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

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Report on Fourth Assessment Visit

Anti-Money Laundering and Combating the Financing of Terrorism

ALBANIA

13 April 2011

Albania is a member of MONEYVAL. This is the fourth report in MONEYVAL's fourth round assessment visits, following up on the recommendations made in the third round. This evaluation was conducted by the International Monetary Fund (IMF). A representative of MONEYVAL joined the IMF team for part of the evaluation exercise to examine compliance with the European Union anti-money laundering Directives where these differ from the FATF Recommendations and therefore fall within the remit of the MONEYVAL examinations. The report on the 4th Assessment Visit was adopted by MONEYVAL at its 35th Plenary (Strasbourg, 11 - 14 April 2011).

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Acronyms

AASCA	Agency for the Administration of the Seized and Confiscated Assets
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
ASP	Albanian State Police
BL	Banking Law
BCP	Border Crossing Points
BMP	Border and Migration Police
BoA	Bank of Albania
CC	Criminal Code
CDD	Customer Due Diligence
CIU	Collective Investment Undertakings
CoM	Council of Minister
CPC	Criminal Procedure Code
CSP	Company Service Provider
CTR	Cash Transaction Report
DNFBP	Designated Non-Financial Businesses and Professions
DPMS	Dealers and Precious Metals and Stones
EDD	Enhanced Due Diligence
FATF	Financial Action Task Force
FI	Financial Institution
FIU	Financial Intelligence Unit
FSA	Financial Supervisory Authority
FSAP	Financial Sector Assessment Program
FSRB	FATF-Style Regional Body
FT	Financing of Terrorism
GDC	General Directorate of Customs
GDP	Gross Domestic Product
GDPML	General Directorate for the Prevention of Money Laundering
GDT	General Directorate of Taxation
GPO	General Prosecutor's Office
GRECO	Group of Countries against Corruption
HIDAA	High Inspectorate for the Declaration and Auditing of Assets
IAIS	International Association of Insurance Supervisors
ICITAP	International Criminal Investigative Training Assistance Program
JIU	Joint Investigative Unit
KYC	Know Your Customer/Client
LEG	Legal Department of the IMF
MEF	Ministry of Economy and Finance
MER	Mutual Evaluation Report
MCM	Monetary and Capital Markets Department
MFA	Ministry of Foreign Affairs

ML	Money Laundering
MLA	Mutual Legal Assistance
MLRO	Money Laundering Reporter Officer
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MoJ	Ministry of Justice
MOU	Memorandum of Understanding
NC	Non compliant
NCR	National Registration Center
NIPT	Number of Identification as Taxable Person
NPO	Nonprofit Organization
OEM	Other Enforceable Means
OPDAT	Office for Prosecutorial Development Assistance and Training
OSCE	Organization for Security and Co-operation in Europe
PACA	Project Against Corruption in Albania
PAMECA	Police Assistance Mission of the European Community to Albania
PEP	Politically-Exposed Person
ROSC	Report on Observance of Standards and Codes
SA	Suspicious activities
SAR	Suspicious Activity Report
SCPO	Serious Crime Prosecutor's Office
SFT	Suppression of Financing Terrorism
SIJI	Sector for the Inspection of Justice Implementation
SIS	State Intelligence Service
SAML	Sector Against Money Laundering
SRO	Self-Regulatory Organization
STR	Suspicious Transaction Report
SUGC	Supervision Unit of the Games of Chance
TAIEX	Training and Assistance Information
TIMS	Total Information Management System
TIN	Taxpayer Identification Number
UN	United Nations Organization
UNODC	United Nations Office on Drugs and Crime
UNSCR	United Nations Security Council Resolution
VPF	Voluntary Pension Funds
VTR	Value Transaction Report

PREFACE

1. This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Albania is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT assessment Methodology 2004, as last updated in February 2009. The assessment team considered all the materials supplied by the authorities, the information obtained on site during their mission from November 15-30, 2010, and other verifiable information subsequently provided by the authorities. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector. A list of the bodies met is set out in Annex 1 to the detailed assessment report.

2. The assessment was conducted by a team of assessors composed of staff of the International Monetary Fund (IMF) and two expert(s) acting under the supervision of the IMF. The evaluation team consisted of: Giuseppe Lombardo (LEG, team leader); Marilyne Landry and Rocio Ortiz Escario (financial sector experts, LEG); Margaret Cotter (legal expert under LEG supervision) and Ian Matthews (financial sector expert under LEG supervision). Mr.Gyula Kerdo, from theHungarian Financial Supervision Authority, participated on behalf of MONEYVAL during part of the assessment visit by prior agreement with the authorities, to assess the compliance of the Albanian AML/CFT framework with the Third AML/CFT EU Directive[1] . The assessors reviewed the institutional framework, the relevant AML/CFT laws, regulations, guidelines and other requirements, and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBP). The assessors also examined the capacity, implementation, and effectiveness of all these systems.

3. This report provides a summary of the AML/CFT measures in place in Albania at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out Albania's levels of compliance with the FATF 40+9 Recommendations (see Table 1) and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). This report was produced by the IMF and it was presented to MONEYVAL and endorsed by this organization on its plenary meeting of April 13, 2011.

4. The assessors would like to express their gratitude to the Albanian authorities for their cooperation and hospitality throughout the assessment mission.

[1] The findings of this assessment are contained in a separate report.

EXECUTIVE SUMMARY

Background information

1. **This report summarizes the anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in Albania at the time of the on-site visit (November 15-30, 2010) and immediately thereafter.** It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. It also assesses Albania's level of compliance with the 40+9 Recommendations of the Financial Action Task Force (FATF).

Key Findings

2. **Although Albania has made considerable progress to tackle ML and FT the risk of ML remains high.** Albania has a history of organized crime with clan-based and hierarchically organized networks that are mainly involved in drug trafficking. The relative size of the cash-based informal economy facilitates the laundering and integration of proceeds of crime. The number of sectors identified with illegal practices, including illegal gambling establishments and exchange bureaus, as well as the vulnerabilities that relate to cross-border transportation of currency, also make Albania at risk for ML activity.

3. Despite efforts by the authorities to reduce the reliance on cash, the use of cash through the informal economy remains a problem in Albania. The use of the informal economy has an impact on the overall effectiveness of preventive measures as transactions facilitated through these channels circumvent the preventive measures established by the authorities.

4. **Albania also remains at risk regarding possible financing of terrorism activities.** There is a record in the first half of the 2000s of the government freezing assets of terrorist financiers, curtailing activities of suspect Islamic NPOs, and expelling individuals suspected of having links to terrorism.

5. **Albania has fully criminalized ML largely in line with the requirements under the Vienna and Palermo Conventions.** However, there have been few convictions for ML and demanding evidentiary requirements have had a negative impact upon Albania's ability to make effective use of the provisions. Also, the Albanian provisions that criminalize the financing of terrorism, although significantly enhanced in recent years, still fall short of meeting the FATF standard.

6. **The Albanian FIU has improved its analytical processes resulting in higher quality financial intelligence; however the legal framework needs to be strengthened with regard to its operational independence.** The FIU's responsibility to disseminate information regarding suspicious transactions should also be clarified.

7. **Albania has updated the legal framework for preventive measures for financial institutions, but the requirements fall short of the international standard in some areas, such as for the identification of beneficial owners, and the lack of any customer due diligence (CDD) measures for customers that are foreign politically exposed persons (PEPs)**. In addition, the effectiveness of implementation of preventive measures remains a concern**,** with uneven

understanding of the provisions amongst financial institutions and a lack of suspicious transaction reports.

8. Implementation of preventive measures by designated non-financial businesses and professions (DNFBPs) is limited. A large range of DNFBPs have been subject to supervision by the FIU however other designated supervisors have had limited engagement in AML/CFT activities.

9. **The legal framework underpinning the supervisory authorities' power is sound but the supervisory role of the FIU should be clarified.** Moreover, the Financial Supervisory Authority (FSA) has not undertaken any inspection of the securities and insurance sectors.

10. **Domestic and international cooperation is good.** Albania has established a number of domestic and international cooperation mechanisms that facilitate cooperation between competent authorities and foreign counterparts; however, cooperation mechanisms between supervisory agencies, both domestically and internationally, are underutilized.

Legal Systems and Related Institutional Measures

11. **Albania has fully criminalized ML largely in line with the requirements under the Vienna and Palermo Conventions.** The Albanian ML provisions extend to any type of property as defined in the FATF standard and also apply in most instances to persons who commit the predicate offense. The provisions do not, however, extend to the FATF-designated predicate offenses of insider trading and market manipulation. Most appropriate ancillary offenses are provided for. There have been few convictions for ML and demanding evidentiary requirements have impacted Albania's ability to make effective use of the provisions.

12. **Albania has provisions criminalizing both collection for, and the financing of, terrorism. Its legal framework also provides a specific definition of actions with terrorist purposes that are then prohibited.** These provisions represent significant progress since the 2006 assessment but still fall short of meeting the requirements under the FATF Recommendations and the U.N. Financing of Terrorism Convention (FT Convention). Among the shortcomings are that it is not clear that provision and collection are prohibited in the absence of the commission or attempted commission of a terrorist act; there is a specific purpose or intent requirement applied in the case of conducts covered by the offenses set forth in the nine Conventions and Protocols listed in the Annex to the FT Convention; the criminal provisions do not sufficiently apply to the financing of all of the conducts set forth in the offenses in such annexed Conventions; financing does not clearly extend to the full extent of "funds" as defined in the FT Convention; and the financing of an individual terrorist is criminalized only if the funds are provided or collected to support terrorist activities.

13. Albania has in place a comprehensive legal framework to seize and confiscate the proceeds of crime. In addition to provisions that permit seizure and confiscation in criminal cases, the new Organized Crime Law adopted in late 2009 provides for preventive seizure and confiscation using a civil standard for a wide range of serious offences. However, as yet there have been few actual confiscations and limited use of sequester authority in ML cases. Criminal Code provisions have thus far not been used effectively to produce results. The provisions of the 2009 Organized Crime Law are just beginning to be applied in case settings and provide promise for positive results going forward.

14. **Albania has a sound legal foundation to implement its obligations under UN Security Council Resolution 1267 but the legal provisions that apply in the case of UNSCR 1373 are uncertain.** The framework has been effectively applied to freeze the funds and assets of designated terrorists and terrorist organizations. However, supervision for compliance is lacking in practice and the required legal framework is insufficient. A number of significant technical deficiencies were also identified, including insufficient updating of the domestic list that sets forth the names of persons whose assets must be frozen; the absence of secondary provisions to address requests by affected persons for subsistence or other expenditures; and the lack of guidance to the private sector and publically-available information on delisting and unfreezing procedures.

15. Albania's financial intelligence unit (FIU) is seen by law enforcement and intelligence agencies as producing timely and high quality financial intelligence. The FIU has aligned its activities with activities of the Joint Investigation Units (JIUs) resulting in disseminations of its financial intelligence being integrated in a greater number of investigations. The timeliness of disseminations has improved and dissemination packages are considered more comprehensive due to the addition of cash reporting requirements and the lowering of thresholds. The effectiveness of its analytical activities could be enhanced by conducting more trend analysis and establishing a prioritization mechanism for STRs and other transaction reports. Concerns remain about the independence of the FIU due to the absence of statutory independence of the Directorate. The FIU's responsibility to disseminate disclosures of suspicious transactions to domestic authorities should be made more explicit.

16. **The creation of JIUs has enhanced collaboration between domestic AML/CFT stakeholders and resulted in an increase in the number of money laundering investigations.** The establishment of the JIUs has resulted in increased efficiency of ML investigations with the number of investigations having doubled from 2008 to 2009. However, challenges persist in establishing arrests and prosecutions. Amendments to the legislative framework are needed to explicitly provide law enforcement authorities with the ability to postpone and waive arrest warrants and allow them to conduct interceptions without advising defense counsel. The judiciary lacks the expertise to review complex money laundering cases and requires training. Concerns have also been expressed about the integrity of the judiciary.[2]

17. **There has been significant progress in the area of oversight of cross-border transportation of currency, but the number of declarations remains low.** Cash couriers need to be tackled more effectively. Customs' capacity to collect and analyze data related to cross-border transportation of currency should be strengthened.

Preventive Measures—Financial Institutions

18. Albania has improved the legal framework concerning AML/CFT preventive measures. The AML/CFT Law, adopted in 2008, establishes requirements for CDD, correspondent banking,

[2] European Commission, Commission Opinion on Albania's application for membership of the European Union.

unusual transactions, record keeping and the reporting of suspicious transactions. The AML/CFT Law covers all financial activities covered by the FATF definition of "financial institutions".

19. The legal framework for CDD covers, to an extent, the required essential criteria, but there are a number of technical gaps. In particular, some of the provisions technically only apply to the identification and verification of customers and not to other components of CDD, the requirements for identifying and verifying the identity of beneficial owners are incomplete and inconsistent, and there are limited provisions for carrying out CDD where there is a suspicion of money laundering and terrorist financing. The measures required for conducting enhanced due diligence are also inconsistently implemented by financial institutions, and there are very limited requirements for ongoing due diligence. The requirements for establishing correspondent banking relationships have been improved. There are still no requirements regarding foreign PEPs.

20. Implementation of preventive measures remains uneven across the financial sector. The banking sector demonstrated the best understanding of the measures, and was sometimes complying to a standard in excess of that required by law. However, this tended to be as a result of higher overseas group standards. Measures for ongoing monitoring and for identifying and verifying beneficial ownership were poorly implemented, with some confusion amongst financial institutions as to the scope of the requirements. In addition, whilst the concept of customer risk factors is a new development in the Albanian system which is to be encouraged, its effectiveness would be enhanced with additional guidance on how to use them.

21. The legal requirements for submitting suspicious transaction reports have been improved. However, there remain some technical deficiencies, and the number of reports in comparison to the higher number of currency transaction reports gives rise to concerns about effectiveness. In particular, the shortcomings noted with regard to the criminalization of money laundering and terrorist financing limit the circumstances in which reports are required. There is no specific requirement to report attempted transactions, and Albania has a number of exemptions from the requirement to report suspicious transactions which are not in line with the FATF standards. The very low number of terrorist financing reports also raises concerns about the effectiveness of the provisions, especially in the light of the risk that Albania faces in relation to the financing of terrorism via NPOs.

22. **Although there are measures in Albania to prevent criminals from owning or controlling financial entities there remain activities carried out by non-licensed operators**. This is the case with informal bureaus of foreign exchange and money transmitters, which are operating outside the regulated market and constitute a risk for ML and TF activities.

23. **The financial supervisors—the Bank of Albania (BoA) for banks and other financial institutions and the Financial Supervisory Authority (FSA) for insurance and securities — have adequate powers to ensure FIs compliance with their AML/CFT obligations but the supervisory approach and implementation is uneven across the financial sector.** BoA offsite monitoring is inadequate and the onsite risk–based supervision is at an embryonic stage of implementation. The FSA has not been supervising the securities and insurance sectors for AML/CFT compliance.

24. **The FIU also has supervisory responsibilities with regard to the reporting obligations.** However the inspections carried out by the FIU seem to cover a broader range of requirements than

provided by the law. The FIU has been the only supervisor that has actually imposed sanctions to reporting entities for non-compliance with the AML/CFT requirements.

Preventive Measures—Designated Non-Financial Businesses and Professions

25. **The preventive measures for DNFBPs mirror those for financial institutions; however their implementation is at an early stage.** Preventive measures apply to all DNFBP categories (with the exception of some trust and company service provider activities). Some customer identification and record keeping obligations are being met but the majority of obligations are not complied with due to lack of knowledge and the absence of guidance. Authorities should address more proactively illegal gambling operations in order to mitigate the money laundering risk.

26. **The designation of supervisory authorities for DNFBPs needs to be clarified.** A number of supervisory authorities have been designated as AML/CFT supervisors in their respective areas of responsibility. However, very few AML/CFT examinations have been conducted by these authorities and their understanding of ML/FT vulnerabilities is limited. The FIU is undertaking supervisory activities in all DNFBP sectors despite the absence of clear legislative authority to ensure compliance with non-reporting requirements. The supervisory responsibilities of the FIU as well as of the other supervisors need to be clearly delineated and respected.

Legal Persons and Arrangements & Non-Profit Organizations

27. Albania has improved the legal framework concerning legal persons and the authorities' access to beneficial ownership information. The establishment of the National registration Center (NRC) constitutes a positive step towards ensuring more transparency of legal persons. However, Albanian authorities have not taken measures to ensure that bearer shares are not misused for ML purposes.

28. The measures in place in Albania relating to NPOs are deficient. No formal review of the sector has been carried out, and there is no formal supervision of the sector. Unlike the case of for-profit companies the legal framework concerning NPOs has not been updated and is flawed, in that it does not provide accurate information on beneficial ownership. The registration requirements are largely quantitative, with few checks on the information provided. There is also a lack of outreach to the NPO sector. Albania has demonstrated that it is aware that NPOs pose a TF risk, as financial institutions are required to conduct enhanced CDD in relation to them.

National and International Co-operation

29. **The establishment of the inter-agency Coordination Committee against Money Laundering and the development of a National Strategy on the Investigation of Financial Crimes provide a good basis for domestic collaboration.** The Coordination Committee and its associated working group provide fora for discussing the implementation of the National Strategy as well as operational issues. The creation of the JIUs has also contributed to greater collaboration between law enforcement, intelligence agencies, the prosecutor's office, the FIU as well as other government agencies responsible for the fight against money laundering. However, cooperation between supervisory agencies should be improved and the FIU should work more closely with the

financial supervisors to coordinate inspections and share findings. Statistics gathering is not coordinated resulting in inconsistencies in the data.

30. **International cooperation mechanisms are in place for the FIU, law enforcement agencies and certain supervisors.** Information exchanged with foreign FIUs is comprehensive and timely. Despite mechanisms being in place through Interpol, there is no evidence of collaboration between law enforcement agencies outside MLAT channels. Financial sector supervisors have memoranda of understanding in place to exchange information with their foreign counterparts; however these mechanisms do not appear to be frequently utilized.

31. **Albania cooperates internationally based on the provisions of the Criminal Procedure Code and the recently enacted 2009 Mutual Legal Assistance Law.** The latter supplements the CPC provisions and will provide an enhanced legal framework for assistance going forward. The authorities may provide a wide range of assistance in relation to ML and FT cases. The granting of such assistance is not subject to any unduly restrictive or unreasonable conditions. In cases where dual criminality is required, the shortcomings identified in relation to the provisions criminalizing ML and FT may limit the authorities' ability to provide MLA. For assistance in confiscating assets, there is a limited ability under the current legal framework to execute foreign requests. There are a few practical barriers in the provision of assistance such as the application of principles of dual criminality in all circumstances, the necessity of a court order for every execution and occasional use of diplomatic channels.

32. **ML is an extraditable offense in relation to Council of Europe Member States and countries with which the Albania has entered into a bilateral or multilateral extradition treaty. Albania may also extradite even without a treaty based upon reciprocity.** FT is an extraditable offense but based on the dual criminality requirement, the shortcomings identified under Special Recommendation II may limit the Albanian ability to extradite in certain FT cases. A Criminal Procedure Code provision that provides the Minister of Justice with wide discretion to impose requirements on extradition should be reviewed because of its potential to be used to defeat extradition.

1. GENERAL

1.1. General Information on Albania

33. Albania is a parliamentary democracy. The Council of Ministers is proposed by the prime minister, nominated by the president and approved by parliament. Its legislative branch consists of a unicameral Assembly (the Kuvendi). Its Constitution was promulgated on November 28, 1998. Albania has a civil law system and has accepted the jurisdiction of the International Criminal Court of its citizens.

34. Albania borders the Adriatic Sea to the West across which is Italy. It shares land borders with Montenegro, Kosovo, "the former Yugoslav Republic of Macedonia" and Greece. The capital and seat of government is Tirana. Albania is a smaller European country with 3 million citizens living on 28,748 sq km. Albania joined NATO in 2009. European integration continues to be a priority of the Albanian Government with the harmonization of legislation, institutional developments as well as economic reforms being implemented to this end. The official currency of Albania is the Lek.

35. Although Albania's economy continues to grow, the country is still one of the poorest in Europe, hampered by a large informal economy. According to Albanian estimates, the informal economy represents over 30% of the economy of the country. Only 25-30% of transactions pass through the formal banking system.

36. Albania had a Gross National Product of US$23.12 billion in 2009. Macroeconomic growth in Albania averaged around 6% between 2004-08, but declined to about 4% in 2009. Inflation is low and stable and the government has recently adopted a fiscal reform package aimed at reducing the large gray economy and attracting foreign investment.

37. Private sector activity benefited from strong, albeit slowing, credit growth, and from improved stability of the energy supply. The international financial and economic crisis has resulted in lower demand for Albanian exports, a fall in net inflows of monetary transfers in the form of remittances, and a marked slowdown in credit growth. Per capita GDP in purchasing power parities was estimated at 25% of the EU-27 average in 2008, up from 24% in 2007. Overall, the Albanian economy continued to grow, albeit at a slower pace.

38. The current account deficit widened in 2008 to 14.5% of GDP, up from 10.5% of GDP in 2007, reflecting a further deterioration of the trade deficit and a decline of remittances. The trade deficit in 2008 increased to 27.2% of GDP from 26.5% of GDP in 2007. Partly due to the massive public road works, imports of capital goods increased by 29% as compared to 2007. Consumption goods imports decreased by 6% in 2008. Albanian exports continued to show strong dependency on apparel industries, which accounted for 43% of total exports.

39. Remittances were down by 16% in 2008 compared to 2007, amounting to 9.2% of GDP, partly reflecting the impact of the global financial crisis as well as the declining trend observed over the past years. Latest data for the second quarter 2009 point to a further decrease of remittances of 4% compared to the same period in 2008.

1.2. General Situation of Money Laundering and Financing of Terrorism

1.2.1. *Predicate offences*

40. Albanian authorities indicate that drugs trafficking, human being and arms trafficking, and corruption are the main predicate offences that generate proceeds in Albania. Albania has also a history of organized crime, with clan-based and hierarchically organized networks which make them difficult to infiltrate[3]. Organized criminal groups use Albania as a base of operations to conduct criminal activities in other countries[4] (predominantly in the United States and also, according to Albanian criminal investigators, in European countries, such as Greece, Italy, Spain and the United Kingdom). Anecdotal evidence suggests that trafficking in stolen cars is another common proceeds-generating offence.

[3] Source: UNODC, World Drug Report, p. 61.

[4] Source: US Department of State

41. Due to its geographic position, Albania continues to be used by drug traffickers as a transit country. Albania is also a producer of cannabis. Despite eradication programs that have resulted in a reduction of cannabis cultivation, such cultivation persists in various regions of the country. According to the authorities, no laboratories for the production of synthetic drugs have ever been discovered in Albania, and the trade in synthetic drugs remains virtually non-existent. In 2005, the Albanian Government outlawed the circulation of speedboats and several other varieties of water vessels on all Albanian territorial coastal waters for a period of three years. This has has slowed the movement of drugs by smaller waterborne vessels.

42. Albanian organized crime networks are involved in several European heroin markets especially those based in Greece, Italy and Switzerland. According to World Customs Organization seizure statistics, between 2000 and 2008, Albanians made up the single largest group (32%) of all arrestees for heroin trafficking in Italy which according to the UNODC is one of the most important heroin markets in Europe. Albania ranks 87th in Transparency International's 2010 Corruption Perception Index. Corruption is a major problem that Albanian authorities confront. Anecdotal evidence and an assessment by the European Commission[5]suggest that corruption of the judiciary hinders the ability to successfully prosecute criminal activity.

43. The table below contains statistics provided by the authorities on the offences that are major sources of illegal proceeds in Albania:

Offences that are Major Sources of Illegal Proceeds

Type of Crime	Year	Registered crime	Concluded investigation	Persons charged
Drug related crimes	2006	453	341	559
	2007	524	314	501
	2008	701	454	688
	2009	647	397	568
	Jan-Aug 2010	477	373	595
Robbery	2006	164	99	169
	2007	123	90	144
	2008	144	90	140
	2009	169	89	156
	Jan- Jun 2010	105	55	87
Customs & tax crimes	2006	187	167	230
	2007	393	379	457
	2008	229	219	264
	2009	192	186	238
	Jan- Jun	219	218	284

[5] European Commission, Commission Opinion on Albania's application for membership of the European Union.

	2010			
Theft through abuse of office	2006	26	26	59
	2007	23	20	32
	2008	36	34	68
	2009	27	22	39
	Jan- Jun 2010	23	23	30
Fraud	2006	171	153	170
	2007	254	191	220
	2008	429	409	467
	2009	288	281	335
	Jan-Aug 2010	261	254	297
Circulating falsified currency	2006	50	47	62
	2007	39	33	36
	2008	35	29	49
	2009	82	70	105
	Jan- Jun 2010	77	70	102

1.2.2. Money Laundering

44. The major vulnerabilities to ML in Albania are the large, cash-based informal economy (which facilitates the laundering and integration of proceeds of crime, especially in the real estate sector and in commercial undertakings) and the cross border transportation of cash and its further assimilation into the economy and Albania's financial system). Despite authorities' efforts and the existence of licensing/registration requirements, there remain a number of sectors that are identified with illegal businesses or practices, such as the "cambiste" (illegal exchange bureaus). The national casino is seen as being particularly vulnerable to money laundering. It has historically low compliance levels with AML/CFT requirements and the FIU recommended that its license be revoked. The high risk assessment for this sector is also due to a concern expressed by the authorities that underground casinos and games of chance operate within Albania. Criminal organization involvement in the operating gaming halls has also been documented.

45. Albania's ports on the Adriatic and its rugged borders make it an attractive stop on the smuggling route for traffickers that are moving shipments into Western Europe. The digitization of border crossing points through installation of a Total Information Management System (TIMS) has led to improved surveillance and information management and has enhanced considerably the work of the Border and Migration Police. However, despite improvements in the implementation of the SR IX-related requirements, crossborder transportation of cash remains high and poses asignificant risk of ML.

46. Albanian authorities reported that methods actually used by criminal organizations for ML, as revealed by investigations are:

- Transactions within the financial sector;

- Opening of bank accounts in the name of social and family ties;
- Purchasing or entering into partnerships in legal businesses (commercial companies, construction, services, transportation etc);
- Opening of offshore companies;
- Purchasing immovable properties (land, apartments, hotels, restaurants, gas stations etc);
- Commission of criminal activity outside of the territory of Albania, and laundering some of the proceeds obtained from this activity in Albania.

47. Authorities also report that, based upon their analysis of ML trends and techniques, the most common ML schemes are:

- Injection of illicit income into business activities;
- Purchase of real estate;
- Acquisition of luxurious goods; and
- Structured transactions, where the purpose is to conceal the source of funds and the actual beneficiaries.

48. As for the types of financial institutions, DNFBP or other businesses that are used in ML activities, authorities indicated that the ML schemes are realized mainly through the banking system. There are also attempts to use gatekeepers such as notaries, lawyers and accountants to conceal the illegal origin of funds.

49. Real estate agents and the use of business undertakings are also identified as potentially vulnerable to attempts to launder illegal proceeds. Anecdotal evidence draws a link between new construction activity and proceeds of crime. Industry representatives have expressed concerns that some jewelers operate in the black market. It is believed that the use of cash in these black market operations is prevalent and that these operations are more vulnerable to ML.

50. The following are statistics provided by the Prosecutor's Office on ML penal proceedings at the investigative and trial stages:

Year CC 287 Number ML Investigations/Prosecutions	**2006**	**2007**	**2008**	**2009**	**2010 (to Oct.1)**
Cases Registered/ No. of suspects or defendants	2 (0 suspects)	2 (2 dfndts)	13 (5 dfndts)	41 (5 dfndts)	42 (3 suspects)
Matters sent for trial	0	1	3 (4 dfndts)	1 (1 dfndt)	0

Matters with investigation terminated	3	1	1	16	17
Matters suspended					2
Proceedings in which conviction obtained and sentence issued	0	1 (1 dfndt)	1 (1 dfndt)	1 (1 dfndt)	1 (1 dfndt)

Year CC 287b Number ML Investigations/ Prosecutions	**2006**	**2007**	**2008**	**2009**	**2010 (to Oct.1)**
Cases Registered/ No. of suspects or defendants	0	3 (2 dfndts)	10 (10 dfndts)	9 (12 dfndts)	2 (5 dfndts)
Matters sent for trial	0	1	4	10	4
Matters with investigation terminated	0	1	1	1	
Matters suspended				1	
Proceedings in which conviction obtained and sentence issued	0	1 (3 dfndts)	1 (3 dfndts)	10 (12 dfndts)	1 (2 dfndts)

51. Although the number of investigations for ML is increasing (for instance, in 2009, 50 such investigations were opened), actual results thus far are quite limited. The Prosecutor's Office has reported that for matters under the basic ML criminal provision (Article 287), since 2006 only four cases have been sent to court. A conviction was obtained in each case – one in each year 2007 through 2010. There have been 20 defendants convicted in 13 cases that were initiated under Article 287/b which relates to acquisition, possession or use of stolen goods. This is a very low number, particularly considering the stolen cars black market.

52. The statistics above are low also considering the fact that organized criminal groups are active in Albania and that Albanian nationals that are part of such groups but operate elsewhere return proceeds to Albania. In addition, the risk for the laundering of proceeds is enhanced because of the

relatively high levels of drug transit and considerable level of production, corruption and trafficking in human beings that occur in Albania.

1.2.3. Terrorism and Terrorist Financing

53. There have been no cases of FT since the last mutual evaluation. There has been one case relating to the concealment of funds. In January 2008, a criminal trial commenced in Albania against Hamzeh Abu Rayyan on charges of concealing funds used to finance terrorism. In 2009 he was convicted of violating Article 230/b of the Criminal Code for his activities in administering funds for a person on the UNSCR list, Yassin al-Kadi. Authorities await a decision of the High Court in order to execute the decision of the Court of Appeals in this case. The sentence imposed was four years imprisonment and a fine of lek 600,000.

54. Statistics provided by the prosecutor's office indicate there have been only a few investigations in the period 2007 – 2009 as set forth in the chart below, and one conviction.

Prosecutorial-Led FT Investigations and Court Proceedings under Criminal Code 230 and 230/a – 2007 - 2009

Year	2007	2008	2009
Number Registered in Year	1	1	1
Total under Investigation	4*	3**	3***
Of those Dismissed	1	1	3
Of those Pending End Year	2	2	0
To Court	1	0	0
Convicted	0	0	1

*2007 – Three investigations transferred from 2006. One of those was dismissed.
**2008 – Includes two investigations transferred from 2007. All three investigations closed without charging (dismissed).
***2009 – Includes one proceeding transferred from 2008.

55. However, with a history in the first half of the 2000s of the government freezing assets of terrorist financiers, curtailing activities of suspect Islamic NPOs, and expelling individuals suspected of having links to terrorism and the historical backdrop after the 1991 fall of the Communist regime of in-country activities by some Al Qaeda operatives and the presence of Islamic non-governmental organizations (some of them fronts for Al Qaeda-linked activities), Albania remains at risk regarding possible financing of terrorism activities.

56. The authorities appear vigilant regarding the presence of these risks, but they have thus far not been able to develop actionable criminal cases relating to terrorism other than the one indicated above.

57. In this context, the lack of progress in the area of NPO and the shortcomings identified with regard to NPOs, constitute a potential vulnerability for terrorism and terrorist financing.

1.3. Overview of the Financial Sector

58. The Albanian financial system comprises of 16 banks (with 530 branches), 17 non-bank financial instititions including leasing companies and money remitters (two of which operate money transfer services affiliated to Western Union and Money Gram) and 283 bureaux de change. There are also two Savings and Credit Associations and 135 Savings and Credit Unions. All of these insititutions are licensed by Bank of Albania (BoA).

59. Although Tirana has a stock exhange, it is not currently operational as there are no companies listed on it. There is an over-the-counter market in govenment bonds, where prices in both the primary and secondary markets are set by the Government Securities Retail market platform. The main market participants are the larger banks.

60. The insurance sector in Albania is dominated by general insurance, with estimates of less than 10% of business by premium being in the life/investment sector. There are ten insurance companies operating, of which seven are non-life insurance companies, two are life insurance companies, and one is a combined life and non-life insurance company. Companies in both the insurance and securities industries are regulated by the Financial Supervisory Authority.

61. The following table sets out the types of financial institutions that can engage in the financial activities that are within the definition of "financial institutions" in the FATF 40+9:

Type of financial activity (See glossary of the 40 Recommendations)	**Type of financial institution that performs this activity**	**AML/CFT regulator & supervisor In addition to the FIU**
1. Acceptance of deposits and other repayable funds from the public (including private banking)	1. Banks[6] 2. Saving and credit companies and their unions	1. BoA

[6] Banks and branches of foreign banks are entitled to perform the following activities (Banking Law 9662 Articles 4 and 54):

Article 4 para 2. "Banking activity" –shall mean the receipt of monetary deposits or other repayable funds from the public, and the grant of credits or the placement for its own account, as well as the issue of payments in the form of electronic money.

Article 54 para. 2(a) lending of all types including, inter alia, consumers credit and mortgage;
b) factoring and financing of commercial transaction;
c) leasing;
d) all payments and money transferring services, including credit, charge and debit cards, travellers cheques, bankers draft;
e) guarantees and commitments;
f) trading for own account or for the account of clients, whether on a foreign exchange, in an over-the-counter market or otherwise the following:
(i) money market instruments (cheques, bills, certificates of deposits, etc);
(ii) foreign exchange;
(iii) derivative products, included, but not limited to futures and options;

(continued)

2. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting)	1. Banks 2. Non-bank financial institutions[7]	1. BoA 2. BoA
3. Financial leasing (other than financial leasing arrangements in relation to consumer products)	1. Banks 2. Non-bank financial institutions (Leasing companies)	1. BoA 2. BoA
4. The transfer of money or value,including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support	1. Banks 2. Non-bank financial institutions (Money remitters) 3. Postal services that perform payment services	1. BoA 2. BoA 3. BoA

(iv) exchange rates and interest rate instruments including products such as swaps and forward agreements;
(v) transferable securities;
(vi) other negotiable instruments and financial assets including bullion;
(vii) participation in issues of all kinds of securities including, underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
g) money broking:
(i) asset management such as cash or portfolio management, fund management,
custodial, depository and trust services;
(ii) settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;
(iii) provision and transfer of financial information, and financial data processing and related software by providers of other financial services;
h) advisory, intermediation and other auxiliary financial services of all activities listed in letters (a)-(f) above, including credit reference and analyses, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

[7] Non-bank FIs are those licensed to carry out the following activities (Regulation No. 11, February 25, 2009 "On the granting of license to non bank financial subject":
i. lending of all types,
ii. factoring,
iii. leasing,
iv. all payments and money transferring services,
v. guarantees and commitments,
vi. foreign exchange, and
vii. advisory, intermediation and other auxiliary financial services of all activities listed in points (i) –(vi)", of this letter.

systems for transmitting funds)		
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders, and bankers' drafts, electronic money)	1. Banks [2. Any other physical/legal entity that issues/manages payments][8]	1. BoA [2. Financial Supervisory Authority (FSA)]
6. Financial guarantees and commitments	1. Banks 2. Non-bank financial institutions	1. BoA 2. BoA
7. Trading in: (a) money market instruments (cheques, bills, CDs, derivatives etc.; (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading	1. Banks 2. (b) Foreign Exchange Offices 3. Stock exchange/broker/agents	1. BoA 2. BoA 3. FSA
8. Participation in securities issues and the provision of financial services related to such issues	1. Banks 2. Stock exchange/brokers /dealers	1. BoA 2. FSA
9. Individual and collective portfolio management	1. Banks 2. Stock exchange/brokers/dealers	1. BoA 2. FSA
10. Safekeeping and administration of cash or liquid securities on behalf of other persons	1. Banks 2. Non-bank financial institutions	1. BoA 2. BoA
11. Otherwise investing, administering or managing funds or money on behalf of other persons	1. Banks	1. BoA

[8] In practice, these are all supervised by the BoA.

12. Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers))	1. Life insurance companies/agents/intermediaries/ pension funds	1. FSA
13. Money and currency changing	1. Banks 2. Foreign exchange offices	1. BoA 2. BoA

62. The following table contains the list of subjects licensed by Bank of Albania since 2005:

	Subjects	2005	2006	2007	2008	2009	2010
1	Banks and foreign branches	17	17	16	16	16	16
2	Non-bank financial institutions	7	6	6	7	13	13
3	Foreign exchange bureaus	58	60	112	189	221	283
4	Savings and Credit Associations	131	125	130	133	135	135
5	Savings and Credit Associations Unions	2	2	2	2	2	2

63. The banking sector dominates financial activity in Albania. At the end of 2009, the total number of branches and agencies (within and outside the territory of the Republic of Albania) reached 530, as represented individually for each bank in the table below:

Banks operating in Albania	No. of branches within Albania	No. of agencies	No. of branches outside Albania	No. of branches in total
Bank 1	102			102
Bank 2	27	29	2	58
Bank 3	4	2		6
Bank 4	8			8
Bank 5	43	4		47
Bank 6	5	25		30
Bank 7	8			8
Bank 8	48			48
Bank 9	19	14	4	37
Bank 10	30	15		45
Bank 11	13	10		23
Bank 12	2	1		3

Bank 13	27	6		33
Bank 14	42			42
Bank 15	15	16		31
Bank 16	5	4		9
Total	**398**	**126**	**6**	**530**

64. The size of banks in terms of balance sheets, shareholder's equity, loans, investments in state obligations and securities as well as total deposits is shown in the following table:

Banks operating in Albania	Total of balance sheet (In %)	Shareholders equity (In %)	Total loan (In %)	Treasury bills (In %)	Securities (In %)	Total deposits (In %)
Bank 1	28.28	25.9	20.0	27.9	54.8	29.6
Bank 2	14.4	9.6	10.8	22.2	12.9	16.1
Bank 3	0.5	1.2	0.5	0.0	0.0	0.5
Bank 4	0.7	2.0	0.8	0.1	0.0	0.6
Bank 5	9.5	12.9	12.9	13.4	1.5	8.0
Bank 6	4.8	4.7	8.7	2.4	0.2	3.3
Bank 7	0.8	1.6	0.5	0.9	0.7	0.6
Bank 8	7.3	8.8	10.3	4.8	1.3	7.4
Bank 9	13.0	13.0	11.1	12.2	20.8	14.0
Bank 10	4.7	3.6	4.7	5.0	1.1	4.9
Bank 11	3.3	3.7	6.1	0.7	0.0	1.6
Bank 12	0.2	1.4	0.1	0.0	0.0	0.1
Bank 13	5.7	4.3	7.0	1.4	1.0	6.2
Bank 14	4.3	3.9	4.1	6.9	4.0	4.6
Bank 15	1.9	2.2	2.2	1.7	0.1	1.8
Bank 16	0.7	1.4	0.4	0.4	1.5	0.7
Total	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**

65. None of the banks in Albania are wholly funded by Albanian capital, with Austria, Italy, France, and Greece being the countries where the largest shareholders are based.

66. Albania continues to be a largely cash-based economy, with the financial sector growing slowly.

1.4. Overview of the DNFBP Sector

67. All DNFBP categories outlined by the standard have AML/CFT obligations in Albania. The categories of DNFBPs, as defined in the AML/CFT Law are real estate agents and evaluators of immovable property; public notaries, attorneys, and other legal representatives; independent public accountants, independent certified accountants and financial consulting offices; dealers in precious metals and stones; entities engaged in the administration of third parties' assets, and gaming, casinos and hippodromes, of any kind.

68. The following table outlines the number of entities identified by authorities in each DNFBP sector.

DNFBP	Number of licensed entities	Supervisory Body
Notaries	308	Ministry of Justice
Attorneys (Advocates)	Approximately 4000 Lawyers 57 Legal firms	The National Chamber of Advocates of the Republic of Albania
Independent auditors and auditing firms	157	GDPML*
Independent accountants and accounting firms	More than 2,000	GDPML*
Persons and casinos organizing prize games including persons organizing internet prize games	1 casino 12 games of chance	Gaming Commission
Real estate agents/agencies	42	GDPML*
Trusts; legal person registration service providers	No trust in existence in Albania; the number of company formation agents unknown	No designated supervisor
Dealers in precious metals; dealers in precious stones	Unknown	GDPML*

* Although the GDPML has not been specifically designated as the supervisory authority for these sectors it has undertaken examinations in these sectors. Refer to Recommendation 24 for a detailed analysis of DNFBP supervision.

69. **Trust and Company Services Providers** – Trusts do not currently exist in Albania however some company formation services such as acting as the formation agent of legal persons, providing a registered office, business address or accommodation for companies are offered by lawyers, notaries and accountants. The AML/CFT Law does extend obligations to individuals or legal entities that engage in the administration of third parties' assets/managing the activities related to them in the event that TCSP activities are undertaken in Albania. Based on meetings with industry and the authorities the provision of company formation services is not prevalent in Albania. The limited use of these services and the requirement to register with the National Registration Centre limits the ML risk of these activities.

70. **Casinos, games of chance** – Currently there is one casino operating in the territory of the Republic of Albania and 12 operators of games of chance that provide access to slot machines. All of the entities are licensed and supervised by the SUGC. The money laundering risk of the gambling industry is considered high by the FIU. The national casino is seen as being particularly vulnerable to money laundering with historically low compliance levels with AML/CFT requirements resulting in the FIU recommending that the casino's license be revoked. This high risk assessment is also due to concerns by the authorities that underground casinos and games of chance are operating in Albania. Criminal organization involvement in the running of gaming halls has also been documented.

71. Real Estate Agents – The AML Law covers the residential and commercial real estate sectors as well a construction companies. Less than 8% of real estate transactions are conducted through real estate agents as the majority are private transactions. All real estate transactions must be notarized and subsequently registered with the Central Office for the Registration of Immovable Property that performs the registration of property rights in the Republic of Albania. The GDPML is responsible for AML/CFT supervision of the real estate sector. Many industry representatives consider the real estate sector as high risk for ML. Use of cash is very common in real estate transactions. Anecdotal evidence draws a link between new construction activity and proceeds of crime.

72. Compared to what appears to be higher risks in the overall real estate industry, transactions facilitated by real estate agents may be of slightly lower risk. Real estate representatives met during the assessment indicated that the value of most real estate transactions was below the non-cash reporting threshold of lek 6,000,000 and that most real estate transactions are not facilitated by real estate agents. It should be noted that given the recent economic downturn, growth in the number of real estate agents could be stagnating given difficulties in facilitating sales in the current market and the relatively modest commissions (1-3% of sale price). The GDPML considers both the real estate agents and construction companies at medium risk of being used for ML.

73. **Accountants, accounting, and auditing firms** – There are currently 131 certified accountants, six foreign auditors and 20 accounting firms. There are also more than 2000 independent accountants that provide various accounting services to domestic and foreign companies operating in Albania. The AML/CFT Law specifically applies to public accountants, independent certified accountants as well as financial consulting offices. The GDPML supervises the accounting sector for AML/CFT purposes. Accountants and auditors are covered for all their activities including activities that are not outlined in Recommendation 12. The entities met during the assessment provided a wide range of services including auditing, accounting and book keeping services, tax consultation as well as involvement in facilitating mergers and acquisitions. More limited activities were conducted related to company formation and management of assets. The GDPML considers their activity as low to medium risk.

74. **Lawyers** – Advocates are organized in Chambers which are established by the National Chamber of Advocates. The detailed rules on the legal profession practice in accordance with the law are determined in the Charter and "Ethics Code of Advocates" approved by the General Council of the National Chamber of Advocates. The National Chamber of Advocates and the Ministry of Justice keep the register of all advocates and administer the relevant documentation concerning the right to practice the legal profession. The Ministry of Justice is responsible for ensuring that the legal profession is exercised normally and in compliance with the law. The National Chamber of Advocates is a legal entity that carries out its activity independently from the state and is responsible for the regulation and control of the exercise of legal professions in the Republic of Albania. The total number of lawyers is approximately 4000. The Chamber of Advocates supervises advocates for AML/CFT purposes.

75. Attorneys, public notaries, and other legal representatives trigger AML/CFT obligations when they prepare for or carry out transactions for a client in relation to the following activities (for values equal or above to lek 1.5 million or~US$15,000):

- transfer of immovable properties, administration of money, securities and other assets;
- administration of bank accounts;
- administration of capital shares to be used for the foundation, operation or administration of commercial companies;
- foundation, functioning or administration of legal entities;
- legal agreements, securities or capital shares transactions and the transfer of commercial activities.

76. Lawyers are involved in the creation and operation of companies and legal persons, the buying and selling of business entities, and providing a registered office and business address for newly established companies. They are also at times involved in real estate transactions and management of client's assets. The GDPML considers the sector medium risk of being used for ML.

77. **Notaries** – Notaries are professionally organized at the local level through the notary chambers functioning in one or more judicial districts and at the national level through the National Chamber of Notary. The local notary chamber comprises all the notaries appointed to exercise their activity under its jurisdiction. The general number of notaries exercising their activity in the Republic of Albania is proportionate to the general number of population. The Minister of Justice determines every two years the general number of notaries for each judicial district and the relative coverage for each municipality and nearby commune. The Ministry of Justice and the National Chamber of Notary, separately, keep registers for notaries and assistants and administer the documentation related to the granting and revoking of the license of exercising the notary activity, their transfer, the compliance with the legal obligations and the disciplinary continuity of notaries and assistants. The total number of notaries is 308. The Minister of Justice supervises notaries for AML/CFT purposes.

78. Notaries are involved in notarizing all transactions related to the sale of moveable and immoveable property including real estate, securities and goods such as cars. This provides notaries with a unique vantage point to observe a large amount of transactions conducted within the Albanian economy. Information reported by notaries also provides an important source of intelligence for the GDPML. Given the wide range of transactions notarized by the profession the sector is considered by the GDPML as highly vulnerable to money laundering.

79. Dealers in precious metals and stones (DPMS) – Individuals or legal entities engaged in the business of precious metals and precious stones have obligations under the AML/CFT Law. The GDMPL has been designated as the supervisory agency for AML/CFT purposes. The exact number of entities in this sector has not been determined. Retail outlets covered by the legislation do not appear to undertake transactions over the US$15, 000 threshold (both cash and non-cash transactions) established by the standard. ML risk in the formal precious metals and stones sector would appear to be low. Industry representatives have expressed concerns that some jewelers operate in the black market. It is believed that the use of cash in these black market operations is prevalent and that these operations would more vulnerable to money laundering. The GDPML considers that the money laundering vulnerability of the sector as being low but additional information on black market activities is required to fully ascertain the level of risk in the sector. Overview of commercial laws and mechanisms governing legal persons and arrangements.

80. This section should contain a description of the types of legal persons and legal arrangements (referred to here as "entities") that can be established or created, or can own property, in the country. Use tables as appropriate. It should provide information on the basic characteristics of such entities e.g. who has ownership (for example shareholders, which could be legal or natural persons) and control (e.g. directors) and whether and where they are registered and/or require a registered office or agent. Please provide information on the extent to which such entities are prevalent, statistics on numbers and information on their significance, if available, within the financial sector.

1.5. Overview of Strategy to Prevent Money Laundering and Terrorist Financing

AML/CFT Strategies and Priorities

81. The Council of Ministers approved on October 27th the National Strategic Document "On the investigation of financial crime". The formulation of this strategic document was based on a thoughtful analysis of the following factors:

- Organized crime activities, the risks that they represent for the Albanian economy, modus operandi, their specific knowledge and forms of organization;
- Capacities and means that are available to state institutions (human resources as well as mechanisms of internal control);
- The actual environment in which those two groups of factors interact.

82. The strategic document seeks to create a long term strategic platform and establish a sustainable equilibrium among effective prevention of crime and investigations in the economic and financial domain and is based on the following principles:

- Effectiveness – by maintaining and strengthening the control systems;
- Proportionality – by means of concentrating the efforts in areas of priority;
- Commitment/broad based inclusion – continuous and effective communication with state institutions, law enforcement agencies and civil society.

83. The State institutions involved in the implementation of this strategy will establish standards based on reverence for values such as: Integrity, Commitment and Professionalism.

84. This strategic document sets out medium and long term objectives which serve as the basis for a detailed action plan that outlines activities from 2009-2015. The objectives are as follows:

- Formulation and harmonization of the legislation with the international standards and recommendations of the international organizations;
- Further enhancement of the effectiveness of the control and oversight in the money laundering and financing of terrorism area;

- Increase the professional level and human capabilities of the state institutions involved in the investigation of financial crime;
- Effective evidencing and documentation of the financial crime investigation;
- Enhance inter-institutional and international cooperation;
- Enhancement of the public's awareness regarding the importance of the fight against financial crime as well as the role of the institutions;
- Strengthening of the preventive capabilities of the law enforcement agencies and the establishment of the appropriate mechanisms to this end.

85. To ensure the implementation of the objectives of this strategy and the enhancement of the effectiveness of the fight against economic and financial crime, the strengthening and increase of cooperation among law enforcement agencies and state institutions such as: the Interior Ministry, GPO, GDT, GDC, GDPML, SIS, HIDAA and AAASC is of paramount importance. The cooperation with financial supervisory authorities such as the Bank of Albania, Financial Supervisory Authority and private sector groups such as the Albanian Banker's Association, CPAI, Bar Association, and National Chamber of Notaries is also seen as key to the success of the strategy.

86. The document also outlines the importance of international cooperation and the need for continued collaboration with international organizations such as Interpol, Europol, Moneyval, the Egmont Group, the Group of Countries against Corruption (GRECO), and the Southeast European Cooperation Initiative. Regional cooperation is also cited as vital to the development and strengthening of financial crime investigations.

87. The guidance and coordination of the strategy is undertaken by an Inter-Institutional Technical Group which is comprised of General Directorate for the Prevention of Money Laundering (GDPML), General Prosecutor's Office, the General Directorate of Customs, the General Directorate of State Police, State Information Service, the Ministry of Justice, the Central Office for the Registration of Immovable Property, the Agency for the Administration of Seized and Confiscated Assets, High Inspectorate for the Declaration and Control of Assets and the Bank of Albania. The Inter-Institutional Committee will be responsible to monitor the implementation of the action plan will also be a forum where operational issues can be discussed.

88. Progress has been realized in all areas of the strategy. Amendments to the AML/CFT Law have addressed some of the concerns outlined in the 2006 MER. The development of a National Risk Assessment is at an initial stage and is slated to be completed by 2011. Most organizations have participated in training programs destined to increase their capacity in the ML/FT fields. Inter-institutional cooperation has been improving with the creation of the Joint Investigation Units, the establishment of the Inter-Institutional Committee and the signing of Memoranda of Understanding to exchange information. The Organized Crime Law was enacted in 2009 and provides a promising mechanism to enhance asset recovery activities.

89. Despite the efforts made in the fight against ML/FT a number of areas outlined in the strategy still remain to be implemented. The strategy has a six year implementation timeframe from 2009 to 2015. In many instances timelines identified within the action plan should be accelerated to enhance

the effectiveness of the regime in a more timely fashion. Initiatives to reduce cash usage have been implemented but the prevalence of cash in the economy remains an issue. Staff knowledge and capacity still requires improvement. Enhancements in evidencing and documentation remain at the initial stages of implementation. Inter-agency cooperation could benefit from strengthening in some instances particularly with respect to the relationship between the GDPML and other supervisory bodies. Public awareness initiatives are limited and many reporting entity sectors only have a partial understanding of their obligations. Asset recovery activities are nascent. The strategy has minimal focus on the judiciary (limited to training on international practices concerning financial investigations) which has been identified as one of the impediments to securing ML convictions.

90. Overall the strategy provides a blueprint to address most of the shortcomings identified during the 2006 MER. Although progress has been made in key areas, implementation shouldbe accelerated to address remaining deficiencies.

The Institutional Framework for Combating Money Laundering and Terrorist Financing

91. There are several institutions that are involved in the fight against economic and financial crime whose responsibilities, duties and legal framework are summarized hereunder.

Committee for the Coordination of the Fight against Money Laundering.

92. The Coordination Committee for the Fight against Money Laundering is a policy making body that is responsible for planning the directing the general state policy in the area of the prevention and fight against money laundering and terrorism financing.

93. The committee is chaired by the Prime Minister and consists of the Minister of Finances, the Minister of Foreign Affairs, the Minister of Defense, the Minister of Justice, the General Prosecutor, the Governor of the Bank of Albania, the Director of the State Information Service, and the General Inspector of High Inspectorate for the Assets Declaration and Auditing.

94. The Committee convenes periodically to review and analyze the reports on the activities performed by the GDPML and the reports on the documents drafted by the institutions and international organizations, which operate in the field of the fight against money laundering and terrorism financing.

Ministry of Finance

95. The Ministry of Finance (MoF) formulates and implements the policy of the Albanian Government regarding the state income formation and the management of public funds. Its primary functions related to AML/CFT include membership in the Committee for the Coordination of the Fight Against Money Laundering and the licensing and supervision of activities of private auditing companies, legal persons conducting audit activities, operators of prize gaming, lotteries and casinos.The MoF, through the Supervision Unit of the Games of Chance (SUGC), undertakes the licensing and supervision with respect to the casino activities and operators of prize gaming and lotteries.

Ministry of Justice

96. The Ministry of Justice (MoJ) is organized and functions in compliance with the Constitution of the Republic of Albania, legal provisions on the organization and functioning of the Council of Ministers, the Law on the organization and functioning of the MoJ (Law no. 8678, dated May 14, 2001, as amended) and the legislation in force on the civil service. The Ministry of Justice, based on this legal basis is empowered with drafting and following policies, preparing legal and sub-legal acts and exercising necessary services related to the judiciary, the system of enforcement of judicial decisions, the system of free legal professions, international judicial cooperation and other areas of justice. It is also competent for harmonization and improvement of Albanian legislation through cooperation with other institutions.

97. The MoJ is responsible, inter alia, for the performance of the general state policy in the area of justice, for drafting legislation in this area and for issuing specialized legal opinion on legislation drafted by other line ministries according to their area of competence. The MoJ follows the processes of returning and compensation of property, of registration of immoveable property, of enforcement of civil and criminal judicial decisions, of the publication of the Official Gazette, and of the compensation of the formerly politically sentenced. In so doing it coordinates the work of the following 10 subordinated institutions:

- Agency for Return and Compensation of Property;
- Office of Registration of Immoveable Property;
- State Advocate Office;
- General Directorate of Prisons;
- Probation Service;
- Legal Medicine Institute;
- General Bailiff's Directorate;
- Albanian Adoption Committee;
- Official Publication Center;
- Institute for the Integration of the Formerly Politically Sentenced

98. The MoJ through its General Codification Directorate, General Directorate on Justice Matters, and Directorate of Jurisdictional Relations with Foreign Authorities, performs its responsibilities respectively on legislation drafting, supporting the judiciary, and acting as a Central Authority in international judicial cooperation on criminal matters. The MoJ is also responsible for licensing and supervision of Notaries.

Ministry of Foreign Affairs

99. The Ministry of Foreign Affairs (MoFA), formulates and implements the policy of the Albanian Government in the area of foreign affairs, as well as organizes and administers consular services, as so designated. The role of the MoFA in the field of AML/CFT is performed through its membership of the Committee for the Coordination of the Fight against Money Laundering.

100. The MoFA coordinates the signing and implementation of international treaties of the Republic of Albania in the field of AML/CFT, facilitates the membership of Albania within existing international organizations in the area of AML/CFT, and presents the UN Security Council Resolutions in connection with the terrorist financing, that shall be enforced, to the authorized bodies.

Financial Intelligence Unit

101. The General Directorate for the Prevention of Money Laundering (GDPML) is the Financial Intelligence Unit. Its mission is the fight against and prevention of money laundering and terrorism financing through the collection, verification, evaluation, control, and dissemination of information to law enforcement agencies; safeguarding of the information obtained from obliged entities; and overseeing the suspension and freezing of transactions aimed at preventing the transfer, conversion or change of ownership of the property and products generated from criminal activities.

102. GDPML cooperates with other law enforcement institutions such as Interior Ministry, General Prosecutor's Office, State Information Service, supervisory agencies as well as international partner institutions. It prepares cooperation and mutual assistance programs aimed at preventing money laundering, with other countries, based on ratified international conventions.

103. In order to implement the standards and proper mechanisms for the fight against money laundering and terrorism financing, the General Directorate for the Prevention of Money Laundering has signed memorandums of understanding with several law enforcement agencies in the country as well as with Financial Intelligence Units in other countries.

Albanian State Police

104. Albanian State Police is responsible for ensuring order, fighting organized crime, and guaranteeing the integrity of the borders. The Law on State Police (Law no. 9749, dated June 4, 2007) guarantees the career development and rights in the police as well as prescribes responsibilities among which the prevention, discovery and investigation of crime in line with the criminal code and criminal procedural code, penal offences and their authors.

105. The State Police is equipped with a number of legal and sublegal instruments regarding the organization of police surveillance, application of special investigating techniques, controls, confiscations, flagrant apprehensions, searches, and other penal procedural actions attributed legally and delegated through the prosecutorial institutions. It is the state authority with human and technical capabilities for the implementation of the law.

106. The structures of the State Police is comprised of several departments such as the Department of the Crime Investigation; Department against the Financial Crime; Department against Organized Crime; Department against Serious Crimes; Department for the Protection of Witnesses; Directorate for the Criminal Analysis, Interpol, Europol, Border and Migration Directorate; as well as other supporting and special operation structures.

107. The Directorate against the Financial Crime, which identifies, uncovers, prevents, strikes, and investigates cases of financial crime, money laundering and financing of terrorism, identifies assets obtained through crime and acts to ensure their seizing and confiscation and as such has special importance in the fight against ML and TF.

108. The Albanian State Police formulates and implements the policy of the Albanian Government in the field of fight against crime and infringement of the law, safeguarding public order and security. The Albanian State Police is empowered to perform operative intelligence functions, pursuant to the above mentioned legislation hence it may also deal with ML/TF cases. The Albanian State Police and the Albanian FIU have a Memorandum of Understanding (MoU) in place governing the respective responsibilities of the two bodies in relation to AML and CFT.

General Prosecutor's Office

109. The Prosecutor's Office is a centralized constitutional institution that operates in accordance with the organization of the judicial system. The Constitution of the Republic of Albania states that the General Prosecutor is independent and empowered to pursue penal proceedings and represents State's case in court.

110. The General Prosecutor is nominated by the President of the Republic with the approval of Parliament, while prosecutors are nominated by the President of the Republic based on the proposals of the General Prosecutor.

111. The General Prosecutor approves the structure personnel and functioning guidelines for prosecutors in First Instance Courts, Courts of Appeal as well as General Prosecutor's Office. It does also issue orders and guidelines for the implementation of duties by the prosecutors.

112. The General Prosecutor's Office in the Republic of Albania is a unified system empowered to:

- to initiate criminal proceedings;
- to ensure the legitimacy with respect to investigation and preliminary examination;
- to pursue charges in the court;
- to lodge claims with the courts for the sake of public interests;
- to dispute court orders, judgments and decisions;
- to ensure the legitimacy of execution of punishments and other compulsory measures.

113. The prosecution authority is involved in AML/CFT through its membership in the Committee for the Coordination of the Fight against Money Laundering. To this end GPO provides oversight in relation to the legitimacy of investigation and preliminary examination of the ML/TF cases; and the pursuit of criminal charges against the crimes that involve ML/TF in the court.

114. In 2004, a section for the Prosecution of the Serious Crimes was created in order to investigate penal offenses committed by structured groups and criminal organizations. In 2007, the Joint Investigation Unit was created in Tirana's Prosecutor's Office, as a specialized structure for the investigation of economic and financial crime, corruption, money laundering and the financing of terrorism. Six additional units similar to the initial one were created in Durrës, Shkodër, Vlorë, Fier, Gjirokastër and Korçë. They count among their members' officers of the Judicial Police, State Police, Customs and Tax authorities as well as contact points in High Inspectorate for the Declaration and Auditing of Assets, State Supreme Audit, General Directorate for the Prevention of Money Laundering and State Information Service.

General Directorate of Customs

115. The Sector for the Prevention of Money Laundering in the Anti-Trafficking Directorate serves as a central unit which gathers, analyzes and reports on the information received from customs branches on cases of transportation of monetary values at the border and suspicious activity. This sector is part of the anti-traffic Directorate and is comprised of on Head of Sector and two specialists. It cooperates with contact points appointed by the Order of General Director of Customs.

116. The information received from customs officers in various branches that serve as points of contact is entered into the sector's database and is then forwarded to the General Directorate for the Prevention of Money Laundering. In accomplishing its fiscal, economic and preventive mission the Customs Service co-operates with a number of other institutions, in particular with the Border and Migration Police.

117. Custom's Authority conducts searches regarding transportation of cash and other valuables across national border of the Republic of Albania. This means that if any unusual cross-border movement of gold, precious metals or stones is detected the Customs authorities are notified. The customs authorities based on the collaboration they have with the Border and Migration Police arrange all the measures needed to evaluate, control and prevent this phenomenon.

