



# Anti-money laundering and counter-terrorist financing measures

# Albania

## 3<sup>rd</sup> Enhanced Follow-up Report

May 2022

Follow-up report



**The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL** is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

The 3<sup>rd</sup> Enhanced Follow-up Report on Albania was adopted by the MONEYVAL Committee at its 63<sup>rd</sup> Plenary Session (Strasbourg, 16-20 May 2022).

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## *Albania: Third Enhanced Follow-up Report*

### I. INTRODUCTION

1. The mutual evaluation report (MER) of Albania was adopted in July 2018, its 1<sup>st</sup> Enhanced Follow-up Report (FUR) in December 2019 and the 2<sup>nd</sup> FUR was adopted in April 2021. The report analyses the progress of Albania in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT AND SUBSEQUENT FUR

2. The MER and subsequent Enhanced FURs rated Albania as follows for technical compliance:

**Table 1. Technical compliance ratings, April 2021**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	LC	LC	C	PC	LC	LC	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	LC	C	PC	LC	N/A	LC	C	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	LC	LC	PC	PC	LC	LC	PC	LC	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	PC	LC	LC						

*Note:* There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

*Source:* Albania Mutual Evaluation Report, July 2018, <https://rm.coe.int/committee-of-experts-on-the-evaluation-of-anti-money-laundering-measur/1680931f70>. Albania 1st Enhanced Follow-up Report, December 2019, <https://rm.coe.int/anti-money-laundering-and-counter-terrorist-financing-measures-albania/16809988c0>. 2nd FUR, April 2021, <https://rm.coe.int/moneyval-2021-2-fur-albania/1680a2982c>.

3. Given the results of the MER, Albania was placed in enhanced follow-up<sup>1</sup>. The first enhanced follow-up report of Albania was discussed and adopted by MONEYVAL at its 59<sup>th</sup> Plenary meetings. The FUR acknowledged that overall Albania had made progress in addressing the TC deficiencies identified in its 5<sup>th</sup> Round MER and has been re-rated on 6 Recommendations (6 upgrades). Recommendations 8, 18 and 35, initially rated as PC, was re-rated as LC. Recommendations 6 and 19, initially rated as PC, were re-rated as C. Recommendation 21 initially rated as LC, was re-rated as C.
4. The second FUR was discussed and adopted by MONEYVAL at its 61<sup>st</sup> Plenary meeting. The FUR assessed measures taken by Albania that further remedied the deficiencies identified in the MER. Overall, it was concluded that Albania had made some progress in addressing the TC deficiencies identified in its 5<sup>th</sup> Round MER and was re-rated on Recommendation 7 (initially rated NC, were re-rated as PC). The country was invited to report back to the Plenary within one year.
5. The assessment of Albania's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):
  - Hungary

<sup>1</sup> Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.

- Ukraine
6. Section III of this report summarises Albania progress made in improving technical compliance. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

### III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

7. This section summarises the progress made by Albania to improve its technical compliance by:
- a) Addressing the technical compliance deficiencies identified in the MER and subsequent enhanced FUR for which the authorities have requested a re-rating (R. 24, 26, 28 and 38).
8. For the rest of the Recommendations rated as PC (R.7, 15 and 25) the authorities did not request a re-rating.
9. This report takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Albania submitted its country update report – at least six months before the FUR is due to be discussed by MONEYVAL<sup>2</sup>.

#### III.1 Progress to address technical compliance deficiencies identified in the MER and applicable subsequent FURs

10. Albania has made progress to address the technical compliance deficiencies identified in the MER and subsequent Enhanced FURs. As a result of this progress, Albania has been re-rated on Recommendations 24, 26 and 38. The country asked for a re-rating for R.28 which is also analysed but no re-rating has been provided.

