 11 computerised tax offices in the territory of Albania), in the Customs, in the Regional Offices for the Registration of Immovable Properties and also in the insurance agencies system. The Insurance Agencies are obliged to use the on-line system of reporting.
<b>Measures taken to implement the</b>	AML/CFT Law includes a clear requirement for the establishment a centralized system, in charge of data collection and analysis mandatory for all the subjects of this

<b>Recommendation since the adoption of the first Report</b>	law and as such they are applicable not only to the financial institutions but to all the obliged entities. ( <i>See Appendix IV, Annex 1, Art. 11 of the AML/CFT Law</i> ).
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

<b>Recommendation 16 (DNFBP)</b>	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To develop an on-going dialogue between the GDPML and the various sectors of the DNFBPs so that legislative conflicts are identified and appropriate solutions proposed.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Before, during and after the drafting of NDL on AML there have been meetings with the representatives of the Bar Association and the National Chamber of Notaries. Their suggestions have been considered in proper way. Trainings have been carried out for the notaries to explain them the reporting of SAR to the GDPML or other kind of assistance in this field.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Before, during and after the drafting of the AML/CFT law and its sublegal texts, continuous meetings have taken place with the representatives of the Bar Association and the National Chamber of Notaries. Their suggestions have been taken into account and incorporated into the legislation. Several workshops have been organised for the notaries to explain to them the reporting of suspicious activities and value transaction reports to GDPML or provide additional assistance in this field.
Recommendation of the MONEYVAL Report	<i>To arrange a scheduled and continuous training program for the various non financial entities those have to report to the GDPML.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	A very well scheduled training plan has been carried out for all the 2d tier banks, for the purpose of the implementation of the new electronic reporting and the reporting of SAR. In co-operation with the BoA inspections are actually being carried out in these banks.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The continuous training of the non financial entities is achieved through sector specific training for non-bank financial institutions, bureaux de change, leasing companies etc. GDPML staff does also provide ongoing training during the onsite inspections for the various non-financial entities and identifies the needs to be addressed across particular sectors.
Recommendation of the MONEYVAL Report	<i>To issue directives for all the sectors that is the supervisory authority and to assist in preparing a directive from other supervisory authorities.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL provides that the Council of Ministers by proposal of Minister of Finance issues detailed rules in relation to reporting forms, methods and procedures in compliance with this Law for licensing and supervisory authorities, etc. Also the Minister of Finance by proposal of the Responsible Authority issues within 3 months from the publication of the Law, detailed rules for different sectors.

	See NDL, article 23 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law states that the Council of Ministers based on the proposal of Minister of Finance, issues detailed rules regarding the reporting forms, methods and procedures in accordance with this Law for all licensing and supervisory authorities. The Minister of Finance does also based on the proposal of the Responsible Authority issues within 6 months from the publication of the Law, instructions for different categories of the obliged entities. (See Appendix IV, Annex 1, Art 28 of the AML/CFT Law)
Recommendation of the MONEYVAL Report	<i>To review the reporting requirements and thresholds for DNFBP, along the lines of Recommendation 16.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Lawyers, notaries and other independent legal professionals are covered by the NDL; therefore they are subject to all the provisions for threshold reporting as well as suspicious activity.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Lawyers, notaries, accountants, real estate agents as well as casinos and games of chance are covered by the AML/CFT Law and therefore they are subject to all the provisions for threshold as well as suspicious activity reporting.
Recommendation of the MONEYVAL Report	<i>To consider the utility of a system where certain professions (e.g. lawyers) report through their organisation.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	As explained above, this possibility was considered but was deemed premature considering the apparent lack of voluntary compliance in some professions; as well as the infancy of AML/ATF reporting in Albania.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The Albanian authorities have taken into account all the possible ramifications from the establishment of such system and it was concluded that it would be ineffective bearing in mind the apparent lack of voluntary compliance in some professions; as well as the need for further strengthening of the AML/ATF regime in Albania.

<b>Recommendation 17 (Sanctions)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To review the policy concerning sanctions and make sure they are adequately applied by supervisors and the GDPML when it is necessary.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	As a matter of fact, the supervisors of GDPML have already applied different milder measures when they have stated administrative violations in the inspected reporting subjects during 2006. The NDL also includes a policy concerning sanctions that will be applied, if necessary, by the supervisors of the GDPML during/after their inspections to the reporting subjects. See NDL, article 21(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law has introduced a sanctioning regime that is both dissuasive and robust. Sanctions have been adequately applied during the years 2007 and 2008, by the Inspections Department based on administrative violations encountered during on and off-site inspections. (See Appendix IV, Annex 1 , Art 27 of the AML/CFT Law)
Recommendation of	<i>To review the sanction system in the LPML and Guideline-Regulation N°5 to ensure</i>

the MONEYVAL Report	<i>consistency, to include explicit milder measures such as warnings and to make them applicable to legal persons; Albania should consider in this respect a simpler system (applicable to all requirements of the LPML without listing them), leaving more discretion to the responsible authorities to decide.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	After the approval of the NDL on AML will be considered the review of the sanctions system.
Measures taken to implement the Recommendation since the adoption of the first Report	The sanction regime does provide for mild measures to be applied as well as allow discretion to the responsible authorities, imposing them. (See Appendix IV, Annex 1 , Art 27 of the AML/CFT Law)
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

Recommendation 18 (Shell banks)	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To insert in the LPML or banking regulations clear provisions defining and prohibiting the establishment of shell banks in Albania and the establishment of correspondent banking relationships with, or the opening of accounts by shell banks.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The term “shell bank” is included in NDL. As soon as the Law will be effective, the BoA regulation on AML will be reviewed in order to focus on shell bank activity as well. In practice, there is no operation of shell banks in Albania, and from the verifications on-site, their no correspondent banking with such banks, from banks that operate in Albania, but provisions for the business relationships with these entities are given in the NDL See NDL, Art. 2, 6 and 7(Appendix III , Annex 1).
Measures taken to implement the Recommendation since the adoption of the first Report	AML/CFT Law provides a definition of the term “shell bank” which is in line with the FATF definition. The law also specifies that the entities shall not carry out correspondent banking services with banks, the accounts of which are used by shell banks. The entities shall terminate any business relationship and report to the responsible authority, if they notice that, the accounts of the corresponding bank are used by shell banks. (See Appendix IV, Annex 1 Art. 9, Para 2 of the AML/CFT Law). Law 9662, December 12 2006 “On banks in the Republic of Albanian” states in Art.5 “The right to carry out banking activities” the following; <i>Banking activity in the Republic of Albania shall be carried out by:</i> <i>a) a bank with legal seat in the territory of the Republic of Albania, licensed by the Bank of Albania;</i> <i>b) a branch of a foreign bank licensed from the Bank of Albania.</i>
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft	

<b>“other enforceable means” and other relevant initiatives)</b>	
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<b>Recommendation 19 (Other forms of reporting)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>The thresholds may need to be lowered in the context of Albania, GDPML has no systems to adequately store and analyse the reports it receives.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	A new database system is designated and already installed in the GDPML for the storing of information received from the 2d tier banks. With the new provisions of the NDL the number of reports received for 2008 is predicted to be nearly 65.000 and therefore a new database system, including analysis software, is in process of designation according to CARDS 2004. In the NDL the threshold for reporting has been lowered. See NDL, articles 8(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law has already introduced lower reporting thresholds for all transactions as well as the obligation for the obliged entities to report all cash transactions The overall IT capabilities of the GDPML have been enhanced significantly as a result of considerable financial support from the EU Delegation regarding HW/SW capacities. A new case management system has been designed and is operational. Efforts are underway to ensure electronic delivery of the reports from obliged entities. An analytical software is already operational and will provide added value to the overall analysis of the ever increasing number of reports. ( <i>See Appendix IV, Annex 1 Art 12, of the AML/CFT Law</i> ).
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

<b>Recommendation 20 (Other DNFBP &amp; Secure transaction techniques)</b>	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To extend the scope of art. 12 of the LPML so as to cover also the tax administration, Customs and licensing/supervisory bodies</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL calls for required reporting by tax authorities, Customs, Office of Real Estate Registration, the Office for Shareholder Registration and non-profit organization registration authorities. See NDL, Arts. 13–16 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law specifies the reporting obligation from Tax authorities, Customs, CORIP and licensing/supervisory bodies. ( <i>See Appendix IV, Annex 1 Art. 17,18,19 &amp; 24 of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To introduce further limits on cash payments and consider the usefulness of introducing a general prohibition to perform outside the banking system transactions above a certain amount (adapted to the situation of the country).</i>

Measures reported as of 5 June 2007 to implement the Recommendations of the report	Combating the informal economy is one of the biggest goals of the Albanian Government and different measures are being taken by different institutions, included BoA, GDPML, GDT, GDC, etc.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law introduces for the first time the obligation to report all cash transactions above 1.5 million ALL that applies to all obliged entities. ( <i>See Appendix IV, Annex 1 para. 3 article 12 of the AML/CFT Law</i> ).
Recommendation of the MONEYVAL Report	<i>To take the necessary measures, whether legal or interpretative, so that the wording of existing regulations obliging legal persons to disburse/pay amounts above ALL 300,000 through the banking system applies to all types of payments.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	For this purpose, the structures in charge of Public Relations in the General Directorate of Taxations have carried out different awareness campaigns.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	To this end the Tax authorities have conducted awareness enhancing campaigns in order to encourage the use of banking channels for all payments carried out above the 300,000 ALL threshold and sanctions are applied for noncompliance. GDT does not recognize any expenditures that businesses perform outside the banking system.
Recommendation of the MONEYVAL Report	<i>To take the necessary measures, whether legal or interpretative, to ensure that the definition of transactions in the LPML and elsewhere clearly applies to all payment instruments (and does not exclude for instance cheques).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	To take the necessary measures, whether legal or interpretative, to ensure that the definition of transactions in the LPML and elsewhere clearly applies to all payment instruments (and does not exclude for instance cheques).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law defines transaction as a “business relation or an exchange that involves two or more parties”. Moreover the definition for “bearer negotiable instruments” is in line with the definition of FATF and the holder of these instruments is subject of this Law. ( <i>See Appendix IV, Annex 1, article 2 of the AML/CFT Law</i> ).
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

<b>Recommendation 21 (Special attention for higher risk countries)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>When finalising the new draft AML Law, to pay special attention to the requirements of FATF Recommendation 21 and to introduce a requirement to examine the background and purpose of transactions and apply special prudential measures to</i>



	<i>countries and territories where ML/FT risks are high (and to provide for appropriate countermeasures to be taken when transactions with those regions occur).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The purpose of the NDL is to fulfil the international standards on AML/CFT. Therefore requirements to examine the background and purpose of transactions and apply special prudential measures to countries and territories where ML/FT risks are high are provided by this NDL. See NDL, Art. 6 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>According to the AML/CFT Law the obliged entities must verify and apply enhanced due diligence to business relationships and transactions with clients residing or acting in countries that do not apply or partially apply the relevant international standards on the prevention and fight against money laundering and financing of terrorism.</p> <p>One of the main purposes of the law is to fulfill the international AML/CFT standards. Therefore requirements to examine the background and purpose of transactions and apply special prudential measures to countries and territories where ML/FT risks are high are provided. (See Appendix IV, Annex 1 para. 5, art. 9 of the AML/CFT Law)</p>
Recommendation of the MONEYVAL Report	<i>To adopt measures to ensure that financial (and other) institutions are advised of concerns about AML/CFT weaknesses in other countries.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	These measures are provided in the NDL and have been already implemented even though the NDL is not yet been approved. See NDL, article 6 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The AML/CFT Law stipulates that one of the duties of the “Responsible Authority” is to provide guidance to obliged entities regarding application of enhanced due diligence measures, by issuing a list of countries that do not comply or partially comply with the international AML/CFT standards, in order to limit and/or check the transactions or business relations of the entities with these countries;( See Appendix IV, Annex 1, Art 22, para ‘i’ of the AML/CFT Law)
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	
Recommendation of the MONEYVAL Report	<i>To implement measures to ensure effective AML/CFT supervision over the non banking sectors covered by the BoA</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	All the subjects licensed by BoA (i.e non-banking financial institutions, etc.) should comply with the AML requirements contained in BoA regulations. This is verified through periodical on-site examinations by BoA of all such licensed institutions.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	All the subjects licensed by BoA (i.e. non-banking financial institutions, etc.) should comply with the AML requirements contained in BoA regulations. This is verified through periodical on-site examinations by BoA of all such licensed institutions. These requirements are stipulated in the “Regulation on money laundering prevention” approved by the Supervisory Council decision no.44 June 6, 2009. Continuous inspections are carried out for all the licensed subjects, part of which is AML/CFT

	evaluation. Recommendations are released, following the identified deficiencies that are required to be addressed effectively.
Recommendation of the MONEYVAL Report	<i>To implement measures to ensure effective AML/CFT supervision over the insurance sector.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The Insurance Supervising Authority (ISA) has become the Financial Supervisory Authority (FSA) that supervises not only the insurance financial institutions but also the non-bank financial institution (definition of AMF). As a supervising Authority FSA is subject to the provisions of NDL. See NDL, Art. 20 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The Financial Supervisory Authority (FSA) does supervise several categories of obliged entities including companies that provide life insurance products.(See Appendix IV, Annex 1 article, 24 of the AML/CFT Law)
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

<b>Recommendation 24 (DNFBP – Regulation, supervision and monitoring)</b>	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To urgently devise and implement a supervision mechanism for DNFBP along the lines of FATF Recommendations 24.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The FSA supervises all the financial transactions of the Insurance Agencies with the other DNFBP, controls the financial records and approves their financial situations. For the suspicious cases FSA is obliged to report to the Responsible Authority.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	FSA is obliged to report to GDPML any suspicion related to ML/FT. There are also SROs such the national Chamber of Notaries, Bar Association that do oversee the activities of their members. The Gaming Commission regulates and supervises the activities of the casinos and games of chance and reports to GDPML any findings relevant to ML/FT activities .
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

<b>Recommendation 25 (Guidelines &amp; Feedback)</b>	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To enact provisions to provide feedback to the reporting person or institution.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL contains a provision whereby the Responsible Party may provide feedback where appropriate to obligated subjects. See NDL, Art. 18, Letter j(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law contains a provision whereby the “Responsible Authority” may provide feedback where appropriate to obliged entities. GDPML has also provided feedback to obliged entities regarding several opened cases based on the Suspicious Activity Reports they filed. (See Appendix IV, Annex 1 Art. 22, letter l of the AML/CFT Law).
Recommendation of the MONEYVAL Report	<i>To urgently devise and implement guidelines and rules for financial institutions and DNFBP along the lines of FATF Recommendations 25</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Consistent with FATF Recommendation 25, the NDL provides for dissemination of guidelines and rules for financial institutions and DNFBP. As explained elsewhere, these guidelines will not be issued until passage of the NDL into law.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Following the enactment and entry into force of the AML/CFT Law the “Responsible Authority” devised and presented for approval to the Minister of Finance Instruction No.11, 05.02.2009 “On reporting methods and procedures of nonfinancial professions” and its implementation has started from the date it became effective (See Annex 3).
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

<b>Recommendation 26 (The FIU)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To take any further measures that are deemed necessary to ensure definitely the autonomy and independence of the GDPML (e.g. a fixed term for the post of General Director, statutory independence vis a vis instructions etc.)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	A reorganisation of the actual structure of the GDPML is still in process and the NDL provides general rules for the well functioning of this institution, as specific rules are provided for in its internal Regulation. See NDL, article 17 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation</b>	AML/CFT Law specifies that the General Directorate of Money Laundering Prevention shall, pursuant to this law, exercise the functions of the responsible

<b>since the adoption of the first Report</b>	authority as an institution subordinate to the Minister of Finances. This Directorate, within its scope of activity, shall hereby be entitled to define the way of handling and resolving cases related to possible money laundering and to financing of possible terrorist activities. <i>(See Appendix IV, Annex 1 Art. 21 of the AML/CFT Law )</i>
Recommendation of the MONEYVAL Report	<i>To provide for clear rules guaranteeing the confidentiality and regulating the use/sharing of information centralised by the GDPML so that it is used only for AML/CFT purposes.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	As stated in the “Intention” of the NDL, the information received from the GDPML will be used only for intelligence purposes in order to prevent the laundering of the proceeds of criminal activities and combat the financing of terrorism. See NDL, article 1 and 17(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Law states in its first article “The purpose of this law is to prevent laundering of money and proceeds, derived from criminal offences, as well as, the financing of terrorism”. To this end the information disseminated from the GDPML will be used only for intelligence purposes in order to prevent the laundering of the proceeds of criminal activities and combat the financing of terrorism. <i>(See Appendix IV, Annex 1, Art. 22, letter ‘e’ of the AML/CFT Law).</i>
Recommendation of the MONEYVAL Report	<i>To clarify the role of the GDPML as an analytical, administrative body instead of a body in charge of investigations and finding hard evidence on ML/FT offences (which should remain the police and prosecutorial bodies’ responsibility).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	As defined in the NDL “Responsible Authority” is the General Directorate for the Prevention of Money laundering is the Financial Intelligence Unit of the Republic of Albania. It is the national centre charged with collecting, analyzing and disseminating data about potential money laundering and the financing of terrorism activities. The General Director of GDPML reports directly to the Minister of Finance.  The duties and right of the Responsible Authority are also defined in this NDL. See NDL, article 17 and 18 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law states the “Responsible Authority” is the General Directorate of Money Laundering Prevention that reports directly to the Minister of Finances, and serves as Financial Intelligence Unit of Albania. Moreover, this directorate shall operate as the responsible national center for collection, analysis and dissemination to law enforcement agencies of information and the potential money laundering and terrorism financing activities. The law also defines the organization, duties and functions of the GDPML. <i>(See Appendix IV, Annex 1 Art. 21 and 22 of the AML/CFT Law)</i>
Recommendation of the MONEYVAL Report	<i>To produce and publish a periodic report by the GDPML and to provide for consistent requirements on this matter.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	In the NDL, under the duties and rights of the Responsible Authority, is stated also the requirement to publish a periodic report. See NDL, article 18(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law requires GDPML to publish by the first quarter of each year the annual public report for the previous year on the activity of the responsible authority. The report shall include detailed statistics on the origin of the received reports and the results of the cases referred to the police and prosecutorial bodies. <i>(See Appendix IV, Annex 1 Art. 22 of the AML/CFT Law).</i> <i>Annual reports from 2005 to 2008 can be obtained in electronic format in the GDMPL</i>

	website <a href="http://www.fint.gov.al">www.fint.gov.al</a> .
Recommendation of the MONEYVAL Report	<i>To establish as soon as possible a computerised information system to receive on-line, process and store rapidly the data transferred by obliged entities and to help the GDPML improve access to information, the quality of its analytical work and its ability to cooperate domestically and internationally.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	A computerised information system is established in all the 2d tier banks (17 in all). It is a database called AML which enables the storing of data gathered by the SAR and CTR received from the banks. According to the CARDS 2004 program there is in process a twining project, which should include not only financial and practical assistance for a period of two years, but logistical (hardware and software) assistance.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The significant changes that have taken place in the IT division in the GDPML allow for enhanced capabilities, both on a professional and technical level. The exchange of information is carried out electronically with several banks as well as online reporting is technically available and is being widely used by notaries, non-bank financial institutions, construction companies, Bureaux de change etc. The advanced HW/SW systems that were obtained thanks to the generous support of the EU Delegation in Tirana have also played an important role in strengthening the analytical capabilities of the GDPML specialists as well as create a conducive environment for a more effective co-operation and information exchange both domestically and internationally.
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

<b>Recommendation 27 (Law enforcement authorities)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To clarify the respective responsibilities of the GDPML on the one hand and the police and prosecutorial bodies on the other hand; the former should in principle be an analytical body generating possible ML and FT cases, whilst the latter should initiate their own cases, in addition to investigating and prosecuting cases generated by the GDPML.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Under the duties and rights of the Responsible Authority, are listed in the NDL. See NDL, article 18(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Duties and functions of the responsible authority are specified in article 22 of the AML/CFT Law. Task and functions of the Police and Prosecutor’s office are defined in the Criminal Code, Criminal Procedures Code as well as the Law “On State Police”
Recommendation of	<i>To produce studies on ML, including its trends and techniques.</i>

the MONEYVAL Report	
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Based on the provisions on the NDL on AML, the National Committee can establish operational and/or technical working groups to assist it in carrying out its functions and studies on the trends and typologies of ML/TF. See NDL, article 19(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the AML/CFT Law, the Coordination Committee for the Fight Against Money Laundering can establish operational and/or technical working groups to assist it in carrying out its functions and studies on the trends and typologies of ML/TF. <i>(See, Art. 23 of the AML/CFT Law)</i>
Recommendation of the MONEYVAL Report	<i>To increase the level of expertise at the level of judicial police (further training and guidance in all police departments that deal with the investigation of ML and financial crimes more generally, recruitment of experts with academic background etc.)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	<p>Trainings are carried out for the specialists of the field to encourage the use of these measures. According to CARDS 2004 there is in process a twinning project between the Federal Office of German Police and GDPML, Ministry of Interiors of Albania and GP, which includes financial, technological and practical assistance like trainings for the analysis of the investigation of financial crimes in general, etc. Other trainings have been carried out during 2006 according the projects of CARPO, PAMECA, ICITAP, and Ministry of Interiors of France.</p> <p>Actually there is in process a training program by the Austrian counterpart. These trainings include not only strategical or performance analysis for financial crimes, but also trends and methodology of investigations.</p>
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>In May 2007, 3 State Police officers (membership in the Sector for fight Against Money Laundering) and 2 inspectors from Albanian Tax Authority are selected and trained in the Federal Law Enforcement Training Canter, Glynco, Georgia, USA topics “Financial Fraud, money laundering and corruption investigation”. 7 prosecutors, 7 Judicial police officers in Tirana Prosecutor, 10 state police officer, 4 judicial police officers form Tax Authority, 4 judicial police officers form Custom, 1 specialist from FIU, 2 specialist for fight against organize crime in the Albanian National Intelligent Service, are selected and trained for fight against money laundering, financial crime, and corruption. This unit work together in the Joint Investigative Unit for fight against corruption and Financial crime in Tirana prosecutor.</p> <p>15 Judicial police officer staff of sector for fight against money laundering in the centre of state police and 12 regional offices together with FIU, prosecutors and judicial police officers are trained according the Cards Program 2004.</p> <p>It is based on articles 102/4 and 118, on the Law No. 7905, dated 21.3.1995 “Criminal Procedure Code”, on the Law No. 8737, dated 12.02.2001 “On the organization and functioning of the Prosecution Office in the Republic of Albania”, on the Law No. 8677, dated 2.11.2000 “On the organization and functioning of judicial police”, and on the Law No. 8391, dated 28.10.1998 “On the National Intelligence Service”; with the respective amendments, the Prosecutor General, the Minister of Interior, the Minister of Finance, and the Director of the National Intelligence Service.</p> <p>Trainings and study visits are carried out for the specialists of the field to encourage the use of these measures. According to CARDS 2004 there is in process a twinning project between the Federal Office of German Police and GDPML, Ministry of</p>

	<p>Interiors of Albania and GP, which includes financial, technological and practical assistance like trainings for the analysis of the investigation of financial crimes in general, etc. Other trainings have been carried out during 2006 according the projects of CARPO, PAMECA, ICITAP, and Ministry of Interiors of France.</p> <p>Actually there is in process a training program by the Austrian counterpart. These trainings include not only strategically or performance analysis for financial crimes, but also trends and methodology of investigations.</p>
Recommendation of the MONEYVAL Report	<i>To clarify the legal basis for controlled deliveries and the possibility to waive the arrest of a suspect for the purpose of ML/FT investigations.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The legal basis of the controlled deliveries is issued by the law no. 8750, date 26.03.2001. "For the prevention and the fight against traffic of drugs" and no changes have been made since the last evaluation.
Measures taken to implement the Recommendation since the adoption of the first Report	The legal basis for controlled deliveries and possibility to waive the arrest of a suspect for the purpose of ML/FT investigation consist of law no. 8750, date 26.03.2001. "For the prevention and the fight against traffic of drugs" articles 294/a and 294/b of the Penal Procedure Code.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

<b>Recommendation 30 (Resources, integrity and training)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To provide the GDPML with an adequate budget and equipment to make it less dependent on foreign assistance.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	GDPML has its own yearly budget that fulfils its immediate needs. GDPML is in process of signing the contract for a twining project with German Federal Police Office, according to CARDS 2004 which will include financial assistance as well as practical and logistical assistance. See also NDL, article 17(Appendix III , Annex 1).
Measures taken to implement the Recommendation since the adoption of the first Report	GDPML has its own yearly budget that sufficiently fulfils its needs. GDPML is also the leading institution in a two year Twinning Project "Tackling money laundering and financial crime". There are five Albanian beneficiary institutions involved in this project that is conducted jointly with the German Federal Criminal Office (BKA) and has played a significant role in strengthening the professional capabilities of the Albanian experts involved in the AML/CFT regime. The technical capabilities of the GDPML have been recently strengthened significantly through the support of the EU Delegation for the installation of the state of the art Hardware and Software.
Recommendation of	<i>To ensure the increase of staff takes place as planned so that the GDPML can deal</i>

the MONEYVAL Report	<i>with its analytical work and can start implement its new supervisory and inspection function, and to put in place a training programme for the GDPML staff.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The number of the staff of GDPML has been increased in 22 with the approval of its new organisational chart by the PM in 2006.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The number of the staff of GDPML has been increased from 22 to 26 people with the approval of its new organisational chart based on the Prime Minister's Order of June 2009.
Recommendation of the MONEYVAL Report	<i>To introduce a training scheme for the GDPML taking into account the newly recruited staff; the development of supervisory/inspection functions, and the introduction of an IT system (an analytical software).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The newly recruited staff has been trained with the financing of the US Treasury Department (at FINCEN in June 2006), the IMF (JVI-Austria in March and September 2006) and other entities (PAMECA, ICITAP, etc in September 2006 in Tirana). According to the new twinning project the German counterpart will assure trainings for all the staff of GDPML.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The staff recruited recently has undergone extensive training in the framework of the Twinning Project with the German Federal Criminal Office (BKA) "Tackling Money Laundering and Financial Crime". The staff has also participated in workshops organised by IMF (JVI-Austria in March and September 2007, 2008) and other organizations involved currently in various projects in Albania (PAMECA, ICITAP, TAIEX, OPDAT,). The project for the installation and the operation of the analytical software has also received the outmost attention from the GDPML. Special attention has been paid to the ongoing training of the analysts with reference to acquiring the necessary skills in managing and operating the analytical software.
Recommendation of the MONEYVAL Report	<i>To review the adequacy of the staffing of the Police Directorate for Combating Organised Crime and Witness Protection (especially its central Division on the fight against money laundering and economic-financial crime) and of the Prosecutor's Office for economic crime, money laundering and terrorist financing, and increase it as necessary with transfers from district agencies.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The new structure of the State Police has been approved and the actual Central Division on the Fight Against Money Laundering and Economic-financial Crime will soon become a Directorate with three sectors, one of which will cover only the purposes of ML and TF.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>The new structure of the State Police has been approved and the actual Central Division on the Fight Against Money Laundering and Economic-financial Crime will soon become a Directorate with three sectors, one of which will cover only the purposes of ML and TF.</p> <p>The investigative responsible authority for fight against money laundering end terrorist financing is the Sector for Fight Against Money Laundering in The Fight Against Economic Crimes Directorate under the Department for Crime Investigation in the State Police.</p> <p>This structure is established under the Fight against Economic Crimes Directorate from December, 2007. It functions in the sector level with 1 chef and 4 specialists in</p>