118. Customs Service conducts searches for cash transit at the border. Citizens submit a completed standard form providing information on their identity (the commercial entity that they represent, as applicable), the amount transferred and currency, the reason for transfer, etc. The data collected is recorded in respective data bases; copies of the declaration forms for cash transit at the border are sent to GDPML. The legal threshold for the declaration of cash at the border is lek 1,000,000 or the equivalent in foreign currency.

119. In order to improve the overall performance as well as ensure a unified implementation of rules regarding the declaration in the border crossing points, a number of contact points were appointed by the Director General. Customs are also a subject of the AML/CFT Law and report to the FIU, regarding the cross border declaration of the monetary values as well as other valuables for terrorism financing related cases.

General Tax Directorate

120. General Directorate of Taxation (GDT) is vested with the authority to apply tax legislation in the Republic of Albania. At the same time GDT has the authority to administer national taxes, and tariffs, as prescribed in the relevant laws.

121. The main goal of the General Taxation Directorate is to assist the taxpayers to pay their tax obligation in accordance with the existing tax legislation and to ensure that the income obtained through those obligations will be disbursed in the state budget while offering the taxpayers an efficient and effective system.

122. The tax administration cooperates closely with the Customs, the Treasury, Regional Transportation Directorate, Interior Ministry, banks, the Chamber of Commerce, business associations as well as the partner administrations abroad.

123. The Directorate of Investigation and Internal Auditing (anti-corruption) created recently is aimed at striking at economic crime and the phenomenon of corruption. The mission of the Tax Investigation Directorate is to pursue and implement the penal legislation in the domain of taxation, in order to encourage and carry out, directly or indirectly the fulfillment of obligations by taxpayers in accordance with the tax legislation. The establishment in 2009 of a Tax Investigation Directorate has further strengthened the capabilities of GDT vis à vis the investigation of financial crime in general and money laundering in particular.

State Information Service

124. State Informative Service (SIS) is created based on the known principle that a country needs an effective, professional, and able institutions that provide intelligence, in accordance with the legal obligation, to state agencies and institutions that serves the national security. In order to fulfill this constitutional obligation and guarantee the national security as well as the political and economic interests, State Informative Service collects intelligence within Albania and outside.

125. State Informative Service does not carry out activities that have a police or military character. The activities of this institution are performed in accordance with the fundamental principles of legality, objectivity, and secrecy. The organization of its internal structures are in compliance with the requirements for the fulfillment of its mission, especially that of the protection of national security.

126. The SIS is engaged in the prevention of the laundering of proceeds derived from organized crime and particularly in the fight against the financing of terrorism. The Director of the State Information Service is also a member of the Committee for the Coordination of the Fight against Money Laundering.

High Inspectorate for the Declaration and Control of Assets

127. The High Inspectorate for the Declaration and Control of Assets became operational based on the Law on the Declaration and control of assets, financial obligations of elected and public officials (Law no. 9049, dated April 10, 2003). The High Inspectorate under the guidance of the General Inspector, administers the declaration of assets, financial obligations, conducts auditing controls directly, collects data, performs investigations and administrative inquiries regarding the declarations of persons that are legally obliged to disclose their private interests. HIDAA cooperates with auditing as well as other institutions responsible for fighting corruption and economic crimes.

Bank of Albania

128. The Bank of Albania performs the function of a Central Bank. The objectives of BoA are:

- to achieve and maintain price stability;
- to formulate, adopt, and execute the monetary policy of Albania, which shall be consistent with its primary objective;
- to formulate, adopt, and execute the exchange arrangement and the exchange rate policy of Albania;
- to license or revoke and supervise banks that engage in the banking business in order to secure the banking system stability;
- to hold and manage its official foreign reserves;
- to act as banker and adviser to, and as fiscal agent of, the Government of Republic of Albania; andto promote the smooth operation of payments systems.

129. The Bank of Albania is the supervisor responsible for monitoring and ensuring AML/CFT compliance by banks, foreign exchange bureaus, and money remittance businesses.

Financial Supervision Authority (FSA)

130. The Albanian Financial Supervisory Authority (FSA) was established in 2006 and is an independent public institution. The FSA is responsible for the regulation and supervision of non-banking financial system and the operators of the sector. The FSA reports to the Albanian Parliament.

131. The main areas of activity are regulation and supervision:

- of insurance market and its operators;
- of securities market and its operators;
- of private supplementary pensions market and its operators;
- of other non-banking financial activities.

132. The primary goals are the protection of consumers' interests, the promotion of sustainability, transparency and reliability in insurance area, securities and private supplementary pensions' area. Their activity is characterized by professionalism, transparency, and high standard services for all interested parties.

133. The FSA is also a supervisory authority for companies involved in life insurance or re-insurance, their agents and intermediaries as well as retirement funds. In order to accomplish its supervisory role, FSA carries out on site inspections to verify the compliance of the above mentioned entities with the obligations set forth in the provisions of the law, reports to the responsible authority about any suspicion, information or data related to money laundering or financing of terrorism for the activities falling under their jurisdiction. The FSA also takes the necessary measures to prevent an ineligible person from possessing, controlling and directly or indirectly participating in the management, administration or operation of an entity. It also cooperates and provides expert

assistance in the identification and investigation of money laundering and terrorism financing, in compliance with the requests of the GDPML. It cooperates in the drafting and distribution of training programs in the field of money laundering and terrorism financing.

Supervision Unit of the Games of Chance

134. The Supervision Unit of the Games of Chance (SUGC) is subordinate to the Minister of Finance and is responsible for the control and monitoring of games of chance in Albania. The Supervision Unit of the Games of Chance exercises the following functions:

- supervises and controls the activities of entities that organize games of chance in Albania;
- decides the amount of the fine in cases when violations of the provisions are noticed;
- checks and verifies whether the equipment of games of chance are certified by accredited authorities, in accordance with rules established. It certifies the equipment of bets, according to technical specifications set forth by instruction of the Minister of Finance;
- supervises and controls entities authorized by the Minister of Finance to play the promotional games of chance;
- maintains the register of entities that exercise this activity and of halls opened bythem throughout the territory of the country, the number of machines / equipment for any game hall and their specific characteristics, the number of employees and their relevant qualification, the number of national lottery tickets for sale and sold, the number of lots drawn by the organizer of the national lottery and organizers of television bingo;
- checks and verifies income and profit of entities licensed for games of chance, and settlement of tax liabilities from them, reconciled in cooperation with the Directorate General of Taxation and its branches in the districts.

135. The SUGC is also responsible to notify the Director General of Taxation of all data related to taxes. The SUGC also sets fines, stops the activity and confiscates the equipment when a natural or legal person undertakes unlicensed gaming activities.

136. The structure and the personnel of the SUGC are approved by the Prime Minister on the proposal of the Minister of Finance. The Director of the SUGC is appointed by the Minister of Finance. The SUGC is composed of control inspectors, inspectors for the certification of games equipment and inspectors for implementation of coercive measures. The SUGC is responsible for ensuring compliance with the AML/CFT Law for the gaming industry.

The National Chamber of Advocates

137. The National Chamber of Advocates is responsible for regulating and controlling the legal profession in Albania. The Chamber is responsible, inter alia, for adopting a Code of Ethics for the legal profession; determining which lawyers can practice their profession; analyzing the activities of

chambers of lawyers and determine whether it is in accordance with the Law on Legal Profession; coordinating the activities of chambers of lawyers, in order to guarantee the protection of the rights and interests of lawyers, and lawyers chambers; and adopting general rules for the development of the qualification exam to practice the profession of lawyer. The Chamber of Advocates is responsible for ensuring compliance with AML/CFT requirements in the legal profession but does not undertake AML/CFT examinations.

Agency for the Administration of the Seized and Confiscated Assets (AASCA)

138. The Agency for the Administration of the Seized and Confiscated Assets is subordinated to the Minister of Finance. Its main activity is the administration of seized and confiscated assets. The Agency exercises its activity in cooperation with other institutions involved in the process of administration of the seized confiscated assets , such as the courts, prosecutor's office, banks, local government units as well as the local offices for the registration of the immovable properties, where the seized and confiscates assets are located. A civil confiscation involves the confiscation of assets that belong to persons suspected of participation in organized crime activities and their relatives or persons related to them.

139. A special fund is established for the prevention of criminality and legal education, which is administered by the Minister of Finance, relying on the supporting documentation provided by the Advisory Committee on the Measures against Organized Crime. The Agency is responsible for the verification and the preparation of the documentation regarding the requests for funding of projects from the special fund for the prevention of prevention of criminality as well as oversees their implementation.

Ministry Responsible for the Law Relating to Legal Persons and Arrangements

140. Based on the Law on the National Registration Center (NCR) (Law no.9723, dated May 3, 2007) the Ministry of Energy, Trade and Economy is responsible for the establishment and supervision of the Registration Center. The NRC is responsible for maintaining the Commercial Register in Albania. It performs registration functions for fiscal, social insurance, healthcare, and labor purposes. It is also responsible for disclosing the registered data to the public.

Central Office for the Registration of Immovable Property

141. The Central Office for the Registration of Immovable Property is an institution within the Ministry of Justice that performs its activity in accordance with the Law on the Registration of real estate (Law No.7843, dated July 13, 1994) and is responsible for the real estate registration process in Albania.

Approach Concerning Risk

142. There has been a limited application of the risk based approach to combating money laundering and terrorist financing in Albania by the GDPML and the BoA. Albania has not yet undertaken a systemic review of the ML and TF threats and risks that exist within the financial sector and other sectors operating in the country thus minimizing the impact of risk in policy development. The GDPML is spearheading the development of a National Risk Assessment through the Committee

for the Coordination of the Fight against Money Laundering which is slated for completion in 2011. The model for the development of the risk assessment has not yet been established.

143. The AML Law requires obliged entities to conduct a risk assessment by specifying categories of clients and transactions against whom they will apply enhanced due diligence including for higher-risk countries, transactions and customers. Limited emphasis is being placed on ensuring compliance with the risk assessment requirement and obliged entities understanding of this obligation is very limited. There are no mechanisms by which obliged entities can apply reduced customer due diligence standards.

144. Elements of a risk-based supervisory approach are being incorporated by the Bank of Albania and the GDPML. Prior to 2010 the BoA incorporated AML/CFT risk in its prudential risk assessment. In 2010 it created a unit to monitor entities' AML/CFT risk and drafted an AML/CFT supervisory manual that incorporates a risk based approach. Information provided by the GDPML is currently insufficient to conduct a comprehensive AML/CFT risk assessment thus impeding the implementation of a risk based supervisory approach.

145. The GDPML has also started to undertake a risk based approach to determine where their supervisory resources are focused. The GDPML's annual examination plan is based on an assessment of AML/CFT risk, the size of the entity, the type of activities performed, the exposure to and occurrence of cash transactions, sector related risks, vulnerabilities associated with particular products offered and prevalence of business relations with Politically Exposed Persons (PEPs). This has resulted in the GDPML focusing its supervisory activities on particular sectors such as travel agencies and NGOs in 2006; commercial banks, car dealers, notaries and exchange bureaux in 2007; notaries in 2008; real estate and construction companies in 2009; and construction companies and exchange bureaux in 2010. This early stage of implementation of a risk based supervisory approach will be supplemented by the recent administration of self assessment questionnaires that will allow for a more comprehensive risk analysis of entities.

Progress since the Last IMF/WB Assessment or Mutual Evaluation

Reference	Recommendation	Measures undertaken by the Albanian authorities
1. General		
2. Legal System and Related Institutional Measures		
Criminalisation of Money Laundering (R.1,2& 32)	- To make it clear in the Criminal code that Albania has jurisdiction over money laundering offences when the predicate offence was committed abroad by a foreign citizen; - To specify that self-laundering is covered (bearing in mind that Albania has accepted this principle);	- Predicate activity in Albanian ML prosecution can occur outside Albania under Articles 287, 287/b and 6 and 7 of the CC. - Article 287 CC covers self-laundering as confirmed by a decision punishing for self-laundering, but Article 287/b CC does not cover self-laundering. - Under Article 152 of the CPC, knowledge, intent and purpose

	- To specify that knowledge, intent and purpose can be inferred from objective factual circumstances;	can be inferred from objective factual circumstances.
	- 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.	- Although no guidance was issued, standard of evidence does not require a separate court decision, but a very high standard of proof is required regarding illegal origin of assets.
	- To adopt the secondary legislation needed for the implementation of the Criminal Code provisions on corporate criminal liability;	- In 2007, the Parliament approved Law No. 9745 of June 14, 2007 "On the Criminal Liability of Legal Entities" which makes legal persons subject to criminal liability and provides sanctions legal entities for all offences. With the enactment of this law, legal entities are now subject to liability for violations of Albania's ML criminal provisions.
	- To review the order of 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))	- Article 287 CC was revised and Article 287/b CC enacted since the previous assessment. Assisting in the commission of a ML offence is covered in the case of Article 287/b but not in all cases for Article 287 offences.
	- To examine whether greater use should be made of the provisions crimiminalizing money laundering when investigating all major proceeds –generating offences;	- Authorities are reviewing use of ML provisions but under utilization continues.
Criminalization of Terrorist Financing (SR.II, SR.III)	- To review the current Criminal Code provisions criminalizing 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	- CC provisions were reviewed and 2007 CC amendments added a specific provision that criminalizes the collection of funds (Article 230/d) and revised Article 230 which sets forth a definition of terrorist

	Convention and FATF Special Recommendation II; - 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; - To specify that knowledge, intent and purpose can be inferred from objective factual circumstances; - To provide explicitly for the applicability to legal persons of sanctions for terrorist financing;	acts. With the changes, there is clearer extension to the financing of an individual terrorist, but it is nonetheless limited to funds provided or collected to support terrorist activities. Provisions as a whole are closer to meeting the requirements but still fall short of compliance. - Part of 2007 CC amendments was the adoption of Article 7/a that provides for universal criminal jurisdiction in certain criminal cases including for actions with terrorist purposes. - Under Article 152 of the CPC, knowledge, intent and purpose can be inferred from objective factual circumstances. - In 2007, the Parliament approved Law No. 9745 of June 14, 2007 "*On the Criminal Liability of Legal Entities*" which makes legal persons subject to criminal liability and provides sanctions legal entities for all offences. With the enactment of this law, legal entities are now subject to liability for violations of Albania's FT criminal provisions.
Confiscation, freezing and seizing of proceeds of crime (R.3, R.32)	- To provide for confiscation from third parties along with the legal protection for bona fide third parties;	- Articles 30 and 36 CC, as confirmed by practice, apply to committal means and proceeds without exception and therefore to assets wherever they may be found and regardless of who may be holding them. - Framework was reviewed and

	- To consider reviewing the legal framework so as to allow for the application of provisional measures before opening a formal investigation;	provisional measures are available early in an investigation prior to the registration of an offence through use of Article 300 CPC and additionally through immediate registration of a criminal offence bringing the case into the formal investigative stage at an early juncture.
	- 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);	- Article 300 CPC provides in cases of urgency that the judicial police may seize material evidence and items connected with the offence and requires subsequent prosecutor affirmation and a court order of sequestration.
	- 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);	- It is not clear that a specific analysis was undertaken, and there continues to be infrequent use of measures in criminal ML cases. However, in 2009, Albania adopted Law No. 10192 of December 3, 2009 "On preventing and striking at organized crime and trafficking through preventive measures against assets." This Organized Crime Law provides an alternative method to recover criminal property through court orders that, under a civil rather than criminal standard, impose sequestration and/or confiscation as a preventive measure. The provisions of this law currently are being used to sequester laundered property.
	- To examine the functioning in practice of the automatic cessation of temporary measures under art.275 (when the court does not render a decision within 15 days of application) to make sure that measures applied against criminal proceeds are not revoked for undue reasons (court overload,	- Authorities determined that the functioning of Articles 275-276 CPC in practice did not result in revocations for inappropriate reasons.

	insufficient file management, etc); - To review in the Law no.9284 the definition of terrorism financing, in line with the similar recommendation already made concerning the Criminal Code;	- Terrorism financing provisions amended in 2007, but issues as noted in relation to SR II remain.
Freezing of terrorist funds used for terrorist financing (SR.III,R.32)	- To develop legal procedures for actions initiated by other jurisdictions (including the designation of an authority to deal with these); - To ensure secondary provisions and mechanisms are in place to adequately deal with the 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 Security Council; - 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; - 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;	- Authorities will use the same procedures as in domestic designations. No authority is specifically designated for foreign requests, but same authority as in domestic designations would be used. - No secondary provisions or mechanisms are in place, although they could be issued pursuant to Article 21 para. 3 of the SFT Law. - Specific guidance relating to lists and FT has not yet been developed with the exception of a Ministry of Finance notice dated August 8, 2010 advising the registrar for NGOs that in registering NGOs, there should be checks against the UNSCR list. - GDPML monitors whether STR reports received relate to FT and maintains such figures.
The Financial Intelligence Unit and it functions (R.26,30 &32)	- To take any further measures that are deemed necessary to ensure definitely the autonomy and independence of the GDPML (e.g. fixed term for the post of General Director, statutory independence vis a vis instructions etc);	- Progress has been made in ensuring the independence of the FIU. The hiring of the General Director if governed by the Law on Civil Servant Status and the position must be advertised publicly. Staffing is done independently within the FIU. Processes governing the analytical process are documented. However, the

		Minister of Finance remains ultimately responsible for the hiring and firing of the General Director and there is no statutory confirmation of the independence of the FIU;
	- 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;	- The AML/CFT Law states that the exchange of the information by the FIU can be done only for AML/CFT purposes. The information received from the obligors is centralised and strictly guarded within the FIU on a need to know basis. The FIU's database is kept on a separate server and the security of the FIU's premises is certified by the Classified Information Bureau Directorate;
	- To provide the GDPML with an adequate budget and equipment to make it less dependent on foreign assistance;	- The FIU has a dedicated budget attributed by the Ministry of Finance. An internal budget group within the FIU is responsible for budget allocation. No dependence of foreign assistance was noted in day to day operations of the FIU;
	- To clarify the role of the GDPML, as an analytical administrative body instead of a body in charge of finding hard evidence on ML/FT investigations (which should remain the police and prosecutorial bodies' responsibility);	- The role of the FIU is defined in the AML/CFT law. It functions as a specialized financial unit for the prevention and fight against money laundering and terrorism financing responsible for production of financial intelligence. Activities observed by the assessment team confirmed that the FIU's activities were focused on intelligence production not evidence gathering;
	- To ensure the increase of staff takes place as planned so that the GDPML can deal with its analytical work and start implement its new training programme for GDPML staff;	- GDPML's staff complement has increased continuously. Allocated resources are sufficient to adequately handle

		the amount of analytical work. In addition to training provided through collaborations with foreign entities staff undergoes on-going on the job training;
	- To produce and publish a periodic report by the GDPML and to provide for consistent requirements on this matter;	- GDPML has continuously published annual reports since 2005;
	- To establish as soon as possible a computerised information system to receive on-line, process and store rapidly the data transferred by the 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;	- GDPML has established a computerised system that allows for the on-line delivery of reports from the obliged entities, improving access to data and the ability develop financial intelligence to cooperate within and outside the country;
	- To introduce a training scheme taking into account the newly recruited staff, the development of supervisory/inspections functions and the introduction of an IT system (an analytical software);	- The training is available to staff with regard to overall functioning of the FIU including training on the analytical and supervisory functions as well as the use of the IT system;
	- To keep on an ongoing basis more detailed statistics on the origin of the reports received and the outcome of the cases forwarded to the prosecutor;	- In light of the overall improvements in the collection and storing of information within the FIU the origin of the reports as well as the cases disseminated to Law Enforcement Authorities is also recorded.
Law enforcement, prosecution and other competent authorities (R.27,28,30 &32)	- To clarify the respective responsibilities of the GDPML on the other 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, in addition to investigating and prosecuting cases generated by the GDPML;	- The establishment of the Joint Investigative Units has helped clarify the role of the GDPML, the ASP and the GPO. GDPML activities are focused on the production of financial intelligence;
	- To produce studies on ML including its trends and techniques;	- GDPML publishes on yearly basis typologies reports based on its cases that have been forwarded to Law Enforcement Authorities as well as

		international typologies reports. These reports provide information on trends and techniques used in ML/FT offences and are used in the training activities that the obligors provide for their employees;
	- 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);	- Judicial Police have been provided with training during the activities of the two year (2007 - 2009) Twinning project with German Criminal Federal Office (BKA) as well as many other projects organized with the assistance of EU Delegation as well as the support of the US Embassy. The investigation of financial crimes has been part of these activities;
	- To review the adequacy of the staffing of the Police Directorate for Combating Organized Crime and Witness Protection (especially its central division on the fight against money laundering and terrorist financing, and increase it as necessary with transfers from district agencies);	- The ASP has established the Directorate against Financial Crime which has a dedicated team of officers;
	- To provide further training to judges on ML and financial crimes more generally;	- Judges have participated in some training sessions that were listed above;
	- To clarify the legal basis for controlled deliveries and the possibility to waive arrest of a suspect for the purpose of ML/FT investigations.	- Articles 294/a and 294/b of the Criminal Procedure Code provide for special investigative techniques such as simulated operations and infiltrated police officer.
3. Preventive Measures – Financial Institutions		
Customer due diligence, including enhanced or reduced measures (R.5 to 8)	- 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;	- The AML/CFT Law that was adopted by the Albanian Parliament on May 19,2008 has partially addressed these recommendations by introducing additional CDD measures.
	- To make it a duty for obliged entities to	

	perform CDD measures in line with the FATF approach (risk-based etc.); and in any event	
	- To include the identification of customers when establishing a business relationship (as it is envisaged in the draft new LPML);	- The AML/CFT Law requires customer identification when establishing a business relationship.
	- To make it clear that CDD measures apply also in case of FT suspicion;	- CDD is required in cases where there is "reasonable doubt for money laundering or terrorist financing", which does not meet the FATF requirement.
	- To make sure that there is a unique definition of the client or customer which is broad enough to include also the persons requesting one-off transactions and clients with whom there is no contractual relationship;	- The requirements extend to all customers/client relationships.
	- To include in the LPML, a general prohibition of anonymous accounts (to be understood broadly) as envisaged in the draft new LPML;	- Anonymous accounts are prohibited under the AML/CFT Law.
	- To clarify the issue of bearer negotiable instruments available in Albania and to apply the CDD requirements in their respect;	- There is no prohibition on bearer instruments.
	- To reduce to the equivalent of 15,000 USD/EUR the threshold of transactions triggering the identification of customers (as it is envisaged in the draft new LPML);	- The AML/CFT Law requires identification of customers for transactions of not less than 1,500,000 ALL (approximately USD 15,000).
	- 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 transactions;	- There are still no provisions relating to foreign PEPs. The AML/CFT Law sets out various provisions for correspondent banking, which largely comply with the FATF requirements. Some provisions have been introduced for new technologies but those for non-face to face transactions are limited to those involving the opening of a bank account.

Record keeping and wire transfer rules (R.10& SR.VII)	- To consider removing the current requirement of Article 4 and 5 of the LPML, which deals with the threshold approach concerning registration of transactions; - To review the structure of art.6 of the LPML so as to make a separate provision on the information and record keeping requirements rather than these being included with other provisions dealing with "tipping-off"; - To introduce a clear requirement to store information on transactions for a period of 5 year (or more if requested by a competent authority) following completion of transactions, whatever their amount; - 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); - 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; - To solve the conflicting issues raised by the diverging provisions on thresholds for wire transfers in the LPML and BoA regulation of 2005 and to lower it to the limit contemplated by SR.VII (USD/EUR 3000); - To make provisions on wire transfers also in	- The AML/CFT does no longer contain any requirement regarding the registration of transactions. At the time the Law includes separate provisions regarding record keeping for a period of five years (or longer when requested by the FIU) and "tipping off". - Regulation No.44 dated 10.06.2009 of the Bank of Albania states that the terms used have the same meaning as those defined in AML/CFT Law "On the prevention of money laundering and terrorism financing". - The BoA regulation No.44 is in line with the AML/CFT Law regarding wire transfers. The provisions of the law encompass all the institutions involved in wire transfers. - The AML/CFT Law foresees the obligation to store information on transaction for a period of 5 years from the date of the execution of the financial transaction (FAFT standards require a minimum of 5 years following the termination of the business relationship) - The AML/CFT Law does not differentiate between domestic or international wire transfers. No minimum threshold has been adopted. - The AML/CFT Law has been amended to include a definition of "transaction' and to define "electronic transfer" as a transaction made by a person individual or legal entity) through a financial institution,

	the LPML in order to cover all financial and other institutions involved in the wire transfer;	through electronic or wire transfer with the purpose of putting a certain amount of money or others means or instruments of the money and payment market at the disposal of a beneficiary in another financial institution. The mandatory and the beneficiary can be the same person.
Monitoring	- When finalizing the new draft AML, to pay special attention to the requirements of FATF Recommendations 11 and 21 and to introduce a requirement to examine the background and purpose of transactions and apply special prudential measures to countries and territories where ML/FT risks are high (and to provide appropriate countermeasures to be taken when transactions with those regions occur);	- Albania has not introduced specifically in its legal framework the principle of the application of the domestic legislation to foreign branches/subsidies which do not or insufficiently apply FATF Recommendations nor the adoption of the highest AML/CFT standards.
	- To adopt measures to ensure that financial (and other) institutions are advised of concerns about AML/CFT weaknesses in other countries;	- This is limited to publicising details of the FATF statements.
Suspicious transactions reports and other reporting (R.13 – 14,19,25 & SR.IV)	- To take the appropriate measures to make it clear that obliged entities, as a rule, need to report directly to the GDPML and not their supervisor (subject to the admissible exceptions for certain DNFBP);	- The AML/CFT Law contains an explicit requirement for the obliged entities to report directly to GDPML.
	- To introduce the obligation of reporting of attempted transactions in the LPML;	- There is no specific requirement to report attempted transactions, although the FIU has identified a limited number of such transactions.
	- 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 organizations", "those who finance terrorism").	- Deficiencies remain in the criminalization of terrorist financing which limit the scope of the reporting obligation. In addition, the provisions appear to only cover intended terrorist financing, as opposed to where the funds are actually used.
	- To keep statistics on reports concerning terrorist financing;	- GDPML keeps detailed statistics regarding ML/FT reports from obliged entities.

	- To enlarge the reporting threshold to all transaction (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;	- The requirement to report suspicious transactions now applies to all transactions regardless of the amount involved.
	- To urgently 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;	- The AML/CFT Law contains fewer exemptions for reporting suspicious transactions, but these are still not in line with the FATF standards.
	- To consider, in the relation, to exclude those transactions that are deemed to be on no value in preventing or detecting money laundering or the financing of terrorism (commodity service payments, transfers with the BoA);	- The AML/CFT Law contains fewer exemptions for reporting suspicious transactions, but these are still not in line with the FATF standards.
	- 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 unauthorized person even though not connected with the transaction;	- The reporting requirements now include terrorist financing (subject to the deficiencies outlined above).
	- To review the provisions on the protection of reporting persons in the LPML (to cover explicitly protection against civil actions);	- Article 14 of the AML/CFT Law specifies that the subjects or supervising authorities, their directors, officials or employees who are in good faith reporting or submitting information in compliance with the stipulations of this law, are exempted from penal, civil or administrative liability arising from the disclosure of professional or banking secrecy.
	- To review the drafting of "Guideline – Regulation" no.5 of 2004 so as to make it	

	clear that reports filed in good faith are not subject to sanctions; - 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); - To take measures to enhance awareness of all obliged entities about the reporting of suspicious transactions;	- Reference included in the AML/CFT Law - The GDPML has organized on its own as well as in cooperation with other law enforcement agencies and international partners training activities aiming at enhancing the awareness of the obliged entities about the reporting of suspicious transactions.
Cross border declaration or disclosure (SR.IX)	- To adopt the draft amending Chapter 8 of the Customs Code (on sanctions) making sure they provide for adequate sanction in case of under or false declaration; - 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 organized criminal activities remain an important issue (stolen cars trafficking, smuggling etc.)	- No progress with regard to this recommendation. There are no sanctions for the case of under/false reporting. - The current legal framework on seizure and confiscation and on international cooperation in criminal matters is enriched with two new laws, namely law 10192/2009 "On the prevention and striking of organized crime and trafficking through preventive measures against the assets" and law 10193/2009 "On jurisdictional relations with foreign authorities in criminal matters". While the first law, including as designated category of criminal offences also money laundering and terrorism financing, is expected to help prevent such crimes through preventive measures against the assets whether instrumentalities or proceeds, the second law, while aligning domestic legislation with the Council of Europe

		Conventions on international judicial cooperation, is expected to facilitate jurisdictional relations. The application of preventive measures such as seizure and confiscation on the bases of law 10192/2009 before the opening of formal investigation permits the gathering of further information and evidence on criminal activities. The second law is aimed at facilitating cross border cooperation.
	- To intensify training on AML/CFT issues for Customs employees, including on the detection and recognition of serious criminal activities (human being trafficking, drugs trafficking, smuggling of different goods) and movements of funds possibly related with ML/FT;	- The training of the Customs employees has been ensured though the cooperation with the GDPML and former and current EU backed twinning projects.
Internal controls, compliance, audit and foreign branches (R.15 & 22)	- To introduce a requirement for internal procedures to address CDD measures;	- The AML/CFT Law sets explicit requirements for the obliged entities to draft and apply internal regulations and guidelines that take into account the potential risk of money laundering or financing of terrorism that can originate from clients or businesses, including but not limited to, a clients acceptance policy, and a policy for the application of procedures of enhanced due diligence for high risk clients and transactions.,
	- 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 No.5 of 2004 could be reminded to reporting entities);	- The AML/CFT Law also nominates a person in charge for the prevention of money laundering and his deputy, both of administrative/ management level, in the central office and, according to the circumstances, in every representative office, branch, subsidiary or agency, to whom all employees shall report all suspicious facts related to money laundering or terrorism financing.

	- To include in internal training programmes and awareness raising measures information on trends and techniques in the field of ML/FT;	- To train their employees on the prevention of money laundering and terrorism financing through regular organisation of training programs is also foreseen in the Law
	- To provide for manager and employee screening;	- To Apply "fit and proper procedures" when hiring new employees, to ensure their integrity is also a prevention measure to be undertaken by FIs, although the AML/CFT Law does not t include a definition of the term.
	- 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;	- The FIs have to establish a centralized system, in charge for data collection and analysis.
Shell banks (R.18)	- 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;	- The AML/CFT Legislation includes an obligation for Financial Institutions not carry out corresponding banking services with banks whose accounts are used by shell banks. Nevertheless the legislation has not be amended to include a clear provision defining and prohibiting the establishment of shell banks, and to enter o continue with correspondent banking relationship with shell banks. Based on the current prudential and financial legislation all the banks that are licensed in the Republic of Albania are required to have physical presence in the country
The supervisory and oversight system – competent authorities	- To implement measures to ensure effective AML/CFT supervision over the non – banking sectors covered by the BoA.	- BoA has created in 2010 a Compliance Unit. The functions of the Compliance Units are to verify the legal and regulatory compliance by entities subjects to the BoA's

and SROs Role, functions duties and powers (including sanctions) (R.23,30,29,17,32 & 25)	- 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; - To implement measures to ensure effective AML/CFT supervision over the insurance sector; - 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; - 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); - To review the policy concerning sanctions and make sure they are adequately applied by supervisors and the GDPML when necessary; - To review the sanction system in the LPML and Guideline Regulation No.5 to ensure consistency, to include explicit milder measure 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 authority to decide. - To examine the situation resulting from the provisions in art.24 of the LMSTF concerning the connection with LPML, and remedy to the possible conflict of norms by redrafting this article (and clarify its exact scope and purpose); - To examine the need to introduce criminal	supervision with respect to the AMLCFT prevention on ML and FT, as well as transparency issues. The offsite supervision is in a early stage. - A Transparent/AML/CFT Unit has been created in 2010 withing the supervision department - At present the FSA doesn't supervise AML/CFT issues and its staff has not been trained on AML/CFT supervision. - Regulation no..44 adopted by the BoA addresses the AML/CFT obligations for all its licensed entities including non-bank ones. Securities and Insurance sector regulations have not been developed yet. - The sanctioning for violations of AML/CFT Law are applied by GDPML. The BoA and the FSA have never applied sanctions for any AML/CFT violations. - The AML/CFT Law foresees a wide range of sanctions for AML/CFT violations but all are financial. No gradual scale of sanctions which includes early warning system of notifications and a list of graduated sanctions has been included in the AML/CFT Law - New AML/CFT Law - The current tipping off sanctioning provisions set forth in the AML/CFT Law are deemed sufficient. In addition there are legal mechanisms in

	law provisions on tipping – off (if existing measures are insufficient);	place (Criminal Code, Law on Criminal liability of legal persons) that do provide for penal proceedings to be taken in this case.
Money value transfer services (SR.VI)	- 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) 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;	- The BoA licenses operators and agents providing money transfer services, and has conducted a limited number of on-site inspections. These entities have also been the subject of a limited number of inspections from the GDPML. However, the lack of a provision requiring that all agents be listed means that some independent operators might not be identified.
4. Preventive Measures – Non-Financial Businesses and Professions		
Customer due diligence and record-keeping (R.12)	To review the identification and CDD measures applicable to DNFBP;	
	- To cover explicitly real estate agents when they are involved in transaction for a client concerning the buying and selling of property;	- Real estate agents are now covered by the AML/CFT Law.
	- To introduce a clear requirement for traders of precious metals and stones to apply CDD principles when they engage in any cash transactions with a customer equal or above EUR/USD 15,000;	- Dealers in precious metals and stones are covered by the AML/CFT Law when they are involved in any transaction exceeding the threshold of ~12.000 EUR in line with the standard.
	- To cover attorneys, notaries, other independent legal professions and accountants in the circumstances provided for in recommendation 12;	- Attorneys, notaries and other independent legal professions and accountants are covered by the AML/CFT Law for circumstances provided for in Recommendation 12.
Suspicious transaction reporting (R.16)	- 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;	- GDPML has either individually or in cooperation with other national/international actors established an ongoing dialogue with the DNFBPs;
	- To arrange a scheduled and continuous training program for the various non financial entities that have to report to the GDPML;	- Training activities has been made available to most DNFBP sectors;

	- To issue directives for all the sectors that is the supervisory authority and to assist in preparing a directive from other supervisory authorities;	- Guidance regarding reporting requirements has been published in accordance with AML/CFT Law;
	- To review the reporting requirements and thresholds for DNFBP, along the lines of Recommendation 16;	- Reporting thresholds for DNFBP are in line with the standard;
	- To consider the utility of a system where certain professions (e.g. lawyers) report through their organisation.	- The GDPML has signed a Memorandum of Cooperation with the National Chamber of Notaries that provides for clear obligations to be fulfilled concerning the implementation of the legislation.
Regulation, supervision and monitoring (R.24 - 25)	- To urgently devise and implement a supervision mechanism for DNFBP along the lines of FATF recommendation 24 – 25;	- Specific supervisors have been designated for Lawyers, Notaries, Accountants, Casinos and Games of Chance while no supervisory/licensing authority is in place for the Real Estate Agents. The GDPML has undertaken examinations in most DNFBP sectors.
Other designated non-financial businesses and professions (R.20)	- To extend the scope of art.12 of the LPML, so as to cover also the tax administration, customs and licensing/supervisory bodies;	- AML/CFT law does contain provisions regarding the tax and customs administration and licensing/supervisory bodies in the overall anti money laundering combating financing of terrorism financing;
	- 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);	- No additional limits on cash payments have been introduced;
	- 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 payments;	- No changes requiring that all types of payments over ALL 300,000 be conducted through the banking system have been made.
	- To take the necessary measures, whether	- The definition of transaction in the AML/CFT Law means a business relationship or an

	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);	exchange that involves two or more parties including thus among others cheques.
5. Legal Persons and Arrangements & Non-Profit Organizations		
Legal persons – Access to beneficial ownership and control information (R.33).	- It is recommended to enhance the requirements regarding the establishment of companies along the lines of the FATF Recommendations: • To provide for a clear legal basis on deadlines for reporting changes to the Court Register; • To computerise the Court Register; • To review the regulations applicable to bearer shares and make sure that they take into account AML/CFT needs; It is also recommended - 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 the funds; - To consider extending the reporting duty of tax authorities and licensing bodies (art 10/1 and 10/2) also to FT; - 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 requirement for sectors at risk.)	- A National Registration Centre (NCR) was created following the approval by the parliament on May 3, 2007 of the Law Nr 9273 "On the National Registration Centre". The law states that all natural and legal persons should apply for the initial registration within 15 days of starting the activity (for natural persons) or the date of the incorporation (for legal persons).No significant progress concerning bearer shares. - No policy has been developed. - Based on the AML/CFT Law the reporting duty has been extended to tax and customs authorities as well as supervisory/licensing authorities. - The enhancing of transparency of businesses has been ensured through the establishment of the National Registration Centre, National Licensing Centre, better control and auditing practices by tax authorities and private practitioners the establishment of a Tax Investigation Directorate.
Legal arrangements – Access to beneficial ownership	- 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;	- The Albanian Parliament has adopted law no. 9723, May 3, 2007 "On the national registration centre" which established a central system of registration whereby a national

and control information (R.34)		registry records detailed information on legal arrangements operating in the country.
Non Profit organisations (SR.VIII)	- To conduct a review of the AML/CFT risks and situation in the associative/non-profit sector;	- No formal review of the NGO sector has been undertaken.
	- 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;	- The GDPML does disseminate updated FT lists and this might enhance awareness of TF risks amongst the sector.
	- 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);	- Supervision of this sector is still not taking place.
6. National and International Cooperation		
National cooperation and coordination (R.31 & 32)	- 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;	- GDPML cooperates with Prosecutor's Office, Albanian State Police, State Intelligence Service, State Institutions, Supervisory Authorities and Foreign FIUs with respect to AML/CFT investigations. Common patterns of money laundering have been already identified and are used to evaluate the vulnerabilities and take appropriate countermeasures.
	- 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.	- A compulsory licensing system for the exchange offices by the BoA is already in place and unlicensed currency exchange are at times dealt with by law enforcement authorities.
The conventions and UN Special Resolutions (R.35 & SR.I)	- As regards the implementation of the UN Conventions, some adjustments are needed concerning the criminalisation, temporary and final measures, investigative means etc, which have already been discussed in other parts of this report;	- Status on implementation of Vienna, Palermo and FT Conventions covered in sections on R 1, SR II and R. 3 and implementation of UNSCRs in SR III. Laws enacted since last assessment, the Law "On the legal liability of Legal Persons", the Law

		"On the preventing and striking of organized crime through preventive measures against the assets", and the Law "On jurisdictional relations with foreign authorities in criminal matters" improve the framework to permit Albania's implementation of the UN Conventions and resolutions.
Mutual Legal Assistance (R.36 – 38, SR.V, and R.32)	- To analyse the reasons why mutual legal assistance mechanisms are never used by Albanian authorities in ML/FT cases, and why no more requests reach the country despite certain factors (characteristics of Albanian organized crime, importance of Albanian diaspora living abroad etc);	- Although there has been no specific analysis of reasons, to enhance mutual legal assistance mechanisms, in 2009 Albania adopted a law setting forth procedures and practices for incoming and outgoing mutual legal assistance and extradition requests, Law No. 10193 of December 3, 2009 "On jurisdictional relations with foreign authorities in criminal matters." The law supplements the Criminal Procedure Code (CPC) provisions on international requests with the CPC provisions taking precedence. It adds specificity in the case of some of the CPC provisions.
	- 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 the Criminal Procedure Code provisions and can be directly applied for mutual legal assistance purposes in Albania;	- Guidance documents have not been issued, but there has been some training for judges and prosecutors that addressed mutual legal assistance mechanisms.
	- To amend the provisions of the Criminal Procedure Code to permit letters rogatory to circulate without passing through diplomatic channels (art. 509 of the PPC) and to consider providing for direct contacts of Albanian judicial authorities with foreign counterparts;	- CPC not been amended. Law No. 10193/2009 provides for direct communication of letters rogatory in cases of urgency and for direct contacts of Albanian judicial authorities with foreign counterparts.
	- To introduce provisions dealing specifically with the execution/recognition of foreign	- Authorities continue to rely on CPC provisions in effect during last assessment to execute or recognize foreign decisions although new MLA law

	decisions on seizure and confiscation of assets that meet the requirements of Recommendation 38 and SR.V; - To consider making provision on sharing of confiscated assets (with requesting countries when assets are confiscated in Albania); - To keep more specific and detailed statistics on mutual legal assistance mechanisms;	permits authorities also to transfer restrained assets for purpose of foreign authority's confiscation action. - Although no new provision enacted, authorities may enter into case specific agreements to share assets. - Statistics maintained but remain insufficient.
Extradition (R.39, 37, SR.V & R.32)	- To regulate more precisely the discretionary power of the MoJ under art.491 para.3 of the Criminal Procedure Code; - To keep more specific and detailed statistics on extradition;	- Article 491 para. 3 unchanged. - Statistics on extradition are maintained.
Other forms of Cooperation (R.40, SR.V & R.32)	- As a priority to finalise throughout the country the computerisation of law enforcement authorities, the courts and all the 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 organizations, etc) and ensure as much as possible on line access to the GDPML; - Also make clear provision in the LPML under art.15 on the competence of GDPML to cooperate in the CFT field;	- The computerisation of databases of law enforcement authorities, registers of companies and non profit organizations, civil registry, credit register, Motor Vehicles Department, Tax and Customs Authorities has already been completed. The computerisation of courts throughout Albania by introducing the CCMIC/ICMIC and ARKIT systems has been successful and it is now possible to have access to court databases giving detailed information on court decisions. The property registry and the courts are undergoing an extensive digitization process. GDPML does have access to all the above mentioned registers. - The GDPML's CFT mandate is outlined in the AML/CFT Law.
7. Other Issues		
General	- It is recommended that Albania uses this	- The adoption of the

Framework – structural issues	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 backbone of the preventive AML/CFT system. Secondary legislation on guidance documents should deal with the specific and practical matters and not "amend " the law;	AML/CFT Law by the Albanian Parliament marks a positive step forward in approximating the legislation with the FATF standards.
	- 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 Bank of Albania on money laundering prevention 25.02.2004 etc).	- Some changes have been reflected in the secondary legislation as well as relevant BoA regulation.
	- It is recommended to take urgent remedial action to counter the phenomenon of real estate transactions below their market value;	- The Ministry of Finance and Ministry of Justice have issued in 2008 a joint guideline that specifies real estate reference prices to be applied in all cases of real property sales and purchases. Compliance is ensured though the notary offices across the country.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

2.1. Criminalization of Money Laundering (R. 1 – rated PC and R. 2 rated LC in the 2006 MER)

2.1.1 Description and Analysis[9]

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

146. In the previous assessment report, the assessors concluded that, although the ML offence was largely in line with the UN Conventions, there were a number of flaws in the provision and its implementation. It was not clear that there was jurisdiction to undertake cases when the predicate offence occurred outside Albania if the offender was not an Albanian citizen. Legal persons did not yet have liability because secondary legislation had not been adopted. There was concern that a conviction on the predicate offence might be necessary in order to prove that property was the proceeds of crime. In addition, questions were raised concerning coverage of self-laundering and the ability to infer knowledge, intent or purpose from objective factual circumstances. The assessors noted that Article 287's ancillary offence provision did not include assistance. Finally the authorities had only demonstrated modest use of the ML provisions and were not maintaining all relevant statistics.

Legal Framework:

- Criminal Code Articles 287 and 287/b (hereinafter CC).
- Law No.9754 of June 14, 2007 "*On the criminal liability of legal persons*" (Legal Persons Liability Law).

Criminalization of Money Laundering (c. 1.1—Physical and Material Elements of the Offense):

147. Article 287, para 1 of the CC criminalizes as "laundering of the proceeds of the criminal offence" the following conducts:

Laundering of the proceeds of the criminal offence committed through:

a) the conversion or transfer of an asset that is known to be a product of a criminal offence with the purpose of hiding, concealing the origin of the asset or aiding to avoid legal consequences related to the commission of the criminal offence;

b) the concealment or disguise of the true nature, source, location, disposition, movement or

[9] For all recommendations, the description and analysis section should include the analysis of effectiveness, and should contain any relevant statistical data.

ownership of an asset or rights that are the proceeds of a criminal offence;

c) performance of financial activities and fragmented/structured transactions to avoid reporting according to the money laundering law;

d) advice, encouragement, or public call for the commission of any of the offences described above;

dh) the use and investment in economic or financial activities of money or objects that are the proceeds of a criminal offence.[10]

148. A different provision of the CC, Article 287/b criminalizes "whoever purchases, receives, hides or, in any other way, appropriates for himself or a third party, or assists in purchasing, taking, hiding of money or other goods, knowing that another person has obtained these money or goods, as a result of a criminal offence".

149. Article 287 para 3 provides for the application of the Article "in cases where the person that has committed the offence the proceeds derive from, cannot be a defendant, cannot be convicted or there is a cause that wipes out the offence or one of the conditions for criminal proceedings of such an offence is missing." A similar provision is also found in Article 287/b, which states that "the lack of responsibility of the person or the barrier for the prosecution of the related criminal offence does not exclude the responsibility of the person that committed the criminal offence of appropriation of stolen money or goods in the meaning of this article".

150. ML is adequately criminalized on the basis of the Vienna and Palermo Conventions. This extends to both the conversion or transfer of property knowing it is proceeds as required, for instance, by Vienna Convention Article 3(1)-(b) (i), and to the concealment or disguise of such property as required by Vienna Convention Article 3(1)-(b) (ii).

151. However, these Conventions also require that, subject to constitutional principles and basic concepts of the legal system, States criminalize acquisition, possession or use of property knowing at the time of receipt that it was derived from an offence. See, e.g., Article 3(1)-(c) (i), Vienna Convention. Article 287/b applies only to acquisition and, in the prosecutor's view, only to stolen goods not all proceeds. Representatives of the judiciary did not share the view that it was limited to application in the case of stolen goods.Article 287 para 1 (dh) covers one aspect of use, that is "use and investment in an economic or financial activity."

152. Until 2007 — when it was repealed through Law No. 9686 of February 26, 2007— Article 287 had a subsection (subsection ç) which had criminalized acquisition, possession and use of any

[10] As of February 4, 2011, the Council of Ministers had approved certain amendments to Article 287 CC which were expected to be scheduled on the Parliament's agenda.

proceed ("gaining, possession or use of an asset when it is known that it is a crime proceed"). As discussed later on, the repealed provision did not limit its application, as Article 287/b does, to situations where "another person" has obtained the property as a result of a criminal offence.

Type and Kind of Property that may be Laundered (c. 1.2):

153. **Meaning of Asset.** The CC does not provide a definition of "asset" or "goods" that applies to criminal offence provisions. However, from a grammatical perspective, the Albanian word translated as "asset" used in the statute has a very broad meaning. It includes the concept of wealth which is anything of value. It was explained that it is the general practice not to have definitions in the CC. Rather, statutory terms are considered by looking to grammatical meaning, the meaning in the context of the specific CC chapter and the purpose of the legislation. Combining the latter two, the context and a legislative purpose of implementing obligations under international conventions, the meaning of terms as contemplated by the international instruments to which Albania is a party would apply. There is no monetary threshold and thus assets regardless of value are included.

154. **Property Derived Indirectly.** Article 287 covers "assets derived from criminal offence." Article 287/b covers "money or other goods, knowing that another person has obtained these money or goods, as a result of a criminal offence." Although no definition of these terms is provided that would indicate they extend to property derived indirectly from the offence, the prosecutors take the position that these terms are broad and include property derived indirectly. They cite Article 36 para 1 (b) of the CC which identifies the assets to be confiscated upon conviction. That provision defines criminal offence proceeds as "including all property as well as documents or legal instruments that prove title or other interests in the property that is derived or acquired directly or indirectly from the commission of the penal offence." There is neither a judicial decision nor relevant practice on coverage of indirect proceeds.

Proving Property is the Proceeds of Crime (c. 1.2.1):

155. The criminal provisions on ML do not provide that a conviction for the predicate offence is required. The prosecutors confirmed that, in principle, a conviction on the predicate offence is not necessary to prove that property is the proceeds of crime. However, the courts require that prosecutors prove in full and with specificity the predicate offence activity in the course of a criminal prosecution for ML.

156. The authorities explained that, in practice, the proof requirements to establish in a ML prosecution that a predicate criminal offence occurred and that the offence produced proceeds are significant. The prosecutor must establish a specific crime not just a criminal offence and the specific acts that constituted a criminal offence (for instance the specific drug trafficking transactions) as well as the specific proceeds that resulted from the activity.

157. It is worth noting that in a civil confiscation case involving the 2004 Organized Crime Law (the law, as discussed later in the report, was replaced with a new law in 2009), a Supreme Court decision raised uncertainty within the Albanian law enforcement community whether in order to seize/confiscate assets, a specific link between each proceed and a specific episode of illegal activity would need to be established. A new Organized Crime Law was enacted in part to address this issue.

In any event, judicial practice as it has developed in Albania, involves a high degree of specificity in the establishment of the predicate offence.

158. In addition, when the predicate offence is committed abroad, the prosecutors indicated that, although they could also try to prove the occurrence by establishing in full the elements of the predicate offence as in the case of a predicate offence committed domestically, a conviction in the foreign jurisdiction for the predicate offence, if one existed, would be preferred by the courts. In practice, it is difficult to prove an event occurring in a foreign jurisdiction.

159. Prosecutors indicated that in general courts would be very conservative, also with regard to the exceptions stipulated by Article 287 and 287/b. As mentioned earlier, Article 287 para. 3 provides that the ML offence applies even when the predicate offender "cannot be a defendant, cannot be convicted or there is a cause that wipes out the offence or one of the conditions for criminal proceedings of such an offence is lacking." A similar provision exists also in the case of Article 287/b. These provisions are meant to allow a prosecution for ML offences even if there are circumstances that would have precluded a criminal responsibility for the offender of the predicate activity. This would be the case, for instance, if the predicate offender has died or legally lacked competence to face charges or the statute of limitations barred the action. Even in such situations the prosecutor must still establish the elements of the criminal activity with specificity including in matters where the predicate activity occurred in the distant past. It is often difficult to proceed in such situations because establishing the predicate activity is difficult with the passage of time.

160. Because of the need to establish in full the predicate offences, in practice prosecutors tend to prosecute the predicate activity and the ML together, and do not pursue stand-alone ML criminal cases.

The Scope of the Predicate Offences (c. 1.3):

161. The ML provision provides for an "all-offences" approach. By the reference in the ML provision to "criminal offences", every criminal offence provided for in the CC constitutes a ML predicate. The CC covers the FATF designated categories as follows:

Predicate Offense	**Citations to Albanian CC**
Participation in an organized criminal group and racketeering	Articles 333, 333/a, 334
Terrorism, including terrorism financing	Articles 230, 230/a, 230/b, 230/d
Trafficking in human beings and migrant smuggling	Articles 110/1, 128/b, 298
Sexual exploitation, including sexual exploitation of children	Articles 100, 101, 114/b
Illicit trafficking in narcotic drugs and psychotropic substances	Articles 283, 283/a

Illicit arms trafficking	Article278/a
Illicit trafficking in stolen and other goods	Articles 138, 138/a, 141/a
Corruption and bribery	Article 164/b, 244-245, 259-260, 312, 319, 319/a
Fraud	Articles 143, 143/a, 144,
Counterfeiting Currency	Article 183
Counterfeiting and piracy of products	Articles 147, 190, 288
Environmental crime	Articles 201 – 203
Murder, grievous bodily injury	Articles 76-85, 87-88
Kidnapping, illegal restraining and hostage taking	Articles 109, 109/a, 110
Robbery or theft	Articles 134-136, 138-141/a, 192/a
Smuggling	Articles 171-177
Extortion	Articles 109/b, 152
Forgery	Articles 165, 183-185,187-191
Piracy	Articles 111, 230
Insider trading and market manipulation	No provisions

162. As is apparent from the chart above, provisions exist for all designated categories except for insider trading and market manipulation.

Threshold Approach for Predicate Offenses (c. 1.4):

163. As noted above, Albania does not use a threshold approach but covers all offences under its criminal law.

Extraterritorially-Committed Predicate Offenses (c. 1.5):

164. The authorities confirmed that in applying the phrase "proceeds of a criminal offence" that appears in Articles 287 and 287/b, the reference to "criminal offence" includes not only domestic conduct but applies also to extraterritorially--committed predicate offences if the same conduct would be an offence under Albanian law. It is only necessary that the same conduct be established as a criminal offence in both countries. It is not necessary that Albanian criminal jurisdiction extend to the conduct that constitutes the predicate activity for the Albanian ML offence to apply to the laundering of the proceeds of the foreign predicate conduct. However, in the instances set forth in Articles 6 (applicable to conduct by Albania citizens abroad) and 7 (applicable to specifically defined conduct of foreigners abroad) of the CC, Albanian criminal jurisdiction does extend to such extra-territorial predicate conduct and it is possible for such conduct to be the subject of an Albanian prosecution. In these instances, dual criminality does not apply.

165. Although the predicate activity in the Albanian ML prosecution can occur outside Albania, the predicate activity must be proven with the same high degree of specificity as is required in

domestic prosecutions, and, as it is a criminal prosecution, beyond a reasonable doubt. In these circumstances, where the predicate activity has occurred outside of Albania, it can be difficult in practice to establish it with this specificity and to the required standard in the absence of a foreign conviction and sentence.

Laundering One's Own Illicit Funds (c. 1.6):

166. The language of Article 287 is all encompassing. It makes no exception in the case of a person laundering his or her own proceeds. Jurisprudence has confirmed that there can be prosecutions for self-laundering.

167. In 2007, the First Instance Court of Fier issued a decision that punished a person for self-laundering of the proceeds of the crime of "exploitation of prostitution." Law enforcement authorities continue to develop cases that involve only self-laundering.

168. The second ML offence provision, Article 287/b, however, by its terms does not apply to self-laundering. It requires that a person know that "another person" obtained goods as a result of a criminal offence.

Ancillary Offenses (c. 1.7):

169. The CC provides criminal responsibility for attempts (Articles 22 - 23), and for collaboration which under Albanian law involves an agreement between two or more persons to commit a criminal act (Articles 25 - 28). There are a number of kinds of collaboration under the CC – organizers, executors, helpers, and instigators.

170. Helpers are those who "through advice, instructions, concrete means, abolitions of obstacles or promises to hide collaborators tracks or things relevant to the criminal act, help to carry it out." Instigators are persons who instigate other collaborators to commit a criminal act. For a helper or instigator to be criminally responsible, there must be an agreement between two or more persons, although that agreement need not be formal. Simple acts to aid and abet or facilitate or to counsel commission do not appear to be encompassed under the CC provisions that deal with collaboration generally.

171. In addition to these general CC provisions under Chapter IV on collaboration, the ML offences themselves incorporate directly some ancillary conduct. Article 287 para. 1(d) criminalizes the "advice, encouragement or public call" for the ML offences that are specified in Article 287 (1) (a)-(c). In the case of Article 287/b offences, the provision provides that persons are liable if they assist in the conduct.

172. The CC provisions do not cover in full the required ancillary conduct. This is because they require an agreement between two or more persons and, as noted above, simple acts to aid and abet or facilitate or to counsel commission are not encompassed by the CC collaboration provisions. The gap left by the CC provisions is filled only partially by the ancillary conduct that is incorporated directly in the ML provisions themselves as noted above.As an example, in the case of offences under Article 287, aiding and abetting and facilitating are covered only if there is already collaboration – cooperation or an informal arrangement or agreement involving two persons. For Article 287/b

offences, "assistance" is covered. This appears to extend to aiding and abetting and facilitating, but not to counselling. There is no practical experience with the use of these ancillary offence provisions in the case of ML. This existing framework has gaps in coverage for ancillary conduct. Where coverage is lacking, this is not based upon a fundamental principle of domestic law.

Liability of Natural Persons (c. 2.1):

173. The ML offences extend to natural persons who knowingly engage in ML activity. The knowledge element for both Articles 287 and 287/b is the perpetrator's knowledge that the property is proceeds of an offence.

174. As noted in the 3rd assessment report, in addition to liability for intentional ML, under Article 14 CC there is also liability for negligent conduct. Article 14 provides that persons are guilty if they commit a criminal act intentionally or because of negligence. Article 16 CC sets forth what is meant by negligence as follows: "A criminal act is committed because of negligence when the person, although he does not want its consequences, foresees the possibility of their occurrence and with little consideration attempts to avoid them, or when he does not foresee the consequences, but according to the circumstances, he should and could have foreseen them."

175. In this respect, the Albanian provisions go beyond the requirements of the Vienna and Palermo Conventions. There have not been any prosecutions for ML using the negligence standard.

The Mental Element of the ML Offense (c. 2.2):

176. The Albanian CPC at Article 152 provides that the court is to evaluate evidence "based upon its conviction after their examination in their entirety." This Article also provides that indications must be important, accurate and in accordance with each other for them to establish a fact. Judicial authorities confirm that, with the application of this CPC provision which reflects the "intimate conviction" standard of civil law systems for evaluating evidence, it is possible for the mental element of criminal conduct to be inferred from objective factual circumstances.

Liability of Legal Persons (c. 2.3):

177. Article 45 of the CC provides for the responsibility of legal persons for crimes performed on behalf of or for their benefit. It also provides that sanctioning measures and procedures are to be regulated by a special law.

178. At the time of the 3rd round assessment, as an implementing law was not yet in place, legal persons were not yet subject to criminal sanction. In 2007, Albania adopted the Legal Persons Liability Law. Legal persons are now subject to criminal liability and sanctions for all offences in CC, including ML and all the FATF designated categories of offences. The law defines rules on liability, criminal proceedings, and types of penalties for legal persons that commit criminal offences. A legal person is liable for criminal offences committed on behalf of or for its benefits or by its subsidiaries or representatives and by persons who represent, lead or administer the legal person.

Liability of Legal Persons should not preclude possible parallel criminal, civil, or administrative proceedings (c. 2.4):

179. Article 2 para.1 and 3 of the Legal Persons Liability Law makes clear that civil and trade law also applies to legal persons, and that administrative sanctions may be imposed. Accordingly, parallel proceedings against legal persons are possible. In one case, an entity was sanctioned administratively and excluded from participation in public procurement for a two year period.

Sanctions for Money Laundering (C.2.5):

180. Article 287 of the CC provides the sanctions for the ML criminal offence for natural persons. They are:

- three to 10 years of imprisonment and a fine from 500 thousand to lek 5 million (US$5,000 – 50,000) for the basic offences (Article 287 para.1);
- five to 15 years of imprisonment and a fine from 800 thousand to lek 8 million (US$8,000 – 80,000) if the same offence is committed during the exercise of a criminal activity, in collaboration, or more than once (Article 287 para. 2); and
- five to15 years of imprisonment and a fine from lek 3 million to 10 (US$30,000 – 100,000) if the same offence has caused grave consequences (Article 287 para. 2). [11]

181. For Article 287/b offences, the punishment is six months to three years of imprisonment and a fine of up to lek 100 000 (US$1,000). Grave consequences is not defined in Albanian law but in the context of robbery is recognized under Decision No. 5 2003 of the Supreme Court to be lek 1 million (US$10,000) in the case of an individual and lek 2 million (US$20,000) in the case of a juridical entity.

182. Under the Legal Persons Liability Law, legal persons are subject both to principal sanctions of a fine and termination and to supplementary sanctions. Article 12, provides for the following sentences:

- if the offence is punishable by not less than 15 years of imprisonment, a fine from lek 25 to 50 million (US$250,000 - 500,000);
- if the offence punishable by not less than seven years up to 15 years of imprisonment, a fine from five million to lek 25 million (US$50,000 – 250,000) ; and
- if the offence is punishable by seven years of imprisonment maximum, a fine of lek 500 thousand to five million (US$5,000 – 50,000).

[11] There is a proposal by the Council of Ministers to increase some minimum amounts including to five years for the Article 287 para. 1 offence.

183. Under Articles 8, 11 and 12 of the Legal Persons Liability Law, a legal person may be terminated if it was founded with the purpose of committing the criminal offence; it has largely used its activity to serve the commission of the criminal offence; or the commission of the offence caused serious consequences. A sentence that includes termination may be issued if the commission of the criminal offence has occurred more than once, or in cases of other aggravating circumstances set forth in Article 50 of the CC, for instance where the act occurs after sentencing for another crime or the commission of the crime involves an abuse of public office. Under Article 45 of the CC, the liability of legal persons is also without prejudice to the criminal liability of natural persons who committed or collaborated in the commission of the same offence.

184. In all instances, under Article 36 CC, confiscation of instrumentalities and proceeds is mandatory.

185. These sentences appear to be consistent with the sanctions for other financial crimes under Albanian law. For instance fraud is punishable by imprisonment of up to five years or if committed with accomplices, repeated or producing specified harm, by three to ten years, or if causing serious consequences by 10 to 20 years. Fines for fraud are from lek 100,000 to three million (US$1,000 to 30,000). Extortion is sanctioned with two to eight years or if certain kinds of force are used by seven to 15 years. For extortion, the fine is from lek 600,000 to three million (US$6,000 – 30,000) or if there are serious consequences, two million to five million (US$20,000 to 50,000).