#### *Recommendation 24 (Originally rated PC – re-rated as LC)*

11. In its 5<sup>th</sup> round MER, Albania was rated PC with R.24. Following the adoption of the Albanian 1<sup>st</sup> Enhanced FUR the remaining deficiencies are: there are no mechanisms in place that identify and describe the processes for obtaining and recording BO information (c.24.1); there is no requirement for legal entities to maintain basic information and a register of their shareholders or members by their own (c.24.4); neither the NRC nor the DCoT are responsible for the accuracy of registered data (c.24.5); there is no timeframe set for NPOs to provide data on amendments of previously submitted information (c.24.5); there is no specific requirement for the legal representative of a legal person to be a resident of a country, thus enforcement of the LEAs powers for cooperation could be challenging (c.24.8(a-c)); there is no requirement for NPOs to have an authorised person to act as a representative and provide information to competent authorities (c.24.8(a-c)); there is no requirement to maintain basic and BO information and records for at least five years after the date on which the company is dissolved or otherwise ceases to exist, except for by the NRC, DCoT and the REs (c.24.9); bearer shares or bearer share warrants are not prohibited. There is a lack of measures to ensure that they are not misused for ML/TF (c.24.11(a-e)); nominee shares and nominee directors are not explicitly allowed in Albania but neither do they appear to be specifically prohibited or controlled (c.24.12(a-c)); the range of sanctions that can be applied by the NBC and the supervisory authorities is not proportionate. No sanctions are available for the associations, foundations and centres by the DCoT (c.24.13); the competent authorities' ability to rapidly provide international cooperation in relation to BO information is hampered by deficiencies identified in R. 37, 40 and

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<sup>2</sup> This rule may be relaxed in the exceptional case where legislation is not yet in force at the six-month deadline, but the text will not change and will be in force by the time that written comments are due. In other words, the legislation has been enacted, but it is awaiting the expiry of an implementation or transitional period before it is enforceable. In all other cases the procedural deadlines should be strictly followed to ensure that experts have sufficient time to do their analysis.

- c.24.10 (c.24.14(a-c)); there is no mechanism for any formal assessment of the quality of assistance received from other countries by the Albanian authorities, except for the ASP and the GDPML (c.24.15).
12. Following the adoption of the 1<sup>st</sup> Enhanced FUR, to address the remaining deficiencies in relation to R.24 Albania has undertaken a number of steps.
  13. Albania by enacting the Law “On the BO register” has established the necessary mechanism that identifies and describes the process for obtaining and recording the BO information. This procedure is publicly available (only in Albanian - <https://qkb.gov.al/informacion-mpi-proceduren/regjistri-i-pronar%C3%ABve-p%C3%ABrfitues/regjistrimi-fillestar-t%C3%AB-pronarit-p%C3%ABrfitues>)(c.24.1).
  14. Albania has adopted the Law “on the BO register”. According to Article 4 (items 3.2.3, 3.2.3.1, 3.2.3.2) of the said Law, the register now holds information on direct and indirect ownership, which is accessible to competent authorities. This approach addresses the deficiency in relation to the register of shareholders. Even though, legal persons are required to submit basic information to the commercial register, they are not required to maintain their basic information by themselves (apart from joint stock companies) (c.24.4).
  15. In relation to *the commercial register*, the NRC is required to ensure the accuracy of registered data pursuant to Article 54 of the Law “On business registration”, Chapter III of the DCM “On the stipulation of the procedures for the registration and publication in the National Business Centre” and Article 15 of the Regulation “On the organization, functioning, tasks and competencies of the administration of the National Business Centre”.
  16. With respect to *the BO register*, the NBC is required to ensure the accuracy of data according to Article 4 of the Law “on the BO register”. Regarding *the NPO register*, the DCoT is required to ensure the accuracy of data according to Article 4, Chapter VII of the Law “on registration of non-profit organisations” (c.24.5).
  17. Article 8 of the Law “On registration of non-profit organizations” established a timeframe for NPOs to provide data on amendments of previously submitted information (c.24.5).
  18. No measures have been taken in relation to a specific requirement for the legal representative of a legal person to be a resident of a country (c.24.8(a)-(c)).
  19. Articles 13 and 14 of the Law “On registration of non-profit organizations” require NPOs to provide information on their representatives. Para 7 of Article 3 of the same Law provides a definition of a legal representative, including obligations imposed on him/her (c.24.8(a)-(c)).
  20. Following the adoption of the 1<sup>st</sup> FUR it has been determined that the remaining deficiency is the following: “*There are no requirements for the company itself to maintain basic and BO information following dissolution*”. Regarding the BO register, according to para 2 of Article 9 of the Law “On the BO register” the NBC is required to keep the information in the register for another 10 years from the date of cancellation of the registration. According to Article 52(1) of the Law on Commercial register basic information of legal persons following their dissolution is kept for indefinite time by the Commercial Register (c.24.9).
  21. To address deficiencies in relation to sanctions Albania has taken several steps by amending its relevant legal acts. Even though Albania has increased sanctions for non-compliance with the registration requirements, they still cannot be considered proportionate as fines are established in fixed amounts. With respect to the NPO registration obligations, the DCoT can impose sanctions according to Article 49 (paras 2 and 3) of the Law “On registration of NPOs”. These sanctions can be considered proportionate and dissuasive (c.24.13).