	<p>the center and in the sections level in 12 districts of Police Albania. This structure currently has in force 19 police officers.</p> <p>The Sector for Fight against Money laundering is authority for investigating the Suspicious Transactions Reports (STR) from Albanian FIU, money laundering &amp; terrorist financing case started with his initiative based in the intelligence information, partner information's, capitals suspicious origin or suspicious persons, prosecutors request, rogatory letters these flagrancy cases, public information's or public, administrative, legal denunciator, etc.</p>
Recommendation of the MONEYVAL Report	<i>To provide further training to judges on ML and financial crimes more generally.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Actually, according to the MEMEX program, the some specialists of GDPML, of the Ministry of Interiors, Judges and Prosecutors are being trained on trends and techniques of investigation and detection of financial crimes.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	OPDAT, ICITAP, CARDS Program 2004, Judicial Magistrate School are involved actually and in the future for judges training concerning AML/CFT. Actually, according to the MEMEX and I2 program, the some specialists of GDPML, of the Ministry of Interiors, Judges and Prosecutors are being trained on trends and techniques of investigation and detection of financial crimes, money laundering and corruption.
Recommendation of the MONEYVAL Report	<i>To review the adequacy of staffing of the BoA supervision department and increase it as necessary to enable it to effectively supervise the various sectors under the responsibility of the BoA.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation because the staffing seems to be proper to the well functioning of this department.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	No changes since the last evaluation because the staffing seems to be proper to the well functioning of this department. There are structural changes already planned for the Supervision Department in the near future. The division of sectors or according to activities performed by the licensed subjects will be taken into consideration.
Recommendation of the MONEYVAL Report	<i>To draft a development plan for the Insurance Supervisory Authority – in order to address its insufficient staffing and resources - taking into consideration the anticipated growth in the insurance sector.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The ex-ISA (Insurance Supervising Authority) has become FSA (Financial Supervising Authority) that supervises not only the insurance financial institutions but also the non-bank financial institution.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law states that the life insurance companies will be obliged entities; therefore the FSA (Financial Supervisory Authority) has sufficient staffing to ensure effective oversight. <i>(See Appendix IV, Annex 1 Art. 3 of the AML/CFT Law)</i>
<b>(other) changes since the first progress report (e.g. draft laws, draft</b>	

regulations or draft "other enforceable means" and other relevant initiatives)	
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Recommendation 31 (National co-operation and coordination)	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To make better use of the various existing coordination levels to review the effectiveness of AML/CFT efforts; this would first require to identify the common patterns of money laundering and to devise more effective approaches to reduce current vulnerabilities. Co-operation with the obliged and reporting entities needs also to be fostered and diverging interpretations eliminated.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	In February 2007, the General Director of GDPML re-called the Technical Inter-Institutional Group to re-function as required from the Regulation of the National Committee for the Fight Against Money Laundering. Now it gathers regularly every month, with a scheduled agenda which includes apart from the general policies on ML/TF, even the discussion of concrete and unresolved cases, which need a stronger and better co-operation between partner institutions.
Measures taken to implement the Recommendation since the adoption of the first Report	The Inter Institutional Group has held regular meetings that have been attended by experts of the relevant ministries and agencies involved in the fight against money laundering and terrorism financing. In December of 2008 the Coordination Committee for the fight Against Money Laundering held its annual meeting during which the Head of GDPML presented the overall activities conducted by the Inter Institutional Group.
Recommendation of the MONEYVAL Report	<i>To adopt urgent coordinated measures to stop the street foreign exchange business, which currently offers significant money laundering facilities and support to smuggling (and possibly other criminal) activities.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The BoA has prepared a new regulation on foreign exchange bureaus activities, which will provide a lower capital requirement in order to begin a formal FOREX activity. As the market is developing, banks are certainly more active in trading the foreign exchange, thus gaining considerable ground to the informal market. People find it less costly in money and time, and certainly more secure, to perform a foreign exchange transaction with banks.
Measures taken to implement the Recommendation since the adoption of the first Report	<p>The BoA has prepared a new regulation on foreign exchange bureaus activities, which will provide a lower capital requirement in order to begin a formal FOREX activity. As the market is developing, banks are certainly more active in trading the foreign exchange, thus gaining considerable ground to the informal market. People find it less costly in money and time, and certainly more secure, to perform a foreign exchange transaction with banks. Following the eased requirements of the current regulation, there is a significant increase of licensed FOREX dealers that were previously operating under illegal circumstances. Albanian State Police has also enhanced its efforts to clamp down on the illegal operators and GDPML has notified the Prosecutor's Office as well as the police regarding unlicensed forex operations based on SARs received by the banks.</p> <p>Article 90 of the Law "On Banks in the Republic of Albania" states that the unlicensed operation of foreign currency exchange operations is punishable by sanctions or imprisonment up to three years.</p>
(other) changes	

since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	
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Recommendation 32 (Statistics)	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To keep figures on the origin of FT information and suspicion reports in order to assess the effectiveness of co-operation of the industry and other sectors.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	According to the internal Guideline-Regulation of GDPML, statistics are carried out monthly, quarterly and yearly. This statistics help to enhance the inspections and the co-operation between the GDPML and the reporting subjects.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	According to the internal Guideline-Regulation of GDPML, statistics are carried out monthly, quarterly and yearly. This statistics help to enhance the inspections and the co-operation between the GDPML and the reporting subjects.
Recommendation of the MONEYVAL Report	<i>To keep on an ongoing basis more detailed statistics on the origin of reports received and the outcome of cases forwarded to the prosecutor.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The statistics are kept on basis of the origin of reports and are daily updated as the reports are received. Statistics are also carried out and updated for every single case referred to the Prosecutors Office. To keep on an ongoing basis more detailed statistics is one of the duties of the Responsible Authority stated in the NDL. See NDL, article 18 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	GDPML does keep detailed statistics regarding the source of SAR’s received as well as numbers of the cases opened and sent to state police and prosecutor’s office. This numbers are being used to develop further knowledge about trends and modus operandi to be shared with obliged entities and LEA.
Recommendation of the MONEYVAL Report	<i>To keep more specific and detailed statistics on mutual legal assistance mechanisms.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No statistics because there have been no cases of MLA.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The General Prosecutors Office keeps data regarding the cases related to ML/FT, seizures and forfeiture. Although this instrument is normally used in respective cases no comprehensive statistics have been kept to date and this deficiency will be addressed within a short period of time.
Recommendation of the MONEYVAL Report	<i>To keep more specific and detailed statistics on extradition.</i>

Measures reported as of 5 June 2007 to implement the Recommendations of the report	No statistics because there have been no cases of extradition for the criminal offence of money laundering or terrorism financing.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The Foreign Relations Directorate in the General Prosecutor's Office keeps statistics related to FT extraditions. With respect to Money Laundering there have been no cases where a ML predicate offence was proved that would justify the issuance of an extradition order.
Recommendation of the MONEYVAL Report	<i>As a priority, to finalise throughout the country the computerisation of law enforcement authorities, the courts and all other databases which are useful for AML/CFT purposes (e.g. registers of persons and identification documents, registers of property, registers of companies and non profit organisations etc.) and ensure as much as possible on line access to the GDPML.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	By now 11 Tax Offices have been computerised throughout the country, some of the checking points in the cross borders customs, some of the Regional Offices for the Registration of Immovable Properties, the General Office for the Registration of Immovable Properties. There is in process the digitalisation of the register of persons and identification documents and the register of companies and non-profit organisations.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The digitization of police databases, National Registration Centre, Civil Registry, Credit Register, Databases of the Motor Vehicles Department, Tax and Customs Authorities have as well as other ongoing digitization efforts in the Ministry of Justice and General Prosecutor's Office will provided added value for the GDPML analysis in the near future.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

<b>Recommendation 33</b> <b>(Legal persons – access to beneficial ownership and control information)</b>	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To provide for a clear legal basis on deadlines for reporting changes to the Court register.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation.
<b>Measures taken to implement the</b>	A National Registration Centre (NCR) was created following the approval by the parliament on May 3, 2007 of the Law Nr 9273 "On the National Registration Centre".

<b>Recommendation since the adoption of the first Report</b>	The states that all natural and legal persons should apply for the initial registration within 15 days of starting the activity (for natural persons) or the date of the incorporation (for legal persons)
Recommendation of the MONEYVAL Report	<i>To computerise the Court register.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	There is in process the digitalisation of the register of companies and non-profit organisations. The data for natural and juridical persons have been submitted successfully; however, the information on anonymous companies, political parties and NPOs has not been entered.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	NCR has established a database for the registration and recording of all the relevant information required by the law for the natural and legal persons in Albania. The Court register in Albania has also been computerised and dates and other relevant data to court cases are accessible online.
Recommendation of the MONEYVAL Report	<i>To review the regulations applicable to bearer shares and make sure they take into account AML/CFT needs.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	No changes since the last evaluation. Bearer shares are not used in the country.
Recommendation of the MONEYVAL Report	<i>To establish an AML/CFT policy at the level of the register of companies; this policy should provide for controls of the criminal background of applicants and investors, identification of ultimate beneficial ownership, controls over the origin of funds.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The new law for the registration of the companies will review the possibility to establish such policies.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	<p>Albanian Legislation with reference to the registration of companies consists of: law no.9723, May 3rd 2007 "On the National Registration Centre" and law no.9901, April 14, 2008 "Company law".</p> <p>To prevent persons with a criminal background to possess or obtain ownership/control of the commercial companies, law no.9901, states that :</p> <p>"A person who has been convicted by a final judgment of the criminal offenses set out in Chapter III of the Special Part of the Criminal Code, may not, for up to five years from the date of that conviction, carry out the functions of a company legal representative, member of the Board of Directors or Supervisory Board, or shareholders' representative at the General Meeting."</p>
Recommendation of the MONEYVAL Report	<i>To consider extending the reporting duty of tax authorities and licensing bodies (art. 10/1 and 10/2) also to FT.</i>

Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL has clearly specified the need for the Tax Authorities to report. See NDL, article 14 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law clearly specifies the obligation for Tax authorities to identify their clients and report in all cases to the Competent Authority immediately and no later than 72 hours, every suspicion, indication, notification or data related to money laundering or terrorism financing. Furthermore the law sets out specific AML/CFT obligations for the supervisory authorities. (See Appendix IV, Annex 1, article 18&24 of the AML/CFT Law).
Recommendation of the MONEYVAL Report	<i>To devise ways to improve the transparency of businesses' real financial situation and to avoid the practice of double balance sheets (e.g. development of audit requirements for sectors at risk etc.).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	There is in process the restructuration of the General Directorate of Taxation under the EU-CAFAO program, which should provide better assistance in improving the activity of this institution and therefore the supervising of the transparency of the businesses.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Upon the restructuring of the General Directorate of Taxation and the creation of Directorate for the Tax Investigations is responsible for collecting and analyzing any information that is related to penal offenses related to taxes in line with article 180-182 of the Penal Code. This Department is developing ways to address tax related offenses based on the level of risk and will cooperate with the General Directorate of Customs, the Financial Intelligence Unit, Albanian State Police and other Intelligent Services through the exchange of information, offering or receiving specialized expertise in order to detect tax offenses, money laundering etc. To this end specialized experts will be appointed to cooperate with these institutions.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)	

<b>Recommendation 38 (MLA on confiscation and freezing)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To analyse the reasons why mutual legal assistance mechanisms are never used by Albanian authorities in ML/TF cases, and why no more requests reach the country despite certain factors (characteristics of Albanian organised crime, importance of Albanian diaspora leaving abroad etc.)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The MLA provisions have not been used because there have been no cases of MLA on money laundering or financing of terrorism.
<b>Measures taken to</b>	Since the inception of 2008 the first ML cases were initiated (and the number is

<b>implement the Recommendation since the adoption of the first Report</b>	growing) The mutual assistance instrument has been utilised in several cases with the following countries (Cyprus, BiH, England, Switzerland and France)
Recommendation of the MONEYVAL Report	<i>To issue guidance documents and take other initiatives aimed at judges and prosecutors, as appropriate, to make it clear that international instruments take precedence over Criminal Procedure Code provisions and can be directly applied for mutual legal assistance purposes in Albania.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation, but ongoing trainings for the judges and the prosecutors provide clear guidance on international instruments that take precedence over Criminal Procedure Code provisions and that can be directly applied for the cases of MLA in Albania.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The Constitution of the Republic of Albania (Article 116) states that Ratified International Agreements prevail over the domestic law (Criminal Procedure Code included). Albania has ratified the Convention on Mutual Legal Assistance and its Additional Protocols.
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	By order of the Minister of Justice a broad base working group has started its work on the drafting of a new Law “On Mutual Legal Assistance in Criminal Matters”.
Recommendation of the MONEYVAL Report	<i>To amend the provisions of the Criminal Procedure Code to permit letters rogatory to circulate without passing through the diplomatic channel (Art. 509 of the PPC) and to consider providing for direct contacts of Albanian judicial authorities with foreign counterparts.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	It is still in process the amendment of these provisions. The changes will be in line with the requirements of ratification of the Convention with the law no. 9539, date 22.05.2006 “On some changes in the law no. 8498, date 10.06.1999 “On the ratification of the Convention of the Council of Europe for MLA” and other protocols related”.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Paragraph 5 of Article 509 of the Criminal Procedure Code, provides for direct delivery of letters rogatory in case of urgency. The Second Additional Protocol to the European Convention on Mutual Legal Assistance on Criminal Matters, ratified by the Republic of Albania, provides for direct communication stating that requests for legal assistance 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. (Article 4 of the Second Additional Protocol, Channels of Communication).
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant</b>	By order of the Minister of Justice a broad based working group has started its work on the drafting of a new Law “On Mutual Legal Assistance on Criminal Matters” that will provide for channels of communication in line with the European Convention on Mutual Legal Assistance on Criminal Matters and its Additional Protocols.

<b>initiatives)</b>	
Recommendation of the MONEYVAL Report	<i>To introduce provisions dealing specifically with the execution/recognition of foreign decisions on seizure and confiscation of assets that meet the requirements of Recommendation 38 and SR V</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Articles 512-518 of the Criminal Procedure Code provide for the execution of foreign decisions in the Republic of Albania. Article 517 provides for the seizure of assets subject to confiscation under court decision upon Prosecutor's request.
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)</b>	By order of the Minister of Justice a broad base working group has started its work on the drafting of a new Law "On mutual Legal Assistance in Criminal Matters" that will provide specific rules on the recognition and execution of foreign decisions in the Republic of Albania.
Recommendation of the MONEYVAL Report	<i>To consider making provision on the sharing of confiscated assets (with requesting countries, when assets are confiscated in Albania).</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	By order of the Minister of Justice a broad base working group has started its work on the drafting of a Law "On Mutual Legal Assistance in Criminal Matters" that will provide specific rules on the sharing of confiscated assets in cases of mutual legal assistance.
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives)</b>	

<b>Special Recommendation VI (AML requirements for money/value transfer services)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To take rapidly all the necessary measures to ensure the proper implementation of SR VI and the related general FATF Recommendations, in particular Recommendation 23, to all economic agents providing money transfer services. The Albanian authorities (BoA and GDPML) should identify all the ultimate operators affiliated and keep a list</i>



	<i>that would enable them to carry out direct inspections, depending on the seriousness of risks.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL provides the definition of “beneficial owner”. See NDL, article 2. The GDPML in co-operation with BoA is carrying out inspections in all the 2d tier banks to assure the implementation and the well going of procedures on AML/CFT in line with the Albanian legislation and with the international standards.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law states that “ <i>the entities, the activities of which include money or value transfers, must ask for and verify first name, last name, permanent and temporary residence, document identification number and account number, if any, including the name of the financial institution from which the transfer is made. The information must be included in the message or payment form attached to the transfer. In case there is no account number, the transfer shall be accompanied by a unique reference number</i> ”. Both GDPML and BoA maintain detailed lists of all economic agents providing money transfer services and do carry out on site inspections to ensure compliance with the national AML/CFT legislation and relevant FATF recommendations.( <i>See Appendix IV, Annex 1, Art 10 of the AML/CFT Law</i> )
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

<b>Special Recommendation VII (Wire transfer rules)</b>	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To review the provisions in the BoA regulation of 2004 on wire transfers so as to make them applicable to both incoming and outgoing transfers, to use the regular terminology (wire transfers rather than e-banking) and to draft it in sufficiently broad terms to cover also legal persons, not only individuals, as well as domestic and international transfers.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The existing regulation is in the review process. The new draft has been prepared in accordance to the EU directive on e-banking
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Regulation No.44 dated 10.06.2009 of the Bank of Albania states that the terms used have the same meaning as those defined in AML/CFT Law “On the prevention of money laundering and terrorism financing”. ( <i>See Appendix IV, Annex ,1Art 2(18) of the AML/CFT Law</i> )
Recommendation of the MONEYVAL Report	<i>To solve the conflicting issues raised by the diverging provisions on thresholds for wire transfers in the LPML and BoA Regulation of 2004, and to lower it to the limit contemplated by SR.VII (USD/€ 3000)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of	As soon as the NDL is approved, the BoA regulation on AML will be reviewed.

the report	
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law sets forth clear requirements with regard to entities that carry out wire transfers. The BoA regulation on AML is being reviewed to include this recommendation. (See Appendix IV, Annex 1e Art.10 & 12 of the AML/CFT Law).
Recommendation of the MONEYVAL Report	<i>To make provision on wire transfers also in the LPML in order to cover all financial and other institutions involved in wire transfers.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The term “wire transfer” is included in the NDL and all the subjects specified in the Law (financial and non-financial institutions) that are engaged in these kinds of transactions should comply with the provisions of the Law. See NDL, article 2(Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law provides the following definition; “Direct electronic transfer” means every transaction made in the name of a first mandating person (individual or legal entity) through a financial institution, through electronic or wire transfer, with the purpose of putting a certain amount of money or other means or instruments of the money and/or payment market at the disposal of a beneficiary in another financial institution. The originator and the beneficiary can be the same person. (See Appendix IV, Annex 1 Art.10 of the AML/CFT Law)
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

<b>Special Recommendation VIII (Non-profit organisations)</b>	
<b>Rating: Non-compliant</b>	
Recommendation of the MONEYVAL Report	<i>To conduct a review of the AML/CFT risks and situation in the associative/non-profit sector.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The NDL doesn’t include NPOs as reporting subjects, but as special entities on which the reporting subjects should pay special attention (Enhanced Due Diligence) when carrying out business transactions with them. See NDL, Art. 16 (Appendix III , Annex 1).
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	AML/CFT Law doesn’t include NPOs in its list of obliged entities. Nonetheless it requires from every authority that registers or licenses non-profit organizations to report immediately to the responsible authority every suspicion, information or data related to money laundering or terrorism financing. NPO’s are also listed as one of the categories that should be treated with enhanced due diligence by the obliged entities when entering into a business relationship with or carrying out business transactions on their behalf. (See Appendix IV, Annex 1, Art. 8 para.3 and 20 of the AML/CFT Law).
Recommendation of the MONEYVAL Report	<i>To review, as appropriate, the legal and financial regime applicable to NPOs in order to avoid common illegal practices such as dual bookkeeping, and therefore to increase transparency and the reliability of information available.</i>

Measures reported as of 5 June 2007 to implement the Recommendations of the report	It is in process the amendment of the law on the registering and the well functioning of the NPOs, by a Working Group of the Ministry of Economy.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The establishment and the operational activity of the Department of Tax Investigations comprises the addressing of illegal practices and the enhancing of the transparency of the NPOs.
Recommendation of the MONEYVAL Report	<i>To devise a policy for the control and supervision over NGOs/NPOs taking into account ML/FT considerations (dissemination of FT list to the registers, awareness raising actions of the register, tax and other administrative services dealing with the sector etc.)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	The amendment of the law on the registering and the well functioning of the NPOs, is in process by a Working Group of the Ministry of Economy. This law will provide even rules for the control and supervision of all the NPOs.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The changes that the tax legislation has increased the level of supervision fo the NPO sector in general including ML/FT risks that could emerge. The Department of Tax Investiagtions cooperated closely with with the General Directorate of Customs, the Financial Intelligence Unit, Albanian State Police and other Intelligent Services through the exchange of information, offering or receiving specialized expertise in order to detect tax offenses, money laundering etc.
(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)	

<b>Special Recommendation IX (Cross-border declaration &amp; disclosure)</b>	
<b>Rating: Partially compliant</b>	
Recommendation of the MONEYVAL Report	<i>To adopt the draft amending Chapter 8 of the Customs Code (on sanctions), making sure they provide for adequate sanctions in case of under or false declaration.</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No amendments have been made since the last evaluation.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	No amendments have been made since the last evaluation.
Recommendation of the MONEYVAL Report	<i>To review the current policy which consists in applying immediate seizure and confiscation measures so as to allow, in certain cases, for the gathering of further information and evidence on criminal activities and persons involved and to initiate</i>

	<i>more cross-border covert operations since organised criminal activities remain an important issue (stolen cars trafficking, smuggling etc.)</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	No changes since the last evaluation.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	The current legal framework allows Law Enforcement Officials (especially prosecutors) to authorize/apply such measures that would lead to gathering further information.
Recommendation of the MONEYVAL Report	<i>To intensify training on AML/CFT issues for Customs employees, including on the detection and recognition of serious criminal activities (human beings trafficking, arms trafficking, drugs trafficking, smuggling of different goods ) and movements of funds possibly related with ML/FT</i>
Measures reported as of 5 June 2007 to implement the Recommendations of the report	Trainings (January 27 <sup>th</sup> , 2007) from the inspectors of the GDPML have been carried out for the employees of the Customs Offices all over the country. A joint group of specialists from the GDPML, the General Directorate of Customs and the State Police have inspected the Customs Offices all over the country during 2006 and similar inspections will take place during 2007 also, to assure the implementation of the Guidelines on AML/CFT.
<b>Measures taken to implement the Recommendation since the adoption of the first Report</b>	Several training sessions have been provided to the staff of the General Directorate of Customs either by the GDPML specialists or in the framework of the Twinning Project with the German Federal Criminal Office. AML/CFT topics related to various predicate offenses have been presented and accompanied with practical cases both national and international. Customs experts have also participated in two study visits in Germany where they have been acquainted with practical issues and methods of detecting criminal activities including the illegal movement of funds.
<b>(other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives)</b>	

#### 4. Specific Questions

*a) What has been done in order to make the obliged non-financial (private) sector more cooperative? Has on-going dialogue and co-operation between the non-financial sector and the GDPML been established and has the drafting of guidelines and planning of training programmes on AML/CFT issues been initiated?*

During 2006 have been inspected 100 reporting subjects (obliged non-financial /private sector) out of 300 detected to be inspected. Their suggestions have been considered during the drafting of the new LPML and on-going dialogues, as well as training seminars have been carried out to insure the co-operation between them and the Responsible Authority. A similar inspections/training program is scheduled and is in process even during 2007. After the approval of the NDL on AML/CFT will be considered the possibility of changes in the guidelines-regulations on these subjects of the law. The law on notaries and that on attorneys is in process of amendments to insure even the non-crashing with the new LPML.

*b) There are two self-regulatory organisations, the bar association and the chamber of notaries. Have they been granted or recognised any particular AML/CFT responsibilities since the adoption of the report? If not, has the issue been considered by the Albanian authorities?*

The National Bar of Notaries has accepted the responsibility of supervising the notaries' offices and in co-operation with GDPML give them the due assistance to insure the fulfilment of the standards of the NDL on AML. After the approval of the NDL the possibility for the notaries and the attorneys to report to the GDPML through their supervising authority, will be considered.

*c) The LPML does not exempt accountants, notaries, lawyers and other independent legal professions from the AML/CFT obligations when receiving or obtaining information in the course of ascertaining the legal position of their client or performing their responsibility of defending or representing their client in judicial proceedings. This situation (notably reporting) is totally incompatible with their professional statutory secrecy. Has the legislation been changed or amended on this issue?*

In the last amendments to the Criminal Code was added a special provision in article 295/a, "The disclosure of secret acts and information" which provides special requirements for the prevention of disclosure of secret acts or information by PEPs or other employees of public administration. The law on notaries and that on attorneys is in process of amendments, to insure the fulfilment of actual standards and to avoid the crashes with other laws (i.e. the new LPML).

*d) In company formation no measures are in place at the creation/registration place to prevent the unlawful use of legal persons in relation to ML/FT. Has this situation changed?*

It is in process the amendment of the law on the registering and the well functioning of the NPOs, by a Working Group of the Ministry of Economy. This law will provide even rules for the control and supervision of all the NPOs.

*e) For establishing an NPO there is no requirement to provide a certificate proving that founders or managers of an NPO have no previous convictions. Has this situation been remedied?*

The authorised authorities, in the drafting of the NDL on the registration of the new business will take in good consideration including in the new law special requirements for the NPOs.

*f) What actions are taken by the authorities to counter and prohibit the informal currency exchange business taking place openly in the streets of Tirana?*

The BoA has prepared a new regulation on foreign exchange bureaus activities, which will provide lower capital requirements in order to begin a formal FOREX activity. As the market is developing, banks are certainly more active in trading the foreign exchange, thus gaining considerable ground to the informal market. People find it less costly in money and time, and certainly more secure, to perform a foreign exchange transaction with banks.

*g) Have the Albanian authorities addressed the under- and false declarations in relation to the declaration of cross border movements of funds and other values?*

Three cases have been referred to the General Prosecutor Office from the State Police, but after the “Amnesty Law on some specified criminal offences” issued by the Parliament of the Republic of Albania on February 2007, these cases were revoked because these cases were included in the list.

*h) What remedial actions are taken by the authorities to counter the phenomenon of real estate transactions below their market value?*

The law on the “immovable properties” is still in process of amendment and it will provide the requirements of selling and buying the immovable properties based only on market prices.

#### **Additional questions since the first progress report**

*a) Please describe the measures taken, if any, since the evaluation, to ensure an effective implementation of the regulatory and oversight regime for bureau de change targeting the reduction of the use of cash?*

In order to ensure the effective implementation regarding the Bureau de change the Albanian authorities have taken a series of measures ranging from the application of stringen licensing requirement from the Bank of Albania as supervisory and licensing authroity, on going strict controls by the police authorities aiming at curtailing the unlicensed operation of bureaux de change. GDPML has also carried out on site inspections regarding the compliance of the obliged entities with the AML/CFT legislation.

*b) Have sanctions been imposed specifically for AML/CFT infringements, at the instigation of the supervisor, since the adoption of the last evaluation report?*

*If so, please indicate the main types of AML/CFT infringements detected by supervisors since the adoption of the previous evaluation report by distinguishing between financial institutions and DNFBPs’ infringements (NB. It is not necessary for these purposes to provide full detailed statistics, but an overview).*

The sanctioning of the obliged entities is often applied when they are found in noncompliance with the legal obligations prescribed in the AML/CFT Law. The main AML/CFT infringements encountered by supervisors regarding financial institutions are;

- Failure to report threshold transactions (both value transaction reports and currency transaction reports);
- Deficiencies regarding Customer Identification procedures;
- Weaknesses in establishing and implementing full CDD measures;
- Failure to develop a KYC Policy and provide training periodically for the employees;
- The lack of comprehensive customer acceptance policies and risk profiles related to different categories of clients.

The main AML/CFT infringements encountered by supervisors regarding DNFBP are;

- Failure to appoint a person that ensures compliance with the AML/CFT legal framework.
- Lack of internal regulations regarding AML/CFT.
- Non reporting by the entities in line with the obligations of the AML/CFT legislation.

*c) Please explain how AML/CFT reporting obligations are affected (if at all) by the introduction of the tax amnesty legislation(NB. a copy of the relevant text of this act should be provided together with any additional secondary legislation or instructions which may be relevant to support the answer).*

The enactment of the law “*On repealing the tax and customs duties, annual vehicle traffick and registrations fees, penalties and outstanding fines related to the obligatory social security and healthcare payments*” no. 9986 dated 11.09.2008 does provide for complete writeoff in some cases of tax arrears and custom duties as well as relief regarding the infractions and penalites incurred by entities. GDMPL does not have any meaningful data available that could lead to reliable conclusions related to tangible effects that this particular law could have had on the reporting patterns of the obliged entities.

## 5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC) <sup>4</sup>

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	Upon the enactment of the AML/CFT legislation whereby several requirements set forth in the Third EU Directive such as threshold reporting of cash transactions, Know Your Customer, Customer Due Diligence and Enhanced Due Diligence regarding Politically Exposed Persons and NPOs have been introduced. Nevertheless the directive has not been fully transposed into the national legislation

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3 <sup>rd</sup> Directive <sup>5</sup> (please also provide the legal text with your reply)	<p>The Definition of the “Beneficial owner” provided in the AML/CFT legislation is along the lines of the one given in the 3<sup>rd</sup> Directive (2005/60/EC)</p> <p>The AML/CFT law contains the following definition;</p> <p>“Beneficial owner” means the individual or legal entity, which owns or, is the last to control a client and/or the person in whose interest a transaction is executed. This also includes the persons executing the last effective control on a legal person. The last effective control is the relationship in which a persons:</p> <ul style="list-style-type: none"> <li>a) owns, through direct or indirect ownership, the majority of stocks or votes of a legal entity,</li> <li>b) owns by himself the majority of votes of a legal entity, based on an agreement with the other partners or shareholders,</li> <li>c) de facto controls the decisions made by the legal person,</li> <li>d) in any way controls the selection, appointment or dismissal of the majority of administrators of the legal person.</li> </ul>

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	Based on the obligations prescribed in the AML/CFT legislation the financial institutions in Albania are required to abide with all the provisions in a comprehensive manner. They are expected to have internal rules and policies regarding Customer Acceptance, develop risk profiles based on know your customer criteria and apply enhanced due diligence to certain those categories of clients and transactions that are deemed to be of higher risk (in addition to the Politically Exposed Persons and NPOs). Nonetheless that doesn't amount to a risk based approach and the Financial Institutions are obliged to comply with the whole array of legal requirements and no discharging of any of the AML/CFT obligations is permitted.

<sup>4</sup> For relevant legal texts from the EU standards see Appendix II

<sup>5</sup> Please see Article 3(6) of the 3<sup>rd</sup> Directive reproduced in Appendix II



	Bearing in mind the need for further development and consolidation of the AML/CFT regime it is our opinion that the introduction of Risk Based Approach should be introduced at a later stage.
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<b>Politically Exposed Persons</b>	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive <sup>6</sup> are provided for in your domestic legislation (please also provide the legal text with your reply).	<p>Based on the AML/CFT legislation the obliged entities are required to apply Enhanced Due Diligence regarding identification, establishment and ongoing monitoring of business relations with Politically Exposed Persons. The legislation provided the following definition;</p> <p><b>“Politically exposed persons”</b> means persons who are obliged to declare their properties pursuant to law Nr. 9019, date April 10, 2003 “On the declaration and auditing of properties and financial obligations of elected officials and public employees”.</p> <p>The High Inspectorate for the Declaration and Audit of Assets does compile and updates a list of domestic PEPs and provides it to the General Directorate for the Prevention of Money Laundering. The list is thereafter disseminated to financial institutions which are required to apply Enhanced Due Diligence measures regarding the transactions carried out on behalf of PEPs, their associates and family members. Financial institutions have also established internal procedures regarding their business relations with foreign PEPs.</p>

<b>“Tipping off”</b>	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	<p>Tipping off is not limited to the reporting of transactions by the obliged entities, their MLROs or employees at large. It does also cover the ongoing ML or TF investigations. Article 295/a “Revealing secret acts or data” of the Penal code states that;</p> <p><i>“Reveling of secrets acts or data contained in secret acts by other persons, that are aware of the penal proceeding and have been warned by the prosecutor or the officer of judicial police not to disclose them, is subject up to three years of imprisonment”</i></p>
With respect to the prohibition of “tipping off” please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	The “Tipping off ” obligations are not lifted under any circumstances.

