



Strasbourg, 5 June 2007

MONEYVAL (2007) 4

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**  
**(CDPC)**

**COMMITTEE OF EXPERTS ON THE EVALUATION**  
**OF ANTI-MONEY LAUNDERING MEASURES**  
**(MONEYVAL)**

**Written Progress Report submitted to MONEYVAL**

**by Albania<sup>1</sup>**

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<sup>1</sup> Adopted by MONEYVAL at its 23<sup>rd</sup> Plenary meeting (Strasbourg, 5-7 June 2007). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref. MONEYVAL(2007)12) at <http://www.coe.int/moneyval>

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

**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 taken to implement the Recommendation of the Report	Although such amendment to the Penal Code is planned, it has not yet been affected.
Recommendation of the MONEYVAL Report	<i>To specify that self-laundering is covered (bearing in mind that Albania has accepted this principle).</i>
Measures taken to implement the Recommendation of the Report	Although such amendment to the Penal Code is planned, it has not yet been affected.
Recommendation of the MONEYVAL Report	<i>To specify that knowledge, intent or purpose can be inferred from objective factual circumstances.</i>
Measures taken to implement the Recommendation of the Report	Although such amendment to the Penal Code is planned, it has not yet been affected.
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 taken to implement the Recommendation of the Report	Although such amendment to the Penal Code is planned, it has not yet been affected.
Recommendation of the MONEYVAL Report	<i>To examine whether greater use should be made of the provisions criminalising money laundering when investigating all major proceeds-generating offences.</i>
Measures taken to implement the Recommendation 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.

**Recommendation 5 (Customer due diligence)**  
**I. Regarding financial institutions**

**Rating: Non-compliant**

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 taken to implement the Recommendation 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 the KYC concept. See generally NDL, Art. 2 and 4-6.
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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To include the identification of customers when establishing a business relationship (as it is envisaged in the draft new LPML).</i>
Measures taken to implement the Recommendation of the Report	The NDL sets out exacting provisions for client identification of the client when establishing a business relationship. See NDL, Art. 4. 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.
Recommendation of the MONEYVAL Report	<i>To make it clear that CDD measures apply also in case of FT suspicion.</i>
Measures taken to implement the Recommendation of the Report	The NDL provides that CDD measures specifically apply in transactions where terrorist financing is suspected. See NDL, Art. 6.
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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. 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.
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	The NDL defines the term "transaction" according to the FATF definition. See NDL, Art. 2, para. 19.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	
<b>Recommendation 5 (Customer due diligence)</b> <b>II. Regarding DNFBP<sup>2</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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
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>

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

Measures taken to implement the Recommendation of the Report	. 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, letter k.
(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 taken to implement the Recommendation of the Report	The NDL does not limit registration of transactions to only those equal to the threshold and above.
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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<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 transactions, whatever their amount.</i>
Measures taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	
<b>Recommendation 10 (Record keeping)</b>	
<b>II. Regarding DNFBP<sup>3</sup></b>	

<sup>3</sup> I.e. part of Recommendation 12

Changes since the last evaluation	None.
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### Recommendation 13 (Suspicious transaction reporting)

#### I. Regarding Financial Institutions

#### **Rating: Partially compliant**

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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To introduce the obligation of the reporting of attempted transactions in the LPML</i>
Measures taken to implement the Recommendation of the Report	Reporting subjects are now required to report even attempted transactions to the Responsible Authority. See NDL, Art. 8.
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	As set out just above, only a few low risk transactions are excluded from reporting requirements. See NDL, Art. 8.
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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To take measures to enhance awareness of all obliged entities about the reporting of suspicious transactions.</i>
Measures taken to implement the Recommendation 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 Annex 4.
(Other) changes since the last evaluation	
<b>Recommendation 13 (Suspicious transaction reporting)</b> <b>II. Regarding DNFBP<sup>4</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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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 Annex 5 attached. Such seminars and trainings will be a continuing responsibility of the Department of Inspections.
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 taken to implement the Recommendation of the Report	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.
Recommendation of the MONEYVAL Report	<i>To review the reporting requirements and thresholds for .NFBP, along the lines of</i>

<sup>4</sup> i.e. part of Recommendation 16.