22. As was noted in the 1<sup>st</sup> FUR Albania has addressed the deficiency in relation to c.24.10. The ability of competent authorities to rapidly provide international cooperation in relation to BO information is only hampered by minor deficiencies identified in R.37 and 40 (c.24.14(a)-(c)).
23. Albania has not taken any additional steps to address deficiencies under c.24.11, c.24.12 and c.24.15.
24. Overall, in the 5<sup>th</sup> MER of Albania the assessment team has identified deficiencies in R.24 almost under every criteria (c.24.1, c.24.2, c.24.4-c.24.15). Due to progress achieved by Albania following the adoption of its MER, the country has requested an upgrade of R.24 in its 1<sup>st</sup> Enhanced FUR. In the 1<sup>st</sup> Enhanced FUR it was concluded that Albania had addressed deficiencies under c.24.2, c.24.6, c.24.7. Deficiencies under c.24.1 have been largely addressed. In relation to other deficiencies the FUR concluded that they have not been addressed. Albania didn't request a re-rating of R.24 in the 2<sup>nd</sup> Enhanced FUR. To address the remaining deficiencies Albania has adopted a significant number of amendments to different legal acts and has also introduced new laws.
25. Due to its progress, Albania has addressed a significant number of deficiencies. In particular, the deficiency under c.24.1 has been addressed. Deficiencies under c.24.4 have been largely addressed regarding the register of shareholders, however Albania has not introduced a requirement for legal persons (apart from joint stock companies) to maintain their basic information by themselves. In the view of the rapporteur team the remaining deficiency is of minor nature due to the fact that legal persons are obliged to submit their basic information to the commercial register.
26. In relation to c.24.5, deficiencies have been addressed due to newly introduced obligations that require the NBC and the DCoT to ensure the accuracy of registered data. With regard to another deficiency under this criterion, i.e., lack of timeframe for NPOs to provide data on amendments of previously submitted information, has been addressed by requirements of Article 8 of the Law "On registration of non-profit organisations".
27. Deficiencies under c.24.8 have been addressed by new provisions foreseen in the Law "On registration of non-profit organizations". Another deficiency under c.24.8 has not been addressed.
28. Following the adoption of the 1<sup>st</sup> FUR it has been determined that the remaining deficiency under c.24.9 was lack of requirements for the company itself to maintain basic and BO information following dissolution". The deficiency in relation to the BO information has been addressed by a new record-keeping requirement foreseen in para 2 of Article 9 of the Law "On the BO register". According to the Law on Commercial register basic information of legal persons following their dissolution is kept for indefinite time by the Commercial Register.
29. Deficiencies under c.24.11 and c.24.12 have not been addressed, nevertheless it should be noted that these criteria were rated "mostly met". Regarding the range of sanctions (c.24.13), Albania has amended its legal acts to increase fines for non-compliance of legal persons with registration requirements. However, these sanctions cannot be considered proportionate as fines are established in fixed amounts. New sanctions for NPOs can be considered proportionate and dissuasive.
30. In the MER the assessment team determined that the ability of competent authorities to rapidly provide international cooperation in relation to BO information is hampered by deficiencies identified in R.37, 40 and c.24.10. The 1<sup>st</sup> FUR concluded that Albania had addressed the deficiency in relation to c.24.10. In relation to R.37 and 40, only minor deficiencies still exist. Therefore, the deficiency under c.24.14 has been largely addressed.
31. Deficiencies under c.24.15 (rated "mostly met" in the 5<sup>th</sup> round MER) have not been addressed. To sum up, Albania has addressed most of the outstanding deficiencies under R.24. The only remaining deficiency that might be considered outstanding is under c.24.13. **In this regard, in the view of the rapporteur team R.24 can be upgraded to LC.**