<sup>6</sup> Please see Article 3(8) of the 3<sup>rd</sup> Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

<b>“Corporate liability”</b>	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	<p>The Albanian Parliament approved on June 14, 2007 the law “On the Criminal Liability of Legal Entities”, Article 3 “Liability of legal entities for the commission of penal offences” of this law states:</p> <p>The legal person is liable for the penal offences committed;</p> <p>a) by his representatives and departments on his behalf or for his benefit;</p> <p>b) On his behalf or for his benefit, from a person under its authority that represents, directs or administers the legal person;</p> <p>c) On his behalf or for his benefit , due to lack of control or oversight by the person directing, representing or administering the legal person.</p>
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	Corporate liability can be applied in all the cases where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.

<b>DNFBPs</b>	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	<p>The obligation to report all currency transactions is applied to all natural and legal persons categorised as DNFBPs when they engage on behalf of their clients in the following activities:</p> <p>i) transfer of immovable properties, administration of money, securities and other assets;</p> <p>ii) administration of bank accounts;</p> <p>iii) administration of capital shares to be used for the foundation, operation or administration of commercial companies;</p> <p>iv) foundation, functioning or administration of legal entities;</p> <p>v) legal agreements, securities or capital shares transactions and the transfer of commercial activities;</p> <p>Casinos and games of chance are required to report all cash transactions above 1.5 million ALL or its equivalent in foreign currency for buying or selling of chips or their electronic equivalent.</p>

## 6. Statistics

### 6.1 Money Laundering and Financing of terrorism cases

#### a) Statistics provided in the first progress report

2004												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	Cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	12											
<b>FT</b>			8*				1*	452,426.00*				

\*Not prosecutions but UN-List freezes.

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	Cases	persons	cases	persons	cases	Persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	10											
<b>FT</b>			7*	7*			4*	1,985,705.00*				

\*Not prosecutions but UN-List freezes.

2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	Cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
<b>ML</b>	2											
<b>FT</b>	1		1*	1*			2	97,018.00*				

\* There are 11 cases referred for investigation to the Ministry of Interior from the Albanian FIU.

\* Not prosecutions but UN-List freezes.

2007 (1 January – 15 May)												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	Cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML												
FT												

\* There are 2 cases referred for investigation to the Ministry of Interior from the Albanian FIU.

b) Please complete, to the fullest extent possible, the following tables since the adoption of the progress report.

2007 (from 15 <sup>th</sup> May to 31 <sup>st</sup> December)												
	Investigations*		Prosecutions**		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	5	5	2	4		4					6	1,688,833
FT			1	1								

2008												
	Investigations*		Prosecutions**		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	24	16	8	14		4	5	1,192,721	3	888,829	9	2,871,416
FT	1											

2009 (from 1 <sup>st</sup> January to 15 <sup>th</sup> August)												
	Investigations*		Prosecutions**		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	24	8	5	10		11	10	2,250,000	6	2,000,000		
FT												

## 6.2. STR/CTR

### a) Statistics provided in the first progress report

2004											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks	27500	42									
insurance companies											
Notaries											
Currency exchange											
broker companies											
securities' registrars											
lawyers											
accountants/auditors											
company service providers											
others (please specify)	477	17									
<b>Total</b>	<b>27977</b>	<b>59</b>									

2005											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks	26869	6									
insurance companies											
Notaries											
Currency exchange											
broker companies											
securities' registrars											
lawyers											
accountants/auditors											
company service providers											

others (please specify)	123	101								
Customs Authorities		33								
Tax Authorities		16								
Mortgage		34								
Ministry of Interior		18								
<b>Total</b>	<b>26992</b>	<b>107</b>								

2006											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks	48580	13*									
insurance companies											
Notaries											
Currency exchange											
broker companies											
securities' registrars											
Lawyers											
accountants/auditors											
company service providers											
others (please specify)	151	1									
Bank of Albania	3										
Customs Authorities	142										
Tax Authorities	1										
Security Supervisor Authority	5										
Ministry of Economy		1									
<b>Total</b>	<b>48731</b>	<b>14</b>									

\*6 reports (SAR) are linked to the same individual.

2007 (1 January – 15 May)											
Statistical Information on reports received by the FIU								Judicial proceedings			
Monitoring entities, e.g.	transactions above threshold	suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments		convictions	
		ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
commercial banks	20964	21*									
insurance companies	1										
Notaries	4										
Currency exchange											
broker companies											
securities' registrars											
lawyers											
accountants/auditors											
company service providers											
others (please specify)	215	2									
Customs Authorities	146										
Tax Authorities		1									
Non-Profit Organisations	1										
Mortgage	52	1									
Ministry of Interior	3										
Bank of Albania	10										
Ministry of Economy	3										
<b>Total</b>	<b>21184</b>	<b>23</b>									

\*6 reports (SAR) are linked to the same individual.

- b) Please complete, to the fullest extent possible, the following tables since the adoption of the first progress report

2007 (15 <sup>th</sup> May to 31 <sup>st</sup> December)															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
								cases	persons	cases	persons	cases	persons	cases	persons
Commercial banks	39686	727		97		7*									
Insurance companies															
Notaries	85														
Currency exchange	75														
Broker companies															
Securities' registrars															
Lawyers															
Accountants/auditors															
Company service providers															
Others (please specify and if necessary add further rows)	382														
Customs Authorities	190	38													
Tax Authorities															
Casino/Games of chance	40														
Non Profit Organizations	2														
CORIP	64	1													
Non bank Financial Institutions	79														
FSA	7														
Total	40228	766													

\*.There were 5 referrals to the Police and 2 to the Prosecutors Office.



2008															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
								cases	persons	cases	persons	cases	persons	cases	persons
Commercial banks	224950	152		255		72*		6							
Insurance companies															
Notaries	6059	4													
Currency exchange	179														
Broker companies															
Securities' registrars															
Lawyers															
Accountants/auditors															
Company service providers															
Others (please specify and if necessary add further rows)	398	13													
Customs Authorities		6													
Non bank Institutions	213														
Casino/Games of chance	38														
Tax Authorities		7													
Non Profit Organizations	7														
Car Dealers	140														
<b>Total</b>	<b>231586</b>	<b>169</b>													

\*.There were 46 referrals to the Police and 26 to the Prosecutors Office.

2009 (from 1 <sup>st</sup> January to 15 <sup>th</sup> August)															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
								cases	persons	cases	persons	cases	persons	cases	persons
Commercial banks	433319	51		303		113*		6							
Insurance companies															
Notaries	7455														
Currency exchange	105														
Broker companies															
Securities' registrars															
Lawyers															
Accountants/auditors															
Company service providers															
Others (please specify and if necessary add further rows)	640														
Car Dealers	57														
Non bank Institutions	163														
Real Estate Agencies	62														
Construction Companies	358														
Total	441519	51													

\*. There were 74 referrals to the Police and 39 to the Prosecutors Office.

## APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

AML/CFT System	Recommended Action (listed in order of priority)
<b>1. General</b>	
<b>2. Legal System and Related Institutional Measures</b>	
Criminalisation of Money Laundering (R.1, 2 & 32)	<ul style="list-style-type: none"> <li>• to make it clear preferably in the Criminal Code that Albania has jurisdiction over money laundering offences when the predicate offence was committed abroad by a foreign citizen,</li> <li>• to specify that self-laundering is covered (bearing in mind that Albania has accepted this principle),</li> <li>• to specify that knowledge, intent or purpose can be inferred from objective factual circumstances</li> <li>• to make sure (through guidance documents, general instructions or otherwise) that the standard of evidence for establishing the link between the illegal origin of assets laundered and the money laundering offence does not require a separate court decision as art. 287 para.3 seems to suggest</li> <li>• to adopt the secondary legislation needed for the implementation of the Criminal Code provisions on corporate criminal liability</li> <li>• to review the order of the sub-paragraphs of art. 287 1) and to insert the ancillary offence of «helping» or assisting also in sub-para 1d) (and to move this sub-para at the end of sub-para. 1))</li> <li>• to examine whether greater use should be made of the provisions criminalising money laundering when investigating all major proceeds-generating offences.</li> </ul>
Criminalisation of Terrorist Financing (SR.II, R.32)	<ul style="list-style-type: none"> <li>• to review the current Criminal Code provisions criminalising the financing of terrorism to make them more consistent and ensure they explicitly cover the various elements (terrorist acts, terrorist organisations, individual terrorists) and the collection of funds, along the lines of the UN Convention and FATF Special Recommendation II.</li> <li>• to explicitly provide for the applicability of terrorist financing provisions regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist organisation is located or the terrorist act occurred</li> <li>• to specify that knowledge, intent or purpose can be inferred from objective factual circumstances</li> </ul>

	<ul style="list-style-type: none"> <li>• to provide explicitly for the applicability to legal persons of sanctions for terrorist financing.</li> </ul>
Confiscation, freezing and seizing of proceeds of crime (R.3, R.32)	<ul style="list-style-type: none"> <li>• to provide explicitly for confiscation from third parties along with the legal protection for bona fide third parties</li> <li>• to consider reviewing the legal framework so as to allow for the application of provisional measures before opening a formal investigation</li> <li>• to allow for the application of provisional measures under Articles 274-276 directly by the prosecutor in case of urgency (with <i>ex post</i> approval by the judge).</li> <li>• to analyse the reasons for the moderate use of temporary and final measures in money laundering cases and to take measures to encourage their use (e.g. training, internal circulars etc.)</li> <li>• to examine the functioning in practice of the automatic cessation of temporary measures under Art. 276 (when the court does not render a decision within 15 days of the application) to make sure that measures applied against criminal proceeds are not revoked for undue reasons (court overload, insufficient file management etc.)</li> <li>• to review in the Law N° 9284, the definition of terrorism financing, in line with the similar recommendation already made concerning the Criminal Code</li> </ul>
Freezing of funds used for terrorist financing (SR.III, R.32)	<ul style="list-style-type: none"> <li>• to develop legal procedures for actions initiated by other jurisdictions (including the designation of an authority to deal with these)</li> <li>• to ensure secondary provisions and a mechanism are in place to adequately deal with requests for payments (of subsistence and other expenditures) from listed persons, and that those involving persons listed by virtue of Resolution 1267 are decided upon by the Security Council</li> <li>• to develop guidance for the private sector in the field of reporting suspicions and information in relation with TF and to make sure they are checking their clientele against the Albanian list of persons elaborated by virtue of the Security Council Resolutions</li> <li>• to keep figures on the origin of FT information and suspicion reports in order to assess the effectiveness of co-operation of the industry and other sectors</li> </ul>
The Financial Intelligence Unit and its functions (R.26, 30 & 32)	<ul style="list-style-type: none"> <li>• to take any further measures that are deemed necessary to ensure definitely the autonomy and independence of the GDPML (e.g. a fixed term for the post of General Director, statutory independence <i>vis a vis</i> instructions etc.)</li> <li>• to provide for clear rules guaranteeing the confidentiality and regulating the use/sharing of</li> </ul>

	<p>information centralised by the GDPML so that it is used only for AML/CFT purposes</p> <ul style="list-style-type: none"> <li>• to provide the GDPML with an adequate budget and equipment to make it less dependent on foreign assistance</li> <li>• to clarify the role of the GDPML as an analytical, administrative body instead of a body in charge of investigations and finding hard evidence on ML/FT offences (which should remain the police and prosecutorial bodies' responsibility)</li> <li>• to ensure the increase of staff takes place as planned so that the GDPML can deal with its analytical work and can start implement its new supervisory and inspection function, and to put in place a training programme for the GDPML staff</li> <li>• to produce and publish a periodic report by the GDPML and to provide for consistent requirements on this matter</li> <li>• to establish as soon as possible a computerised information system to receive on-line, process and store rapidly the data transferred by obliged entities and to help the GDPML improve access to information, the quality of its analytical work and its ability to cooperate domestically and internationally</li> <li>• to introduce a training scheme taking into account the newly recruited staff, the development of supervisory/inspection functions, and the introduction of an IT system (an analytical software)</li> <li>• to keep on an ongoing basis more detailed statistics on the origin of reports received and the outcome of cases forwarded to the prosecutor.</li> </ul>
<p>Law enforcement, prosecution and other competent authorities (R.27, 28, 30 &amp; 32)</p>	<ul style="list-style-type: none"> <li>• to clarify the respective responsibilities of the GDPML on the one hand and the police and prosecutorial bodies on the other hand; the former should in principle be an analytical body generating possible ML and FT cases, whilst the latter should initiate their own cases, in addition to investigating and prosecuting cases generated by the GDPML</li> <li>• to produce studies on ML, including its trends and techniques</li> <li>• to increase the level of expertise at the level of judicial police (further training and guidance in all police departments that deal with the investigation of ML and financial crimes more generally, recruitment of experts with academic background etc.)</li> <li>• to review the adequacy of the staffing of the Police Directorate for Combating Organised Crime and Witness Protection (especially its central Division on the fight against money laundering and economic-financial crime) and of the Prosecutor's Office for</li> </ul>

	<p>economic crime, money laundering and terrorist financing, and increase it as necessary with transfers from district agencies</p> <ul style="list-style-type: none"> <li>• to provide further training to judges on ML and financial crimes more generally</li> <li>• to clarify the legal basis for controlled deliveries and the possibility to waive the arrest of a suspect for the purpose of ML/FT investigations</li> </ul>
<b>3. Preventive Measures – Financial Institutions</b>	
Risk of money laundering or terrorist financing	-
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	<ul style="list-style-type: none"> <li>• to introduce general requirements in the LPML on the basis of the elements of FATF Recommendation 5, in particular as regards the concept of customer due diligence, identification of beneficial and ultimate ownership, on-going due diligence on the business relationship, “know your customer” principle</li> <li>• to make it a duty for obliged entities to perform CDD measures in line with the FATF approach (risk-based etc.)</li> </ul> <p>and, in any event:</p> <ul style="list-style-type: none"> <li>• to include the identification of customers when establishing a business relationship (as it is envisaged in the draft new LPML)</li> <li>• to make it clear that CDD measures apply also in case of FT suspicion</li> <li>• to make sure there is a unique definition of the client or customer which is broad enough to include also persons requesting one-off transactions and clients with whom there is no contractual relationship</li> <li>• to include in the LPML a general prohibition of anonymous accounts (to be understood broadly) as envisaged in the draft new LPML</li> <li>• to clarify the issue of bearer negotiable instruments available in Albania and to apply the CDD requirements in their respect</li> <li>• to provide in the LPML for a general definition of transaction which would encompass the broadest range of services/operations (including those with cheques)</li> <li>• to reduce to the equivalent of 15,000 USD/€ the threshold of transactions triggering the identification of customers (as it is envisaged in the draft new LPML)</li> <li>• to implement in the LPML, and to detail in sectoral rules as appropriate, the requirements of Recommendation 6, 7 and 8 on politically exposed persons, correspondent banking relationships and risks associated with new technologies and non-face to face</li> </ul>

	transactions
Third parties and introduced business (R.9)	(N.A.)
Financial institution secrecy or confidentiality (R.4)	-
Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> <li>• to consider removing the current requirements of Article 4 and 5 of the LPML which deal with the threshold approach concerning registration of transactions</li> <li>• to review the structure of art. 6 of the LPML so as to make a separate provision on the information and record-keeping requirement rather than these being included with other provisions dealing with “tipping-off”,</li> <li>• to introduce a clear requirement to store information on transactions for a period of 5 years (or more if requested by a competent authority) following completion of transactions, whatever their amount</li> <li>• to be more explicit as to the information to be kept for a period of 5 years (or more if requested by a competent authority) after the termination of the relationship (to keep account files, a copy of the identification document and business correspondence, as well as information on the beneficiary)</li> <li>• to review the provisions in the BoA regulation of 2004 on wire transfers so as to make them applicable to both incoming and outgoing transfers, to use the regular terminology (wire transfers rather than e-banking) and to draft it in sufficiently broad terms to cover also legal persons, not only individuals, as well as domestic and international transfers</li> <li>• to solve the conflicting issues raised by the diverging provisions on thresholds for wire transfers in the LPML and BoA Regulation of 2004, and to lower it to the limit contemplated by SR.VII (USD/€ 3000)</li> <li>• to make provision on wire transfers also in the LPML in order to cover all financial and other institutions involved in wire transfers.</li> </ul>
Monitoring of transactions and relationships (R.11 & 21)	<ul style="list-style-type: none"> <li>• when finalising the new draft AML, to pay special attention to the requirements of FATF Recommendations 11 and 21 and to introduce a requirement to examine the background and purpose of transactions and apply special prudential measures to countries and territories where ML/FT risks are high (and to provide for appropriate countermeasures to be taken when transactions with those regions occur)</li> <li>• to adopt measures to ensure that financial (and other) institutions are advised of concerns about AML/CFT weaknesses in other countries</li> </ul>
Suspicious transaction reports and other reporting	<ul style="list-style-type: none"> <li>• to take the appropriate measures to make it clear that</li> </ul>

(R.13-14, 19, 25 & SR.IV)	<p>obliged entities, as a rule, need to report directly to the GDPML and not to their supervisor (subject to the admissible exceptions for certain DNFBP)</p> <ul style="list-style-type: none"> <li>• to introduce the obligation of the reporting of attempted transactions in the LPML</li> <li>• to extend the scope of reporting in relation to terrorist financing, to the various elements contemplated in Recommendation 13 and SR.IV (“terrorism”, “terrorist acts”, “terrorist organisations”, “those who finance terrorism”).</li> <li>• to keep statistics on reports concerning terrorist financing</li> <li>• to enlarge the reporting threshold to all transactions (not only cash and transfers) – except those which present limited risks (e.g. commodity service payments, transfers with the BoA) - and adapt the amount to the situation of Albania</li> <li>• to <u>urgently</u> amend art. 11 which introduces restrictions as to the categories of transactions that are subject to reporting; a list could be established that provide on the contrary for circumstances and transactions that need not to be reported</li> <li>• to consider, in this relation, to exclude those transactions that are deemed to be of no value in preventing or detecting money laundering or the financing of terrorism (commodity service payments, transfers involving the BoA etc.)</li> <li>• to amend art. 6 on “duty not to disclose” so as to cover also reports connected with terrorist financing and to clarify that the “duty not to disclose” applies also to entities apart from those listed under art. 3 (customs and tax authorities, licensing bodies) and to any unauthorised person even though not connected with the transaction.</li> <li>• to review the provision on the protection of reporting persons in the LPML (to cover only the reports to the FIU and to specify that it applies to reporting in good faith) and in the LMSTF (to cover explicitly protection against civil actions)</li> <li>• to review the drafting of “Guideline-Regulation” N°5 of 2004 so as to make it clear that reports filed in good faith are not subject to sanctions</li> <li>• to review the drafting of the LPML together with the various secondary texts (“Guidelines-regulations”, sectoral texts etc.) to ensure consistency; special care should be taken to the effect that these provisions are also consistent with the Criminal Code (e.g. definition of terrorist financing)</li> <li>• to take measures to enhance awareness of all obliged entities about the reporting of suspicious transactions.</li> </ul>
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Cross Border declaration or disclosure (SR.IX)	<ul style="list-style-type: none"> <li>• to adopt the draft amending Chapter 8 of the Customs Code (on sanctions), making sure they provide for adequate sanctions in case of under or false declaration</li> <li>• to review the current policy which consists in applying immediate seizure and confiscation measures so as to allow, in certain cases, for the gathering of further information and evidence on criminal activities and persons involved and to initiate more cross-border covert operations since organised criminal activities remain an important issue (stolen cars trafficking, smuggling etc.)</li> <li>• to intensify training on AML/CFT issues for Customs employees, including on the detection and recognition of serious criminal activities (human beings trafficking, arms trafficking, drugs trafficking, smuggling of different goods) and movements of funds possibly related with ML/FT</li> </ul>
Internal controls, compliance, audit and foreign branches (R.15 & 22)	<ul style="list-style-type: none"> <li>• to introduce a requirement for internal procedures to address CDD measures</li> <li>• to review the function of the institution of the “money laundering reporting officer”(MLRO) and to make this officer responsible not only for the reporting of transactions but also for the effective implementation of internal AML/CFT procedures and mechanisms (and to clarify on that occasion, as appropriate, the distinction between the MLRO and the central unit for the centralisation of reports; alternatively, the content of Guideline-Regulation N°5 of 2004 could be reminded to reporting entities)</li> <li>• to include in internal training programmes and awareness raising measures information on trends and techniques in the field of ML/FT</li> <li>• to provide for manager and employee screening</li> <li>• to require the establishment of computerised information and data management systems in all financial institutions (apart from the banking and insurance sector), and non financial institutions as appropriate</li> </ul>
Shell banks (R.18)	<ul style="list-style-type: none"> <li>• To insert in the LPML or banking regulations clear provisions defining and prohibiting the establishment of shell banks in Albania and the establishment of correspondent banking relationships with, or the opening of accounts by shell banks.</li> </ul>
<p>The supervisory and oversight system - competent authorities and SROs</p> <p>Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 32 &amp; 25)</p>	<ul style="list-style-type: none"> <li>• to implement measures to ensure effective AML/CFT supervision over the non banking sectors covered by the BoA</li> <li>• to review the adequacy of staffing of the BoA supervision department and increase it as necessary to enable it to effectively supervise the various sectors under the responsibility of the BoA</li> </ul>

	<ul style="list-style-type: none"> <li>• to implement measures to ensure effective AML/CFT supervision over the insurance sector</li> <li>• to draft a development plan for the Insurance Supervisory Authority – in order to address its insufficient staffing and resources - taking into consideration the anticipated growth in the insurance sector</li> <li>• to adopt Regulation/Guidelines similar to the ones issued to banks for non-bank licensees (to address transactions particular to the activities performed by the non-bank licensees)</li> <li>• to review the policy concerning sanctions and make sure they are adequately applied by supervisors and the GDPML when it is necessary</li> <li>• to review the sanction system in the LPML and Guideline-Regulation N°5 to ensure consistency, to include explicit milder measures such as warnings and to make them applicable to legal persons; Albania should consider in this respect a simpler system (applicable to all requirements of the LPML without listing them), leaving more discretion to the responsible authorities to decide</li> <li>• to examine the situation resulting from the provisions in art. 24 of the LMSTF concerning the connection with the LPML, and remedy to the possible conflict of norms by redrafting this article (and clarify its exact scope and purpose).</li> <li>• to examine the need to introduce criminal law provisions on tipping-off (if existing measures are insufficient)</li> </ul>
Money value transfer services (SR.VI)	<ul style="list-style-type: none"> <li>• To take rapidly all the necessary measures to ensure the proper implementation of SR VI and the related general FATF Recommendations, in particular Recommendation 23, to all economic agents providing money transfer services. The Albanian authorities (BoA and GDPML) should identify all the ultimate operators affiliated and keep a list that would enable them to carry out direct inspections, depending on the seriousness of risks.</li> </ul>
<b>4. Preventive Measures –Non-Financial Businesses and Professions</b>	
Customer due diligence and record-keeping (R.12)	<p>To review the identification and CDD measures applicable to DNFBP:</p> <ul style="list-style-type: none"> <li>• to cover explicitly real estate agents when they are involved in transactions for a client concerning the buying and selling of property</li> <li>• to introduce a clear requirement for traders in precious</li> </ul>

	<p>metals and stones to apply CDD principles when they engage in any cash transaction with a customer equal or above €/USD 15,000</p> <ul style="list-style-type: none"> <li>• to cover attorneys, notaries, other independent legal professions and accountants in the circumstances provided for in recommendation 12</li> </ul>
Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> <li>• To develop an on-going dialogue between the GDPML and the various sectors of the DNFBPs so that legislative conflicts are identified and appropriate solutions proposed.</li> <li>• to arrange a scheduled and continuous training program for the various non financial entities that have to report to the GDPML</li> <li>• to issue directives for all the sectors that is the supervisory authority and to assist in preparing a directive from other supervisory authorities</li> <li>• to review the reporting requirements and thresholds for DNFBP, along the lines of Recommendation 16</li> <li>• to consider the utility of a system where certain professions (e.g. lawyers) report through their organisation</li> </ul>
Regulation, supervision and monitoring (R.24-25)	<ul style="list-style-type: none"> <li>• To urgently devise and implement a supervision mechanism for DNFBP along the lines of FATF Recommendations 24 and 25</li> </ul>
Other designated non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> <li>• To extend the scope of art. 12 of the LPML so as to cover also the tax administration, Customs and licensing/supervisory bodies</li> <li>• to introduce further limits on cash payments and consider the usefulness of introducing a general prohibition to perform outside the banking system transactions above a certain amount (adapted to the situation of the country)</li> <li>• to take the necessary measures, whether legal or interpretative, so that the wording of existing regulations obliging legal persons to disburse/pay amounts above ALL 300,000 through the banking system applies to all types of payments</li> <li>• to take the necessary measures, whether legal or interpretative, to ensure that the definition of transactions in the LPML and elsewhere clearly applies to all payment instruments (and does not exclude for instance cheques).</li> </ul>
<b>5. Legal Persons and Arrangements &amp; Non-Profit Organisations</b>	
Legal Persons – Access to beneficial ownership and control information (R.33)	<p>It is recommended to enhance the requirements regarding the establishment of companies, along the lines of the FATF Recommendations:</p> <ul style="list-style-type: none"> <li>• to provide for a clear legal basis on deadlines for reporting changes to the Court register</li> </ul>

	<ul style="list-style-type: none"> <li>• to computerise the Court register</li> <li>• to review the regulations applicable to bearer shares and make sure they take into account AML/CFT needs</li> </ul> <p>It is also recommended:</p> <ul style="list-style-type: none"> <li>• to establish an AML/CFT policy at the level of the register of companies; this policy should provide for controls of the criminal background of applicants and investors, identification of ultimate beneficial ownership, controls over the origin of funds.</li> <li>• to consider extending the reporting duty of tax authorities and licensing bodies (art. 10/1 and 10/2) also to FT</li> <li>• to devise ways to improve the transparency of businesses' real financial situation and to avoid the practice of double balance sheets (e.g. development of audit requirements for sectors at risk etc.).</li> </ul>
Legal Arrangements – Access to beneficial ownership and control information (R.34)	<ul style="list-style-type: none"> <li>• To clarify the issue of the existence in practice of trust arrangements and businesses established by foreign trusts and adopt the measures required by Recommendation 34 of the FATF.</li> </ul>
Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> <li>• to conduct a review of the AML/CFT risks and situation in the associative/non-profit sector</li> <li>• to review, as appropriate, the legal and financial regime applicable to NPOs in order to avoid common illegal practices such as dual bookkeeping, and therefore to increase transparency and the reliability of information available</li> <li>• to devise a policy for the control and supervision over NGOs/NPOs taking into account ML/FT considerations (dissemination of FT list to the registers, awareness raising actions of the register, tax and other administrative services dealing with the sector etc.).</li> </ul>
<b>6. National and International Co-operation</b>	
National co-operation and coordination (R.31 & 32)	<ul style="list-style-type: none"> <li>• To make better use of the various existing coordination levels to review the effectiveness of AML/CFT efforts; this would first require to identify the common patterns of money laundering and to devise more effective approaches to reduce current vulnerabilities. Co-operation with the obliged and reporting entities needs also to be fostered and diverging interpretations eliminated.</li> <li>• To adopt urgent coordinated measures to stop the street foreign exchange business, which currently offers significant money laundering facilities and support to smuggling (and possibly other criminal) activities.</li> </ul>
The Conventions and UN Special Resolutions (R.35 &	<ul style="list-style-type: none"> <li>• As regards the implementation of the UN conventions, some adjustments are needed concerning</li> </ul>

SR.I)	criminalisation, temporary and final measures, investigative means etc. which have already been discussed in other parts this report.
Mutual Legal Assistance (R.36-38, SR.V, and R.32)	<ul style="list-style-type: none"> <li>to analyse the reasons why mutual legal assistance mechanisms are never used by Albanian authorities in ML/TF cases, and why no more requests reach the country despite certain factors (characteristics of Albanian organised crime, importance of Albanian diaspora leaving abroad etc.)</li> <li>to issue guidance documents and take other initiatives aimed at judges and prosecutors, as appropriate, to make it clear that international instruments take precedence over Criminal Procedure Code provisions and can be directly applied for mutual legal assistance purposes in Albania</li> <li>to amend the provisions of the Criminal Procedure Code to permit letters rogatory to circulate without passing through the diplomatic channel (Art. 509 of the PPC) and to consider providing for direct contacts of Albanian judicial authorities with foreign counterparts</li> <li>to introduce provisions dealing specifically with the execution/recognition of foreign decisions on seizure and confiscation of assets that meet the requirements of Recommendation 38 and SR. V</li> <li>to consider making provision on the sharing of confiscated assets (with requesting countries, when assets are confiscated in Albania)</li> <li>to keep more specific and detailed statistics on mutual legal assistance mechanisms</li> </ul>
Extradition (R.39, 37, SR.V & R.32)	<ul style="list-style-type: none"> <li>to regulate more precisely the discretionary power of the MoJ under art. 491 para.3 of the Criminal Procedure Code.</li> <li>to keep more specific and detailed statistics on extradition.</li> </ul>
Other Forms of Co-operation (R.40, SR.V & R.32)	<ul style="list-style-type: none"> <li>As a priority, to finalise throughout the country the computerisation of law enforcement authorities, the courts and all other databases which are useful for AML/CFT purposes (e.g. registers of persons and identification documents, registers of property, registers of companies and non profit organisations etc.) and ensure as much as possible on line access to the GDPML.</li> <li>Also to make clear provision in the LPML under art. 15 on the competence of the GDPML to cooperate in the CFT field.</li> </ul>
<b>7. Other Issues</b>	
Other relevant AML/CFT measures or issues	-
General framework – structural issues	<ul style="list-style-type: none"> <li>It is recommended that Albania uses this opportunity to</li> </ul>

	<p>improve the drafting of the LPML and make it as accurate, coherent and user friendly as possible to avoid misunderstandings. The LPML should become the backbone of the preventive AML/CFT system. Secondary legislation or guidance documents should deal with the specific and practical matters, and not “amend” the law.</p> <ul style="list-style-type: none"> <li>• Once the revised LPML has been adopted, a general review of other texts should be undertaken to make them consistent with the LPML (“Guideline-Regulations of 2004”, LMSTF, Regulation of the BoA on money laundering prevention of 25.02.2004 etc.).</li> <li>• It is recommended to take urgent remedial action to counter the phenomenon of real estate transactions below their market value.</li> </ul>
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## **APPENDIX II -**

### **Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3<sup>rd</sup> Directive):**

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

(ii) the natural person(s) who otherwise exercises control over the management of a legal entity;

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;

(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

### **Article 3 (8) of the EU AML/CFT Directive 2005/60/EC (3<sup>rd</sup> Directive):**

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

### **Article 2 of Commission Directive 2006/70/EC (Implementation Directive):**

#### **Article 2**

#### **Politically exposed persons**

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:

(a) heads of State, heads of government, ministers and deputy or assistant ministers;

(b) members of parliaments;

(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;

(d) members of courts of auditors or of the boards of central banks;

(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(f) members of the administrative, management or supervisory bodies of State-owned enterprises.