186. The available sanctions as far as imprisonment appear proportionate and dissuasive, but would need to be applied in a way that serves as a deterrent. The fines for natural and legal persons are consistent with those for other financial crimes in Albania. In the case of legal persons the fine for the most grave activity may not exceed US$500,000. It should be noted, however, that administrative fines, which are available in addition to the criminal fines, do not have a maximum cap and hence a higher administrative fine could be applied. For the imprisonment terms, they are comparable to those that apply elsewhere in the region. In addition, if the Council of Ministers recommended CC amendments are adopted, the minimum sentence will be increased.

187. Effectiveness of the sanctions is not yet established. This is because since 2006, there have been convictions under Article 287 only in four cases involving four individual defendants. The information available on the sanctions imposed in these cases is that the prison terms were in the range of two to five years. During the period 2007-2009, no fines were imposed in relevant cases.

Statistics (applying c. 32.2):

188. Statistics provided by the Prosecutor's Office on ML penal proceedings at the investigative and trial stages is as follows:

Year CC 287 Number ML Investigations/ Prosecutions	**2006**	**2007**	**2008**	**2009**	**2010 (to Oct.1)**
Cases Registered/ No.	2	2	13	41	42

of suspects or defendants	(0 suspects)	(2 dfndts)	(5 dfndts)	(5 dfndts)	(3 suspects)
Matters sent for trial	0	1	3 (4 dfndts)	1 (1 dfndt)	0
Matters with investigation terminated	3	1	1	16	17
Matters suspended					2
Proceedings in which conviction obtained and sentence issued	0	1 (1 dfndt)	1 (1 dfndt)	1 (1 dfndt)	1 (1 dfndt)

Year CC 287b Number ML Investigations/ Prosecutions	**2006**	**2007**	**2008**	**2009**	**2010 (to Oct.1)**
Cases Registered/ No. of suspects or defendants	0	3 (2 dfndts)	10 (10 dfndts)	9 (12 dfndts)	2 (5 dfndts)
Matters sent for trial	0	1	4	10	4
Matters with investigation terminated	0	1	1	1	
Matters suspended				1	
Proceedings in which conviction obtained and sentence issued	0	1 (3 dfndts)	1 (3 dfndts)	10 (12 dfndts)	1 (2 dfndts)

189. These statistics show a total of 17 cases in which 24 defendants were convicted over a period of four and three-quarters years. Most of the convictions – 13 cases that involve 20 defendants – were on charges under Article 287/b of the CC. The information available on two of the four in which there was a conviction under Article 287 is that the Court in Fier decided a case in 2007 that involved self-laundering (Decision 109 of April 23, 2007, First Instance Court of Fier). A 2008 case involved the conviction of one defendant in a ML matter involving domestic fraud. The assets involved could not be located and the fraudulent transactions were conducted using cash.

190. The authorities provided the following table which represents a summary of the offences they consider to be the major source of illegal proceeds in Albania. It covers the period 2006 through the first half of 2010.

Offences that are Major Sources of Illegal Proceeds

Type of Crime	Year	Registered crime	Concluded investigation	Persons charged
Drug related crimes	2006	453	341	559
	2007	524	314	501
	2008	701	454	688
	2009	647	397	568
	Jan-Aug 2010	477	373	595
Robbery	2006	164	99	169
	2007	123	90	144
	2008	144	90	140
	2009	169	89	156
	Jan- Jun 2010	105	55	87
Customs & tax crimes	2006	187	167	230
	2007	393	379	457
	2008	229	219	264
	2009	192	186	238
	Jan- Jun 2010	219	218	284
Theft through abuse of office	2006	26	26	59
	2007	23	20	32
	2008	36	34	68
	2009	27	22	39
	Jan- Jun 2010	23	23	30
Fraud	2006	171	153	170
	2007	254	191	220
	2008	429	409	467
	2009	288	281	335
	Jan-Aug 2010	261	254	297
Circulating falsified currency	2006	50	47	62
	2007	39	33	36
	2008	35	29	49
	2009	82	70	105
	Jan- Jun 2010	77	70	102

Additional Element—Would an act that occurs overseas which does not constitute an offense overseas, but would be a predicate offense if it occurred domestically, lead to an offense of ML (c. 1.8):

191. There is no practice with respect to laundering the proceeds of actions that do not constitute a crime where committed but constitute a crime in Albania. However, Articles 7 and 7/a of the CC provide for criminal liability under Albanian law for ML acts committed outside of Albania by foreign citizens if the acts are against the interest of the Albanian State or an Albanian citizen.

Effectiveness:

192. Although, as the chart on proceeds-generating offences above demonstrates, the authorities have registered a number of cases that involve proceeds generating crimes in the period from 2006 to 2009 and in many such cases persons were charged, the authorities have undertaken only 124 investigations involving 44 suspects for ML in relation to these and other predicate criminal activity in that period. Although the number of investigations for ML is increasing, for instance in 2009 50 such investigations were opened, actual results thus far are quite limited. The Prosecutor's Office has reported that for matters under the basic ML criminal provision (Article 287), since 2006 only four cases have been sent to court. A conviction was obtained in each case – one in each year 2007 through 2010. There have been 20 defendants convicted in 13 cases that were initiated under Article 287/b which relates to acquisition, possession or use of stolen goods.

193. These figures must be evaluated also in terms of the substantial risk that ML is occurring given the fact that organized criminal groups are active in Albania and that Albanian nationals that are part of such groups but operate elsewhere return proceeds to Albania. In addition, the risk for the laundering of proceeds is enhanced because of the relatively high levels of drug transit and considerable level of production, corruption and trafficking in women and minors that occur in Albania.

194. Considering the risks and the statistics provided for the predicate offences, it is clear there has been only modest use of the ML criminal provisions in the period since the last assessment, and that there continues to be a reluctance to use the provisions as an additional charge against a predicate offender. In addition, there has only been a single stand-alone ML prosecution.

195. The reasons for the few ML cases ultimately reaching the trial stage or for which a conviction has been obtained is several-fold. The Joint Investigative Unit that focuses on ML matters was only established in mid-2007. With it, the authorities began to give more concerted attention to developing and instituting ML criminal prosecutions. However the most concrete results from this organizational change will likely be in future years. Also, prior to 2007, prosecutorial and police resources devoted to ML cases were more limited. In addition, developing the expertise necessary to pursue various aspects of complex financial criminal activity has been a more recent priority as Albania has turned to use of a Joint Investigative Unit for implementing ML law enforcement initiatives.

196. One critical factor is likely the deterrent effect to prosecutors and investigating officers in developing cases because of the high degree of proof that is considered necessary in Albania to establish before the court the elements of ML. As mentioned earlier, although it is clear that a predicate offence conviction is not necessary to proceed and facts may be proven through indices

(circumstantial evidence) if they are accurate, comprehensive and compliant with each other, as a practical matter the prosecutor is called upon to establish with specificity all the elements of the predicate activity (time, place, event, kind of criminal activity) and the specific proceeds (including amounts) in order to establish that a criminal offence occurred and that the offence produced proceeds. Once all these elements are established, the prosecutor must then establish the specific laundering activity.

2.1.2 Recommendations and Comments:

197. The authorities should:

- Enact a provision or amend existing provisions so that self-laundering is covered for the Article 287/b offences;
- Extend criminalization of use beyond the use and investment in economic or financial activities;
- Amend Article 287/b so that it is clear that its coverage extends beyond acquisition, possession or use in the case of stolen goods;
- Enact provisions to cover insider trading and market manipulation;
- Make clear that property derived indirectly is covered, if needed by way of amendment;
- Enact provisions so that required ancillary activity is covered in situations where currently it is not (for instance applies to facilitating even in the absence of an agreement);
- Provide training for courts, prosecutors and judicial police that instruct regarding practices in Europe and elsewhere that will permit better use of existing provisions under more liberal standards;
- Utilize Article 287/b CC more pro-actively by instituting proceedings for use of property knowing that it was obtained as a result of a criminal offence particularly in subject matter areas where there is a significant criminality problem;
- Address the issue of the demanding proof levels by considering the legislative and practical approaches taken in other civil law systems where for instance the amount of the proceeds may be estimated, and confiscation may extend to proceeds of other criminal activity once a single criminal offence is established.

198. The authorities should also:

- Evaluate whether the criminal fines available in the case of convictions of legal persons for ML will be sufficient in all instances.

2.1.3 Compliance with Recommendations 1 and 2

	Rating	Summary of factors underlying rating
R.1	**PC**	• Self laundering is not criminalized in the case of conduct under Article 287/b. • Article 287/b offences provision is limited to stolen goods. • Full coverage of predicate offences is lacking as insider trading and market manipulation are not criminalized. • Ancillary conduct is not covered in all instances. Effectiveness issues: • Few convictions for ML. • Demanding proof level impact ability to use provisions.
R.2	**LC**	• Effectiveness of sanctions not fully established because of limited numbers of prosecutions.

2.2 Criminalization of Terrorist Financing (SR. II rated as PC in 2006 MER)

2.2.1 Description and Analysis

Summary of 2006 MER factors underlying the ratings and recommendations

199. In the 2006 assessment, a general concern was that the FT provisions then in force did not cover all elements required by the FT Convention and SR II. Specifically, the report noted that it was not clear that existing provisions covered the financing of individual terrorists, financing for extra-territorial terrorist acts or domestic collection for terrorists or terrorist organizations that were located outside Albania.There was also a concern that the provisions did not extend to legal persons nor was it clear they would be applied in a way such that knowledge, intent or purpose could be inferred from objective factual circumstances. In the assessment report it was also noted that Article 230/a was not sufficiently specific in that it lacked a definition of "funds".

Legal Framework:

- UN Convention for the Suppression of the Financing of Terrorism ("FT Convention") (ratified in 2002).
- Article 230 CC - criminalizes terrorist acts (amended in 2007).
- Article 230/a CC - (financing of terrorism) (added to the CC in 2003).
- Article 230/b CC- (hiding of funds and other wealth/goods that finance terrorism).
- Article 230/c CC- (giving information from persons carrying public functions or

persons on duty or in exercise of the profession).

- Article 230/ç CC - (performance of services and activities with identified persons) (added to the CC in 2004).
- Article 230/d CC - (collection of funds for the financing of terrorism) (added to the CC in 2007).
- Article 231 CC - (recruiting of persons for the commission of acts with terrorist purposes or for the financing of terrorism). (added to the CC in 2007).
- Article 234/a and 28 CC – (terrorist organizations).
- Law No.9754 of June 14, 2007 "On the criminal liability of legal persons" ("Legal Persons Liability Law").
- Law No. 9258 of July 15, 2004, "Law on Measures for the Suppression of Terrorism Financing" ("SFT Law").

Criminalization of Financing of Terrorism (c. II.1):

200. Since the 2006 assessment, as relevant to FT, there have been two changes, both additions to the CC[12]: Article 230/d which criminalizes the collection of funds, and Article 231 which prohibits recruiting for financing activities.

200. The provisions that criminalize the financing of terrorism are Articles 230/a and 230/d. Article 230/a, which relates to the provision of support, in unchanged since the 3rd round assessment. However, that Article relies on Article 230 to define the activities for which support is prohibited, and Article 230 has been revised. Article 230/d, which covers collection for terrorist acts or organizations, is new. The text of the relevant provisions is as follows:

Article 230 ***Actions with terrorist purposes***

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

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

[12] As of February 4, 2011, Albanian authorities were undertaking actions aimed at amending Articles 230 and 230/a to address many of the issues set forth in this section. However, as the amendments had not yet been enacted nor the criminal code amended, they are not considered in this assessment.

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, fixed platforms on the continental shelf, private property in large scale

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 weapons of mass destruction, named above".

Article 230/a ***Financing of terrorism***

"Financing of terrorism or its support of any kind is punished by not less than 15 years of imprisonment or with life imprisonment and with a fine from lek 5 million up to lek 10 million".

Article 230/d ***Collection of funds for the financing of terrorism***

"The collection of any type of financial means, directly or indirectly, for the financing of terrorist organizations or the commission of acts for terrorism purposes, is punishable by 4-12 years of imprisonment and by a fine varying from lek 600,000 to lek 6 million".

201. Other provisions exist in the CC that are related to FT.[13]

[13] **Article 230/b** ***The hiding of funds and other wealth/goods that finance terrorism***

The transfer, conversion, concealing, movement or change of property of the funds and of other goods, which are put under measures against terrorism financing, in order to avoid the discovery and their location, is punished from 4 to 12 years of imprisonment and with a fine from lek 600,000 to 6 million.

When committed during the exercise of a professional activity, in cooperation or more than one time, this crime is punished from 7 to 15 years of imprisonment and with a fine from lek 1 to 8 million, whereas when it caused serious consequences, it is punished by no less than 15 years of imprisonment and with a fine from lek 5 to 10 million.

Article 230/c ***Giving information from persons carrying public functions or persons on duty or in exercise of the Profession***

Getting acquainted identified persons or of other persons with data regarding the verification or the investigation of funds or other goods towards which measures against terrorism financing are applied, from persons exercising public functions or in exercise of their duty, is punished by 5 to 10 years of imprisonment and with a fine from lek 1 to 5 million.

Article 230/ç ***The performance of services and activities with identified persons***

(continued)

202. Although the FT criminal offence provisions as revised parallel FT Convention requirements much more closely than the provisions under review in the 2006 assessment, they continue to fall short of meeting fully the required FT Convention scope.

203. First, although Article 230/a makes "financing" a criminal act in the specified circumstances and Article 230/d prohibits collection of "any type of financial means", in the absence of any court decision or practical application, it is not clear that these terms will cover the full extent of "funds" as required under the FATF recommendations. The authorities refer to the definition of funds in Article 2, para. 13 of the law No 9917 of May 19, 2008 "On the prevention of money laundering and terrorist financing" (AML/CFT Law) which provides a definition closely paralleling that reflected in the FT Convention and SR II. However, as noted in the 2006 report, this definition is part of an administrative rather than criminal legal order and although it might be used as a reference point by a court in determining meaning, there is no certainty that the full extent of funds would be recognized. Moreover, a provision within this group, Article 230/b CC, in differentiating "funds" from "other goods", suggests there is a concept of "funds" that is narrower than funds as "assets of every kind" as per the FT Convention's definition.[14]

204. Secondly, while as noted above, the relevant provisions now address collection (Article 230/d) and provision (Article 230/a) of funds in separate provisions, it is not clear that these provisions apply in all necessary situations as required by the standard.

Financing of Terrorism

The giving of funds and other wealth for the performance of financial services as well as of other transactions with identified persons towards whom measures of terrorism financing are applied, is punished by 4 to 10 years of imprisonment and with a fine from lek 400,000 to 5 million.

Article 230/d Collection of funds for the financing of terrorism

The collection of any type of financial means, directly or indirectly, for the financing of terrorist organizations or the commission of acts for terrorism purposes, is punishable by 4-12 years of imprisonment and by a fine varying from lek 600,000 to 6 million.

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 in jail.

Article 234/a Terrorist organizations

The establishment, organization, leading and financing of the terrorist organizations is punishable by no less than fifteen years of imprisonment. The participation in terrorist organizations is punishable by 7 to 15 years of imprisonment.

[14] In November 2010, the Council of Ministers proposed amendments to the CC. (hereinafter "Council of Ministers proposed CC amendments"). It is expected that the amendments if adopted will address this issue.

205. Article 230/a (provision of funds) provides simply that FT or its support is punishable. While it is clear that any provision that results in a terrorist act is covered, there is no indication that a provision with the intention that funds be used for terrorist acts, regardless whether the terrorist act is actually committed or attempted is covered. The authorities have indicated that the Council of Ministers proposed CC amendments address this issue.

206. Third, there are a number of issues with Article 230 CC, the article that defines what constitutes a terrorist act. These issues on the definition of such acts affect the financing activities that are criminalized under Articles 230/a and 230d. Article 230 subsection (a) refers to actions against a person that "might" cause death or serious body harm. However, the FT Convention requires coverage for actions that "are intended to" cause such harms. The language of Article 230 CC would not cover amateur terrorist acts which could not or would not cause the harms, but nonetheless were intended to do so. The authorities have indicated that the proposed CC amendments also address this.

207. Other other issues also arise because of the relationship between revised Article 230 which defines acts with terrorist purposes and the provisions that relate to the financing of prohibited acts. Not all of the acts that constitute offences under the treaties annexed to the FT Convention are reflected in CC Article 230 subsections (b) – (e). For instance, the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation requires that the act of disrupting the services of the airport if such an act endangers or is likely to endanger safety at that airport be covered (Article 2, para.1). The 1973 Internationally Protected Persons Convention specifies the activity of violent attacks on the private accommodations or means of transport of protected persons that are likely to endanger such persons' person or liberty. The 1979 Convention against the Taking of Hostages covers threats to continue to detain a hostage. The Convention on the Physical Protection of Nuclear Material requires penalization of the possession or handling of nuclear material not only nuclear weapons. In these instances, as examples, some of the acts set forth in the annexed treaties are not covered by the Albanian CC provision which defines the terrorist acts for which financing must be prohibited. The authorities note that proposed CC amendments also address this.

208. Another such issue is that Article 230 imposes specific purpose or intent requirements on all terrorist acts including the conduct that must be made offences under the treaties annexed to the FT Convention. The current provisions apply the purpose/intent requirements found in Article 2 para. 1(b) of the Convention also to the conduct specified in Article 2 para 1(a) of the Convention (incorporating conduct specified in annexed treaties). Such specific intent or purpose requirements should not apply in the case of Article 2 para. 1(a) treaty offences.

209. Also, the offence as defined in Article 230 has a purpose to compel "Albanian or foreign governmental agencies" rather than the Albanian or a foreign "government."

210. Article 230 also states that actions for terrorist purposes "include but are not limited to." This Article would incorporate actions that are not specified, but could relate to other actions that legal provisions specify as ones with terrorist purposes. Although this appears to lack the specificity that is necessary to describe actions for which a person would have criminal liability, in the civil law and Albanian legal framework this may provide flexibility to encompass some actions not specifically mentioned in Article 230.

211. Finally, Article 230 refers to "actions with terrorist purposes" and Article 230/a uses the term "terrorism". The authorities explained that the terms have exactly the same meaning. As explained, provisions within a Chapter (here Chapter VII "Terrorist Acts") are considered together with initial provisions possibly using longer and more expressive terminology and the later references being of a more succinct nature.

212. Article 230/d in prohibiting the collection of "any type of financial means" to commit acts with terrorist purposes appears to mean that it would cover any kind of wealth from whatever source whether legitimate or ill-gotten. Without judicial interpretation or practice, however, it is difficult to know for certain that property acquired both legitimately and illegitimately would be covered.

Financing of Individual Terrorists as Reflected in SR II

213. Albania's CC provisions cover the financing of individual terrorists only to the extent that the funds are provided or collected to support terrorist activities. The provisions that might apply to criminalize the financing of individual terrorists, Articles 230/a and 230/d, do so only if funds are provided with the intention to support a terrorist act. In the absence of such intent, the general provision of support to an individual terrorist, for example shelter, food or education, does not fall within the scope of the provisions. Although the provisions comply with the requirements of the FT Convention, they do not cover the full extent of the scope of SR II.

214. Although making funds available to a person designated domestically as a terrorist is an administrative violation under (SFT Law), as described in the part of this report that relates to SR III, this is limited to situations where there is an order from the Minister of Finance with respect to the funds.

215. In addition, Article 230/ç prohibits the giving of funds and other wealth for the performance of financial services as well as of other transactions with identified persons towards whom measures of terrorism financing are applied. The reference in Article 230/ç to persons towards whom measures of terrorism financing are applied is a reference to the domestic list that is issued by the Council of Ministers under the SFT Law. Currently that list is the same as the UN Consolidated List. Article 230/ç however prohibits financial support for the provision of such services rather than the provision of the services.

Financing of Terrorist Organizations as Reflected in SR II

216. Article 234/a makes the financing of a terrorist organization punishable. Article 230/d prohibits the collection of funds to finance a terrorist organization.

217. A terrorist organization is defined in Article 28 (2) of the CC. Article 28 was revised in 2007 to provide a simpler and broader definition of terrorist organization and to require only two rather than the three persons required in the case of other criminal organizations. It is "a special form of the criminal organization composed of two or more persons that have sustainable collaboration in time, aiming at the commission of actions with terrorist purposes."

218. These provisions are clear in prohibiting both collection for and provision of funds to a terrorist organization. With the revision of the CC provision, in the case of a terrorist organization, only two or more persons are necessary.

Attempt and Ancillary Offenses under Article 2 (4) - (5) FT Convention

219. Article 2 paras. 4 - 5 of the FT Convention requires that States criminalize attempts to commit the FT conduct, and for both completed or attempted conduct, participation as an accomplice, the organization or direction to others to commit an offence, and contributions to the attempt or completed conduct through association or conspiracy.

220. The general provisions of the CC at Articles 22 - 28 on attempts and collaboration, discussed in relation to the ML offence apply to all offences including the FT offences. See, the discussion of this criterion under Recommendation 1, and the issues noted therein.

Predicate Offense for Money Laundering (c. II.2):

221. As indicated in the discussions under Recommendation 1 above, any offense under Albanian law may constitute a predicate offense for ML. FT acts that constitute offences under the Albanian CC are thus predicate offenses for ML.

Jurisdiction for Terrorist Financing Offense (c. II.3):

222. The FT criminal provisions can be applied to financing activities as to which Albania has criminal jurisdiction to proceed (actions occurring Albania, those by Albanian citizens wherever located, those against certain Albanian interests) regardless of whether the act or organization being financed is located in Albania or elsewhere.

The Mental Element of the TF Offense (applying c. 2.2 in R.2):

223. The discussion of the mental element set forth in Recommendation 2 applies in relation to the offence of FT as well. The intentional element of FT is inferred by the court as it assesses the evidence. The court analyzes both objective and subjective elements of the criminal offence.

Liability of Legal Persons (applying c. 2.3 & c. 2.4 in R.2):

224. Legal persons are also liable for engaging in FT. As noted in the discussion under Recommendation 2, criminal liability is extended to legal persons and this applies with respect to all offences including FT. At the time of the 2006 MER although Article 45 CC provided for responsibility for legal persons, an implementing law had not yet been enacted. The implementing law, the Legal Persons Liability Law, was enacted in 2007.

Sanctions for FT (applying c. 2.5 in R.2):

225. The sanction for violating Article 230/a (financing of terrorism) is not less than fifteen years of imprisonment or with life imprisonment and a fine from lek 5 million up to lek 10 million.

226. For violations of Article 230/d (collection of funds for the financing of terrorism), the sanctions are four to12 years of imprisonment and a fine from lek 600,000 to 6 million. Article 230/b which criminalizes hiding funds that finance terrorism provides for four to 12 years of imprisonment and with a fine from lek 600,000 to 6 million; or if committed in the exercise of a professional activity, in cooperation or more than one time, by from seven to 15 years of imprisonment and a fine from lek one to 8 million; or if it causes serious consequences by no less than 15 years of imprisonment and a fine from lek five to 10 million.

227. These sanctions are substantial and exceed the sanctions many countries have established. There is a significant disparity between the sanctions for the provision of funds in Article 230/a of a minimum of 15 years compared with that for collection of funds of four to 12 years set forth in Article 230/d. The sanctions have potential to be dissuasive. However, with only a single conviction for hiding funds, neither dissuasiveness nor effectiveness of the criminal provision that is required by the FT Convention prohibiting the collection or provision of funds could be established.

Statistics (R.32):

228. There have been no prosecutions or convictions for FT under Articles 230/a or 230/d in the three year period 2006 - 2009. In 2009, however, one person was convicted of violating Article 230/b CC for concealing funds used to finance terrorism. In January 2008, a criminal trial commenced in Albania against Hamzeh Abu Rayyan on charges of concealing funds used to finance terrorism. In 2009 he was convicted in relation to his activities in administering funds for a person on the UNSCR list, Yassin al-Kadi. Authorities are awaiting a decision of the High Court to execute the decision of the Court of Appeals. The sentence imposed was four years imprisonment and a fine of lek 600,000.

229. Statistics provided by the prosecutor's office indicate there have been only a few investigations in the period 2006 – 2009 as set forth in the chart below.

230. As the statistics below demonstrate, for prosecution-level investigations relating to FT since 2006, there have been five matters with only two identifiable persons. In each instance upon further investigation, it was found that the allegations were not supported.

FT investigations based on the confirmation provided by GPO.

Year	2006	2007	2008	2009
Activity reported	4	3*	3**	0
Persons	2	0	0	0
Dismissed	1	1	3	0
To Court	0	0	0	0

2006 – Four investigations were initiated regarding two persons. One of these proceedings was dismissed in 2006 while three cases were transferred to 2007.

* 2007 – Three proceedings transferred from the preceding year. One of those was dismissed and two were transferred to the following year.

**2008 – Three proceedings (two were transferred from 2007 and one registered in 2008). All three proceedings were dismissed.

2009 – There were no investigations.

231. Statistics provided by GDPML during the on-site mission are set forth below. They indicate that there have been a total of 11 STRs received in the period 2006 -2010 that relate potentially to FT. Of these, one referral was made in 2010 to the police for additional investigation based upon a possibility that ML had occurred.

STRs regarding FT during 2006 -2010

Year	2006	2007	2008	2009	2010
Number STRs	0	0	0	4	7
Referrals	0	0	0	0	1

Effectiveness:

232. The authorities have prosecuted one case relating to FT activities, and were successful in gaining a conviction. Because the case involved the charge of concealing funds used to finance terrorism rather a charge relating to financing itself, it is uncertain how prosecutions under the provisions that address directly the financing of terrorism, Articles 230/a and 230/d, would work in practice. There have been a few matters that reached the level of investigation after being registered but none of the matters, after further investigation, were found to be substantiated. The FIU has had only 11 STRs relating to FT in the period 2006-2010. All were received in 2009 and 2010. A single referral was made, and this was for a ML investigation.

233. With a history in the first half of the 2000s of the government freezing assets of terrorist financiers, curtailing activities of suspect Islamic NGOs, and expelling individuals suspected of having links to terrorism and the historical backdrop after the 1991 fall of the Communist regime of in-country activities by some Al Qaeda operatives and the presence of Islamic non-governmental organizations (some of them fronts for Al Qaeda-linked activities), Albania remains at risk regarding possible financing of terrorism activities.

234. The authorities appear vigilant regarding the presence of these risks, but they have thus far not been able to develop actionable criminal FT cases other than the one indicated above. Authorities noted that securing evidence to prove that funds are to finance a terrorist activity rather than a charitable or other legal cause is a challenge and often not possible. In at least one circumstance a request to foreign partners for supporting evidence also did not produce results. It was also noted that even when some evidence exists, it is often not possible to identify a perpetrator. In these circumstances, the authorities prefer to sequester funds based upon a UN designation, when this is possible, rather than using the criminal FT provisions.

235. The authorities do investigate matters that come to their attention and appear ready to act to undertake prosecutions in all FT matters for which there is sufficient evidence.

2.2.2. Recommendations and Comments

236. The authorities should:

- Enact amendments to the FT criminalization provisions in Chapter VII of the CC provisions, so that:
  - Article 230/a applies regardless of whether the terrorist act is actually committed or attempted;
  - it is clear that the financing prohibited extends to the full extent of "funds" as that term is defined in the FT Convention;
  - the financing of individual terrorists regardless of whether the funds are provided or collected to support terrorist activities is criminalized.
- Enact amendments to Article 230 CC so that:
  - it covers each specific action that is required to be criminalized under all the treaties that are annexed to the FT Convention;
  - it covers actions "intended to cause" death or serious bodily harm, not simply that "might" cause this;
  - the specific purpose or intent requirement set forth in Article 2 para. 1 (b) of the FT Convention is not required in the case of the conducts specified in the annexed treaties (Article 2, para. 1(a));
  - the purpose set forth in the Article is to compel the Albanian or foreign government rather than "Albanian or foreign governmental agencies".
- Either revise CC provisions on ancillary offences to deal with gaps in coverage as set forth in Recommendation 1, or incorporate coverage for all required ancillary conduct (facilitating in the absence of an agreement) directly in the CC Chapter VII – Terrorist Act provisions.
- Work towards developing additional cases as domestic intelligence, coordination with foreign partners working on FT and terrorism matters, and STR reporting provide such opportunities.

237. The authorities should also:

- Consider making it clear that the Article 230 reference of "actions with terrorist purposes" is coextensive with the Article 230/a use of the term "terrorism".

2.2.3. Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	**PC**	• FT criminalization provisions in Chapter VII of the CC do not comply with the standard in that: o Article 230/a does not clearly apply regardless of whether the terrorist act is actually committed or attempted; o it is not clear that the financing prohibited extends to the full extent of "funds" as that term is defined in the FT Convention; o the financing of individual terrorists is criminalized only if the funds are provided or collected to support terrorist activities; o Article 230 CC does not cover each specific action that is required to be criminalized under all the treaties that are annexed to the FT Convention; o Article 230 CC does not covers actions "intended to cause" death or serious bodily harm, only those that "might" cause this; o specific purpose or intent requirement set forth in Article 2 para. 1 (b) of the FT Convention are required in the case of the conducts specified in the annexed treaties (Article 2, para. 1(a)); o Article 230 sets forth a purpose to compel Albanian or foreign governmental agencies rather than such governments. • Not all ancillary conduct is covered.

2.3 Confiscation, Freezing and Seizing of Proceeds of Crime (R.3 rated as PC in 2006 MER and 32)

2.3.1 Description and Analysis

Summary of 2006 MER factors underlying the ratings and recommendations

238. The issues noted in the 2006 MER were that: no explicit provision addressed confiscation from third parties or provided legal protection for bona-fide third parties; provisional measures might not be available early enough in an investigation, and were subject to automatic cessation; prosecutors

could not apply such measures directly in cases of urgency; and deficiencies in the material elements of FT could limit the application of measures in such cases. In addition, the assessors noted that the authorities had not established effective implementation nor were necessary statistics maintained in a systematic manner.

Legal Framework:

- CPC Articles 208 – 220, 274 – 276.
- CC Articles 30 and 36.
- Law No. 10192 of December 3, 2009 "On preventing and striking at organized crime and trafficking through preventive measures against assets" ("Organized Crime Law").

Confiscation of Property Related to ML, FT or Other Predicate Offences Including Property of Corresponding Value (c. 3.1):

239. Albania uses its general CC and CPC provisions to address confiscation for ML and FT in criminal proceedings. Criminal confiscation is governed by Articles 30 and 36 of the CC. These articles make confiscation a supplemental punishment and provide for mandatory confiscation of direct and indirect proceeds or value, instrumentalities, and objects of the offence. CPC Articles 208 - 220 (relating to securing evidence) and 274 - 276 (relating to seizure of criminal assets and instrumentalities) govern procedural aspects of confiscation and preliminary measures. None of these provisions have changed since the 3rd round assessment.

240. Article 36 CC provides for confiscation of direct and indirect proceeds, laundered property, instrumentalities used or intended for use in the commission of a crime and property of corresponding value. This applies to all offences including ML, FT and other predicate offences. That provision is explicit that "objects that have served or are specified as means for committing the criminal offence", "criminal offence proceeds", "any other asset whose value corresponds to the criminal offence proceeds", and "objects" are all subject to confiscation.

241. A major development since the previous assessment is the adoption a new Organized Crime Law. This law provides an alternative method to recover criminal property by a court order imposing the preventive measures of sequestration and ultimately confiscation. Under the law a civil standard applies. Article 3 of the Law provides that its provisions can be used in the case of the following crimes in the CC:

- Articles 333, 333/a - Participation in a criminal organization or structured criminal group;
- Articles 234/a, 234/b - Participation in terrorist organizations or armed bands;
- Chapter VII, special part, CC - Commission of other actions for terrorist purposes;
- Article 109 - Kidnapping or keeping hostage a person;

- Article 109/b - Forcing through blackmail or violence the submission of wealth (extortion);
- Article 110/1 – Trafficking in persons;
- Article 114/b - Trafficking of women;
- Article 128/b - Trafficking of minors;
- Article 278/a - Trafficking of weapons and munitions;
- Article 282/a - Trafficking of explosive, burning, poison, and radioactive matters;
- Article 283 - Manufacturing and selling narcotics;
- Article 283/a - Trafficking of narcotics;
- Article 284/a - Organizing and leading criminal organizations;
- Article 114/a - Exploitation of prostitution with aggravated circumstances;
- Article 287 - Laundering of crime proceeds.

Confiscation of Property Derived from Proceeds of Crime (Property in Third Party Hands) (c. 3.1.1 applying c. 3.1):

242. The CC provisions apply to any proceeds from the crime as well as laundered property, instrumentalities and property of corresponding value. All such assets are subject to confiscation regardless of whether the assets are held or owned by the defendant or by a third party. Although the CC provisions do not address with direct language the issue of third parties holding or owning such items, Articles 30 and 36 apply to committal means and proceeds without exception and so to assets wherever they may be found (whoever may hold or own them). The practice in Albania confirms that they apply when the property is held or owned by a third party. In a criminal prosecution, the prosecutor will be obliged to show that the property in third party hands is the proceeds or instrumentalities of crime or its substitute. Property held by third parties has been sequestered in a number of cases and in matters for instance involving the misappropriation of stolen goods, has been seized, confiscated and returned to the injured party or legal owner.

243. Also, one of the CPC provisions, Article 210, is explicit on the issue of third party-held property, in the case of bank accounts. It provides that the authorities, through a court order, may seize assets in a bank "if there are reasonable grounds to think that they are connected to a criminal offence, even though they do not belong to the defendant or are not under his name."

244. Article 36 (1) and (4) CC provide for confiscation of property derived directly or indirectly from proceeds including income, profits or other benefits from proceeds.

245. When the Organized Crime Law is being applied, property in third party hands is also reachable. Under Article 3 the law applies not only to the assets of person as to which there exists a

reasonable suspicion relating to one of the various covered crimes, but also to related persons, and to natural or juridical persons where there is evidence that assets held relate to the illegal activities of the person under investigation.

Provisional Measures to Prevent Dealing in Property Subject to Confiscation (c. 3.2):

246. CPC Article 274 provides for a court to order the seizure of property of any kind that is covered by CC Article 36, that is property that ultimately may be confiscated in a criminal case. It may also order that any item connected to a criminal offence be seized if it might aggravate or prolong the consequences of the offence or facilitate the commission of other offenses. Article 300 of the CPC also provides that the judicial police in cases of urgency may seize material evidence and items connected with the offence. Within 48 hours, the police must have the prosecutor affirm the seizure and an appropriate sequestering order is obtained. A sequestration order immobilizes assets through a freeze or seizure.

247. Provisional measures are available early in an investigation prior to the registration of an offence through use of Article 300 of the CPC and through the usual procedure of the prosecutor, at the request of the law enforcement officer who would like the assets sequestered, immediately registering the criminal offence, thereby moving the case into the formal investigative stage. The prosecutor then immediately seeks the order from the court under CPC Article 274 for the sequestration of the assets. The prosecutor needs only a minimum level of data to register the offence, a suspicion that a criminal offence occurred, and his decision is not subject to challenge. In practice, prosecutors often will register an offence at law enforcement request and then immediately seek a sequestration order. In essence, the police undertaking the preliminary investigation can secure these measures by seeing that the case moves to the next stage.

248. In urgent matters, under Article 210 of the CPC, the prosecutor may also order seizure of bank records and assets in bank accounts. This is not subject to later validation by the court, and has been used in some cases.

249. In addition, as noted above, in many situations the authorities are now able to seize and confiscate property independently of the criminal process using the preventive measures provisions of the Organized Crime Law. In the case of the serious crimes to which it applies, including ML, FT and many proceeds-generating crimes including drug and human trafficking, a sequestering of assets, and ultimately confiscation, is available independently of the criminal investigation or proceeding through a civil process.

250. Under Article 10 of the Organized Crime Law, the court is to order a sequestering of assets if it finds:

- a reasonable suspicion that the person is involved in criminal activity;
- that the person has assets or income that do not correspond to lawful activities; and
- either there is a real danger that the assets will be alienated or lost, or a reasonable suspicion that the person's continued possession or use of the assets constitutes a danger or will facilitate criminal activities.

251. Thereafter, the prosecutor seeks verification of the person's income/assets and reviews the source of income. If there is a disparity, a reverse burden applies with the person called upon to demonstrate the lawful origin of the assets.

252. The Organized Crime Law may be applied autonomously of any criminal proceeding. If assets also become subject to measures in a criminal proceeding, the measures under the Organized Crime Law are suspended.

253. Under Article 22 para. 1 (j) of the AML/CFT Law, GDPML is also empowered to order a temporary blocking of transactions or financial actions for a period of up to 72 hours. If it believes a criminal offence is involved, it refers the case to the GPO.

254. Article 276 of the CPC provides for an appeal by the person whose property has been seized. A seizure is lifted automatically if the court fails to rule within 15 days. As recommended, following the 3rd round assessment, the authorities undertook a review of how this provision had worked in practice. They indicate that it has not resulted in the release of proceeds on procedural grounds because of a court delay. It is the view of the assessors, however, that there is no guarantee going forward that courts will always rule in a timely manner.

255. In the case of sequestrations under the Organized Crime Law, under Article 27, appeals are available and regulated by the Code of Civil Procedure.

256. As noted in the 3rd round, assessment even when there is an acquittal or a case is dismissed, proceeds and instrumentalities may be confiscated.

Ex Parte Application for Provisional Measures (c. 3.3):

257. The authorities have indicated that provisional measures are issued on an *ex parte* basis and without prior notice. This has been the long accepted practice in matters under the CC and CPC, although no CPC provision addresses this explicitly. Until recently, there had never been a challenge. Currently in a case under review in the Supreme Court, the issue is being considered. The lower court upheld a provisional measure in a criminal case that was challenged on the basis that the defendant was not represented as it was imposed.

258. For proceedings under the Organized Crime Law, under Article 12, the request is to be examined by the court with the participation of the prosecutor only.

Identification and Tracing of Property Subject to Confiscation (c. 3.4):

259. Law enforcement authorities use their powers to secure documents from State offices and provisions of the CPC to identify and trace property. In the case of matters arising under the CC, police authorities stated they were able to secure documents from State offices as part of their preliminary investigation. Such offices are required, pursuant the Law on State Police and sector specific laws as the Law on Banks and the AML/CFT law, to provide such documents. The authorities then rely to identify and trace assets on the provisions of the CPC which provide generally for the gathering of evidence for criminal prosecutions. See the discussion of general law enforcement powers under Recommendation 28 of this report.

260. Provisions exist for special investigative techniques (interception, etc.). However, there are no specific provisions that would allow investigators to secure information on whether a person is a customer of a financial institution or to monitor activity in financial accounts for specified periods of time. In practice, financial institutions provide this information to investigators based upon letters of request from the prosecutor. Failure to abide by such a letter of request would be considered an obstruction of justice. In Albania there is not a centralized register of bank account holders.

261. Article 210 of the CPC provides for access to bank records based upon a court order or in urgent matters through the action of the prosecutor alone, once there is a showing of reasonable grounds for a connection to a criminal offence. Bank secrecy is lifted when this provision is applied. The Law on Banking at Article 91 para. 2 provides for the lifting of bank secrecy in the case of criminal investigations and prosecutions. In addition, law enforcement authorities indicated that bank information may be available because a STR was filed. The authorities indicated that through these means they are able to secure necessary information to trace and identify assets, and the assessors consider that these provisions would permit adequate access.

262. For the analysis of the provisions concerning access to information which is protected by professional secrecy, refer to Recommmendations 26 and 28 and the issues noted therein. Article 211 of the CPC provides for an assertion of a duty relating to professional secrecy, and access to such information if there is a conclusion the assertion is without merit.

263. The authorities indicated they have ready access to the information they need to identify and trace proceeds and instrumentalities. Since Article 36 of the CC provides for a broad range of assets that may be confiscated, CPC provisions are available to support the gathering of the evidence not only of the criminal activity but of the proceeds, substitute proceeds, etc., and as a practical matter such provisions have been used in investigations of proceeds of crime.

264. For matters arising under the Organized Crime Law, under Article 9, any person, entity or public office so requested must provide data and documents deemed essential for the investigation. This provision permits authorities to undertake actions that assist in locating and identifying property subject to confiscation.

Protection of Bona Fide Third Parties (c. 3.5):

265. For assets that are sequestered for purposes of confiscation in a criminal proceeding whether they be proceeds or instrumentalities, under Article 276 of the CPC any person who asserts an interest in the property is entitled to appeal the order within 10 days of receiving knowledge. The court is obliged to rule on the challenge within 15 days from its receipt of the documents. In addition, Articles 58 - 68 of the CPC provide for injured parties to intervene in a criminal proceeding to assert a civil dispute.

Power to Void Actions (c. 3.6):

266. Article 677 of Albania's Civil Code provides that a contract is deemed to be illegal if it is in contradiction with the law, the public order or if the contract is serving as a means to avoid the application of a legal norm. If a contract is entered into in order to prejudice the recovery of property, it would be in contradiction of the law and it could be put aside.

Statistics (R. 32):

Property Frozen, Seized and Confiscated in ML Cases

267. In the first ten months of 2010 (January – October) after the adoption of the Organized Crime Law in late 2009, 26 civil confiscation matters were sent to the Serious Crimes Prosecutor's office. Seven of these relate to ML. Prior to the enactment of the new Organized Crime Law, ML was not a covered offence, so there were not properties frozen or confiscated in ML cases using civil procedures before 2010. There has been no property confiscated in the ML cases prosecuted under Article 287.

268. GDPML maintains statistics on the assets frozen by the GDPML in ML-related matters, and of the sequestered assets, those that are ultimately seized and confiscated. The data for the last four years is as follows:

Money Laundering	2007	2008	2009	2010
Number of freezing orders	0	5	23	23
Amounts frozen (EUR)	0	504,934	3,736,275	891,881
Amounts frozen (US$)	0	486,046	20,000	11,163
Amounts frozen (LEK)	0	952,032	31,737,850	8,355,972
Frozen land lots and apartments	0	0	1,060 m2	7 Apartments, value EUR 301,800; US$45,960; and lek 9,333,280. Total: EUR 403,625
Seized by the Prosecution and Courts	0	0	EUR 2,946,275 lek 31,662,565 1,060 m2	EUR 480,000 (bank) six Apartments valued at EUR 301,800; US$45,960 and lek 6,300,000. Total (apts): EUR 381,755

269. This chart indicates that on the GDPML level in the four year period since 2007, there have been 51 orders freezing property issued by the GDPML. The assets frozen in total in US$ equivalent are about US$7.64 million and US$1.03 million and 1060 m2 for real property (apartments). The prosecutor's office does not maintain statistical data on other assets that might be seized during the investigative stage of a criminal case.

Property Frozen, Seized and Confiscated in FT Cases

270. During 2006 - 2010, the period since the last assessment, there have been no restraints or confiscations of FT assets in criminal FT cases. In this period, there has been a single FT criminal case. In that case, which is addressed in the section on criminalization of FT, a conviction was obtained for concealing funds to finance terrorism. There was neither a restraint of assets nor a criminal confiscation in that case. However, the funds the defendant concealed (in the amount of lek 10,089,604 (US$100,896) are frozen in a related matter in which the Minister of Finance issued an order based upon UN Security Council Resolution 1267 listing.

Property Frozen, Seized and Confiscated in Predicate Offence Criminal Cases

271. The Albanian State Police provided information that in the first ten months of 2010 (January – October 2010), 26 civil confiscation matters were sent to the Serious Crimes Prosecutor's office as follows:

- 6 - criminal organizations (two arms trafficking; drug trafficking)
- 11 - drug trafficking
- 7 - money laundering
- 2 - women trafficking and exploitation

272. Ten of these (of which five involve ML as the involved offence) have reached the court. In each instance a sequestration was ordered by the court. The total amount involved is approximately US$8.2 million. In addition, the Agency for the Administration of Seized and Confiscated Assets provided data on the total properties seized, seized and released and actually confiscated under the previous and current Organized Crime Laws. The data provided is as follows:

Properties Seized According to Organized Crime Laws (previous and current):

Year 2008
- One decision of the court.
- One person is concerned.
- One bank account seized.
- The value of seized properties is about 607, 500 Albanian lek.

Year 2009
- One decision of the court.
- One person is concerned.
- One car seized.
- The value of properties assets is about 2, 000, 000 Albanian lek.

Year 2010
- 10 decisions of the court.
- 13 people are concerned.
- 50 properties seized.

- The value of seized properties is about 728, 188, 939 Albanian lek.

Total seizure in three year

- 12 decisions of the court.
- 15 people are concerned.
- 52 properties seized.
- The value of seized properties is about 730,796,439 Albanian Lek, as follow:

a. 28 bank account with a value of 420, 887, 399 Albanian lek.
b. Nine vehicles with a value of 7, 440, 000 Albanian lek.
c. Three commercial companies with a value of 50, 000, 000 Albanian lek.
d. 12 real estate properties with a value of 252,469,040 Albanian lek.

Properties Confiscated According to Organized Crime Laws (previous and current):

Year 2005

- One decision of the court.
- One person is concerned.
- Two properties are confiscated.
- The value of confiscated properties is about 2, 785, 000 Albanian lek.

Year 2006

- Two decisions of the court.
- One person is concerned.
- Five properties are confiscated.
- The value of confiscated properties is about 2, 223, 514 Albanian lek.

Year 2007

- One decision of the court.
- One person is concerned.
- One property is confiscated.
- The value of confiscated properties is about 865, 000 Albanian lek.

Year 2008

- Three decisions of the court.
- Three people are concerned.
- Eight properties are confiscated.
- The value of confiscated properties is about 62, 274, 820 Albanian lek.

Year 2009

- No confiscation have been taken

Year 2010

- Two decisions of the court.
- Two people are concerned.
- 12 properties are confiscated.
- The value of confiscated properties is about 14, 305, 000 Albanian lek.

Total confiscation in five year

- Nine decisions of the court.
- Eight people are concerned.
- 28 properties are confiscated.
- The value of confiscated properties is about 85, 476, 849 Albanian lek, as follow:

a. Eight bank account with a value of 2, 621, 529 Albanian lek.
b. 13 vehicles with a value of 6, 895, 000 Albanian lek.
c. Seven real estate properties with a value of 75, 960, 320 Albanian lek.

Properties Recovered (seized then released) According to Court Decisions:

Year 2006
- One decision of the court.
- One person is concerned.
- One property is recovered.
- The value of recovered property is about 78, 000, 000 Albanian lek.

Year 2007
- One decision of the court.
- One person is concerned.
- Two properties are recovered.
- The value of recovered properties is about 8, 794, 718 Albanian lek.

Year 2008
- Six decisions of the court.
- Six peoples are concerned.
- 14 properties are recovered.
- The value of recovered properties is about 280, 102, 095 Albanian lek.

Year 2009
- Four decisions of the court.
- Four peoples are concerned.
- 12 properties recovered.
- The value of recovered properties is about 41, 339, 514 Albanian lek.

Year 2010
- Four decisions of the court.
- Four peoples are concerned.
- 41 properties are recovered.
- The value of recovered properties is about 345, 674, 970 Albanian lek.

273. The value of all recovered (seized then released) properties in five years, according to court decisions, is 753, 911, 297 Albanian lek.

274. This data show that a total of properties seized under the Organized Crime Law in the period 2008-2010 was about lek 730,800,000 or about US$7.31 million. For the lengthier five year period of 2005-2010, lek 85,500,000 or about US$855,000 was actually confiscated. For the four year period, 2006 to 2010, lek 754,000,000 or US$7.5 million was seized and then released.

275. Information on the level of predicate activity for the major proceeds-generating crimes in the period 2006-2010 is set forth in the chart found in the statistics section of Recommendation 1. In this period, over 7100 persons were charged with such crimes.

Additional Element (c. 3.7):

276. As noted above, the Organized Crime Law that was enacted in 2009 provides a form of non-conviction based preventive confiscation in the case of some kinds of criminal activity. Among the situations when its provisions may be applied are when the criminal activity is ML or participation in a criminal or terrorist organization.

277. The Law permits the court to sequester and ultimately to confiscate assets that are beyond that which a person can demonstrate he acquired legitimately. Under Article 21, persons to whom the Law is being applied must demonstrate the lawful origin of their property.

Effectiveness:

278. The enactment of a new Organized Crime Law since the 2006 MER that provides for civil preventive confiscation in the case of many serious offences has added significantly to a framework for addressing criminal assets.

279. Although the framework provided by the CC and CPC, as noted in the previous assessment, lacks an explicit reference to reaching proceeds in the hands of a third party, it is clear that it calls for the sequestering and confiscation of proceeds wherever found and that any person with a claim on assets that are sequestered may appeal to the court for a lifting of the freeze. In addition, practice has confirmed that assets in the hands of third parties are reachable. The new Organized Crime Law also has specific provisions for reaching assets held by related persons and other involved persons or entities.

280. The assessors are of the view that sequestering is available as needed even relatively early in an investigation (because a formal investigation can be commenced with a relatively low level of evidence/information and prosecutors will register the offence and open the investigation as needed in order to seek the sequestering of assets even at an early stage) and, in cases of urgency, even prior to the registration of a criminal case (because judicial police can use Article 300 of the CPC).

281. While the provision for the automatic cessation of provisional measures remains, the authorities confirmed that in practice the court has acted as needed. A provision that requires that the court act within 15 days rather than providing for automatic cessation would ensure that, going forward, an inappropriate lifting does not occur for technical reasons.

282. Although the sequestering of assets remains the prerogative of the court (the prosecutor as a usual matter is not invested with this authority and may do so only in cases of urgency), the freeze authority of the GDPML provides the ability to freeze bank and accounts and other assets on a temporary basis. In addition, the prosecutor may in cases of urgency when the assets are in a bank issue the freeze order.

283. The limitations on the scope of the FT criminal offence identified in the discussion under SR II would have a cascading effect on Albania's ability to freeze and confiscate should it need to do so in a FT criminal case. Many of the deficiencies in the FT criminalization provision are likely to be remedied if amendments to the CC recommended by the Council of Ministers are enacted.

284. Although law enforcement authorities are in practice able to secure customer information and monitor financial accounts, explicit provisions in these areas that set forth law enforcement's powers, their extent and the manner in which they can be used would improve the framework. See discussion under Recommendations 27 - 28.

286. The most significant issues relate to effectiveness. Although the legal framework is sound and does not appear to pose impediments for confiscation, nonetheless confiscation remains a rare event. There have been only a handful of ML and FT cases prosecuted successfully since 2006. In none of these cases were there assets confiscated. In none of these cases were assets sequestered in anticipation of a confiscation. There have been no confiscations as yet in ML cases under the current Organized Crime Law. This is not surprising given that this law has only been in force since December 2009. Of the ten sequestrations that have occurred since the enactment, five are in matters where the registered offence is ML.

287. The authorities have not in the past maintained full range of statistics that would show sequesters and confiscations in the course of the criminal proceeding for proceeds-generating predicate offences generally. In the case of confiscations using civil means, it appears that in the five year period (2005-2010) only lek 85,500,000 or about US$855,000 was actually confiscated.

288. In the absence of a demonstration that either criminal or civil confiscation provisions are used to recover property in such cases, effectiveness is not established. It is clear that significant proceeds-generating crime has occurred since 2006. Over 7100 persons have been charged with such crimes.

289. It is important that the framework Albania has established actually be used to take assets out of the criminal economy and keep them from being invested in additional crimes. It is clear, for reasons at least in part of restrictive court interpretations as well as the more limited scope of the previous Organized Crime Law, that the previous law did not have the potential to be effective to recover proceeds in the same way as the new law does. It is also clear that the GPO and Albanian State Police are committed to vigorously using the law and have taken steps to tap its potential to address criminal proceeds.

290. For criminal confiscation related to ML the prosecutors are of the view and the representatives of the courts confirmed, that the courts will require in practice very specific evidence of the ML activity, and impose exacting standards in order for the prosecutor to the recover proceeds on behalf of the State. The GPO was of the view that prosecutors must trace specific amounts through all steps from predicate activity to ML, showing a clear link between the amount and a specific event that is part of the criminal activity.

291. In the absence of either changes in legislation that modify this or a more liberal view of existing provisions by the courts, the prospects for actual confiscation in criminal cases is limited. For instance, were a prosecutor to demonstrate the three incidents of drug trafficking for which he has the best evidence in specific (small) amounts as part of a pattern of activity or three specific instances, of

many, of Ponzi scheme fraud that had many victims, the confiscation recovery would be limited to the small amounts involved. Other civil law States in Europe and elsewhere have faced this same issue and adopted provisions and practices that address it. With the now broader and more vigorous Organized Crime Law, some of the difficulties faced may well be able to be addressed through parallel Organized Crime Law proceedings. These are permissible under the law.

292. At the same time, in the criminal confiscation context, it would be useful for the judiciary and prosecutors to have a more developed understanding of the approaches other countries use, some with similar provisions, and how to make full use of existing provisions consistent with the criminal nature of confiscation and the protections in such cases.

293. It is also noteworthy that although Article 36 of the CC provides for the recovery of assets of equivalent value, this provision has never been used. Were this provision viewed as a general value confiscation provision, it would alleviate some of the issues that prosecutors now face regarding in tracing proceeds for confiscation. It will be important going forward to try to use this provision and avoid a narrow interpretation of the Article 36 para. 1 (cc) of the CC "of any other asset, whose value corresponds to the criminal offence proceeds."

294. In the period up until the enactment of the new Organized Crime Law, there was no general directive to prosecutors to pursue and develop the proceeds aspects of the case for every proceeds-generating crime or a culture that the proceeds aspects of the crime were of equal importance. With recent directives as this law has come into effect, there is a new directive that prosecutors are to consider these aspects of their dockets at least in the case of certain specified crimes.

295. The maintenance and use of statistics appears to be improving but could be further improved.

2.3.2 Recommendations and Comments

296. The authorities should:

- Criminalize FT in conformity with the standard as set forth SR II, so that instrumentalities used and to be used and proceeds can to be sequestered and confiscated and extend ML criminalization to insider trading and market manipulation as set forth in Recommendation 1.

- Use the CC provision permitting the confiscation of assets of equivalent value to seek recoveries in a wide range of circumstances.

- Through enhanced CC or CPC legislative provisions and/or the better use of existing provisions in criminal cases and/or parallel use of Organized Crime Act civil proceedings, work towards developing a framework that is effective in actually recovering criminal assets without the same degree of tracing, specificity and linkage between specific criminal acts and specific monies.

- Provide training to the judiciary and prosecutors so they have a greater understanding of how provisions similar to the existing CC and CPC provisions for criminal confiscation in other civil law contexts are applied in a more lenient and effective fashion.

- Make fuller use of the provisions in part by emphasizing the importance to law enforcement and prosecutors that criminal assets be pursued early on in every proceeds-generating crime under investigation/prosecution.

- Establish a national registry of bank accounts administered by the BoA, which, upon proper authority, can be accessed on request by Law Enforcement authorities' powers to facilitate the investigation of ML/FT, in order to enhance their capacity to identify and trace property that is or may become subject to confiscation or is suspected of being the proceeds of crime.

- With corruption as an important proceeds-generating crime, include corruption as an offence under the Organized Crime Law which provides a civil standard and reverse onus in the recovery of proceeds of crime.

- As necessary, provide explicitly in the CPC that provisional measures are to be issued on an *ex parte* basis.

297. The authorities should also:

- Even in the absence in practice of inappropriate automatic cessations of provisional measures on technical grounds, consider amending Article 276 CPC and replacing it with an affirmative requirement on the court to act within a certain period to ensure that, going forward, an inappropriate lifting of sequestered assets does not occur because of inaction by a court.

- Consider enacting specific provisions on law enforcement powers to secure customer information and monitor financial accounts so that there is an improved ability to identify and trace for both domestic and foreign cases.

2.3.3. **Compliance with Recommendation 3**

	Rating	**Summary of factors underlying rating**
R.3	**LC**	• Deficiencies in criminalization of ML (no market manipulation or insider trading offences) and of FT (noted in SR II) will limit ability to sequester and confiscate. • Effectiveness not established as there are few actual confiscations and limited use of sequester authority in ML cases.

2.4 Freezing of Funds Used for Terrorist Financing (SR III rated LC in previous MER & R. 32)

2.4.1 Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

298. In the 2006 assessment, there were concerns expressed about: the absence of legal procedures for dealing with, and an authority with clear responsibility for, foreign requests; the absence of secondary provisions or mechanisms to address requests for subsistence and other expenditures; a lack of guidance for the private sector or supervisor review of their implementing measures; and the absence of information on the number and origin of reports relating to the UN measures or any confiscation measures applied.

Legal Framework:

- United Nations Security Council Resolutions 1267 and 1373 ("UNSCRs 1267 and 1373").
- Law on Measures for the Suppression of Terrorism Financing "Law No. 9258 of July 15, 2004" ("SFT Law").
- Law 10192 of December 3, 2009 "Law on the prevention and striking of the organized crime through preventive measures against property" ("Organized Crime Law").

299. Albania implements its obligations to freeze funds of persons and entities subject to sanctions under UNSCR 1267 and successor resolutions and UNSCR 1373 and related resolutions through its SFT Law.

300. The SFT Law provides a positive framework for Albanian authorities to meet the obligations under the UNSCRs. Articles 6, 10 and 15 of the law set forth systems:1) for orders of the Minister of Finance imposing administrative freezes of assets with provisions in cases of urgency for a freeze even before a decision by the Council of Ministers to list a person or entity; and 2) for reporting both by covered institutions and persons under Albania's AML/CFT law and the public at large (imposing obligations on any persons who know that funds are aimed at terrorist financing) to report information on, and suspicions of, terrorist financing.

301. The framework provided by law and practice, however, has areas that the authorities should consider anew in light of the more developed understanding since the 2006 report of the practical measures necessary to implement adequately UNSCR obligations.

Freezing Assets under UNSCR 1267 (c. III.1):

302. Article 6 of the SFT Law provides the Minister of Finance with the authority to freeze the assets of those persons designated by the Council of Ministers under Article 5, and also to prohibit persons from providing such designated persons with funds, financial services or assets.

303. The Council by Decision No. 718 of October 29, 2004 designated all persons and entities on the United Nations' 1267 list as of that date. Since that time, the Decision has been amended four times to reflect the UN's updated 1267 list (Decisions No. 671 (October 26, 2005), No. 767 (November 14, 2007), No. 442 (June 16, 2010) and No. 721 (September 1, 2010). The Decisions taken together:

- list named individuals/organizations;

- oblige all persons and entities with knowledge of a listee's funds, assets, financial transactions or other activities to inform the Minister of Finance immediately;

- instruct the Minister of Finance to take the measures to freeze, seize, and prohibit the provision of services of the listed persons/entities;

- provide that, until there is compliance with the Minister of Finance's freezing/seizing/prohibiting services measures, anyone holding or controlling the funds is prohibited from performing legal acts or services with respect to such assets.

304. The authorities indicated that the Council Decisions were sent by the GDPML to all entities subject to the AML/CFT Law and to the national property registry. In addition the lists are made available on the websites of the Council of Ministers, the GDPML and the National Publication Center. The UN Consolidated list, as continuously updated by the relevant UN Committee also appears on the GDPML website.

305. Freeze orders are issued by the Minister of Finance under Article 6 of the SFT Law when specific property is found. The orders name specific individuals and organizations. Article 18, para. 2 provides that such orders become effective immediately at the time of issuance. The orders typically provide for the immediate seizure of "all properties (accounts, investments and assets)" of the named person, prohibit the provision of financial services and funds to the person, and list financial accounts to be seized immediately. The order also provides for its execution by institutions that are prohibited from providing services and by various government entities.

306. Under Article 16 of the SFT Law, the Minister of Finance may, as noted above, issue a freeze order that is valid for 30 days, even before the Council of Ministers has issued its decision. Furthermore if a suspicion is reported pursuant to law AML/CFT, a freeze order for 72 hours can be issued by GDPML in order to allow for possible criminal proceeding. The freezing order issued by Minister of Finance applies to persons designated under the resolutions of UN Security Council, respective acts of the international organizations or other international agreements where the Republic of Albania is a party.

307. Since 2004, there have been sixteen such orders issued, all in the period 2004 to 2006. In some cases, a second order (included in this total) was issued to another financial institution or entity for additional assets after the public notification of the initial order caused the reporting of other assets of the same individual or related individuals or entities. Assets of 14 individuals and associations have been frozen. All assets remain frozen. The assets consist of 26 bank accounts (lek 340,331,974, approximately US$3.4 million) and 42 real estate assets valued in total at lek 1,222,819,184 or approximately US$12.2 million).

308. The official notifications of the five Council of Minister Decisions, as well as of the 16 freeze orders, were made by publication in the Official Journal. The Council of Minister Decisions are also sent to all persons and entities required to report STRs under the AML/CFT Law.