### *Recommendation 26 (Originally rated PC – re-rated as LC)*

32. In its 5<sup>th</sup> round MER, Albania was rated PC with R.26. Following the adoption of the Albanian 1<sup>st</sup> and 2<sup>nd</sup> Enhanced FURs the remaining deficiencies are: there are gaps in the fit and proper requirements for shareholders and administrators of FIs (e.g. associates are not covered; not all senior management positions are covered for certain FIs; thresholds of ownership requiring integrity checks are inconsistent for certain FIs; no provisions allowing on-going fit and proper monitoring beyond initial licensing for certain FIs) (c.26.3); for core principle FIs, there are some deficiencies in regulation and supervision as benchmarked against relevant international standards (c.26.4); the frequency and intensity of BoA supervision has not necessarily correlated to ML/TF risk (c.26.5(a)); the BoA has not yet applied the enhanced ML/TF risk assessment facilitated by offsite supervision for sectors under its supervision to the currency exchange sector (c.26.5).
33. Albania has taken significant measures to remedy the identified deficiencies in the 5<sup>th</sup> round MER and subsequent FURs.
34. As was highlighted in the 2<sup>nd</sup> FUR, Albanian legislation was lacking a requirement to consider other indications of criminal activities beyond criminal convictions or on-going criminal proceedings in relation to banks' management. In order to address this deficiency Albania has amended its Law on Banks. Article 41 of the Law on Banks establishes disqualifying criteria for the administrators of a bank. These criteria go beyond the criminal convictions or on-going investigations, e.g., the administrator has not been subject to bankruptcy procedures and has not yet been relieved of his past obligations, has not been penalised by the Bank of Albania in the past 5 years. Article 4(I)(19) of the Law on Banks provide for a definition of "administrators", i.e., administrator shall mean an individual who is a member of the Steering Council or Audit Committee of a bank, or executive director or director of the audit unit. Another piece of legislation that supplements the requirements established by the Law on Banks is the Regulation "On granting the license and the exercise of banking activity of banks and branches of foreign banks in the Republic of Albania". According to Article 24/1 of this Regulation banks are required to conduct the re-assessment of the suitability of the shareholders at least once a year, as well as when deemed necessary, based on specific circumstances or facts. Similar requirements for administrators could be seen under Article 19/1 of the Regulation On core management principles of banks and branches of foreign banks and criteria on the approval of their administrators".
35. The conclusions of the 2<sup>nd</sup> FUR noted that there are no requirements in relation to the SLAs to carry out "fit and proper" checks beyond criminal offences or on-going criminal investigations. The licensing procedure as foreseen in Article 6(2)(f-g) of the Regulation "On licensing and activity of savings and loan associations and their unions" requires SLAs to submit documentation on founding members to identify their potential links with criminals (please see the 1<sup>st</sup> FUR). However, there no other requirements applicable to the founding members in relation to their potential criminal background. In relation to the members of the Audit Committee, according to Article 15 of the Regulation "on licensing and activity of savings and loan associations and their unions" SLAs are obliged to keep documentation of other members of the Audit Committee, including information on their criminal background. Pursuant to Article 33/1 of the same Regulation SLAs are required to re-assess on yearly basis information on other members of the Audit Committee. However, this information is not being checked or verified by any competent authority.
36. The necessary requirements for FEOs to screen associates of owners / controllers and managers are established by Article 6(1)(b/1) of the Regulation "On the licensing, organisation, activity and supervision of foreign exchange bureaus". Pursuant to Article 19 (4/1) of the same Regulation, FEOs are obliged on yearly basis to provide information to the Bank of Albania to screen associates of owners / controllers and managers.