	<i>Recommendation 16.</i>
Measures taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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/ATF reporting in Albania.
(Other) changes since the last evaluation	

### **Special Recommendation II (Criminalise terrorist financing)**

#### **Rating: Partially compliant**

Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation 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. See Annex 2 attached, Changes On Criminal Code.
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	As indicated above, Albania asserts universal jurisdiction over terrorist financing perpetrators. See Annex 2 attached, Changes On Criminal Code
Recommendation of the MONEYVAL Report	<i>To specify that knowledge, intent or purpose can be inferred from objective factual circumstances.</i>
Measures taken to implement the Recommendation of the Report	Although such amendment to the Penal Code is planned, it has not yet been affected.
Recommendation of the MONEYVAL Report	<i>To provide explicitly for the applicability to legal persons of sanctions for terrorist financing.</i>
Measures taken to implement the	Although such amendment to the Penal Code is planned, it has not yet been affected.



Recommendation of the Report	
(Other) changes since the last evaluation	

**Special Recommendation IV (Suspicious transaction reporting)**

**I. Regarding Financial Institutions**

**Rating:** Largely compliant

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>
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Measures taken to implement the Recommendation of the Report	The NDL requires reporting for purposes of combating the financing of terrorism and terrorist acts. See NDL, Art. 8.
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Recommendation of the MONEYVAL Report	<i>To keep statistics on reports concerning terrorist financing.</i>
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Measures taken to implement the Recommendation of the Report	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, Art. 18.
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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>
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Measures taken to implement the Recommendation 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.
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(Other) changes since the last evaluation	
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**Special Recommendation IV (Suspicious transaction reporting)**

**II. Regarding DNFBP**

Changes since the last evaluation	
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### 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 taken to implement the Recommendation of the Report	No changes since the last evaluation.
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 taken to implement the Recommendation of the Report	No changes since the last evaluation.
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 taken to implement the Recommendation of the Report	No changes since the last evaluation.
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 taken to implement the Recommendation of the Report	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. 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.
Recommendation of the MONEYVAL Report	<i>To examine the functioning in practice of the automatic cessation of temporary measures</i>

	<i>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 taken to implement the Recommendation of the Report	No changes since the last evaluation.
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 taken to implement the Recommendation of the Report	No changes since the last evaluation.
(Other) changes since the last evaluation	

### **Recommendation 6 (Political Exposed Persons)**

#### **Rating: Non-compliant**

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 taken to implement the Recommendation of the Report	The NDL provides special rules consistent with Recommendation 6 for enhanced due diligence for PEP's. See NDL, Art. 6.
(Other) changes since the last evaluation	

### **Recommendation 7 (Corresponding banking)**

#### **Rating: Non-compliant**

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 taken to implement the Recommendation of the Report	Consistent with Recommendation 7, the NDL defines the requirements concerning cross-border correspondent banking (see NDL, article 2, point 5) services provided by banks. See NDL, Art. 6, para. 6.
(Other) changes since the last evaluation	

### **Recommendation 8 (New technologies & non- face-to-face business)**

#### **Rating: Partially compliant**

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 taken to implement the Recommendation 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. Further, the BoA regulation on e-banking has KYC requirements.

(Other) changes since the last evaluation	

### Recommendation 11 (Unusual transactions)

**Rating: Partially compliant**

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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

### Recommendation 12 (DNFBP)

**Rating: Non-compliant**

Recommendation of the MONEYVAL Report	<ol style="list-style-type: none"> <li>1. <i>To cover explicitly real estate agents when they are involved in transactions for a client concerning the buying and selling of property.</i></li> <li>2. <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></li> <li>3. <i>To cover attorneys, notaries, other independent legal professions and accountants in the circumstances provided for in recommendation 12.</i></li> </ol>
Measures taken to implement the Recommendation of the Report	See responses to Recommendation 5 above.
(Other) changes since the last evaluation	

### Recommendation 14 (Protection & no tipping-off)

**Rating: Partially Compliant**

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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	After the approval of the NDL on AML will be considered the drafting of “Guideline-Regulation” N°5 of 2004.
(Other) changes since the last evaluation	