None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:

- (a) the spouse;
- (b) any partner considered by national law as equivalent to the spouse;
- (c) the children and their spouses or partners;
- (d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:

- (a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
- (b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.



## **APPENDIX III – Additional legislation and data submitted with the first progress report**

### ***ANNEX 1: New Draft LPML***



**REPUBLIC OF ALBANIA**

**PARLIAMENT**

**THE LAW**

**“On the Prevention of Money Laundering”**

Based on Article 78, point 1 and Article 83, point 1 of the Constitution and on the proposal of the Council of Ministers,

**THE ASSEMBLY OF THE REPUBLIC OF ALBANIA**

**DECIDED**

**Article 1**  
**Intention**

This Law intends to prevent and combat laundering of proceeds of criminal offence and criminal activities and the financing of terrorism through subjects specified in this Law who provide services during the ordinary course of their business.

**Article 2**  
**Definitions**

The terms contained in this Law mean the following:

1. “Beneficial owner” means the natural (business or non-business) person who ultimately owns or controls a client and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement including, but without limiting the generality of the foregoing,
  - a) in the case of legal entities:
    - (i) the natural person(s) who ultimately own(s) or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting

- rights in that legal entity, including through bearer share holdings; a percentage of 25 percent plus one share shall be deemed sufficient to meet this criterion;
- (ii) the natural person(s) who otherwise exercises control over the management of a legal entity.
- b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:
    - (i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 percent or more of the property of a legal arrangement or entity;
    - (ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
    - (iii) the natural person(s) who exercises control over 25 percent or more of the property of a legal arrangement or entity.
2. “Cash” means the currency (national and foreign coins and banknotes) in circulation.
  3. “Business Relationship” means a business, professional or commercial relationship that relates to the activity of the subjects of this law, which is considered to be a continuous relationship at the time of its establishment.
  4. “Client” means a natural person or a legal person, resident or non-resident, Albanian or foreign, public or private person that is party to a business relationship with a subject referred to in Article 3.
  5. “Correspondent banking” is the provision of banking services by one bank (the “correspondent bank”) to another bank (the “respondent bank”). Large international banks typically act as correspondents for thousands of other banks around the world. Respondent banks may be provided with a wide range of services, including cash management (e.g. interest-bearing accounts in a variety of currencies), international wire transfers of funds, cheque clearing, payable-through accounts and foreign exchange services.
  6. “Money laundering” means the offence referred to in Article 287 of the Criminal Code.
  7. “Money or value transfer service” means carrying on the business of accepting cash, cheques or any other monetary instrument or other stored value, and pay a corresponding sum in cash or in other form to a beneficiary, by means of communication, message, transfer or through a clearing system to which the money or value transfer service belongs.
  8. “Bearer’s Negotiable instruments” includes monetary instruments in bearer form such as: travellers cheques; negotiable instruments (including cheques, promissory notes and money orders) that are either in bearer form, endorsed without restriction, made out to fictitious payee, or otherwise in such form that the title thereto passes upon delivery; incomplete instruments (including cheques, promissory notes and money orders) signed, but with the payee’s name omitted.
  9. “Politically exposed person” means individuals who are or have been entrusted with prominent public functions in Albania or in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials, as well as members of such person’s family or those closely associated with him/her. Minister of Finances upon proposal made by the Responsible Authority issues, approves and reviews the list of PEPs.

10. "Predicate offence" means any offence, including an offence committed abroad, which generates the proceeds of criminal offence.
11. "Proceeds of criminal offence" has the same meaning as in article 36/b of the Penal Code.
12. "Property" shall mean assets of every kind, whether movable or immovable, tangible or intangible, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including but not limited to bank credits, traveller's cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit, and any interest, dividends or other income on or value accruing from or generated by such legal documents or instruments.
13. "Responsible Authority" is the General Directorate for the Prevention of Money laundering is the Financial Intelligence Unit of the Republic of Albania. It is the national centre charged with collecting, analyzing and disseminating data about potential money laundering and the financing of terrorism activities. The General Director of GDPML reports directly to the Minister of Finance.
14. "Shell bank" means a bank incorporated in a jurisdiction in which it has no physical presence involving meaningful mind and management, and which is unaffiliated with a regulated financial group
15. "Terrorist" has the same meaning as in Law No. 9258, date 15.07.2004," On Measures for the suppression of terrorism financing"
16. "Terrorist Act" has the same meaning as in Law No. 9258, date 15.07.2004," On Measures for the suppression of terrorism financing"
17. "Terrorist Financing" means the offence as defined in in Law No. 9258, date 15.07.2004," On measures for the suppression of terrorism financing"
18. "Terrorist Organization" has the same meaning as in Law No. 9258, date 15.07.2004," On measures for the suppression of terrorism financing"
19. A transaction is an agreement, communication, or movement carried out between separate entities or objects, often involving the exchange of items of value, such as information, goods, services and money.
20. Wire transfer" shall mean any transaction carried out on behalf of an originator person (both natural and legal) through a financial institution by electronic or wire with a view to making an amount of money available to a beneficiary person at another financial institution. The originator and the beneficiary could be the same person.

### **Article 3**

#### **Persons subject to this Law**

"Subjects" are natural or legal persons, as provided in the Civil Code of the Republic of Albania, that based on and in application of this Law, perform the activities defined in this Law as, or as part of, their business.

Such subjects include:

- a) Second tier Banks;
- b) Non-Bank Financial Institutions;

- c) Foreign exchange bureaux;
- d) Social and Credit Associations and their Unions;
- e) Postal services in respect of their financial services business, licensed from the Bank of Albania
- f) and any other natural or legal person that issue and manage means of payment or money or value transfer (credit and debit cards, cheques, travellers' cheques, money orders and bankers' drafts, electronic money or other similar instruments);
- g) Stock exchange and subjects that perform securities activities in relation to issuing, advising and trading securities.;
- h) Companies that provide life insurance or re-insurance business and their agents or intermediaries,;
- i) The State Authority for the Administration and Sale of Public Property and any other legal person that is performing juridical actions concerning alienation and distribution for usage of the state property or is carrying out evidencing, transferring or alienating of state property;
- j) Gambling entities, casinos and hippodromes, of any kind;
- k) Lawyers, notaries and other independent legal professionals when they prepare for or carry out transactions for their client concerning the following activities:
  - Disposition of immovable property,
  - managing of client's money, securities or other assets,
  - Management of bank, savings or securities accounts,
  - Administration of bank accounts
  - administering of financial contributions to be used for the purpose of the creation, operation or management of commercial companies, or
  - creation, operation or management of legal persons or arrangements, and buying and selling of businesses;
- l) Real estate agents and any natural or legal person that engage in arranging the financing of property construction;
- m) Independent accounting experts (authorized and approved) and financial consultants, including tax advisors;
- n) The Agency for the Legalization, Urbanization and Integration of informal areas/constructions
- o) Every natural and legal person, unless specified above, that engages in:
  - Administration of the assets of third parties/management of activities related to them;
  - Lending;
  - Dealing in precious metals and stones;
  - Financial leasing;
  - Financial guarantees and commitments;
  - Safekeeping and administration of cash or liquid securities on behalf of other persons;
  - Money and currency changing;

- Formation and registration of legal persons;
- Acting as (or arranging for another person to act as) a representative of legal persons;
- Providing a registered office, business address or accommodation, correspondence or administrative address for legal persons.

#### **Article 4**

##### **Identification of Clients**

1. Subjects shall identify their clients, and verify their identities by means identification documents:
  - a) prior to establishing a business relationship;
  - b) in cases other than those referred to in a), when the occasional client wishes to carry out:
    - a domestic or international wire transfer;
    - transaction in an amount equal to
      - (i) ALL 300,000 or above for the purchase or sale of gambling chips, or their electronic equivalent in the case of gambling entities, casinos and hippodromes, of any type; and
      - (ii) ALL 1,500,000 or above in all other cases, whether conducted as a single transaction or several transactions that appear to be linked with each other. If the amount of the transaction is unknown at the time of the operation, the identification shall be done as soon as the amount becomes known and the threshold is reached, or
  - c) when doubts exist about the veracity or adequacy of previously obtained client identification data;
  - d) in all cases when there is a suspicion of money laundering or financing of terrorism.
2. For purposes of identifying and verifying the identity of clients, subjects shall record and retain the following:
  - a) For natural non-business persons (individuals): name, surname, date of birth, place of birth, temporary and permanent address, type and number of the identification document and the name of the issuing organization.
  - b) For natural business persons: name, surname, number and date of the Court decision for the registration as a natural business person, tax identification number and the issuance date by the taxation authorities for performing the activity.
  - c) For legal persons: name, number and date of the Court decision with respect to its registration as a legal person, date and number of the identification as a taxable person, permanent head office as well as the nature of the business activity.
  - d) For legal representatives of a client or any other person acting on behalf of a client: name, surname, date and place of birth, permanent and temporary address, type and number of the identification document and the issuance institution, as well as proof of power of attorney granted to him to act on behalf of the client.
3. Subjects shall take all reasonable measures to verify the identity of the beneficial owner, when applicable according to item 2 of this article and shall take all necessary measures to verify his identity.

**Article 5**  
**Monitoring of business with clients**

Subjects shall conduct ongoing monitoring of the business relationships with their clients, to ensure that they are consistent with the subject's knowledge of the clients, the clients' business activities and risk profile.

**Article 6**  
**Enhanced Due Diligence**

1. Subjects shall determine the categories of client or transactions to which they will apply enhanced due diligence, which at a minimum includes the types of clients and transactions specified in this Article, in order to minimize the risk of money laundering and financing of terrorism.
2. Subjects shall require the physical presence of:
  - a) potential clients or their representatives prior to establishing a business relationship with a potential client
  - b) One-time customer or their representative prior to conducting transactions on their behalf and on their account.
3. Subjects shall determine if a potential client or a beneficial owner is a politically exposed person, their family members or close associates and if so:
  - a) obtain approval from senior administration or management before establishing a business relationship with the client;
  - b) take measures to identify the source of wealth and property of the client;
  - c) Provide increased and ongoing monitoring of the business relationship.
4. Equivalent measures shall apply when an existing client becomes a politically exposed person.
5. With respect to clients or potential clients that are non-profit organisations, subjects shall:
  - a) gather sufficient information about the potential client to fully understand the nature of the client's administration and management, activities, and sources of financing;
  - b) determine, from publicly available information or by other means, the reputation of the potential client;
  - c) obtain approval from senior administration/management before establishing a business relationship with the client;
  - d) provide increased and ongoing monitoring of the business relationship.
6. With respect to cross-border correspondent banking services provided by the banks that are subjects of this Law, the banks shall:
  - a) gather sufficient information about the respondent institution to fully understand the nature of the respondent's business;
  - b) determine from publicly available information the reputation of the respondent and the quality of its supervision;

- c) assess the respondent's internal controls against money laundering and the financing of terrorism, in order to ascertain that they are adequate and effective;
- d) Obtain approval from senior administration/management before establishing new correspondent banking relationships; and document the respective responsibilities of each institution.

Subjects shall not provide correspondent banking services to shell banks and shall ensure that they do not engage in or continue correspondent banking relationships with a bank that is known to permit its accounts to be used by a shell bank.

8. Subjects shall examine with enhanced due diligence all complex, unusual large transactions and all unusual patterns of transactions that have no apparent economic or visible lawful purpose. The background and purpose of such transactions shall be verified, and the findings set out in writing and kept available to the Responsible Authority and, where applicable, to supervisory authorities.
9. Subjects shall verify and pay special attention to business relations and transactions with non-resident clients.
10. Subjects shall verify and enhanced due diligence to business relations and transactions with persons, including legal persons and legal arrangements, residing in countries that do not or insufficiently apply the relevant international standards to prevent and combat money laundering and the financing of terrorism. In these cases, the verification process shall include obtaining the background and purpose of such transactions and the findings should be set out in writing and kept available to the Responsible Authority and, where applicable, to supervisory authorities.
11. The Responsible Authority issues a list of countries referred to in paragraph (10) and takes measures to restrict and/or examine transactions or business relationships of subjects with counterparts in such listed countries.
12. Subjects shall verify and pay special attention to business relations and transactions with legal persons or arrangements such as trusts and shareholder companies.
13. Subjects shall verify and pay special attention to business relations and transactions conducted by clients on behalf of third parties, including ensuring that the transactions are authorized by the third parties.
14. Subjects shall have policies in place or take such measures as may be needed to prevent the misuse of new technological developments for the purpose of money laundering or financing of terrorism.
15. If a subject cannot fulfil its obligation of due diligence described in this Article, it shall not establish or maintain the business relationship with the client. In this case, it must report to the Responsible Authority concerning the inability to fulfil its obligation of due diligence and state the reasons therefore.
16. Subjects shall take specific and adequate measures to address the increased risk of money laundering and financing of terrorism, in the event that they conduct business relationships or execute transactions, including by electronic means, with a client that is not physically present for purposes of identification, including one or more of the following:
  - a) ensuring that the customer's identity is established by additional documents, data or information;
  - b) supplementary measures to verify or certify the documents supplied, or requiring confirmatory certification by a bank known to apply in their procedures to counter money laundering and financing of terrorism standards at least equivalent to those stipulated in this Law.
  - c) ensuring that the first payment of the operations is carried out through an account opened in the customer's name with a bank known to apply in their procedures to counter money laundering and financing of terrorism standards at least equivalent to those stipulated in this Law.

## **Article 7**

### **Obligations regarding money or value transfer service**

1. Subjects whose activities include money or value transfers shall obtain and verify the full name, temporary and permanent address, number of identification document and bank account number (when requested), including the name of the financial institution of the originator of such transfers. The information shall be included in the message or payment form accompanying the transfer. If there is no account number, a unique reference number shall accompany the transfer.
2. Subjects shall transmit the information together with the payment, including when they act as intermediaries in a chain of payments.
3. The subjects referred to in paragraph (1) shall retain all such information for at least five years, and longer on request by the Responsible Authority.
4. If the subject referred to in paragraph (1) receives money or value transfers that do not contain the complete originator information they shall request the missing information from the ordering institution or the beneficiary. Should they not obtain the missing information they shall refuse acceptance of the transfer and report it to the Responsible Authority.

## **Article 8**

### **Reporting to the Responsible Authority**

1. Subjects that suspect that property is the proceeds of crime, or is to be used for the financing of terrorism are required to promptly, within the period specified in a implementing regulations of this law, submit a report setting forth its suspicions to the Responsible Authority.
2. With the exception of the transactions listed in paragraph 4, subjects are required to report to the Responsible Authority all cash transactions in an amount equal to or above ALL 1,500,000 and all non-cash transactions in an amount equal to or above ALL 6,000,000, whether conducted as a single transaction or several transactions that are linked with each other.
3. When a subject is requested, either by a client or an occasional customer, to carry out a transaction and, prior to proceeding with the transaction, the subject has reason to believe or suspects that the transaction may involve money laundering or the financing of terrorism, it shall immediately report the matter to the Responsible Authority, pursuant to the procedures established through the internal guidelines of the subject and seek guidance from the Responsible Authority as to whether or not to proceed with the transaction.
4. Reporting to the Responsible Authority is not required in respect of
  - a) transactions between banks other than transactions on behalf of their clients (inter-bank transactions);
  - b) transactions between subjects and the Bank of Albania;
  - c) such other categories of transactions of public entities that the Minister of Finance , upon the recommendation of the Responsible Authority, decides to exempt.

## **Article 9**

### **Exemption from legal liability for good faith reporting to the Responsible Authority**

1. No criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract may be instituted against subjects or their directors, officers or employees who in good faith submit reports or provide information in accordance with the provisions of this Law.



2. No criminal action for money laundering and financing of terrorism shall be brought against subjects, or their directors, officers or employees in connection with the execution of a suspicious transaction where a report of suspicions was made in good faith in accordance with Article 8.

## **Article 10**

### **Non-disclosure requirements**

The subject's employees are obliged to maintain the confidentiality of the reporting process related to money laundering or the financing of terrorism, and are prohibited to inform the client or any other person regarding the verification procedures of the suspicious case and regarding any report made to the Responsible Authority, except as necessary to comply with this Law or with the prior approval of the Responsible Authority.

## **Article 11**

### **Record keeping obligations**

1. Subjects shall keep and preserve the documentation presented for the client's identification for a period not less than 5 years from the date of the ending of the business relationship between the client and the subject, and longer on request by the Responsible Authority.

2. Subjects shall keep and preserve the documentation presented for the identification of the beneficial owner of the client for a period not less than 5 years from the date of the ending of the business relationship between the client and the subject, and longer on request by the Responsible Authority.

3. Subjects shall keep the records of data, reports and the documentation about financial transactions, both domestic and international, whether or not the transaction is performed on behalf of the client or on behalf of third parties, together with all the supporting documentation including account files and business correspondence, for a period not less than 5 years from the date of the financial transaction and longer on request by the Responsible Authority. The requirement applies whether the account or business relationship is ongoing or has been terminated.

4. Subjects are required to keep the records of transactions in sufficient detail to permit reconstruction of individual transactions so as to provide evidence for the Responsible Authority.

5. Subjects are required to maintain written findings in relation to transactions examined in accordance with Article 6 for 5 years and longer on request of Responsible Authority.

6. Subjects must ensure that all client and transaction records and information required to be maintained under this Article are made available without delay on the request of the Responsible Authority.

## **Article 12**

### **Preventive measures undertaken by the subjects**

1. Based on and in accordance with this Law and by-laws under this Law, subjects have the following obligations:

- a) to compile and implement internal rules and guidelines, which take into account the potential level of risk for money laundering or financing of terrorism that may arise from categories of clients or types of business, including but not limited to:
  - (i) a policy for customer acceptance, and

- (ii) a policy for applying enhanced procedures in the case of higher-risk clients and transactions.
  - b) to designate a money laundering compliance officer and an alternate, both at management/administration level in the head office, and, if applicable, in each subsidiary, affiliate, branch, agency or representative office to whom all employees and other staff report any facts that may constitute a suspicion of money laundering or financing of terrorism. This officer is also responsible for the day-to-day implementation of measures to comply with the obligations of subjects contained in this Law or a relevant by-law,;
  - c) to establish a centralised compliance function for data gathering, analysis and training;
  - d) to apply selection procedures when hiring new employees to ensure their integrity;
  - e) to train their staff on money laundering and financing of terrorism prevention; and to periodically organize training qualification programs for their employees;
  - f) to charge the internal auditing staff with checking compliance with the obligations of this Law and the relevant by-laws;
  - g) to ensure that their subsidiaries, affiliates and branches as well as their agencies within or outside the territory of the Republic of Albania act in conformity with this Law. If the Laws of the country where the subsidiary, affiliate, or branch is situated hinder compliance with these obligations, the subject shall report on these difficulties to the Responsible Authority and, where applicable, to its supervisory authority;
  - h) to forward information, supplementary data and documents to the Responsible Authority according to its requests and deadlines in cases foreseen by this Law. The Responsible Authority may extend this deadline in writing for a period not exceeding 15 days.
2. Subjects are prohibited to open or maintain anonymous business relationships or business relationships using fictitious names of the client. Subjects are prohibited to open or maintain accounts identifiable only by account number.
3. In case the number of the subject's staff defined in this Law is less than 3 (three) persons, the obligations of this Article are fulfilled by the administrator, or by an authorized employee of this subject.
4. The Minister of Finance, upon recommendation of the Responsible Authority, issues orders or guidelines:
- a) That determine the procedure for submitting reports to the Responsible Authority;
  - b) To assist subjects to comply with the obligation set out in this Law;
  - c) To develop, in co-operation with the supervisory authorities, standards or criteria applicable to the communication of suspicious activities that take into account trends and typologies and national and international standards.

### **Article 13** **Customs Reporting**

1. Any person, Albanian or foreign, who enters or exits the territory of Albania transporting cash, or negotiable instruments in an amount equal to or above ALL 1,000,000 or an equivalent value in

foreign currency, or is transporting precious metals or precious stones equal to or above this in value, shall report said amount to the customs authorities. The information shall be transmitted by the Customs Authority to the Responsible Authority.

2. The customs authorities shall report every suspicion, information, notification or data relating to possible money laundering or financing of terrorism immediately to the Responsible Authority, for activities under their jurisdiction.

#### **Article 14**

##### **Tax Authorities Reporting**

1. The tax authorities shall report every suspicion, information, notification or data relating to possible money laundering or financing of terrorism for activities under their jurisdiction, including continuous financial monitoring of NPOs immediately to the Responsible Authority.

#### **Article 15**

##### **Reporting of Central Office of real estate registration and Office for Shareholder registration**

1. The Central Office of real estate registration and Office for Shareholder registration report registration of the contract for purchase or sale of property with a value in excess of ALL 6.000.000 or its equivalent in foreign currency.
2. The Central Office of real estate registration and Office for Shareholder registration report every suspicion, information, notification or data relating to possible money laundering or financing of terrorism immediately to the Responsible Authority.

#### **Article 16**

##### **Non-profit Organisations**

1. Every authority responsible for the registration of NPOs shall prescribe rules to ensure that non-profit organizations are not misused for the purpose of the financing of terrorism.
2. Every authority responsible for the registration of NPOs shall report every suspicion, information, notification or data relating to possible money laundering or financing of terrorism immediately to the Responsible Authority.

#### **Article 17**

##### **Organisation of Responsible Authority**

1. The Responsible Authority operates independently as a General Directorate and is accountable directly to the Minister of Finance. The Responsible Authority, in carrying out its functions under this Law, shall have autonomy over the use of its budget and independent decision-making authority over matters within its responsibility.
2. The General Director and the other employees of the Responsible Authority are regulated by the Civil Servant Law; the supporting staff is regulated by the Labour Law of the Republic of Albania. The status of the employees, the salary structure, the criteria for performance evaluation, obligation to declare assets, recruiting and the organizational structure of the Responsible Authority is determined by decisions made by the Council of Ministers, with the approval of the Minister of Finance.
3. The head of the Responsible Authority is appointed by the Minister of Finance. The head and other staff of the Responsible Authority are required to keep confidential any information obtained within the scope of their duties, even after the cessation of those duties within

the Responsible Authority. Such information may only be used for the purposes provided for by this Law.

4. The head and other staff of the Responsible Authority may not hold a position or exercise a function in any of the subjects. They shall not hold any kind of office, or undertake an assignment or perform an activity that might affect the independence of their position or compromise the Responsible Authority.

## **Article 18**

### **Duties and Rights of the Responsible Authority**

Based on and in accordance with this Law, the Responsible Authority as the Financial Intelligence Unit of the Republic of Albania has the following duties and rights:

- a) it collects and administers reports and information from the subjects according to the provisions of this Law;
- b) it has access to information administered by the State institutions and every kind of public register according to provisions of this Law;
- c) it analyses reports and other data received from the subjects of this Law and other institutions (Deleted: in order to identify indications of money laundering or financing of terrorism;)
- d) it may, where relevant to its duties, ask for any financial information from subjects as to transactions conducted by their clients related to money laundering and terrorism financing;
- e) Supervises subject's compliance with the legal obligations deriving from Article 8 of this law, including on site inspections;
- f) it disseminates information to the Office of the General Prosecutor / Ministry of Interior, State Intelligence Service and other competent authorities in respect of a legal or natural person if it has reason to suspect as a result of carrying out its functions under this Law, that the person has committed money laundering or financing of terrorism it shall ask the Law Enforcement Agencies feedback on disseminated cases, and the latter shall provide such feedback at their own initiative or following the request of the Responsible Authority;
- g) if, by reason of the seriousness or urgency of the case, the Responsible Authority considers it necessary, it may order or seek the suspension of a transaction or the freezing of an account, for a period not to exceed 72 hours. It delivers to the Office of the General Prosecutor a copy of the freezing order, which contains the decision about the temporary suspension of a transaction or the freezing of an account according to this provision;
- h) it maintains all data and other legal documentation on reports or any other documentation received for a minimum period of 10 years from the date of the receipt of information regarding the latest transaction;
- i) Where the Responsible Authority considers it appropriate, it provides feedback to the subjects in relation to their reporting to it.
- j) it organizes and participates together with public and private institutions in training activities regarding money laundering and terrorist financing and organizes or participates in programs to raise public awareness;
- k) it shall notify the relevant supervisory authority when it determines that a subject does not comply with the obligations set out in this Law;
- l) it shall issue by the end of first quarter of each year a public annual report on the operation of the Responsible Authority. The report shall include information on any matter that could affect public

policy or the strategic direction of the Responsible Authority, including detailed statistics on the origin of reports received and the outcome of cases forwarded to the prosecutor;

## **Article 19**

### **The National Committee for the Coordination of the Fight against Money Laundering**

1. The National Committee of the Coordination of the Fight against Money Laundering is responsible for designing the general state policy against money laundering and terrorism financing.
2. This National Committee is headed by the Prime Minister and comprises: the General Prosecutor, the Governor of the Bank of Albania, the Minister of Foreign Affairs, the Minister of Defence, the Minister of Public Order, the Minister of Finance, the Minister of Justice and the Head of the State Intelligence Service.
3. The National Committee meets at least 2 times per year and is responsible to determine the directions of the general state police in the field of preventing and combating of money laundering and financing of terrorism, to consider and analyse the reports on the operations conducted by the Responsible Authority, to consider reports on documents prepared by international bodies and institutions that exert their activities in the field of combating money laundering and terrorist financing. The General Director of the Responsible Authority shall provide information to the National Committee at its request and act as advisor at meetings of the National Committee.
4. Ministers, deputies, leaders or representatives of institutions and specialists in the field of prevention and combating of money laundering and financing of terrorism may be called to participate in the meetings of the National Committee.
5. The detailed rules on the structure and operation of the National Committee are provided for in its internal regulation approved at its meeting.
6. The National Committee can establish operational and/or technical working groups to assist it in carrying out its functions and studies on the trends and techniques of ML/FT.

## **Article 20**

### **Functions of supervisory authorities**

1. The supervisory authorities are:
  - a) for subjects referred to in Article 3 paragraphs a) to e): The Bank of Albania
  - b) for subjects referred to in Article 3 paragraphs f) and g): The Financial Supervision Authority
  - c) for subjects referred to in Article 3 paragraph h) and i): Ministry responsible for supervision
  - d) for subjects referred to in Article 3 paragraph j): The Bar Association, and the National Chamber of Notaries
  - e) for subjects referred to in Article 3 paragraphs k), l) and m): The Responsible Authority
2. The supervisory authorities shall supervise compliance by subjects with the obligations set forth in Article 4, 5, 6, 7, 11 and 12 of this Law, including through on-site examinations.

3. The supervisory authorities report every suspicion, information, notification or data relating to possible money laundering or financing of terrorism immediately to the Responsible Authority.
4. The supervisory authorities perform the following additional tasks:
  - a) Check the implementation by the subjects under their supervision of the programs against money laundering and financing of terrorism and ensure that these programs are appropriate;
  - b) Consult with the Responsible Authority for the implementation of this Law and its by-laws;
  - c) adopt the necessary measures to prevent a person who is not fit and proper from owning, controlling, or participating, directly or indirectly, in the directorship, management or operation of a subject;
  - d) Cooperate and provide specialized assistance in tracing and investigating money laundering and financing of terrorism in conformity with the requests of the **Responsible Authority**, and share information with them, where appropriate;
  - e) Cooperate in preparing and delivering training programs in the area of combating money laundering and financing of terrorism;
  - f) cooperate with agencies that perform similar supervisory functions in other countries in matters relating to countering money laundering or financing of terrorism, and to violations of the relevant laws and by-laws;
  - g) Maintain statistics concerning actions taken and sanctions imposed in the area of money laundering and financing of terrorism.
6. The supervisory authorities are authorized to issue regulations and guidelines to the subjects under their supervision consistent with this Law and the by-laws issued under this Law.