37. Deficiencies identified in relation to CIFs have been addressed by Albania (see 2<sup>nd</sup> FUR). With respect to insurance companies, identified deficiencies have also been addressed (see 1<sup>st</sup> FUR).
38. No measures have been taken by Albania to remedy the deficiencies in relation to VPFs (26.3).
39. Albania has taken steps to enhance compliance with the Core Principles. In particular, legislative measures have been taken in relation to the IAIS Principles. Other steps that have been taken by Albania are still in the pipeline. Conclusions in the 1<sup>st</sup> FUR are still valid (c.26.4).
40. Albania has taken steps to enhance its risk-based supervision, which led to increase in the frequency and intensity of inspection of banks, non-banking financial institutions and foreign exchange offices according to the risk environment. In order to establish the frequency and intensity of the BoA, which correlates to ML/TF risks, Albania uses the Supervisory policy and the ML/TF offsite risk assessment methodology. These documents determine a significant number of risk factors that are considered by the BoA in order to properly establish the frequency and intensity of risk-based supervision. The main document for establishing inspections based on ML/TF risks is the results of the ML/TF off-site assessment. Upon the completion of the ML/TF off-site assessment, which provides the risk level of sectors as well as individual FIs, the BoA uses this information to establish frequency and intensity of o-site inspections (c.26.5(a)).
41. On 23 July 2021 Albania adopted the ML/TF risk Methodology for FEOs which foresees the analysis of information collected via licensing and supervisory processes. The outcome of this analysis is then used to establish a risk matrix for the purpose of supervision of FEOs (c.26.4(b)).
42. Overall, since the adoption of the 5<sup>th</sup> round MER Albania has taken significant steps to address the identified deficiencies, which was reflected in the subsequent FUR. In particular, as was acknowledged in the 1<sup>st</sup> Enhanced FUR, Albania addressed the deficiency under c.26.5. regarding a risk-based supervision of investment funds by the FSA. Other deficiencies were either largely (c.26.3) or not addressed (c.26.4, c.26.5(a), c.26.4(b), c.26.6). Following the adoption of the 2<sup>nd</sup> Enhanced FUR, Albania was able to address the deficiency under c.26.6. However, there was not progress in relation to c.26.3, c.26.4, c.26.5(a) and 26.4(b).
43. Concerning the 3<sup>rd</sup> Enhanced FUR, Albania has taken steps to remedy the remaining deficiencies. In relation to c.26.3 (rated “mostly met”) some minor deficiencies remain, i.e., no other requirements applicable to the founding members of the SLAs in relation to their potential criminal background and no requirement for any competent authority to check or verify criminal background of members of the Audit Committee of SLAs. Moreover, no measures have been taken by Albania to remedy deficiencies in relation to VPFs.
44. Deficiencies under c.26.4 have not been addressed, therefore conclusions in the 1<sup>st</sup> FUR are still valid. In addition, it should be noted that the remaining deficiencies are mostly related to the securities sector, which is not material in Albania.
45. Regarding c.26.5(a) Albania has taken the necessary measures to establish the frequency and intensity of supervision which correlates to ML/TF risks. The deficiency in relation to c.26.5 regarding the BoA supervision of FEOs has been addressed. Only minor deficiencies are still remaining unaddressed under c.26.3 and c.26.4. **Therefore, R.26 is upgraded to LC.**