Freezing Assets under UNSCR 1373 (c. III.2):

309. Under Article 5 of the SFT Law, the Council of Ministers is empowered to list on its domestic list "persons designated by these resolutions" (referring to the relevant UNSCRs) and persons "designated through acts of other international organizations or other international agreements to which Albania is a party".

310. UNSCR 1373 however does not identify or designate persons or entities to which it applies. Rather it requires that States determine who is covered by the UNSCR 1373 mandate to freeze the funds and assets of "persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts," of associated entities and those under their direction and/or control.

311. Although the Albanian authorities indicated they would rely on the SFT Law for UNSCR 1373 implementation, since there are no specific designations by the UN Security Council under UNSCR 1373, nor designations by other international organizations or agreements, the SFT Law does not appear to provide sufficient legal authority to designate and freeze the assets of persons that domestic authorities might determine fall within the category of persons committing terrorist acts within the meaning of UNSCR 1373. This is because Article 5 provides authority as relevant to UNSCR 1373 only for the listing of persons "designated through acts of other international organizations or other international agreements to which Albania is a party." However, other international organizations do not designate such persons nor do international agreements do this. States make these designations.

312. Considering Article 15 of the SFT Law in relation to Article 5, however, it becomes clear that the intention of Article 5 was to provide a procedure for making designations to comply with Albania's obligations under UNSCR1373. Article 5 at para. 3 contemplates including additional persons other than UNSCR 1267-listed persons in a Council of Ministers Decision.

313. Article 15 provides a procedure for, and standard to be used ("reasonable grounds"), for the Council of Ministers in making such a determination.

314. Albanian authorities have not designated or listed persons pursuant to obligations under UNSCR 1373 nor has it sought to freeze assets of such persons. All freeze orders that have been authorized by the Council of Ministers and issued by the Minister of Finance relate to UNSCR 1267 persons/entities.

Freezing Actions Taken by Other Countries (c. III.3):

315. Albanian authorities advise they are prepared to consider freezing actions of other States at a State's request, but they have not been asked to do so. If the authorities received a foreign request, they would use the same procedures as used for a domestic designation as set forth in the SFT Law. Upon a conclusion that a reasonable basis existed, the Council of Ministers would issue a decision, and the Minister of Finance would then issue a freeze order. In the case of a freeze request relating to a person or entity on the UNSCR 1267 list, the Minister of Finance would issue an order specific to the assets located as the Council of Ministers Decision would already cover such person or entity.

316. To meet the "without delay" obligation, the Minister of Finance is invested with temporary freeze authority under Article 16 of the SFT Law. In addition, if the foreign freeze action involved a criminal matter, they would use the CPC and AML/CFT Law. These procedures will permit a prompt determination of whether there is a reasonable basis, and a subsequent freezing without delay.

317. Albanian authorities that are responsible for UNSCR implementation do not use as a reference point, nor apparently consult, the external terrorist list that applies in the European Community through EC Regulations or any EC internal lists, or other lists such as the US's OFAC list.

318. In addition, actions by other States designating persons subject to targeted sanctions under UNSCR 1373, that is names on foreign lists, such as EC lists or the US OFAC list, are apparently taken into account on a voluntary basis only by a few financial sector participants.

Extension of c. III.1-III.3 to Funds or Assets Controlled by Designated Persons (c. III.4):

319. Under Articles 3, 6, 15 paras. 4 - 6 and 16 of the SFT Law, and as noted in the previous MER, the obligations apply to: all kinds of property; assets derived or generated from funds; assets that are controlled; and assets whether wholly or jointly owned.

320. The law provides coverage for "control rights" but does not specify both direct and indirect control. Given the broad interpretation generally afforded terms under Albanian law, indirect control would likely be covered but there is no jurisprudence or practical experience.

Communication to the Financial Sector (c. III.5):

321. As previously noted, the five decisions of the Council of Ministers making designations and the 16 Minister of Finance orders were published in the Official Journal. In addition, Council of Ministers decisions are sent to all persons and entities required to report STRs under the AML/CFT Law. Authorities indicate that the Minister of Finance freezing orders were communicated quickly to the financial and other institutions where assets had been located as well as published in the Official Journal.

Guidance to Financial Institutions (c. III.6):

322. Albanian authorities have not issued any guidance to financial institutions or others in the private sector regarding obligations under the UNSCRs. Other than publication of the Council of Ministers Decisions on the Council of Ministers, GDPML and National Publication Center websites, and the availability of the UN Consolidated List on the GDPML website, there is no guidance provided whether general in nature or relating to actions required by a Ministerial Decision or specific freezing order. The authorities are aware of the FATF Best Practices paper regarding the freezing of terrorist assets but as yet have not adopted all of the practices suggested.

323. Although the authorities have communicated directly with the specific institution named in a freeze order at the time they must freeze, there is a question regarding the subsequent notification to other financial institutions of the freeze orders. The notice of freeze orders is through the official publication three or four weeks later in the Official Journal and on the website of the National Publications Center.

324. In addition, authorities in Albania have not undertaken steps to communicate with all institutions, the general public, DNFBPs, etc. regarding the general obligation to freeze as a sanction (not to make funds available) and to whose funds such an obligation applies (those whose names appear on the list issued by the Council of Ministers).

325. The MoF provided a notice dated August 8, 2010 to the registrar for NGOs that checks should be undertaken in the process of registering NGOs against the list and provided a copy of the most recent Council of Ministers Decision and list.

De-Listing Requests and Unfreezing Funds of De-Listed Persons (c. III.7):

326. The Council of Ministers makes the designations. Under Article 18 para. 1, the Council may also issue a decision to de-list persons at their request or at the request of the Minister of Finance. Under Article 23 para. 3 of the SFT Law, a de-listing is to occur only based upon a subsequent decision of the UN Security Council, or because continued listing is unnecessary to carry out UN Charter or treaty obligations. De-listings of persons on the 1267 list thus would take place only in consultation with UN Sanctions Committee.

327. Under Article 19 of the SFT Law, a designated person is provided 15 days from the time of his/her appearance on the domestic list to appeal the Council of Minister's designation. However, the right to challenge is limited to a claim regarding mistaken identification. These provisions while consistent with the obligation to de-list in the UNSCR 1267 context only using UN procedures, do not address the right of persons listed in the UNSCR 1373 context to seek a de-listing. This is because a challenge is possible only on the grounds of mistaken identity which falls under the next criteria C.III.8.

328. In the case of a request to for unfreezing, Article 22 provides that interested persons and third parties may challenge a freezing of funds in the Tirana District Court. There are ongoing challenges to several of the freezes with no final determinations at the time of the assessment.

329. There are no publicly-known procedures in place for seeking the de-listing provided for by Article 23 para. 3. Other than the SFT Law provision at Article 19 (appeal in the circumstance of mistaken identification) which affected persons may become aware of, there is no guidance or issued procedure. In the absence of any practical implementation of UNSCR 1373, procedures also have not been developed to notify persons listed under UNSCR 1373 of their designation and their right to seek a de-listing and unfreezing of their funds. Finally, there is no procedure or public practice regarding notification to persons listed pursuant to UNSCR 1267 whose funds or other assets have been frozen in Albania of the freezing of their funds and their right to challenge such freeze.

330. In practice, there have been no requests to Albanian authorities for de-listing or unfreezing.

Unfreezing Procedures of Funds of Persons Inadvertently Affected by Freezing Mechanism (c. III.8):

331. As noted, Article 19 of the SFT Law provides for an appeal to the District Court of Tirana by persons whose funds have been frozen to challenge the freeze on the basis that they are not the designated person. An affected person has 15 days after notified of the freeze to appeal to the court.

332. The procedures for unfreezing are not however publicized nor is information provided to the person affected at the time the freeze order is issued.

Access to frozen funds for expenses and other purposes (c. III.9):

333. Article 21 of the SFT Law provides for access to funds. Within 72 hours of a request from a designated person, the Minister of Finance may authorize that payments from the frozen funds be made for medical, family or personal needs of a designated person, for his debts/liabilities to the government, or for debts from executed performance or obligatory insurances. The designated person may also file an appeal with the Tirana District Court challenging any order of the Minister of Finance refusing a request for access.

334. Article 21 para. 3 provides that the Minister of Finance is to impose detailed rules and procedures for permitted expenses in line with the criteria set forth in the relevant UNSCRs. No regulation has yet been issued providing for such procedures. In addition, there is no notification or guidance document provided to the person whose funds have been frozen of the procedures for access to the funds.

Review of Freezing Decisions (c. III.10):

335. Albania has a procedure in place that permits a person or entity whose funds have been frozen or seized as a sanction pursuant to UNSCR implementation to challenge the measure. Article 22 of the SFT Law provides that interested persons, as well as third parties who are acting in good faith, may appeal to the District Court in Tirana any freezing/seizing decision within 30 days of receiving notice of the freeze or seizure.

Freezing, Seizing, and Confiscation in Other Circumstances (applying c. 3.1-3.4 and 3.6 in R.3, c. III.11):

336. Provisions to freeze seize and confiscate terrorist-related funds in a criminal law context, rather than as a sanction under UN resolutions, also exist in Albania. The provisions that apply generally to criminal offenses discussed in relation to Recommendation 3 for freezing and confiscation apply equally to terrorism-related criminal offences whether the investigation or prosecution is for terrorist activities or for their financing. Funds and assets are subject to preventive measures and confiscation in such cases to the extent that they are the proceeds, instrumentalities or intended instrumentalities all in accordance with the provisions of the CC and CPC. See discussion under the section related to SR II.In addition, the Organized Crime Law provides in certain circumstances for imposition of preventive measures as seizure and confiscation independently of a criminal process and before the formal opening of criminal investigation. The provisions of the law may be applied to the unexplained assets of persons as to whom there exists a reasonable suspicion based upon indicia of the commission of acts for terrorist purposes or participation in a terrorist organization.

Protection of Rights of Third Parties (c. III.12):

337. Article 22 of the SFT Law provides that interested persons and third parties, who are acting in good faith, may appeal to the District Court in Tirana any freezing/seizing decision within 30 days of

receiving notice of the freeze or seizure. Thus, third parties have access to review if they believe their rights have been infringed. Protections for third parties in criminal cases are set forth in the discussion of Recommendation 3 and SR II.

Enforcing the Obligations under SR III (c. III.13):

Monitoring Compliance

338. Pursuant to Articles 22 and 24 of Albania's AML/CFT Law, compliance with AML/CFT preventive measures and with the duty to report suspicions of FT is verified through inspections that GDPML carries out jointly with supervisory authorities or on its own. In the case of financial institutions and non-bank financial institutions, the Bank of Albania by its Decision 44 at Article 6 para.7 requires that such institutions consult the updated list of persons approved by the Council of Ministers Decision prior to establishing a business relationship or carrying out transactions.

339. There is, however, no specific legal mandate in the AML/CFT Law for supervisors designated therein to review the compliance of financial institutions or other entities covered by the law with the obligations to review the list of listed persons and entities issued by the Council of Ministers and to freeze funds/assets.

340. In addition to the lack of legal authority for overseeing certain aspects of UNSCR implementation, there are no specific materials in supervisory manuals, or checklists for compliance, or instructions for financial institutions or others regarding their obligations to with respect to locating assets of persons on the list or, should they receive a freezing order from the Ministry of Finance, on obligations with respect to the order.

341. In supervisory oversight, GDPML apparently does not sufficiently monitor whether participants use screening mechanisms to check against the domestic list, UN lists, the other relevant lists (e.g. EU external lists or internal lists).

342. Understanding of FT requirements among FIs was varied. Banks demonstrated the strongest understanding of the requirements, as the list is publicized by both the BoA and the GDPML. Banks which are part of international groups had a greater understanding of the screening requirement, and group policies sometimes referred to OFAC requirements and the EU list. These were, however, the result of group policies rather than adherence to requirements of Albanian law. Some non-bank financial institutions and services had limited knowledge of the list, and there was often some confusion between this list and the one produced by the FIU relating to PEPs and that relating to countries that do not adequately apply the FATF standards.

343. There is a limited understanding of terrorist financing requirements within the DNFBP sectors. Entities subject to an inspection by the GDPML were aware of the terrorist financing list. Entities aware of the list would only consult it if individuals were deemed suspicious or corresponded to a particular profile. In theoretical instances where a match with the list was made, entities would stop the transaction and report to the GDPML. No entity was aware of the requirement to freeze the assets. Entities that were not inspected by the GDPML were unaware of the list or any related requirements.

344. As noted above, on August 8, 2010, the MoF by notice dated advised the registrar for NGOs that in registering NGOs there should be checks against the list.

Sanctions

345. Article 24 para. 1 provides that any failure by an entity listed in the SFT Act or AML/CFT act to abide by the provisions of the SFT Act constitutes an administrative violation. Thus, failure to comply with an order issued by the Minister of Finance to freeze funds under Article 6; the failure to report suspicions under Article 10; the disclosure of information under Article 12; and the taking of any action or undertaking a transaction with frozen funds under Article 15 para. 7 are all subject to an administrative fine of lek 50,000 to 10 million and indemnification for the amount of the asset involved.

346. In the case of violations of a freeze order issued by the Minister of Finance or a Council of Ministers Decision, there would be criminal liability under Article 230/ç of the CC which prohibits the giving of funds and other wealth for the performance of financial services as well as of other transactions with identified persons towards whom measures of terrorism financing are applied. The sanction is four to ten years of imprisonment and a fine from lek 400,000 to 5 million.

Statistics (R.32):

347. As noted above, 16 freezing orders have been issued by the Minister of Finance since 2004 when the SFT Law came into effect. These relate to 14 different individuals and associations. Financial institutions and others have frozen or seized approximately lek 1,563,151,158 (US$15.8 million) pursuant to administrative freeze orders issued under the law. All assets frozen under the orders remain frozen.

348. No administrative cases have been instituted against entities for failure to comply with the provisions of the SFT Law.

349. GDPML monitors whether STR reports received relate to FT, and within the larger FT category, whether they relate to a Council of Ministers' listed person/ entity. There have, however, not been any STRs relating to persons/entities on the Council of Ministers' list in the period since the last assessment report.

Additional Element (SR III)—Implementation of Measures in Best Practices Paper for SR III (c. III.14):

350. Albania's legislative framework and procedures reflect a number of the practices set forth in the Best Practices Paper. For instance, there is a competent authority to designate persons or entities and procedures that permit a freeze to occur without delay and without prior notice. Measures are not conditional upon the existence of criminal proceedings. There is close cooperation among law enforcement and intelligence authorities who coordinate among themselves and as required with the private sector. As noted above, however, not all best practices particularly relating to guidance have been adopted.

Additional Element (SR III)—Implementation of Procedures to Access Frozen Funds in UNSCR 1373 matters (c. III.15):

351. The SFT Law provides for access to frozen funds but, as noted, the Minister of Finance has not issued rules and procedures for permitted expenses in line with the relevant UNSCR and it is not clear what would occur in the case of a request for access by a person designated based upon UNSCR 1373.

Effectiveness:

352. To comply with its obligations under UNSCRs 1267 and 1373 and successor resolutions, Albania relies on an administrative system that permits it to act quickly to freeze funds as noted above. Using this framework, it has cooperated extensively with foreign partners and successfully frozen substantial assets. The legal framework provides for the combination of a Decision of the Council of Ministers that prohibits anyone from allowing or performing legal acts or services with respect to assets of a person it has listed (all persons and entities on the UNSCR 1267 list) and a specific freezing order issued by the Minister of Finance for the located assets of specified persons/entities in conformity with UNSCR 1267. The procedures have been used in a number of instances, and as noted funds are frozen. However, one important issue is that the legal basis to act under the SFT Law in a UNSCR 1373 matter appears questionable. Moreover, this is untested as the authorities have never used their framework to designate administratively individuals or entities other than those that appear on the UN's 1267 list.

353. Additionally, a number of the problems noted in the previous assessment have not yet been addressed adequately. There is no clarity regarding an authority responsible to receive foreign requests. The authorities have not yet adopted secondary provisions or mechanisms to address potential requests by affected persons for subsistence or other expenditures. There continues to be a lack of guidance to the private sector and inadequate review of private sector practices for complying with UNSCR obligations. Guidance to financial institutions and others on how to deal with freezes and outreach efforts to ensure that such institutions and others are aware of UNSCR obligations need improvement.

354. A number of new issues were also identified in this review. Among the most important are:

- As noted above, the provision in the SFT Law that authorities rely on as the legal basis for a Council of Ministers designation pursuant to UNSCR 1373 is questionable.
- The authorities do not update the domestic list on a regular basis. It has only been updated four times since it was originally promulgated in 2004.
- Authorities do not actively consider whether there are persons/entities that should be designated domestically under UNSCR 1373 and make designations if appropriate.
- Affected persons are not provided adequate information on how to seek a de-listings or unfreezing of funds.

2.4.2. Recommendations and Comments:

355. The authorities should:

- Revise the SFT Law to provide a clear legal basis for the Council of Ministers to make a designation pursuant to UNSCR 1373.
- Enact a provision that gives persons listed in the UNSCR 1373 context a right to challenge not only a freeze but their listing (on grounds in addition to mistaken identity).
- Adopt secondary provisions or mechanisms to address potential requests by affected persons for subsistence or other expenditures.
- Provide a legal mandate for the review of the compliance by entities subject to the AML/CFT Law with their obligations regarding the Council of Ministers list and regarding freezing of funds.
- Continuously update the Council of Minister's domestic list or provide a legal mechanism for automatic incorporation of the UNSCR 1267 list.
- Consider on a regular basis whether there are persons/entities that should be designated domestically under UNSCR 1373 and make such designations.
- Provide clear information to other States regarding the authority within Albania responsible (e.g., MoFA, FIU) to receive foreign requests under UNSCR 1373.
- Adopt practices such that freezing orders issued by the Ministry of Finance are available more quickly to other institutions and entities that may hold assets of the same person/entity.
- Provide guidance to the private sector and the public at large about their obligations.
- Undertake more vigorous supervisory review of institutions for compliance with UNSCR obligations and include material in supervisory inspection manual/checklists.
- Develop guidance and make it available publically on how to seek de-listings or unfreezing of funds for instance through appropriate websites.

356. The authorities should also:

- Consult and use in an appropriate manner as a reference point the EU lists of designated terrorists as well as other lists developed by neighboring countries.
- Consider wether it is necessary to make it clear that the law in covering "control rights" extends to both direct and indirect control.

2.4.3. Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	**PC**	• SFT Law does not provide clear legal basis for Council of Ministers designation pursuant to UNSCR 1373. • Secondary provisions or mechanisms not yet adopted to address potential requests by affected persons for subsistence or other expenditures. • Absence of legal mandate for supervision of the compliance of those covered by the AML/CFT Law with the obligations arising from Council of Minister Decisions and Ministry of Finance freeze orders. • Responsibility for reviewing the compliance with resolution obligations by supervised entities is not clear. • Persons listed in the UNSCR 1373 context do not have a right to challenge their listing (on grounds in addition to mistaken identity) only a freeze. • No publically-available information on how to seek de-listings or unfreezing of funds. Effectiveness: • Council of Minister's domestic list not updated frequently. • No clarity for other States regarding a responsible Albanian authority to receive foreign requests under UNSCRs. • Freezing orders not available immediately to other institutions and entities that may hold assets of the same person/entity. • No consideration on a regular basis of whether there are persons/entities that should be designated domestically under UNSCR 1373 or designations made. • Lack of adequate guidance to the private sector and the public at large about their obligations. • Inadequate supervisory review of institutions for compliance.

Authorities

2.5. The Financial Intelligence Unit and its Functions (R.26 - rated PC in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

357. The 2006 MER noted a number of shortcoming related to the FIU function. The autonomy and independence of the GDPML was deemed to be insufficient and needed to be strengthened through fixed terms for the Director and statutory independence regarding instructions. Protection of information held by the FIU needed to be strengthened with clear rules being required to guarantee confidentiality and regulate the sharing/use of information.The role of the GDPML needed to be clarified as an analytical, administrative body rather than a body in charge of investigations. Resources were deemed insufficient to meet its analytical and supervisory mandate. The GDPML was not publishing reports on its activities. Access to its information holdings needed to be improved through the implementation of an IT system. A training program needed to be developed taking into account the newly established supervision function. Statistics maintenance also needed to be enhanced.

2.5.1. Description and Analysis

Legal Framework:

- Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917 dated May 19, 2008), herein after "AML/CFT Law".
- The Criminal Procedures Code (Law no. 9749, dated April 6, 2007), hereinafter CPC.
- Law on State Police (Law no. 9749, dated June 4, 2007).
- Law on the Civil Servant Status (Law no. 8549, dated November 11, 1999).
- Law on Information Classified "State Secret" (Law no. 8457, dated November 2, 1999).
- Reporting Methods and Procedures of Nonfinancial Professions (Instruction #11, dated February 5, 2009).
- The Reporting Methods and Procedures of the Obliged Entities (Instruction #12, dated April 5, 2009).

Establishment of FIU as National Center (c. 26.1):

358. Article 21 of the AML/CFT Law foresees the General Directorate for the Prevention of Money Laundering (GDPML) as Albania's Financial Intelligence Unit and as "the responsible national centre for collection, analysis and dissemination to law enforcement agencies of information and the potential money laundering and terrorism financing activities". The GDPML is an administrative FIU and is part of the Ministry of Finance.

359. The responsibilities of the FIU outlined in Article 22 of the AML/CFT Law which entered into force on September 9, 2008 have been expanded from the ones prescribed by Article 8 of the

Law for the Prevention of Money Laundering which was in force and served as the legislative basis for FIU activities during the third round assessment. The most notable change is the inclusion of the financing of terrorism in the FIU's mandate. The GDPML also has an expanded mandate to: inform responsible authorities of the conclusion of criminal proceedings; issue a list of countries to limit the transactions or business relationship of entities with these countries; provide feedback on reports it receives from reporting entities; notify supervising authorities when observing that an entity has failed to comply with its AML/CFT obligations; and publish annual reports. Furthermore, many existing provisions have been defined more broadly.

360. With regard to the FIU's core responsibilities envisaged by R26, the receipt and analysis functions are outlined in Article 22 (a): "collect, manage and analyze reports and information from other entities and institutions in accordance with the provisions of this Law".

361. With regard to dissemination, rather than having an explicit requirement to disseminate disclosures to law enforcement the AML/CFT Law outlines a duty to "exchange information" with "the Ministry of Interior, State Intelligence Service and other responsible law enforcement authorities regarding individuals or legal entities, if there is ground to suspect that this entity has committed ML or FT". The wording of "exchanging information" is less specific than the standard to "disseminate disclosures of STRs and other relevant information concerning ML or FT activities". Most importantly, the function of "exchanging information" is broader than the "dissemination" mentioned by Recommendation 26 as one of the core function of the FIU, in the sense in which the dissemination function has been usually interpreted by FATF, which implies a notification of the STRs or other relevant information related to ML/FT to the agency that is competent to initiate an "investigation".

362. Furthermore the AML/CFT law confuses something that is a responsibility/ entitlement, such as the "exchange of information" with domestic authorities with what should be a legal obligation to disseminate disclosures of STRs to law enforcement authorities competent for the initiation of a criminal investigation (or some other action).

363. It should be noted that the concept of 'exchange of information' as outlined in the AML/CFT does not provide the Ministry of Interior, State Intelligence Service and other responsible law enforcement authorities with direct access to the GDPML's information. Rather it appears to imply that relevant authorities involved should pro-actively share information although the scope and nature of the information is not defined. With regard to the recipient of the disseminated information it is also not clear who would be the competent authority responsible for receiving the information for the purpose of initiating a criminal investigation for ML (in the case of FT, all related disclosures are referred to the Serious Crime Prosecutor's Office (SCPO) for investigation.

364. In practice the GDPML disseminates disclosures on ML/FT to both the Albanian State Police (ASP) and to the General Prosecutor's Office (GPO). The GDPML indicated that when the case includes a previous conviction or when the intelligence gathered can support knowledge/close awareness rather than suspicion of money laundering the information is sent to the GPO. Cases that require additional investigation to achieve knowledge of ML or TF and instances where the predicate offence is unknown are referred to a centralized section of the ASP. The GPO has indicated that intelligence provided by the GPDML cannot be used as evidence to justify the registrations of a case. This results in disclosures provided to the GPO being rerouted to the ASP.

365. From the Law on Police (LP) and the Criminal Procedure Code (CPC) it could be inferred that it is the ASP that should be the main recipient of the disseminated information: on the one hand the LP states that the Police has the responsibility "to prevent, detect and investigate in compliance with Criminal Code and Criminal Procedure Code, the criminal offences and their perpetrators" and that "every member of the ASP possesses the attributes of judicial police" (Article 4 (1) of the LP) and, on the other, the CPC states that "on receiving notice of a criminal offence the judicial police, without delay, report in writing to the prosecutor, the essential elements of the fact (act) and other elements gathered until that point in time".

366. Although the assessment team recognizes that the GDPML can disseminate information through the authority to exchange information, it believes that the current legislative provision is unclear and confusing. This issue should be addressed by the AML/CFT law, which should specifically provide for a "dissemination" function for the FIU, in addition to the existing possibility to exchange ML/FT-related information. The GDPML should also be sensitive to the roles and responsibilities attributed to the ASP and GPO. The previous practice of sending disclosures exclusively to the GPO was inefficient given that the LP and the CPC provides for the responsibility of the ASP to conduct ML investigations, including in the capacity of judicial police under the direction of the GPO. A solution that authorities could consider is to disseminate disclosures related to ML to the ASP, with copy to the GPO. In this way, the GPO could monitor more closely the ML related investigations as it would deem appropriate, rather than having to take action— that ultimately is to send the disclosure related to ML/FT received by the GDPML back to the ASP—for each and every disclosure, while, at the same time, being informed of all the outgoing flow of information from the GDPML to the ASP. As in the current practice, the designation of the Serious Crime General Prosecutor's Office as the recipient for FT related disseminations, seems to be appropriate.

367. With regard to the types of information that the GDPML receives from entities subject to the reporting requirement, it should be noted that the requirement to report suspicions related to ML/FT is outlined in two requirements under Article 12. The first obligation requires obliged entities to "immediately present to the responsible authority a report" when "the entities suspect that the property is the proceeds of a criminal offence or is intended to be used for financing of terrorism". The second obligation states "when the entity, which is asked by the client to carry out a transaction, suspects that the transaction may be related to money laundering or terrorism financing, it should immediately report the case to the responsible authority and ask for instructions as to whether it should execute the transaction or not. The responsible authority shall be obliged to provide a response within 48 hours". The GDPML has indicated that almost all suspicions are reported under the first obligation with very few reports having been received under the second obligation where obliged entities ask for instructions from the GDPML whether the transaction should be executed.

368. The GDPML also receives cash transactions reports from obliged entities over lek 1,500,000 (US$15,000) and non-cash transactions over lek 6,000,000 (US$60,000) pursuant to Article 12 and 22 (a) of the AML/CFT Law. Non-financial businesses such as construction companies, motor vehicles, and companies involved in transportation and delivery as well as travel agencies have been designated obliged entities and are required to report prescribed and suspicious transactions. The AML/CFT Law also designates the Agency for the legalization and integration of informal

construction assets[15] as an obliged entity who must comply with all AML/CFT requirements including reporting.

369. In addition to receiving reports from obliged entities, the GDPML also receives cross-border reports from the Customs Directorate related to cash amounts, negotiable instruments, precious metals and stones, valuables or antique objects equal or greater than lek 1,000,000 (US$10,000) pursuant to Article 17 of the AML/CFT Law. Article 19 of the Law requires the Central Immovable Properties Registration Office to report transfer of property rights for amounts equal to or more than lek 6,000,000 (US$60,000) to the GDPML.

370. In addition, designated state authorities such as the Customs Directorate, the Tax Directorate, and the Central Immovable Properties Registration Office are required to report suspicions of ML/FT to the authorities. They are also required to apply prevention measures detailed in Article 11 of the AML/CFT Law. With regard to reports received from other state institutions (including customs, tax and property registration), they are analyzed and, following the analysis carried out, the findings are sent in a timely manner to the ASP. Please refer to the section on effectiveness for a more detailed explanation and analysis of the characteristics of the receiving and analysis process and the dissemination of disclosures to domestic entities.

Guidelines to Financial Institutions on Reporting STR (c. 26.2):

371. Secondary legislation has been enacted by the Ministry of Finance, in conjunction with GDPML, to direct reporting entities with respect to requirements related to reporting and the prevention of ML and FT. Instruction no. 11 (February 5, 2009) and Instruction no. 12 (April 5, 2009) prescribe the manner in which reports should be submitted and provide guidance on how to report suspicious activity transactions, cash transaction reports, value transaction reports and self auditing reports including the specifications of the reporting forms and the procedures that should be followed when reporting.

372. The SAR contains information on the person conducting the transaction and details of the transaction,it also requires a description of the suspicious activity and information about the reporting entity. The cash transaction report (CTR) and value transaction report (VTR) require information on the person performing the transaction, the person on whose behalf the transaction is being performed, beneficiary persons, transaction details and information about the reporting entity. The guidance for all reports provides a field-by-field explanation of what information is required.

373. The reporting form for SAR does not collect information on the person on whose behalf the transaction is being performed, information on the beneficiary or information on the disposition of the transaction (ie. where the money went).

Access to Information on Timely Basis by FIU (c. 26.3):

[15] Government agency responsible for legitimizing informal construction assets and integrating them in the formal economy.

374. Article 22 (b) of the AML/CFT Law empowers the FIU to have access to databases and any information managed by state institutions as well as in any other public registry. The FIU can access a number of databases directly through their IT interface. The following databases are accessed directly by the FIU:

Databases Accessed Directly	**Mechanism by which information is downloaded into database**
Old passport database	CD-ROM
Tax information related to legal companies	Through VPN connection
Importation data from Customs Directorate related to import companies	CD-ROM
Driving license registry	CD-ROM
Vehicle registration	CD-ROM
Domestic PEPs list provided by the High Inspectorate for the Declaration and Auditing of Assets (HIDAA)	CD-ROM
Civil Registry	CD-ROM
Agency for the legalization and integration of informal construction assets	CD-ROM
Domestic Politically Exposed Persons List	Through e-mail
Cross-Border Declarations	CD-ROM

375. The above databases are available through the GDPML's case management system and are updated periodically with the exception of cross-border declarations that are updated on a weekly basis. Relevant information contained in the databases appears automatically when conducting searches on individuals or legal entities. The GDPML can also request information from any state body pursuant to Article 22 (b) of the AML/CFT Law. This includes information from the Tax and Customs Directorates where there are no restrictions on the information that can be provided. In instances where information is requested from other state authorities a response is provided in writing within 10 days. The GDPML does however have the ability to obtain information within 24 hours in urgent cases through a telephone request that is followed by a formal written request.

376. Information available to the GDPML is extensive and is available in a timely basis. The integration of databases directly in the case management system and the capacity to query any state authority provides comprehensive access to administrative and law enforcement information. Outreach to certain border crossing has resulted in improving the quality of cross-border declarations in certain regions. However, the data received from certain border crossings still requires improvement. The GDPML has indicated that they are currently negotiating an MOU with the ASP to gain direct access to a database that contains information on current passports, on-going

investigations and customs information. The direct access to this information will address information gathering inefficiencies that currently exist.

Additional Information from Reporting Parties (c. 26.4):

377. Pursuant to Article 22 (c) the GDPML can "request, pursuant to its legal obligations, financial information from the entities on performed transactions with the purpose of ML and TF prevention". The term 'entities' in the legislation refers to both persons and legal entities. The drafting of the provision does not seem to provide the FIU with the authority to request information that is not of a financial nature, as well as non-transaction related information. This specific language seems also to limit the legal authority of the GDPML to request additional information from entities related to financial information and for completed transactions. Despite this absence of legal authority the GDPML interprets the meaning of this clause more broadly and has requested various types of information including the account information which was not related to a particular transaction and information not related to the submission of a SAR. The authority to request this information has not been challenged by obliged entities, although some of the reporting entities with which the mission met, acknowledged these technical limitations.

Dissemination of Information (c. 26.5):

378. As noted earlier, there is not a specific reference in the AML/CFT law to the responsibility of the FIU to disseminate "disclosures of STRs and other relevant information concerning suspected ML/FT activities". Instead there is a broader reference to the power of the GDPML to "exchange information with the Ministry of Interior, State Intelligence Service and other responsible law enforcement authorities if there are grounds to suspect that an entity has committed money laundering or terrorist financing". The provision is also silent with respect to suspicions related to attempts of ML and FT.

379. With regard to dissemination for investigation see discussion under criterion 26.1 for the legal analysis. The GDPML provides information to the State Intelligence Service (SIS) in cases related to FT. The GDPML also provides information to High Inspectorate for the Declaration and Auditing of Assets (HIDAA), to which the GPDML reports financial transaction and other information related to domestic PEPs and other public servants that are required to declare assets to HIDAA. The information exchanged between the GDPML and HIDAA is regulated through an MOU signed in March 2009. However, the authority to exchange information is unclear, considering that this agency is not mentioned by Article 22 nor is it considered a "law enforcement agency" and the Law does not provide a mechanism for the GDPML to sign MOUs with domestic agencies.

380. Some prioritization of cases is undertaken. Financing of terrorism cases are designated the highest priority. These cases are carried out through prompt communication with the relevant contact points in SIS, ASP or GPO in order to guarantee swift action. With regard to money laundering, cases related to a transaction that is about to be carried out receive priority attention.

381. The following criteria are followed in order to reach a decision to disseminate:

- Reliable/credible information about commission of predicated offence (ML/FT);

- Information by law enforcement agencies about potential involvement in criminal activity;
- Persons linked (family member, close associates) to those individuals about whom GDPML has already disseminated information;
- ML/FT typologies and indicators;
- Requests for information from partner FIUs about Albanian citizens;
- Unusual series of patterns/ transactions reported by various obliged entities.

382. Disclosures are considered timely and of good quality by the ASP and GPO with the new threshold reporting providing a more comprehensive picture of the financial activity. GDPML liaison officers within the Joint Investigative Unit (JIU) assist in obtaining information on active cases allowing the GDPML to be responsive to the investigation priorities of the GPO.

383. Strong collaboration has been established between the GPDML and the SIS. The SIS receives information on both the suspicions of ML and FT.The GDPML has also provided intelligence to the SIS with respect to individuals and NPOs with suspected links to terrorism financing. The SIS considers the financial intelligence provided by the GDPML to be timely and of high quality.

384. The relationship between the GDPML and the Investigation Branch of the Tax Directorate is very strong. They regularly exchange information with the GDPML providing financial transaction and other related information related to suspicions of tax evasion. The Tax Directorate had indicated that the intelligence provided is considered of high quality and timely.

385. HIDAA is required to provide the GDPML a complete and updated list of domestically politically exposed persons every six months pursuant to Article 28 (2) of the AML/CFT Law. The list provided is generally the basis for ML disclosures provided to HIDAA. The organization has indicated that the information provided by the GDPML is of good quality. They have also indicated that they would benefit from additional pro-active information with respect to foreign holdings of domestic PEPs.

Operational Independence (c. 26.6):

386. Article 21 (a) stipulates that the GDPML is an institution subordinated to the Minister of Finance. The General Director reports directly to the Minister of Finance. The General Director approves disseminations of financial intelligence and has final signing authority on the Annual Report.

387. Article 21 (4) also stipulates that the organization and functioning of the Directorate shall be regulated by a Council of Minister's (CoM) Decision. Council of Minister's Decision #108 does outline the organization and functioning of the GDPML however the decision is based on the the previous Prevention of Money Laundering Law and does not reflect the new responsibilities outlined in the 2008 AML/CFT Law. In addition to defining the (old) functions of the FIU the Decision also

outlines a salary scale for employees and management of the GDPML. The General Director of the GDPML and the Minister of Finance are charged with the implementation of the decision.

388. An analysis manual developed in July 2010 outlines the workflow for the development of tactical cases. It also defines the roles and responsibilities of the various units involved in the analytical process. The document provides good overview of functions of the FIU; however a clearer detailing of the analytical process would help clarify the key decision points related to the dissemination of financial intelligence.

389. The hiring of the General Director is governed by the Law on the Civil Servant Status. As with all positions in the civil service the position of General Director of the GDPML must be advertized publically. Candidates must complete a written test with the three candidates with the highest scores being invited to an interview. The Minister of Finance makes the final determination with respect to the hiring of the General Director. The Law on Civil Servants governs the dismissal of the General Director. The General Director is not appointed for a fixed term with dismissal being determined by the Minister of Finance.

390. Staffing of the GDPML is done independently with the GDPML having its own human resources department. Staff is hired pursuant to the same process as defined above for the General Director pursuant to the Law on Civil Service. Resources within the GDPML cannot be reassigned to other directorates within the Ministry of Finance. The Minister makes the final determination whether the additional resources are approved. A request for four additional resources was made in 2010 and approved.

391. The budget for the GDPML is allocated by the Ministry of Finance. The GDPML has an internal budget group responsible for budgetary planning who determines the allocation of resources attributed by the Ministry of Finance. The budget group details budgetary allocation for the three upcoming years and submits the budget allocation to the Ministry of Finance who endorses it. Requests for additional resources are forwarded to the General Directorate of Budgets within the Ministry of Finance who evaluate the request and make a recommendation to the Minister of Finance.

392. Anti-corruption measures within GDPML are carried out through periodic declarations of assets to HIDAA by the General Director as well as both Deputy Directors as well as through adherence to the avoidance of conflicts of interest and external auditing.

393. The assessment team believes that the operational independence does not appear to be affected by relations with the Minister of Finance. Information holdings are held separately from the Ministry of Finance and GDPML employees cannot be reassigned to other Ministry of Finance function. Although the Minister of Finance is responsible for the dismissal of the General Director the Law of Public Service governs the hiring, conduct and dismissal of the General Director. However the authorities should consider explicitly entrenching the autonomy of the FIU in legislation to confirm its full independence. Fixed terms should be established for the General Director to ensure stability and consistency in governance and minimize the potential for undue influence in the appointment of the position.

Protection of Information Held by FIU (c. 26.7):

394. The information received from reporting entities is stored in the FIU's database which is protected through a separate restricted area, video surveillance and internal policies governing staff conduct. Only FIU employees have access to the database with no other government agency (including law enforcement) having access to the information holdings, although back-up data is located at a centralized government site. The FIU's databases are held on a separate server from that of the Ministry of Finance and only FIU employees are responsible for its maintenance. Employees' access to the database containing reporting data from obliged entities is on a need-to-know basis. Managers have the ability to view their employees' activities electronically and employees' searches in the database are monitored periodically. The protection of information is governed by Law on Information Classified "State Secret".

395. The FIU's physical premises as well as its IT systems are certified by the Classified Information Security Directorate. Archives are held in a high security area with video surveillance and controlled access limited to employees who require access. Analytical information is secured in locked cabinets and enhanced protocols are in place to deal with information classified as Secret. The premises are subject to 24 hour on-site security.

396. Disseminations by the GPDML do not all appear to be in line with the authority to exchange information under Article 22 (g) of the AML/CFT Law. As noted earlier, the GPDML has exchanged information with HIDAA even though it is not a law enforcement agency as required by the law.

Publication of Annual Reports (c. 26.8):

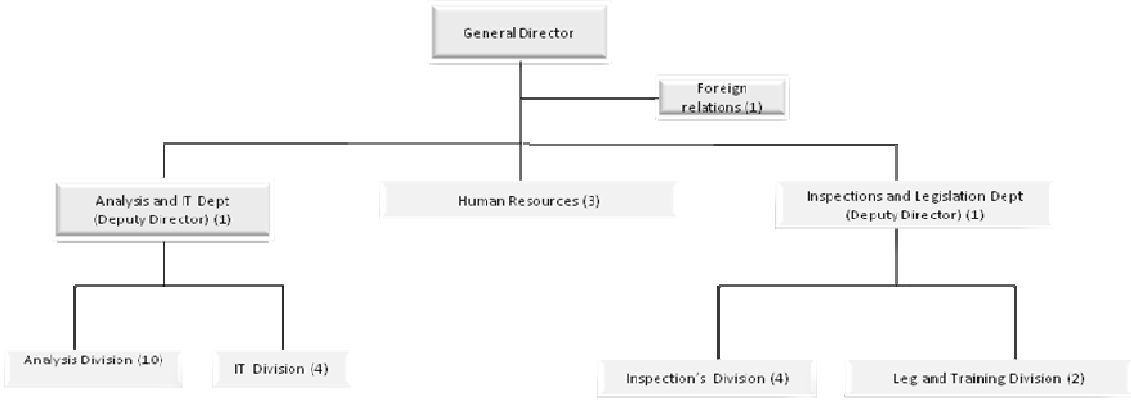
397. Article 22 (o) requires the FIU to release an annual report that provides detailed statistics on the origin of the received reports, and the results of the cases referred to the law enforcement and the prosecution office. The document also contains an overview of the GDMLP's awareness raising and examination activities as well as feedback for some reporting entity sectors. The information contains information of the GDPML's activities as well as analysis on the types of SARs received. There is however no specific analysis on ML/FT trends. The report is posted on the GDPML website and is published in Albanian and English. A separate typologies document is produced annually.

Membership of Egmont Group (c. 26.9) Egmont Principles of Exchange of Information Among FIUs (c. 26.10):

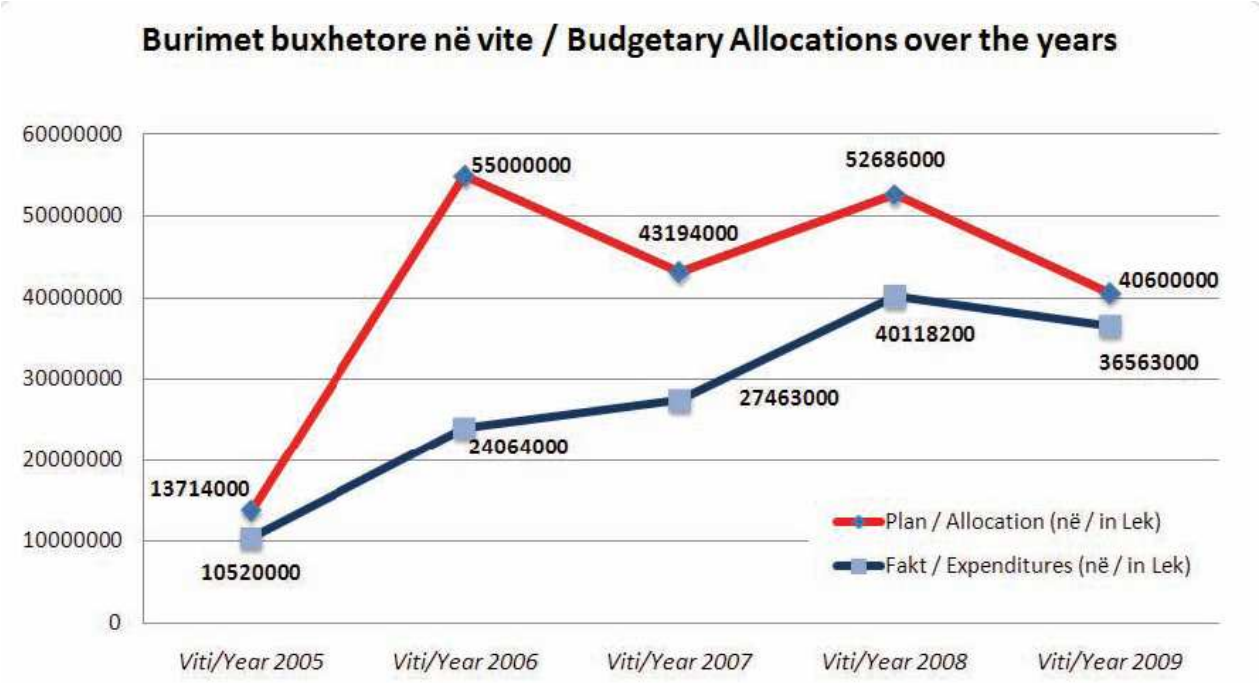
398. The General Directorate of Money Laundering Prevention has been a member of the Egmont Group for since July of 2003. The GDPML appears to effectively collaborate with other Egmont members. In 2010 the GDPML has received 42 requests from foreign FIU and responded to 25. The response time varies from one day to three months with the majority of requests being responded to within three weeks. In addition to disclosing information contained in its information holdings the GDPML also consults with law enforcement and other domestic authorities in all requests from foreign FIUs it receives. The GDPML provides updates to its cases where applicable. The GDPML has made a total of 95 queries (including one that was sent to all Egmont member FIUs) and received 172 responses. The GDPML has disseminated 6 spontaneous disclosures from January to October 2010. Recommendation 40 provides further details on international cooperation.

Adequacy of Resources—FIU (R. 30):

399. The GDPML is comprised of three departments: Analysis and IT; Inspection and Legislation and Human Resources. The General Director is also supported by a Foreign Relations Specialist. It has a total of 27 employees. This is an increase of five additional staff from 2008 staffing levels. Following the increase in the number of employees the GDPML has doubled the number of disseminations from 2008 to 2009 as well as maintained the number of on-site examinations conducted.



400. The GDMLP's budget allocation has been relatively consistent over the past five years. Some budget reductions were applied in 2007 and 2009, however as demonstrated by the chart below the allocated funds have never been fully utilized.



401. The Human Resources Department oversees evaluation procedures regarding employees' performance including the maintaining evidence of documentary action. Every employee undergoes a vetting process and background check through the National Agency for Information Security.

402. Employees have undertaken training coordinated through a number of organizations: Training and Assistance Information (TAIEX); International Criminal Investigative Training Assistance program (ICITAP), Office for Prosecutorial Development Assistance and Training (OPDAT), Project Against Corruption in Albania (PACA) and the United Nations Office on Drugs and Crime (UNODC). The GDPML was also the leading institution in a twinning project with the German Federal Criminal Office which included a training component. GDPML employees participated in study visits as well as targeted training sessions.

403. Resources for the GDPML's core analytical mandate appear to be sufficient. Additional resources have been added in 2010 which combined with training provided by foreign counterparts appears to have contributed to a significant increase in the output of the Analysis Division.The supervisory function has also demonstrated great efficiency in its activities conducting a significant number of examinations given its limited resources. It is however believed that additional resources would help strengthen the Inspection Division's entity assistance function. Recommendation 23 and 24 provides further analysis on the GDPML's supervisory function.

Statistics (R.32):

404. The following table outlines the receipt of SARs over the last five year. The significant increase in reports in 2007 is explained by the authorities as being related to defensive reporting. It should be noted that these statistics include reporting from state authorities. In 2010 these reports represented 18 % of SARs reported.

I. Year	II. 2006	III. 2007	IV. 2008	V. 2009	VI. 2010
No. of SARs	15	748	152	186	211

405. In 2010, 7 reports were reported on TF. None of the reports submitted were related to matches on the TF list. Analysis of these SARs determined that none met the threshold of suspicion required to disseminate to law enforcement with respect to terrorist financing. One of these TF related SARs was eventually disclosed as part of a case related to the suspicion of ML.

REPORTS RECEIVED BY GDPML**

Reporting Entities	**2005**		**2006**		**2007**		**2008**		**2009**		**2010**	
	CTR VTR*	SAR	CTR VTR*	SAR	CTR VTR*	SAR	CTR VTR*	SAR	CTR VTR*	SAR	CTR VTR*	SAR
Banks	26,746	6	46,507	14	60,650	748	231,531	152	972,852	122	1,602,611	163
Non Bank FI					79		213		890		1,234	3
Customs Directorate		33	114		336	38	285			11	520	15
Notaries					89		6059		11.277	4	17,588	6
Central Office of Registration of Real Estate		13			64						1004	
Bureaux de change					75		179		219			
Car Dealers									190		294	

Games of Chance							38		19			
Other		55	6	1	49		8			2	1,731	2
Tax Directorate										2		6
Foreign FIU										43		10
HIDAA										2		6
TOTAL	**26,746**	**107**	**46,627**	**15**	**61,342**	**748**	**238,813**	**152**	**985.447**	**186**	**1,624,983**	**211**

*Includes both CTR and Value Transaction Reports over ~EUR 45.000. **- As of 25.11.2010

406. The statistics provided by the authorities on the number of SARs reported are not consistent as demonstrated in the previous tables.

407. It should be noted that public institutions such as the General Directorate for Tax and Customs are required to report information related to suspicions of ML and TF to the FIU. A breakdown of the SAR reporting from January to October 2010 demonstrates a concentration of reporting from the banking sector with minimal reporting from MSBs and notaries. All other reporting sectors did not submit any reports. It should be noted that reporting statistics reflect reporting from obliged entities as well as state authorities and foreign FIUs. For 2010, 18% of SARs were received by either state authorities or foreign FIUs.

408. The authorities believe that reporting levels and the quality of reports are low. The assessment team concurs that the level of reporting is not commensurate with the risk of ML and TF. Please refer to Recommendation 13 in Section 3 and 4 for a more detailed analysis of reporting levels.

409. The number of dissemination disclosed has increased substantially since 2005. Staff training and additional GDPML staff, the expansion of reporting requirements and the implementation of a new IT system has resulted in disseminations doubling from 2008 to 2009. The table below provides an annual breakdown of disseminations by recipient as well as the number of investigations registered by the GPO. No statistics were provided on the number of disseminations made to HIDAA and the GDT.

Number of Annual Disseminations Disclosed to Police and Prosecutors						
	2005	**2006**	**2007**	**2008**	**2009**	**2010**
Referred to Albanian State Police	10	11	5	46	135	137
ASP ML Investigations resulting from disseminations	1	3	17	34	49	47
Investigations registered by the General Prosecutor's Office	11	3	2	26	59	67

410. The following table provides outlines the number of cases generated by SAR.

Year	Cases generated by SARs	% of total cases
2007	4	57
2008	28	39
2009	21	11
2010	61	30

411. FIU disseminations contributed to one conviction in 2009 and one person in 2010. No statistics are maintained on the number of FIU disseminations that have resulted in seizures or confiscations.

412. The 2010 disseminations to Prosecutors Office are categorized as follows with respect to the underlying predicate offence. In 35 cases the predicate offence was the trafficking of narcotics, human beings, armed robberies. In 8 cases the predicate offences was tax evasion, smuggling, fraud or use of forged documents. In 5 cases the predicate offence was corruption and abuse of authority. The remaining cases the predicate offence was organized crime.

Effectiveness:

413. The GDPML receives 95% of its reports in electronic format. Bigger banks file their reports through a batch facility. Most entities file to the FIU via a web based reporting mechanism. Entities can request access through an on-line form filling out information with respect to their organization.They are subsequently contacted by telephone by the GPDML who verifies the information and provides them a username and password. The Inspections division is responsible for entering paper reports in the database and checking the quality of reports. The web based software has field level validation. Although the manual entry of reports has decreased significantly the GDPML would like to further streamline the process.

414. With the 2008 amendments to the AML/CFT Law the GDPML's information holdings are vast. The number of obliged sector is extensive and designated state authorities must provide prescribed information as well as report suspicious transaction reports. Threshold reporting also provides an important source of information. The notary sector appears to provide an important source of data given their role in notarizing all transactions related to the sale of movable and immovable property. Threshold reporting related to cash transactions of over lek 1,500,000 (US$15,000) and other transactions over lek 6,000,000 (US$60,000) have also expanded the GPDML's information holdings.

415. However, information collected by the SAR is not comprehensive. The SAR form does not collect key information that would be helpful in development of financial intelligence such as information on the person on whose behalf the transaction is being performed, information on the beneficiary or information on the disposition of the transaction (ie. where the money went).

416. Suspicious transaction reporting is low and poorly understood by obliged entities impacting on the quality of information available to the GDPML. Although threshold reporting provides an important source of data, obliged entities are often exclusively focused on reporting threshold

transactions to the detriment of reporting suspicious transactions. Obliged entities had limited knowledge of their suspicious transaction reporting obligations and many believed that if they reported a threshold transaction they were not required to report SARs. Very few of the DNFBP sectors understood the ML/FT vulnerabilities faced by their sector. The GDPML has conducted a number of awareness sessions, however entities appear to have exclusively retained information related to threshold reporting.

417. The number of reports related to terrorism financing is particularly low. Of the seven FT suspicions reported in 2010 none were considered by the GPDML as meeting the suspicion threshold required to exchange with law enforcement. Lack of understanding of FT vulnerabilities is certainly a factor contributing to low reporting and possibly misreporting.

418. The GDPML has implemented a new IT system in the last year. It consolidates access to reports received by obliged entities with a number of databases provided by state authorities. The new system provides an ability to flag information although this ability did not appear to be used widely as analysts were still learning to use the system. The system does not allow for the prioritization of SARs, nor does it generate automated red flags. No visual link software was being used at the time of the on-site assessment. However, the authorities have purchased I2 software and were planning to implement its use in the coming months.

419. All SARs are the subject of analysis, SARs are assigned to analysts who search the database and also request additional information from obliged entities, the BoA, the ASP, the Tax Directorate and Customs, foreign FIUs, and other state agencies as appropriate. Information is then consolidated in a dissemination report that contains details regarding the person of interest, transactional information including bank accounts. Specific criteria are used to determine whether the information should be disseminated. SARs and information gathered during the analysis phase (bank statements, information from state authorities) is not included in the dissemination package.

420. In addition to reporting suspicions that property is the proceeds of crime or intended to be used for the financing of terrorism, obliged entities are required to report suspicions of ML and TF as well as ask for instructions from the GDPML as to whether it should execute the transaction when the suspicious threshold is met. The GDPML confers with the ASP and the Prosecutor's Office to determine whether the transaction involves a person of interest and whether the transaction should proceed. The GDPML has 48 hours to make the determination. The General Director makes the final determination whether the transaction should be subject to a freezing action. Very few reports are reported under this authority; however the process of consulting the ASP and the Prosecutor's Office appears to mitigate the risk that the GDPML would negatively impact the seizure activities undertaken by the GPO.

421. Limited resources are dedicated to strategic analysis. The GDPML analyzes intelligence reports by the ASP, SIS, BoA. However, it does not appear that it has produced its own strategic intelligence product.

422. Despite issues with the legislative drafting regarding its powers to disseminate, the GDPML is disseminating disclosures of SARs and other relevant information to the Albanian State Police, the General Prosecutor's Office and the Joint Investigation Units focused on financial and serious crimes. Intelligence is also provided to other state agencies such as the State Intelligence Service (SIS), the

Tax Directorate and HIDAA. Feedback received from all recipient agencies on the quality, quantity and timeliness of disclosures is positive.

423. The creation of Joint Investigation Units where liaison officers from the FIU are part of the teams appears to have been instrumental in improving the FIU's perceived responsiveness. Recipients have also commented on the quality of disclosures remarking that threshold reporting has resulted in more complete intelligence packages.

424. The JIUs have also helped clarify the roles of the ASP and the General Prosecutor's Office to a certain extent. The GDPML had a previous practice of disclosing information directly to the GPO when they thought there was sufficient evidence of ML/FT. However, the GPO could not use the dissemination provided by the GDPML as evidence and referred the case to the ASP for evidence gathering prior to investigation being registered. This practice has largely stopped with disseminations being transmitted directly to the ASP with the GPO being copied. Given the concerns expressed by the 2006 MER on roles and responsibilities, the GDPML should be sensitive to respecting the separation of duties between the ASP and GPO.

425. The number of disseminations resulting in investigations and subsequently in registered cases is satisfactory. The number of disseminations contributing to investigations has been steadily increasing. The financial intelligence cases are generated both as a result of requests from other agencies as well as from SAR submitted by reporting entities. Over recent years the number of cases of generated by SARs has decreased due to additional information received by the GDPML from reporting entities. A reasonable balance appears to have been achieved between the number of financial intelligence cases generated from SARs and the number of financial intelligence cases responding to requests from law enforcement.

426. The legal basis for dissemination should be clarified. The current provision refers to "exchange of information" rather than an explicit requirement to disseminate. Furthermore, the provision does not provide an authority to "exchange information" regarding suspicions related to attempts of ML/FT.

427. The law should clearly determine who should be the recipient of disseminated information concerning SARs and other ML/FT-related information, when the aim of the dissemination is the potential start of an investigation related to ML/FT. Given that the LP and the CPC provides for the responsibility of the ASP to conduct investigations, including in the capacity of judicial police under the direction of the GPO, a solution that authorities could consider is to disseminate disclosures related to ML to the ASP, with copy to the GPO. For TF the current practice of referring to the Serious Crime Prosecutor's Office should continue.

428. The GDPML is also disseminating (i.e. "exchanging") information when the legal basis to do so is unclear. Information unrelated to money laundering or the financing of terrorism is disseminated to the Tax Directorate and HIDAA. Although there is an MOU in place with HIDAA it is unclear that HIDAA is considered a law enforcement authority as required by legislation. To address this lack of clarity in the legislation, the AML/CFT Law should be amended to include a specific provision on exchange of information citing which agencies would be subject to information exchange.

429. Dissemination activities should be prioritized. A distinction should be made between disseminations to agencies that are responsible for investigation and intelligence gathering related to ML and FT and the exchange of information with those agencies that have AML/CFT as an ancillary activity to their mandate. Although the GDPML does appear to focus on disclosures to the ASP, GPO and SIS, with increasing demands on its time it should be made clear that support of ML/FT investigations is its primary mandate.

430. The protection of information held by the GDPML has seen some improvement. Information is held for 10 years. This is shorter than the statute of limitation for ML and FT which is 20 years. The GDPML's IT system and physical premises have been certified by the Classified Information Security Directorate. The Law of Information Classified "State Secret" provides a framework for the protection of classified information held by the GDPML. Archives are located in a high security area under camera surveillance with access being limited to essential staff.

431. Although the GDPML maintains a number of different statistics the reliability of statistics provided is questionable. This is demonstrated by the inability to obtain a consistent statistics on the number of SAR reported by sector. Additionally, no statistics are maintained on the number of FIU disseminations that have resulted in seizures or confiscations.

432. Additional measures are still required to address concerns related to operational independence. The independence of the GDPML is not explicitly stated in legislation; the Director is not appointed for a fixed term and can be dismissed directly by the Minister of Finance. Given the general concerns related to corruption within the public service the presence of concrete measures to address the potential for influence are all the more relevant.

433. The legislative framework detailing the GDPML's governance and functioning is not comprehensive. The current Council of Minister's Decision outlining the organization and functioning of the GDPML has not been updated to reflect the new responsibilities that were conferred in the 2008 AML/CFT Law.

434. In conclusion the GDPML has implemented a number of substantive changes enhancing its effectiveness and addressing many of the concerns outlined during the 2006 assessment. The quality and quantity of disseminations by the GDPML has improved. Measures have been put in place to improve the autonomy and independence of the Directorate. Various training programs have been delivered to enhance employee capacity and typologies and annual reports are published.

435. Concerns remain with the independence of the GDPML. The number of SARs does not reflect the ML/FT risks in Albania and the quality of reporting needs to be improved. The legislative authority to exchange information does not appear to provide all the necessary authority to disseminate to HIDAA and information not related to ML and FT is being disclosed. The authority to request additional information from obliged entities is limited to financial information on performed transactions. Strategic analysis and trends analysis capacity needs to be strengthened.

2.5.2. Recommendations and Comments

436. The authorities should:

- Expand the GDPML's authority to request additional information by specifically allowing it to request non-financial information that could assist in its functions.

- Amend the Council of Minister's Decision outlining the organization and functioning of the GDPML to reflect the FIU's new responsibilities.
- Clarify the GDPML's authority to exchange information with non law enforcement authorities.

- Enhance the GDPML's strategic analytical capacity by conducting an in-depth review of existing disseminations to identify ML/FT trends specific to Albania. This information should be disseminated to help inform risk assessment activities by both authorities and obliged entities.

- Enhance the IT system so that it allows for the prioritization of SARs and identifies patterns of suspicious transactions generating cases based on these findings.

- Specify the autonomy and independence of the GDPML in legislation and establish a fixed term for the General Director and include a provision on the independent status of the Director.

- Reinforce guidance related to reporting by providing enhanced sector specific training, expanding the list of sector specific indicators as well as clarifying that SARs should be reported even when a threshold report is required.

- Maintain consistent and comprehensive statistics on SAR reporting and the number of FIU disseminations that have resulted in convictions, seizures or confiscations.

437. The authorities should also consider:

- Amending Article 22 of the AML/CFT Law to clarify the power to disseminate information concerning suspected ML/FT activities.

- Amending the AML/CFT Law to require obliged entities and state authorities to report to the GDPML electronically unless they do not have the capability to do so.

- Entrenching the practice of disseminating suspicions of ML activities to the ASP with a copy to the GPO in order to increase efficiency and respect attributed roles and responsibilities. As in the current practice the Serious Crime Prosecutor's Office should be designated the recipient of FT disseminations (with copy to SIS, if and as appropriate).

- Amending the SAR reporting form to require information on the person on whose behalf the transaction is being performed, information on the beneficiary or information on the disposition of the transaction (ie. where the money went).

- Consider extending the retention period for reports to 20 years to align with the statute of limitations for ML and FT.