## Article 21

### Administrative Offences

1. The Responsible Authority in case of a breach of the obligations by a subject may request from any supervisory authority to impose suspending, restricting or withdrawing the license.
2. Where not constituting a criminal offence, violations committed by subjects are classified as administrative offences. For these violations, the subjects are fined ALL 50,000 (fifty thousand) up to ALL 2,500,000 when the subject is a natural person.
  - From ALL 100,000 up to ALL 5,000,000 when the person is a legal person

When subjects:

- a) Fail to apply identifying procedures and monitoring procedures of the clients according to Articles 4, 5, 6 and 7 of this Law and by-laws issued under this Law;
- b) Failure to collect data or report to the Responsible Authority according to definitions of Article 8 and Article 6 paragraph 13 and Article 7 paragraph 3 of this Law;
- c) Failure to develop and maintain internal structures and procedures, according to Article 12 of this Law;
- d) Failure to maintain data on identification, transactions and reporting, contrary to Article 11 of this Law;
- e) Performance of financial transactions contrary to Article 7 paragraph 3 of this Law;
- f) Performance of financial transactions contrary to an order issued by the “Responsible Authority”, according to Article 17 paragraph h of this Law;

- g) Destroying data, damaging or making changes (other than correction of errors) in the clients or transactions records;
  - h) Informing any person, other than as needed to comply with this Law or with the prior approval of the Responsible Authority that a report has been made to the Responsible Authority concerning that person or any other person.
3. If the subject is a legal entity, and the administrative minor offence is committed by an employee, a manager or a director of the subject, these individuals can be punished by a fine of ALL 50,000 (fifty thousand) up to ALL 300,000 (three hundred thousand).
  4. The fines are determined by the Responsible Authority.
  5. Responsible Authority shall inform the supervisory authorities on the sanctions imposed and may order the publication of the decision to sanction.
  6. The procedures for appeals against decisions and the execution of the decisions for administrative offences are carried out in conformity with Law No. 7697, dated 04/07/1993 “On administrative Offences”

## **Article 22**

### **Prohibition on invoking professional secrecy or privilege**

1. Professional secrecy or privilege shall not be invoked as a ground not to comply with the obligations under this Law when the information is requested, or the production of a related document is ordered in accordance with this Law.
2. Lawyers, notaries and other independent legal professionals are obliged to report information to the Responsible Authority in accordance with this Law in respect of a client except where they receive such information in the course of determining the legal position for their client or performing their task of defending or representing that client in or concerning judicial proceeding, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.

## **Article 23**

### **Implementation Rules**

1. Council of Ministers by proposal of Minister of Finance issues detailed rules in relation to reporting forms, methods and procedures in compliance with this Law for licensing and supervisory authorities, Office for the Registration of Real Properties, ALUIZNI and Non-for-Profit Organizations, within 3 months from the publication of this Law in the Official Gazette.
2. Minister of Finance by proposal of the Responsible Authority issues within 3 months from the publication of the Law, detailed rules in relation to:
  - a) methods and procedures for reporting of Customs Authority
  - b) Methods and procedures for reporting of Tax Authority
  - c) Implementing Standards and criteria on reporting of suspicious activity report, according to Trends and typologies, according to international standards
  - d) Preventing of abuse of NPO for terrorism financing purposes

1. Responsible Authority, Supervisory Authorities and other Subjects approve and implement Internal Rules, as well as rules for subjects supervised by them according to Articles 12 and 19 of this Law within 3 months from the publication of the Law in the official gazette.

Article 24  
Enactment of the Law

This Law is enacted within 3 months from its publication in the Official Gazette.

***ANNEX 2: CHANGES TO THE CRIMINAL CODE***



**Law 9686, dated 02.26.2007**

**On some additions and changes to the law #7895, dated 01.27.1995  
“Penal Code of the Republic of Albania” as amended**

**Article 1**

In article 7 letter “c” second paragraph, replace “terrorist act” with “actions for terrorist purposes”

**Article 2**

Add article 7/a, at the end of Article 7, with the following text

**Article 7/a**

**Universal Jurisdiction**

The Criminal Law of the Republic of Albania can be implemented on a foreign citizen that lives in the territory of the Republic of Albania and has not been extradited, that has committed one of the following crimes outside the Territory of the Republic of Albania:

- a) crimes against humanity
- b) war crimes
- c) Genocide
- d) Actions with terrorist purposes
- e) Torture

The Criminal Law of the Republic of Albania can be implemented even on foreign citizens that outside the territory of the Republic of Albania have committed any of the penal offences on which individual laws and international agreements to which the Republic of Albania is a party to determine the application of the Albanian Penal Legislation.

**Article 3**

In article 8, replace “article 7” with “articles 7 and 7/a”



#### Article 4

In article 28 make the following changes:

- a) paragraph 2 of item 1, is revoked
- b) item 2 is changed as follows:  
“2. Terrorist organization is a special form of a criminal organization, composed of two or more persons that have sustainable collaboration in time, aiming at the commission of actions with terrorist purposes”

#### Article 14

The title of chapter VII is changed to read as follows: “Actions for terrorist purposes”

#### Article 15

Article 230 is changed as following:

#### Article 230

##### **Actions with terrorist purposes**

The commission of the following acts, that have the purpose to intimidate the public or to compel an Albanian or foreign governmental agencies to do or to refrain from doing any act, or seriously destroy or destabilize, essential political, constitutional, economical and social structures of the Albanian State, or another State, institution or international organization, is punishable by no less than 15 years of imprisonment for or by life imprisonment.

The actions for terrorist purposes include but are not limited to:

- a) actions against person, that might cause death or serious body harm
- b) hijacking or kidnapping
- c) serious destruction of public property, public infrastructure, transport system, information system, fix platforms on the continental shelf, private property in large scale by putting at risk persons' lives.
- d) Hijacking of aircrafts, vessels and other means of transport
- e) The production, possession, procurement, transportation or trading of explosive materials, fire arms, biological, chemical and nuclear weapons as well as the scientific research for the production of weapon of mass destruction, named above.

#### Article 16

At the end of article 230/ç is added article 230/d that reads as follows:

#### Article 230/d

##### **Collection of Funds for the Financing of Terrorism**

The collection of any type of financial means, directly or indirectly, for the financing of terrorist organizations or the commission of acts for terrorism purposes, is punishable by 4-12 years of imprisonment and by a fine that varies from six hundred thousand to six million lek”

#### Article 17

Article 231 is changed as follows:

#### Article 231

Recruiting of persons for the commission of acts with terrorist  
Purposes or for the financing of terrorism

Recruiting of one or more persons for the commission of acts with terrorist purposes or for terrorism financing, even when those acts are intended against another State, an international institution or organization, if it does not constitute another penal offence, is punishable with no less than 10 years of jail.”

### **Article 18**

Article 232 is changed as follows:

### **Article 232**

Training for the commission of acts with terrorist purposes

Preparation, training and provision of any type of guidelines either anonymously or via electronic means, for the production or use of explosive substances, fire arms and other fighting munitions, or other weapons of chemical, bacteriological or nuclear nature, harmful and dangerous to people and property, as well as techniques or other means for the commission of acts for terrorist purposes and the participation in such activities, even when these acts aim at another State, international organization or institution, if it doesn't constitute another penal offence, is punishable by no less than 7 years of jail.”

### **Article 19**

Subsequent to article 232 are added article 232/a and 232/b that read as follows

### **Article 232/a**

Incitement, public appeals and propaganda for the  
Commission of acts with terrorist purposes

Incitement, public appeals, dissemination of written information or propaganda of other types, which aims at supporting or the commission of one or more acts with terrorist purposes and terrorism financing, if it doesn't constitute another penal offence, is punishable by four to ten years of jail.

### **Article 232/b**

Threatening with the commission of an act for terrorist purposes

Serious threat of the commission of acts for terrorist purposes, against a public authority, even of another state, international institution or organization, is punishable by eight to fifteen years of jail.”

### **Article 23**

Succeeding article 282/a is added article 282/b that reads as follows:

### **Article 282/b**

Training for the production and illegal use of weapons and  
other dangerous substances

Preparation, training and provision of guidelines, of any type, even in anonymous or electronic way, in contravention of the law, for the production or use of explosive substances, fire arms and fighting munitions, or other weapons of chemical, bacteriological or nuclear nature, harmful and dangerous to people and property, if it does not constitute another penal offence is punishable from two to seven years of jail”

### **Article 24**

Make the following amendments to article 287:

1. Letter “a” of item 1 is changed as follows:

“a) The conversion or transfer of property, that is known to be a product of a criminal offence, with the purpose of hiding, concealing the origin of the property or aiding to avoid legal consequences related to the commission of the penal offence.”

2. Letter “ç” is revoked

## **Article 25**

Succeeding article 287/a is added article 287/b that reads as follows:

### **Article 287/b**

#### **Embezzlement of money or stolen goods**

Whoever purchases, receives, hides or, in any other way, embezzles for himself or a third party, or assists in purchasing, taking, hiding of money or other goods, knowing that another person has obtained these money or goods, as a result of penal offence, is punished by six to three years of jail and a fine up to ALL 100.000.

The irresponsibility of the person or the barrier for the prosecution of the related penal offence does not exclude the responsibility of the person that committed the penal offence of embezzlement of stolen money or goods in the meaning of this article.”

### ***ANNEX 3: STATISTICS – CO-ORDINATION WITH COUNTERPARTS***

<b>Year</b>	<b>Requests sent by the counterparts to the Albanian FIU</b>	<b>Replies by the Albanian FIU to the counterparts</b>
<b>2004</b>	<b>no information</b>	<b>no information</b>
<b>2005</b>	<b>14</b>	<b>16</b>
<b>2006</b>	<b>32</b>	<b>29</b>
<b>1 January – 15 May 2007</b>	<b>8</b>	<b>13</b>

<b>Year</b>	<b>Requests sent by the Albanian FIU to the counterparts</b>	<b>Replies by the counterparts to the Albanian FIU</b>
<b>2004</b>	<b>no information</b>	<b>no information</b>
<b>2005</b>		
<b>2006</b>	<b>32</b>	<b>28</b>
<b>1 January – 15 May 2007</b>	<b>6</b>	<b>7</b>

#### **Memorandums of Understanding signed with our international counterparts:**

1. **Slovenia (OMLP)** – Albania (GDPML), signed on 30/01/2003
2. **Bulgarian (FIA)** - Albania (GDPML), signed on 09/06/2003
3. **Macedonia (MLPD)** - Albania (GDPML), signed on 26/01/2004
4. **Montenegro (APML)** - Albania (GDPML), signed on 06/03/2004
5. **Croatia (AML D)** - Albania (GDPML), signed on 07/06/2004
6. **El Salvador (UIF)** - Albania (GDPML), signed on 14/06/2004
7. **Czech Republic (FAU-CR)** - Albania (GDPML), signed on 14/06/2004
8. **Lebanon (SIC)** - Albania (GDPML), signed on 14/06/2004
9. **Estonia (MLIB)** - Albania (GDPML), signed on 15/06/2004
10. **Barbados (AMLA)** - Albania (GDPML), signed on 15/06/2004
11. **Serbia (APML)** - Albania (GDPML), signed on 28/06/2004
12. **Portugal (UIF)** - Albania (GDPML), signed on 23/09/2004

13. **Cyprus (MOKAS)** - Albania (GDPML), signed on 27/09/2004
14. **Finland (RAP)** - Albania (GDPML), signed on 25/10/2004
15. **Taiwan (China) (MLPC)** - Albania (GDPML), signed on 05/11/2004
16. **Saint Vincent & Grenadines (FIU)** - Albania (GDPML), signed on 07/12/2004
17. **Korea (FIU)** - Albania (GDPML), signed on 31/12/2004
18. **Slovakia (SJFP UBPOK)** - Albania (GDPML), signed on 15/02/2005
19. **Guatemala (IVE)** - Albania (GDPML), signed on 05/04/2005
20. **Ukraine (SDFM)** - Albania (GDPML), signed on 06/04/2005
21. **Romania (ONPCSB)** - Albania (GDPML), signed on 06/04/2005
22. **Venezuela (UNIF)** - Albania (GDPML), signed on 12/04/2005
23. **Bosnia and Herzegovina (FID)**- Albania (GDPML), signed on 18/11/2005
24. **Kosovo (FIC - UNMIK)** - Albania (GDPML), signed on 21/02/2006
25. **USA (FINCEN)** - Albania (GDPML), signed on 06/03/2006
26. **Moldova** - Albania (GDPML), signed on 13/12/2006
27. **Australia (AUSTRAC)** - Albania (GDPML), signed on 01/03/2007

**Memorandum of Understanding signed with our inter-institutional counterparts:**

1. **High Inspectorate for the Declaration and Audit of the Assets (HIDAA)** – Albanian FIU (GDPML), signed on 28/04/2006
2. **Co-operation Agreement signed between the Department of the Administrative Internal Audit and Anticorruption in the Council of Ministers** - Albanian FIU (GDPML), signed on 10/05/2007
3. **Memorandum of Understanding** signed between the Ministry of Finance – represented by the Albanian FIU (GDPML), the Ministry of Public Order, the General Prosecutor Office, the State Intelligence Service and the Bank of Albania signed in September 2002.

**ANNEX 4: “Inspections carried out from 2005 till April 2007”**

**2005**

<b>No.</b>	<b>Type of the subject</b>	<b>Subjects Total</b>	<b>Inspected Subjects</b>	<b>% ins</b>	<b>Proposed measures</b>
<b>1</b>	Insurance Company	10	10	100	-

**2006**

<b>No.</b>	<b>Type of the subject</b>	<b>Subjects Total</b>	<b>Inspected subjects</b>	<b>% ins</b>	<b>Proposed measures</b>
<b>1</b>	Custom Authorities	23	14	60.8	-
<b>2</b>	Gambling	49	9	18.3	-
<b>3</b>	Insurance Company	12	4	33.3	-
<b>4</b>	Currency exchange	48	5	10.4	-
<b>5</b>	trading of means of transport	12	12	100	-
<b>6</b>	Mortgage	37	10	27	-
<b>7</b>	Non Profit Organization	-	16	-	-
<b>8</b>	Travel Agencies	117	26	22.2	-
<b>9</b>	Tax Authorities	37	4	10.8	-
	<b>Total</b>	<b>335</b>	<b>100</b>		<b>-</b>

**2007**

<b>No.</b>	<b>Type of the subject</b>	<b>Subjects Total</b>	<b>Inspected Subjects</b>	<b>% ins</b>	<b>Implemented and proposed measures</b>
<b>1</b>	Insurance Company	10	10	100	-
<b>2</b>	Mortgage	36	5	14	3
<b>3</b>	Commercial banks	18	10	50	-
<b>4</b>	Notaries	309	4	0.2	-
<b>5</b>	Tax Authorities	37	6	16.2	-
<b>6</b>	The National Agency of Privatization	1	1	100	-
	<b>Total</b>	<b>411</b>	<b>35</b>	<b>8.5</b>	<b>3</b>

## ***ANNEX 5: TRAININGS FOR THE REPORTING SUBJECTS***

During 2006 a well scheduled training and assistance program was carried out by the specialists of the Department of Inspections of the GDPML for the reporting subjects. A similar training and inspections program has been scheduled for 2007. The number of reporting subjects inspected (and also trained) during 2006 was 100 out of 300 reporting subjects detected to be inspected.

Trainings carried from January-May 2007:

- Training for the customs' employees on the importance of the detection and filling in of the STR's("On the fight against money laundering and terrorism financing in the customs")- 27.01.2007
- Training seminar for the representatives of the insurance agencies: "On the fight against money laundering and terrorism financing in the insurance agencies " - 31.01.2007
- Training seminar for the representatives of the Regional Offices of the Registration of the Immovable Properties and of the Central Office of the Registration of the Immovable Properties: "On the fight against money laundering and terrorism financing in the RORIP " – 07.03.2007
- Training seminar for the notaries of Korca, Erseka and Pogradec: "On the fight against money laundering and terrorism financing in the notaries offices"- 19.02.2007
- Training seminar for the notaries of Durres and Elbasan: "On the fight against money laundering and terrorism financing in the notaries offices"- 23.02.2007

Trainings for other subjects of the law are still in process.

## **APPENDIX IV – Additional legislation and data submitted with the second progress report**

### ***ANNEX 1: AML/CFT LAW***

**LAW Nr.9917, date May 19, 2008**

#### **“ON THE PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM”**

Pursuant to Articles 78 and 83/ 1 of the Constitution, upon the proposal of the Council of Ministers,

#### **THE ASSEMBLY OF THE REPUBLIC OF ALBANIA DECIDED**

#### **CHAPTER I GENERAL PRINCIPLES**

##### **Article 1 Purpose**

The purpose of this law is to prevent laundering of money and proceeds, derived from criminal offences, as well as, the financing of terrorism.

##### **Article 2 Definitions**

The terms used in this law have the following meaning:

1. **“Responsible authority”** is the General Directorate of Money Laundering Prevention that reports directly to the Minister of Finances, and serves as Financial Intelligence Unit of Albania.
2. **“Shell bank”** means a bank, which does not have a physical presence, including lack of administration and management, and, which is not included in any regulated financial group.
3. **“Correspondent bank”** means a bank that provides banking services in the interests of another bank (initiating bank) or its clients to a third bank (receiving bank) based on an agreement, or a contractual relation reached between them for this purpose.
4. **“Financing of terrorism”** has the same meaning as provided by articles 230/a through 230/d of the Criminal Code.
5. **“Bearer’s negotiable instruments”** means unconditional payment orders or promises, which are easily transferable from a person to another and, which must meet a set of criteria including the criteria hereby defining that they must be signed by the issuer or the bearer, they must be a guaranteed and unconditional payment order or promise, they must be payable to the holder or according to the order upon request or after a specified deadline. This includes but is not limited to cheques, cambial, promise notes, credit cards and traveler’s cheques.



6. **“Client”** means every person, who is or seeks to be party in a business relation with one of the entities referred to in Article 3 of this law.
7. **“Business relation”** means any professional or commercial relationship, which is related to the activities exercised by this law entities and their clients and, which, once established, is considered to be a continuous relation.
8. **“Cash”** means banknotes (paper banknotes and coins, national and foreign) in circulation.
9. **“Laundering of criminal offence proceeds”** has the same meaning as provided by Article 287 of the Criminal Code.
10. **“Politically exposed persons”** means persons who are obliged to declare their properties pursuant to law Nr. 9019, date April 10, 2003 “On the declaration and auditing of properties and financial obligations of elected officials and public employees”.
11. **“Criminal offence proceeds”** has the same meaning as provided by Article 36 of Criminal Code.
12. **“Beneficiary owner”** means the individual or legal entity, which owns or, is the last to control a client and/or the person in whose interest a transaction is executed. This also includes the persons executing the last effective control on a legal person. The last effective control is the relationship in which a persons:
- a) owns, through direct or indirect ownership, the majority of stocks or votes of a legal entity,
  - b) owns by himself the majority of votes of a legal entity, based on an agreement with the other partners or shareholders,
  - c) de facto controls the decisions made by the legal person,
  - d) in any way controls the selection, appointment or dismissal of the majority of administrators of the legal person.
13. **“Property”** means the right or property interest of any kind over an asset, either movable or immovable, tangible or intangible, material or non material, including those identified in an electronic or digital form including, but not limited to, instruments such as bank loans, traveler’s cheques, bank cheques, payment orders, all kinds of securities, payment bills, and letters of credit, as well as any other interest, dividend, income or other value that derives from them.
14. **“Entity”** 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 professional activity.
15. **“Money or value transfer service”** means the performance of a business activity to accept cash and other means or instruments of the money and/or payment market (cheques, bank drafts, bills, deposit bills, credit or debit cards, electronic payment cards etc.), securities, as well as any other document to hereby confirm the existence of a monetary obligation or any other deposited value, and to pay to the beneficiary of a corresponding amount in cash, or in any other form, by means of communication, message, transfer or by means of the clearing or disbursement service, to which the service of the transfer of money or value belongs.
16. **“Transaction”** means a business relation or an exchange that involves two or more parties.

17. **“Linked Transactions”** means two or more transactions (including direct transfers) where each of them is smaller than the amount specified as threshold according to the article 4 of this law and when total amount of these transactions equals or exceeds the applicable threshold amount.

18. **“Direct electronic transfer”** means every transaction made in the name of a first mandating person (individual or legal entity) through a financial institution, through electronic or wire transfer, with the purpose of putting a certain amount of money or other means or instruments of the money and/or payment market at the disposal of a beneficiary in another financial institution. The mandator and the beneficiary can be the same person.

19. **“Trust”** means a good faith agreement, in which the ownership rests with the entrusted on behalf of the beneficiary.

20. **“Enhanced Due Diligence”** is a deeper control process, beyond the “Know Your Customer” procedure, the aim of which is to create sufficient security to verify and evaluate the client’s identity, to understand and test the client’s profile, business, and bank account activity profile, to identify information and to assess the possible risk of money laundering/terrorism financing pursuant to the decisions, the purpose of which is to provide protection against financial, regulatory or reputation risks in addition to compliance with legal provisions.

21. **“Know Your Customer”** procedure is a set of rules applied by financial institutions, which have to do with the client’s identification policies and their risk administration

### **Article 3** **Entities subject to this law**

Entities of this law include:

- a) Commercial banks;
- b) Nonbank financial institutions;
- c) Exchange offices;
- d) Saving and credit companies and their unions;
- e) Postal services that perform payment services;
- f) Any other physical or legal entity that issues or manages payment means or handles value transfers (debit and credit cards, cheques, traveller’s cheques, payment orders and bank payment orders, e-money or other similar instruments);
- g) Stock exchange and any other entity (agent, broker, brokerage house etc.), which carries out activities related to issuing, counselling, mediation, financing and any other service related to securities trading;
- h) Companies involved in life insurance or re-insurance, agents and their intermediaries as well as retirement funds;
- i) The Responsible State Authority for Administration and Sale of Public Property and any other public legal entity, which engages in legal transactions related to the public property alienation and granting of usufruct over it or which carries out recording, transfer or alienation of public property;
- j) Gambling, casinos and hippodromes, of any kind;
- k) Attorneys, public notaries and other legal representatives, when they prepare or carry out transactions for their clients in the following activities:
  - i) transfer of immovable properties, administration of money, securities and other assets;
  - ii) administration of bank accounts;
  - iii) administration of capital shares to be used for the foundation, operation or administration of commercial companies;
  - iv) foundation, functioning or administration of legal entities;

- v) legal agreements, securities or capital shares transactions and the transfer of commercial activities;
- l) Real estate agents and evaluators of immovable property;
- m) Authorized independent public accountants, independent certified accountants, as well as, financial consulting offices;
- n) The Agency for Legalization, Urbanization and Integration of Informal Areas/ Constructions;
- o) Any other individual or legal entity, except for those mentioned above, engaged in:
  - i) The administration of third parties' assets/ managing the activities related to them;
  - ii) Financial lease;
  - iii) Constructions;
  - iv) The business of precious metals and stones;
  - v) Financial loans;
  - vi) Financial agreements and guarantees;
  - vii) Buying and selling of art master pieces, or buying and selling in auctions of objects valuable 1,500,000 ALL or more;
  - viii) Insurance and administration of cash or liquid securities in the name of other persons;
  - ix) Cash exchange;
  - x) Trade of motor vehicles,
  - xi) Transportation and delivery;
  - xii) Travel agencies.

## CHAPTER II DUE DILIGENCE

### Article 4 Identification of clients

1. The entities should identify their clients and verify their identities by means of identification documents:
  - a) Before establishing a business relation;
  - b) when the client carries out or, is willing to carry out in cases other than those referred to in letter “a” of this paragraph, the following:
    - A direct transfer inside or outside the country;
    - A transaction at an amount equal to:
      - (i) Not less than 200,000 (two hundred thousand) ALL or its equivalent in foreign currency for buying or selling of gambling coins or their electronic equivalent, such as the case of gambling, casinos and hippodromes of any kind;
      - (ii) Not less than 1 500 000 (one million five hundred thousand) ALL or its equivalent in foreign currency in the case of a sole transaction or several transactions linked to each other. If the amount of the transaction is unknown at the time it is executed, the identification shall be made as soon as the amount is made known and the aforementioned limit is reached.
  - c) When there are doubts about the identification data previously collected
  - d) In all cases when there is reasonable doubt for money laundering or terrorism financing.
2. The entities should identify the beneficiary owner.

## **Article 5**

### **Required documents for client's identification**

1. For the purposes of confirmation and identification of the identity of clients, the entities must register and keep the following data:

- a) In the case of individuals: name, father's name, last name, date of birth, place of birth, place of permanent residence and of temporary residence, type and number of identification document, as well as the issuing authority and all changes made at the moment of execution of the financial transaction;
- b) In the case of individuals, which carry out for-profit activity: name, last name, number and date of registration with the National Registration Centre, documents certifying the scope of activity, Taxpayer Identification Number (TIN), address and all changes made in the moment of execution of the financial transaction;
- c) In the case of private legal entities, which carry out for-profit activity: name, number and date of registration with the National Registration Centre, documents certifying the object of activity, Number of Identification as Taxable Person (NIPT), address and all changes made in the moment of execution of the financial transaction;
- d) In the case of private legal entities, which do not carry out for-profit activity: name, number and date of court decision related to registration as legal person, statute and the act of foundation, number and date of the issuance of the license by tax authorities, permanent location, and the type of activity;
- e) In the case of legal representatives of a client: name, last name, date of birth, place of birth, permanent and temporary residence, type and number of identification document, as well as the issuing authority and copy of the affidavit.

2. To gather data according to the stipulations of this article, the entities shall accept from the client only authentic documents or their notarized authentic photocopies. For the purposes of this Law, the entity shall keep in the clients' file copies of the documents submitted by the client in the above form stamped with the entity's seal, within the time limits of their validity.

3. When deemed necessary, the entities should ask the client to submit other identification documents to confirm the data provided by the latter.

## **Article 6**

### **Monitoring of the business relation with the client**

The entities must carry out continuous monitoring of business relations with their clients, in order to make sure that they are in conformity with the entity's information about the clients, the scope of their activity and their classification according to the level of risk they represent.

The entities must periodically update the client data in accordance with paragraph 1 of this Article and immediately when they have reasons to suspect that the conditions and the actual situation of the client have changed.

## **CHAPTER III**

### **ENHANCED DUE DILIGENCE**

## **Article 7**

### **Enhanced due diligence**

In order to reduce the risks of money laundering, the entities shall specify categories of clients and transactions, in addition to those referred to in Articles 8 and 9 of this law, against whom they will apply the enhanced due diligence.

In order to implement the enhanced due diligence, the entities should require the physical presence of clients and their representatives in the cases provided hereunder:

- a) prior to establishing a business relationship with the client;
- b) prior to executing transactions in their name and on their behalf.

## **Article 8**

### **Categories of clients subject to enhanced due diligence**

1. The entities should verify, based on the list referred to in Article 28, paragraph 2 of this law, if a client or a beneficiary owner is a politically exposed person and when this is the case:

- a) Obtain the approval of the higher instances of administration or management before establishing a business relation with the client;
- b) Obtain a declaration on the source of the client's wealth that belongs to this financial action;
- c) Perform an increasing and continuous monitoring of the business relations.

2. When an existing client becomes a politically exposed person, the measures provided in the paragraph 1 of this Article shall be applied.

3. For clients that are non-profit organizations, the entities shall hereby:

- a) Gather sufficient information about them, in order to completely understand the financing sources, the nature of the activity, as well as, their administration and management approach;
- b) Verify by using public information or other means the clients' reputation;
- c) Obtain the approval of the higher instances of administration/management before establishing a business relation with them;
- d) Perform extended monitoring of the business relationship;

## **Article 9**

### **Categories of transactions subject to enhanced due diligence**

1. With regard to correspondent cross border banking services provided by banks subject to this law, they should, before establishing a business relationship, perform the following:

- a) Gather sufficient information about the correspondent institution, in order to fully understand the character of its activity;
- b) Determine the reputation of the recipient institution and the quality of its supervision through public information;
- c) Evaluate whether or not the internal auditing procedures of the recipient institution against money laundering and financing of terrorism are satisfactory and effective;
- d) Obtain the approval of the higher instances of administration/management and document the respective responsibilities of every institution.
- e) Draft special procedures for the constant monitoring of direct electronic transactions.

2. The entities shall not carry out correspondent banking services with banks, the accounts of which are used by shell banks. The entities shall terminate any business relationship and report to the responsible authority, if they notice that, the accounts of the corresponding bank are used by shell banks.

3. The entities must examine through enhanced due diligence all complex transactions and all types of unusual transactions that do not have a clear economic or legal purpose.

4. The entities must apply enhanced due diligence to business relation and transactions with non-resident clients.
5. The entities must verify and apply enhanced due diligence to business relationships and transactions with clients residing or acting in countries that do not apply or partly apply the relevant international standards on the prevention and fight against money laundering and financing of terrorism.
6. The entities must apply enhanced due diligence to business relations and transactions with trusts and joint stock companies.
7. The entities must apply enhanced due diligence to business relations and transactions carried out by clients in the name of third parties, including the representation documents with which third parties have authorized the transactions.
8. The entities must adopt policies or respond appropriately according to the circumstances, in order to prevent the misuse of new technological developments for the purposes of money laundering or terrorism financing.
9. If an entity fails to fulfil its enhanced due diligence obligations, as prescribed in this article then:
  - a) it shall therefore not establish or carry on business relations with the client;
  - b) It shall report to the Responsible Authority its inability to fulfil its enhanced due diligence obligations and declare the reasons for this.

## **Article 10**

### **Money or values transfer service obligations**

1. The entities, the activities of which include money or value transfers, must ask for and verify first name, last name, permanent and temporary residence, document identification number and account number, if any, including the name of the financial institution from which the transfers is made. The information must be included in the message or payment form attached to the transfer. In case there is no account number, the transfer shall be accompanied by a unique reference number.
2. The entities transmit the information together with the payment, including the case when they act as intermediaries in a chain of payments.
3. If the entity referred to in paragraph 1 receives money or value transfers, including direct electronic transfers, which do not include the necessary information about the ordering person, the entity must request the missing information from the sending institution or from the beneficiary. If it fails to register the missing information, it should refuse the transfer and report it to the responsible authority.

## **Article 11**

### **Prevention measures to be undertaken by entities**

1. According to this law and bylaws pursuant to it, the entities shall have the following obligations:
  - a) draft and apply internal regulations and guidelines that take into account the money laundering and terrorism financing risk, which can originate from clients or businesses, including but not limited to:

- (i) A clients acceptance policy, and
  - (ii) A policy for the application of procedures of enhanced due diligence in the case of high-risk clients and transactions.
- b) nominate a responsible person and his deputy for the prevention of money laundering, at the administrative/management level in the central office and in every representative office, branch, subsidiary or agency, to which all employees shall report all suspicious facts, which may comprise a suspicion related to money laundering or terrorism financing.
- c) establish a centralized system, in charge of data collection and analysis;
- d) apply fit and proper procedures when hiring new employees, to ensure their integrity.
- e) train their employees on the prevention of money laundering and terrorism financing through regular organization of training programs.
- f) assign the internal audit to check the compliance with the obligations of this law and of the relevant sublegal acts;
- g) make sure that branches, sub-branches, as well as their agencies, inside or outside the territory of the Republic of Albania act in compliance with this law. If the laws of the country where the branches or agencies have been established stipulate impediments against meeting the obligations, the entity should report about those impediments to the responsible authority and, as per the case, to its supervising authority.
- h) submit information, data and additional documents to the responsible authority, in accordance with the provisions and time limits set forth in this law. The responsible authority may extend this time limit in writing for a period of no more than 15 days.