#### *Recommendation 28 (Originally rated PC – no re-rating)*

46. In its 5<sup>th</sup> round MER, Albania was rated PC with R.28. Following the adoption of the Albanian 1<sup>st</sup> and 2<sup>nd</sup> Enhanced FURs the remaining deficiencies are: fit and proper requirements for casinos do not specifically mention criminal associates and beneficial owners (c.28.1(b)); limited measures to prevent criminals or their associates from controlling or managing DNFBPs (Measures to prevent

criminals from controlling a DNFBP are in place for casinos and notaries. However, these measures are subject to deficiencies and for other sectors no relevant provisions were provided) (c.28.1(b) and c.28.4(b)); sanctions framework is not sufficiently proportionate and dissuasive (c.28.4(c)); supervision of DNFBPs is not performed on a risk-sensitive basis (c.28.5(a)); no requirement for supervisors to take into account the ML/TF risk profile when assessing the adequacy of the AML/CFT internal controls, policies and procedures (c.28.5(b)).

47. To address these deficiencies Albania has taken some measures.
48. On the basis of the information provided in the template of the 3<sup>rd</sup> follow-up report, there appears to be *some progress to address this deficiency*. According to Article 36(6,h) of the Law “on gambling games in the republic of Albania”, the GSA is empowered to request any information that it deems necessary to be submitted by the applicant. Using this power, the GSA requires information in a *self-declaration form* in relation to criminal background or criminal association (including all shareholders/beneficial owners). This provided information in the self-declaration form is then being cross checked by the GSA. However, this approach still does not address the deficiency (c.28.1(b)).
49. **Notaries:** The respective amendments to the Law “On notaries” were approved by the Parliament on January 27<sup>th</sup>. However, these amendments were adopted after a cut-off day as foreseen by the MONEYVAL Rules of Procedure. **Real estate agents:** In the real estate sector, a draft law has been elaborated in order to comply with the criteria. However, these amendments have not yet been adopted. **DPMS:** No information was provided on measures to prevent criminal infiltration from the DPMS sector. **Auditors:** According to Articles 8 and 9 of the Regulation “On the organisation and functioning of the registration committee and the public register update” auditors are checked against criminal background. In addition, applicants are required to submit a self-declaration which covers BO of audit firms and individual auditors in relation to criminal background and association. This approach has been confirmed by a case example. **Accountants:** Like in case of auditors, similar provisions can be found in the Regulation n.9 da “On regulation and supervision of the functioning of professional organisations and the profession of certified accountant”, including submission of a self-declaration. **Lawyers:** According to the NCA Statute applicants are required to submit certification from the prosecutor’s office and the court regarding any ongoing criminal. In the framework of background checks, NCA requests from all applicants a copy of the certificate of judicial status, as well as certificates from the court and prosecution’s office in order to ascertain that the relevant individuals are not subject to a judicial process or investigation. **TCSP:** As acknowledged by the authorities, there is no established TCSP business in Albania although lawyers and accountants provide company services to some extent. Lawyers and accountants are covered by the proper requirements stated above (c.28.4(b)).
50. **Accountants/auditors:** In the 2<sup>nd</sup> FUR it was concluded that the licences cannot be revoked for the activities of accountants/auditors that are subject to the Recommendations. These deficiencies have been addressed by relevant legal provisions and practical examples of imposed sanctions. In particular, the POB is empowered to impose sanctions, including termination of practicing for accountants (Article 24 of Regulation “On investigation and procedures for taking disciplinary measures”) and for auditors (Article 19 of Regulation “On investigation and procedures for taking disciplinary measures”).
51. **Lawyers:** On the basis of explanation provided in the template of the 3<sup>rd</sup> follow-up report, Law No. 55/2018 enables the NCA to issue sanctions/disciplinary measures (including revocation of licences) to lawyers for non-compliance with the AML/CFT obligations; however, Law No. 55/2018 mentions exclusively the reporting obligations according to the AML/CFT legislation (as “Duties of a lawyer”). Furthermore (as it was mentioned in the 2<sup>nd</sup> follow-up report, as well) it is still not clear

which sanctions can be applied to which failures, and accordingly it is not clear whether the sanctions are proportionate and dissuasive.