2.5.3. Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	**LC**	• The legislative framework detailing the GDPML's governance and functioning is not comprehensive. • GDPML does not have the authority to disseminate when there is a suspicion related to attempted ML/FT. • The GDPML does not have the legislative authority to request non-financial information from reporting entities or for attempted transactions. • Issues of operational independence such as the absence of fixed terms for the General Director. • Dissemination to HIDAA not in accordance with the law. • Effectiveness issues with regard to the GPDML's analytical capacity: - The GDPML does not conduct sufficient trends analysis. - Lack of prioritization in the analysis of SARs/CTRs.

2.6. Law enforcement, prosecution, and other competent authorities—the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R.27 and 28 - rated PC in the 2006 MER)

Summary of 2006 MER factors underlying the ratings and recommendations

438. The 2006 MER noted a number of shortcomings with respect to the framework for the investigation and prosecution of offenses. The distribution of tasks was unclear between the GDPML, law enforcement and the prosecutorial bodies with police and prosecutors paying little attention to ML. No studies on ML, including trends and typologies were produced. The level of expertise within the judicial police and the judiciary was insufficient. The ability to waive the arrest of a suspect for the purposes of ML/FT investigation needed to be clarified.

2.6.1. Description and Analysis

Legal Framework:

- The Criminal Code (Law no. 7895, dated January 27, 1995), hereinafter CP.
- The Criminal Procedures Code (Law no. 9749, dated April 6, 2007), hereinafter CPC.
- Law on State Police (Law no. 9749, dated June 4, 2007).
- Law on Prevention and Fight against Organized Crime (Law no. 10192, dated December 3, 2009), hereinafter "Organized Crime Law".

- Law on the Organization and Functioning of the Prosecutor's Office in the Republic of Albania (Law no. 8737, dated February 12, 2001).
- Law on Employees of the State Police (Law no. 9749, dated June 4, 2007).
- Law on Banking (Law no. 9662, dated December 18, 2006).

Designation of Authorities ML/FT Investigations (c. 27.1):

439. The General Prosecutor's Office (GPO) and the Albanian State Police (ASP) are responsible to undertake ML investigations. The Prosecutor's Office is responsible for overseeing the conduct of penal investigations through the judicial police as well as undertaking penal proceedings. Joint Investigation Units (JIU) have been established to investigate economic crime and corruption. The units are comprised of prosecutors and judicial police officers from the GPO, judicial police officers from the Albanian State Police (ASP), judicial police officers from the General Tax Directorate and from the Customs Department of Operational Investigation. Liaison officers from GDPML and High Inspectorate for the Declaration and Audit of Assets (HIDAA) also form part of the JIUs. JIUs have been established in Tirana, Durres, Vlore, Fier, Shkoder, Korce and Gjirokastra. The ASP has 21 officers (acting as judicial police) dedicated to ML with four located in headquarters and the remaining 17 in the 6 regional JIUs. In total the JIUs have 92 employees from all the participating agencies.

440. FT investigations are performed by the Serious Crimes Prosecutor's Office. No specialized unit exists to investigate cases of terrorist financing. Cases are referred to available prosecutors within the unit.

Ability to Postpone/Waive Arrest of Suspects or Seizure of Property (c. 27.2):

441. Law enforcement does not have a specific legislative provision to postpone or waive the arrest of suspected persons and/or the seizure of money for the purposes of identifying persons involved in such activities or for evidence gathering. However, the timing of arrests is determined by the prosecutor who pursuant to provisions outlined in Article 228 to 231 of the CPC.

Additional Element—Ability to Use Special Investigative Techniques (c. 27.3):

442. The ASP has a series of investigative methods at their disposal including surveillance methods – including interceptions of communications, electronic surveillance, staging (simulated actions) and infiltration. Article 221 of the CPC outlines the conditions where interception and surveillance is permissible. Article 294 (a) of the CPC provides the authority to conduct simulated actions and 294 (b) confers the ability for the ASP to infiltrate a criminal group. The simulated actions are applicable for the investigation of all criminal offences including those related to ML and FT. On the other hand, infiltration can only be applied for the investigation of serious crimes that fall under the jurisdiction of the Serious Crime Court. Interception and surveillance have been used as tools to further money laundering investigations. No simulation or infiltration activities have been specifically applied to money laundering or terrorism financing cases.

Additional Element—Use of Special Investigative Techniques for ML/FT Techniques (c. 27.4):

443. The ASP has made use of various special investigation techniques when investigating ML. These include the use of surveillance methods and undercover operations.

444. Article 222 (3) of the CPC specifies that interceptions cannot exceed a period of fifteen days. The time limit can be extended by 20 days for crimes and 40 days for serious crimes on the request of the prosecutor. Pursuant to Article 223 of the CPC minutes and records related to the interception shall be handed over to the prosecutor and within five days from the conclusion of the action they should be filed with the secretariat. Defense lawyers and representatives of the parties are immediately informed on the filing with the secretariat and of their right to examine the documents and listen to the records. When the filing may damage the investigation, the court can authorize the prosecutor to postpone the filing. Law enforcement authorities have indicated that this requirement to notify defense counsel hinders their capacity to collect additional evidence prior to the defense lawyer being notified.

Additional Element—Specialized Investigation Groups and Conducting Multinational Cooperative Investigations (c. 27.5):

445. As noted above, JIUs have been established to investigate economic crime. These JIUs have been involved in the seizure of criminal proceeds. Joint investigations have been undertaken with foreign law enforcement agencies. Most international cooperation is conducted through mutual legal assistance channels and Interpol. Please refer to Recommendation 36 for additional information related to mutual legal assistance and Recommendation 40 with respect to cooperation with foreign law enforcement agencies.

Additional Elements—Review of ML and TF Trends by Law Enforcement Authorities (c. 27.6):

446. No review of ML/FT trends has been conducted by law enforcement.

Ability to Compel Production of and Searches for Documents and Information (c. 28.1):

447. The Prosecutor's Office is empowered by Chapter III of the CPC, Articles 198 to 213, to collect evidence which can apply to transaction records, identification data obtained through CDD process, account files and business correspondence and other records, documents or information. Article 198 provides the authority to examine places, persons and items when it is necessary to discover traces and other material consequences of the criminal offence. Further details on the examination of persons and places are specified in Articles 199 and 201 respectively. Article 203 provides the proceeding authority the capacity to request the handing in of a certain item. Articles 204 and 205 detail the procedures for conducting searches of the body and premises including the requirement to produce a search order. Article 207 allows items found during the search to be seized with further seizures procedures being detailed in Articles 208 to 220.

448. Specific provisions for seizures in banks are outlined in Article 210. Special conditions are also established for persons bound to maintain professional or state secrecy in Article 211. Article 91 (2) of the Law on Banking provides an exception for the banks to maintain professional secrecy when the request stems from 'juridical authorities whose right derives from the law'.

449. The CPC powers are exercised through searches (Article 202), request to hand in (Article 203) and seizures (Articles 208-210). The powers can be used for all investigations and prosecutions of ML/TF and other underlying predicate offenses or confiscations.

450. Article 211 of the CPC stipulates that persons bound to maintain professional secrecy must immediately hand in to the proceeding authority acts and documents unless "they declare that it is a secret related to their duty or profession. In the latter case, the necessary verifications are conducted and, when it results that the declaration is groundless, the proceeding authority orders the seizure".

451. Article 114 (3) of the Law on State Police stipulates that: "public administration, physical and juridical persons, when asked by the Police, are obliged to present identification data and other information collected on a legal basis, except for the ones which distribution is forbidden by law." The police uses this authority to access bank documents and other types of documentation during the course of a money laundering or terrorist financing investigation.

452. The ASP has also been obtaining financial information prior to an investigation being registered through the GDPML which request information from obliged entities although the legislative basis of this authority is limited as discussed in Recommendation 26.

453. The General Prosecutor's Office has also, prior to the investigation being registered, issued written requests to financial institutions requesting to provide information on whether specific persons are customers. Non-compliance with the request is construed by the prosecutor as obstruction of justice under Article 301 of the Criminal Code. This practice does not appear to have been challenged, however the legal basis of this practice could be called into question. Although such requests can always be made and financial institutions might comply, it is not clear under the Albanian framework that financial institutions are obliged to comply and could be subject to criminal sanctions for obstruction if they did not.

454. Assets associated with criminal offences in the field of organized crime, illegal trafficking of drugs and human beings, participation in a terrorist group or money laundering are subject to sequestering under civil confiscation proceedings under the Organized Crime Law. Article 9 of this Law creates an obligation to hand over information and documents. With the authorization issued by the prosecutor or the Court, the Judicial Police Officers may impose the seizure of documents according to the rules foreseen in Articles 208 to 211 of the Penal Procedure Code.

455. Article 11 of the Organized Crime Law outlines the conditions under which assets can be sequestered "when there is a reasonable suspicion based on indicia that shows that the person may be included in criminal activity and has assets or income that do not respond obviously to the level of income profits or lawful activities declared". This provision is frequently used by the ASP in ML cases to seize and ultimately confiscate assets (through Article 21 to 24 of Law) given the reverse onus imposed on the accused. It should be noted that the Organized Crime Law does not apply to corruption offenses.

Power to Take Witnesses' Statement (c. 28.2):

456. The Prosecutor's Office and the Judicial Police are authorized to take statements pursuant to Articles 312 and 297 of the CPC respectively. This ability to obtain information is governed by

Articles 155-160 of the CPC which detail the circumstances under which individuals can testify. The information obtained can be used in investigations and prosecutions of ML, FT, and other underlying predicate offences or in related actions. The powers appear to be in line with the criteria.

Statistics (R.32):

457. The following provides a breakdown of GDPML disseminations to the ASP, ML cases investigated by the ASP in the last five years:

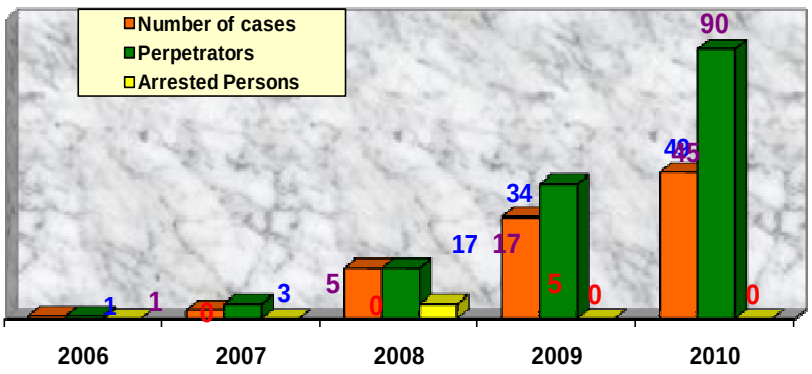
	2006	**2007**	**2008**	**2009**	**2010**
GDPML Referrals to ASP	11	5	46	135	137
ASP ML Investigations resulting from GDPML referrals	1	3	17	34	41

*January – October, 10, 2010

458. Both the number of GDPML referrals to the ASP and ASP ML investigations substantially increased since the implementation of the JIUs and the changes to the AML/CFT Law. The ratio of ASP investigations based on GDPML disseminations have been increasing. In 2010, of the 49 investigations, 41 were related to GDPML disseminations and all of these cases were registered by the Prosecutor's Office.

459. The tables below detail the number of ML/FT offences identified, criminal offenses detected, number of perpetrators and arrests, in free state and who have left the scene from 2006 to 2010. These statistics demonstrate an increase in the number of offences detected but the ultimate difficulty to convert those into arrests.

Number of ML cases, perpetrators involved and arrested persons 2006 - 2010 (October)



Albanian State Police – Statistical Data on Criminal Offences of Money Laundering and Terrorist Financing

Statistical Data for 2006

Criminal Offences	A. Criminal B. Offences C. identified	D. Criminal E. Offences F. Detected	G. Perpetrators H. Total number	I. Arre sted	J. In free state	K. left the scene
Laundering of proceeds of crime	L. 1	M. 1	N. 1	O. 0	P. 1	Q. 0
Terrorism funding	R. 0	S. 0	T. 0	U. 0	V. 0	W. 0
SUMARY	**X. 1**	**Y. 1**	**Z. 1**	**AA. 0**	**BB. 1**	**CC. 0**

Statistical Data for 2007

Criminal Offences	Criminal Offences identified	Criminal Offences Detected	Perpetrators Total number	arrested	In free state	Left the scene
Laundering of proceeds of crime	3	3	5	0	5	0
Terrorism funding	0	0	0	0	0	0
SUMARY	**3**	**3**	**5**	**0**	**5**	**0**

Statistical Data for 2008

Criminal Offences	Criminal Offences identified	Criminal Offences Detected	Perpetrators Total number	Arrested	In free state	Left the scene
Laundering of proceeds of crime	17	17	17	5	10	2
Terrorism funding	0	0	0	0	0	0
SUMARY	**17**	**17**	**17**	**5**	**5**	**2**

Statistical Data for 2009

Criminal Offences	Criminal Offences identified	Criminal Offences Detected	Perpetrators Total number	Arrested	In free state	Left the scene
Laundering of proceeds of	34	33	45	0	45	0

crime						
Terrorist financing	0	0	0	0	0	0
SUMARY	**34**	**33**	**45**	**0**	**45**	**0**

Statistical Data for 2010 (January - October)

Criminal Offences	Criminal Offences identified	Criminal Offences Detected	Perpetrators Total number	Arrested	In free state	Left the scene
Laundering of proceeds of crime	49	49	90	0	90	0
Terrorist financing	0	0	0	0	0	0
SUMARY	**49**	**49**	**90**	**0**	**90**	0

Adequacy of resources—LEA (R. 30)

460. The Prosecutor's Office is a centralized structure provided by the Prosecutor General. The main departments related to prosecutions are: General Prosecution Section, Prosecution in the Serious Crimes Appeals Court, Prosecution in the Appeals Court and Prosecution in the Courts of First Instance. There are 313 prosecutors assigned to these sections. Specialized structures have also been established including a Prosecution for Serious Crimes Section (18 prosecutors), Prosecutions for the Appeal of Serious Crimes (three prosecutors) and 23 prosecutors in the Joint Investigation Unit.

461. Within the ASP, the Directorate against Financial Crimes which has primary responsibility for Money Laundering investigations has 146 employees, 18 of which are based in headquarters. The Sector Against Money Laundering has a staff of 21 officers of which four are located in ASP headquarters and the remaining 17 in the JIUs in Tirana and district police departments.

462. The Department against Financial Crime has an annual budget of EUR 2,104,688 divided amongst salaries and benefits (EUR 1,488,990), operating expenses (EUR 577,836) and capital expenditures (EUR 37,862). The ASP believes that with the new JIU structure that relies on resources from a number of agencies that the resource allocation is adequate. Based on the substantial increase of both investigations and registered cases by the Prosecutor's Office, the assessment team concurs that the level of resources allocated to ML investigations is adequate.

463. Article 49 of the Law on State Police establishes the criteria to be admitted as a police officer within the State Police. Among other criteria candidates are required to be an Albanian citizen, in good health and physically fit, have no criminal convictions and have completed high school. An officer must qualify for a security certificate which is required to recognize, treat, keep, produce, and manage state secrets. Staff confidentiality is subject to verification procedures.

464. Prosecutors are nominated by the President of the Republic of Albania upon the proposal of the General Prosecutor. Conditions for their nomination are explicitly outlined in Law on the Organization and Functioning of the Prosecutor's Office in the Republic of Albania. These conditions include: being an Albanian citizen, having a higher legal education, having completed the School of Magistrate, not having been convicted of a criminal offense; not having been removed for disciplinary

violations, from the public administration with a period of three years from the date of application; and be of high moral and professional qualities. Public competitions are run for all vacancies regarding prosecutors' positions.

465. Pursuant to Article 50 of the Law on Employees of the State Police are required to complete basic police training. A variety of training on investigative techniques and financial crime are available to officers. The twinning project developed in cooperation with the German Federal Criminal Office has trained 67 police officers in the prevention of money laundering, financial crime investigation and corruption. The State Police has also been the recipient of training from Belgium, the US and the Police Assistance Mission of the European Community to Albania (PAMECA). It is unclear whether a specific training program has been developed for the employees of the Directorate against Financial Crime.

466. Judges and prosecutors have received training through the Albanian School of Magistrates. Training is delivered on confiscation, asset recovery, organized and economic crime and terrorism as part of the School's curriculum. Several training activities have been organized with international organization such as Police Assistance Mission of the European Union to Albania (PAMECA), Office of the Overseas Prosecutorial Development, Assistance and Training (OPDAT), EUROJUST, Organization for Security and Co-operation in Europe (OSCE), the United Nations Office on Drugs and Crime. Training topics included technicalities of financial investigations, seizure and confiscations of criminal assets, combating financing crime (money laundering and asset tracing), seizure of criminal assets, financial investigations of financing of terrorism and money laundering cases, administration of seized and confiscated assets and combating terrorism. It is unclear whether additional training in the area of ML and FT is required for prosecutors working in the area of financial crime.

Effectiveness:

467. The establishment of the JIUs has greatly increased the efficiency of ML investigations. Since their expansion to six regional centers in 2009 the number of investigations doubled from 2008 to 2009. The JIUs have clarified to some extent the roles and responsibility between the GDPML, the ASP and the Prosecutor's Office although as noted under Recommendation 26 there are at times confusion with respect to the role of the GPO. Cooperation between the GDPML, the ASP and the Prosecutor's Office also appear to be productive with consultations between agencies taking place at every stage of the investigation. The recent increase in resources allocated to the JIU would appear to be adequate.

468. The Department of Criminal Investigations of the ASP is structured with separate directorates having been established for fighting organized crime, serious crime and financial crime. The creation of a directorate focused on financial crime results ensures that ML investigations are not lost within the investigation of the predicate offense.

469. The ASP has used most of the investigative techniques and powers related to search and seizures that are at their disposal for the purposes on ML investigations. Investigators compel documents and conduct search of premises and have made use of surveillance methods. Use has been made of the powers to infiltrate criminal organizations for the purposes of ML investigations.

470. Drugs and human trafficking, armed robberies, tax evasion, smuggling, fraud, the use of forged documents, as well as corruption are the main predicate offences for money laundering in Albania. The enhanced collaboration between the GPDML, the ASP and the GPO has resulted in a significant increase in the number of cases being investigated by the ASP including the number of cases generated as result of GDPML disseminations. The ratio of cases registered by the GPO with respect to cases referred to the JIU is also on the increase. However, despite these increases in ML investigations they have translated in only a limited number of convictions and prosecutions which are not commensurate with the level of laundering activities in Albania.

471. Three cases related to FT were disclosed to the Serious Crimes Prosecutor's Office and investigated with the three cases not proceeding due to an inability to substantiate that an offense was committed.

472. Despite increases in the number of investigations registered, challenges persist in establishing arrests and prosecutions. Concerns have been expressed about judges' knowledge of ML cases and their inherent complexities. Anecdotal evidence and an assessment by the European Commission[16] suggest that the corruption and lack of independence of judges hinders the ability to put forward successful prosecutions. Obstacles exist to the investigation of corruption cases in the judiciary due to the fact that judges enjoy full immunity which can only be lifted on a decision of the High Council of Justice (or of Parliament, for the Supreme Court justices). The concerns regarding the independence and transparency of the judiciary may be impacting the effective prosecution of proceeds of crime cases.

473. The GPO has an array of powers with respect to gather evidence once the investigation is registered. The new Organized Crime Law is used in matters covered by that law by the GPO to sequester assets based upon reasonable suspicion of criminality and there may be a shifting of the onus to the defendant to prove that assets were acquired legitimately. Given the significant potential that the provisions contained in the Organized Crime Law have to address criminal proceeds consideration should be given to extending these provisions to corruption offenses.

474. A variety of special techniques are available to the General Prosecutor, some requiring Court approval, following the registration of the case. Concerns have however been expressed with respect to the effectiveness of interception provisions where the defense lawyer is advised five days after the interception that the activity has occurred. Although exception exists when such a disclosure would compromise the investigation, this could constitute an additional burden for the judicial police to effectively conduct investigations.

475. The training has been made available to police officers and in the areas of financial crime, ML and TF. Collaboration with international organizations and other countries have been maximized with Albanian officials benefiting from the experience of foreign counterparts. However it is unclear if all officers and prosecutors working in the areas of financial crime have been able to benefit from

[16] European Commission, Commission Opinion on Albania's application for membership of the European Union.

the training. Core training on financial investigation available to the JIU and the Sector against Money Laundering.

476. Some deficiencies identified in the last mutual evaluation have remained largely unaddressed. There are no provisions on the ability to waive arrest warrants and controlled deliveries and no research on ML/TF trends have been undertaken. Statistics are now available on law enforcement's activities with respect to ML investigations. However the information is not consistent between different agencies involved.

2.6.2. Recommendations and Comments

477. The authorities should:

- Amend the relevant legislation to specifically allow law enforcement to have the ability to waive arrests warrants of suspected persons or the seizure of money for the purpose of identifying persons involved in such activities or for evidence gathering.
- Conduct targeted training to the judiciary to increase their knowledge of ML, its inherent complexities and proceeds of crime in general.
- Amend the provisions related to interception to remove the requirement to advise defense counsel that an interception activity has occurred five day following the activity.
- Centralize the collection of ML, FT and proceeds of crime statistics to improve consistency of data collected.

478. The authorities should also consider:

- Initiating a review of ML and TF methods, techniques and trends by law enforcement authorities. This information should be disseminated to authorities involved in fighting AML/CFT to inform risk assessment exercises.
- Developing core training on financial and proceeds of crime investigations targeted specifically at the JIU and the Sector against Money Laundering in the ASP.
- Making full use of simulation or infiltration techniques that are available in legislation for money laundering or terrorism financing cases.
- Extending the application of the Organized Crime Law to corruption offenses.
- Amending the provisions related to judicial immunity to facilitate the conduct of corruption investigations within the judiciary.
- Establishing a national registry of bank accounts administered by the BoA, which, upon proper authority, can be accessed on request by LEAs to facilitate the investigation of ML/FT.

2.6.3. Compliance with Recommendations 27 & 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	**PC**	• No specific provision for law enforcement to postpone/waive arrest warrants. Effectiveness: • Low number of prosecutions. • The requirement to advise defense counsel that an interception has taken place constitutes an additional burden which could hinder an investigation.
R.28	**C**	
R.30	**PC**	• Training of the judiciary on money laundering and financial crimes is insufficient. • Concerns have been expressed about the integrity of the judiciary.
R.32	**PC**	• Statistics on money laundering investigations, arrests, convictions, seizure and confiscations are not always consistent across agencies.

2.7. Cross-Border Declaration or Disclosure (SR.IX – rated PC in the 2006 MER)

2.7.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

479. The 2006 MER noted that sanctions were inadequate, that Customs placed too much focus on immediate seizure and confiscation and noted issues of effectiveness due to the lack of familiarity of Customs authorities with the ML/FT provisions and to the risk of corruption (noting that the situation was improving). The MER recommended to amend the Customs Code provisions on sanctions to ensure that sanctions were adequate in the case of false/inaccurate declaration; to review the policy to apply immediate seizure/confiscation in order to allow for the possibility of covert operations to discover organized crime networks; and to intensify training of Customs on AML/CFT and on the detections of serious crimes.

Legal Framework:

- Customs Code (Law no. 8449, dated January 27,1999, as amended).
- Law no. 9917 dated May 19, 2008 “On the Prevention of Money Laundering and Terrorism Financing”, herein after “AML/CFT Law”.
- Council of Ministers Decision no.1077, dated October 27, 2009 " On the adoption of a national strategic document ‘For the investigation of financial crime’, (Official Journal: Year 2009, No. 164, Page 7247; Date of publication: December 3, 2009).
- Albania has developed and is implementing a strategic program for the prevention of illegal movement "Cash it" to limit liability for all institutions includes FIU-n, Customs, State Police, Border Police and the Bank of Albania.

- Guidelines of the Ministry of Finance no. 15, dated February 16, 2009 "On Prevention of Money Laundering and Terrorism financing at the Customs System"", (Official Journal: Year 2009, No. 14, Page 1005; Date of publication: February 20, 2009), hereinafter "MoF Guidelines".

Mechanisms to Monitor Cross-border Physical Transportation of Currency (c. IX.1):

480. Albania has established a declaration system (2008) whereby, pursuant to Article 17 of the AML/CFT Law every person (Albanian or foreigner) that enters or leaves the territory of the Republic of Albania, is obliged to "declare cash amounts, negotiable instruments, precious metals or stones, valuables or antique objects, equal to or greater than lek 1,000,000 (appr. US$10,000), or the equivalent amount in foreign currency" as well as to "explain the purpose for carrying them and produce supporting documents". The notion "negotiable instruments" is not defined, but it interesting to note that the Criminal Code (Article 187a, which establishes as a misdemeanor the "non declaration of money and of valuable objects") has a more restrictive definition, as it refers to "any type of bank check", which leaves out other financial instruments that may be issued in bearer form in Albania (certificate of deposits, shares, passbooks etc.).

481. The declaration requirements do not apply to the shipment of currency through containerized cargo or in the case of mailing of currency.

482. The information requested on the declaration form consists of the name, whether the declaring person is an individual or legal person, date of birth and residence, whether the declaration concerns an inbound or outbound transportation (and the indication of the port of entry), the reason why the currency is being brought in/out; the denomination of the currency, the name of the Customs official who receives the declaration and the date of the declaration.

483. Albania has 24 border points. The authorities informed the assessment team that the declaration forms are available in all the 24 border points. (Seven are sea points; one is airport; one is railway and the remaining land border points).

Request Information on Origin and Use of Currency (c. IX.2):

484. The Border and Migration Police (BMP) is the competent authority which is involved if a non-Customs related crime – such as the one envisaged by Article 287a CC, or in the case of a person suspected of ML/FT – is suspected and have the authority to request and obtain further information from the carrier with regard to the origin of the currency and its intended use. Authorities were not able to point out the specific legal provisions underpinning the legal authority of the BMP. Pursuant to the Strategy of the Integrated Border Management and related action plan, the principle "one stop, on control" is applied. In practice, since it is the Customs that check arriving/departing customers for compliance with Customs-related requirement, it is the Customs that are involved in checking the compliance with the declaration requirements and, in the context of the "Customs control" can also ask questions related to the compliance to the declaration requirement and, in case of false declaration/failure to declare can request and obtain further information from the carrier with regard to the origin of the currency and its intended use (the latter information is required by the declaration form). According to the Customs Code, the Customs control includes the "carrying out official

inquiries and other similar acts, with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervision are observed in the customs territory of the Republic of Albania".

Restraint of Currency (c. IX.3):

485. In the case of a suspicion of ML/FT or when there is a false declaration/failure to disclose, the main way to stop or restrain the currency in order to ascertain whether evidence of ML/FT can be found is to call in the BMP (who are legally empowered to stop/restrain currency and, if needed, the person). The Customs official could also stop the person (and restrain/stop the currency) but, in this case, since there are no Judiciary Police officers among Customs officials employed in the border points (who would be legally entitled to stop/restrain), a Judicial Police Customs officer from the Customs HQ in Tirana must be called in.

Retention of Information of Currency and Identification Data by Authorities when appropriate (including in Supra-National Approach) (c. IX.4):

486. The amount of the currency and the identification data of the bearer is retained in all the three cases envisaged by criterion IX.4. Every declaration is registered by the Customs at each Border point and, every day/two day sent via email and in hard copy to Customs HQ (General Directorate of Customs-Unit for the Prevention of ML). The ML Prevention unit collects the information and enters it into a database. The data which are registered/kept are the ones contained in the declaration form (IX.4 (a). In the case of failure to report (as noted later on, the case of false declaration is not specifically contemplated by the Law) an official report must be made (IX.4 (b). In this case the information would be kept by the authority who was involved in the process (BMP or Customs, if a Customs Judicial Police Officer is involved from Tirana, in practice this is done mostly by the BMP). In the case in which only the BMP is involved it is not clear whether the information concerning the false declaration/failure to declare is made available to the local Customs point or to the Customs HQ (presumably this information, especially if the ascertaining of the violation was made by the BMP, is not shared with Customs HQ). The BMP should copy Customs in the reports of the ascertained violations concerning the non-compliance with the declaration reporting, but this does not always happen (Customs authorities indicated that they do not have statistics on the number of cases of non-declaration/amounts of the fine as these relate to the BMP).

487. The information concerning the declarations, but not the information concerning cases of false declaration/failure to disclose (which confirms that such information may not be made available to the Customs HQ) is sent periodically (every 3/4 weeks, until July 2010, on a weekly basis afterwards) to the General Directorate for the Prevention of ML (GDPML), in a CD-rom and in hard copy (in hard copy only until July 2010, in CD-rom afterwards). Pursuant to the AML/CFT Law Customs (Article 17) Customs are also required to report "immediately and no later than 72 hours to the GDPML every suspicion, information or data related to ML or FT for the activities under their jurisdictions" (IX.4.(c).

488. The Customs informed the mission that the ML Prevention Unit analyses the data received from the various Customs point to check for past records of declarations and detect cash couriers; if a commercial company is involved the ML Prevention unit also check, in the case in which the declaration of cross border transportation of cash is done by a commercial company if the company is

involved in import/export activities (through access to a database named ASSICUDAWORLD in which all import/export-related information is stored), also for compliance with the requirement to make import/export related payments through banks. The Customs informed the mission that certain typologies of import/export transactions that are associated with the cross border transportation of cash are currently being subject to closer scrutiny (for example imports of cars which were paid more than their actual value). The ML prevention unit can also seek information from other units in the General Directorate of Customs (a. anti drug trafficking; b. stolen cars and antique objects and arts; and c. anti trafficking of weapons of mass destructions and radioactive substances). However, these more comprehensive checks are only restricted to companies; as far as individuals are concerned, the only possibility to conduct strategic analysis is limited to queries of the declaration database to check for past declaration records on the same person. Also, Customs do not have access to the TIMS database (where all individuals who enter/leave Albania are registered) and, as a result, cannot determine, for example, how frequently and from where/to an individual has left /entered the country (unless he/she has made a declaration). The ML Prevention Unit at Customs receives from the GDPML the lists of suspected terrorists, but it is not fully clear whether this list is also disseminated to the Customs points. After the onsite visit the authorities informed the mission that the lists are also disseminated to the Customs points. In any case it appears that the analysis done at the ML Prevention Unit is mainly related to ML and Customs-related offences.

489. In order to improve the overall performance and to ensure a unified implementation of rules regarding the declaration in the border crossing points a number of contact points was established and a uniform computer program for the registration of the declarations was completed in 15 border points.

No	**Branch/Border point**	**Date of establishment**
1	Custom's Branch Rinas	February 17,2010
2	Custom's Branch Durres	February 18, 2010
3	Custom's Branch Vlore	March 4, 2010
4	Custom's Branch Shkoder	April 8, 2010
5	Border point Hani Hotit	April 7, 2010
6	Border point Murriqan	April 8, 2010
7	Custom's Branch Qafe-Thane	April 20, 2010
8	Border point Tushemisht	April 20, 2010
9	Custom's Branch Kapshtice	April 21, 2010
10	Custom's Branch Tre Urat	May 5, 2010
11	Custom's Branch Kakavije	May 6, 2010
12	Custom's Branch Sarande	May 7, 2010
13	Custom's Branch Lezhe	May 14, 2010
14	Custom's Branch Morine	June 16, 2010
15	Custom's Branch Bllade	June 17, 2010

However these systems are not interconnected, which means that a certain Customs point can only determine how often an individual has left/entered the country (assuming a declaration was made, since Customs do not have access to TIMS) if that individual has left/entered the country in that particular Customs point. Most importantly, the various Customs points do not have access to the

database maintained at the ML Prevention Unit in the Customs HQ, hence they cannot see information that could help them establish whether a person is a cash courier.

Access to Information by FIU (including in Supra-National Approach) (c. IX.5):

490. As mentioned earlier, the Albanian system envisages two ways by which SRIX-related information is made available to the FIU: 1) pursuant to Article 17 of the AML/CFT Law the Customs authorities are required to 1) send a copy of the declaration form and the supporting document to a "responsible authority" (that is the General Directorate for the Prevention and Control of Money Laundering—GDPML); and 2) "report immediately and no later than 72 hours" to the GDPML "every suspicion, information or data related to money laundering or financing of terrorism for the activities under their jurisdiction".

491. It is the ML Prevention unit in the Customs HQ that, as a result of the analysis of the data received from the various Customs point, reports suspicious activities (SAs) to the GDPCML, not the Customs point themselves. Although the GDPML is notified of SAs, it does not receive, nor has access to, information concerning non-declaration/inaccurate/false declarations instances, unless these instances have triggered a suspicious transaction report. The GDPML states that the quality of the information it receives from Customs is good.

492. The GDPML's report for 2008 states that the total number of declarations (outgoing only) was 462, out of which 455 in Rinas Airport and only three in Vlora and four in Qafe Customs. The total amount declared for 2008 was EUR 5,817,100 and US$5,855,950. The report states that the number of declaration has increased from 336 (in 2007) to 462 2008), 551 (2009) and 520 (2010).

493. The statistics below note the number of people entering and leaving Albania in the period 2008/2010.

Year	**Entering**		**TOTAL**	**Exiting**		**TOTAL**
	Alb.Citizens	For.Citizens		Alb.Citizens	For.Citizens	
2008	3,097,178	1,419,191	4,516,369	3,176,480	1,273,555	4,450,035
2009	3,280,160	1,855,638	5,135,798	3,404,360	1,646,534	5,050,894
2010	3,160,142	2,417,337	5,577,479	3,443,510	2,362,267	5,805,777
			15,229,646			15,306,706

494. The statistics below show the number of STRs reported by Customs in the period 2005-2010.

Reporting Entities	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010
	STR	STR	STR	STR	STR
Customs	0	38	6	4	15

495. The statistics below show the number of declaration/total amounts declared during the period 2006-2009

	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010
Number of declarations	33	336	462	551	520
Amount in EUR	1,804,735	3,629,040	5,817,100	7,491,735	7,089,427
Amount in USD	1,168,431	3,989,660	5,855,950	5,985,570	4,689,050
Amount in GBP	7,000	11,000		125,570	32,500

Domestic Cooperation between Customs, Immigration, and Related Authorities (c. IX.6):

496. The Customs authorities cooperate with the General Directorate of State Police (Border and Migration), the GDPML, the General Directorate for Taxes and the General Directorate of Highway Transportation with whom they have Memorandum of Understandings. They also cooperate with the General Prosecutor's Office and have a liaison officer from the General Directorate of Customs in the Joint Investigations Unit (JIU). The General Directorate of Customs is one of the agencies involved in the "National Strategy for the Investigation of Financial Crimes". Customs are also involved in the Strategy for Integrated Border Management. Authorities pointed to a "Cash Strategy" which addresses the risk associated to the use of cash, including cross border transportation of cash. Domestic cooperation between the Customs and the GDPML is deemed appropriate.

International Cooperation between Competent Authorities Relating to Cross-border Physical Transportation of Currency (including in Supra-National Approach) (c. IX.7):

497. Albania has signed Memoranda of Understanding with Customs authorities of several countries[17]. These agreements are in the area of Customs legislation and can be used also for cooperation and information exchange on cross border transportation of currency.

Sanctions for Making False Declarations/Disclosures (applying c. 17.1-17.4 in R.17, c. IX.8):

498. Failure to declare "amounts of money, any type of bank check, metals or precious stones, as well as of other valuable objects, beyond the value provided by law" is a misdemeanor (criminal contravention), and it is punished by fine or imprisonment up to two years (Article 179a). The statutory fines for misdemeanours range between lek 50,000 and 5,000,000 (between US$50 and 50,000). The minimum fine is too low and it is not proportionate or dissuasive. The criminal provision does not cover the case of false declaration, nor does the AML/CFT law (which, under Article 27, lists the sanctions for non compliance with the obligations stipulated by the AML/CFT law: Article 17, which sets forth the declaration requirements is not mentioned by Article 27). Moreover, as noted earlier, the criminal sanction does not extend to "negotiable instruments" (which are not legally defined), as only "any type of bank check" is mentioned.

[17] Turkey, Italy, Greece , "the former Yugoslav Republic of Macedonia", Slovenia, Bulgaria, Moldova, Romania, Poland, Slovakia, Cyprus, Austria, Spain, Montenegro, Croatia, Kosovo, Bosnia Herzegovina, Russia, Iran, Ukraine, Hungary.

499. The statistics below indicate amounts that were seized in cases of non-declaration and the amounts of currency which was subject to sequestration. Authorities could not confirm whether the currency was later subject to confiscation. In these cases charges were brought against Article 179a but authorities could not confirm the punishment, if any, which was applied in these cases. Hence it is not possible to determine whether the sanctions are effective.

Year	Non-declarations cases	No. of cases	Persons	Arrested	Free	In search	Amounts seized
2008	3	3	4	2	2	0	7.000.000 lek
2009	4	4	5	1	4	0	40.001.088 lek
2010	1	1	1	-	1	0	31.800 EUR

Sanctions for Cross-border Physical Transportation of Currency for Purposes of ML or TF (applying c. 17.1-17.4 in R.17, c. IX.9):

500. If the cross-border transportation of the currency consists of actions that constitute criminal conduct under the CC provisions on ML or FT, the authorities may institute criminal proceedings and the sanctions are those that apply in the case of ML and/or FT. Those sanctions are addressed under Criterion 2.5 in R. 1 and Criterion II.4 in the section on SR II.

Confiscation of Currency Related to ML/TF (applying c. 3.1-3.6 in R.3, c. IX.10):

501. If the cross-border transportation of the currency consists of actions that indicate that ML or FT has occurred, the GPO is notified and may undertake a prosecution for such conduct. In such a case, the powers to freeze assets and to confiscate the currency are those that are available under the CC and CPC provisions in criminal cases. These are addressed in the discussion of R. 3 (criteria 3.1 - 3.6).

Confiscation of Currency Pursuant to UN SCRs (applying c. III.1-III.10 in SR III, c. IX.11):

502. If assets carried by persons who are physically moving currency or bearer negotiable instruments across the border are those of persons or entities designated by the Council of Ministers pursuant to the Suppression of Terrorist Financing Law, the assets are subject to freezing under the laws and procedures set forth in the discussion in this report in relation to SR III. Given the shortcoming noted with regard to the UN1373 designations it is not clear how a 1373-designated person would be known to the BMP.

Notification of Foreign Agency of Unusual Movement of Precious Metal and Stones (c. IX.12):

503. If any unusual cross-border movement of gold, precious metals or stones is detected the Customs authorities would be notified by the BMP. Authorities have not indicated whether this has

ever occurred in practice and what would be the additional measures that would be taken in such cases.

Safeguards for Proper Use of Information (including in Supra-National Approach) (c. IX.13):

504. Authorities indicated that the measures in place to ensure proper use of the information gathered and processed by Customs consist of restricting access to files to authorized users, verifying the identity of a prospective user by requiring the use of a password; locking the rooms where the database is located; restricting access to those allowed to make changes to the computer system and checking that radrware and software are used according to security policies.

Training, Data Collection, Enforcement and Targeting Programs (Including in Supra-National Approach) (c. IX.14):

505. The head of Customs based on the Action Plan of the Customs Administration, approves an Annual Training Plan. The ML prevention unit of the GCD stated that the unit was part of the trainings organized between the GDPML and the Republic of Germany in the context of an EU-funded "twinning project" concerning the investigation of financial crime, including ML. Based upon this project, 14 trainings and workshops have been organized. Overall, from January 2009 the staff of the ML prevention unit of the GCD has taken part in more than 30 training events. In addition, based on Law no. 9749 date. 04.06.2007 of the State Police Art. 46, and in a memorandum of collaboration between GCD and State Police joint trainings with experts from the customs and the police are being organized at different border crossing points on topics tailor made to address the specific issues these Border Crossing Points (BCP) encounter in their daily work. Authorities report that a total of 34 officials were trained in the period 2006-2010 on AML/CFT 9out of a total of appr. 3,158 customs officials who undertook Customs-related training in the same period). Customs have developed a data collection program and, to a limited extent, they apply targeting techniques for cash couriers.

506. The authorities also indicated that on the basis of memorandum of cooperation signed between the Border Police Department and General Customs Directorate with regard to joint training among the institutions, the ML prevention Unit has carried out training activities related to its area of expertise in the following border points: Rinas, Durres and Kapshtice.

507. The Head of the Sector for the Prevention of Money Laundering in the Custom's Directorate was part of the joint team Customs – Police in the Border Crossing Point "Qafe Thane" based on the program of the Exchange of best practices of Shengen area.

508. Authorities stated, and the mission concured, that more dedicated training is needed in the area of AML/CFT, particularly with regard to the detection of cash couriers.

Supra-National Approach: Timely Access to Information (c. IX.15):

509. N/A

Additional Element—Implementation of SR.IX Best Practices (c. IX.16):

510. Albania has implemented, to an extent, the "Best Practices for detecting and preventing the illicit cross-border transportation of cash and bearer negotiable instruments". The mission saw posters

in the Rinas airport drawing the attention of incoming passengers to the obligation to declare currency. However, given the low number of declarations and the relatively low figures for the amount of currency declared yearly, there is a need to promote an enhanced campaign to raise awareness on the declaration requirements. The mission received a declaration form (in Albanian and in English). Customs do some risk assessment and check incoming/outgoing passengers to certain countries (Turkey, Greece), but these seem to be driven more by the import/export related payments and obligation rather than specifically for ML or FT. The data which are gathered are used proactively, but the lack of interconnection between the databases among the various Border Points and between the border points and the ML Prevention unit, as well as the lack of resources (such as cash sniffing dogs) hamper the detection of cash couriers. The sharing of information between the Customs authorities and the GDPML is good and it is done in electronic forms; however the sharing of information between BMP and Customs should be improved.

Additional Element—Computerization of Database and Accessible to Competent Authorities (c. IX.17):

511. The establishment of computerized databases at each of the Customs border point is a significant development. The ML Prevention Unit in the GDC has also a database, which is populated with the data received from the different Border points regarding the declaration of cash. However the databases at the Customs Border Points are not interconnected between each other and with the one at the ML prevention unit. The fact that Customs do not systematically receive data in cases in which non-compliance with the declaration requirements is ascertained by the BMP also prevent the use of significant data for the detection/repression of cash couriers.

Statistics (R.32):

512. Please refer to the tables in the paragraphs above for the statistics that were provided to the assessment team. Authorities were not able to provide statistics broken down per border point. Statistics on the amounts of the penalties applied (fine/imprisonment) in the case of non compliance with the declaration requirements have also not been provided.

Adequacy of Resources—Customs (R.30)

513. Authorities did not provide the total number of officials employed by the Customs authorities and BMP, so the assessment team is not able to conclude whether these institutions are adequately staffed. The Unit for the Prevention of ML is understaffed (3 persons only) to properly undertake its functions. Although the BMP is readily available at Border Points to apply coercive measures, the fact that there are no Customs Judicial police officers at the border point may be a shortcoming, especially considering that the information concerning the adoption of coercive measures by the BMP (including sanctions) is not systematically made available to Customs. There is a need of more resources to help authorities detect cash couriers (such as dogs trained to sniff cash).

514. The 2006 assessment report noted the risk of corruption, which had also been acknowledged by the authorities. In addition to the measures noted in the 2006 report, the authorities stated that the decrease of excise and other customs-related taxes and the informatization of the Customs procedures (for clearing trucks and cargos) have also contributed to reduce the risk of corruption for Customs-related operation. However, as anecdotal evidence suggests that the risk of corruption remains high in

Albania, authorities should remain vigilant in order to minimize the risk of criminals/financiers of terrorism using bribes to facilitate the smuggling of cash into/out of Albania.

Effectiveness:

515. There has been an improvement in the effectiveness of the implementation of the cross-border currency transportation and FATF Recommendations-related requirements since the 2006 report. The number of declaration has increased steadily from 2006; the establishment of computerized systems at each Border point, the informatization of the data concerning the declaration, and the availability of this data to the GPPML; the analytical work done by the ML Prevention unit; all these are encouraging signs.

516. Howeverthe number of declarations is still significantly small. It is also interesting that the majority of declarations concern departing passengers. The cases of non declarations that were detected are also mostly related to departing passengers (the average range of declared money is between EUR 15,000-20,000) and, although in some instances, the amounts discovered were significant (Customs pointed to two cases in which EUR 70,000 and EUR 200,000 were detected), many of these cases relate to money that is being brought abroad for purchasing goods. The fact however remains that, although there is a significant amount of remittances from abroad, the majority of which is brought in cash (including by organized networks that use buses for transporting passengers to provide also transportation for cash, as the mission was informed) the level of incoming declarations and the number of detected cases of non declaration are significantly small. This is particularly relevant for Border points other than Rinas airport, where the number of declarations is almost close to none. Considering the widespread use of passenger buses to transport also cash from Albanians who are resident abroad and, more in general, the figures on incoming remittances, authorities should significantly enhance the implementation of the declaration requirement and the capacity to detect smuggling of cash especially at Border points other than Rinas airport.

517. The fact that the computerized databases at the Customs points are not connected to each other nor are they connected to the database maintained by the ML Prevention Unit also hampers the effectiveness of the system, in that it does not allow for the possibility to search for past records that could confirm that a person is a cash courier. This shortcoming should be remedied by creating a secure network in which all data maintained by the various Border Points and the ML Prevention Unit can be accessed. The analytical work of the ML prevention unit for the detection of potential cash couriers for ML/FT could also benefit from wider access to data: except the data contained in the declaration and the data accessible for import/export undertaken by commercial entities the ML prevention unit does not have access to data concerning individuals (such as the data contained in TIMS) which could also strengthen the analytical work. Authorities should consider extending access to TIMS also to Customs officers operating at the Border point. Lists of terrorists (including intelligence on suspected terrorists) which it is assumed are available for the BMP should be systematically made available also to Customs at the Border Points (to help detecting cash couriers who could be terrorist financiers or related to terrorism). Considering the risk of FT, as discussed under SRII, this is a shortcoming that authorities should address as a matter of priority.

518. The analytical work could be more streamlined and focus more on pattern/trends/risk of Ml/FT associated to cross-border transportation of cash, and the result of this work (including the identification of routes and of the type of passengers that are more at risk, as well as typologies) could

be more proactively studied and made available at the Border points. Customs have identified categories of passengers/routes/destination that could be more at risk, and check passengers arriving from/departing to these destinations randomly; however, it appears that the focus is more on checking compliance with import/export related requirements, rather than a more systematic approach that would also specifically take into account ML/FT. This is also particularly relevant for FT, given the risk of FT evidenced under SRII.

519. While domestic cooperation is good and the data provided to the GDPML is provided in an effective manner; the division of responsibility between Customs and BMP should be clarified. The mission understands that the BMP is readily available at each Border points to take coercive measures when these are necessary, including fines and seizures for non-declaration of currency. However the data on these measures do not appear to be systematically shared with Customs and, ultimately, with the GDPML, which has no access to such data. This is also a significant shortcoming that should be remedied.

2.7.2. Recommendations and Comments

520. Authorities should:

- Define the notion of "negotiable instruments", so that it is fully consistent with the FATF definition of "bearer negotiable instruments", and harmonize Article 187a of the Criminal Code so that a proper reference to bearer negotiable instruments is included.
- Extend the declaration requirements also to the shipment of currency through containerized cargo or in the case of mailing of currency.
- Improve Customs officers' access to information by:
    - Providing Customs access to TIMS;
    - Requiring the BMP to provide Customs all information related to the declaration requirements (such as in the case of ascertained violations concerning the non-compliance with the declaration reporting false declarations/failure to declare);
    - Making sure that all Customs points receive the lists of terrorists;
    - Interconnecting the databases at the Customs point and the database at the Customs HQ Unit for the Prevention of ML, so that they can be mutually queried.
- Provide the GDPML the data concerning the non-compliance with the declaration reporting false declarations/failure to declare.
- Amend the Criminal Code or the AML/CFT law to include sanctions for the case of false/inaccurate declaration.

- Increase the minimum statutory fine for failure to declare.
- Develop analysis techniques of the data received from the declaration-related requirement with the view of creating intelligence that can be used for the detection of cash couriers.
- Develop more comprehensive programs to target cash couriers.
- Boost the implementation of the declaration requirements and increase monitoring especially at Border points other than Rinas airport.
- Extend the uniform computer program for the registration of the declarations of currency to all border points.
- Require that cash deposits that are purported to be remittances from abroad are accompanied by the Customs declaration, when they exceed the threshold.
- Provide more training in the area of AML/CFT, particularly with regard to the detection of cash couriers.
- Increase the staff of the Unit for the Prevention of ML.

521. Authorities should consider:

- Clarify the division of responsibilities between Customs and BMP for checking compliance with the implementation of the declaration-related requirements.
- Have Customs Judicial Officers at Customs point that may present a higher risk of cash smuggling.

2.7.3. Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to s.2.7 underlying overall rating
SR.IX	**PC**	• Definition of "bearer negotiable instruments" not in line with the FATF standard. • No requirements in the case of the shipment of currency through containerized cargo or in the case of mailing of currency. • No sanctions for the case of false/inaccurate declaration. • Minimum statutory fine is too low. • Issues of effectiveness (number of declarations very low, access to data not satisfactory, analysis of data could be improved; assessors cannot determine whether the sanctions are effective).

3. PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS

Customer Due Diligence and Record Keeping

3.1. Risk of Money Laundering or Terrorist Financing

522. The Albanian authorities do not operate a risk-based approach to the scope of the key AML/CFT preventive measures and the requirements in the various legislative provisions apply equally to all financial institutions (FIs) within the scope of Law No. 9917 dated 19 May 2008 (the AML/CFT Law).

523. Certain risk-based elements are included in the required CDD measures in relation to ongoing monitoring (on the basis of risk), and the requirement to conduct enhanced due diligence for certain categories of customer.

524. The Albanian financial system is dominated by banks, but there is also a sizeable bureau de change sector, and several savings/credit associations. Money remittance is carried out under the auspices of two main remittance companies which have a number of agencies. Given Albania's largely cash-based economy and its geographical location, all of these sectors are potentially vulnerable to risks associated with money laundering. The banking and remittance sectors are arguably more vulnerable than the other sectors to the risks of terrorist financing. Money changing activity has, historically, also taken place via unlicensed money changers. This trend is diminishing. Albania's aim to implement an AML/CFT strategy is to be encouraged, as a greater knowledge of the risks in these sectors will enable it to target its resources better.

Legal provisions – Law, Regulations and Other Enforceable Means

525. The AML/CFT Law came into effect on September 10, 2008, and sought to address the main deficiencies identified in the 3rd Round Mutual Evaluation Report. This repealed the Law "On the Prevention of Money Laundering 2000 (amended in 2003) which was in existence at the time of the Second and Third Round mutual evaluations.

526. For the purposes of the assessment process, the AML/CFT law can be regarded as law. The AML/CFT Law was issued by the Assembly of the Republic of Albania and approved by the President. It imposes mandatory requirements, and contains sanctions for non-compliance.

527. Instruction No. 12 dated 12 April 2005 on "The reporting methods and procedures of the obliged entities pursuant to Law No. 9917" applies to the FIs covered by the AML/CFT Law. This re-states some of the preventive measures contained in the AML/CFT Law, with some additional information on the timing of submission of STRs, and some of the acceptable forms of customer identification. The Instruction was issued by the Ministry of Finance pursuant to Article 102 para 4 of the Constitution and Article 12 para 3 of the AML/CFT Law. Sanctions for non-compliance can be imposed by the FIU under the main AML/CFT Law. For the purposes of the assessment, it can be regarded as regulation, as it is issued by the Council of Ministers under powers conferred by Parliament (under the AML/CFT Law), contains mandatory language, and has sanctions for non-compliance. Bank of Albania Supervisory Council Decision No. 44 dated 10 June 2009 contains additional provisions applicable to those financial institutions regulated by the BoA. It re-states some

of the provisions of the AML/CFT Law, but has more guidance on factors to be considered when determining if a business relationship or transaction is unusual or suspicious.

528. It is issued, inter alia, in accordance with Article 12 para a of Law No. 8269, dated December 23, 1997 "On the Bank of Albania". This provision obliges the BoA "to issue such rules and regulations as necessary to ensure the soundness of the banking system in accordance with and to implement the law". However, Law 8269 does not refer to AML/CFT matters. In addition, the Decision is issued in accordance with Article 9 of Law 9662 dated December 18, 2006 "On Banks in the Republic of Albania", which obliges the BoA to "implement the requirements emanating from" the AML/CFT Law. Article 10 paras 4 and 5 of Decision No. 44 requires the BoA to provide evidence of infringements of the Decisions to the FIU and to take "supervisory measures against the subjects of this Regulation if concluding these subjects do not implement the applicable legal and regulatory framework on the prevention of money laundering and terrorist financing." For the purposes of this evaluation, Decision 44 is treated as other enforceable means, as it sets out enforceable requirements with sanctions for non-compliance and is issued by a competent authority.

529. In the following sections reference is made to the primary legislation (the AML/CFT Law). Instruction No. 12 (which is treated as "regulation") is mentioned when its provisions satisfy the asterisked or non-asterisked criteria not dealt with in the AML/CFT Law. Decision 44 is mentioned when its provisions meet the non-asterisked criteria. Where Decision 44 and Instruction No. 12 merely duplicate the AML/CFT Law, reference is only made to the primary legislation.

Scope

530. The main categories of financial institution as defined in the FATF Glossary are covered in the AML Law (see section 1.3 for more information). The main categories of FI operating in Albania are:

Type of financial activity (See glossary of the 40 Recommendations)	**Type of financial institution that performs this activity**	**AML/CFT regulator & supervisor In addition to the FIU**	**AML/CFT Law Article preventive measures applicable for scope/supervision**	**Additional AML preventive measures**
1. Acceptance of deposits and other repayable funds from the public (including private banking)	1. Banks[18] [2. Saving and credit companies and their unions]	1. Bank of Albania (BoA)	1. 3(a)/24(a) 2. 3(d)/24(a)	1. BoA Dec 44 2. BoA Dec 44

[18] Banks and branches of foreign banks are entitled to perform the following activities (Banking Law 9662 Articles 4 and 54):

(continued)

2. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting))	1. Banks 2. Non-bank financial institutions[19]	1. BoA 2. BoA	1. 3(a)/24(a) 2. 3(b)/24(a)	1. BoA Dec 44 2. BoA Dec 44

Article 4 para 2. "Banking activity" –shall mean the receipt of monetary deposits or other repayable funds from the public, and the grant of credits or the placement for its own account, as well as the issue of payments in the form of electronic money.

Article 54 para. 2(a) lending of all types including, inter alia, consumers credit and mortgage;
b) factoring and financing of commercial transaction;
c) leasing;
d) all payments and money transferring services, including credit, charge and debit cards, travellers cheques, bankers draft;
e) guarantees and commitments;
f) trading for own account or for the account of clients, whether on a foreign exchange, in an over-the-counter market or otherwise the following:
(i) money market instruments (cheques, bills, certificates of deposits, etc);
(ii) foreign exchange;
(iii) derivative products, included, but not limited to futures and options;
(iv) exchange rates and interest rate instruments including products such as swaps and forward agreements;
(v) transferable securities;
(vi) other negotiable instruments and financial assets including bullion;
(vii) participation in issues of all kinds of securities including, underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
g) money broking:
(iv) asset management such as cash or portfolio management, fund management, custodial, depository and trust services;
(v)settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;
(vi) provision and transfer of financial information, and financial data processing and related software by providers of other financial services;
h) advisory, intermediation and other auxiliary financial services of all activities listed in letters (a)-(f) above, including credit reference and analyses, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

[19] Non-bank FIs are those licensed to carry out the following activities (Regulation No. 11, February 25, 2009 "On the granting of license to non bank financial subject".:
i. lending of all types,
ii. factoring,
iii. leasing,
iv. all payments and money transferring services,
v. guarantees and commitments,
vi. foreign exchange; and

(continued)

3. Financial leasing (other than financial leasing arrangements in relation to consumer products)	1. Banks 2. Non-bank financial institutions (Leasing companies)	1. BoA 2. BoA	1. 3(a)/24(a) 2. 3(b)/24(a)	1. BoA Dec 44 2. BoA Dec 44
4. The transfer of money or value (including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds)	1. Banks 2. Non-bank financial institutions (Money remitters) 3. Postal services that perform payment services	1. BoA 2. BoA 3. BoA	1. 3(a)/24(a) 2. 3(b)/24(a) 3. 3(e)/24(a)	1. BoA Dec 44 2. BoA Dec 44 3. BoA Dec 44
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money)	1. Banks [2. Any other physical/legal entity that issues/manages payments][20]	1. BoA [2. Financial Supervisory Authority (FSA)]	1. 3(a)/24(a) [2. 3(f)/24(b)]	1. BoA Dec 44
6. Financial guarantees and commitments	1. Banks 2. Non-bank financial institutions	1. BoA 2. BoA	1. 3(a)/24(a) 2. 3(b)/24(b)	1. BoA Dec 44 2. BoA Dec 44
7. Trading in: (a) money market instruments (cheques, bills,	1. Banks 2. (b) Foreign Exchange Offices 3. Stock	1. BoA 2. BoA 3. FSA	1. 3(a)/24(a) 2. 3(b)/24(a) 3. 3(g)/24(b)	1. BoA Dec 44 2. BoA Dec 44

vii. advisory, intermediation and other auxiliary financial services of all activities listed in points (i) –(vi)", of this letter;

[20] In practice, these are all supervised by the BoA.

CDs, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading	exchange/broker/agents			
8. Participation in securities issues and the provision of financial services related to such issues	1. Banks 2. Stock exchange/brokers /dealers	1. BoA 2. FSA	1. 3(a)/24(a) 2. 3(g)/24(b)	1. BoA Dec 44
9. Individual and collective portfolio management	1. Banks 2. Stock exchange/brokers/dealers	1. BoA 2. FSA	1. 3(a) 2. 3(b)	1. BoA Dec 44
10. Safekeeping and administration of cash or liquid securities on behalf of other persons	1. Banks 2. Non-bank financial institutions	1. BoA 2. BoA	1. 3(a) 2. 3(b)	1. BoA Dec 44 2. BoA Dec 44
11. Otherwise investing, administering or managing funds or money on behalf of other persons	1. Banks	1. BoA	1. 3(a)	1. BoA Dec 44
12. Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers))	1. Life insurance companies/agents/intermediaries/pension funds	1. FSA	1. 3(h)/24(b)	

13. Money and currency changing	1. Banks 2. Foreign exchange offices	1. BoA 2. BoA	1. 3(a)/24(a) 2. 24(c)	1. BoA Dec 44 2. BoA Dec 44

3.2. Customer due diligence, including enhanced or reduced measures (R.5 to 8)

Customer Due Diligence (R 5 – rated NC in the 2006 MER)

3.2.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

531. Albania was rated as non-compliant (NC) for Recommendation 5 in the 3rd Round Mutual Evaluation Report.This was largely on the basis that key provisions were not set out in law or regulation, but there were also gaps in provisions assessed to be other enforceable means. In particular, there were no provisions dealing with identification in the all the required cases, beneficial ownership and ongoing due diligence.

532. Since then Albania has passed a new AML/CFT Law which aims to address the gaps in the legislative measures in law. Further amplification of these requirements is given in Instruction 12 (treated as "regulation") and BoA Decision 44 (treated as "other enforceable mean").

Legal Framework

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".
- Instruction no. 12 dated April 5, 2009 on "The reporting methods and procedures of the obliged entities pursuant to Law No. 9917", hereinafter "Instruction 12".
- Bank of Albania Supervisory Council Decision no. 44 dated June 10, 2009 "On the Approval of the Regulation "On prevention of money laundering and terrorist financing", hereinafter "Decision 44".

Prohibition of Anonymous Accounts (c. 5.1):

533. Opening of an anonymous account is criminalized by Article 287a of the Criminal Code of the Republic of Albania (Law No. 7895, dated 27 January 1995, as amended on December 1, 2004). Violation of this provision of the law is punishable by imprisonment of up to three years and with a fine from lek 200,000 up to 2,000,000 [21]. This does not appear to have retrospective effect, and thus does not cover anonymous accounts in existence at the time it came into force (December 1, 2004).

[21] 1 USD = 100 Lek

534. Article 11 para 2 of the AML/CFT Law contains a prohibition on opening or maintaining business relations with anonymous clients or clients using fake names. In addition, FIs are not permitted to open or maintain numbered accounts. Sanctions are available in Article 27 para 5 for breach of this requirement, which include fines for individuals of lek 300,000 up to lek 1,500,000, and for legal entities, fines from lek 1,000,000 up to 3,000,000. In practice, there appear to be no existing anonymous accounts.

535. There are legal provisions concerning passbooks, for example in Articles 1025 and 1026 of the Civil Code. According to these legal provisions passbooks can also be issued in bearer form.

536. The use of checks with multiple third party endorsements is also recognized in Decree no. 3702, dated July 8, 1963 "On Checks", and the authorities confirmed that they could, in theory, be used.