2. The entities shall be prohibited to start or maintain business relations with anonymous clients or clients using fake names. The entities shall not be allowed to open or maintain accounts that may be identified only based on the account number.

3. If the number of the employees of the entities referred to in this law is less than 3 persons, the obligations of this law shall be met by the administrator or by an authorized employee of the entity.

## CHAPTER IV

### OBLIGATION TO REPORT

#### **Article 12**

##### **Reporting to the responsible authority**

1. When the entities suspect that the property is proceeds of a criminal offence or is intended to be used for financing terrorism, they shall immediately present to the responsible authority a report, in which they state their doubts by the time limit set forth in the sublegal acts pursuant to this law.
2. When the entity, which is asked by the client to carry out a transaction, suspects that the transaction may be related to money laundering or terrorism financing, it should immediately report the case to the responsible authority and ask for instructions as to whether it should execute the transaction or not. The responsible authority shall be obliged to provide a response within 48 hours.
3. The entities shall be required to report the following to the responsible authority within the time limits set forth in the sublegal acts pursuant to this law:
  - a. all cash transactions, equal to or greater than 1,500,000 (one million and five hundred thousand) ALL or its equivalent in other currencies,
  - b. all non-cash transactions, equal to or greater than 6,000,000 (six million) ALL or its equivalent in other currencies executed as a single transaction or as series of linked transactions.

#### **Article 13**

##### **Exemption from reporting**

The transactions hereunder described shall be exempted from reporting to the responsible authority:

- a. cross bank transactions, except the ones performed on behalf of their customers
- b. transactions between entities of this law and the Bank of Albania;
- c. transactions performed on behalf of public institutions and entities;

#### **Article 14**

##### **Exemption from legal liability of reporting to the responsible authority**

The entities or supervising authorities, their managers, officials or employees who report or submit information in good faith in compliance with the stipulations of this law, shall be exempted from penal, civil or administrative liability arising from the disclosure of professional or banking secrecy.

#### **Article 15**

##### **Tipping Off Prohibition**

The employees of the entity shall be prohibited to inform the client or any other person about the verification procedures regarding suspicious cases, as well as any reporting made to the responsible authority.



## **Article 16**

### **Obligations to maintain data**

1. The entities must store the documentation used for the identification of the client and the client's beneficiary owner for 5 years from the date of the termination of the business relation between the client and the entity. When requested by the responsible authority, the information shall be stored longer than 5 years.
2. The entities must keep data registers, reports and documents related to financial transactions, national or international, regardless of whether the transaction has been executed in the name of the client or of third parties, together with all supporting documentation, including account files and business correspondence, for 5 years from the date of the execution of the financial transaction. With the request of the responsible authority, the information shall be stored longer than 5 years, even if the account or the business relation has been terminated.
3. The entities must keep the data of the transactions, including those specified in article 10, with all the necessary details to allow the re-establishing of the entire cycle of transactions, with the aim of providing information to the responsible authority in accordance with this Law and the sub legislation pursuant to it. This information shall be stored for 5 years from the date when the last financial transaction has been carried out. This information shall, upon the request of the responsible authority, be stored longer than 5 years.
4. The entities must make sure that all client and transaction data, as well as the information kept according to this article, shall immediately be made available upon the request of the responsible authority.

## **Article 17**

### **Customs authorities reporting**

1. Every person, Albanian or foreigner, that enters or leaves the territory of the Republic of Albania, shall be obliged to declare cash amounts, negotiable instruments, precious metals or stones, valuables or antique objects, equal to or greater than 1,000,000 ALL, or the equivalent amount in foreign currency, explain the purpose for carrying them and produce supporting documents. The customs authorities shall send a copy of the declaration form and the supporting document to the responsible authority. The customs authorities shall report immediately and no later than 72 hours to the responsible authority every suspicion, information or data related to money laundering or financing of terrorism for the activities under their jurisdiction.
2. Customs Authorities shall apply the provisions of article 11 of this law.

## **Article 18**

### **Tax authorities reporting**

Tax authorities identify their clients, according to procedures set in article 4 of this law, and report in all cases to the Competent Authority immediately and no later than 72 hours, every suspicion, indication, notification or data related to money laundering or terrorism financing.

Tax authorities apply the requirements of the article 11 of this law.

**Article 19**  
**Central Immovable Properties Registration Office Reporting**

1. The Central Immovable Properties Registration Office shall report on the registration of contracts for the transfer of property rights for amounts equal to or more than 6,000,000 (six million) ALL or its equivalent in foreign currencies.
2. The Central Immovable Properties Registration Office shall report immediately and no later than 72 hours to the responsible authority every suspicion, information or data related to money laundering or terrorism financing for the activities under its jurisdiction.
3. The Central Immovable Properties Registration Office shall apply the provisions set forth in the article 11 of this law.

**Article 20**  
**Non-profit Organizations**

Every authority that registers or licenses non-profit organizations shall report immediately to the responsible authority every suspicion, information or data related to money laundering or terrorism financing.

**Article 21**  
**Organization of the Responsible Authority**

1. The General Directorate of Money Laundering Prevention shall, pursuant to this law, exercise the functions of the responsible authority as an institution subordinate to the Minister of Finances. This directorate, within its scope of activity, shall hereby be entitled to define the way of handling and resolving cases related to possible money laundering and to financing of possible terrorist activities.
2. The General Directorate of Money Laundering Prevention shall, pursuant to this law, operate as a specialized financial unit for the prevention and fight against money laundering and terrorism financing. Moreover, this directorate shall operate as the responsible national center for collection, analysis and dissemination to law enforcement agencies of information and the potential money laundering and terrorism financing activities.
3. Labour relations of the staff of this Directorate shall be regulated by the law no. 8549, date November 11, 1999 “On the Civil Servant Status” and by the Labour Code for the assistant staff.
4. The organization and functioning of the Directorate shall be hereby regulated by Council of Ministers’ Decision.

**Article 22**  
**Duties and functions of the responsible authority**

The General Directorate of Money Laundering Prevention, as financial intelligence unit, shall, pursuant to this law, have the duties and functions hereunder described:

- a) collect, manage and analyze reports and information from other entities and institutions in accordance with the provisions of this law;

- b) access databases and any information managed by the state institutions, as well as in any other public registry in compliance with the authorities set forth in this law;
- c) request, pursuant to its legal obligations, financial information from the entities on the completed transactions with the purpose money laundering and financing of terrorism prevention;
- d) supervise the compliance of the entities with the obligations to report set in this Law, including on site inspections alone or in collaboration with relevant supervising authorities;
- e) exchange information with any foreign counterpart, entity to similar obligations of confidentiality. The provided information should be used only for purposes of preventing and fighting money laundering and financing of terrorism. Information may be disseminated only upon parties' prior approval;
- f) enter in agreements with any foreign counterpart, which exercises similar functions and is subject to similar obligations of confidentiality;
- g) exchange information with the Ministry of Interior, State Intelligence Service and other responsible law enforcement authorities regarding individuals or legal entities, if there is ground to suspect that this entity has committed money laundering or financing of terrorism;
- h) inform, in co-operation with the prosecution office, the responsible authority on the conclusions of the registered criminal proceedings on money laundering and terror financing;
- i) may issue a list of countries in accordance with paragraph 5 of article 9 of this law, in order to limit and/or check the transactions or business relations of the entities with these countries;
- j) order, when there are reasons based on facts and concrete circumstances for money laundering or financing of terrorism, blocking or temporary freezing of the transaction or of the financial operation for a period not longer than 72 hours. In case of observing elements of a criminal offence, the Authority shall, by this time limit, file the case with the Prosecution Office by submitting also a copy of the order on transaction temporary freezing or on the account freezing, pursuant to this law, in addition to all the relevant documentation;
- k) maintain and administer all data and other legal documentation on the reports or any other kind of documentation received over 10 years from the date of receiving the information on the last transaction;
- l) provide its feedback on the reports presented by the entities to this authority;
- m) organize and participate, together with public and private institutions, in training activities related to money laundering and terrorism financing, as well as, organize or participate in programs aimed at raising public awareness;
- n) notify the relevant supervising authority when observing that an entity fails to comply with the obligations set forth in this law;
- o) publish by the first quarter of each year the annual public report for the previous year on the activity of the responsible authority. The report shall include detailed statistics on the origin of the received reports and the results of the cases referred to the prosecution.

**Article 23**  
**Coordination Committee for the Fight against Money Laundering**

1. The Coordination Committee for the Fight against Money Laundering shall be responsible for planning the directions of the general state policy in the area of the prevention and fight against money laundering and terrorism financing.
2. The Prime Minister shall chair the Committee consisting of the Minister of Finances, the Minister of Foreign Affairs, the Minister of Defence, the Minister of Justice, the General Prosecutor, the Governor of the Bank of Albania, the Director of the State Information Service and the General Inspector of High Inspectorate for the Assets Declaration and Auditing.
3. The Committee shall convene at least once a year to review and analyze the reports on the activities performed by the responsible authority and the reports on the documents drafted by the institutions and international organizations, which operate in the field of the fight against money laundering and terrorism financing. The general director of the responsible authority shall provide advice to the Committee upon its request and act as an advisor during the meeting of the Committee.
4. Ministers, members of the parliament, managers or representatives of institutions and experts of the field of prevention and fight against money laundering and financing of terrorism may be invited to the meetings of the Committee.
5. The Committee may establish technical and/ or operational working groups to assist in the execution of its functions, as well as, to study money laundering and terrorism financing typologies and techniques.
6. The operation rules of Committee shall be defined in its internal regulation to be adopted by this Committee.

**Article 24**  
**Functions of supervisory authorities**

1. The Supervising Authorities are:

- a) The Bank of Albania for the entities referred to in letters “a”, “b”, “c”, “d” and “e”, of Article 3,
- b) The Financial Supervisory Authority for the entities referred to in letters “f”, “g” and “h” of Article 3,
- c) Respective ministries for the supervision for the entities referred to in letters “i” and “j” of Article 3,
- d) The National Chamber of Advocates for lawyers;
- e) The Ministry of Justice for notaries;
- f) The relevant authorities for supervising entities defined in letters “l”, “m”, “n” and “o” of Article 3,

1. The supervising authorities shall supervise, through on site inspections, the compliance of the activity of the entities with the obligations set forth in Articles 4, 5, 6, 7, 8 and 9, 10, 11 and 12 of this Law.

2. The Supervising Authorities shall immediately report to the responsible authority on every suspicion, information or data related to money laundering or financing of terrorism for the activities falling under their jurisdiction.
3. The Supervising Authorities shall also perform the following other duties:
  - a. check implementation by the entities of programs against money laundering and terrorism financing and make sure that these programs are appropriate;
  - b. take the necessary measures to prevent an ineligible person from possessing, controlling and directly or indirectly participating in the management, administration or operation of an entity;
  - c. cooperate and provide expert assistance according to the field of their activity in the identification and investigation of money laundering and terrorism financing, in compliance with the requests of the responsible authority;
  - d. cooperate in drafting and distribution of training programs in the field of the fight against money laundering and terrorism financing;
  - e. keep statistics on the actions performed, as well as, on the sanctions imposed in the field of money laundering and financing of terrorism.

#### **Article 25**

##### **Exclusion from speculation with professional secrecy or its benefits**

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.
2. Attorneys and notaries shall be subject to the obligation of reporting information about the client to the responsible authority, in accordance with this law. Attorneys shall be exempted from the obligation to report on the data that they have obtained from the person defended or represented by them in a court case, or from documents made available by the defendant in support of the needed defence.

#### **Article 26**

##### **License revoking**

1. The responsible authority may request the licensing/supervisory authority to restrict, suspend or revoke the license of an entity when:
  - a) it ascertains or has facts to believe that the entity has been involved in money laundering or terrorism financing;
  - b) when the entity repeatedly commits one or several of the administrative violations set forth in article 27 of this law and the sublegal acts.
2. The licensing / supervisory authority shall review the application of the responsible authority based on the accompanying documentation, which shall represent the suspicions or the data, based on concrete circumstances and facts, according to the paragraph 1 of this article. The licensing/supervisory authority shall make a decision to accept or refuse it in compliance with the

provisions of this law and with the legal and sublegal provisions, which regulate its activity and the activity of the entities licensed and supervised by it.

## **Article 27**

### **Administrative sanctions**

1. Unless being a criminal offence, the violations committed by the entities shall be classified as administrative ones, while the entities shall be subject to sanctions;
  2. In the cases when they fail to apply monitoring and identification procedures, as well as customer due diligence versus the client and transactions according to their risk level that they present as set forth in articles 4, 5, 6, 7, 8 and articles 9, paragraph 1 through 8, and the sub legislation pursuant to this law, the entities shall be subject to the following fines:
    - a) individuals: from 100,000 ALL up to 500,000 ALL;
    - b) legal entities: from 500,000 ALL up to 1,500,000 ALL;
  3. In the cases of failing to collect data according to article 10 of this law:
    - a) individuals: from 400,000 ALL up to 1,600, 000 ALL;
    - b) legal entities: from 1,200,000 ALL up to 4,000,000 ALL;
  4. In the cases when they shall fail to apply the provisions of article 9, paragraph 9, and article 10, paragraph 3, entities shall be subject to the following fines:
    - a) individuals: from 500,000 ALL up to 2, 000,000 ALL;
    - b) b) legal entities: from 2,000, 000 ALL up to 5,000,000 ALL;
  5. In the cases when the entities shall fail to implement the preventive measures set forth in article 11 of this law, they shall be subject to the following fines:
    - a) individuals: from 300,000 ALL up to 1,500,000 ALL;
    - b) legal entities: from 1,000, 000 ALL up to 3,000,000 ALL;
  6. In cases when failing to meet the reporting obligations as set forth in 12 of this law, the entities shall be subject to the following fines:
    - a) individuals: from 5 to 20 percent of the amount of the unreported transaction;
    - b) legal entities: from 10 to 50 percent of the amount of the unreported transaction;
  7. For the violations prescribed in article 15 and 16 of this law, the entities shall be subject to the following fines:
    - a) individuals: 2,500,000 ALL;
    - b) legal entities: 5,000,000 ALL;
  8. In addition to what is prescribed in the paragraphs 2, 3, 4, 5, 6, 7 of this article, when a legal entity is involved and the administrative violation is committed by :
    - a) an employee or non administrator of the entity, the person who has committed the violation shall be fined from 60,000 ALL up to 300,000 ALL.
    - b) from an administrator or a manager of the entity, the person who has committed the violation shall be fined from 100,000 ALL up to 500,000 ALL.
  9. The fines shall be defined and set by the responsible authority.
  10. The responsible authority shall inform the supervising/licensing authority on the sanctions imposed.
  11. The procedures for the appeal against the decisions shall be performed in accordance with the Law No. 7697, dated July 04, 1993 “On the Administrative violations”, as amended.
- The execution procedures of the administrative sanctions will be enforced in accordance with the articles 510 through 526/a of the Civil Procedures Code.

## **Article 28**

### **Passing of regulations**

1. The Council of Ministers, with the proposal of the Minister of Finance, shall, pursuant to this law, adopt, within 6 months of its coming into effect, detailed rules on the form, methods and data reporting procedures for the licensing and supervising authorities, the Central Immovable Properties Registration Office, and the Agency for the Legalization, Urbanization and Integration of Informal Areas and Buildings.
2. General Inspector of High Inspectorate for the Assets Declaration and Auditing shall regularly, although not less than twice per year, present to the responsible authority the complete and updated list of the politically exposes persons drafted based on the provisions set forth in Law No. 9049, date April 10, 2003 “On the declaration and auditing of assets and financial obligations of the elected officials and of a number of public servants”.
3. The Minister of Finance shall, upon the proposal of the responsible authority, adopt, within 6 months from the publishing of this law in the Official Journal, detailed rules related to the following:
  - a) Approaches and procedures for the reports of the entities described in article 3 of this law
  - b) Methods and procedures for the reports of the customs authorities,
  - c) Methods and procedures for the reports of the tax authorities,
  - d) Applicable standards or criteria in addition to the time limit for reporting suspicious activities, according to tendencies and typologies, in compliance with international standards,
  - e). Detailed procedures for the verification of administrative violations committed by the reporting entities.

### **Article 29**

#### **Transitional Provisions**

Provisions of the Law No. 8610, date May 17, .2000, “On the Prevention of Money Laundering”, as amended, shall be applied until this Law enters into effect.  
All other sub legal acts issued pursuant to Law No. 8610 shall be applied as long as they do not contravene this law and shall be effective until they are substituted by other sub legal acts to be issued pursuant to this Law.

### **Article 30**

#### **Repealing Provision**

The Law No. 8610, date May 17, .2000, “On the Prevention of Money Laundering”, as amended shall be repealed.

### **Article 31**

#### **Coming into effect**

This law shall come into effect 3 months after being published in the Official Journal.

Promulgated upon Decree No. 5746, date June 09, 2008 of the President of the Republic of Albania, Mr. Bamir TOPI.

## ***ANNEX 2: INSTRUCTION NO. 1 APRIL 05, 2009***

**ON**

### **THE FORM, METHODS AND PROCEDURES OF REPORTING THE DATA OF THE ENTITIES, AGENCY FOR THE LEGALIZATION, URBANIZATION AND INTEGRATION OF INFORMAL AREAS/CONSTRUCTIONS AND THE CENTRAL OFFICE FOR THE REGISTRATION OF IMMOVABLE PROPERTY, REGARDING THE PREVENTION OF MONEY LAUNDERING AND THE FINANCING OF TERRORISM**

Pursuant to article 100 of the Constitution as well as article 3, letter 'j', 19 and 28, paragraph 1 of the Law no. 9917, May 19th 2008 "On the prevention of money laundering and terrorism financing" and the proposal of the Minister of Finance the Council of Ministers.

#### **INSTRUCTS:**

##### **Article 1**

##### **Purpose**

The purpose of this instruction is to define the reporting forms, methods and procedures of the obliged entities specified in letter 'n' and article 19 of the law no. 9917 of May 19, 2009 "On the prevention of money laundering and terrorism financing". This instruction prevents the use of the obliged entities for money laundering and terrorism financing.

##### **Article 2**

##### **Definitions**

Terms used in this instruction will have the same meaning with the terms defined in article 2, of the law no. 9917 of May 19, 2009 "On the prevention of money laundering and terrorism financing"

- **"Suspicious Activity Report" (SAR)** is the form attached to this instruction that enables the obliged entities to fulfill the requirements of paragraph 1, of article 12, of the law, through the application of its guidelines.
- **"Cash Transaction Report" (CTR)**, is the form attached to this instruction that should be filled out and reported by every obliged entity for every cash transaction equal or greater than 1,500,000 ALL (one and a half million ALL ) or its corresponding value in foreign currency carried out as a single transaction or a series of linked transactions, in line with the reporting requirements set out in paragraph 2, of article 12 of the law.
- **"Value Transaction Report" (VTR)** is the form attached to this instruction that should be filled out and reported by every obliged entity for every non cash transaction equal or greater than 6,000,000 ALL (six million ALL ) or its corresponding value in foreign currency carried out as a single transaction or a series of linked transactions, in line with the reporting requirements set out in paragraph 2, of article 12 of the law.
- **"Self Auditing Report"** is the the form attached to this instruction that should be completed and reported by the obliged entities upon request from the "Competent Authority" once or twice a year and it



contains the measures undertaken by the entities towards implementing the requirements of the letter 'h', of article 11, of the law. The report regarding the measures undertaken could be partial or comprehensive.

### **Article 3**

#### **OBLIGED ENTITIES**

Pursuant to Law no. 9917, May 19th 2008 “On the prevention of money laundering and terrorism financing” Central Office for the Registration of Immovable Property and the Agency for Legalization, Urbanization and Integration of Informal Areas/ Constructions will be the obliged entities for the implementation of this instruction.

### **Article 4**

#### **REPORTING TO COMPETENT AUTHORITY**

1. Obligated entities suspecting that the transaction/s, property/ies, business relation/s is/are proceeds of a criminal offence or are intended to be used for financing terrorism, shall immediately and no later than 72 hours present to the responsible authority a report, in which they state their doubts..
2. The obliged entities of this instruction upon request from the Competent Authority must report about the measures taken towards implementation of legal requirements by using the Self Audit Report.
3. Reporting is carried out through forms that can be sent electronically or by mail. When the entities possess important information that should be urgently transmitted the reporting can be done by phone. Forms containing the information delivered in the above mentioned manner should also be sent to the Competent Authority.
4. The Competent Authority is entitled to request additional information that in urgent cases can be passed on verbally. This request should be documented in writing within three working days.

### **Article 5**

#### **FINAL PROVISIONS**

Central Office for the Registration of Immovable Property and the Agency for Legalization, Urbanization and Integration of Informal Areas/ Constructions will be in charge of the implementation of this instruction and annexes attached, as its integral part:

Annex I “Suspicious Activity Report” (SAR) ;

Annex II “Cash Transaction Report ” (CTR);

Annex III “Value Transaction Report”(VTR);

Annex IV “Self Audit Report ” and their relevant guidelines

The General Directorate for the Prevention of Money Laundering will be responsible for controlling and the implementation of this instruction.

All the forms and instructions previously used by the obliged entities will be repealed, upon entry into force of this instruction and its attached annexes I, II, III and IV.

This instruction enters into force upon publication in the “Official Gazette ”.

**PRIME MINISTER**

**Sali Berisha**

### ***ANNEX 3: INSTRUCTION NO. 11 FEBRUARY 5, 2009***

#### **ON REPORTING METHODS AND PROCEDURES OF NONFINANCIAL PROFESSIONS.**

This instruction is issued pursuant to articles 102/4 and 118 of the Constitution as well as article 28/3, letter “a”, “ç” and “d”, of the Law no. 9917, dated 19.05.2008 “On the prevention of money laundering and terrorism financing” and sets out detailed rules on the reporting methods and procedures of attorneys, notaries, legal representatives, certified public accountants, auditors and financial consulting offices designated as obliged entities in letter ‘k’ and ‘m’ of article 3 of the law 9917 in accordance with required criteria and obligatory deadlines for the reporting.

#### **Article 1 GENERAL RULES**

The purpose of this instruction is to prevent the use of the entities of letter ‘gj’ and ‘i’ of article 3. Of the law 9917, lawyers, notaries, legal representatives and certified public accountants, independent approved accountants as well as financial consulting offices for money laundering and terrorism financing. This will be achieved through the implementation by the obliged entities listed in this instruction, of the reporting requirements with regard to value transactions as well as suspicious activity reports

#### **Article 2 DEFINITIONS**

1. Terms used in this instruction will have the same meaning with the terms defined in article 2, of the law no. 9917 of May 19, 2009 “On the prevention of money laundering and terrorism financing”

2. In addition to what is prescribed in paragraph 1 of this article, with the aim of implementation of this instruction the following terms will mean:

- Throughout this instruction, law no. 9917, dated 19.05.2008 “On the prevention of money laundering and terrorism financing”, will be referred by using the term “**of the Law**”.
- “**Beneficial owner**” is a natural or legal person, on whose behalf the transaction is being carried out. Here are also included those persons that exercise the final effective control on the natural person.
- “**Final effective control**” is the relation where a person :

- owns directly or indirectly the majority of shares, voting rights of a legal person or possesses over 25% of the shares;
- alone possesses the majority of votes of a legal person based on an agreement with partners or other shareholders;
- determines *de facto* the decision making of the legal person
- controls in any way the election, nomination and dismissal of the administrator of the legal person.
- **“Obligated entity”** is a natural or legal person that establishes a business relationship with customers during his normal activity, as stipulated in letter ‘k’ and ‘m’, of article 3, of the law.
- **“Linked transactions”** means two or more transactions (including direct transfers) , where each of them is smaller than the amount specified as threshold, according to letter “a” and “b” of article 12, of the law.
- **“Suspicious Activity Report” (SAR)** is the form attached to this instruction that enables all the obliged entities to fulfill the requirements of paragraph 1, of article 12, of the law, through the application of the guidelines.
- **“Non financial professions” in this category are included notaries**, attorneys, legal representatives, certified public accountants, auditors and financial consulting offices
- **“Cash Transaction Report” (CTR)**, is the form attached to this instruction that should be filled out and reported by every obliged entity for every cash transaction equal or greater than 1,500,000 ALL (one and a half million ALL ) or its corresponding value in foreign currency carried out as a single transaction or a series of linked transactions, in line with the reporting requirements set out in paragraph 2, of article 12 of the law.
- **“Value Transaction Report” (VTR)** is the form attached to this instruction that should be filled out and reported by every obliged entity for every non cash transaction equal or greater than 6,000,000 ALL (six million ALL ) or its corresponding value in foreign currency carried out as a single transaction or a series of linked transactions, in line with the reporting requirements set out in paragraph 2, of article 12 of the law.
- **“Self Auditing Report”** is the the form attached to this instruction that should be completed and reported by all the obliged entities upon request from the “Competent Authority” once or twice a year and it contains the measures undertaken by the entities towards implementing the requirements of the letter ‘h’, of article 11, of the law. The report regarding the measures could be partial or comprehensive.

### Article 3 OBLIGED ENTITIES

Pursuant to Law №. 9917, dated 19.05.2008 “On the prevention of money laundering and financing of terrorism”, obliged entities of this instruction will be all the natural and legal persons defined in Article 3, para ‘gj’ and ‘I’ of the said law and namely lawyers, notaries, legal representatives and certified public accountants, independent approved accountants as well as financial consulting offices when they prepare, carry out or control on behalf of their customers the following activities:

- i) conveyance of real estate property titles, management of money, shares or other assets;
- ii) management of bank accounts;
- iii) management of capital shares to be used for the foundation, operation or management of commercial companies;
- iv) establishment, operation or management of legal persons;
- v) legal agreements, trading of shares or capital belonging to joint stock companies as well as the transfer of the commercial activity;

## **Article 4**

### **CLIENT IDENTIFICATION**

1. In order to ensure the prevention of money laundering and terrorism financing, the obliged entities should identify their customers through valid original documents or notarized copies, such as;

- Identity Card;
- Passport;
- Picture Certificate;
- Drivers license;

Entities may request additional documents for the identification of the natural persons and verifying the address when in doubt of the veracity of the identification data as well as in all cases when there is sufficient information about money laundering and terrorism financing, such as:

- Payment booklet for water, electricity and water;
- Electricity, water and telephone bill;
- Lease contract of the apartment;
- Apartment purchase contract;

In addition to aforementioned, for the identification of the customers defined in letter 'b', 'c', 'd', 'e', the obliged entities will require the following documents

- An extract issued by the National Registration Center;
- Licenses relevant to the exercising of the activity;
- NIPT (Tax Identification Number);
- The Statute, articles of incorporation, decisions of the shareholder's assembly (or the sole partner) with all the amendments.
- Court's decision for the registration as a natural or legal person.

The obliged entities should identify their clients when they conduct a transaction amounting to; a) not less than 1.500.000 (one million five hundred thousand) ALL or its corresponding value in foreign currencies, performed as a single transaction or a series of linked transactions. If the amount of transaction is unknown at the time of the transaction, the identification should be effectuated as soon as the amount is known and the above mentioned threshold is achieved;

2. For the customer identification the obliged entities are required to demand the necessary documentation as well as record and maintain data in accordance with the definitions of letters 'a', 'b', 'c', 'd' and 'e', of paragraph 1, of article 5 of the law.

The obliged entity will maintain in the customer file copies of the sealed unexpired documents provided by the customer in the aforementioned form.

3. The obliged entities are required to perform ongoing monitoring of the business relationship with their customers, to ensure that they are in line with the knowledge that the entity has for the customer, the activity and its categorization in accordance with the risk exposure. The entities should constantly update their customer data and when they have reason to suspect that the conditions and factual situation of the customer has changed the updating should be done immediately.

4. In order to mitigate the money laundering risk, the obliged entities should apply customer enhanced due diligence:

- a) before establishing a business relationship;
- b) before conducting a transaction on their behalf.

To implement customer enhanced due diligence the obliged entities should require the physical presence of the customers or their representatives:

5. The entities should verify in accordance with the list defined in Article 28, para 2 of the law, whether a customer or beneficiary owner is a politically exposed person and if yes:

- a) For obliged entities that have more than three employees, should obtain approval from the highest level of administration or management before establishing a business relationship with him.
- b) obtain a declaration regarding the source of funds used to perform the transaction/transactions;
- c) to perform ongoing monitoring of the business relationship with the customer. When a customer becomes a Politically Exposed Person, the requirements of the letter 'a', 'b', and 'c' of para 5, of this article should be implemented.

The Competent Authority will provide the obliged entities with the updated list of Politically Exposed Persons.

6. The obliged entities will request from their Non Profit Organization (NPO) customers to provide information and documents that prove the financing sources, previously derived incomes, nature of the activity, administration and management methods,

Upon completion of this verification process, the obliged entities should obtain written approval from their highest levels of administration or management before establishing a business relationship with these NPO's.

### **Article 5**

#### **ORGANIZATION AND RESPONSIBILITIES OF THE REPORTING UNIT OF THE OBLIGED ENTITY**

1. Obligated entities of this instruction should set up a structure for the prevention of being exploited for the purpose of money laundering, draft and implement internal rules and regulations for the prevention of money laundering and the financing of terrorism;

2. Entities should nominate a responsible person and/or a deputy for the prevention of money laundering, at the administrative/management level in the central office and in every representative office, branch, subsidiary or agency, to which all employees shall report all suspicious facts, which may comprise a suspicion related to money laundering or terrorism financing.