52. Notaries: The respective amendments of the Law “On notaries” (which was mentioned in the 2<sup>nd</sup> follow-up report as a draft) are approved by the Assembly on January 27<sup>th</sup>. However, these amendments were adopted after a cut-off day as foreseen by the MONEYVAL Rules of Procedure.
53. Real estate agents: Adequate and progressive disciplinary measure system was presented by the authorities of Albania. Article 22 of the law “On the profession of real estate intermediary” includes the disciplinary measures for violations of the provisions regulating practicing the profession and their activity, which covers AML/CFT breaches, as well. TCSPs: Albania is not a signatory to the Hague Convention on Laws Applicable to Trusts and their Recognition, there is no law governing the formation and operation of trusts or other legal arrangements in the country, however there is no prohibition on foreign trusts operating in Albania too. DPMS: No additional measures have been taken by Albania to remedy the deficiency in relation to dealers in precious metals and stones (c.28.4(c)).
54. Notaries: Progress can be noted regarding the application of a risk-based supervision by the MoJ. The MoJ determines the frequency and intensity of AML/CFT inspections on the basis of a risk (Order No. 408). In addition, when drafting the annual inspection plan the MoJ (Order No. 181) also considers the characteristics of notaries. Lawyers: Detailed evidence has been provided by the Albanian authorities regarding the supervision performed by the NCA on a risk sensitive basis and on the basis of this information there appears to be sufficient progress to meet this criterion. Casinos/gaming service providers: *Detailed explanation* has been provided by the Albanian authorities about the supervision performed and on the basis of these information there appears to be *progress* to meet this criterion. The exposure of the gambling operators on AML risks is examined in the National Risk Assessment and therefore the Gambling Supervisory Authority did adjust the supervisory measures accordingly, and therefore these measures were reflected in the supervisory controls. Real estate agents: There were not any data or information provided regarding the risk-based supervision and the inspections in the real estate sector. DPMS/TCSPs: *No information* was provided regarding the requirements for supervisors to oversight these entities on a risk-based approach. However, it should be noted that in the 5<sup>th</sup> round MER it was stated that “*In practice, BoA does not exert supervision over DPMS. At the same time, it must be noted that, technically, DPMS in Albania do not fall under the FATF standards as they cannot engage in any cash transactions over the threshold of R.22*” (c.28.5(a)).
55. Notaries/lawyers: The MoJ has prepared and approved the *methodology* of inspection of notaries, which takes into account the risk-profile of entities when assessing the adequacy of the AML/CFT internal controls, policies and procedures. Casinos/gaming service providers: Explanation has been provided by the Albanian authorities about the requirement for the supervisor to take into account the ML/TF risk profile when assessing the adequacy of the AML/CFT internal controls, policies and procedures. Albania completed the National Risk-Assessment for the gambling sector, which is a key document to understand the full scope of ML/TF risks in the country. However, there are some deficiencies in relation to the following documents: individual risk ratings developed by the Supervisory Authority for the operators on the basis of the NRA, supervisory inspections of the operators on the basis of NRA, and operator’s own risk assessment and the related risk-based customer due diligence, including the risk rating of the customers. Real estate agents: No measures have been taken in relation to real estate agents. DPMS/TCSPs: *No information* was provided regarding the requirements for the supervisors to take into account the ML/TF risk profile when assessing the adequacy of the AML/CFT internal controls, policies and procedures.
56. Overall, Albania has taken some steps to address the remaining deficiencies following the adoption of the MER and subsequent FUR. However, despite of this progress, there are still remaining

outstanding issues in relation to criminal and their associates under c.28.1(b) and c.28.4(b) and risk-based supervision (c.28.5(a,b)). **Therefore, R.28 remains PC.**