537. Certificates of Deposit in bearer form are also permitted under BoA Guideline no. 79, dated October 3, 2001.

538. Although practically the FIs spoken to stated that they do not offer passbooks or certificates of deposit in bearer form the legal availability of such instruments could pose a risk of ML/FT. The transferability and the negotiability of these instruments render them de facto legal tender, making it difficult for identification of the true beneficial owner (especially in the case in which these instruments are transferred several times before encashment) and, therefore, more susceptible and higher risk of being used for ML and FT. Neither require the existence of an account. Passbooks allow similar operations to those in savings accounts, including deposits and withdrawals, which must be reflected in the passbooks. It is not usually possible to make wire transfers or have a checkbook issued against the account, and thus differ from normal "current accounts". Certificates of deposit do not necessarily presuppose the existence of accounts. It is usually the bank that decides whether to issue certificates of deposit to customers who are not account holders of the bank. As such, the anonymity and transferability regime would pose a significant challenge for financial institutions to conduct ongoing due diligence throughout the life of the business relationship with the "customer". These provisions do not appear to be directly affected, in practice, by the provisions of the Criminal Code or the AML/CFT Law.

539. Implementation: Although bearer instruments are not prohibited in Albania, none of the FIs spoken to by the assessment team was aware of their use, and none were offering them. The fact remains that they could still be in use, and thus the authorities should carefully consider how to reduce the risk of ML/FT associated with these instruments. Authorities should prohibit the use of passbooks and certificates of deposit in bearer form, and prohibit the multiple endorsements of checks over certain limits, if necessary by making the provisions of the Criminal Code and AML/CFT Law directly applicable to circumstances where bearer instruments are able to be issued.

When is CDD Required (c. 5.2):

540. Article 4 of the AML/CFT Law requires FIs to "identify their clients and verify their identities by means of identification documents" in the following circumstances:

a) Before establishing a business relationship;

b) For direct transfers inside or outside the country;

c) For transactions of not less than lek 1,500,000 (approximately US$15,000), including linked transactions[22];

d) When there are doubts about the identification data previously collected;

e) In all cases where there is "reasonable doubt for money laundering or terrorist financing".

- Direct transfers include wire transfers, and there is no threshold.
- These provisions only apply to identification and verification of identity, whereas criterion 5.2 applies to the wider concept of customer due diligence. This is a gap in the legislation.
- The term "reasonable doubt" is not defined in the AML/CFT Law or secondary legislation, and discussions with the Albanian authorities suggest that this is a higher standard of proof than normally required for submission of a suspicious activity report. This section of the AML/CFT Law is, therefore, not in compliance with the standard.

541. Implementation: The FIs spoken to by the assessment team confirmed that they were following most of the legal requirements for identifying customers. However, there was inconsistent interpretation of the concept of "reasonable doubt" of money laundering or terrorist financing, with some thinking that it applied when they had grounds to submit a suspicious activity report. This is not the understanding of the FIU, and should be clarified.

Identification measures and verification sources (c. 5.3):

542. Article 5 of the AML/CFT Law requires obliged entities to "register and keep" information relating to an individual or legal entity's [23] identity including name, address, date of birth, type and number of identification document for natural persons, and name, number and date of registration for legal entities. The authorities indicated that legal entities included both legal persons and legal arrangements, and this interpretation was confirmed by the financial institutions met.

543. In practice, the assessment team did not meet with any FIs that had trust clients. It appears that their use and operation in Albania is rare.

[22] "Linked transactions are defined as "two or more transactions (including direct transfers) where each of them is smaller than the amount specified as threshold according to Article 4 of this law and when total amount of these transactions equals or exceeds the applicable threshold amount."

[23] An "entity" is defined as "a person or legal entity, which establishes business relations with clients in the course of its regular activity or, as part of its commercial or professional activity." (Article 2 para 14 AML/CFT Law)

544. Article 5 provides some detail of the measures to be used for "confirmation and identification" of clients. These are:

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

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

c) In the case of private legal entities, which carry out for-profit activity: name, number and date of registration with the National Registration Center, documents certifying the object of activity, Number of Identification as Taxable Person (NIPT), address and all changes made in the moment of execution of the financial transaction;

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

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

545. Instruction 12 Article 4 provides examples of the types of information that meet the requirement. These are:

- Identity Card;
- Passport;
- Picture Certificate;
- Driver's license.

546. There is a further provision for natural persons for the verification of address:

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

547. Article 4 also contains examples of documentation for legal entities:

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

548. These appear to be satisfactory requirements for the basic identification and verification of domestic natural and legal persons, but there is no additional guidance for steps to be taken for foreign clients, who might not have all of the above documentation available. In addition, although the identification and verification requirement extends to legal arrangements, there are no specific requirements as to what might be acceptable documentation. Discussions with the authorities and institutions confirmed the view that the reliability of identity documents in Albania had improved significantly in recent years, with more robust systems for the issue of passports and identity cards.

549. Implementation: FIs appear to be following the legal requirements as far as documentation for individuals is concerned. Some are applying additional measures as a result of group policies.

Identification of Legal Persons or Other Arrangements (c. 5.4):

550. Article 5 para 1 let. E) of the AML/CFT Law requires identification of "legal representatives of a client", which refers to the need to obtain a "copy of the affidavit". This does not strictly meet the FATF requirement to verify that a person acting on behalf of another is so authorized (criterion 5.4 (a)). Article 9 paragraph 7 does, however, require enhanced due diligence ("EDD") to be applied to transactions carried out by clients in the name of third parties. Given the wide-ranging definition of "enhanced due diligence" ("EDD") (see analysis below), this goes some way to meeting the criterion. However, given the lack of guidance on the steps to be taken in circumstances where EDD is required, a specific requirement in the Law would give clarification.

551. For NPOs, Article 5 para 1 let. D) requires details of registration, tax license, address and details of the type of activity undertaken.

552. Although Albania does not formally recognize the formation of trusts, and is not a signatory to the Hague Convention on The Law Applicable to Trusts, it is technically possible for trusts to operate in Albania. Further provisions on how to deal with these entities is to be encouraged.

553. Although Article 5 para 1 of the AML/CFT Law requires information about the legal status of the customer to be obtained, it does not include a requirement to obtain details of directors and provisions regulating the power to bind the legal person (criterion 5.4 (b)). The information that is required under Article 5 para 1 is set out above (criteria 5.3). Again, the EDD requirement in Article 9 para 7 goes some way to meeting this, requiring "the representation documents with which third parties have authorized the transactions".

554. Implementation: Most of the FIs spoken to during the assessment adopted measures to verify that a person acting on behalf of another person is authorized to do so, usually by checking company documentation naming them as authorized individuals. Some would also take additional steps, including making contact with the companies concerned.

Identification of Beneficial Owners (c. 5.5; 5.5.1 and 5.5.2):

555. Article 4 para 2 of the AML/CFT Law requires the identification of "beneficiary owner". "Beneficiary owner" is defined in the Law as "the individual or legal entity, which owns or is the last to control a client and/or the person in whose interest a transaction is executed". The term "client" is defined in Article 2 para 6 of the AML/CFT Law as "every person who seeks to be a party in a

business relation with one of the entities" to whom the law applies. It thus covers legal "persons" and natural "persons", but not legal arrangements.

556. It also includes the concept of "last effective control[24]" which is refers to control via majority shareholding/votes, control of the selection, appointment or dismissal of the company's administrators, and "de facto" control over the decision-making of the legal person.

557. Although not defined in the AML/CFT Law, the authorities confirmed that the definition of majority is that of a simple majority, namely 50% + 1 of the shares of the company or the voting rights.

558. The concept of majority is defined differently in Instruction 12 as "owns directly or indirectly the majority of shares, voting rights of a legal person or possesses over 25% of the shares". The concept of owning a majority of shares and possessing over 25% is not entirely consistent.

559. Whilst these provisions go some way to requiring obliged entities to understand the ownership of legal entities, they do not specifically cover the control structure of the customer, and the concept of "majority shareholding" is not consistent between the AML/CFT Law and Instruction 12, and does not mean that the ultimate natural owner is identified. The reference to "de facto control" of decision making of a legal person was felt, by the authorities, to include the situations not otherwise covered above (for example, when share ownership is dispersed at levels below the thresholds). However, in the absence of any guidance to this effect, this is not a clear interpretation.

560. Article 4 para 2 of the AML/CFT Law only refers to the identification of "beneficiary owner" and, in the absence of a specific provision requiring reasonable measures to verify identity, this is a gap in the legislation.

561. There is no express provision for financial institutions to determine whether a person is acting on behalf of another, although the definition of "beneficiary owner" does include a person in whose interest a transaction is executed. Thus identification (but not verification) of such a person is technically required. Article 5 para 1 let. (e) sets out the required identification documents for a legal representative of a client, but this does not necessarily equate to the beneficial owner.

562. Implementation: The concept of "beneficiary owner" set out in the AML/CFT Law appeared to be poorly understood, and was considered by some FIs to be confusing. Several FIs preferred to

[24] Article 2 para 12 **"Beneficiary owner"** means the individual or legal entity, which owns or, is the last to control a
client and/or the person in whose interest a transaction is executed. This also includes the persons executing the last effective control on a legal person. The last effective control is the relationship in which a person:
a) owns, through direct or indirect ownership, the majority of stocks or votes of a legal entity,
b) owns by himself the majority of votes of a legal entity, based on an agreement with the other partners or shareholders,
c) de facto controls the decisions made by the legal person,
d) in any way controls the selection, appointment or dismissal of the majority of administrators of the legal person.

adopt group policies which were more in line with the Third EU Money Laundering Directive, which refers to beneficial ownership in terms of ownership or control of shareholdings with 25% or more of the shares. There is no specific guidance on steps to be taken for identifying foreign legal entities, and one FI felt that this was very difficult to achieve in practice. The concept appeared to be best understood in the banking sector, although banks frequently would go no further than checking names listed on the national share ownership register. The concept of establishing the mind and management of a company (beyond mere shareholding) was not widely understood, and the legal requirement to establish "de facto control" was considered by FIs spoken to as merely including the requirement to establish shareholdings.

Information on Purpose and Nature of Business Relationship (c. 5.6):

563. There is no specific provision in the AML/CFT Law or the secondary legislation requiring financial institutions to obtain information on the purpose and intended nature of the business relationship. There are some very limited provisions in other legislation relating to commercial foreign exchange activities [25], and loan agreements [26] which require FIs to record details of the purpose of the transactions. However, this requirement is limited in scope and, except in the case of commercial transaction transfers in foreign exchange, does not fully extend to obtaining information on the nature and the purpose of the transaction. Some of the FIs spoken to were, in fact, gathering this information, but this tended to be as a result of more stringent group/parent company requirements.

Ongoing Due Diligence on Business Relationship (c. 5.7; 5.7.1 and 5.7.2):

564. Article 6 of the AML/CFT Law requires FIs to carry out "continuous monitoring of business relations" with clients in order to ensure that they are consistent with the FI's knowledge of the client and "according to the level of risk they represent". As the term "business relations" does not specifically include transcations [27], this does not amount to a specific requirement to scrutinize transactions, and, in the absence of any further guidance on risk factors to be taken into account, it remains up to FIs how to carry out this requirement.

565. Article 6 requires FIs to "periodically" update client data, and to update it "immediately" when they suspect that the client's situation has changed. Although there is no definition of "periodically", the requirement to update "immediately" when circumstances change would appear to meet the essential criterion (5.7.2).

[25] Decision no. 70 dated September 30 2009 on the adoption of the Regulation "On Foreign Exchange Activities" Appendix 1 para I)

[26] Decision no. 05, dated February 11, 2009 on the approval of the regulation "on the consumer credit and mortgage credit for households" Article 7, and The Approval of the regulation "on the transparency for banking and financial products and services" Article 7.

[27] Article 2 para 7 AML/CFT Law: "Business relation means any professional or commercial relationship, which is related to the activities exercised by this law and their clients and which, once established, is considered to be a continuous relationship"

566. In addition, for FIs supervised by the BoA, Article 8 para 11 of Decision 44 requires them to "carry out ongoing monitoring of business relationships with their customers, to ensure they are in line with the information subject owns about the customer, purpose of activity etc." This reference to "purpose of activity" is not underpinned by primary or secondary legislation.

567. Implementation: Interpretation of the provision of "continuous monitoring differed between the FIs spoken to, giving rise to questions about how clear and effective the provision is in practice.

568. Very few FIs considered that the requirement to carry out continuous monitoring of the account did include an obligation to monitor all transactions. The absence of a definition of "periodically" was also a concern to the FIs spoken to, and practice in the banking sector varied according to internal policy. Some FIs did not appear to be carrying out any monitoring of accounts, except in circumstances where enhanced due diligence ("EDD") is required.

569. The practical application of what constitutes a "change in circumstances" varied from a simple change in client details to circumstances giving rise to a suspicion of ML/TF.

570. Overall, the understanding of the provisions in this part of the AML/CFT Law give rise to concerns about how consistently and effectively the requirement to conduct ongoing monitoring is being applied in practice.

Risk—Enhanced Due Diligence for Higher-Risk Customers (c. 5.8):

571. Article 7 of the AML/CFT Law contains a requirement for FIs to "specify categories of clients and transactions (in addition to those referred to in Articles 8 and 9, described below) against whom they will apply the enhanced due diligence". This is a general provision that appears to leave a degree of discretion to FIs.

572. The AML/CFT Law then specifies certain categories of clients and transactions to which EDD measures should always be applied.

573. Article 8 para 3 sets out specific measures to be taken in relation to non-profit organizations (NPOs). These include establishing the source of finance, reputational checks, obtaining senior management approval for the relationship and "extended monitoring". In addition, the term "increased and continuous monitoring" is used when setting out the requirements for dealing with PEPs (Article 8 para 1). Discussions with the authorities and FIs led the assessment team to conclude that the concept of "extended monitoring" and "increased and continuous monitoring" was no different from the concept of "continuous monitoring" set out in Article 6. It is, therefore, doubtful as to whether this provision adds anything to the existing requirement which is, in any event, poorly implemented by FIs.

574. Article 9 paras 3 to 8 contain additional circumstances of types of transaction when enhanced due diligence should be carried out. These include those circumstances covered by Recommendation 11 (complex transactions and all types of unusual transactions that do not have a clear economic or legal purpose), and Recommendation 21 (clients residing or acting in countries that do not apply or partly apply the relevant international standards on the prevention and fight against money laundering and financing of terrorism, but additionally mentions non-resident clients (Article 9 para 4), trusts and

joint stock companies (Article 9 para 6), and transactions carried out in the name of third parties (Article 9 para 7).

575. Decision 44 contains more detailed measures about factors to be taken in consideration when an FI regulated by the BoA is considering the risk profile of a customer or a transaction carried out by a customer. Non-exhaustive categories of client that might be classed as high risk include, inter alia, non-profit organizations, offshore customers, trusts, and import/export companies.

576. The enhanced measures required to be taken under Article 7 of the AML Law in high risk scenarios require the physical presence of the client prior to establishing a business relationship and executing transactions on their behalf. In addition, Article 2 defines "enhanced due diligence" as including "a deeper control process… the aim of which is to create sufficient security to verify and evaluate the client's identity and to assess the possible risk of money laundering/terrorism financing".

577. Instruction 12 contains further information on the types of measures to be taken for NPOs. These include (Article 4 para 6) obtaining "information and documents that prove the financing sources, previously derived income, nature of the activity, administration and management methods".

578. Implementation: The authorities confirmed that they are developing guidance on applying a risk-based approach to enhanced due diligence in circumstances where FIs are required to determine additional categories of client and transaction to which enhanced measures should apply. At present, FIs appear to be aware of the main categories of higher risk as detailed in Articles 8 and 9, and not adding their own categories, except in some parts of the banking sector where there are higher requirements at group level. However, little is being done in practice for clients who are NPOs. Bearing in mind the large number of NPOs in Albania (and the issues noted under Recommendations 33 and SRVIII), this would appear to be a major issue, also considering the analysis of risk under SRII.

579. In addition, some banks are using a risk categorization system (typically low, medium and high, and some FIs have also a category of "non-acceptable customers", such as those on the terrorist financing list), in which high risk includes the categories of client mentioned in Articles 8 and 9. This risk categorization is often done for new clients when they are first taken on, but not necessarily for existing ones.

580. The concept of "extended monitoring" was not widely understood, with most FIs only triggering further research and investigation in circumstances where there were grounds for suspicion. One bank only routinely checked high risk accounts on an annual basis, which the assessment team considers to be too infrequent.

581. A small number of FIs in the banking sector were, however, more aware of the need to monitor the accounts of higher risk customers, with reports of account activity being examined on a frequent basis.

Risk—Application of Simplified/Reduced CDD Measures When Appropriate (c. 5.9); Risk—Simplification/Reduction of CDD Measures Relating to Overseas Residents (c. 5.10); Risk—Simplified/Reduced CDD Measures Not to Apply When Suspicions of ML/TF or Other High-Risk Scenarios Exist (c. 5.11):

582. The AML/CFT Law does not make reference to situations where FIs might be permitted to apply simplified customer due diligence measures, and thus simplified customer due diligence is not permitted under Albanian law.

Risk-Based Application of CDD to be Consistent with Guidelines (c. 5.12):

583. Although FIs in Albania are not permitted to apply simplified customer due diligence, they are allowed a degree of flexibility in determining which customers present higher risks. As set out above (criterion 5.8), the AML/CFT Law and Instruction 12 contain information on enhanced measures for certain types clients.

584. BoA Decree 44 gives examples of higher risk categories of customers and transactions, and these appear to be used by several FIs. There are no additional guidelines outside the main legal/regulatory regime.

585. Implementation: Although categories of clients and transactions to which EDD measures should be applied are set out in law/other enforceable means, there is little guidance as to what measures should be taken in practice. FIs in the banking sector were often applying internal procedures as a result of group/parent company policy, but there is a need for consistent guidance across all sectors.

Timing of Verification of Identity—General Rule (c. 5.13):

Timing of Verification of Identity—Treatment of Exceptional Circumstances (c.5.14 and 5.14.1):

586. Article 4 para 1 (a) of the AML/CFT Law makes it clear that identification and verification of customers should take place "before" a business relationship takes place. For transactions this is to be completed "when" they are being carried out.

587. There is no express provision permitting FIs to carry out identification and verification after establishment of the business relationship, and the private sector confirmed that this would not happen in practice.

588. Implementation: Discussions with the private sector confirmed that identification and verification of clients are taking place before a transaction is carried out and before a business relationship is commenced.

Failure to Complete CDD Before Commencing the Business Relationship (c. 5.15):

589. The AML/CFT Law does not mention what steps an FI should take if it is unable to complete CDD before commencing a business relationship, except in cases where enhanced due diligence is required. In these circumstances Article 9 para 9 requires FIs to not establish or carry on the business relationship and to report its inability to fulfill the enhanced due diligence obligations to the FIU and to declare the reasons why.

590. BoA Decree 44 contains additional requirements for FIs supervised by the BoA. Article 6 para 8 requires FIs to refuse to open an account or enter into a business relationship if it cannot perform customer identification (which also, by virtue of Article 6 para 1, includes verification of

identity). However, this does not cover situations where an FI is unable to establish the nature and intended purpose of the business relationship (which, in any event, is not a requirement in Albania). FIs are required (under Article 6 para 9) to suspend all operations with the client and inform the responsible authority (the FIU) if there are any suspicions relating to the customer's identity. This does not, therefore, specifically refer to being unable to complete the whole range of CDD measures, and, in any event, only applies to FIs supervised by the BoA.

Failure to Complete CDD After Commencing the Business Relationship (c. 5.16):

591. The provisions of the AML/CFT Law (Article 4 para 1) require identification before establishing a business relationship, so in theory FIs would not be in a position to carry out any transactions for a client.

592. As mentioned above, BoA Decision 44 (Article 6 para 9) requires FIs to suspend operations with clients and to inform the FIU if there any suspicions relating to the customer's identity. This only applies to FIs supervised by the BoA.

593. Implementation: FIs spoken to confirmed that CDD measures are carried out before any financial activity is carried out.

Existing Customers—CDD Requirements (c. 5.17):

594. Article 6 of the AML/CFT Law contains provisions relating to ongoing monitoring and FIs are obliged to "periodically update the client data" and to do so "immediately" when the client's circumstances have changed. There is, however, no definition of how regularly this should be done, and no specific requirements as to how to treat customers in existence at the time the AML/CFT law came into force.

595. Implementation: Implementation of this requirement was inconsistent, with at least one FI confirming that not all customers had been subjected to the CDD requirements in the AML/CFT Law, and that they had not interpreted any of the legislative provisions as requiring this to be done. Another one confirmed that updating of CDD for existing clients would only be carried out when that client visited a branch, and thus there was no overall plan for updating this information.

Existing Anonymous-Account Customers—CDD Requirements (c. 5.18):

596. Provisions in the Penal Code prohibiting the opening of anonymous accounts, although this is not retrospective. The AML/CFT Law also prohibits the opening, but also the maintaining of anonymous accounts and accounts in fictitious names, which appear to address the issue of existing anonymous accounts. The assessment team was told that bearer passbooks and certificates of deposit could still be in existence, although none had been issued recently to the authorities' and FIs' knowledge.

Effectiveness:

597. Albania has certain of the key elements relating to customer due diligence clearly set out in law or regulation, with some of the elements covered by other enforceable means. However, the overall picture is fragmented, with certain inconsistencies, such as those relating to ongoing

monitoring and the identification of beneficial owners, and the omission of key criteria such as a requirement to verify the beneficial owner and to obtain details of the purpose and intended nature of the business relationship. In addition, the provisions do not technically apply to legal arrangements.

598. In the financial sector, the banks appear to be the most aware of the requirements of the AML/CFT Law, and BoA Decision 44. Some banks apply their own, higher standards, especially those that are part of a larger group with a foreign parent company. Whilst this arguably increases effectiveness, the steps they are taking are as a result of individual group policies as opposed to an interpretation of the measures set out in the existing legislation and regulatory guidance.

599. The assessment team had some notable concerns about the banking sector in relation to ongoing monitoring, where the provisions in the AML/CFT Law are causing some confusion and an inconsistent approach.

600. Compliance with the CDD provisions in the non-bank sectors appears to be less consistent overall.

601. Particular areas of concern in all sectors are the uneven approach amongst FIs towards the concept of identifying the ultimate natural persons who own or control the company and the ownership and control structure of a company. The measures taken for legal arrangements were also found to be lacking.

602. Ongoing monitoring and the application of CDD requirements to existing clients appear to be poorly implemented, and partly result from inconsistent provisions in the relevant legislation.

603. Understanding of the ML/TF risks in the Albanian system is something that was not particularly well demonstrated, with FIs having a variety of ways of assessing customer risk. The measures taken by the Bank of Albania to provide indicators of unusual/suspicious transactions and the types of risk posed by categories of clients is to be encouraged, but steps should be taken to create a more consistent understanding of the status and potential use of these indicators. Given Albania is largely a cash-based economy, greater awareness of the risks that this presents, rather than concentrating on cash and value transaction reporting is something that the assessment team would encourage.

604. Enhanced due diligence requirements are implemented inconsistently. This is of particular concern in relation to NPOs, given the number of them operating in Albania, and the potential TF risk that they represent.

605. Further development of the guidance for assessing risk and especially the steps to take to mitigate risk, rather than relying solely on the requirement to submit STRs, would doubtless enhance the effectiveness of the CDD requirements.

Politically Exposed Persons (R 6 – rated NC in the 2006 MER)

Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

606. Albania was rated as non-compliant (NC) for Recommendation 6 as there were no provisions covering the essential criteria. The MER states that the BoA Regulations 2004 "On Money Laundering Prevention" did contain some provisions, but these were not set out in the MER.

607. The AML/CFT Law now seeks to address several of the requirements of Recommendation 6, as detailed below.

Legal Framework:

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".

- Law no. 9049 dated April 10, 2003 "On the declaration and auditing of properties and financial obligations of elected officials and public employees", hereinafter "Declaration Law".

Foreign PEPs—Requirement to Identify (c. 6.1); Foreign PEPs—Risk Management (c. 6.2; 6.2.1); Foreign PEPs—Requirement to Determine Source of Wealth and Funds (c. 6.3); Foreign PEPs—Ongoing Monitoring (c. 6.4):

608. Albania has no provisions dealing with foreign PEPs, and thus none of the essential criteria are met.

Domestic PEPs—Requirements (Additional Element c. 6.5):

609. The law in Albania only applies to domestic PEPs. For the sake of completeness, an analysis of these measures against the main criteria of Recommendation 6 is set out below.

610. Article 2 of the AML/CFT Law defines politically exposed persons (PEPs) as persons who are obliged to declare their properties pursuant to the Declaration Law. These include government ministers, local government officials, senior military figures, high ranking civil servants, the judiciary, prosecutors and directors of certain types of joint stock companies. Article 28 para 2 of the AML/CFT Law requires that the General Inspector of High Inspectorate for the Assets Declaration and Auditing keep an updated list of PEPs.

611. The definition in the AML/CFT Law and the list does not include families and close associates of PEPs.

612. The list of categories of person in the Declaration Law arguably covers most if not more of the categories of PEP in the FATF definition (albeit that the whole list only covers domestic PEPs). However, it does not include political party officials and elected national government officials apart from ministers.

613. Article 8 para 1 of the AML/CFT Law requires FIs to verify, on the basis of the list referred to in Article 28 para 2, if a client or "beneficiary owner" is a PEP. If this is the case, under Article 8 para 1 let. (a), they are required to obtain approval from higher management before establishing the relationship (criterion 6.2). In addition, if an existing client (but not, apparently, a "beneficiary owner") becomes a PEP, higher management approval is required. This does not specifically cover

the situation where an existing customer is subsequently found to be a PEP. In any event, purely referring to a list would not satisfy criterion 6.1, which requires FIs to have risk management systems to determine if a customer, a potential customer or a beneficial owner is a PEP.

614. Article 8 para 1 let. (b) requires FIs to "obtain a declaration on the source of the client's wealth that belongs to this financial action". This does not fully meet criterion 6.3 which requires that source of wealth as well as source of funds be obtained. Despite the reference to "wealth", the Albanian provision would appear to cover only source of funds (i.e. the source of funding for the current transaction.)

615. Implementation: Some FIs considered this section of the AML/CFT Law to be unclear, as they were not sure what "obtain a declaration" amounted to. In particular, they were not clear if a written statement was required from the client, or if additional information (e.g. contracts showing land ownership) were required. Some FIs appeared to be confused about the list produced by the FIU, and often thought it referred to the terrorist list.

616. Article 8 para 1 let. (c) requires FIs to perform "an increasing and continuous monitoring of the business relations" on a PEP's account. There is no definition of or guidance as to what this should entail, and discussions with the private sector led the assessment team to conclude that the concept of "increasing and continuous monitoring" was no different from the concept of "continuous monitoring" set out in Article 6. It is, therefore, doubtful as to whether this provision adds anything to the existing requirement which is, in any event, poorly implemented and understood by FIs.

Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6):

617. Albania is a signatory to the Merida Convention and ratified it on 25 May 2006, and the authorities reported that it has been implemented.

618. Effectiveness: The legal provisions in Albania are clearly not compliant with the FATF requirements, as they extend only to domestic PEPs. In addition, the use of a list, as opposed to requiring risk management systems (criterion 6.1) would not meet the standard, even if the list extended to foreign PEPs. A list could be a tool which assists FIs in complying with the requirement, but would not be an overall solution. In addition, as the Albanian approach has a broad definition of who is a PEP, there is a risk that FIs will be overwhelmed by the number of them, and not target measures against those posing the most risk.

619. A small number of banks spoken to by the assessment team were applying a higher standard which included identifying foreign PEPs, but this was a result of group policy set by a foreign parent company.

Cross-Border Correspondent Banking (R 7 – rated NC in the 2006 MER)

Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

620. Albania was rated as non-compliant (NC) in the Third Round MER, as there were no specific provisions in the relevant legislation. The MER states that the BoA Regulations 2004 "On Money Laundering Prevention" did contain some provisions, but these were not set out in the report.

621. Albania has sought to remedy these deficiencies in the AML/CFT Law.

Legal Framework

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".

Cross-Border Correspondent Accounts and Similar Relationships—Introduction

622. Article 9 of the AML/CFT Law requires banks to undertake various additional CDD measures in respect of cross-border correspondent banking activities. The measures are required to be undertaken before the business relationship is established.

623. It should be noted that Recommendation 7 technically applies to "banking and other similar relationships". The measures in Albania only extend to "correspondent cross border banking services provided by banks subject to this law" (Article 9, para 1). This is not considered by the assessment team to be a material deficiency, given the lack of development in other financial sectors.

Requirement to Obtain Information on Respondent Institution (c. 7.1):

624. Article 9 para 1 requires banks to gather sufficient information about the respondent institution in order to fully understand the character of its activity (let. (a)) and to determine the reputation of the recipient institution and the quality of its supervision through public information (let. (b)).This does not specifically require information on whether the institution has been subject to a ML/FT investigation, and there is nothing further set out in guidance that requires this.

625. Implementation: Banks spoken to by the assessment team generally appeared to be aware of an overall need to carry out some form of research on respondent banks, but this did not always include an assessment of the supervisory regime in which those respondents operate or whether the respondent had been subject to a ML/TF investigation.

Assessment of AML/CFT Controls in Respondent Institution (c. 7.2):

626. Article 9 para 1 let. (c) requires banks to evaluate whether or not the "internal control procedures" of the respondent financial institution for AML/CFT are satisfactory and effective. There is no additional guidance as to how this should be carried out.

627. Implementation: Banks spoken to generally would not establish a correspondent relationship without carrying out some checks on the internal control procedures of a respondent institution. This might include requesting operating procedures for AML in written form, and generally appeared to be adequate.

Approval of Establishing Correspondent Relationships (c. 7.3):

628. Article 9 para 1 let. (d) obliges banks to obtain the approval of higher administration/management before the business relationship is commenced.

629. Implementation: All banks spoken to confirmed that approval of senior management was required before establishing correspondent relationships.

Documentation of AML/CFT Responsibilities for Each Institution (c. 7.4):

630. Article 9 para 1 let. (d) requires banks to document the respective responsibilities of each institution.

631. Implementation: Banks spoken to confirmed that written agreements would be established between themselves and respondent institutions before commencing correspondent relationships.

Payable-Through Accounts (c. 7.5):

632. The AML/CFT Law requires banks to draft "special procedures for the constant monitoring of direct electronic transfers" (Article 9 para 1 let. (e)). Article para 18 defines these transfers in similar terms to those used in payable through accounts. However, these "special procedures" are not further elaborated, and thus the provisions do not meet the requirements of criterion 7.5.

633. Implementation: The banks spoken to by the assessment team did not operate payable-through accounts, and thus this activity appears not to be carried on in Albania.

Effectiveness

634. Banks spoken to by the assessment team confirmed that they were engaged in correspondent banking relationships, predominantly with banks in Italy, Greece, Germany, the US, and UK. Group policy in some banks required that international standards be followed, with research being undertaken on the reputation etc. of the respondent institution. Senior management approval was sought in each case.

635. Generally banks did not appear to be carrying out many checks on the nature of supervision of respondent banks. There is nothing in the AML/CFT Law that requires a check on whether the correspondent has been the subject of a money laundering or terrorist financing investigation.

636. One bank considered that Albanian banks were not always looked upon favorably by international institutions, and thus an invitation to become a correspondent for or acceptance of an invitation to become a correspondent with one of these institutions was advantageous to the Albanian bank. In these circumstances, the bank concerned stated that it would not undertake additional research beyond a basic check in the Bankers' Almanac. Although an isolated incident, this an area of potential concern if banks are keen to increase the number of correspondent relationships without necessarily considering the quality and ML/TF risks of these relationships.

637. Present practice would indicate that Albanian banks are carrying on respondent relationships with larger, well known banks in jurisdictions where information about the bank and the supervisory structure are readily available. As the Albanian economy develops this might change, with expansion

of correspondent operations to less developed or transparent jurisdictions, this is a risk that the authorities and the banks themselves should bear in mind.

New Technologies and Non-Face to Face Transactions (R 8 – rated PC in the 2006 MER)

Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

638. The 2006 MER noted that limited provisions were in place for the banking sector, which prohibited the opening of bank accounts without the physical presence of the account holder, and nothing specific relating to new technologies. However, it was noted that the use of new technology in the financial sector was limited.

Legal Framework

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".

- Bank of Albania Supervisory Council Decision no. 44 dated June 10, 2009 "On the Approval of the Regulation "On prevention of money laundering and terrorist financing", hereinafter "Decision 44".

Misuse of New Technology for ML/FT (c. 8.1):

639. Article 9 para 8 of the AML/CFT Law specifically requires FIs to adopt policies or respond appropriately to prevent the misuse of new technological developments. This is not further defined, and there is no guidance as to what developments financial institutions should be aware of.

640. Implementation: The use of new technology in the Albanian financial system is not particularly well developed, with a few banks introducing internet banking. As this involves opening a bank account, the physical presence of the customer was still required to the open the account (see analysis under criteria 8.2. and 8.2.1.). Practice varied as to the services offered by internet banking, with some restricted to the payment of bills etc. whereas others could be used for international transfers. Access to such accounts is password protected. The use of other technologies such as prepaid cards is beginning to develop, and will continue to do so if Albania moves away from a cash-based economy. At present, the use of these is linked to bank accounts. The Bank of Albania also reports an increase in the number of ATMs.

Risk of Non-Face-to-Face Business Relationships (c. 8.2 and 8.2.1):

641. Article 7 para 1 of the AML/CFT Law requires the physical presence of a customer in cases where enhanced due diligence should be applied. Otherwise, there appears to be no provisions for how enhanced due diligence should be conducted.

642. In the banking sector, Article 6 para 5 of the BoA Decision 44 requires the physical presence of a customer before a "banking account" is opened "even in case it shall be used for transactions carried out electronically".

643. There appears to be no explicit provisions for non face-to-face business relationships/transactions, except that in the banking sector all accounts must be opened only with the physical presence of the customer.

644. There is no such requirement for the other sectors (except in cases where EDD is performed pursuant to Article 7 of the AML/CFT Law), and this is a potential gap in the legal framework.

645. Implementation: FIs spoken to in all sectors appeared to require the physical presence of customers before an account is opened, despite it only being a formal requirement for opening a bank account.

Effectiveness

646. The potential risks of both new technologies and non-face to face customers are currently being mitigated in the banking sector by the bank's internal controls, and especially the requirement that all bank accounts must be opened with the physical presence of the client.

647. The risk of new technological developments at present appears limited at present elsewhere in the financial sector, but this is an area that should be kept under review as the financial sector in Albania develops. In particular, the use of pre-paid cards and ATMs is reportedly growing, and the risks associated with these delivery mechanisms should be kept under review.

648. There appears to be no requirements to deal with the risks of non-face to face transactions or business relationships in the financial sector other than banking, and, although practice suggests that FIs require the presence of the client before commencing financial activity on their behalf, it is recommended that this practice be formalized.

3.2.2. Recommendations and Comments

Recommendation 5

649. The authorities should:

- Amend Articles 1025 and 1026 of the Civil Code and/or pass legislation to prohibit the issuing of bearer passbooks;
- Pass legislation to prohibit the issuing of any other bearer instruments (e.g. certificates of deposit);
- Prohibit the use of cheques with multiple endorsements over a certain threshold;
- Extend the circumstances when "CDD" is required to all aspects of CDD, not just identification and verification;

- Clarify or amend the term "reasonable doubt for money laundering or terrorist financing" in Article 4 of the AML/CFT Law to ensure that it fully covers cases where there is a suspicion of money laundering or terrorist financing;

- Clarify in law or regulation the requirement to verify that a person acting on behalf of another is so authorized;

- Include a requirement in law or regulation to verify the identity of a beneficial owner;

- Extend the requirements in relation to beneficial ownership to include beneficial ownership of legal arrangements;

- Clarify the inconsistency between the AML/CFT Law and Instruction 12 regarding the threshold for identifying the shareholding and voting rights of legal persons in determining beneficial ownership;

- Clarify the meaning of "de facto controls the decisions made by the legal person" in the AML/CFT Law, or otherwise provide a specific requirement in law, regulation or other enforceable means ("OEM") to understand the ownership or control structure of customers who are legal persons, and in law or regulation the requirement that obliged entities must take reasonable measures to determine who are the natural persons who exercise effective control over a legal person or arrangement;

- Establish a requirement in law or regulation to determine whether a person is acting on behalf of another;

- Include a requirement in law, regulation or OEM that obliged entities obtain information on the purpose and intended nature of the business relationship;

- Clarify the requirements in the AML/CFT Law on carrying out "continuous monitoring", and on "periodically" updating client data by either amending the Law itself or issuing further guidance to ensure that ongoing monitoring is fully and consistently implemented by the obliged entities;

- Provide further guidance on the categorization of clients deemed to require enhanced due diligence for all obliged entities, and (for entities supervised by the BoA) clarify that the indicators of suspicious activity given in Annexes I and II of Decision 44 can be used for this purpose, as well as for STR reporting.

- Clarify in law, regulation or OEM, or in guidance, the steps to be taken in when obliged entities are required to apply enhanced due diligence;

- Establish in law, regulation or OEM requirements for all obliged entities not to open accounts and to consider submitting an SAR when they are unable to comply with criteria 5.6, and additionally for all obliged entities not supervised by the Bank of Albania when they are unable to comply with criteria 5.1 to 5.5;

- Set out in law, regulation or OEM a requirement to apply CDD measures to existing clients on the basis of materiality and risk, for example by clarifying what is meant by the term "periodically" in Article 6 of the AML/CFT Law.

650. The authorities should also:

- Consider prohibiting cash transactions in all currencies over a certain threshold, given the AML risk in Albania associated with the use of cash;

- Consider prohibiting cash transactions in all currencies over the amount of lek 1,000,000 in circumstances where the customer declares that the source of funds is from his/her employment abroad, unless accompanied by a relevant customs declaration form.

Recommendation 6

651. The authorities should:

- Extend the requirements relating to PEPs to foreign PEPs;

- Extend the definition of PEPs to include family members and close associates of PEPs;

- Require obliged entities to have appropriate risk management systems to determine whether a customer is a PEP/becomes a PEP, rather than relying solely on a list produced by the authorities;

- Provide a clear requirement to obtain on source of wealth and source of funds of PEPs;

- Clarify what is meant by the requirement in the AML/CFT Law to perform "an increasing and continuous monitoring" of business relationships with PEPs.

652. The authorities should also:

- Consider revising the definition of domestic PEP to include public officials that give rise to greatest concern, given the perceived level of corruption in Albania.

Recommendation 7

653. The authorities should:

- Include a requirement for obliged entities to obtain information on whether a respondent institution has been subject to a ML/TF investigation.

654. The authorities should also:

- Consider providing guidance to the banking sector as to the steps to be taken when establishing cross-border correspondent banking relationships to ensure consistent and effective implementation of the legal requirements, including the need to assess the supervisory regime in which the respondent operates.

Recommendation 8

655. The authorities should:

- Provide guidance to FIs on the types of policies and procedures they should put in place to prevent the misuse of new technologies;
- Raise awareness of the ML/TF risks in new technologies amongst obliged entities which are likely to encounter them (especially the banking sector);
- Take steps to require FIs to manage the risks of non-face to face transactions.

3.2.3. Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	**PC**	• Availability of financial instruments in bearer form; • CDD provisions only apply to identification and verification; • Inconsistent legislative provisions for ongoing monitoring leading to poor implementation by FIs; • No requirement to verify the identity of beneficial owners; • No requirement to establish whether a person is acting on behalf of another; • Inconsistent legislative provisions for beneficial ownership; • Very limited requirement to establish nature and intended purpose of business relationship; • Incomplete requirements for legal arrangements; • No requirement for CDD on existing clients. Effectiveness: • Inconsistent application of CDD measures in circumstances where is a suspicion of ML/TF among FIs;

		• Poor implementation of beneficial ownership requirements; • Inconsistent implementation of requirement to conduct ongoing due diligence; • Inconsistent implementation of measures to be taken when enhanced due diligence
R.6	**NC**	• No legislative requirements for foreign PEPs.
R.7	**LC**	• No requirement to establish if respondent has been subject to a ML/TF investigation or regulatory action; • Poor implementation of requirement to assess quality of supervision.
R.8	**PC**	• No formal requirement to manage the risks of non-face to face transactions/business relationships except for opening bank accounts.

3.3. Third Parties and Introduced Business (R 9 – rated N/A in the 2006 MER)

3.3.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

656. The 2006 MER states that whilst the existing legislation contained no specific provisions to regulate or prohibit introduced business, the evaluation team accepted that the activity of third party reliance was not conducted in Albania.

Legal Framework:

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".
- Ministry of Finance Instruction no. 12 dated April 5, 2009 on "The reporting methods and procedures of the obliged entities pursuant to Law No. 9917", hereinafter "Instruction 12".
- Bank of Albania Supervisory Council Decision no. 44 dated June 10, 2009 "On the Approval of the Regulation "On prevention of money laundering and terrorist financing", hereinafter "Decision 44".

Legal Framework:

Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1); Availability of Identification Data from Third Parties (c. 9.2); Regulation and Supervision of Third Party (applying R. 23, 24, and 29, c. 9.3); Adequacy of Application of FATF Recommendations (c. 9.4); Ultimate Responsibility for CDD (c. 9.5):

657. Albanian legislation does not contain express provisions dealing with third party reliance, but the Albanian authorities report that reliance is not permitted in practice, as all obliged entities are required to perform CDD on their own account. This is not a direct requirement in the AML/CFT Law, and only Article 6 para 5 BoA Decision 44 requires the physical presence of a customer before a bank account is opened, and thus reliance would appear to be not permitted for FIs opening bank accounts. However, for other types of transaction, and for FIs not supervised by the BoA, the situation is not clear.

658. It would be advisable for Albania to clarify whether reliance on third party is permitted or not in law, regulation or other enforceable means, as i there are no provisions in place should a financial institution start the practice of relying on third parties to carry out CDD.

Effectiveness:

659. Some non-bank FIs spoken to said that they occasionally obtained CDD information gathered by its group parent or by banks involved in other transactions to which their business related, especially when the parent had more detailed information on beneficial ownership of corporate clients. It would appear, therefore, that reliance is happening in practice, and that the provisions supposedly preventing it are not working, and/or are not being interpreted by FIs as prohibiting reliance on third parties.

3.3.2. Recommendations and Comments

660. The authorities should:

- Consider the ML/TF risks in allowing third party reliance, and then decide whether allowing third party reliance would be appropriate and feasible in Albania;
- Either: expressly prohibit the practice of third party reliance in law, regulation or OEM and raise awareness amongst obliged entities of the CDD measures that they should perform on their own account, and that third party reliance is not permitted; or establish a system for allowing third party reliance in accordance with Recommendation 9.

3.3.3. Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	**NC**	• No measures in place for third party reliance despite evidence of it happening in practice.

3.4. Financial Institution Secrecy or Confidentiality (R.4– rated C in the 2006 MER)

3.4.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

661. This Recommendation was rated C in the 2006 MER.

Legal Framework:

- Law No 9917, dated May 19, 2008 "On the Prevention of Money Laundering and Financing Terrorism" hereinafter "AML/CFT Law".
- Law No 9662, dated December 18, 2006 on Banks on the Republic Of Albania hereinafter "Banking Law".
- Decision No 14, dated 11.03.2009 "On granting the License and the exercise of banking activity of banks and branches of foreign banks in the Republic of Albania hereinafter "Decision 14".
- LawNo. 9870 of February 21, 2008 on Securities hereinafter " Securities Law".
- Law No. 9887 dated 10.03.2008 On Protection of Personal Data, hereinafter "Data protection law".
- Law No 8457, on information classified "State Secret Law".

Inhibition of Implementation of FATF Recommendations (c. 4.1):

662. Albanian financial institutions have an obligation to maintain the confidentiality of the information that they acquire in the course of their business relationships. Financial secrecy is regulated by Article 91 125, 127, Para 6 of the Banking Law and Article 64 of Securities Law. In Albania there is also a Data Protection Law (which provides for the protection of personal information).

663. Para 2 of the Article 91 of Banking Law states that the information obtained in the exercise of their activity in the bank or branch of a foreign bank shall be kept confidential by the administrators, employees (current as well as former) and it shall not be utilized for personal profits or third parties outside the bank or branch of a foreign bank, which they serve or have served. "The referred information shall be made available only to the Bank of Albania, the statutory auditor of the bank or branch of the foreign bank, administrators, agents and employees of every information system or official service, foreign supervision authority and judicial authorities, as well as when it is necessary for the protection of the bank".

664. In practice banks and securities companies include a standardized contract clause pursuant to which the customer gives the FI permission to use customer's data for statistical and commercial purposes

Access to information by relevant authorities

665. Financial secrecy provisions in Banking and securities laws do not hamper authorities' ability to access information they require to properly perform their functions in combating ML or FT.

666. Financial secrecy does not apply where there is a public law obligation to provide information to authorities duly authorized to request it. This includes information requested by the supervision authorities (BoA[28] and the FSA[29]) in the context of supervision and also by the GDMLP (the FIU) as it is noted in Article 14 of AML/CFT Law[30].

667. In order to comply with their obligations established in the AML/CFT Law, FIs must keep and provide the relevant information, including information on the customer and his or her accounts, to the competent authorities, and may not refuse to file STRs on the grounds of professional or

[28] Article 91 Banking Law

[29] Art 24 and 25 of FSA Law.

Art.24 Confidentiality

The information which is made available to the Authority, in the course of the exercise of the supervisory activity of the institution, and the dissemination of which might infringe the commercial interest or the good name of the supervised subject is classified under confidential information.
Commercial information which has been obtained by the supervised subject, and the obligation for the publication of which is spelled out in this law or other legislation is not considered confidential information. Classification of information is done through internal regulations approved by the Board.
Members of the Board, the staff and the other employees of the Authority shall preserve and not distribute confidential information.
In those instances when there is a verification of the violation of the terms spelled out in this article, administrative measures are taken up to the release from duty of the members of the Board, or firing of other staff of the Authority.

Article 25 Termination of treatment as confidential information

Information which falls under the confidential category is no longer regarded as such 3 years from the moment it has become available to the Authority. This deadline may be prolonged with a decision of the Board.
Exceptions regarding the respecting of the deadline spelled out in the first paragraph of this article are the cases when:
1. it is requested by the court authorities according to legal requirements ;
2. requested by the bank supervisory authorities or intelligent services according to the criteria and conditions spelled out in joint agreements;
3. requested by the supervisory authorities of other countries who have equal or similar activity with that of the Authority, based on joint agreements with the scope of exchange of information, and when these authorities ensure:
a) at least the same level of confidentiality for the information being forwarded;
b) have the authority and agree, that with the request of the Authority to make available the same type of information;
c) have justified reason for the request for information
In the provision of this information shall apply the legal provisions regarding personal data.
The information obtained by the supervised subject may be given back to it any time

[30] *Article 14 "Exemption from legal liability of reporting to the responsible authority*
The entities or supervising authorities, their managers, officials or employees who report or submit information in good faith in compliance with the stipulations of this law, shall be exempted from penal, civil or administrative liability arising from the disclosure of professional or banking secrecy

banking secrecy. (Article 14 AML/CFT Law). This provision protects the financial institutions from potential claims for breach of confidentiality when an STR was made in good faith in compliance with the stipulations of the AML/CFT Law.

668. Finally, in the course of criminal proceedings. Article 210 of the CPC provides access to financial records based upon a court order or in urgent matters through the action of the prosecutor alone (once there is a showing of reasonable grounds for a connection to a criminal offence). The Law on Banking, Article 91 para 2 provides for the lifting of the bank secrecy provision in the case of criminal investigations or prosecutions.

Exchange of information between relevant authorities

669. Article 22 of the AML/CFT law guarantees that there are no restrictions to sharing information between competent authorities for the purpose of combating money laundering. Moreover, the GDMLP may request and obtain from all competent authorities any data or information needed for the purpose of carrying out its duties, whose include, among other the exchange of information with any foreign counterpart, entity to similar obligation of confidentiality, for purposes of preventing and fighting ML/FT.

Exchange of Informationbetween Financial Institutions as Required by R. 7, R. 9 and SR VII

670. The obligations stipulated by the AML/CFT law in the area of correspondent banking relationships and wire transfers override the financial secrecy provisions in the Banking and Securities laws and presuppose the ability of financial institutions to share information for the purpose of Recommendation 7 and Special Recommendation VII (see analysis of these Recommendations). However, given the lack of provisions concerning reliance on third parties (see analysis of Recommendation 9), it is unclear if financial institutions could provide information to their customers in the absence of a specific indication in this sense.

Effectiveness:

671. The financial secrecy provisions do not inhibit the implementation of the FATF Recommendations by the authorities. The law enforcement, FIU and supervisory authorities have sufficient legal basis to request access to information held by FIs to fulfill their respective functions. In practice, none of the authorities with whom the mission met raised any difficulty in obtaining that information because of the financial secrecy provisions. FIs are aware of their obligations to disclose information when the conditions for disclosure set out in the AML/CFT Law are met and cooperate with the authorities in this respect. The authorities informed the assessors that they are satisfied that the current framework enables them to obtain all necessary information and that the financial secrecy law does not constitute an obstacle to carrying out their responsibilities.

3.4.2. Recommendations and Comments

672. The authorities could consider establishing provisions to regulate specifically the procedures and scope for the exchange of information between financial institutions if reliance on third parties will be allowed and regulated.

3.4.3. Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	**C**	**This Recommendation is fully observed**

3.5. Record Keeping and Wire Transfer Rules (R.10 & SR.VII)

Record-keeping and wire transfer rules (R.10—rated PC & SR.VII—rated NC in the 2006 MER)

3.5.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

673. The 2006 MER noted the existence of a US$15,000 threshold to keep customer identification data and the lack of clarity in Albania's laws relating to this Recommendation.

674. On SR VII the 2006 MER noted the absence of general requirements other than those stipulated by the Bank of Albania Regulation of 2004, which were considered unduly restrictive. Issues were also noted with regard to the thresholds.

Legal framework:

- Law No. 9917 date May 19, 2008 "On the Prevention of Money Laundering and Financing Terrorism" hereinafter "AML/CFT Law".
- Law No. 9662 dated December 18, 2006 "On Banks on the Republic Of Albania" hereinafter "Banking Law".
- Decision No. 44. dated 10.06.2009, on the approval of the regulation " On prevention of money laundering and terrorist financing" hereinafter "Decision 44".

Record Keeping and Reconstruction of Transaction Records (c. 10.1 and 10.1.1):

675. Article 16, para 2 of the AML/CFT Law requires entities to keep data registers, reports on financial transactions, both national or international, regardless of whether the transaction has been executed in the name of the client or third parties, for five years at least from the date of execution of the transaction. This timeframe can be extended if the responsible authority (which, according to the AML/CFT Law is the General Directorate for the Prevention of ML-GDPML) requests it.

676. The use of the term "financial transactions" might constrain the scope of the record keeping obligations. The use of this term in the paragraph requiring the keeping of data registers, reports and supporting documentation could be interpreted as applying only to "financial" transactions rather than all transactions conducted by the customer. The scope of the term "financial" is not defined in the AML/CFT Law and there is scope for ambiguity because Article 2, para 16 of the AML/CFT Law only defines "transactions" but not "financial" transactions. However the FIs spoken to seemed comfortable with the interpretation of the requirement.

677. Regarding criterion 10.1.1, Article 16 AML/CFT Law, para 3, explicitly mentions that the information of data transactions (which includes also domestic and international money or value transfers by way of a cross reference to Article 10) must contain "all the necessary details to allow the re-establishing of the entire cycle of transactions, with the aim of providing information to the authority" which requested it. There is no specific guidance explaining what constitutes "the necessary details" and as a result, the FIs are left to make this determination.

Implementation:

678. The FIs spoken to indicate that, in practice, they keep all documents that are related to transactions for a period that is between 5 and 10 years. Some FIs indicated that they would keep transaction documents (as well as identification data) regardless of any time limits, even after the business relationship has ended.

Record Keeping for Identification Data, Files and Correspondence (c. 10.2):

679. Article 16, para 1 of the AML/CFT Law requires FI to keep the documentation used for the identification of the client and the client's beneficial owner. The minimum period is five years from the date of the termination of the business relation, or longer if requested by the GDPML. The GDPML stated that, so far, there have been no cases in which it was deemed necessary to request an extension of the record keeping obligation period.

680. In the context of the record keeping requirement for transaction records there is also an obligation to maintain "account files and business correspondence" (among the "supporting documentation"); however the record keeping requirement for these types of documents is five years from the execution of the financial transaction. This is not in line with the FATF standards which requires that account files and business correspondence be kept for five years "following the termination of an account or business relations".

681. For the entities supervised by the BoA[31], the obligation to maintain the information related to the customer identification and their financial transactions is also mentioned in Article 7, of Decision 44 which cross-references to Article 16 of the AML/CFT Law.

682. In addition to this requirement, the BoA decision, in the context of the obligation to verify the customer's identity, also requests that the documents used for the verification, as well as any other document that may be used at a later stage, should be maintained in the customer's file (Article 6, para 4 Decision 44).

Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):

683. The requirement to keep data available to domestic authorities is also specifically addressed by Article. 16, para 4 of the AML/CFT Law. This provision states that FI "must make sure that all

[31] Following the Decision N. 343, those entities are Commercial Banks, and the rest of non bank FIs

client and transaction data, as well as the information kept according to this article, shall be immediately made available upon the request of the GDPML". In the view of the assessors this provision satisfies the standard with regard to the "timely" element requirement. More specifically, in the case of banks there is also a provision in the Banking Law, which stipulates the obligation of banks to "provide the BoA with the necessary documentation required or the performance of the supervisory power". According to the FIs/supervisors spoken to, the information can be either made available in the course of an inspection or, if requested, by certified mail.

684. The following table summarizes the record keeping requirements established in the AML/CFT Law:

Obligation	Years	Counting time from
Store documentation used for the IDENTIFICATION of the customer	**5**	From the termination of the business relation
Keep data registers related to financial transactions	**5**	From the date of the execution of financial transaction
Keep reports related to financial transactions	**5**	From the date of the execution of financial transaction
Keep documents related to financial transactions	**5**	From the date of the execution of financial transaction
Keep rest of the supporting documentation including account files and business correspondence	**5**	From the date of the execution of financial transaction

Obtain Originator Information for Wire Transfers (applying c. 5.2 and 5.3 in R.5, c.VII.1):

685. Article 10 of the AML/CFT Law requires the FI that performs activities which include money or value transfers "to ask for and verify first the name, last name, permanent and temporary residence, document identification number and account number of the originator, if any, including the name of the financial institution from which the transfers is made".

686. The requirement applies regardless of any threshold and for both domestic and international wire transfers.

687. Article 10 of the AML/CFT Law requires that the information must be included in the form of the message or payment attached to the transfer and that, where there is no account number, the transfer shall be accompanied by a unique reference number.The ordering financial institutions are required to transmit the information together with the payment, including where they act as intermediaries in a chain of payments. The inclusion of the address is mandatory and hence the AML/CFT Law does not envisage any alternative to replacing the address with the date and place of birth.

688. The interpretation of the scope of Article 10 provided by the GDPML is that it covers all types of money and value transfer services and products including transactions using credit/debit cards, under the definition of 'money or value transfer service" in Article 2, para 15. However, the interpretation of this legal requirement was not entirely clear to the FIs spoken to, and the general

understanding is that the provision would cover money remittances and wire transfers, both domestic and international, but should not be applied to transactions using credit/debit cards.

Inclusion of Originator Information in Cross-Border Wire Transfers (c. VII.2):

689. As mentioned above Article 10 applies regardless of any threshold and to both domestic and international wire transfers.

690. For cross–border wire transfers, the Albanian Law does not provide the possibility of bundling several transfers from a single originator in a batch file.

Inclusion of Originator Information in Domestic Wire Transfers (c. VII.3):

691. The AML/CFT Law does not differentiate between the information required in relation to international transfers and that in relation to domestic wire transfers.

Maintenance of Originator Information ("Travel Rule") (c.VII.4 and VII.4.1.):

692. Under Article 10.2 of the AML/CFT Law, the ordering financial institution is required to ensure that all the information received is maintained with the transfer along the chain of payments. This requirement is also applicable to the intermediary entities or ordering financial institutions.

693. The Albanian AML/CFT Law does not contemplate specifically the situation where technical limitations prevent the full originator information accompanying a cross border wire transfer from being transmitted with a related domestic wire transfer.

694. Article 10, para 3 requires that where the FI has received a money/value transfer (including direct electronic transfer) without the "necessary information about the ordering person", it should request the missing information from the "sending institution or from the beneficiary" of the electronic transfer (direct or not). The provision does not specify any timeframe; this is neither for sending the request nor for receiving the answer. The option given by the AML/CFT Law of obtaining the wire transfer missing information from the beneficiary does not seem to be in line with the FAFT standard which requires originator information to accompany qualifying cross-border wire transfers and, in case of missing information to request it from the originator.

695. Article 10 also specifies that if the receiving FI "fails to register the missing information, it should refuse the transfer and report it to the GDMLP".

696. The obligation on FIs to keep the record for five years, required by the standard, is captured by the obligation to keep records relating to transactions, described under Recommendation 10.

Risk-Based Procedures for Transfers Not Accompanied by Originator Information (c. VII.5):

697. As mentioned earlier, Article 10.3 requires that in the case of an incompleteness of "necessary information about the ordering person", the FI receiving the transfer should request the information or refuse to pay the transfer and report it to the GPML.

698. Apart from rejecting the transactions where the FI fails to complete the originator missing information, beneficiary FIs interviewed by the mission did not appear to take any additional measure or consider whether the transaction is suspicious and whether it should be reported to the FIU. They also did not appear to consider restricting or even terminating the business relationship with the FIs that fail to meet the requirement.

Monitoring of Implementation (c. VII.6):

699. FIs including those providing money or value transfer services are subject to the supervision of the BoA (see analysis under Recommendation 23 and 29). The inspection manual of the BoA specifically indicates wire transfer operations as an area to check during onsite inspections. A random check of one of the inspection reports for an onsite visit undertaken in 2010 by BoA confirmed that the BoA checked compliance with these requirements during that inspection. BoA stated that this is normal practice during onsite inspections.

Application of Sanctions (c. VII.7: applying c.17.1–17.4):

700. Article 17 of the AML/CFT Law provides for sanctions for non compliance with the AML/CFT requirements including those related to wire transfers, described above. Non compliance with the requirement to include full originator information in the transfer message is subject to a fine of ALL 400,000 to 1,600,000 (appr. US$4,000 to 16,000) for individuals and ALL 1,200,000 to 4,000,000 (appr. US$12, 0000-40,000) in the case of legal persons. Non compliance with the obligation to require missing or incomplete originator's information from the ordering FI, to register the full originators' information when executing the payment transfer without such information and not reporting it to the GDPML is subject to a fine of ALL 500,000 to 2,000,000 (appr US$5,000-20,000) for individuals and ALL 2,000,000 to 5,000,000 (appr. US$20,000 to 50,000) in the case of legal persons.

701. The assessors cannot determine whether the sanctions are proportionate, dissuasive or effective as no sanctions have been applied for non compliance with these provisions.

Additional elements—Elimination of Thresholds (c. VII.8 and c. VII.9) (c. VII.8 and c. VII.9):

702. As noted earlier the requirements envisaged by the AML/CFT law, describe above, are in force regardless of any threshold.

***Effectiveness*:**

Recommendation 10

703. In practice, the FIs spoken to, confirmed that they keep the data concerning customer identification for more than five years, in most cases in an electronic format (scanned documents). However, the shortcomings noted with regard to the implementation of the obligation to identify the beneficial owner may have an impact on the effective implementation of the record keeping requirements as far as they concerns beneficial owners.

Special Recommendation VII

704. The FIs spoken to appeared knowledgeable of the AML/CFT Law requirements related to wire transfers. Albanian banks with parent European banks apply the group policy standards on the information on the payer accompanying the wire transfers[32] in addition to the requirements of the Albanian AML/CFT Law, which includes also the temporary residence among the originator data required.

705. Regarding the obligations stipulated in the AML/CFT Law with respect to this Recommendation, the FIs' general understanding is that the these requirements would cover money remittances and wire transfers, both domestic and international, but should not be applied to transactions using credit/debit cards.

706. Although the AML/CFT Law does not mention a minimum threshold to reject the transfer if the ordering FI fails to complete the missing payer information, some FIs seem to have adopted an informal minimum threshold below a meaningless amount or low risk even if the information is missing, the transfer is settled instead of being stopped and the information completed or being rejected.

707. The possibility for FIs to confirm the incomplete/missing information from the beneficiary (of the payment) could lead to an abuse of the wire transfer system and hamper the accuracy of the information obtained, if the information on which the FIs rely is not accurately verified due to the source, might be the beneficiary of the transfer itself. The FIs spoken to indicated that, in practice, in cases of incomplete/missing information a request for that information would be made to the beneficiary as the main source of information. In the case of banks with correspondent banking relationships, the banks indicated that they seek the information from the correspondent bank (a response is usually received between 3-5 days).