### Recommendation 15 (Internal controls, compliance & audit)

#### Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>To introduce a requirement for internal procedures to address CDD measures.</i>
Measures taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	Such a function is reviewed by the requirements of the NDL and most of the reporting subjects have already implemented these requirements even though the NDL is not yet approved. See NDL, Art. 12.
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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To provide for manager and employee screening.</i>
Measures taken to implement the Recommendation of the Report	The NDL includes preventive measures to be undertaken by the subjects according the establishment of a centralised compliance function for data gathering, analysis and training as well as applying selection procedures when hiring new employees to ensure their integrity. See NDL, article 12.
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 taken to implement the Recommendation 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 2 <sup>d</sup> 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.
(Other) changes since the last evaluation	

### Recommendation 16 (DNFBP)

**Rating: Non-compliant**

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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	A very well scheduled training plan has been carried out for all the 2 <sup>d</sup> tier banks, for the purpose of the implementation of the new electronic reporting and the reporting of SAR. In cooperation with the BoA inspections are actually being carried out in these banks.
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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To review the reporting requirements and thresholds for DNFBP, along the lines of Recommendation 16.</i>
Measures taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To consider the utility of a system where certain professions (e.g. lawyers) report through their organisation.</i>
(Other) changes since the last evaluation	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.

### Recommendation 17 (Sanctions)

**Rating: Partially compliant**

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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation of the Report	After the approval of the NDL on AML will be considered the review of the sanctions system.
(Other) changes since the last evaluation	

### Recommendation 18 (Shell banks)

**Rating: Partially compliant**

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 taken to implement the Recommendation 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, Arts. 2, 6 and 7.
(Other) changes since the last evaluation	

**Recommendation 19 (Other forms of reporting)**

**Rating: Partially compliant**

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 taken to implement the Recommendation of the Report	A new database system is designated and already installed in the GDPML for the storing of information received from the 2 <sup>d</sup> 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
(Other) changes since the last evaluation	

**Recommendation 20 (Other DNFBP & secure transaction techniques)**

**Rating: Non-compliant**

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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	The NDL on AML defines the term “bearer negotiable instruments” according to the definition of FATF and the holder of these instruments should be subject of this Law. See NDL, article 2.
(Other) changes since the last evaluation	



**Recommendation 21 (Special attention for higher risk countries)**

**Rating: Partially compliant**

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 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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

**Recommendation 23 (Regulation, supervision and monitoring)**

**Rating: Partially compliant**

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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To implement measures to ensure effective AML/CFT supervision over the insurance sector.</i>
Measures taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

**Recommendation 24 (DNFBP – regulation, supervision and monitoring)**

**Rating: Non-compliant**

Recommendation of the MONEYVAL Report	<i>To urgently devise and implement a supervision mechanism for DNFBP along the lines of FATF Recommendations 24.</i>
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Measures taken to implement the Recommendation 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.
(Other) changes since the last evaluation	
<b>Recommendation 25 (Guidelines &amp; Feedback)</b>	
<b>Rating: Non-compliant (for the issue of feedback and of absence of sector specific guidelines; Partially compliant for the rest)</b>	
Recommendation of the MONEYVAL Report	<i>To enact provisions to provide feedback to the reporting person or institution.</i>
Measures taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

<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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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

Report	<p>money laundering and the financing of terrorism activities. The General Director of GDPML reports directly to the Minister of Finance.</p> <p>The duties and right of the Responsible Authority are also defined in this NDL. See NDL, article 17 and 18.</p>
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	<p>A computerised information system is established in all the 2<sup>d</sup> 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.</p> <p>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.</p>
(Other) changes since the last evaluation	

### Recommendation 27 (Law enforcement authorities)

#### Rating: Partially compliant

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 taken to implement the Recommendation of the Report	Under the duties and rights of the Responsible Authority, are listed in the NDL. See NDL, article 18.
Recommendation of the MONEYVAL Report	<i>To produce studies on ML, including its trends and techniques.</i>
Measures taken to implement the Recommendation of the Report	<p>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.</p> <p>See NDL, article 19.</p>
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 taken to	Trainings are carried out for the specialists of the field to encourage the use of these measures.

implement the Recommendation of the Report	<p>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>
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

### **Recommendation 30 (Resources, integrity and training)**

#### **Rating: Partially compliant**

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 taken to implement the Recommendation of the Report	GDPML has its own yearly budget that fulfils its immediate needs. GDPML is in process of signing the contract for a twinning project with German Federal Police Office, according to CARDS 2004 which will include financial assistance as well as practical and logistical assistance. See also NDJ, article 17.
Recommendation of the MONEYVAL Report	<i>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.</i>
Measures taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
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</i>