**Recommendation 38 (Originally rated PC – re-rated as C)**

- 57. In its 5<sup>th</sup> round MER, Albania was rated PC with R.38 based on the following deficiencies: Significant limitations stemming from the legal framework on the ability of the authorities to provide assistance in the confiscation of assets (c.38.1); it is unclear whether and to what extent Albania can provide assistance to requests for cooperation made on the basis of non-conviction based confiscation proceedings (c.38.2); Albania should have: (a) arrangements for co-ordinating seizure and confiscation actions with other countries; and (b) mechanisms for managing, and when necessary disposing of, property frozen, seized or confiscated (c.38.3); Ability to share confiscated property with other countries was not demonstrated (c.38.4).
- 58. The progress report details properly the legal basis and procedure for the execution of a preventive sequestration or confiscation order in a criminal case. Under the current legal framework, the execution of a confiscation ordered by a foreign authority is structured in such a way that the international conventions to which Albania is a party determine the scope in which foreign judgments can be recognised. A separate decision shall be made on recognition that is enforced in the same way as domestic decisions (Criminal Procedure Code Article 518(1)). Recent legislative developments have focused on the effectiveness of enforcement [no. 79/2020 Article 22], its organisational system [no. 79/2020 Article 18, 34/2019] and the distribution of the amount received for enforcement [no. 97/2021] (c.38.1).
- 59. Albania has clarified on how it can provide assistance to requests for cooperation made on the basis of non-conviction-based confiscation proceedings (c.38.2).
- 60. With regard to sharing of confiscated property with a foreign state, Albania has provided the necessary legal acts that clearly shows an adequate legal framework in place (c.38.4).
- 61. Overall, Albania has addressed all deficiencies under R.38. **Therefore, R.38 is upgraded to “C”.**

**IV. CONCLUSION**

- 62. Overall, Albania has made progress in addressing the TC deficiencies identified in its 5<sup>th</sup> Round MER and subsequent enhanced FURs and has been re-rated on three Recommendations (3 upgrades). Recommendations 24 and 26 initially rated as PC are re-rated as LC. Recommendation 38 initially rated as PC is re-rated as C.
- 63. Albania is encouraged to continue its efforts to address the remaining deficiencies.
- 64. Overall, in light of the progress made by Albania since its MER and the 3<sup>rd</sup> Enhanced FUR was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

**Table 2. Technical compliance with re-ratings, May 2022**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	LC	LC	C	PC	LC	LC	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	LC	C	PC	LC	N/A	LC	C	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	LC	LC	<b>LC</b>	PC	<b>LC</b>	LC	PC	LC	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	LC	LC	LC	LC	LC	<b>C</b>	LC	LC

*Note:* There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

65. According to item 8 of Rule 21 of the MONEYVAL's Rules of Procedure for the 5<sup>th</sup> round Mutual Evaluations the general expectation is for countries to address most if not all of the technical compliance deficiencies by the end of the 3<sup>rd</sup> year after the adoption of the MER.
66. Albania's 5<sup>th</sup> round MER was adopted in July 2018. In line with item 8 of Rule 21 it was expected that Albania addresses most if not all of its technical compliance deficiencies by May 2022. Nevertheless, despite of significant progress achieved by the country in addressing the technical compliance deficiencies, still R.7, 15, 25 and 28 are rated PC.
67. Considering the above-stated and in line with Footnote 27 to item 8 of Rule 21, which states that "*It is up to the Plenary to determine the extent to which its members are subject to this general expectation, depending on the member's context*", the Plenary held a discuss on further monitoring steps that shall be taken in relation to Albania.
68. The Plenary concluded that Albania has reached the general expectation to address most of the technical compliance deficiencies by the end of the 3<sup>rd</sup> year after the adoption of its MER and agreed to apply increased follow-up reporting intervals.
69. Albania will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Albania is expected to report back in two years' time.

## GLOSSARY OF ACRONYMS

AML	Anti-money laundering
BO	Beneficial ownership
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FI	Financial institutions
FT	Financing of terrorism
LC	Largely compliant
ML	Money laundering
NGOs	Non-governmental organisations
NPOs	Non-profit organisations
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
STR	Suspicious transaction report
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions

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May 2022

Anti-money laundering and counter-terrorist financing measures -  
**Albania**

**3<sup>rd</sup> Enhanced Follow-up Report**

This report analyses Albania's progress in addressing the technical compliance deficiencies identified in the FSRB assessment of their measures to combat money laundering and terrorist financing of July 2018.

The report also looks at whether Albania has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2018 assessment.