708. FIs do not seem to adopt effective risk–based procedures for identifying and handling wire transfers that are not accompanied by completed originator information. The failure of the payer FI to provide the missing information is not considered as a risk- in the business relationship.

709. Even though some of the FIs indicated that there were few cases involving missing/incomplete information, they did not report those cases to the GDPML, as required by the AML/CFT law).

3.5.2. Recommendations and Comments

Recommendation 10

710. Authorities should:

[32] Regulation (EC) No 1781/2006 of the European Parliament and of the Council of Europe of 15 November 2006 on information on the payer accompanying transfers of funds

- Amend the record keeping requirement for "account files and business correspondence" in the AML/CFT Law so that the five year period is calculated "following the termination of an account or business relations", as required by the FATF standard.

- Clarify the scope of "financial transactions" ensuring that it covers all types of transactions linked with the FI's customer operations.

711. The authorities should also:

- Consider providing specific guidance to FIs on the "necessary details" needed to ensure the reconstruction of the entire cycle of customer's transactions in order to ensure, if necessary, evidence for prosecution, and guidance on the records to be kept in the case of beneficial owners.

- Consider clarifying the term "financial" transactions in the AML/CFT Law to ensure that it fully covers all the types of FIs customer transaction records.

Special Recommendation VII

712. Authorities should:

- Remove the option of requesting missing wire transfer-related information from the beneficiary of the transaction.

- Ensure that the obligation to report in the case of missing information, established by article 10.3, is fully observed.

713. The authorities should also:

- Consider introducing a minimum threshold to identify the originator in international incoming wire transfers. This threshold should be in line with the Albanian economy and financial system characteristics.

- Consider developing guidelines to assist FIs to understand relation to the monitoring process of wire transfers and to ensure the accuracy of the data used to complete the payer information that is missing from incoming transfers received by the FIs.

3.5.3. Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	**LC**	• The mandatory record keeping period requirement for account files and business correspondence" is not in line with the FATF standards Issues of effectiveness: • No specific guidance on "the necessary details" to be kept in

		order to to ensure the reconstruction of the cycle of transactions. • Because of the shortcomings noted about the identification of beneficial owners, the data about beneficial owners may not be fully accurate.
SR.VII	**PC**	• The option of requesting missing wire transfer information from the beneficiary of the transaction is not in line with the FATF standard. Issues of effectiveness: • Poor implementation of the effective risk–based procedures for identifying and handling wire transfers with missing originator information and of the requirement to consider whether such transfer is suspicious and whether it should be required to be reported to the FIU. • No sanctions imposed for the non- compliance with the reporting obligation established by the AML/CFT law in the case of missing/incomplete information. • Concerns about the FIs practical understanding of the scope of the wire transfer-related requirements with regard to credit cards transactions.

3.6. Monitoring of Transactions and Relationships (R.11 and 21)

3.6.1. Description and Analysis

Unusual transactions (R 11 – rated PC in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

714. The 2006 MER noted that there was no explicit requirement to examine the background or purpose of the transaction except for some indicators in the BoA Regulation.

715. The AML/CFT Law seeks to remedy these defects, and there are now provisions in Article 9 requiring measures to be applied.

Legal Framework:

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".
- Bank of Albania Supervisory Council Decision no. 44 dated June 10, 2009 "On the Approval of the Regulation "On prevention of money laundering and terrorist financing", hereinafter "Decision 44".

Special Attention to Complex, Unusual Large Transactions (c. 11.1):

716. Article 9 para 3 requires FIs to "examine through enhanced due diligence all complex transactions and all types of unusual transactions that do not have a clear economic or legal purpose".

717. Although the provision does not specifically require FIs to look for "unusual large transactions" or "unusual patterns of transactions" (as set out in criterion 11.1), its provisions contain general requirements that take into account all complex and unusual transactions as part of the steps required to be taken in applying enhanced due diligence. In addition, the requirement under Article 12 para 3 of the AML/CFT Law to report cash transactions equal to and above lek 1,500,000 and non-cash transactions equal to and above lek 6,000,000 (including linked transactions) means that FIs are required to look for large transactions.

718. For those institutions regulated by the BoA, Decision 44 contains some further guidance. Annex II, which is referred to in Article 8 para 5 as a list of indicators which FIs may refer to when establishing internal controls for categorizing clients refers to, inter alia, complex, unusual, and large transactions.

719. The concept of "enhanced due diligence" is very broadly defined in Article 2 para 20 of the AML/CFT Law as including an assessment of the possible risk of money laundering/terrorism financing. However, given the generally poor implementation of EDD measures (see analysis of Recommendation 5), it is recommended that Albania should have a specific provision (not linked to EDD) requiring FIs to pay special attention to all complex, unusual large transactions or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose.

720. Implementation: Implementation of this requirement was inconsistent among FIs spoken to during the assessment. Those supervised by the BoA were aware of the indicators in Annex II to Decision 44, but several thought that these were indicators of matters that should be reported as suspicious transactions. The leasing and insurance sectors do not, in practice, deal with unusually large sums of money, as premiums/repayments in both sectors were found to be relatively low. However, these sectors tended to consider AML/CFT measures as more important in the banking sector, and would not necessarily look for unusual patterns of transactions.

721. Large transactions are routinely reported to the FIU (see analysis under Recommendation 13/Recommendation 30) for further information, suggesting that identification of large transactions is taking place. However, these are targeted at transactions involving cash, and complying with the reporting requirements do not demonstrate compliance with the requirement to examine unusual or complex transactions.

Examination of Complex and Unusual Transactions (c. 11.2):

722. There is no specific requirement to examine the background and purpose of an unusual transaction. There is additionally no requirement to set forth the FIs' findings in writing.

723. Implementation: Although there is no formal requirement to examine the background and purpose of unusual and complex transactions, there was some evidence in the banking sector that group policies of foreign parent companies were requiring banks to gather additional information and consider whether the transaction was unusual. Otherwise there was little evidence that this was being

done. In addition, all sectors appeared to place greater emphasis on the currency transaction provisions in the AML/CFT Law than on otherwise unusual characteristics of transactions.

Record Keeping of Findings of Examination (c. 11.3):

724. As there is no explicit requirement to record findings, there is consequently no requirement to keep such findings for a period of five years.

Effectiveness:

725. All FIs in Albania were aware of the need to identify and report large currency transactions in accordance with Article 12 para 3 of the AML/CFT Law. This was in part due to a perception that the FIU would not hesitate to use its enforcement powers under Article 27 of the AML/CFT Law, which permits them to impose a fine of between 10% and 50% of the amount of the unreported transaction. Banks with foreign group parent companies had a greater understanding of the need to examine complex and unusual transactions, but this was usually as a result of group policies, as opposed to a strict understanding of the Albanian requirements.

726. FIs did not, however, generally demonstrate an awareness of the need to check for unusual transactions, except for those banks that are part of foreign-owned groups. The authorities consider that the use of the term "unusual" might have caused some confusion amongst FIs.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (R 21 – rated PC in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

727. The 2006 MER noted that there were no specific provisions except for some indicators in the BoA Regulation.

Legal Framework

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".
- Ministry of Finance Instruction no. 12 dated April 5, 2009 on "The reporting methods and procedures of the obliged entities pursuant to Law No. 9917", hereinafter "Instruction 12".
- Bank of Albania Supervisory Council Decision no. 44 dated June 10, 2009 "On the Approval of the Regulation "On prevention of money laundering and terrorist financing", hereinafter "Decision 44".

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 and 21.1.1):

728. Article 9 para 5 of the AML/CFT Law obliges FIs to apply enhanced due diligence to business relationships and transactions with clients residing or acting in countries that do not apply or

partly apply the relevant international standards on AML/CFT. Article 22 let. i) empowers the General Directorate for the Prevention of Money Laundering (GDPML) to issue a list of countries to which these measures should be applied.

729. The GDPML has notified FIs of the availability of the FATF statements about jurisdictions with strategic deficiencies on its website. Parts 1 and 2 of the October 2010 FATF statement has been placed on the FIU's website. This names Iran and the Democratic People's Republic of Korea. The second half of the list is not reproduced, and the authorities appeared to consider that this list was politically sensitive as it includes Greece, which is one of Albania's neighbors and trading partners. The absence of the second part of the list arguably means that FIs do not have complete information about countries that are not applying the FATF standards through their own authorities. The authorities explained that the complete list was published on the website when the June 2010 was released, but they felt that doing this again in October would cause confusion. As the October 2010 list contains updates and details of additional countries, it is recommended that full list be published.

730. There is no further guidance as to how an FI might go about assessing whether a country is not or is insufficiently applying the FATF standards.

731. Implementation: Most FIs were aware of the existence of the FATF statement, and were aware of the need to identify any business relationships with countries on the list. Some banks which are subject to more stringent overseas group policies had more information and awareness of the risks of doing business with countries other than those on the list.

Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2):

732. The requirement in Article 9 para 5 does not appear to extend to an examination of transactions with no apparent economic or visible lawful purpose, and there is no specific requirement to make written findings available to competent authorities.

733. The high-level "enhanced due diligence" definition in Article 2 para 2 of the AML/CFT Law suggests that FIs are required to do some exploration to "assess the possible risk of money laundering terrorism financing", but this does not amount to a specific requirement as envisaged by the criterion.

734. Instruction 12 also contains steps to be taken when dealing with clients from countries that do not apply or partly apply the FATF standards. These include (Article 5 para 8) obtaining "information regarding the legal regime of those countries concerning the prevention of money laundering and financing of terrorism before they establish a business relationship with this category of customer". Again, this does not meet the essential criterion.

735. The FIU considered that FIs should submit a suspicious activity report if they had dealings with the two countries on the FATF list. This is not a formal requirement.

736. Implementation: Although some FIs were aware of the FATF list, few appeared to be taking any steps other than checking that clients were not either from or dealing with the 2 countries mentioned. Most felt that the likelihood of dealing with these countries was small.

Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

737. Article 22 let. (i) permits the FIU to list countries which do not adequately apply the FATF Recommendations. Other than the informal requirement of the FIU that FIs should report suspicious activity reports in cases involving Iran and North Korea, there is no formal procedure for applying counter-measures to them.

Effectiveness:

738. The availability of part of the FATF public statement on jurisdictions of concern appeared to be known by most FIs spoken to. However, given that the October 2010 FATF statement contains more information on other jurisdictions, this might be useful to FIs in Albania when considering the potential ML/TF risks of countries where clients come from or with whom they carry out transactions. Given Albania's strategic geographical position, and the fact that the FATF list currently contains details also of 2 countries nearby, the authorities should consider whether this information could be useful, and that the updated list should be published.

739. In addition, there is no guidance to FIs as to the type of factors to be considered when assessing whether a country is not or is insufficiently apply the FATF Recommendations. This would be a potential alternative to publishing the whole of the FATF list, although reference to it would appear to be desirable.

3.6.2. Recommendations and Comments

Recommendation 11

740. The authorities should:

- Increase awareness amongst FIs of the need to examine complex and unusual transactions.
- Impose a specific requirement fir FIs to pay special attention to all complex, unusual large transactions and unusual patterns of transactions which have no apparent economic or visible lawful purpose.
- Require obliged entities to record the findings of their examination of complex and unusual transactions in law, regulation or OEM.

Recommendation 21

741. The authorities should:

- Require obliged entities to examine and make written findings of business relationships and transactions with persons in countries with poor AML/CFT controls, if they have no apparent economic or visible lawful background.

- Give guidance as to the factors to be taken into consideration when determining if a country is not applying or is insufficiently applying the FATF Recommendations.
- Specify the counter-measures to be taken in cases where an FI deals with a person in or from such a country.

742. The authorities should also:

- Consider asking FIs to take into account the wider information contained in the FATF statements on improving global AML/CFT compliance.

3.6.3. Compliance with Recommendations 11 & 21

	Rating	Summary of factors underlying rating
R.11	**PC**	• No requirement to record findings of examinations of complex and unusual transactions; • Monitoring of transactions takes place only as part of EDD; • Concerns about effectiveness given the prominence of the currency transaction reporting requirement.
R.21	**PC**	• No requirement to record findings of examinations of transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations; • Concerns about effectiveness, given lack of information about countries of concern or factors to be taken into consideration.

3.7. Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 and SR.IV)

3.7.1. Description and Analysis[33]

Suspicious transaction reports (R 13 – rated PC/SR IV – rated LC in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

743. The main findings of the 2006 MER were that there was a lack of direct reporting to the FIU, attempted transactions were not covered, and it was felt that the categories of suspicious activity which banks were required to report were overly restrictive. There was also found to be a poor level of awareness of the reporting obligation amongst FIs.

Legal Framework:

[33] The description of the system for reporting suspicious transactions in section 3.7 is integrally linked with the description of the FIU in section 2.5 and the two texts need not be duplicative. Ideally, the topic should be comprehensively described and analyzed in one of the two sections, and referenced or summarized in the other.

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".

- Ministry of Finance Instruction no. 12 dated April 5, 2009 on "The reporting methods and procedures of the obliged entities pursuant to Law No. 9917", hereinafter "Instruction no. 12".

- Bank of Albania Supervisory Council Decision no. 44 dated June 10, 2009 "On the Approval of the Regulation "On prevention of money laundering and terrorist financing", hereinafter "Decision 44".

Requirement to Make STRs on ML and TF to FIU (c. 13.1 and IV.1):

744. The AML/CFT Law envisages two reporting requirements: one concerning suspicious activities and one concerning suspicious transactions.

745. The first one is set forth by Article 12 para 1 of the AML/CFT Law, which requires that when "entities suspect that property is proceeds of a criminal offence or is intended to be used for financing terrorism, they shall immediately present to the responsible authority a report, in which they state their doubts by the time limit set forth in the sublegal acts pursuant to this law."

746. The term "criminal offence proceeds" is defined (in Article 2 para 11) by reference to Article 36 of the Criminal Code. This provision, which deals primarily with confiscation, refers to "any kind of asset, as well as legal documents or instruments verifying other titles or interests in the asset waiting upon or gained directly or indirectly form the criminal offence committal."

747. Insider trading and market manipulation are not criminal offences in Albania and this is, therefore, something that affects the suspicious activity reporting requirement. In addition, given the deficiencies in the definition of terrorist financing, noted under SRII, reporting of suspicions relating to funds linked to terrorism, terrorist acts or by terrorist organizations or those who finance terrorism are not fully covered. In particular, the AML/CFT Law defines the financing of terrorism by reference to Articles 230a to 230d of the Criminal Code, but not Article 230 ("Actions with terrorist purposes"), which might restrict the scope of the reporting obligation.

748. The "sublegal acts" referred to in Article 12 para 1 refers to Instruction 12. Article 8 of this Instruction requires obliged entities to report their suspicions "immediately and no later than 72 hours". This appears to be in line with international practice, and meets the requirement that suspicion be reported "promptly".

749. The form of the Suspicious Activity Report (SAR) is set out in Annex 1 of Instruction 12, and there are guidelines for its completion.

750. For FIs regulated by the BoA, Decision 44 gives some guidance on what constitutes a suspicious transaction. Annex II lists types of suspicious operations, and makes it clear that the list is not exhaustive, and "does not substitute any legal obligation related to the reporting of suspicious or unusual transactions." (Annex II para 3). These are regarded by the FIs spoken to, and the authorities, as being indicators. As such, they are treated as guidance for the purposes of this assessment.

751. The second reporting requirement is set forth by Article 12 para 2 of the AML/CFT Law, which additionally requires FIs to report on a slightly narrower basis, when the FI "is asked by the client to carry out a transaction" which it suspects may be related to money laundering or terrorist financing. The FIU is then required to give or withhold its consent within 48 hours of the request. For the purposes of this assessment, only reports submitted under Article 12 para 1 meet the criterion, as Article 12 para 2 (see below) refers only to transactions related to money laundering or terrorism financing.

752. Implementation: FIs spoken to often appeared to confuse the requirement to report SARs under Article 12 para 1 with the requirement to submit currency threshold reports ("CTRs") under Article 12 para 3. This requires obliged entities to report all cash transactions equal to or greater than lek 1,500,000 and all non-cash transactions equal to or greater than lek 6,000,000. The figures provided by the FIU for CTRs and STRs show a far greater number of CTRs than SARs/STRs. Although this is to be expected, given that CTRs are reported on an objective basis, discussions with the private sector suggest that it is much easier to devote resources to implementing CTR systems (as these can be generated automatically by IT programs) than it is to the requirement to report SARs. As identified under Recommendation 11 (above), FIs are concerned that the FIU will use its powers under Article 27 para 6 to fine FIs for failing to report CTRs. The figures provided by the FIU also reveal that in 2009, one STR (under Article 12 para 2of the AML/CFT Law) was reported, and 20 were reported in 2010. Given that these are technically not covered by Recommendation 13/SR IV, this further reduces the effectiveness of implementation.

753. Some FIs expressed concern at having to wait 48 hours for consent under para 2, especially as no guidance has been given about what should be communicated to the client in these circumstances. This would appear to give grounds for concern that FIs could be in danger of tipping clients off.

754. FIs supervised by the BoA considered that the criteria in Annex II were purely indicative, but that they found them useful.

STRs Related to Terrorism and its Financing (c. 13.2):

755. The requirement in Article 12 para 1 covers explicitly the financing of terrorism.

756. "Financing of terrorism" is defined (in Article 2 para 4) by reference to Article 230 let. (a) to 230 let. (d) of the Criminal Code. Although these provisions are fairly broad, the lack of a reference to Article 230 of the Criminal Code might limit the scope of the obligation. In addition, the obligation to report suspicions of terrorist financing appears to be restricted to circumstances where it is "intended to be used for financing terrorism", which would not include circumstances where the funds are actually used.

No Reporting Threshold for STRs (c. 13.3):

757. Article 12 para 1 does not contain any threshold. There is no specific requirement to report attempted transactions. The Albanian authorities report that 6 attempted transactions were reported in 2009 and 2 in 2010. These were submitted under paragraphs 1 and 2 of Article 12 of the AML/CFT Law, and the fact that they were attempted transactions was picked up from the narrative in the written suspicious activity report. This system does not appear to impose a direct requirement to

report attempted transactions, although it appears to be happening in practice. A direct requirement would provide greater clarity.

758. There is a complete exemption under Article 13 for the reporting of the following transactions:

a. Cross bank transactions, except ones performed on behalf of their customers;

b. Transactions between entities of this law and the Bank of Albania;

c. Transactions performed on behalf of public institutions and entities.

This outright exemption is not compliant with the FATF standards. The Albanian authorities indicated that these exemptions were fewer than had been the case at the time of the 2006 MER.

Making of ML and TF STRs Regardless of Possible Involvement of Tax Matters (c. 13.4, c. IV.2):

759. Apart from the exemption referred to above, all SARs should be reported, including those relating to tax. However, tax evasion is only strictly a criminal offence after a first violation of the obligation to declare (which is an administrative offence), and thus a first offence would not necessarily trigger the need to report a SAR. Besides, given this different regime, it is unlikely that FIs would report SARs if they suspect tax evasion, as they would not have the possibility to ascertain whether the funds would involve an administrative offence rather than a criminal offence.

760. The tax authorities themselves have a duty to report STRs. Article 18 of the AML/CFT Law requires tax authorities to report "every suspicion, notification or data related to money laundering."

Additional Element—Reporting of All Criminal Acts (c. 13.5):

761. The Albanian system requires STRs to be submitted for all criminal offences.

Tipping off/protection from civil and criminal liability (R 14 – rated PC in the 2006 MER)

Summary of 2006 MER factors underlying the ratings and recommendations

762. The 2006 MER noted that there was a contradiction between the relevant legislation and Article 305 of the Criminal Code, which criminalized "false reporting of a crime". In the absence of a good faith provision for the reporting obligation, this was felt to be inconsistent. The offence of tipping off did not cover financing of terrorism, and did not apply to all reporting entities. There were also considered to be implementation issues, especially as reports were being disclosed to the bank of Albania.

Legal Framework

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".

- Ministry of Finance Instruction no. 12 dated April 5, 2009 on "The reporting methods and procedures of the obliged entities pursuant to Law No. 9917", hereinafter "Instruction 12".

- Law no.8457 dated February 11,1999 "On Information classified "state secret", hereinafter "Law on state secrecy".

Protection for Making STRs (c. 14.1):

763. Article 14 of the AML/CFT Law has a general exemption from civil, penal and administrative liability for FIs, supervising authorities, their managers, officials or employees who submit information, in good faith, in accordance with the provisions of the Law. This appears to be a broad exemption which the Albanian authorities consider extends to circumstances where there is no knowledge of the underlying criminal activity and regardless of whether the criminal activity actually occurred.

Prohibition Against Tipping Off (c. 14.2):

764. Article 15 prohibits employees of reporting entities from informing the client or any other person about the facts behind a suspicious case, and the fact that an STR is being reported.

765. This part of the Law does not explicitly mention directors and other officers (who are not classed as "employees"), and this is an inconsistency with the FATF requirement.

Additional Element—Confidentiality of Reporting Staff (c. 14.3):

766. STR information is treated as "Confidential information" in accordance with Article 3 para c) of the Law on State Secrecy. However, these provisions do not appear to impose any obligation that guarantees the confidentiality of the names and personal details of staff from FIs that make STRs.

Effectiveness:

767. Article 12 para 2 of the AML/CFT Law requires FIs to obtain consent for transactions (not yet carried out) which they suspect are related to money laundering or terrorist financing. The FIU has 48 hours to provide a response. One FI considered that this posed difficulties in the context of tipping off, whereas another said that training run by the FIU had dealt with this issue, and that they would tell a customer that the transaction had not been completed due to IT issues.

Currency Transaction Reports (R 19 – rated PC in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

768. The 2006 MER considered that the thresholds in existence at the time were too high, given that much non-suspicious criminal activity could go unreported, and supported a proposal in the draft AML/CFT Law that this be lowered[34].

Legal Framework

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".
- Law no.8457 dated February 11,1999 "On Information classified "state secret", hereinafter "Law on state secrecy".

Consideration of Reporting of Currency Transactions Above a Threshold (c. 19.1):

769. Following the Third Round MER, Albania reduced the threshold for reporting transactions. Article 12 para 3 requires FIs to report to the FIU transactions in the following circumstances:

a. All cash transactions, equal to or greater than lek 1,500,000[35] or its equivalent in other currencies

b. All non-cash transactions, equal to or greater than lek 6,000,000[36] or its equivalent in other currencies executed as a single transaction or as a series of linked transactions.

770. Albania, therefore, meets the requirement of Recommendation 19.

Additional Element—Computerized Database for Currency Transactions Above a Threshold and Access by Competent Authorities (c. 19.2):

771. The currency transactions required to be reported under Article 12 are kept by the GDPML in a computerized system, and is held as confidential information under the Law on state secrecy. The GDPML stated that they are used only for the purposes of combating ML/TF.

Additional Element—Proper Use of Reports of Currency Transactions Above a Threshold (c. 19.3):

772. Information stored in the computerized system is subject to the Law on state secrecy, which establishes a monitoring body, the Classified Information Security Directorate. This Directorate has examined and approved the systems in place for storing information, including CTR information, at the FIU.

Feedback and Guidelines for Financial Institutions with Respect to STR and Other Reporting (c. 25.2):

[34] The previous limit was lek 20,000,000 /US$ 200,000
[35] Approximately US$ 15,000
[36] Approximately US$ 60,000

773. Article 22 of the AML/CFT Law requires the GDPML to provide feedback/guidance in the following ways:

> l) Provide its feedback on the reports presented by the entities to this authority;
>
> 2) organize and participate, together with public and private institutions, in training activities related to money laundering and terrorism financing, as well as organize or participate in programs aimed at raising public awareness."The Albanian authorities report that the FIU provides feedback to reporting entities on STRs filed, and periodically issues typologies reports with trends and indicators. The FIU website contains a section on international typologies for 2008, 2009, and 2010, and Albanian typologies for 2009. It also contains a link to the FATF Best Practices paper on Trade-Based Money Laundering.

774. In addition, the FIU website contains indicators of potential money laundering. They suggest reporting entities "should include these indicators in staff training, and encourage their staff to use these indicators when describing suspicious behaviours of suspicious transactions."

775. Discussions with FIs revealed that the FIU had run training courses, which were thought to be useful. These contained general information on typologies and trends.

776. In addition, the Bank of Albania reports that in April 2010 it wrote to all Bureaux de Change calling for greater attention to all aspects of the AML/CFT framework and that it provides FIs with the decisions of the Council of Ministers concerning list of terrorists. As yet, this does not appear to have resulted in additional SARs.

777. Implementation: FIs considered that the feedback given by the FIU was very limited, and often amounted to no more than an acknowledgement of receipt of a SAR. There was no further information on the quality of the SAR, or further information about the use made of it. In addition, FIs felt that further training on methods and trends would be useful.

Statistics (R.32):

778. The Albanian authorities have provided the following statistics for numbers of STRs filed over the past five years:

Reporting Entities	**Year 2005**		**Year 2006**		**Year 2007**		**Year 2008**		**Year 2009**		**Year 2010**	
	CTR	SAR	CTR	SAR	CTR	SAR	CTR	SAR	CTR*	SAR	CTR*	SAR
Banks	26,746	6	46,507	14	60,650	748	231,531	748	972,852	121	1,602,611	163
Bureaux de Change					75		179		219			
Customs		33	114		336		285			11	520	15
Notaries					89		6,059		11.277	4	17,589	6

Central Office for Reg'n of RE		13			64						1,004	
Non Bank FI (MVT)					79		213		890		1,234	3
Car Dealers									190		294	
Games of Chance							38		19			
Other (State institutions, public notifications)		55	6	1	49		8			2		2
Tax Directorate										2		6
Foreign FIU										43		10
HIDAA										2		6
Construction companies											1,731	
Total	**26,746**	**107**	**46,627**	**15**	**61,342**	**748**	**231,531**	**748**	**985,447**	**186**[37]	**1,624,983**	**211**[38]

*- Includes both CTR and Value Transaction Reports over ~ EUR 45.000.

779. Of the figures for SARs reported in 2010, the FIU provided the assessment team with the following breakdown of those submitted by banks:

Bank	Number of SARs
Bank 1[39]	41
Bank 2	8
Bank 3	21
Bank 4	18

[37] Includes 2 attempted transactions and 1 STR under Article 12 para 2 AML/CFT Law.
[38] Includes 6 attempted transactions and 20 STRs under Article 12 para 2 AML/CFT Law.
[39] Figures anonymised by assessment team.

Bank 5	1
Bank 6	7
Bank 7	6
Bank 8	18
Bank 9	3
Bank 10	2
Bank 11	28
Bank 12	5
Bank 13	5
Total	**163**

Effectiveness overall for STR reporting:

780. The sharp decrease in the number of SARs from 2007 onwards is explained in the FIU's Annual Report for 2009 as being because that year marked an increase of SARs relating to that unlicensed currency exchange operations, multiple transactions directed to one beneficiary and tax evasion. Given the fact that in 2007, only 1% of the total SARs were referred to law enforcement agencies, the FIU itself considers that the quality of these was poor.

781. The figures for 2009 and 2010 also contain a total of 21 STRs (reported pursuant to Article 12 para 2 of the AML/CFT Law), which do not meet the requirements of Recommendation 13. In addition, the potential lack of reporting of suspicions relating to evasion (which is only considered a criminal offence after the second time it has occurred), would have a negative impact on reporting figures.

782. It was apparent from discussions with financial institutions that a greater degree of attention was being paid to the requirement to submit currency transaction reports than to SARs. Some institutions appeared to think that the AML/CFT Law only required currency transaction reporting, and another one, despite knowing of the requirement and having submitted SARs, felt that the requirement to submit CTRs was given greater emphasis by the authorities and FIs themselves, especially as an FI could be fined up to 50% of the value of the transaction if they failed to report it.

783. The greater proportion of SARs from the banking sector compared to other sectors is not surprising, given that the banking sector is the most significant. However, it is worthy of note that just 0.012% of all the reports received from banks in 2009 related to suspicious activity. This figure reduces to 0.007% in 2010.

784. Of the SARs received from banks, over 70% were reported by just 3 of the 16 banks operating in Albania, and 40% were submitted by one bank with a parent company based in the European Union. These figures suggest that SAR reporting is greater in an FI which is required to perform its activities to a potentially more stringent external standard.

785. The overall figures suggest a lack of awareness in the Bureau de Change sector, which submitted no SARS in the past two years, despite dealing with transactions which triggered CTRs. In addition, the non-bank financial institutions (which potentially includes remitters) submitted only 1 SAR in the past 2 years.

786. There is lack of SARs relating to the financing of terrorism. In 2009 there were 4 reports related to terrorist financing, and 7 in 2010. This appears to be a low. This might be as a result of the potentially restricted scope of the reporting requirement, as the AML/CFT Law does include Article 230 of the Criminal Code in its definition of terrorist financing.

787. The overall figures are considered by the assessment team to be low, given the potential ML/FT risks in the country (see discussion under Recommendation 1 and SRII), giving rise to concerns about the effectiveness of the reporting provisions, especially in the light of discussions with FIs backed up by the overall figures for SARs, and the figures for CTRs compared to SARs.

3.7.2. Recommendations and Comments

Recommendation 13

788. The authorities should:

- Ensure that the SAR requirement extends to all categories of offences required in the FATF standards;
- Extend the definition of STR (Article 12 para 2) to include the proceeds of criminal activity;
- Set out an explicit requirement in law or regulation that attempted transactions should be reported;
- Remove the exemptions in Article 13 of the AML/CFT Law that relate to SARs;
- Take steps to raise awareness amongst obliged entities of the difference between the currency transaction reports, suspicious activity reports and suspicious transaction reports that are required under the AML/CFT Law;
- Encourage greater reporting of SARs by obliged entities by raising awareness of the reporting requirement in sectors/parts of sectors which have submitted few SARs;
- Ensure that all instances of tax evasion are reported.

789. The authorities should also:

- Consider reviewing the whole CTR reporting system to determine whether it adds value to the fight against ML/TF, especially given that FIs give it precedence over reporting suspicion;

- Provide adequate and timely feedback to obliged entities which report SARs.

Recommendation 14

790. The authorities should:

- Clarify the AML/CFT law so that the prohibition against tipping off explicitly applies to directors and officers as well as employees;

- Provide guidance to obliged entities on the steps to be taken to avoid tipping off when an STR is submitted under Article 12 para 2 of the AML/CFT Law.

Special Recommendation IV

791. The authorities should:

- Encourage greater reporting of SARs related to TF by obliged entities by raising awareness of the reporting requirement in sectors/parts of sectors which have submitted few SARs;

- Ensure that the SAR requirement extends to all categories of TF required in the FATF standards, and that it applies to situations beyond intended terrorist financing.

Recommendation 25

792. The authorities should:

- Enhance feedback to reporting entities having regard to the FATF Best Practices Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.

3.7.3. Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and Special Recommendation IV

	Rating	Summary of factors underlying rating
R.13	**PC**	• Deficiencies in criminalization of ML (insider trading and market manipulation); • Definition of FT might limit the scope of the reporting obligation; • Provisions only extend to "intended" terrorist financing; • Exemptions from requirement to report are not in line with the FATF standard; • No explicit requirement to report attempted transactions;

		• The number of SARs overall and in comparison with CTRs give concerns about the effectiveness of the reporting regime.
R.14	**LC**	• Prohibition against tipping off does not explicitly extend to directors and officers.
R.19	**C**	• This Recommendation is fully met.
R.25	**PC**	• Insufficient feedback.
SR.IV	**PC**	• Deficiencies in criminalization of TF; • Definition of FT might limit the scope of the reporting obligation; • Provisions only extend to "intended" terrorist financing; • Exemptions from requirement to report are not in line with the FATF standard; • No explicit requirement to report attempted transactions; • Low numbers of SARs relating to TF give rise to concerns about the effectiveness of the reporting regime.

3.8. Internal Controls, Compliance, Audit, and Foreign Branches (R.15 & 22)

3.8.1. Description and Analysis

Internal Controls, Compliance, Audit, and Foreign Branches (R.15— rated PC and 22— rated C in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

793. The 2006 MER noted that there was no explicit requirement for internal procedures to deal with CDD or the responsibilities of the Money Laundering Reporter Officer (MLRO), the "central unit' needed clarification, the lack of requirements relating to training in ML/FT trends and techniques and the lack of specific provisions on employee screening .

Legal Framework:

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".

Banks and other Non banks financial Institutions

- Law No. 9662 dated December 18, 2006 "On Banks in the Republic of Albania", hereinafter the "Banking Law ";

- Law No. 8269 dated December 23, 1997 "On the Bank of Albania", hereinafter the "BoA Law";

- Decision No. 44, dated June 6, 2009 'On the approval of the Regulation On prevention of Money Laundering and Terrorist Financing" hereinafter "Decision 44";

- Decision No. 14, dated March 3, 2009 "On the Approval of the Regulation on Granting License and The exercise of Banking Activity of Banks and Branches of Foreign Banks in the Republic of Albania" hereinafter "Decision 14".

Establish and Maintain Internal Controls to Prevent ML and TF (c. 15.1, 15.1.1 and 15.1.2):

794. According to Article 11 of the AML/CFT Law FIs are required to establish and maintain internal procedures, policies and controls to prevent ML/ TF. The Law requires that FIs must draft and apply internal regulations and guidelines taking into account the ML/TF risks, which might be posed by their clients or business.

795. Under Article 11 of the AML/CFT Law, para 1, those internal regulations should address, at a minimum, the clients' acceptance policy and a policy for the application of procedure of enhanced due diligence in the case of high-risk clients and transactions.

796. For Banks and the rest of FIs supervised by BoA, Article 8 para 5 requires FIs to prepare, approve and submit to the BoA for its approval, a copy of the internal AML/CFT procedures.

797. While the AML/CFT law is silent with regard to the obligation to communicate policies and procedures to the FIs' employees, BoA, Decision 44, para 9 specifically requires the person responsible for AML/CFT (compliance officer) to inform employees periodically of changes relating to applicable legal provisions and their obligation concerning the AML/CFT requirements.

798. Article 11 para b of the AML/CFT Law requires FIs to appoint "a responsible person and his deputy for the prevention of money laundering" (the financing of terrorism is not mentioned), at the "administrative/management" level in the central office and in every representative office, branch, subsidiary or agency. Employees are required to report to the compliance officer "all suspicious facts, which may comprise a suspicion related to money laundering or terrorism financing".

799. It is not clear for the assessors if the law foresees a two-tier level: management level for the compliance officer/deputy and administrative level for the branches/subsidiaries, or if an option is given between administrative/management for the appointment of the compliance officer. The case of the administrative level option would not be in compliance with the standard.

800. The BoA Decision 44 clarifies the obligations for entities subject to its supervision and also removes the ambiguity with regard to the level at which the compliance officer should be appointed. This is reflected in Article, para 4, of the Decision 44 which requires entities to establish a structure/structures and infrastructure for the prevention of money laundering and financing terrorism. Para 2 requires entities to assign one of their executive directors as a responsible person to perform

duties related to the prevention of ML/FT. FIs shall submit the name of the responsible person to the BoA[40].

801. However this Decision 44 applies only for those FIs that are supervised by the BoA.

802. The AML/CFT law does not foresee that the compliance officer be given timely access to data (customer identification and other CDD information, transaction records and other relevant information).

803. The Article 11 of the AML/CFT, which settles the prevention measures to be undertaken by the entities, does not mention specifically the obligation to have in place procedures to detect unusual and suspicious transactions.

Independent Audit of Internal Controls to Prevent ML and TF (c. 15.2):

804. Article 11 of the AML/CFT Law requires FIs to "assign the internal audit" to check the compliance with the AML/CFT obligations in the Law. While this would presuppose the existence of an internal audit, there is no specific requirement to establish an independent audit function. Moreover, considering that the audit is required to check for compliance with the AML/CFT requirements, it would appear that the responsibility of the compliance officer is limited to the role of prevention (and as the recipient of the reporting of 'suspicious facts, including suspicions of ML/FT").

Ongoing Employee Training on AML/CFT Matters (c. 15.3):

805. Under Article 11(e) of the AML/CFT Law FIs are required to train employees specifically in AML/CFT through "regular organization of training programs". Specifically for banks, non-bank financial institutions, savings and loans institutions and credit unions, money exchange companies and consumer financing entities, the Decision 44 assigns the responsibility to the AML/CFT compliance officer to draft an annual training program and to implement it. The purpose of the training is to inform the employees about the internal regulations and procedures adopted by the FI for the purpose of preventing money laundering and financing terrorism. There is no similar provision in the FSA Law and no specific requirement for non-BoA supervised entities in relation to the compliance officer's obligation to inform employees periodically of their obligations under the AML/CFT Law.

Employee Screening Procedures (c. 15.4):

806. Article 11.d of the AML/CFT Law requires FIs to apply fit and proper procedures when hiring employees, to ensure their integrity. Neither the AML/CFT law nor the BoA Decision 44 defines what these fit and proper procedures are for employees. A definition can be found in Article

[40] Artice 8 para 5 Decision 44.

18 on Collective Investment Funds (CIF law) which defines 'fit and proper', but in this case, this definition does not apply to employees but rather to companies' owners or auditors[41]).

Additional Element—Independence of Compliance Officer (c. 15.5):

807. There is no specific provision for an independent compliance officer. However the compliance officer should be independent. In the case of banks and BoA supervised institutions, the requirement of the Decision 44 specifies the position as "an executive director of the entity". For other entities subject to the AML/CFT Law the ambiguity of Article 11 might make it difficult for compliance to be independent if the compliance officer is at the administrative level.

Effectiveness:

808. From the interviews the mission conducted with FIs, it appeared that manual and internal procedures to prevent ML/CF have been developed. However, as noted elsewhere in this report, in the case of Enhanced Due Diligence (EDD) it was unclear as to the existence of elaborated procedures.

809. In practice, as a consequence of the licensing requirements, banks as well as other non-banking FIs spoken to have an internal auditor/department which reports directly to the Board, and that the internal auditor (or department) also checks the AML/CFT operations and procedures. Only banks owned by a parent bank located in a member country of the European Union have an internal auditor/department separate from the compliance department. In the case of bureau the change businesses, there is no requirement for an internal auditor in the Bureau de Change Law.

810. There is no specific provision requiring that the compliance function should have timely access to any data. The FIs spoken to stated that, in practice, the compliance officer has no impediment to obtaining any information or data recorded or collected. However, for the FIs that keep the records in hard copy only, much of the data would not be kept at the FIs headquarters office, but in separate archives located in a different building, which is, in some cases, located outside of Tirana and poses an issue of timeliness of access.

811. The FIs spoken to had mixed practices regarding the appointment of the compliance officer, in some cases the compliance officer is at management level whilst in other cases the compliance officer is at administrative level.

336. In practice, the FIs interviewed by the mission confirmed that the recruitment process is more focused on the accuracy of the professional profile.Some entities declared that the absence of criminal records is checked through an official document issued by the Ministry of Justice while others rely on employee self-declaration.

812. The mission noted that for large FIs the implementation of the requirements concerning the development of AML/CFT policies and procedures, training of existing and newly hired staff were satisfactory. Training materials would be normally developed in-house (or at the group level). The percentage of trained employees appears satisfactory. However, with regard to other financial sectors

[41] The fit and proper criteria include criminal records, origin of funds and professional experience.

(securities and insurance companies) the training is very poor or does not exist and consists mainly of informing the employees about the changes in the AML/CFT legislation.

Application of AML/CFT Measures to Foreign Branches and Subsidiaries (c. 22.1, 22.1.1 and 22.1.2):

813. Article 11f of the AML/CFT law establishes a requirement for FIs to ensure that their branches, sub-branches and agencies, whether located in Albania or in other countries apply the requirements of the AML/CFT Law. There is no specific requirement to pay particular attention to the principle of the application of the domestic legislation to branches/subsidiaries that operate in countries which do not or insufficiently apply the FATF Recommendations. There is also no specific requirement to apply the higher AML/CFT standard when the AML/CFT requirements of the home and host countries differ.

Requirement to Inform Home Country Supervisor if Foreign Branches and Subsidiaries are Unable to Implement AML/CFT Measures (c. 22.2):

814. Article 11 g of the AML/CFT Law states that the requirements in countries where the Albanian branches/subsidiaries are located are in contrast with the Albanian laws there is an obligation on the Albanian FIs to report to the GDPML and the competent supervisory agency.

Additional Element—Consistency of CDD Measures at Group Level (c. 22.3):

815. There is no explicit provision requiring the application of consistent CDD measures at group level. The Article 11, para g, requirement on branches and agencies means that the same measures would apply throughout a group. The Albanian FIs belonging to European banking groups interviewed informed the assessors that they follow group standards and policies.

Effectiveness

816. In practice, the Albanian FIs with branches and agents in Albania or abroad ("the former Yugoslav Republic of Macedonia" or Kosovo) mainly stated that a local compliance officer is designated for each branch or agency. Generally speaking those branches agents that are responsible for AML/CFT issues, shall report to the headquarters office compliance officer who is the principal AML/CFT person responsible for compliance entity.

817. In the case of FIs with branches abroad, the obligation to report and follow the group AML/CFT policy does not appear clear, especially in non European Union countries where the AML/CFT laws are different and, as a consequence, the compliance officer designated in the 'foreign branches" seems to be more independent and not every situation or case is always reported to the "group compliance officer" in the Albanian head office. Procedures might be also different as they follow the host country branch legislation. Therefore there are no single AML/CFT procedures at group level.

3.8.2. Recommendations and Comments

Recommendation 15

818. Authorities should:

- Clarify that the 'compliance officer" should be at management level.
- Specifically include FT among the responsibilities of the compliance officer.
- Specify that the FIs internal regulations should include prodedures to detect unusual and suspicious transactions.
- Require that compliance officer has timely access to the data he/she may need.
- Require FIs to establish an independent audit function.
- Ensure that non-banking FIs provide proper AML/CFT training to their employees.
- Ensure that FIs put in place screening procedures to follow high standards when hiring employees.

819. Authorities should also:

- Consider developing guidelines on employee screening procedures requirements.
- Consider introducing the requisite of the independence of the compliance officer.

Recommendation 22

820. Authorities should:

- Introduce a specific requirement for FIs to pay particular attention to the principle of the application of the domestic legislation to foreign branches/subsidiaries that operate in countries which do not or insufficiently apply the FATF Recommendations.
- Introduce a specific requirement to FIs adopt the highest AML/CFT in case of branch subsidiaries or branches in foreign countries.
- Ensure that the Albanian AML/CFT standards are applied in a consistent way among the Albanian FIs foreign branches as a part of a group policy.
- Consider to introduce a requirement to FIs draft a group AML/CFT policy manual to ensure consistent CDD measures at the group level.

3.8.3. Compliance with Recommendations 15 and 22

	Rating	Summary of factors underlying rating
R.15	**PC**	• Not clear if compliance officer should always be appointed at

		management level. • CFT not among the responsibilities of the compliance officer. • No direct provision requiring timely access to data by the compliance officer. • No specific provision requiring an independent audit function. Issues of effectiveness: • Weak AML/CFT employees training in the non-banking financial sector. • No specific requirement, for non-BoA supervised entities, of the compliance officer obligation to inform employees periodically of applicable AML/CFT Laws requirements.
R.22	**LC**	• No specific requirement to pay particular attention to the principle of the application of the domestic legislation with respect to branches/subsidiaries that operate in countries which do not or insufficiently apply the FATF Recommendations. • No specific mention to apply if there is the case, a higher standard.

3.9. Shell Banks (R.18)

3.9.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

821. In the 2006 MER this Recommendation was rated PC. The 2006 MER noted that although it was a practice for FIs not to operate with shell banks, there was no specific prohibition in the Law.

Legal Framework:

- Law No. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law[42]".
- Decision 14 "On the approval of the regulation "On granting the license and the exercise of banking activity of banks and branches of foreign banks in the Republic of Albania, hereinafter "Decision 14."

[42] The relevant provision on this Recommendation is mentioned in Article 9 para 2 of the AML/CFT Law as following*:*
"The entities shall not carry out correspondent banking services with banks, the accounts of which are used by shell banks. The entities shall terminate any business relationship and report to the responsible authority, if they notice that, the accounts of the corresponding bank are used by shell banks"

Prohibition of Establishment Shell Banks (c. 18.1):

822. The Albanian Law does not explicitly prohibit the establishment or operation with shell banks, but the effect of the criteria for licensing in article 7 of Decision 14 and in article 17 of the Banking Law seems to prevent these activities due to the requirements relating to the documentation to be submitted for granting the license of a bank and branch of the foreign bank. Among the documentation required to be presented and approved by the supervisory authority previously to a FI operates in the Albanian financial system, the financial laws include FIs shareholders information (for further details see Recommendation 23).

Prohibition of Correspondent Banking with Shell Banks (c. 18.2):

823. The AML/CFT law does not forbid specifically establishing a direct correspondent relationship with a shell bank; neither prohibits to continue a previously established relation.

Requirement to Satisfy Respondent Financial Institutions Prohibit of Use of Accounts by Shell Banks (c. 18.3):

824. The provision of Article 9 para 2 of the AML/CFT Law prohibits any correspondent banking relationship with a bank that is known to allow a shell bank to use its accounts. The FIs shall terminate any business relationship and report to the responsible authority if they notice that the accounts of the corresponding bank are used by shell banks.

825. It is important to note that the Albanian AML/CFT Law prohibits business relationships with banks which permit their accounts to be used by shell banks.

Effectiveness:

826. The FIs spoken to understood the provision of the article 9 AML/CFT Law as a general prohibition against operating with shell banks.

827. The BoA and the FIU confirmed that no case has been denounced.

3.9.2. Recommendations and Comments

828. The absence of a general prohibition against operating with shell banks leaves a potential gap in the framework, although, in practice, FIs confirmed that they do not operate with shell banks as if it was totally prohibited.

829. Due to the gap in the redaction of the Article 9 AML/CFT Law, the authorities are recommended to amend the AML/CFT Law forbidding FIs specifically from operating with shell banks (either as a customer or as a correspondent).

3.9.3. Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	**PC**	• No specific legal prohibition on establishing or continuing to operate with shell banks.

		• No specific ban on the establishment of a direct correspondent relationship with a shell bank.

Regulation, Supervision, Guidance, Monitoring and Sanctions

3.10. The Supervisory and Oversight System—Competent Authorities and SROs. Role, Functions, Duties, and Powers (Including Sanctions) (R. 23, 29, 17 & 25)

(R 23 – rated PC/R 29 – rated LC/R17 – rated PC in the 2006 MER)

3.10.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

830. Albania was rated PC for R23 during the last ME in 2006 largely because of inadequate supervision of non-bank and insurance institutions. In addition, it was concluded that supervisory powers under R29 were not being effectively used by the regulators resulting in a rating of LC. Finally it was determined that the supervisory authorities (especially the insurance supervisor) were not sufficiently resourced to effectively conduct ongoing AML/CFT supervision.

Legal Framework:

831. The designation and supervisory powers of authorities responsible for AML/CFT supervision are contained in the following laws, regulations and other related instruments:

Applicable to All Obliged Institutions

- Law No. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".
- Decision No. 343 April 8, 2009 "On reporting Methods or Procedures of the Licensing and/or Supervisory Authorities" hereinafter "Decision 343"approved by the Council of Ministers.

Banks and other Non-banks financial Institutions: Supervisor the BOA

- Law No. 9662 dated December 18, 2006 "On Banks in the Republic of Albania", hereinafter the "Banking Law.
- Law No. 8269 dated December 23, 1997 "On the Bank of Albania", hereinafter the "BoA Law".
- Decision No. 44, dated June 6, 2009 "On the approval of the Regulation on Prevention of Money Laundering and Terrorist Financing" hereinafter "Decision 44" approved by the Supervisory Council of the Bank of Albania.

- Decision No 14, dated March 3, 2009 "On the Approval of the Regulation on Granting License and The exercise of Banking Activity of Banks and Branches of Foreign Banks in the Republic of Albania" hereinafter "Decision 14", approved by the Supervisory Council of the Bank of Albania.

- Decision No. 11, dated February 25, 2009 "On the approval of the Regulation On the Granting of License to Non Bank Financial Subjects" hereinafter "Non Banks Financial Subjects Law", approved by the supervisory Council of the Bank of Albania.

Exchange Bureaus- Supervisor: BOA

- Regulation No.70 on Foreign Exchange Activities. Approved by the Supervisory Council of the Bank of Albania, hereinafter "Regulation 70".

- Regulation No. 31"On licensing, Organization, Activity and Supervision of Foreign Exchange Bureaus" approved by the Supervisory Council of the Bank of Albania, hereinafter " Exchange Bureau Regulation".

Securities and Insurance: Supervisor FSA

- Law 9572 of July 3, 2006 "On the Financial Supervisory Authority", hereinafter "FSA Law".

- Decision No 98 dated April 30, 2007 "On the Approval of the Structure of the Albanian Financial Authority" approved by the Parliament of the Republic of Albania.

- Guideline No 2 of November 21, 2007 "On the Procedures for Inspections at Non-banking Financial Entities" approved by AFSA Board 2007 hereinafter "FSA G2".

- Law No 9267 of July 29, 2004 "On the Activity of Insurance, Reinsurance and Intermediation of Insurance and Reinsurance" hereinafter "the Insurance Law".

- Law No 10197 of December 10, 2009 "On Voluntary Pension Funds" hereinafter "VPF law".

- Law No.10198 of December 10, 2009 "On Collective Investment Undertaking" hereinafter CIU Law".

- Law No.9870 of February 21, 2008 on Securities hereinafter "Securities Law".

- Regulation No. 165. on the licensing of the brokerage/intermediary companies, the broker, and the investment advisor.

- Regulation No.120.on the licensing and supervision of the securities exchange.

- Decision No. 79, dated January 28, 2008 **"**On setting the criteria and procedures concerning insurance intermediaries' licensing and the rules of supervising their business, as well as, the cases of refusing the license".

- Regulation No. 14. Dated 08 February 2007 on some criteria to be met by elected or appointed individuals in leading positions of insurance and reinsurance companies.

- Regulation No. 13, Dated February 8, 2007 on the procedures for accepting and reviewing of applications regarding providing with license to conduct insurance or reinsurance business in the Republic of Albania adopted upon Board decision No. 13, date February 8, 2007.

832. The legal sanctions regime are contained in the following laws:

- The Criminal Code, the Criminal Procedures Code (Law no. 9749, dated April 6, 2007) "Laundering of proceeds of crime".

- Art. 45 "The Application of the Criminal Law on Legal Persons/Entities" of the Civil Code.

- Law No.9754. on the "criminal responsibility of the legal persons" contains provisions regarding the penal sanctions applied for breaches of the national AML/CFT requirements.

- Law No. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".

- Law No.9258, July 15, 2004 "On Measures Against Financing Terrorism" hereinafter FT Law.

Competent authorities—Powers and resources: Designation of Competent Authority (c. 23.2) Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1); Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2); Power for Supervisors to Compel Production of Records (c. 29.3 and 29.3.1); Adequacy of Resources—Supervisory Authorities (R.30)

Designation of Competent Authority (c. 23.2)

833. The Albanian financial regulatory system has two prudential supervisors- the Bank of Albania (BoA) -- for supervising banks and the rest of non banking financial activities excluding insurance, which is supervised by the Financial Supervisory Authority (FSA). The FSA is also responsible for supervising securities and insurance companies. These two financial supervisors, designated in the AML/CFT Law as "supervisory authorities" are responsible, inter alia, for licensing and for ongoing supervision, including for compliance with the requirements of the AML/CFT Law (Article 24). In addition to these supervisors, the General Directorate for the Prevention of Money Laundering (GDPML) has also supervisory responsibilities.

834. The legal authority for AML/CFT supervision for the three Albanian authorities is provided under Articles 21 para 1, 22 and 24 of the AML/CFT Law. Article 21 states the organization and fuctions of the GDPML , Article 22 provides the duties and functions of GDPML as Albania's

Financial Intelligence Unit (FIU) which, among others, is "to supervise the compliance of the entities with the obligation to report", including onsite inspections, alone or in collaboration with other relevant supervising authorities. Article 24, finally gives, the power to supervise, through on site inspections, to the supervising authorities (BoA and FSA). This Article also includes the obligation for the Supervisory authorities to immediately report to the FIU every suspicion, information or data related to money laundering or financing terrorism for the activities supervised.

BoA Authority

835. The BOA's role as the AML/CFT supervisory authority is also mentioned in Article 10.1 of Decision 44 which designates the BoA as the AML/CFT supervisor by reference to the provisions of Article 24 of the AML/CFT Law. For Non-bank financial activities the obligation is addressed in Article 9 of the "Banking Law".

836. In line with AML/CFT Law, the BOA's supervisory responsibilities extend to foreign exchange bureaus, pursuant to Article 18 of the Exchange Bureau Regulation. For the rest of non-bank financial activities, BOA prudential supervision extends to credit, leasing, factoring companies and remittance firms.

837. BoA has issued Decision No. 44 which restates some of the provisions of the AML/CFT Law and provides additional guidance on the implementation of the procedures and documentation of the identification of the customer, regulation for record keeping, preservation of data and their reporting to the responsible authority for the subjects under its supervision, including not only commercial banks, but non-bank financial institutions, exchange offices, saving and loans companies, postal services that perform payments services and other physical or legal entities that issue or manage payments means or handle value transfers.

Financial Supervision Authority (FSA)

838. In addition to Article 24 of the AML/CFT Law, the Financial Supervisory Authority's (FSA) powers are provided by Articles 2, 3 and 13, 14 of Law No. 9572 that establish the Financial Supervisory Authority, Articles 120, 121 of the Insurance Law, Articles 70 and 71 of the "VPF Law", Articles 124,125 of the CI Law and the articles of the Securities Law.

839. The AML/CFT-specific supervisory powers are mentioned in Article 24 para b) of the AML/CFT Law where the FSA is mentioned as a AML/CFT supervisor of the stock exchange and any other entity (agent, broker, brokerage house, etc) which carries out activities related to issuing, counseling, mediation, financing, and any other activities related to securities trading and companies involved in life insurance or re-insurance, agents and their intermediaries as well as collective investment and retirement funds.

840. The FSA has not issued by-laws regarding its attributions as AML/CFT supervisor. The CIF[43] and VPF[44] laws are the single laws where a cross-reference to AML/CFT Law provisions is made.

[43] Regulated by Law N 10198 of 10 December 2009 (CIF Law)
[44] Regulated in Law 10197 of 10 December 2009 (VPF Law)

Due to the nature of their activities, Collective Investment Funds (securities) and Voluntary Pensions Funds (retirement funds) fall within the scope of FSA prudential and AML/CFT supervision.[45] The FSA is currently working on updating the law regarding insurance and reinsurance activity which pre-dates the AML/CFT law.

841. The following chart shows the authority responsible for prudential, market conduct and AML/CFT regulation and supervision in 2009:

Subjects (FIs)	**Number licensed**	**Prudential supervisor/regulator**	**AML/CFT supervisor**
Banks and Foreign banks	16	BOA	BOA
Non-Bank Financial Institutions (NBFI)	17[46]	BOA	BOA
Foreign exchange bureaus	285	BOA	BOA
Savings and Credit associations	135	BOA	BOA
Savings and Credit Associations Unions	2	BOA	BOA
Non- life insurance companies (Non life insurance 91%)	7	FSA	NA: No obliged under AML/CFT Law
Life insurance companies (Total insurance life 9%)	2	FSA	FSA
Mix (life and Non life)	1	FSA	FSA
Reinsurance companies	1	FSA	FSA
Insurance agencies	8	FSA	FSA for life
Insurance agents	166	FSA	FSA for life
Insurance brokerage companies	8	FSA	FSA for Life activity
Insurance broker	10	FSA	FSA for life
Insurance claims adjustors companies		FSA	NA
Insurance claims adjustor	54	FSA	NA
Private pensions funds	3	FSA	FSA
Pensions funds management companies	1	FSA	FSA
Depositaries of the assess of private pensions funds	2	FSA	FSA
Securities brokerage companies	12	FSA	FSA/BOA
Securities brokers	16	FSA	FSA/BOA

[45] .Based on article 24 of the law no.9917, May 19 2008 "On the prevention of money laundering and the financing of terrorism", the licensing and supervisory authorities is *Financial Supervision Authority for the entities:*

i) Any natural or legal person involved in the administration of third parties' assets, and managing the activities related to them; ii) Stock exchange and any other entity (agent, broker, brokerage house etc.), which carries out activities related to issuing, counselling, mediation, financing and any other service related to securities trading; iii)Companies involved in life insurance or re-insurance, agents and their intermediaries as well as retirement funds;

[46] 6 carrying out financial leasing, 4 MTV, 1 factoring, 5 credit and 2 microcredit.

Registration of securities	1	FSA	FSA
Organized market of securities	1	FSA	FSA

842. Apparently there is an inconsistency between the AML/CFT Law[47] and the Decision 343[48] concerning the supervisory authority for the category of FIs defined as"any other physical or legal entity that issues payments or handles value transfers". According to the AML/CFT law the supervisory authority is the FSA whereas Decision 343 places this responsibility on the BoA.

843. The BoA explained to the assessment team that there is not a contradiction; however there is a duplication of requirements. The Decision 343 that provides for the BoA's supervisory powers includes any other natural or legal entity that issues or manages means of payments or handles value transfers. However, the AML/CFT Law also provides for the FSA's supervision of entities that carry out those services. The BoA staff assured the assessors that all the entities that issue or manage payments or handle value transfers are included in the category of non-bank financial institutions and are under the BoA's licensing regime and supervision. The assessors were satisfied with the explanation provided by the BoA but suggested that the law be amended to make it clearer and avoid possible future confusion.

The General Directorate for the Prevention of Money Laundering (GDPML)

844. In addition to the BoA and the FSA,the GDPML has also a supervisory role. Pursuant to Article 22 (d) of the AML/CFT Law, the GDMLP has the responsibility to supervise compliance by the reporting entities with respect to their reporting obligations, including through onsite inspections either on its own or in collaboration with othe relevant supervisory authorities.

[47] *Article 24.b) AML/CFT Law*

[48] *Based on article 24 of the law no.9917, May 19 2008 "On the prevention of money laundering and the financing of terrorism", the licensing and supervisory authorities are:*

a) Bank of Albania for the entities:

i) Commercial Banks;

ii) Non bank financial institutions;

iii) Exchange offices;

iv) Saving and credit companies and their unions;

v) Postal services that perform payment services;

vi) Any natural or legal person engaged in insuring and management of cash and easily convertible securities on behalf of third parties;

vii) The business of precious metals and stones;

viii)Any natural or legal entity engaged in financial agreements and guarantees;

ix) Any other natural or legal entity that issues or manages means of payment or handles value transfers (debit and credit cards, cheques, traveller's cheques, payment orders and bank payment orders, emoney or other similar instruments);

x) Any other individual or legal entity, except for those mentioned above, engaged in

- financial lease;

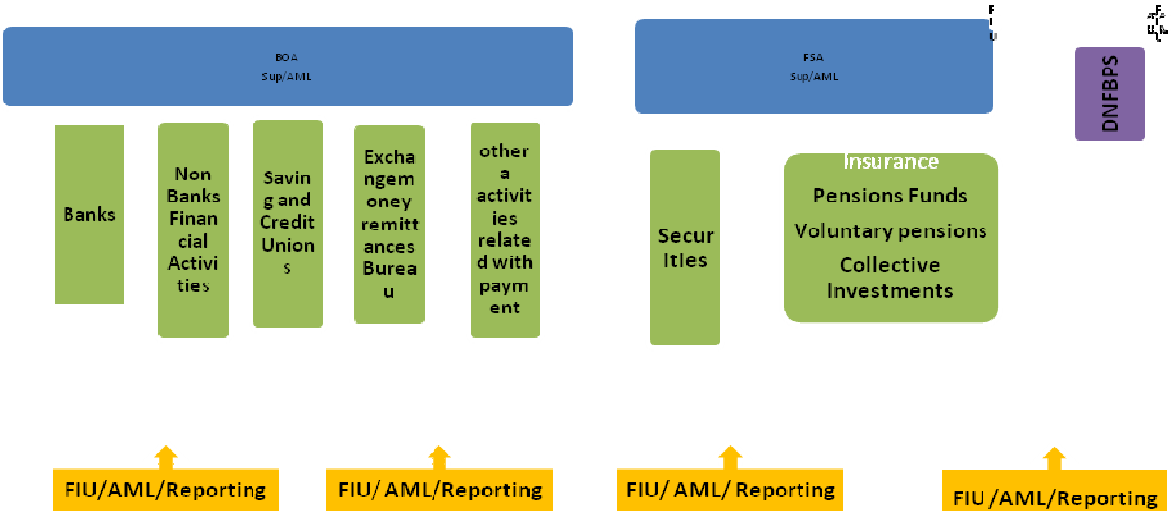
- financial loans;

- cash exchange;

845. Regarding the scope of the FIU's supervisory powers, the assessment team and the FIU had different interpretations of Article 22. para d) of the AML/CFT Law. According to the FIU, the scope of the supervisory activities extends to the schecking compliance on with all the obligations imposed by the AML/CFT Law. This interpretation is based on the FIU's view that its primary function as a financial intelligence unit, (collection, analysis and dissemination) implicitly covers ML/FT risks affecting the reporting entities (Art. 21 and 22 AML Law). Consequently, the compliance with the reporting obligations should be interpreted as to extend also to the preventive measures such as customer identification, record keeping.