	<i>district agencies.</i>
Measures taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To provide further training to judges on ML and financial crimes more generally.</i>
Measures taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	No changes since the last evaluation because the staffing seems to be proper to the well functioning of this department.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

### Recommendation 31 (National co-operation)

#### Rating: Partially compliant

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. Cooperation with the obliged and reporting entities needs also to be fostered and diverging interpretations eliminated.</i>
Measures taken to implement the Recommendation 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 cooperation between partner institutions.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

<b>Recommendation 32 (Statistics)</b>	
<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 cooperation of the industry and other sectors.</i>
Measures taken to implement the Recommendation 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 cooperation 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 taken to implement the Recommendation 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.
Recommendation of the MONEYVAL Report	<i>To keep more specific and detailed statistics on mutual legal assistance mechanisms.</i>
Measures taken to implement the Recommendation of the Report	No statistics because there have been no cases of MLA.
Recommendation of the MONEYVAL Report	<i>To keep more specific and detailed statistics on extradition.</i>
Measures taken to implement the Recommendation of the Report	No statistics because there have been no cases of extradition for the criminal offence of money laundering or terrorism financing.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

**Recommendation 33 (Legal persons – beneficial owners)**

**Rating: Non-compliant**

Recommendation of the MONEYVAL Report	<i>To provide for a clear legal basis on deadlines for reporting changes to the Court register.</i>
Measures taken to implement the Recommendation of the Report	No changes since the last evaluation.
Recommendation of the MONEYVAL Report	<i>To computerise the Court register.</i>
Measures taken to implement the Recommendation 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.
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 taken to implement the Recommendation of the Report	No changes since the last evaluation.
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 taken to implement the Recommendation of the Report	The new law for the registration of the companies will review the possibility to establish such policies.
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 taken to implement the Recommendation of the Report	The NDL has clearly specified the need for the Tax Authorities to report. See NDL, article 14.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

**Recommendation 38 (MLA on confiscation and freezing)**

**Rating: Partially compliant**

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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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.
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 taken to implement the Recommendation 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 European Council for MLA” and other protocols related”.
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 taken to implement the Recommendation of the Report	No changes since the last evaluation.
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 taken to implement the Recommendation of the Report	No changes since the last evaluation.
(Other) changes since the last evaluation	



**Special Recommendation VI (AML requirements for money/value transfer services)**

**Rating: Partially compliant**

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 that would enable them to carry out direct inspections, depending on the seriousness of risks.</i>
Measures taken to implement the Recommendation of the Report	The NDL provides the definition of “beneficial owner”. See NDL, article 2. The GDPML in cooperation with BoA is carrying out inspections in all the 2 <sup>d</sup> 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.
(Other) changes since the last evaluation	

**Special Recommendation VII (Wire transfer rules)**

**Rating: Non-compliant**

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 taken to implement the Recommendation 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
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 taken to implement the Recommendation of the Report	As soon as the NDL is approved, the BoA regulation on AML will be reviewed.
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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

### Special Recommendation VIII (Non-profit organisations)

**Rating: Non-compliant**

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 taken to implement the Recommendation of the Report	The NDL doesn't include NPO's 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.
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 taken to implement the Recommendation of the Report	It is in process the amendment of the law on the registering and the well functioning of the NPO's, by a Working Group of the Ministry of Economy.
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 taken to implement the Recommendation of the Report	The amendment of the law on the registering and the well functioning of the NPO's, 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 NPO's.
(Other) changes since the last evaluation	

### Special Recommendation IX (Cross-border declaration & disclosure)

**Rating: Partially compliant**

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 taken to implement the Recommendation of the Report	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 more cross-border covert operations since organised criminal activities remain an important issue (stolen cars trafficking, smuggling etc.)</i>
Measures taken to implement the Recommendation of the Report	No changes since the last evaluation.