If the number of the employees of the entities referred to in this law is less than 3 persons, the obligations of this law shall be fulfilled by the administrator or by an authorized employee of the entity and the drafting of internal regulation is not required.

3. Entities should periodically train their employees on the prevention of money laundering and terrorism financing based on an annual program, including here notifications regarding the legal changes in penal offences. Training should be documented and put at the disposal of the representatives of the "Competent Authority", when requested;

4. Entities should present additional information, data and documents to the "Responsible Authority" in line with the time limits in cases foreseen by the law. When the entity presents an extension request the "Competent Authority" may allow for an extended period that in no case exceeds 15 days.

### **Article 6**

#### **REPORTING TO THE COMPETENT AUTHORITY**

1. When the entities suspect that the transaction/s, property/ies or business relationship is proceed/s of a criminal offence or is intended to be used for financing terrorism, shall immediately and no later than 72 hours file a Suspicious Activity Report (SAR) to the Competent Authority, wherein they state their doubts

2. When the subject, suspects that a transaction may be related to money laundering or terrorism financing, it should immediately report the case to the Competent Authority and ask for instructions as to whether it should execute the transaction or not. The responsible authority shall be obliged to respond within 48 hours.

3. The subjects are obligated to report the following to the Competent Authority all transactions:

a. in cash, equal to or greater than 1,500,000 (one million and five hundred thousand) ALL or its equivalent in other currencies, carried out as a single transaction or a series of linked transactions, within seventy hours.

b. non-cash, equal to or greater than 6,000,000 (six million) ALL or its equivalent in other currencies executed as a single transaction or as series of linked transactions, carried out within seventy hours.

4. The Subjects of this instruction will report, upon request by the Competent Authority by means of the Self-Audit Report measures taken to implement the requirements of the law.

5. Reporting will be carried out by means of forms to be sent via electronic mail or regular mail.

6. When the subjects are in possession of important information that should be reported urgently, the preliminary information may be passed on through the telephone. The information should also be sent through the forms to Competent Authority.

7. The entities of this instruction shall be prohibited to inform the customer or any other person about the verification procedures regarding suspicious cases, as well as any reporting made to the Competent Authority.

8. The entities of this instruction that report or submit information in good faith in compliance with the provisions of this law, shall be exempted from penal, civil or administrative liability arising from the disclosure of professional or banking secrecy.

## **Article 7**

### **DATA STORAGE OBLIGATIONS**

The entities must keep the documentation used for the identification of the client and the client's beneficiary owner for 5 years from the date of the termination of the business relation between the client and the entity.

In order to ensure the reconstruction of the entire cycle of transactions, with the aim of providing information to the responsible authority when requested by the latter, the information shall, be kept longer than 5 years, even when the business relationship has terminated. Upon request from the Competent Authority the entities should immediately turn out all client relevant data and information linked to the transactions performed on behalf of the customer

## **Article 8**

### **TRAINING AND INSPECTIONS**

1. The Competent Authority verifies through on site inspections alone or jointly with the supervisory authorities, compliance with the legal obligations and evaluates their fulfillment from the obliged entities, in accordance with the provision of letter 'd', of article 22, of the law.

- Inspections are conducted by the employees of the GDPML based on a program that is approved by the general Director that includes:

- Name of the obliged entity to be inspected;
- legal bases for the inspection;

- objective of the inspection;
- names of the participating inspectors;
- date and time of the inspection;
- documentation to be presented to them.

2. The objective of the inspection consists in verifying the compliance of the obliged entities with the legal requirements. This is achieved by checking the documentation, whereby compliance is evaluated. All the registers, documents, materials deemed by inspectors as necessary for the ascertaining and the control shall be made available, based on Article 22, para 'b' of the law. Every obstacle in the performance of the inspection shall be considered a contravention, penalized in accordance with Article 27, of the law.

3. Upon completion of the inspection the persons assigned will draw up a proceedings report. The proceedings report should contain the date, month, year, inspection site, names of the persons assigned to perform the inspection, name of the obliged entity inspected, specification of the inspection order (number, date, title), findings as well as verified contraventions, claims from the obliged entities. When the obliged entity refuses to sign the refusal is reflected in the proceedings report and bears only the signatures of the inspection team. The obliged entity will be provided with a copy of the original proceedings report.

4. The Competent Authority will organize and participate, alone or in conjunction with public or private institutions, in the training activities relevant to prevention of money laundering and terrorism financing.

## **Article 9**

### **ADMINISTRATIVE SANCTIONS**

1. When the Competent Authority ascertains during on-site inspections violations by the entities it duly notes them in a written proceedings report in accordance with the provision of the article 10, of Law No. 7967, dated 07.04.1993, amended: "On the administrative sanctions".

2. The verified violations should be deliberated in the presence of the violator in accordance with the provision of the article 12, of Law No. 7967, dated 07.04.1993, amended: "On the administrative sanctions".

3. A preliminary notification should be sent to the violator mentioning the date and the time of the hearing regarding the contravention.

4. The contravention should be taken into a consideration by an ad-hoc group.

5. The General Director of the Competent Authority after being acquainted with the proposal made by inspectors and the ad-hoc group will impose the administrative sanction on the entity and will announce it officially.

6. The administrative sanction can be appealed in the court of first instance of Tirana within five days of official notice, in accordance with the provision of article 43 of Civil Procedure Code.

7. The final judgement is an executive title according to Article 18 of the Law № 7697. The execution procedures will be carried out in accordance with Articles 510 - 526/a of the Civil Procedure Code.

## **Article 10**

### **PROPOSAL FOR LICENSE WITHDRAWAL**

The Competent Authority may request from the Licensing and/or Supervisory Authority to limit, suspend or revoke the license of an obliged entity when:

- a) it ascertains or has ground to believe that the obliged entity is involved in money laundering or financing of terrorism;
- b) the obliged entity has repeatedly carried out one or several contraventions defined in Article 27 of the law and its bylaws.

## **Article 11**

### **FINAL PROVISIONS**

The implementation of this instruction and its attached annexes, that are an integral part:

- Annex I : “Suspicious Activity Report” (SAR);
- Annex II : “Cash Transaction Report” (CTR);
- Annex III : “Value Transaction report”(VTR);
- Annex IV : “Self Audit Report”;

and the relevant guidelines, will be performed by the obliged entities defined in Article 3 of this instruction.

The Competent Authority will be responsible for the control and implementation of this instruction. This instruction and its annexes I, II, III dhe IV, will be the only acceptable standards for reporting to Competent Authority, and they are subject to amendments in accordance with the legislation, various administration rules as well as orders of the Minister of Finance. They will be consistently used by all the obliged entities. Upon entry into force of this instruction, the instruction №. 5 “On the prevention of money laundering and fighting of the financing of terrorism” of the Minister of Finance, dated 03.06.2004 as well as the forms and instruction attached are repealed..

This Instruction and annexes attached will enter into force upon being published in the “Official Gazette”.

## ***ANNEX 4: INSTRUCTION NO. 12 APRIL 05, 2009***

### **ON THE REPORTING METHODS AND PROCEDURES OF THE OBLIGED ENTITIES PURSUANT TO LAW NO. 9917, MAY 19<sup>TH</sup> 2008 “ON THE PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM ”**

#### **GENERAL PROVISIONS**

This instruction is issued pursuant to articles 102/4 and 118 of the Constitution as well as article 28/3, letter “a”, “ç” and “d”, of the Law no. 9917, May 19th 2008 “On the prevention of money laundering and terrorism financing” and sets out detailed rules on the reporting methods and procedures for the entities defined in letters ‘ a ’, ‘ b ’, ‘ c ’, ‘ d ’, ‘ e ’, ‘ f ’, ‘ g ’, ‘ h ’, ‘ j ’, ‘ l ’, and ‘ o ’ of article 3 of the law 9917, , May 19th 2008 “On the prevention of money laundering and terrorism financing”, in accordance with applicable criteria and reporting deadlines defined in article 12 of the law and article 8 of this instruction.

#### **Article 1**

##### **PURPOSE**

The purpose of this instruction is to prevent the use of the obliged entities for money laundering and terrorism financing. This will be achieved through the implementation by the obliged entities of the legal requirements to report to the “Competent Authority” regarding value transactions as well as suspicious activity reports.

Entities should take the necessary measures to implement the procedures of the required standards, to ensure accurate and timely reporting of the forms attached to this instruction, in accordance with article 12 of the law as well as the Self Audit Report.



## Article 2 DEFINITIONS

1. Terms used in this instruction will have the same meaning with the terms defined in article 2, of the law no. 9917 of May 19, 2009 “On the prevention of money laundering and terrorism financing”

2. In addition to what is prescribed in paragraph 1 of this article, with the aim of implementation of this instruction the following terms will mean:

Pursuant to this instruction, law 9917 of May 19, 2009 “On the prevention of money laundering and terrorism financing” will be referred with the term “of the law”

**Beneficial owner**” is a natural or legal person, on whose behalf the transaction is being carried out. Here are also included those persons that exercise the final effective control on the natural person.

**“Final effective control”** is the relation where a person :

- owns directly or indirectly the majority of shares, voting rights of a legal person or possesses over 25% of the shares;
- alone possesses the majority of votes of a legal person based on an agreement with partners or other shareholders;
- determines *de facto* the decision making of the legal person
- controls in any way the election, nomination and dismissal of the administrator of the legal person.

• **“Obligated entity”** is a natural or legal person that establishes a business relationship with customers during his normal activity, as stipulated in letter ‘ a ’, ‘ b ’, ‘ c ’, ‘ d ’, ‘ e ’, ‘ f ’, ‘ g ’, ‘ h ’, ‘ j ’, ‘ l ’, and ‘ o ’ of article 3, of the law.

**“Linked transactions”** means two or more transactions (including direct transfers), where each of them is equal or smaller than the amount specified as threshold, according to letter “a” and “b” of article 12, of the law.

**“Suspicious Activity Report” (SAR)** is the form attached to this instruction that enables all the obliged entities to fulfill the requirements of paragraph 1, of article 12, of the law, through the application of its guidelines.

**“Cash Transaction Report” (CTR)**, is the form attached to this instruction that should be filled out and reported by every obliged entity for every cash transaction equal or greater than 1,500,000 ALL (one and a half million ALL ) or its corresponding value in foreign currency carried out as a single transaction or a series of linked transactions, in line with the reporting requirements set out in paragraph 2, of article 12 of the law.

**“Value Transaction Report” (VTR)** is the form attached to this instruction that should be filled out and reported by every obliged entity for every non cash transaction equal or greater than 6,000,000 ALL (six million ALL ) or its corresponding value in foreign currency carried out as a single transaction or a series of linked transactions, in line with the reporting requirements set out in paragraph 2, of article 12 of the law.

**“Self Auditing Report”** is the the form attached to this instruction that should be completed and reported by all the obliged entities upon request from the “Competent Authority” once or twice a year and it contains the measures undertaken by the entities towards implementing the requirements of the letter ‘h’, of article 11, of the law. The report regarding the measures undertaken could be partial or comprehensive.

### **Article 3**

#### **OBLIGED ENTITIES**

Obligated entities of this instruction are all the entities defined in article 3 of the law, excluding those specified in letters 'f', 'k', 'l' and 'n', whose responsibilities will be stated in other sublegal acts.

### **Article 4**

#### **CLIENT IDENTIFICATION**

In order to ensure the prevention of money laundering and terrorism financing, the obliged entities should identify their customers through valid original documents or notarized copies, such as;

- Identity Card;
- Passport;
- Picture Certificate;
- Drivers license;

Entities may request additional documents for the identification of the natural persons and verifying the address when in doubt of the veracity of the identification data as well as in all cases when there is sufficient information about money laundering and terrorism financing, such as:

- Payment booklet for water, electricity and water;
- Electricity, water and telephone bill;
- Lease contract of the apartment;
- Apartment purchase contract;

In addition to aforementioned, for the identification of the customers defined in letter 'b', 'c', 'd', 'e', of article 5 of the law, the obliged entities will require the following documents

- An extract issued by the National Registration Center;
- Licenses relevant to the exercising of the activity;
- NIPT (Tax Identification Number);
- The Statute, articles of incorporation, decisions of the shareholder's assembly (or the sole partner) with all the amendments.
- Court's decision for the registration as a natural or legal person.

The obliged entities should identify their clients;

- a) Before they establish a business relationship;
- b) when the client seeks to conduct
  - a wire transfer within or outside the country;
  - a transaction amounting to not less than:

i) not less than 200.000 (two hundred thousand) ALL or its corresponding value in foreign currencies for buying or selling gambling chips, or their respective electronic value, in the case of games of chance, casinos or hippodromes (racetracks) of any sort;

ii) not less than 1.500.000 (one million five hundred thousand) ALL or its corresponding value in foreign currencies, performed as a single transaction or a series of linked transactions. If the amount of transaction is unknown at the time of the transaction, the identification should be effectuated as soon as the amount is known and the above mentioned threshold is achieved;

2. For the customer identification the obliged entities are required to demand the necessary documentation as well as record and maintain data in accordance with the definitions of letters 'a','b', 'c','d' and 'e', of paragraph 1, of article 5 of the law. The obliged entity will maintain in the customer file copies of the sealed unexpired documents provided by the customer in the aforementioned form.

3. The obliged entities are obliged in accordance with the circumstances to perform ongoing monitoring of the business relationship with their customers, to ensure that they are in line with the knowledge that the entity has for the customer, the activity and its categorization in accordance with the risk exposure. The entities should constantly update their customer data and when they have reason to suspect that the conditions and factual situation of the customer has changed the updating should be done immediately.

4. In order to mitigate the money laundering risk, the obliged entities should apply customer enhanced due diligence:

- a) before establishing a business relationship;
- b) before conducting a transaction on their behalf.

To implement customer enhanced due diligence the obliged entities should require the physical presence of the customers or their representatives:

5. The entities should verify in accordance with the list defined in Article 28, paragraph 2 of the law, whether a customer or beneficiary owner is a politically exposed person and if yes:

- a) obtain approval from the highest level of administration or management before establishing a business relationship with him.
- b) obtain a declaration regarding the source of funds used to perform the financial transaction;
- c) to perform enhanced and ongoing monitoring of the business relationship.

When a customer becomes a Politically Exposed Person, the requirements of the letter 'a','b',and 'c' of paragraph 5, of this article should be implemented.

The Competent Authority will provide the obliged entities with the updated list of Politically Exposed Persons.

6. The obliged entities will request from their Non Profit Organization (NPO) customers to provide information and documents that prove the financing sources, previously derived income, nature of the activity, administration and management methods,

Upon completion of this verification process, the obliged entities should obtain written approval from their highest levels of administration or management before establishing a business relationship with these NPO's.

## **Article 5**

### **ENHANCED DUE DILIGENCE**

1. The entities shall apply enhance due diligence for the transactions specified in Article 9 of the law.
2. The obliged entities before establishing a business relationship with banks should:
  - define specific procedures for the ongoing monitoring of business relations;
  - verify that the corresponding banks are not from countries that do not implement or partially implement the money laundering prevention legislation;
  - get assurances about the high reputation and sound activity of correspondent banks;
3. Obligated entities should not establish business relations with banks that are used by shell banks.
4. When the obliged entities verify cases described in paragraph 3 of this article, they should report

- this to the “Competent Authority” by means of SAR report.
5. The obliged entities should take into account based on enhanced due diligence all the transactions that are complex, unusual and suspicious, have no economic or legal background requesting additional information that do justify:
    - a) source of income;
    - b) intent;
    - c) time;
    - d) location , and
    - e)type and content of the transaction;
  6. The entities must apply enhanced due diligence to transactions and business relations with clients that are not Albanian citizens and reside temporary in the Republic of Albania.
  7. The entities must apply enhanced due diligence to transactions with clients residing or acting in countries that do not apply or partly apply the relevant international standards on the prevention and fight against money laundering and financing of terrorism.
  8. The obliged entities should obtain information regarding the legal regime of these countries concerning the prevention of money laundering and financing of terrorism before they establish a business relationship with this category of customers.
  9. In cases when the obliged entities fail to fulfill enhanced due diligence obligations, they shall not establish or carry on business relations with the client;
  10. Obligated entities should report to the “Competent Authority” its inability to fulfill its enhanced due diligence obligations within 72 hours and declare the reasons for this.

## **Article 6**

### **MONEY OR VALUE TRANSFER TRANSACTION**

The obliged entity requests from the financial institutions sending an wire transfer, originator data, to be recorded in the form accompanying the transfer, including:

- First name;
- Last name;
- Permanent and temporary residence;
- Number of identification document;
- Account number of the originator, if it has one;
- Name of the financial institution from which the transfers is made.

In case there is no account number of the originator, the transfer shall be accompanied by a unique reference number.

If the obliged entity receiving the transfer notes that the originator data is missing or incomplete, refuses to accept the transfer and reports the case within 72 hours to the “Competent Authority”.

## **Article 7**

### **PREVENTIVE MEASURES OF THE OBLIGED ENTITIES**

The obliged entity:

- a) Drafts internal regulations and guidelines that take into account the money laundering and terrorism financing risk, which can arise from business relationships with their customers or businesses.
- b) Nominates a responsible person and a deputy for the prevention of money laundering, at the administrative/management level in the central office and in every representative office, branch, subsidiary or agency, to whom all employees shall report all suspicious facts, which may comprise a suspicion related to money laundering or terrorism financing.
- c) Establishes a centralized system, in charge of data collection and analysis;
- d) Train their employees on the prevention of money laundering and terrorism financing through regular organization of training programs;
- e) Authorizes the internal audit to check the compliance with the obligations of the law and this instruction;
- f) Submit to the “Competent Authority” within the time limits specified, information, data and additional documents. If a postponement is requested by the obliged entity the “Competent Authority” may extend this time limit for a period of no more than 15 days.

## **Article 8**

### **REPORTING TO COMPETENT AUTHORITY**

1. Entities suspecting that the transaction/s, property/ies, business relation/s is/are proceeds of a criminal offence or are intended to be used for financing terrorism, they shall immediately and no later than 72 hours present to the responsible authority a report, in which they state their doubts..
  - a) The suspicious case is reported through the Suspicious Activity Report (SAR), by describing the suspicious activity, regardless of the amount of the transactions performed, is being performed or will be performed.
  - b) The information can be transmitted per fax, e-mail or telephone.
2. When the entity suspects that a transaction may involve money laundering or financing of terrorism, should report this issue immediately to the “Competent Authority” and ask for instructions on whether should perform the transaction or not. The Competent Authority is obliged to respond within 48 hours.

The entities shall be required to report the following to the responsible authority within the time limits set forth in this instruction all transactions:

- a) all cash transactions, equal to or greater than 1,500,000 (one million and five hundred thousand) ALL or its equivalent in other currencies, executed as a single transaction or as series of linked transactions within 72 hours.
  - b) all non-cash transactions, equal to or greater than 6,000,000 (six million) ALL or its equivalent in other currencies executed as a single transaction or as series of linked transactions performed within 72 hours.
4. The obliged entities of the law upon request from the Competent Authority will report about the measures taken towards implementation of legal requirements by using the Self Audit Report.

**Article 9**  
**OBLIGATIONS TO MAINTAIN DATA**

1. The entities must keep financial transactions data , both national and international with all the supporting documentation and account files, regardless of whether the transaction is performed on behalf of the customer or third parties, to allow the reestablishing of the entire cycle of transactions, aiming at providing information to the Competent Authority for a period of 5(years) from the date when the last financial transaction among the customer and the obliged entity has been carried out.
2. The information specified in paragraph 1, shall upon the request of the competent authority, be stored longer than 5 years.

**Article 10**  
**EXCLUSION FROM SPECULATION WITH PROFESSIONAL SECRECY OR ITS BENEFITS**

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.

**Article 11**  
**INSPECTIONS AND TRAINING**

1. The Competent Authority verifies through inspections carried out alone or jointly with the supervisory authorities, compliance with the legal obligations and evaluates their fulfillment from the obliged entities, in accordance with the provision of letter 'd', of article 22, of the law.
  - Inspections are conducted by the employees of the GDPML based on a program that is approved by the general Director that includes:

- Name of the obliged entity to be inspected;
- legal bases for the inspection;
- objective of the inspection;
- names of the participating inspectors;
- date and time of the inspection;
- requested documentation to be presented to them.

The objective of the inspection consists in verifying the compliance of the obliged entities with the legal requirements. This is achieved by checking the documentation, whereby compliance is evaluated. All the registers, documents, materials deemed by inspectors as necessary for the ascertaining and the control shall be made available, based on Article 22, paragraph 'b' of the law.

Every obstacle in the performance of the inspection shall be considered a contravention, penalized in accordance with Article 27, paragraph 5 of the law.

2. The "Competent Authority" will organize and participate, alone or in conjunction with public or private institutions, in the training activities relevant to prevention of money laundering and terrorism financing.
3. The "Competent Authority" will organize and participate in programs aiming at enhancing public awareness regarding the money laundering and terrorism financing phenomena.

**Article 12**  
**ADMINISTRATIVE SANCTIONS**

1. If during inspections the “Competent Authority” notes violations committed by the obliged entities are expressed in inspection’s act in accordance with the specifications of article 10 of law no.7697, April 7<sup>th</sup> 1993, “On administrative infractions”, amended.
2. Noted violations should be deliberated in the presence of the violator, in accordance with the specification of article 12, of law no.7697, April 7<sup>th</sup> 1993, “On administrative infractions”, amended.
3. A preliminary notification of the violation is made, that includes the date and time of the deliberation of the said violation.
4. Deliberation is carried out by an ad hoc group appointed by the General Director of the “Competent Authority”. Upon being informed about the inspector’s and the ad hoc group proposals the General Director determines the administrative sanction to and notifies the obliged entity officially.
5. The administrative decision can be appealed in Tirana’s District Court in accordance with the specification of article 43 of Civil Procedures Code, within five days from the official notification date, in accordance with article 18, of law no.7697, April 7<sup>th</sup> 1993, “On administrative infractions”, amended.
6. No. 7697, dated July 04, 1993 “On the Administrative violations”, as amended. The execution procedures of the administrative sanctions will be enforced in accordance with the articles 510 through 526/a of the Civil Procedures Code.
7. The final ruling is an executive title as specified in article 18, of law no.7697. The execution procedures of the administrative sanctions will be enforced in accordance with the articles 510 through 526/a of the Civil Procedures Code.

**Article 13**  
**PROPOSAL FOR LICENSE REVOCATION**

1. The responsible authority may request the licensing/supervisory authority to restrict, suspend or revoke the license of an entity when:
  - a. it ascertains or has facts to believe that the entity has been involved in money laundering or terrorism financing;
  - b. when the entity repeatedly commits one or several of the administrative violations set forth in article 27 of this law and the sublegal acts.

**Article 14**  
**FINAL PROVISIONS**

The obliged entities defined in article 3, of this instruction will be in charge of the implementation of this instruction and annexes attached, as its integral part:

Annex I “Suspicious Activity Report” (SAR) ;

Annex II “Cash Transaction Report” (CTR);

Annex III “Value Transaction Report” (VTR);

#### Annex IV “Self Audit Report” and their relevant guidelines

The “Competent Authority” will be responsible for the control and implementation of this instruction.

This instruction and its annexes I, II, III and IV, will be the only acceptable standards for with reference to reporting to the “Competent Authority” and are subject to amendments in accordance with legislation and various administrative rules and orders of the Minister of Finance and will be uniformly used by all the obliged entities.

All the forms and instructions previously used by the obliged entities will be repealed, upon entry into force of this instruction and its attached annexes I, II, III and IV.

This instruction and its attached annexes enter into force upon publication in the “Official Gazette”.

### ***ANNEX 5: INSTRUCTION NO.15, FEBRUARY 16, 2009***

#### **ON THE PREVENTION OF MONEY LAUNDERING AND FIGHT AGAINST THE FINANCING OF TERRORISM FROM THE CUSTOMS AUTHORITIES**

Pursuant to articles 102/4 and 118 of the Constitution as well as article 28/3, letter ‘c’, of Law no. 9917, of May 19th, 2008 “On the prevention of money laundering and terrorism financing” law no.8449 8449, of January 27<sup>th</sup>.1999 “ Customs code of the Republic of Albania “, amended, the Minister of Finance

#### **INSTRUCTS:**

##### **Article 1 Purpose**

The intent of this instruction is to define the reporting methods and procedures for the customs authorities as well as the exchange of information among the General Directorate of Customs and the General Directorate for the Prevention of Money Laundering, (Competent Authority)

##### **Article 2 Definitions**

Terms used hereunder in this instruction and in conformity with the law no.9917 of May 19th, 2008, will mean the following:

1. Money Laundering – circulation and recycling of monies, derived from penal offenses as well as the conversion, transmission, transformation and transposition of the proceeds and property derived from criminal offences aiming at concealing their illegal origin, according to the definition of Article 287, of the Penal Code of the Republic of Albania.
2. Financing of Terrorism – has the same meaning as provided in articles 230/a to 230/d of the Penal Code.
3. Suspicious Transactions – any transaction (regardless of the amount), that due to its nature or character is unusual for the person’s activity, or for some other reason raises suspicion for money laundering or financing of terrorism.
4. Client – according to the definition provided in article 2, of law no.9917 of May 19th, 2008, means any



individual, natural person, legal person or the legal representative, residing or not in Albania, foreigner or albanian, privat or public, that should be identified by customs authorities.

5. Competent Authority – is the General Directorate for the Prevention of Money Laundering , that reports directly to the Minister of Finance and acts as the Financial Intelligence Unit in Albania.

6. Cash – for purposes of this instruction include paper money or coins, national and foreign in circulation.

7. Illegal Income - are “Proceeds of penal offenses” according to the definition of Article 36 paragraph 1, letter ‘b’ of the Penal Code.

8. Person entering or exiting through the border – is any individual, residing or not in Albania that enters or exit the territory of the Republic of Albania.

9. Cross Border Value Transaction Report (CBVTR)- is the form attached in annex II that is part of this instruction, to be filled out by any person, Albanian or foreigner entering or leaving the territory of the Republic of Albania having the obligation to declare: cash amounts, any negotiable instrument, precious metals or stones, valuables or antique objects of equal to or greater than 1 000 000 (one milion) ALL or its corresponding value in foreign currencies, the intention of transporting and to present supporting documents that corroborate the declaration.

10. Suspicious Activity Report (SAR) – is the form included in Annex II that is filled out for every suspicion, according to the guidelines attached in the annex, integral part of this instruction. SAR is sent to the competent authority. Suspicious activity indicators relevant to customs authorities are included in the annex I, attached and part of this instruction.

11. “Bearer’s negotiable instruments” - means unconditional payment orders or promises, which are easily transferable from a person to another and, which must meet a set of criteria including the criteria hereby defining that they must be signed by the issuer or the bearer, they must be a guaranteed and unconditional payment order or promise, they must be payable to the holder or according to the order upon request or after a specified deadline. This includes but is not limited to cheques, cambial, promisory notes, credit cards and traveler’s cheques.

### **Article 3**

#### **“Client” identification**

1. Customs Authority will keep the following client information:

a) for individuals: name, father’s name, last name, date of birth, place of birth, place of permanent residence and of temporary residence, type and number of identification document, as well as the issuing authority;

b) for individuals, which carry out for-profit activity: name, last name, number and date of registration with the National Registration Center, Taxpayer Identification Number (TIN), and address;

c) for private legal entities, which carry out for-profit activity: name, date of registration with the National Registration Center, Taxpayer Identification Number (TIN) and address;

d) for private legal entities, which do not carry out for-profit activity: name, number and date of court decision related to registration as legal person, statute and the deed of incorporation, number and date of the issuance of the license by tax authorities, permanent location, and the type of activity;

e) for legal representatives of a client: name, last name, date of birth, place of birth, permanent and temporary residence, type and number of identification document, as well as the issuing authority and copy of the affidavit.

2. Customs agencies when gathering data from the client, accept according to the stipulations of this instruction only original documents or notarised copies. Pursuant to this instruction tax authorities will maintain in customer’s file copies of the valid documents in the above mentioned form imprinted with agency’s seal.

3. Customs authorities when they deem it necessary should ask the client to provide additional identification documents to verify the data supplied previously.

4. In order to ascertain the transaction, customs authority requests and maintains in client's file a copy of the bank voucher, that substantiates the payment as well as a copy of the invoice or contract of the parties involved in the transaction

#### **Article 4**

##### **Customs authority reporting**

1. Customs authorities will report to the competent authority immediately and in any case no later than 72 hours upon the registration of the transaction according to the forms and guidelines in annexes II and III that are attached to this instruction, any suspicion, signal, notification or data relevant to money laundering and/or financing of terrorism.

2. Customs authorities will report to the competent authority twice a month, in accordance with the forms and guidelines in annex II, that are attached to this instruction, for all cross border declarations of transportation of cash in the territory of the Republic of Albania.

3. The forms and suspicious transaction reports should be accompanied by all the supporting evidence about the client and the transaction being performed.

#### **Article 5**

##### **Preventive measures undertaken by the customs authorities**

1. Customs agencies apply the requirements of Article 11, of law no. 9917, of May 19<sup>th</sup>, 2008 "On the prevention of money laundering and financing of terrorism".

2. Customs authority should create a centralized system for the collection and analysis of the data. To this end the General Directorate of Customs will create a central unit that will be responsible for the identification and the collection of suspicious transactions. The General Director of the General Directorate of Customs will appoint within the directorate, at the head of this unit a person of a management level.