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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 taken to implement the Recommendation 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.
(Other) changes since the last evaluation	

#### 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 cooperation 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 cooperation 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 cooperation 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 PEP’s 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 NPO’s, by a Working Group of the Ministry of Economy. This law will provide even rules for the control and supervision of all the NPO’s.***

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 NPO’s.***

f) What actions are taken by the authorities to encounter and prohibit the informal currency exchange business in 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.***

## 5. Statistics

Please fill out - to the extent possible - the following tables:

### a. Money laundering and Financing of terrorism cases

2004 (for comparison purposes)												
	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)
<b>ML</b>												
<b>FT</b>												

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

***b. STR/CTR***

<b>2004</b>											
<b>(for comparison purposes)</b>											
<b>Statistical Information on reports received by the FIU</b>								<b>Judicial proceedings</b>			
<b>Monitoring entities, e.g.</b>	<b>transactions above threshold</b>	<b>suspicious transactions</b>		<b>cases opened by FIU</b>		<b>notifications to law enforcement/prosecutors</b>		<b>indictments</b>		<b>convictions</b>	
		<b>ML</b>	<b>FT</b>	<b>ML</b>	<b>FT</b>	<b>ML</b>	<b>FT</b>	<b>ML</b>	<b>FT</b>	<b>ML</b>	<b>FT</b>
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.**

# ***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 Financer 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.
17. "Terrorist Act" has the same meaning as in Law No. 9258, date 15.07.2004," On Measures for the suppression of terrorism financing"
18. "Terrorist Financing" means the offence as defined in in Law No. 9258, date 15.07.2004," On measures for the suppression of terrorism financing"
19. "Terrorist Organization" has the same meaning as in Law No. 9258, date 15.07.2004," On measures for the suppression of terrorism financing"
20. 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.
21. "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 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.

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 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;

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 cooperation 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 of 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 – COORDINATION WITH COUNTERPARTS***

Year	Requests sent by the counterparts to the Albanian FIU	Replies by the Albanian FIU to the counterparts
<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>

Year	Requests sent by the Albanian FIU to the counterparts	Replies by the counterparts to the Albanian FIU
<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. **Cooperation 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**

No.	Type of the subject	Subjects Total	Inspec Subjects	% ins	Proposed measures
1	Insurance Company	10	10	100	-

### **2006**

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

### **2007**

No.	Type of the subject	Subjects Total	Inspected Subjects	% ins	Implemented and proposed measures
1	Insurance Company	10	10	100	-
2	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"- 23.02.20007

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

## 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</li> </ul>

	<p>Recommendation II.</p> <ul style="list-style-type: none"> <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> <li>• to provide explicitly for the applicability to legal persons of sanctions for terrorist financing.</li> </ul>
<p>Confiscation, freezing and seizing of proceeds of crime (R.3, R.32)</p>	<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>
<p>Freezing of funds used for terrorist financing (SR.III, R.32)</p>	<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</li> </ul>



	<p>suspicion reports in order to assess the effectiveness of cooperation of the industry and other sectors</p>
<p>The Financial Intelligence Unit and its functions (R.26, 30 &amp; 32)</p>	<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 information centralised by the GDPML so that it is used only for AML/CFT purposes</li> <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</li> </ul>

	<p>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.)</p> <ul style="list-style-type: none"> <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 economic crime, money laundering and terrorist financing, and increase it as necessary with transfers from district agencies</li> <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</li> </ul>

	<p>of services/operations (including those with cheques)</p> <ul style="list-style-type: none"> <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 transactions</li> </ul>
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</li> </ul>

	<p>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)</p> <ul style="list-style-type: none"> <li>• to adopt measures to ensure that financial (and other) institutions are advised of concerns about AML/CFT weaknesses in other countries</li> </ul>
<p>Suspicious transaction reports and other reporting (R.13-14, 19, 25 &amp; SR.IV)</p>	<ul style="list-style-type: none"> <li>• 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)</li> <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</li> </ul>

	<p>faith are not subject to sanctions</p> <ul style="list-style-type: none"> <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>
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</li> </ul>

	correspondent banking relationships with, or the opening of accounts by shell banks.
<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> <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 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>• 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</li> </ul>

	instance cheques).
<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> <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.</li> </ul>



	<p>Cooperation with the obliged and reporting entities needs also to be fostered and diverging interpretations eliminated.</p> <ul style="list-style-type: none"> <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 & SR.I)	<ul style="list-style-type: none"> <li>• As regards the implementation of the UN conventions, some adjustments are needed concerning criminalisation, temporary and final measures, investigative means etc. which have already been discussed in other parts this report.</li> </ul>
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</li> </ul>

	<p>GDPML.</p> <ul style="list-style-type: none"> <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 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.</li> <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>