3. The Central Unit has the following competencies and functions:

a) appoint a contact person in the headquarters and every regional directorate that will liaise with the competent authority;

b) organizes the monitoring process and ensures the implementation of the legal responsibilities regarding the prevention of money laundering and fight against the terrorism financing;

c) analyses every transaction that has been identified as suspicious and determines whether considers it suspicious according to the law and this instruction;

d) if the information is categorized as suspicious the head of the unit upon authorization from the General Director or his deputy, will forward this information to the competent authority;

e) will be advised by other employees of the General Directorate of Taxation regarding the ways of identification of suspicious transactions;

f) will organize special training of the General Director of Customs to acquaint him with laws and policies concerning money laundering and financing of terrorism; should have the necessary abilities to scrutinize the transactions in order to detect money laundering and financing of terrorism; be aware of the reporting requirements and the filing of reports; be aware of customer due diligence, as well as client's risk categories;

g) prepares a written report at least once a year regarding the monitoring process (including the number of suspicious reports identified) and presents it to the General Director of the General Directorate of Customs;

h) monitors the clients as well as the transactions referred to the competent authority and

communicates that through the General Director of Customs to the competent authority twice a year.

4. The head of the central unit and its employees should be vested with the authority to obtain any information necessary for the fulfilment of their duties. They should preserve the confidentiality of the data obtained through their activity.

5. The head of the central unit will report only to the General Director of Customs.

6. The General Director of Customs will appoint the internal audit to check the compliance with obligations of this instruction of the central unit.

7. The General Director of Customs will issue a regulation regarding the organization and operation of the central unit as well as the forms of its co-operation with other departments in the customs administration, pursuant to law no. 9917, of May 19th, 2008.

## **Article 6**

### **Information exchange**

1. The information exchange among the two institutions is based on mutual trust.

2. Customs authorities will respond to requests of the competent authority not later than 15 days from the date the information request is received.

3. In urgent cases, when there are grounded reasons for money laundering and financing of terrorism and it is believed that there is a pressing need for information from the General Directorate of Customs, the contact person of the competent authority will present a verbal request to the contact person in the General Directorate of Taxation. Such requests should be documented within three days with a written letter sent to the General Directorate of Customs. The information requested verbally will be provided by the tax authorities to the competent authority within 48 hours.

4. When the competent authority has frozen or is about to freeze a transaction for 72 hours and requests information from the General Directorate of Customs, this information should be provided within 48 hours. The request can be verbal or in writing. Every verbal request should be documented in writing within three working days.

5. The competent authority should respond to requests of the customs authorities no later than 15 days from the day the information request is received. In urgent cases the request can be made verbally from the contact persons and should be documented in writing within three days.

6. If there are objective reasons for the postponement of responses this could be demanded verbally by contact persons by providing arguments and reasons, as well as document it in writing. Discrepancies are resolved by the General Director of Customs Authority and the competent authority or the Minister of Finance afterwards.

7. The General Directorate of Customs, pursuant to Article 22, letter 'b', of law no. 9917, of May 19<sup>th</sup>, 2008, will provide database access to the competent authority (GDPML). The method and technical specifications, will be described from the relevant specialists and the officials of those institutions. This access should be provided within two months of entry into force of this instruction.

## **Article 7**

### **Employee responsibilities**

1. It is forbidden to the employees of the General Customs Directorate to inform the client or any other person regarding the verification procedures of suspicious cases and any other report sent to the competent authority.

2. Employees of the General Directorate of Customs, that provide confidential information to the competent authority in accordance with legal requirements are exempted from penal or administrative

liability.

3. For violations or noncompliance with the law and this instruction, when they do not constitute a penal offense, the employees of the General Directorate of Customs, will have administrative responsibility and will be sanctioned by the competent authority, according to Article 27 of the law no. 9917, of May 19<sup>th</sup>, 2008.

## **Article 8**

### **Entry into force**

This instruction enters into force upon publication in the official gazette

**MINISTER OF FINANCE**  
**Ridvan Bode**

## **ANNEX I**

### **SUSPICIOUS ACTIVITY INDICATORS FOR CUSTOMS AUTHORITIES**

Article 4(1) of this instruction requires from the customs authority among other things, to report to the competent authority, within 72 hours, suspicions related to import/export activity under the customs jurisdiction.

The following list contains indicators of activities that should lead the customs employees to file a suspicious activity report.

The list of money laundering indicators broken down in two groups:

#### **1. Smuggling of currency.**

- Automobiles and trucks: with false compartments or cargo by the side of passengers or drivers;
- Trans-oceanic containers with false compartments or cargo;
- Control of airplanes whereby problems have been identified regarding cargo or luggage belonging to passenger/crew;
- The unchecked/undocumented/ air based delivery or transportation that is not subject of review;
- Individuals that try to circumvent currency reporting requirements;
- Clients that transfer huge amounts of money abroad in cash.
- The passenger provides a contradicting or incomplete explanation regarding the purpose of his journey and the return date;
- Traveling destination is known to be a hotspot for narcotics and other illegal activities;
- The passenger is highly cooperative and offers information without being asked;
- The passenger uses always the same flight or schedule;
- There are signs of remodeling or modification of the vehicle that might signal the presence of hiding compartments;
- The group of passengers or family members is carrying currency in amounts that fall slightly under the reporting threshold;
- Frequent cross border cash declarations;
- Unsubstantiated declarations of cross border cash transportation;

## **2. Suspicious transactions related to the behavior of the customer/business.**

- Importimi i mallrave me vlera të rritura dhe/ose të paguarit e një vlere më të lartë nga ajo e mallrave;
- Import/export that is inconsistent with the activity and the size of the business;
- Insurance data shows extraordinary costs regarding insurance cost for transportation of imported goods;
- Imports/exports that do not make sense from the business point of view and are not conducted in accordance with normal market activity ;
- Clients pay considerable amounts in cash for the imported goods while such payments could be normally performed by check or bank transfer;
- Customs' violations committed by the business in the past;
- Business was established recently and has carried out within a short period of time a sizable import/export activity;
- Business uses services of suspicious transport companies;
- Business is going through financial difficulties and nevertheless continues import considerable amounts;
- Business is not specialized in commerce but does carry out time after time commercial activities ;
- Business specialized in import/export of products from a number of countries does change the source of purchases and or the destination of its products;
- Business demand to change the custom's branch;
- Goods are imported from a country that is known to be a producer of narcotics or their trafficking;
- Goods are imported or exported in an unusual or indirect manner;
- The number of the seal is not the same with the one in the custom's declaration;
- Seal is impossible to be identified or is perfectly clear;
- Importer utilizes letters of credit, foreign banks or business accounts in tax heavens;
- Importer was involved in the past in fraudulent cases;
- Importer has import/export or smuggling business relations suspicious persons;
- Importer was involved in the past in suspicious activities as well as smuggling;
- Importuesi ndryshon shpesh pikën e hyrjes për ekzaminimin e mallit;
- False origin or fraudulent importing of goods;
- Fake goods suspected or discovered while in transit;
- Importer uses the services of a suspicious transport company;
- Importer has frequent business activities in countries that are non-cooperative in the prevention of money laundering and terrorism financing arena;

## ***ANNEX 6: INSTRUCTION NO.16, 16.2. 2009***

### **ON THE PREVENTION OF MONEY LAUNDERING AND FIGHT AGAINST THE FINANCING OF TERRORISM FROM THE TAX AUTHORITIES**

Pursuant to articles 102/4 and 118 of the Constitution as well as article 28/3, letter 'c', of the Law no. 9917, of May 19<sup>th</sup>, 2008 "On the prevention of money laundering and terrorism financing" the Minister of Finance

#### **INSTRUCTS:**

##### **Article 1**

##### **Purpose**

The goal of this instruction is to regulate in details the reporting methods and procedures for the tax authorities as well as the exchange of information among the General Directorate of Taxation and the General Directorate for the Prevention of Money Laundering, in its capacity of the "Competent Authority"

##### **Article 2**

##### **Definitions**

Terms used hereunder in this instruction will mean the following:

1. Money Laundering – circulation and recycling of monies, derived from penal offenses as well as the conversion, transmission, transformation and transposition of the proceeds and property derived from criminal offences aiming at concealing their illegal origin, according to the definition of Article 287, of the Penal Code of the Republic of Albania.

2. Financing of Terrorism – has the same meaning as provided in articles 230/a to 230/d of the Penal Code.

3. Suspicious Transactions – any transaction (regardless of the amount), that due to its nature or character is unusual for the persons activity, or for some other reason raises suspicion for money laundering or financing of terrorism.

4. Taxpayer – means pursuant to this instruction, the "Customer" of the General Directorate of the Taxation. He is a natural person (business person or not), legal person or the legal person, residing or not in Albania, foreigner or albanian, privat or public, that is obliged to pay taxes, to keep or provide information to the General Directorate of the Taxation.

5. Suspicious Activity Report (SAR) – is the form included in Annex II that is filled out for every suspicion, according to the guidelines attached in the annex, integral part of this instruction. SAR is sent to the competent authority. Suspicious activity indicators relevant to tax authorities are included in the annex I, attached and part of this instruction.

5. Competent Authority – according to the definition provided in law no. 9917, of May 19<sup>th</sup>, 2008, is the General Directorate for the Prevention of Money Laundering, that reports directly to the Minister of Finance and serves as the Financial Intelligence Unit in Albania.

6. Cash – for purposes of this instruction include paper money or coins, national and foreign in circulation.

7. Illegal Income - are "Proceeds of penal offenses" according to the definition of Article 36 paragraph 1, letter 'b' of the Penal Code.

##### **Article 3**

##### **"Taxpayers" identification**

1. General Directorate of Taxation will maintain the following taxpayer information:

a) for individuals: name, father's name, last name, date of birth, place of birth, place of permanent residence and of temporary residence, type and number of identification document, as well as the issuing authority and all changes made at the moment of execution of the financial transaction;

b) for individuals, which carry out for-profit activity: name, last name, number and date of registration with the National Registration Center, Taxpayer Identification Number (TIN), address and all changes made in the moment of execution of the tax transaction;

c) for private legal entities, which carry out for-profit activity: name, date of registration with the National Registration Center, Taxpayer Identification Number (TIN), address and all changes made in the moment of execution of the tax transaction;

ç) for private legal entities, which do not carry out for-profit activity: name, number and date of court decision related to registration as legal person, statute and the deed of incorporation, number and date of the issuance of the license by tax authorities, permanent location, and the type of activity;

d) for legal representatives of a client: name, last name, date of birth, place of birth, permanent and temporary residence, type and number of identification document, as well as the issuing authority and copy of the affidavit.

e) for VAT entities, in accordance with the law no. 9920, date 19.05.2008 "On tax procedures in the Republic of Albania", and data related to commercial register provided by the National Registration Center.

2. Tax authorities when gathering data from the client, accept according to the stipulations of this instruction only original documents or notarised copies. Pursuant to this instruction tax authorities will maintain in customer's file copies of the valid documents in the above mentioned form sealed with agency's seal.

3. Tax agencies when they deem necessary should require the client to provide additional identification documents to verify the data supplied previously by the client.

#### **Article 4**

##### **Preventive measures undertaken by the tax authorities**

1. Tax authority apply the requirements of Article 11, of law no. 9917, of May 19<sup>th</sup>, 2008 "On the prevention of money laundering and financing of terrorism".

2. The tax authority should create a centralized system for the collection and analysis of the data. To this end the General Directorate of Taxation will create a central unit that will be responsible for the identification and the collection of suspicious transactions. The General Director of the General Directorate of Taxation will appoint within the directorate at the head of this unit a person of a management level.

3. The Central Unit has the following competencies and functions:

a) appoint a contact person in the headquarters and every regional directorate that will liaise with the competent authority;

b) organizes the monitoring process and ensures the implementation of the legal responsibilities regarding the prevention of money laundering and fight against the terrorism financing;

c) analyses every transaction that has been identified as suspicious and determines whether he/she considers it suspicious according to the law and this instruction;

d) if the information is categorized as suspicious the head of the unit upon authorization from the general director or his deputy, will forward this information to the competent authority;

e) will be advised by other employees of the General Directorate of Taxation regarding the ways of identification of suspicious transactions;

f) will organize special training of the General Director of Taxation to acquaint him with laws and policies concerning money laundering and financing of terrorism; should have the necessary abilities to scrutinize the transactions in order to detect money laundering and financing of terrorism; be aware of the reporting requirements and the filing of reports; be aware of customer due diligence, as well as client's

risk categories;

g) prepares a written report at least twice a year regarding the monitoring process (including the number of suspicious reports identified) and presents it to the General Director of the General Directorate of Taxation;

h) monitors the taxpayers as well as the transactions referred to the competent authority and communicates that through the General Director of Taxation to the competent authority twice a year .

4. The head of the central unit and its employees should be vested with the authority to obtain any information necessary for the fulfilment of their duties. They should preserve the confidentiality of the data obtained through their activity.

5. The head of the central unit will report only to the General Director of Taxation.

6. The General Director of Taxation will appoint the internal audit to check the compliance with obligations of this instruction of the central unit.

7. The general Director of Taxation will issue a regulation regarding the organization and operation of the central unit as well as the forms of its co-operation with other departments in the tax administration, pursuant to law no. 9917, date 19.05.2008.

#### Article 5

##### **Suspicious activity reporting**

1. Tax authorities will report to the competent authority immediately and in any case no later than 72 hours upon the registration of the transaction, any suspicion, signal, notification or data relevant to money laundering and/or financing of terrorism.

2. When a suspicious transaction is detected a suspicious activity report should be filed with the competent authority (according to the forms and guidelines in annexes II and III that are part of this instruction).

3. Annex I attached to this instruction contains suspicious guiding indicators that lead to the detection of money laundering and terrorism financing used as standards nationally and internationally.

4. It is forbidden to the employees of the tax authorities to inform the client or any other person regarding the verification procedures of suspicious cases and any other reports sent to the competent authority.

#### Article 6

##### **Ongoing monitoring of the business relationship with the customers and enhanced due diligence**

1. Tax authorities should perform ongoing monitoring of the activities of their entities and their declarations to ensure that they are in line with the knowledge of the entities, objective of their activity and their categorization according to the level of risk that they represent.

2. Tax authorities should continuously update client relevant data in accordance with paragraph 1 of this Article, and this update should take place immediately, when there are reasons to suspect that the conditions and factual situation of the client has changed.

3. To mitigate the risk of money laundering in addition to the categories defined in articles 8 and 9, of law no. 9917, the tax authorities will define other categories of clients and transactions that should be subject to enhanced due diligence.

#### Article 7

##### **Information exchange**

1. The information exchange among the two institutions is based on mutual trust.

2. Tax authorities will respond to requests of the competent authority not later than 15 days from the date the information request is received.



3. In urgent cases, when there are grounded reasons for money laundering and financing of terrorism and it is believed that there is a pressing need for information from the General Directorate of Taxation, the contact person of the competent authority will present a verbal request to the contact person in the General Directorate of Taxation. Such requests should be documented within three days with a written letter sent to the General Directorate of Taxation. The information requested verbally will be provided by the tax authorities to the competent authority within 48 hours.

4. When the competent authority has frozen or is about to freeze a transaction for 72 hours and request information from the General Directorate of Taxation, this information should be provided within 48 hours. The request can verbal or in writing. Every verbal request should be documented in writing within three working days.

5. The competent authority should respond to requests of the tax authorities no later than 15 days from the day the information request is received. In urgent cases the request can be made verbally from the contact persons and should be documented in writing within three days.

6. If there are objective reasons for the postponement of responses this could be demanded verbally by contact persons by providing arguments and reasons, as well as document it in writing. Disagreements are resolved by the General Director of Tax Authority and the competent authority or the Minister of Finance afterwards.

7. The General Directorate of Taxation, pursuant to Article 22, of law no. 9917, of May 19<sup>th</sup>, 2008, will provide database access to the competent authority (GDPML). The method and technical specifications, will be described from the relevant specialists and the officials of those institutions. This access should be provided within two months of entry into force of this instruction.

#### Article 8

##### **Employee responsibilities**

1. Employees of the General Directorate of Taxation will ensure the confidentiality of all documents, data and information exchanged with the competent authority; for every unauthorized disclosure of this information the employee will be subject to penal or administrative liability.

2. Employees of the General Directorate of Taxation that provide confidential information to the competent authority in accordance with legal requirements are exempted from penal or administrative liability.

3. For the violations or noncompliance with the law and this instruction when they do not constitute a penal offense, the employees of the General Directorate of Taxation, will have administrative responsibility and will be sanctioned by the competent authority, according to Article 27 of the law no. 9917, of May 19<sup>th</sup>, 2008.

#### Article 9

##### **Date of entry into force**

This instruction enters into force upon publication in the official gazette

MINISTER OF FINANCE  
**Ridvan Bode**

## **TYPOLOGIES OF SUSPICIOUS ACTIVITIES USED AS GUIDING INTERNATIONAL STANDARDS FOR THE DETECTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM**

### **SUSPICIOUS ACTIVITY INDICATORS**

The following list provides general examples of types of activities that should be scrutinized by the tax inspectors during the taxpayer's auditing:

- Taxpayer manages a charity, humanitarian, educational organization that seems suspicious in line with the enhanced due diligence regarding those entities.
- Taxpayer manages its business (e.g. a currency exchange bureau) without having a Taxpayer's Identification Number (TIN).
- Taxpayer hesitates or refuses to provide information regarding its business activity or supplies unusual or suspicious documents to identify his/her business.
- The purpose of the taxpayer's transaction does not make sense from the business point of view or does not fit the declared type of business and strategy.
- Taxpayer's net worth does not match the amount of funds.
- The information provided by the taxpayer regarding the source of funds is false, misleading or outright fake.
- When asked the taxpayer refuses to identify or does not convincingly indicate the source of the legal funds and assets.
- The taxpayer (or the person publicly known as a partner of his) has a questionable background that has been subject of media reports regarding potential penal, civil or regulatory cases.
- Use of numerous "legal persons", with the only purpose of carrying out fund transfers.
- Carrying out a business activity without a clear objective in countries and territories identified by the competent authority as non cooperative.
- Taxpayer is located or has subsidiaries in countries or territories identified as non cooperative from FATF.
- Taxpayer presents himself as the agent of an undeclared person and refuses or avoids for no legally acceptable reason to provide information regarding the person or the company that it represents.
- Taxpayer has difficulties in describing the nature of his business and lacks general knowledge of the industry in which he operates.
- Taxpayer opens and maintains several sets of bookkeeping.
- Taxpayer presents fraudulent invoices to the Directorate of Taxation.
- Taxpayer, uses front transactions through nominees (transactions that have no economic background).
- The taxpayer performs cash transactions frequently despite the sanctions.
- The taxpayer account contains numerous foreign currency transactions or monetary instruments that when aggregated amount to considerable sums.
- Buying and selling of securities with no apparent reason, under circumstances that are unusual and not linked to risk or investment diversification.
- Transactions that do not fit the normal market patterns (e.g. market size, frequency, prices, premature closing of loss making activities), especially when cash is concerned or checks that can be endorsed by third parties.
- Incoming payments made through third party checks or endorsed by several persons.
- The taxpayer is involved in transactions that do not have a business background, are not strategically apparent investments, or are not in conformity with his declared business strategy.
- The activities and transactions of the taxpayer are too complex.
- Commingling of taxpayer's business and personal funds.
- Taxpayer's account shows wire transfers that have no apparent business reasons or do originate from countries identified as risky for money laundering

purposes, bank secrecy heavens, countris and off shore banks, countries linked to terrorist activities (in other words countries that are subject to sanctions non cooperative countries, supporting countries).

- Taxpayer will make a deposit in order to make a long term investment followed immediately with a request for liquidation of the position and transfer of the proceeds from the account.

- Taxpayer seeks to process the transaction in such a way as to avoid the normal documentation from the company.

- Taxpayer without credible reasons or through unusual behavior gets involved in transactionf including particular types of securities such as bearer instruments that despite being legal have been used in faudulant schemes and money laundering activities. (Such transactions may warrant verification procedures to ascertain the legality of the taxpayers activity).

- Taxpayer's account contain a level of activity that is hard to explain including debt instruments.

- Taxpayer's account has incoming funds or assets that exceed his known level of income or financial means.

- Transactions performed on behalf of unknown third parties.

- Tansfers carried out through numeorus national or foreign banks .

- Maintaining and utilisation of many unnecessary bank accounts.

- Reassessment of the companies assets beyond the market values.

- Declaration of high profits that are unusual for the type and domain of the commercial activity.

- Considerable amounts of financing of the companies provided by partners, while the source of the funds is not quite clear if it is generated by profits of the commercial activityor from legal sources.

## ***ANNEX 7: STATISTICS – COORDINATION WITH COUNTERPARTS***

<b>Year</b>	<b>Requests sent by the counterparts to the Albanian FIU</b>	<b>Replies by the Albanian FIU to the counterparts</b>
15 May – 31 December 2007	21	16
2008	26	37
1 January – 15 August 2009	19	30

<b>Year</b>	<b>Requests sent by the Albanian FIU to the counterparts</b>	<b>Replies by the counterparts to the Albanian FIU</b>
15 May – 31 December 2007	16	13
2008	44	108
1 January – 15 August 2009	58	56

### **Memorandums of Understanding signed with our international counterparts:**

1. **Slovenia (OMLP)** – Albania (GDPML), signed on 30/01/2003
2. **Bulgarian (FIA)** - Albania (GDPML), signed on 09/06/2003
3. **Macedonia (MLPD)** - Albania (GDPML), signed on 26/01/2004
4. **Montenegro (APML)** - Albania (GDPML), signed on 06/03/2004

5. **Croatia (AMLD)** - Albania (GDPML), signed on 07/06/2004
6. **El Salvador (UIF)** - Albania (GDPML), signed on 14/06/2004
7. **Check Republic (FAU-CR)** - Albania (GDPML), signed on 14/06/2004
8. **Lebanon (SIC)** - Albania (GDPML), signed on 14/06/2004
9. **Estonia (MLIB)** - Albania (GDPML), signed on 15/06/2004
10. **Barbados (AMLA)** - Albania (GDPML), signed on 15/06/2004
11. **Serbia (APML)** - Albania (GDPML), signed on 28/06/2004
12. **Portugal (UIF)** - Albania (GDPML), signed on 23/09/2004
13. **Cyprus (MOKAS)** - Albania (GDPML), signed on 27/09/2004
14. **Finland (RAP)** - Albania (GDPML), signed on 25/10/2004
15. **Taiwan (China) (MLPC)** - Albania (GDPML), signed on 05/11/2004
16. **Saint Vincent & Grenadines (FIU)** - Albania (GDPML), signed on 07/12/2004
17. **Korea (FIU)** - Albania (GDPML), signed on 31/12/2004
18. **Slovakia (SJFP UBPOK)** - Albania (GDPML), signed on 15/02/2005
19. **Guatemala (IVE)** - Albania (GDPML), signed on 05/04/2005
20. **Ukraine (SDFM)** - Albania (GDPML), signed on 06/04/2005
21. **Rumania (ONPCSB)** - Albania (GDPML), signed on 06/04/2005
22. **Venezuela (UNIF)** - Albania (GDPML), signed on 12/04/2005
23. **Bosnia - Herzegovina (FID)**- Albania (GDPML), signed on 18/11/2005
24. **Kosova (FIC - UNMIK)** - Albania (GDPML), signed on 21/02/2006
25. **USA (FINCEN)** - Albania (GDPML), signed on 06/03/2006
26. **Moldavia** - Albania (GDPML), signed on 13/12/2006
27. **Australia (AUSTRAC)** - Albania (GDPML), signed on 01/03/2007
28. **Poland (GIIF)** - Albania (GDPML), signed on 15.11.2007
29. **Aruba (MOT)** - Albania (GDPML), signed on 27.05.2008

30. **Paraguay (SEPRELAD)** - Albania (GDPML), signed on 13.06.2008

31. **Turkey (MASAK)** - Albania (GDPML), signed on 21.07.2008

During 2009 all the necessary documents have been provided to Argentinian and Canadian FIUs and the signing of these MOUs with these partner agencies is expected shortly.

**Memorandum of Understanding among LEA and Government Institutions:**

1. High Inspectorate for the Declaration and Audit of the Assets (HIDAA) – Albanian FIU (GDPML), signed on 28/04/2006.  
In March 30<sup>th</sup> HIDAA signed an MoU with the General Directorate of State Police, GDPML, People's Advocate (Ombudsman) and General Directorate of Taxation and aimed at fighting the financial crime and corruption.
2. Co-operation Agreement signed between the Department of the Administrative Internal Audit and Anticorruption in the Council of Ministers - Albanian FIU (GDPML), signed on May 10, 2007
3. Memorandum of Understanding signed between the Ministry of Finance –the Ministry of Interior, the General Prosecutor Office, the State Intelligence Service, Supreme State Audit and HIDA signed in May 2009, for the creation of Joint Investigation Units in all the territory of the Republic of Albania, based on the experience of the Tirana JIU created in 2007.
4. Memorandum of Understanding (MoU) signed between the General Directorate for the Prevention of Money Laundering and the General Directorate of Customs (GDC) “On the co-operation in the field of electronic exchange of trade information in the area of import – export activity for natural and legal persons conducting their activity within and outside the territory of the Republic of Albania” (July 2009).
5. Memorandum of Understanding signed between the General Directorate for the Prevention of Money Laundering and the General Directorate of Taxation (August 2009)

## ***ANNEX 8: INSPECTIONS MAY 15 2007 TO AUGUST 15 2009”***

### **2007 (15 May-31 December)**

NO.	OBLIGED ENTITY	ENTITIES INSPECTED
1	Gambling and Casino	7
2	Exchange Bureaux	16
3	Non Bank Institutions	3
4	Car Dealers	19
5	Notaries	13
6	Travel Agencies	8
<b>TOTAL</b>		<b>66</b>

### **2008**

NO.	OBLIGED ENTITY	ENTITIES INSPECTED
1	Exchange Bureaux	6
2	Insurance Companies	6
3	CORIP	5
4	Notaries	42
5	CPA	13
6	Travel Agencies	4
7	GDT	1
8	Gambling and Casino	11
9	Commercial Banks	7
10	Non Bank Institutions	7
11	NGO	1
12	Construction Companies	5
13	Leasing Companies	3
14	Car Dealers	12
<b>TOTAL</b>		<b>123</b>

### **2009 (1 January - 15 August)**

NO	OBLIGED ENTITY	ENTITIES INSPECTED
1	Life Insurance Company	3
2	Real Estate Agencies	30
3	Commercial banks	1
4	Notaries	2
5	Leasing Companies	4
6	Construction Companies	50
7	Non Bank Institutions	6
8	Lawyers	2
<b>TOTAL</b>		<b>98</b>

## **ANNEX 9: TRAINING OF OBLIGED ENTITIES**

Pursuant to its legal obligation GDPML conducts alone or in co-operation with national or international institutions training sessions for the reporting entities which aim at:

- Raise the level of knowledge for the compliance officers with respect to legislation relevant to the prevention of money laundering;
- Implementation of new methods of on-line reporting made possible through the latest IT development;
- Presentation of the international best practices in this field;
- Constructive exchange of ideas regarding the identification of additional methods that will lead to and increase in the effectiveness and detection of suspicious cases that contain reasonable ground for money laundering or financing of terrorism.

Special importance has been paid to the public relations in general and the awareness raising of the reporting entities. To this end the GDPML website has been completely revamped and meetings, discussions and round tables have been held with several associations and individuals such as the Chamber of Notaries, the Bar Association, Builders Association and the Banker's Association, etc.

**2007 (May 15 – 31 December 2009)**

Table 1

<b>Obligated Entities</b>	<b>Number of people trained</b>
Insurance companies	31
CORIP	25
Notaries	38
CPA	120
Games of Chance	15
Non bank Institutions	3
<b>TOTAL</b>	<b>232</b>

### **2008**

Total number of persons trained during 2008 is 1029 marking a considerable four fold increase compared with 250 persons trained in 2007. Training activities have had a positive impact in enhancing the capacities and the outcomes of the beneficiary institutions and beyond. GDPML experts have also participated in training activities organised by JIU in Tirana Prosecutor's Office in co-operation with the project led by the US Justice Department. During 2008 several meetings have taken place with oversight authorities such as the Department of Supervision in the Bank of Albania, HIDAA.

The following table present a summary of the categories of the obliged entities and the number of persons trained.

**Table 2**

<b>Obligated Entities</b>	<b>Number of people trained</b>
Bureaux de change	11
Insurance companies	20
CORIP	20
Notaries	353
CPA	20
Travel Agencies	10
Games of Chance	20
Commercial Banks	104
Non bank Institutions	30
Builder's Association	101
<b>TOTAL</b>	<b>689</b>

**2009 (January 1 – August 15)**

**Table 3**

<b>Obligated Entities</b>	<b>Number of people trained</b>
Insurance companies	6
CORIP	30
Notaries	250
CPA	69
Non bank Institutions	10
Construction Companies	112
<b>TOTAL</b>	

The General Directorate for the Prevention of Money Laundering is the leading institution in a twinning project with the German Federal Criminal Office (BKA). This project did start in October 2007 and will be completed in September 2009. In addition to the GDPML this project did involve the General Directorate of the State Police, General Prosecutor's Office, General Directorate of Taxation and General Directorate of Customs.

The project was built around the following four components;

1. Co-operation
2. Functioning of FIU
3. Training
4. Planning and Development



Table 4, presents a summary of the categories of the obliged entities and the number of persons trained in various activities of this project.

**Table 4**

<b>Obligated Entities</b>	<b>Number of people trained</b>
Notaries	15
CPA	15
Commercial Banks	140
Non bank Institutions	10
<b>TOTAL</b>	<b>180</b>

Table 5, presents a summary of the law enforcement institutions and government agencies whose experts received ongoing training in the activities of this twinning project..

**Table 5**

<b>LEA &amp; Partner Institutions</b>	<b>Number of experts trained</b>
GDPML	22
GDC	97
GDT	74
BoA	13
FSA	3
GPO	37
ASP	142
HIDAA	7
AASCA	5
SIS	4
<b>TOTAL</b>	<b>404</b>