846. The assessors do not share this view and deem that if this is the interprtetation of the FIU's supervisory role amendments to the AML/CFT law should be made to clarify it..

847. The table below illustrates the AML/CFT supervisory framework in Albania:



AML/CFT supervisory authorities (Implementation and ongoing supervision)

BoA on- site inspections: scope and internal procedures.

848. With regard to the BOA's on-site inspections, it is necessary to distinguish two periods:

– Before 2010, when the AML/CFT risk was a component of the general/prudential on-site inspections and evaluated within the overall risk profile of the institution supervised.

– After 2010, when a specific unit was created with "assigned inspectors" within the BoA to address compliance, transparency, consumers protection and ML/FT risk.

Before 2010

849. BoA's AML/CFT on-site inspections were carried out on the basis of written examination procedures. The AML/CFT component was included within the scope of an ongoing integrated supervisory process that aimed to monitor a FI through the whole inspection cycle. The methodology

was based on the CAMELS (Capital, Asset quality, Management, Earnings, Liquidity and Sensitivity to market risk) rating system (1 to 5, with 1being strong and 5 critical). This rating system was used for banks and savings and loans and credit unions. Anti-money laundering (and transparency) was embedded in the management (M) as one of many other components, for example IT and operational risk, that may impact the entity rating

850. The BoA applied the CAELS as a simplified system framework, to supervise the non bank financial entities. For the assessors the ML/FT risk was not so clearly covered since this method does not contemplate the Management component for rating the entity where ML/FT risk would normally be captured.

851. The BoA updated the ratings for the CAMELS during the on-site inspections calendar. The examination cycle depended on the ratings assigned. The cycle ranged from six months for institutions rated four to 18 months for those rated "one". For institutions rated "five" or critical, monitoring was ongoing. It is important to note that BoA had not rated the non banking financial entities which include remittance activity and exchange bureaus which are large in number and are considered to have a higher ML/FT risk profile.

852. Prior to 2010, no offsite specific AML/CFT surveillance was undertaken and the onsite AML/CFT issues were reviewed as part of routine prudential (CAMELS based) supervision using procedures contained in the "Examination of Banks and other financial institutions on AMLFT" manual for Banks, Saving and Credit Unions entities. For other entities, the BoA used the 2005 guidelines "Examination procedures on prevention of money laundering and terrorism financing". In these inspections there were no specialized AML/CFT inspectors.

2010, new AML/CFT supervisory structure

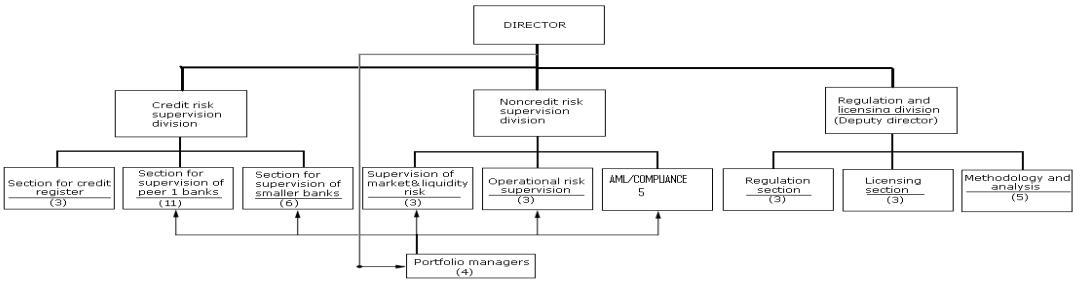
853. In 2010, the BoA established a specialized AML/CFT and transparency unit [49] named the "Compliance Unit" within the Supervision department inside of the "Non-Credit Risk Inspection Division". The "Compliance Unit"[50] inspections could be general inspections covering ML/FT and transparency entity risk or focused on some aspects.

854. The Compliance/AML/CFT unit has five persons (the head of the unit plus four inspectors) for supervisory activities. The five staff are assigned full time to this office and only perform tasks within the unit's responsibilities.

855. The unit is located inside the Non-Credit Risk Division of the BoA. This division also deals with liquidity and operational risk. The following chart shows the location of the "Compliance/AML/CFT" unit within the BoA's organizational structure:

[49] See Rec.30 the adequacy of resources.

[50] See BoA Organizational Chart R.30



856. The functions of the "Compliance/AML/CFT Unit" are governed by the BoA's "Internal regulation of supervision department" (Article 15) and include the verification of legal and regulatory compliance by entities subject to the BoA's supervision with respect to the AML/CFT prevention of ML and FT, as well as transparency issues. In the conduct of its duties, the supervision department:

a) regularly monitors, through regular analyses the compliance with the requirements of the law and by-laws of the Bank with regard to the transactions activity, the prevention of money laundering and terrorist financing, the transparency of banking services and products, the accounting of regulatory capital, etc., at system/group of banks/individual banks level;

b) carries out regular or special analyses, at the system/group level and at the individual bank level, upon the request of managers, to identify/monitor different risks;

c) signals to the BoA Portfolio Managers any identified risk related to the banks' portfolios;

d) participates in on-site examinations to assess the operational risk of individual entities or of the whole system, provides recommendations and proposes the implementation of administrative measures when deemed necessary; and

e) proposes the improvement of supervision methods and practices.

857. In practice, the inspections of financial institutions conducted by the BoA cover all types of risk with a general scope and the inspections teams vary in size depending on the entity's size. As of 2010, every general inspection team includes a specialized AML/CFT inspector from the AML/CFT unit who performs a focused AML/CFT review.

858. The AML/CFT area review includes the assessment of internal regulations, policies and procedures and their implementation. It also includes verification of reports sent to the FIU (GDPML) and samples of transactions are reviewed to ascertain whether or not they should have been reported to the FIU. The on-site examination also verifies and evaluates the adequacy of procedures for

customer identification (KYC), the documentation for customer identification, record keeping and the AML/CFT training program of the entity.

859. The AML/CFT reviews conducted by the specialized inspectors take approximately one week for small FIs and up to two to three weeks for banks. An internal AML/CFT inspection handbook is being drafted to describe the main areas to cover during an onsite inspection.

860. BoA onsite visits are planned in advance and prior notice is given to the supervised entity, usually one to two weeks before the onsite visits. The duration of the onsite prudentialvisits depends on the type of the inspection (full or partial) and the size and complexity of the entity, but the average for banks is up to two to three weeks. Before leaving the entity, the inspection team discusses with management the main findings.

861. After the inspection visit, a report is drafted from headquarters which includes an AML/CFT (transparency) section, normally as an annex. That annex (Te Tjera) reflects the main findings and recommendations in compliance, transparency, ML/TF, wire transfers, and IT issues. The report is signed by all members of the BoA's Board and sent to the entity. However, the fact that AML/CFT is placed as an annex to the examination report runs the risk that it might not receive sufficient attention from both the BOA and the entity.

862. The entity has 30 days to respond or add any complementary information. The procedures for dealing with examination reports, including sanctions, are detailed in the "Operational Policy Manual of Supervision" and Article 75 of the Banking Law.

Off-site Supervision:

863. Prior to 2010 no specific AMl/CFT offsite surveillance was undertaken. As of the assessment date, offsite surveillance is at a very early stage due to the lack of information to allow for the monitoring and rating of entities. BoA staff underlined the fact that it would be desirerable to obtain more information from the GDPML regarding the results of the inspections it carries out on FIs under BoA supervision. The sources for BoA's off site surveillance are mainly the results of prior inspections and external research on the internet and newspapers. This information seems too limited to build a proper monitoring system.

FSA On-Site Inspections: Scope and Internal Procedures

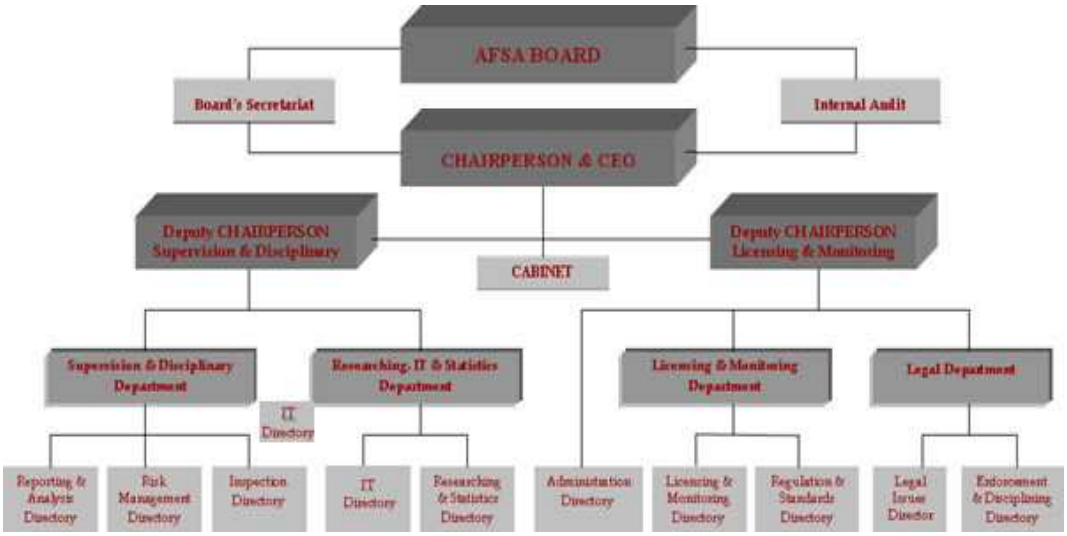
864. The FSA supervises the non-banking financial entities, including onsite inspections. These inspections can be:

- Full scope covering the overall activity of the entity (at least once in 18 months);
- Limited scope; or
- Thematic for specified areas or issues.

865. Inspections are carried out by FSA officials based on an Order signed by the head of the FSA. Inspection procedures are contained in Guideline No. 2 of November 2007 " On the procedures for inspections at Non-banking financial Entities" which lays down detailed rules and procedures to be

followed during the inspections, including for professional conduct during onsite inspections. Article 24 of AML/CFT Law states that the FSA may carry out targeted AML/CFT inspections.

866. The chart below shows the functional structure of the Financial Supervisory Authority.



867. The Supervision and Disciplinary Enforcement Department currently has twelve employees (out of eighteen specified in the structure). It is responsible, among other functions, for on-site inspections and off-site analyses (prudential supervision). The FSA is not currently carrying out AML/CFT inspections of financial institutions. The Licensing and Monitoring Department has six out of eight staff it is budgeted to have and has, amongst other functions, the responsibility to license non banking entities and collaborates on an ongoing basis with the FIU in order to prevent an ineligible person from possessing, controlling, and directly or indirectly, participating into management or administration of a supervised entity as is foreseen in the securities, insurance, pensions, and collective investment schemes laws.

868. FSA inspections of the insurance sector thus far appear to have largely focused on macro prudential issues. The FSA is receiving technical assistance from the World Bank to develop its supervisory regime which envisages the development of risk-based onsite inspections manuals, but this manual does not address ML/FT risks.The authorities claim that the insurance sector is very small and the segment of life insurance is negligible and generally tied to loans. The stock market is also very small and mainly involved in trading of treasury bills and bonds issued by the Bank of Albania.

869. Additionally, the FSA inspectors have not received adequate training on AML/CFT which has not facilitated the conduct of AML/CFT inspections.

870. FSA staff stated that in 2004 there was a joint inspection of an insurance company with the FIU. FSA inspectors reviewed the solvency risk and the FIU the ML/FT risks. The report was jointly drafted and signed by both authorities. The joint inspection was proposed by the FIU due to staff constraints of the FIU at that time (10 people).

Off- Site:

871. There is no specific AML/CFT offsite surveillance.

GDMLP (Responsible Authority)

On-Site Inspections: Scope and Internal Procedures

872. Pursuant to its broad interpretation of Article 22.d of the AML/CFT Law, the GDPML's Inspections Section[51] conducts full scope AML/CFT inspections of financial entities and DNFBPs.

873. Through its inspections the GDPML aims to: carry out an examination of subjects' level of compliance with national AML/CFT legislation and the effectiveness of its implementation; assess internal controls systems and making recommendations; provide recommendations to entities related to remedial measures that should be taken; identify the need for training of persons responsible for entities, identify administrative violations by entities and propose administrative measures.

874. In 2010, the supervision department of the GDMLP drafted a supervision manual. According to the Inspection Manual, approved in June 2010 (No 654/12), the GDMLP may carry out three types of onsite inspections, as wll as conduct offsite monitoring, based on data from the report of self-assessment/internal audit filed by entities:

- Full inspections;
- Oriented inspections focused on one or two aspects covered in full inspections;
- Thematic inspections that focus on key issues, such as employee training, development of internal procedures and regulations in place to prevent ML/FT, reporting to the GDPML, the appointment of person/s responsible, collect data, etc.; and
- Report of self assessment.

875. Onsite visits are carried out by a team of two to three inspectors, last three days and are preannounced two weeks before by a letter which also includes a request for documentation and outlines the "plan of inspection". The plan indicates the type of inspection to be conducted and the FIU staff to participate. Before leaving the institution, the inspection team leaves a signed copy of the report including the main findings.

876. The entities to be visited are selected using the following information: sector analysis and the perceived exposure to ML and FT, the FIUs database, analysis of previous inspection reports, analysis of the reports received by the Analysis department, analysis and verification through the Report of self-assessment (more information on this is provided under R.26).

[51] For further details see Recommendation 30

877. GDPML staff informed the assessors thatthe goal of their inspections of FIs, considering the very limited supervision staff and the relatively large number of entities subject to its oversight (2,314), is to concentrate their inspections on the most important FIs in each sector. (See FIU inspections chart Rec. 32)

Statistics (R.32) - Inspections

BoA

878. On-site: The table below details the inspections carried out by the BoA including the AML/CFT area.In 2007, joint inspections were carried out by the BoA and the FIU of all the banks in the financial system.

Year	**Banks (Full scope Inspection)**	**Banks (partial inspection)**	**Non bank Financial Institutions**	**Saving & Loan**	**Foreign exchange bureaus**	**Postal services**
2005	11	14	7	1 (+2[52])	17	
2006	14	4[53]	5	2	25	
2007	11	50[54]	5	1	45	
2008	13		1	1	13	
2009	8	1[55]	3	1	-	
2010	3	3[56]	3		-	

879. Before 2010 all the inspections were conducted using the "old methodology", that is prudential inspections (general ones) including in the scope of the visit, the area of transparency/compliance. Therefore, the so-called "partial inspections" were not comparable to the "partial inspections" in the present AML/CFT methodology, as they might have focused on risks other than ML/FT. The table shows that up until the present time, ML/FT risk was not a priority risk during the BoA inspections.

880. With the new AML/CFT specialized unit within the BoA, four inspections were conducted in 2010. Two of them were still unfinished at the time of the assessment. Due to the recent implementation of the new system the assessment team could not assess the effectiveness of the new AML/CFT supervisory approach. Nevertheless the fact that a specific unit with designated and more specialized inspectors has been created appears to mark an improvement in the level of BoA commitment to AML/CFT supervision.

FSA

881. The insurance and securities sectors are not supervised for AML/CFT risk by the FSA.

[52] Partial inspection
[53] Inspection for AMLFT issues
[54] 17 inspection for credit register, 33 inspections on transparency, others and AML
[55] Inspection about credit risk and recommendations
[56] Inspection about credit risk and IT

GDPML (FIU)

882. Onsite visits are based on risk ratings assigned to entities by the FIU resulting in three groups of entities rated as: High, Medium, and Low risk. The on-site inspections are planned mainly on the FIU's perception of institutional risk and the results of the previous inspections. The table below provides the 2009-2010 ratings assigned following the GDPML criteria. The criteria seem to be based more on common risk perception (see column 3 of the table) than on the results of a focused study or inspections.

Inspected entities	**Risk level**	**GDMLP Criteria**	**Visits in 2010**
Insurance	*Low*	*No significant activity*	---
Securities	*Low*	*No activity*	---
Commercial Banks	*Medium*	*"The sector is the main vehicle for Money launderers to introduce illegal money into the system"*	*8*
Bureaux de change	*High*	*Cash-intensive ; no ID of customers*	*13*
Leasing companies	*Low*	*Non risk; payments pass through bank accounts*	*4*
Savings and loans, and Credit Unions	*Low*	*Transactions of small amounts*	---
Non Bank institutions	*Medium*	*Small size*	*40**

*This figure includes also onsite inspections for Saving and Credit Unions

883. The following table provides statistics on the number of inspections made by the FIU since 2005.

Inspections of FIs and non-FIs	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Exchange Bureaux	-	5	16	6	3	24
Commercial Banks	-	-	17*	7	8	8
Non Bank Institutions	-	-	3	7	8	5
Leasing companies	-	-	-	3	4	-
Saving and loans, and credit unions	-	-	-	-	-	2
Insurance Agencies	7	4	10[57]	6	3	-
ZQRP - ZVRP / CORE – LORRE	5	10	5	5		-
Notaries	-	-	17	42	7	13
CPA	-	-	-	13	-	-
GDT	-	4	6	1	-	-
Travel Agencies	-	26	-	4	-	-
Gambling and Casinos	-	9	7	11	2	5
NGO	-	16	-	1	-	-
Construction Companies	-	-	-	5	63	16

[57] FSA staff mentioned that in 2007 there was a joint inspection with the GDPML

Car Dealers	-	12	19	12	7	5
Dept for te Administration of State Propertu	-	-	1	-	-	-
GDC	-	14	-	-	-	-
Attorneys	-	-	-	-	5	2-
Evaluators of immovable property	-	-	-	-	5	-
Real estate	-	-	-	-	31	7
Total	**12**	**100**	**101**	**123**	**146**	**87**
– of which FIs inspected	**---**	**5**	**36**	**23**	**23**	**39**
Inspections of FIs as a percentage of total number of inspections	**---**	**4%**	**36%**	**19%**	**15%**	**45%**
TOTAL number of FIs in the financial system (including insurance and securities)	**ND**	**261**	**226**	**347**	**387**	**477**
Inspections of FIs as a percentage of the total number of FIs		**1,9%**	**15,9%**	**6,6%**	**5,4%**	**2%**

***** Inspections with the BoA

884. The table above indicates that the FIU focuses more on the non financial sectors (45% of its inspections concern FIs and 55%, DNFBPs). Besides only 5.4% of the total number of FIs were inspected by the FIU in 2009 and that precetage dropped to 2% in 2010. The table above shows that in 2010 the number of FIU inspections of FIs increased in absolute terms though fell relative to the total number of FIs, which grew considerably that year.

Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1):

885. The Albanian supervisors responsible for monitoring and enforcing compliance are provided with adequate powers pursuant to Art 24 of the AMl/CFT Law, as well as their sector-specific laws as an extension and complement of their prudential supervisory powers.

886. Article 71 , para 2 of the Banking Law, empowers the BoA to supervise banks, branches of foreign banks operating in Albania and branches of Albanian banks operating abroad, as well asother entities conducting “financial activities“. Additionally, Articles 12, 13 and 126 of the Banking Law empower the BoA to supervise nonbanking financial institutions and financial groups on the basis of consolidatedfinancial reports The Bank of Albania exercises its power to supervise through (Article 72 Banking Law):

- Licensing/regulatory framework.
- Financial analyses and forecasting, checking the data reported periodically by the banks.
- Full or partial inspections of the bank activity.
- Corrective measures.

887. On this side, the FSA's prudential supervisory and monitoring powers are set out in Article 13 of the FSA Law. The FSA enjoys full rights regarding the supervision of the following subjects:

- The securities market and participants;
- The insurance market, including all activities of insurance, re-insurance, brokerage; and
- The private pension market.

888. The GDMLP's (FIU) role as an AML/CFT supervisor is set out in Articles 21 and 22 of the AML/CFT Law which describe the main duties and functions of the FIU as the "Responsible Authority". Among other duties, the FIU has the power to supervise the compliance by entities with their obligation to file reports under the AML/CFT Law, including the conduct of onsite inspections alone or in collaboration with the relevant supervisory authorities (Article 22.d). The FIU is also required to notify the other supervisory authorities about failure by entities to comply with their reporting obligations under the AML/CFT Law.[58]

[58] Art 22. AML/CFT Law. **Duties and functions of the responsible authority**
The General Directorate of Money Laundering Prevention, as financial intelligence unit, shall, pursuant to this law, have the duties and functions hereunder described:
a) collect, manage and analyze reports and information from other entities and institutions in accordance with the provisions of this law;
b) access databases and any information managed by the state institutions, as well as in any other public registry in compliance with the authorities set forth in this law;
c) request, pursuant to its legal obligations, financial information from the entities on the completed transactions with the purpose money laundering and financing of terrorism prevention;
d) supervise the compliance of the entities with the obligations to report set in this Law, including on site inspections alone or in collaboration with relevant supervising authorities;
e) exchange information with any foreign counterpart, entity to similar obligations of confidentiality. The provided information should be used only for purposes of preventing and fighting
money laundering and financing of terrorism. Information may be disseminated only upon parties' prior approval;
f) enter in agreements with any foreign counterpart, which exercises similar functions and is subject to similar obligations of confidentiality;
g) exchange information with the Ministry of Interior, State Intelligence Service and other responsible law enforcement authorities regarding individuals or legal entities, if there is ground to suspect that this entity has committed money laundering or financing of terrorism;
h) inform, in cooperation with the prosecution office, the responsible authority on the conclusions of the registered criminal proceedings on money laundering and terror financing;
i) may issue a list of countries in accordance with paragraph 5 of article 9 of this law, in order to limit and/or check the transactions or business relations of the entities with these countries;
j) order, when there are reasons based on facts and concrete circumstances for money laundering or financing of terrorism, blocking or temporary freezing of the transaction or of the financial operation for a period not longer that 72 hours. In case of observing elements of a criminal offence, the Authority shall,by this time limit, file the case with the Prosecutor Office by submitting also a copy of the order on transaction temporary freezing or on the account freezing, pursuant to this law, in addition to all the relevant documentation;
k) maintain and administer all data and other legal documentation on the reports or any other kind of documentation received over 10 years from the date of receiving the information on the last transaction;
(continued)

Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2)

BoA

889. According to Article 24 of the AML/CFT Law, "On functions of supervisory authorities" the authorities responsible for carrying out the supervision in their respective sectors in the AML/CFT field are:

- the Bank of Albania, for licensing and supervising banks, non-bank financial institutions (other than insurance companies), exchange bureaus and saving and loans and credits unions; and
- the Financial Supervisory Authority (FSA) for the other financial institutions: securities, life insurance, re-insurance, and pension funds.

890. In addition to what is noted in the AML/CFT Law, Article 24 para 2[59], the BoA powers of supervision including onsite inspections, and its duties as a supervisor are contained in Article 72, of the BoA Law. Pursuant to this article the BoA exercises its duty through full-scope or partial examinations and also has the power to take corrective measures.

891. The different types of inspections, scope, and procedures are developed inan examination manual for banks, savings and loans, and credit unions entities (Cross-reference: See c.23.2 for details of supervision implementation).

FSA

892. The FSA's supervisory powers for prudential matters are contained in paras. 19 and 20 of Article 14 of the FSA Law which state that the Board of FSA has the power to:

- Approve inspection handbooks;
- Set the policies for supervision, inspection of supervised subjects and the development of the non-banking financial market;

l) provide its feedback on the reports presented by the entities to this authority;
m) organize and participate, together with public and private institutions, in training activities related to money laundering and terrorism financing, as well as, organize or participate in programs aimed at raising public awareness;
n) notify the relevant supervising authority when observing that an entity fails to comply with the obligations set forth in this law;
o) publish by the first quarter of each year the annual public report for the previous year on the activity of the responsible authority. The report shall include detailed statistics on the origin of the received reports and the results of the cases referred to the prosecution.

[59] Note: in the English translation of article 24 there is a mistake numbering the paragraphs and there are two paragraphs 1

893. Inspections conducted by the FSA focus on detecting and preventing violation of laws, irregularities and errors, and provide a basis for requiring entities to take timely and appropriate corrective action. Article 121 of Insurance Law provides that the FSA also oversees insurance companies and foreign companies' branches through onsite inspections.

894. Although the FSA is the supervisor of both the securities and insurance sectors, the authorities informed the assessors that their main efforts were focused on the supervision of the insurance sector. The supervision of securities sector is based on the trading information received periodically. This is a consequence of the FSA's main role in securities, which is to supervise the trading in T- bonds.

895. On-site inspections of insurance companies and agents are based on written examination manuals and are carried out by inspectors from the Inspection Unit within the Supervisory Department[60] (Cross-reference: Please see criterion 23.2 for further details on going supervision).

896. The table below shows the main categories of supervised FIs as defined in the FATF Glossary and its AML/CFT supervisor[61].

Type of financial activity (See glossary of the 40 Recommendations)	**Type of financial institution that performs this activity**	**AML/CFT supervisor (Decision 343)**

[60] See FSA Chart

[61] Article 24 AML/CFT Law, Decision 343, Article 2. FSA Law

1. Acceptance of deposits and other repayable funds from the public (including private banking)	1. Banks[62] [2. Saving and credit companies and their unions]	1. Bank of Albania (BoA)
2. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial	1. Banks 2. Non-bank financial institutions[63]	1. BoA 2. BoA

[62] Banks and branches of foreign banks are entitled to perform the following activities (Banking Law 9662 Articles 4 and 54):
Article 4 para 2. "Banking activity" –shall mean the receipt of monetary deposits or other repayable funds from the public, and the grant of credits or the placement for its own account, as well as the issue of payments in the form of electronic money.
Article 54 para. 2(a) lending of all types including, inter alia, consumers credit and mortgage;
b) factoring and financing of commercial transaction;
c) leasing;
d) all payments and money transferring services, including credit, charge and debit cards, travelers cheques, bankers draft;
e) guarantees and commitments;
f) trading for own account or for the account of clients, whether on a foreign exchange, in an over-the-counter market or otherwise the following:
(i) money market instruments (cheques, bills, certificates of deposits, etc);
(ii) foreign exchange;
(iii) derivative products, included, but not limited to futures and options;
(iv) exchange rates and interest rate instruments including products such as swaps and forward agreements;
(v) transferable securities;
(vi) other negotiable instruments and financial assets including bullion;
(vii) participation in issues of all kinds of securities including, underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
g) money broking:
(vii) asset management such as cash or portfolio management, fund management, custodial, depository and trust services;
(viii) settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;
(ix) provision and transfer of financial information, and financial data processing and related software by providers of other financial services;
h) advisory, intermediation and other auxiliary financial services of all activities listed in letters (a)-(f) above, including credit reference and analyses, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.
[63] Non-bank FIs are those licensed to carry out the following activities (Regulation No. 11, February 25, 2009 "On the granting of license to non bank financial subject".:
i. lending of all types,
ii. factoring,
iii. leasing,
iv. all payments and money transferring services,
v. guarantees and commitments,
vi. foreign exchange; and
vii. advisory, intermediation and other auxiliary financial services of all activities listed in points (i) –(vi)", of this letter;

transactions (including forfeiting))		
3. Financial leasing(other than financial leasing arrangements in relation to consumer products)	1. Banks 2. Non-bank financial institutions (Leasing companies)	1. BoA 2. BoA
4. The transfer of money or value (including financial activity in both the formal or informal sector (e.g. alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds)	1. Banks 2. Non-bank financial institutions (Money remitters) [3. Postal services that perform payment services]	1. BoA 2. BoA 3. BoA
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money)	1. Banks [2. Any other physical/legal entity that issues/manages payments]	1. BoA
6. Financial guarantees and commitments	1. Banks 2. Non-bank financial institutions	1. BoA 2. BoA
7. Trading in: (a) money market instruments (cheques, bills, CDs, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading	1. Banks 2. (b) Foreign Exchange Offices [3. Stock exchange/broker/agents]	1. BoA 2. BoA 3. FSA
8. Participation in securities issues and the provision of financial services related to such issues	1. Banks [2. Stock exchange/brokers /dealers]	1. BoA 2. FSA
9. Individual and collective portfolio management[64]	1. Banks [2. Stock exchange/brokers/dealers]	1. BoA 2. FSA
10. Safekeeping and administration of cash or liquid securities on behalf of other persons	1. Banks 2. Non-bank financial institutions	1. BoA 2. BoA

[64] Exists in the Law but no company has been created yet

11. Otherwise investing, administering or managing funds or money on behalf of other persons	1. Banks	1. BoA
12. Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers))	1. Life insurance companies/agents/intermediaries/pension funds	1. FSA
13. Money and currency changing	1. Banks 2. Foreign exchange offices	1. BoA 2. BoA

GDPML (FIU)

897. Article 22 para d of the AML/CFT Law requires the FIU to supervise institutions' AML/CFT compliance with their reporting obligations[65] as specified in the AML/CFT Law including the conduct of on-site inspections alone or with another supervisory authority. The scope of supervision is limited to the obligations for the filing of suspicious transactions reports (STRs), cash transaction reports (CTRs) and value transfer report (VTRs).

898. As was mentioned for criterion 23.2, regarding the scope of the FIU's supervisory powers, the assessment team and the FIU have a different interpretations of Article 22 para d of the AML/CFT Law, which the authorities believe extends beyond the reporting requirements to other preventive measures.

Power for Supervisors to Compel Production of Records (c. 29.3 and 29.3.1):

BOA

899. Article 72 para 2 of Banking Law obliges entities supervised by the BoA to provide BoA with the necessary documentation required for the performance of its supervisory duties. Additionally, in the same article 72 para 5 the Law reinforces the power to compel production or obtain access to all documentation, specifying that the BoA for the purposes of supervision of banks has the right to obtain information from commercial companies with qualifying holdings in banks. Article 12 of BoA Law also establishes the same access to any information related to a bank's activities or bank sahreholders.

900. Complementarily, Article 71 BoA Law states that "the Bank of Albania shall be entitled to obtain from banks and other financial institutions documents or other information with respect to the relationships between each of them and the BoA" and Article 73 provides that BoA has the right to

[65] Through the Instructions 11 and 12, the FIU has established a new report called "Self Auditing Report". This form should be completed, and the relevant information attached upon request form the Competent Authority.

scrutinize and examine accounts, books of the company and any other data situated in the archives and request any information from the administrators and employees of a supervised bank.

901. For non banking financial entities supervised by BoA, access to documentation is also guaranteed through references in several articles: for Exchange Bureau, in Article 18 para 3 of the Exchange Bureau Law. For the remaining non banking entities supervised by BoA, the Law on the granting Non Bank financial subjects and the Regulation on Licensing Saving and Loan association their Unions cross-references what is set out for banks in the Banking Law and in BoA Law.

902. The above provisions guarantee the BoA access to any information or documentation for purposes of exercising prudential and AML/CFT supervision. In practice, the authorities confirmed that the BoA has not been challenged in this respect.

FSA

903. Article 18 of the FSA Law provides that members of the Board and supervision staff have the right to the following:

- to obtain data regarding funds, assets, including securities and other assets in the ownership of supervised entities;
- to inspect the accounts, trade/commercial documents, and other documentation related to transactions;
- to lead third party inspections, which will include the review of that part of the documentation of the third party's activity, related to the issue that the supervised subject is inspected;
- to request from third parties[66] information and documentation including certified copies of documents, statement of accounts, and other necessary data for purposes of verification.

904. According to Article 121 para d of of the Insurance Law, the FSA may require from insurance companies and foreign insurance company branches any information and documentation that is related to their activities. Insurance company and foreign company branches have to provide the FSA with any required information. In addition, Article 77 of VPF law establishes that in the course of an onsite inspection the FSA has to be provided with any requested information according with the provision of the Law. The same provision is applies to investment funds.

905. The above provisions guarantee the FSA complete access to any kind information in relation to AML/CFT. However, in practice, this power has not been exercised.

GDPML

[66] In any of the Laws or bylaw issued by the FSA there is an official definition of "third party". Nevertheless in the Law of Securities and in the Insurance Law, a third party is considered to be a person (legal or physical) who invests money in any of those financial products.

906. Pursuant to Article 22 (c) the GDPML can "request financial information from the entities on performed transactions with the purpose of ML and TF prevention". The drafting of the provision does not appear to provide the FIU with the authority to request information that is of a non-financial or non-transactional nature. This specific language seems also to limit the legal authority of the GDPML to request additional information from entities other than information related to the reporting obligations.

907. Despite this apparent absence of clear legal authority, the GDPML interprets the meaning of this provision more broadly and has requested various types of information including the account information which was not related to a particular transaction and information not related to the submission of an STR. The role of the GDMLP and its access to all types of documentation even to that which is not related to reported transactions should be clarified.

Organization &Adequacy of Resources (R.30):

BOA

908. The BoA (the Central Bank of the Republic of Albania) was established by the BoA Law as an independent organization for carrying out its objectives and the performance of its duties (Article 1 BoA Law). Specifically, para 3 mentions that the "Bank of Albania shall be entirely independent from any other authority in the pursuit of its objectives and performance of its task". The BoA Law also establishes the organization and management of the supervisory authority together with the accounts and its financial statements and reports to be presented in order to guarantee a transparent and independent management.

909. According to the AML/CFT Law, the BOA has been designated as an AML/CFT supervisor and in 2010 a specialized unit was created within it, i.e., the "Compliance Unit" (Unit/Office for the Supervision of Compliance, AML/CFT, Consumer Protection/Transparency hereinafter referred to as the Compliance/ AML/CFT Unit), that, inter alia, is responsible for monitoring entities' compliance with their AML/CFT obligations including through the conduct of on-site inspections (See cross reference c.23.2). As the budget of the AML/CFT Unit is within the general budget of the BoA supervision department, the assessors couldn't establish the amount of financial resources assigned to this unit as the BoA didn't provide it separately.

910. As indicated for c. 23.2, five employees are assigned to carry out off site monitoring and onsite inspections. These inspectors participate as team members in general full scope inspections conducted by the BoA inspection as well as in the conduct of targeted inspections when at least two inspectors participate. The inspections generally last between one and three weeks (depending on the scope of the inspection and the size and complexity of the entity) and the inspectors dedicate one week to AML/CFT and the other to transparency issues.

911. The profile of the staff assigned to this unit is adequate to the scope of the functions of the department. Staff working in the unit have university level qualifications in finance or accountancy, three of them have on average six years experience in banking prudential supervision, and some of them have financial private sector working experience.

912. Supervision department staff members have attended several training courses since 2005. The table below provides a detailed list of the training received by BoA staff in AML/CFT issues. There was no AML/CFT training in 2006. From 2007 to date, AML/CFT training has been strengthened in line with the increase of AML/CFT supervisory responsibilities of the BoA and the newly designed supervisory structure for this area.

Seminar /work-shop	***attendances***	***Organized by***	***Place***	***Seminar /workshop***	***Attendances***	***Organiced by***	***place***
2005				***2008***			
Anti-Money laundering and Combating the Financing of Terrorism	*(1of IT depart)*	IMF+JVI[67]	Austria	Regulators on Internal controls and on-site inspections for anti-money laundering and combating the financing of terrorism	*1*	IMF+JVI	Austria
Regional Workshop on Money Launderin g and Financing of Terrorism for Financial Regulator s in Central and Eastern Europe	*1*	OSCE[68], UNODC	Austria	Combating money laundering, terrorism financing and misuse of payment systems: Internation al developme nts and national perspective s	*1*	Banka d' Italia	*Italia*
National Initiatives Against Money Launderin	*1*	International Banking Institute	Bulgari a	Fundament als of fraud	*1*	FRS	USA

[67] Joint Vienna Institute
[68] Organization for Security and Cooperation in Europe

g and Terrorism Financing							
2007				tackling money laundering and financial crime	*1*	CARDS	Germany
"Workshop for regulators on internal controls and onsite inspections for anti-money laundering and combatting financing of terrorism	*1 Supervision Dpt*	JVI	Austria	Fight against financial deliquency and money laundering	*1 from Legal department*	Banque de France	France
2009						***2010***	
Fight against financial deliquency and money laundering	*1*	Banque de France	France	fight against money laundering		Banque de France	*F*rance
How to implement a risk based approach to AML/CFT	*1 Law dept*	Central Banking Publications	UK				
sub-regional workshop on the domestic legal implications of united	*1*	UNODC+OSCE	Rumania				

nations security council resolutions and financial sanctions against terrorism							
Fight against financial deliquency and money laundering	*1 Law dept*	Banque de France	France				
AML/CFT course on financial supervision and risk based approach	*1*	FMI+JVI	Austria				
money laundering	*1 Monetary dept*	Egyptian Fund for technical cooperation	Egypt				
Countering Terrorist Financing Giessbach II	*1*	BIG	Switzerland				

913. Overall and taking into account that the specialized AML/CFT Unit started operations in 2010, the structure of the organization and resources devoted to AML/CFT are consistent with the relative "newness" of the unit. Nevertheless taking in account the number of FIs under its supervision (477[69] in 2010, see table c.23.1) additional resources will be needed to increase the number of inspections and implement a risk-based approach to AML/CFT supervision.

914. The Authority maintains standards of integrity of supervisory staff. The staff of the BoA are covered by professional secrecy requirements.

FSA

[69] 16 Banks, 17 Non-banks FIs, 283 Exchage Bureaus, 129 S&L and 2 Credit Unions.

915. The Financial Supervisory Authority (FSA) was established pursuant to Law No. 9572 of July 3, 2006 "On the Financial Supervisory Authority", as a consolidated regulatory body to supervise non-banking financial markets in Albania. The FSA is a public institution that is independent from the Executive Branch and reports to Parliament annually. The FSA Board is its governing and decision-making body. It is a body composed by seven members appointed by the Parliament of Albania.

916. The organizational structure of the FSA is approved by upon the recommendation of the FSA Board . According to the Law No. 9572 of July 3, 2006, Article 14, item 13, the Board approves the policy for salary and remuneration of staff and other employees of the FSA.

917. The FSA maintains standards of integrity of supervisory staff. The staff of the FSA are covered by professional secrecy requirements according to the Article 23 and 24 of the Law No 9572 of July 3, 2006 "On the Financial Supervisory Authority".

918. With regard to financial resources, according to Art. 26 of the "FSA Law", the FSAs mainly self-funded but for each difference between activity funds sources and expeditures, FSA will be funded by State budget until income is sufficient to guarantee normal working. At the present time the FSA has fifthy- eight employees (See organizational chart provided in criterion 23.2).

919. The FSA has the same supervisory authority status as the BoA, but FSA staff declared that with respect to staff remuneration the Council of Ministers' decision no. 901 of December 19, 2007 affects its independence from the government and also it makes more difficult to be competitive in order to attract and retain qualified staff. This challenge is clearly stated in the FSA's Annual Report for 2009 which states that:

"*Following the structural changes, as per the suggestions laid down in council of Ministers Decree No. 901 of 19 December 2007 "On Approving Salary Structure and Levels for Public Servants, Civil Servants and Auxiliary Employees in Certain Independent Institutions," as amended, in 2009 AFSA repeatedly submitted a Draft-Decision on an Amendment to Decision No. 98 of 30 April 2007 "On the Approval of the Structure and Staffing of the Financial Supervisory Authority", which also includes the proposal to approve the classification of staff into Heads of Units and Experts. The implementation of the abovementioned Decision had a negative impact on the salaries of those positions and the overall salary system within the AFSA. An official response is still expected from the Parliament of Albania with regard to the Draft-Decision the AFSA submitted.*"

920. As a result of the above mentioned, the Board of the Authority, in accordance with the FSA Law, is the responsible body which determines the policy on wages and remuneration of staff and other employers of the Authority. But the Law No. 9584, dated July 17, 2006 "On the wages, remuneration and the structure of the constitutional independent institutions and other independent bodies established by law" restricts the right of the Authority to determine its policies on wages and remuneration of staff and other employers of the FSA. So far, the Authority might not have the sufficient space for financial independence.

921. From the creation of the FSA in 2006, two persons have participated in workshops organized by the Center of Excellence of Finance in 2007 "On financial crime utilizing the insurance and

insurance products, practical experiences in European Union, SEE and United States of America". Other similar training courses were attended in 2009. Another two employees have participated in workshops organized by the FIU (GDMLP) on general AML/CFT issues. The FSA is concerned that its AML/CFT supervisory function under the AML/CFT Law is not being effectively implemented because of inadequately trained staff. There are not specific inspectors assigned to review ML/FT risks.

922. The lack of AML/CFT supervision of the securities and insurance sectors carried out by the FSA, and its under-resourced situation constitute a significant shortcoming in AML/CFT supervision. (Note: for further details on supervision see c.23.2).

General Directorate for the Prevention of Money Laundering (the FIU)

(Note: For more detailed GDPML organization and internal function see Rec. 26)

923. The FIU inspection's division has three inspectors plus the director of the division, responsible for supervision and oversight of FIs and DNFBPs (out of twenty- seven employees currently at the FIU). The onsite supervision is carried out by the Inspection department which is responsible for an estimated 763 financial entities and 1,545 DNFBPs. Inspections are planned and cover a wide range of compliance issues including internal controls and staff training, and form the basis for identifying violations and proposing administrative sanctions. It seems to be a high ratio for each inspector to cover all the reporting entities to supervised, only taking the reposrting FIs, each inspector is responsible for 222 entities aproximately (Note see- cross reference criterion 23.2).

924. The professional profile of the staff assigned to this department seems to be adequate to the scope of the functions. They have university level qualifications in finance or accountancy, and have worked in private banks and insurance companies. Staff members have attended several training courses organized by different international organizations such as the Joint Vienna Institute, the Tirana PBC Institute and the courses given by the EU twinning BKA-Germany.

Sanctions: Powers of Enforcement & Sanction (c. 29.4); Availability of Effective, Proportionate & Dissuasive Sanctions (c. 17.1); Designation of Authority to Impose Sanctions (c. 17.2); Ability to Sanction Directors and Senior Management of Financial Institutions (c. 17.3): Range of Sanctions—Scope and Proportionality (c. 17.4).

Powers of Enforcement & Sanction (c. 29.4);

925. The sanctions regime set out in the AML/CFT Law for non-compliance can only be applied by the FIU. The FIU's sanctioning powers are described in the AML/CFT Law under Articles 26 and 27.

926. Article 26 of the AML/CFT Law provides the cases when it is possible for the responsible authority to request the licensing/supervisory authority to restrict suspend or revoke the license of the reporting entity. Those cases are the followings:

- When it ascertains or some facts lead to believe that the entity has been involved in ML/FT.

- When the FI repeatedly commits one or several administrative violations described in the Article 27 (administrative sanctions) of the AML/CFT Law.

927. Article 26 para 2 also foresees the the situation in which the responsible authority (the GDPML) proposes and presents a case with supporting documentation and the licensing/supervisory authority (BOA/FSA) reviews the case and shall make a decision to restrict, suspend or revoke the FI license.

928. Art. 27 of the AML/CFT Law provides the cases and administrative sanctions available to be applied on the natural or legal persons covered by the law for failure to comply with the national AML/CFT requirements.

929. The AML/CFT Law and the secondary legislation adopted constitute the legal basis with regard to the requirements of criterion 29.4. The administrative process related to the administrative sanctions which might be imposed by the GDPML is described in Law No.10279, May 20th 2010 "On the administrative violations". The procedures for the appeal against the decisions shall be performance in accordance with the Law No 7697, dated July 04, 1993 "On the Administrative violations" as amended. The execution procedures of the administrative sanctions will be enforced in accordance with Articles 510 through 526(a) of the Civil Procedures Code.

930. With respect to the two supervisory authorities (the BoA and the FSA) a cross reference is made in Article 9 of the Banking Law which provides that banks and other FIs supervised by the BoA shall implement the requirements emanating from the AML/CFT Law and in the Law "On measures against financing terrorism and other by-laws in force". In the case of securities and insurance companies which are supervised by the FSA there are no specific references (in the relevant legislation) to the AML/CFT Law. Only the two following sector specific laws, Pensions Funds Law and Collective Investment Law, have a reference to ML/TF prevention and the obligation of the FSA to exchange information with the competent authorities (Article 92 (PF Law "prevention of ML/FT) and Article 121 (CIV Law "FSA Role').

931. Following inspections carried out by the BoA and the FSA, the authorities notify[70] and propose actions to be taken by the GDPML related to ML/FT FIs shortcomings or breaches of the law. The GDPML may or may not take into account the proposed action but in order to issue a sanction it must carry out an additional onsite inspection of the entity. This situation may make the system less effective due to the obligation of GDPML to repeat the same inspection process in order to take sanction measures. The repeated inspection may give rise to conflicts among the authorities particularly where the results of the inspections differ. To avoid any such conflicts it is recommended that the co-ordination amongst these authorities should be enhanced and the sanction system should be reviewed in order to remove any repetition of inspections by these authorities.

932. The BoA and FSA can also sanction FIs for AML/CFT shortcomings, but instead of using the administrative sanctions regime described in the AML/CFT Law, they follow the sanctioning regime

[70] Article 10 para 5 of Decision 44.

related with its role as a prudential regulator/supervisor [71]and described in the Banking Law and the FSA Law.

933. In addition the GDPML is obliged to inform the supervising/licensing authority on the sanctions imposed by it. Supervisory authorities mentioned that it would be helpful to receive updated information about the sanctions imposed by the FIU more frequently instead of through the yearly report provided by the FIU.

934. Under the Article 26 of the AML/CFT Law, only the licensing authority can restrict, suspend or revoke the license on a financial entity. Consequently, the FIU (which does not license financial entities) would need to request the relevant licensing/supervisory authority (BoA and FSA) for such action. The latter would review the proposal and the accompanying documentation, and the circumstances and facts of the case (Article 26 AML/CFT Law) and decide whether or not to revoke the licence. No such situation has ever occurred so far.

935. For actions against directors and senior management of FIs due to ML/FT issues the BOA administrative regime (Article 89 para 4 of Banking Law) includes the possibility of revoke the license for directors and senior management and FIs. This penalty is not mentioned in the AML/CFT. (See table criterion 23.3).

Availability of Effective, Proportionate & Dissuasive Sanctions (c. 17.1); Range of Sanctions—Scope and Proportionality (c. 17.4).

936. Articles 26 and 27 of the AML/CFT Law provide for a range of sanctions which can be imposed only by the FIU for failure to comply with the preventive measures specified in the AML/CFT Law. The sanctions described in the table below are applicable to all type of FIs as listed under Article 3 of the AML/CFT. The lek equivalence is aprox lek 100 = US$1.

Violation	Fines in lek		Article
	Individuals	Legal persons	
Failure to apply monitoring and identification procedures, as well as customer due diligence of the client and transactions according to the risk level that they present as set forth in articles 4, 5, 6, 7, 8 and articles 9 of the AML/CFT Law	100,000-500,000[72]	500,000-1,500,000	27.2
Failing to collect data in money or value transfers	400,000-1,600,000	1,200,000-4,000,000	27.3
Failing to apply the provisions in EDD obligations or reporting the failure in completing the missing information in wire transfers	500,000 -2,000,000	2,000,000-5,000,000	27.4

[71]Article 74(c) of "On Banking s Law[71] for the entities supervised by the BoA and in the article 31 of the FSA for insurance and securities entities and the rest of its supervised entities. Regarding the Non bank FI the reference is made in Article 14 of Decision 11.

[72] E.g. US$1,000-$5,000

Failing to implement the prevention measures in Art.11	300,000-1,500,000	1,000,000-3,000,000	27.5
Failing in the currency and value reporting obligations	5-20% of the amount of the unreported transactions	10-50% of the amount of the unreported transactions	27.6
Violations related to tipping off and maintaining data	2,500,000	5,000,000	27.7
In addition if the administrative violation is committed by:			
- An employee		60,000-500,000[73]	27.8
- An administrator or a manager of the entity		100,000-500,000[74]	27.8
Ascertains/facts to believe the implication in ML/FT		License revocation	26
Repeated commission of violation		License revocation proposed by FIU and approved by supervision authorities	26

937. The AML/CFT Law includes the obligation for the supervising /licensing authorities to report the GDPML immediately on every non compliance issue, information or data related to ML/FT. In practice the supervisory authorities comply with this obligation by sending the main inspection report to the GDPML, including the ML/FT findings (See criterion 17.2). Nevertheless the GDPML has to carry out its own inspections to apply the sanctions mentioned in Article 27 of the AML/CFT Law. Currently, the GDPML (the FIU) is the only authority imposing AML/CFT sanctions resulting from its inspections.

938. The AML/CFT Law sanctioning regime does not include a gradual system starting with the giving a warning (either oral or written and public or private) as the first step when non-compliance is identified. Fines are directly imposed for violations of the obligations specified in the AML/CFT Law as it shown in the table above.

939. The following table details the sanctions imposed by the FIU on FIs since 2008. All the sanctions foreseen by the AML/CFT Law, except the revocation of the license are financial fines.

	2008		**2009**		**2010**	
Nr.	**Entities**	**Kundravajtja Administrative/ Sanctions (lek)**	**Entities**	**Kundravajtja Administrative/ Sanctions (lek)**	**Entities**	**Kundravajtja Administrative/ Sanctions (lek)**
1	Exchange Office	50,000	SCU	300,000	Banka	3,600,000[75]
2	Exchange Office	50,000	SCU	300,000	Exchan	1,000,000

[73] E.g. US$600-$5,000.
[74] E.g. US$1,000-$5,000.

					ge office	
3	Exchange Office	50,000	Banka	5,500,000	Exchange office	1,000,000
5	Exchange Office	50,000	Leasing	1,000,000	Exchange office	5,400,000
6	Non Banking Financial	300,000	Banka	3,600,000	Exchange office	477,660
7	Saving Credit Union	5,000,000	Exchange Office	5,000,000	Bank sh.a	4,500,000
8	Banka	2,000,000			Bank sh.a	2,000,000
9	Banka	900,000			Exchange office	1,800,000
					Exchange office	1,285,000
					Exchange office	958 000
					Banka	3,000,000
	TOTAL	8,400,000 (US$84,000)	TOTAL	15,000,000 (US$150,000)	TOTAL	25,561.000- (US$255,610)

Note: the lek -$ equivalence is lek 100= 4=US$1 aprox

940. The table shows a progressive increase of the number and amount of sanctions imposed by the GDPML from 2008 to 2010. The inspections department of the GDPML explained to the mission that among the sanctions imposed on the FIs inspected, the most common violations were related to banks' failure to comply with the currency or value reporting obligations. With respect to non-banking FIs, the most common violations identified are failure to report, non compliance with CCD requirement and training obligations. In the case of failure to report cash transactions, the penalty for legal persons goes from 10% up to 50% of the amount of the transaction.

941. Officials from the entities visited during the assessment confirmed that the scope of the FIU inspections covers all of AML/CFT preventive systems but that the sample tests were more focused in the reporting obligations, especially value transactions reports (VTR)[76] and suspicious transactions reports (SARs).

[75] E.g. US$36,000

[76] Transactions above 6 Millions Lek

942. There were no sanctions imposed on FIs during 2007. The BoA and the FSA have never applied sanctions related with ML/TF using their administrative regime. The fact that in 2009, the sanctions were mainly imposed for non compliance with the reporting obligation, is consistent with the narrow scope of the inspection function of the FIU under Article 22 AML/CFT[77] . However, the fact that no other supervisor had imposed any additional sanctions narrows the full range of sanctions imposed to a very limited scope (the report obligations).

943. The FIU indicated to the assessment team that around a 95% of the FIs appeal the administrative sanctions imposed in all levels of the judiciary on the basis that they are too high. The Bankers Association has proposed to lower all the sanctions' thresholds. No challenge of ultra vires was brought with regard to the FIU's scope of inspection (discussed earlier). The first bank appeal was ruled by the court in favor of the FIU. However the high number of court challenges to the fines issued by the GDPML may suggest that the implementation of the sanctioning regime is not effective due to the fact that sanctions cannot be applied until the finalization of the court process.

944. Although the AML/CFT Law provides for a broad range of financial sanctions, Albanian authorities have not demonstrated to the evaluation team that the sanctions that were applied are effective and proportionate.

Designation of Authority to Impose Sanctions (c. 17.2)

945. The AML/CFT Law designates the FIU as the authority responsible for imposing administrative (financial) sanctions. Article 26.b) of the AML/CFT Law covers the case where an entity is repeatedly violating the AML/CFT Law or is linked with ML/FT and also establishes that the implementation of revoking the license to operate has to be proposed by the GDPML (FIU), but needs to be approved by the prudential supervisor. No license has ever been revoked by the BoA or FSA.

946. Regarding the rest of the administrative sanctions detailed in Article 27 of the AML/CFT Law, the GDPML (FIU) is the authority which sets the amount of the f*i*nes.

947. As previously mentioned, in order to sanction a FI for non compliance with the requirement of the AML/CFT Law, the FIU cannot use the information provided by the sector supervisory authorities and only shall imposes sanctions on FIs based on its own findings during from its own independent onsite inspection.

948. With regard to the BoA[78] and the FSA, as was also pointed out before, they can impose its own regime of administrative sanctions when they detect violations of the AML/ CFT in the course of their onsite inspections. For the BoA, its sanctioning powers[79] are contained in Articles 75, 79, 81, 89,

[77] See criteria 29 the scope of the supervision powers of the GDPML

[78]Article 10 Decision 44 para5" :Bank of Albania shall take supervisory measures against the subjects of this Regulation if concluding these subjects do not implement the applicable legal and regulatory framework on the prevention of money laundering and terrorist financing

[79] Article 14 para banking Law and the process is described in article 75 of Banking Law.

and 90 of the Banking Law for the entities supervised by BOA. Regarding the non bank FI under the BoA supervision, the reference is made in Article 14 of Decision 11.

949. For the FSA, Article 31 of the FSA Law provides the sanctions for institutions subject to its oversight, namely insurance, securities and other entities. Sections related with sanctions in the FSA supervised entities Laws are the following: Articles 164-170 of the Law 9267 "on Insurance activity", Articles 94-105 of the Pensions Funds Law", Articles 130-134 of the CIV Law and article 147-149 of securities Law".

950. The following table summarized the core articles of both supervisory authorities with regard to their administrative sanction regime:

Authority	**Law**	**Provision**
BOA	Banking Law	**Article 89: Penalizing measures** *" The Bank of Albania for the purposes of eliminating the breaches of a bank or branch of foreign bank, in addition to measures stipulated in Articles 75, 79 and 81 of this Law, shall order, despite their ranking, one or more of the following measures:* *a) fine the administrators of the bank or branches of a foreign bank.* *b) issues written warning notices to the administrators of the bank or branch of a foreign bank.* *2. The Bank of Albania shall fine the administrators of the bank or branch of a foreign bank up to the amount of 2.000.000-2.500.000 Lek when:* *a) there are breaches of provisions of article 7 and 22 of this Law;* *b) the bank or branch of a foreign bank carries out banking and financial activity included in the annex to the license;* *c) the bank has established a branch outside the Republic of Albania without prior approval by the Bank of Albania ;* *d) there are breaches of provisions of article 24, 25, 26 paragraph 1, 55, 64, 65 and 70 of this Law;* *e) the bank or branch of foreign bank has not established reserves as required in articles 67 and 68 of this Law;* *f) the bank or branch of foreign bank has not maintained the appropriate level of regulatory capital.* *3. The Bank of Albania shall fine the administrators of the bank or branch of a foreign bank up to the amount 500.000-800.000 when it finds:* *a) breaches of provisions of article 26 paragraph 2, 41, 47, 48, 52 and 53 of this Law;* *b) breaches of rules pertaining to internal control;* *c) there has been no rectifying measures for the elimination of breaches, or such rectifications have been taken beyond the set time limits.* *4. The Bank of Albania, in the event of repetition of breaches, shall double the sanctions stipulated in paragraph 2 and 3 of this Law, as well as may:* *a) suspend the administrators for up to twelve months;* *b) request the removal from office of one or more of the administrators;* *c) order the suspension of the remuneration for the administrators by the bank or branch of a foreign bank;* *d) place the bank in conservatorship;* *e) revoke the license of the bank or branch of a foreign bank in the territory of the Republic of Albania.* *f) place the bank or branch of the foreign bank in liquidation* *5. The Bank of Albania, in cases of the bank or branch of a foreign bank not complying with one or more of the imposed measures for the improvement of the bank's or branch of a foreign bank's situation or the*

		rectification of breaches, shall escalate the penalizing measures. *6. The Bank of Albania, besides ordering one or more of the sanctions stipulated in paragraph 2 of this Article, shall also request from the shareholders to rectify the situation within 6 months in cases of the ratio of the regulatory capital of the bank and its assets carrying risk as well as off-balance sheet items is higher than half of the minimal required ratio but lower than the minimal required ratio, as defined by the Bank of Albania.* *7. The Bank of Albania shall place the bank in conservatorship as stipulated in Article 96, in case the ratio of the regulatory capital of the bank and its assets carrying risk and off-balance sheet items, with the termination of the time-limit, is lower than the minimal ratio required by the Bank of Albania.* *8. The Bank of Albania shall inform the bank or branch of the foreign bank as well the responsible persons for all ordered penalizing measures, within 10 calendar days from the date of the decision.* *9. The Supervisory Council of the Bank of Albania determines the appropriate authority (representative organ) in the Bank of Albania for the issuance of acts pertaining to the above mentioned measures.*
BOA	Banking Law	**Article 90** **The carrying out of unlicensed activity** *1. The carrying out of banking activity or of any other financial activity stipulated in* *Article 4 as well as in Article 54 of this Law, without a license granted by the Bank of* *Albania shall constitute a criminal offence punished by fine or imprisonment of up to* *three years.* *2. In cases of acts, stipulated in paragraph 1 above, resulting in heavy consequences to the interests of the citizens or the State, the commission of the act is punishable by* *fine or imprisonment up to seven years*
FSA	FSA Law	**Art.31** *" Any individual who prevents the Financial Supervisory Authority and its structures or the authorized staff of its administration in the exercise of their supervisory competencies established in this law or any other act, are penalized with a fine ranging from Albanian Lek 50.000 up to Albanian Lek 75.000.* *In case of a repeat of the violation from Albanian Lek 80.000 to Albanian Lek 100.000.* *Any violation according to the first paragraph of this article by individuals who are shareholders or partners of the legal entity and have managerial functions of the legal entity or are partners of the commercial company receive a fine from100.000 to125.000, and in case of a repeat of the violation the fine ranges from Albanian Lek 130.000 to Albanian Lek 150.000. Administrative sanctions placed by the Board according to this article and the notification for the taken decisions are signed by the chairman of the Board. Appealing the decision via court does not hinder the execution of the decision of the Board. "*

951. No sanction has ever been imposed by the BoA and the FSA for non compliance with AML/CFT requirements.

952. The Minister of Finance is the responsible authority to impose sanctions for non compliance with the requirements related to the freezing obligations stipulated by the CFT law as provided in Article 24 of Law No. 9258 "On measures against financing terrorism".

953. During the interviews with the authorities, assessors pointed out that the way as the present administrative sanctions system is articulated, there is a risk of "double jeopardy" in that it might be possible to apply sanctions against entities for the same shortcoming by different authorities[80]. In the case of breaches of the AML/CFT Law, the situation may arise where a legal issue affecting the authorities' administrative enforcement powers is involved, because an entity should not be sanctioned twice for the same violation (Ne bis in idem principle). As a consequence of the possible double penalty conflict only one supervisor sanction would be applied and this would render the sanction powers exercisable by other competent authorities ineffective in double jeopardy cases. In practice, the assessors were informed by the FIU that this kind of double jeopardy situation has never occurred.

Ability to Sanction Directors and Senior Management of Financial Institutions (c. 17.3)

954. Article 26 of the AML/CFT Law includes the possibility of sanctioning FIs as a legal person including the natural persons responsible for the administrative violation (also to the employees). The sanction is additional (added) to the one impose on legal person.

955. For the administrative sanctions that can be imposed by the licensing/supervise authorities (BoA/FSA), the laws provide for sanctions for prudentially related violations

956. The table below summarizes the sanctioning regime applicable to FIs andresponsible natural person:

Law	**Administrative violation**	**Fine**
AML/CFT Article 27.8 (b)	In addition (…) when a legal entity is involved and the administrative violation is committed from and administrator or a manager of the entity	The person who committed the violation shall be fined fromm lek 100,000 up to 500,000.
BOA Law Article 89	*-The Bank of Albania shall fine the administrators of the bank or branch of a foreign bank up when it finds:* *a) breaches of provisions of article 26 paragraph 2, 41, 47, 48, 52 and 53 of this Law;* *b) breaches of rules pertaining to internal control;* *c) there has been no rectifying measures for the elimination of breaches, or such rectifications have been taken beyond the set time limits.*	*to the amount Albanian Lek 500,000-800,000*

[80] E.g. If a bank receive in a short period of time the visit of the BoA and the FIU without time to amend the shortcomings or the violation found by the first supervisor which would sanction. If the 2nd find/discover" the violation also, the Bank would also sanctioned by the second supervisor. As a consequence, the bank would be twice sanctioned for the same violation using two different sanction regimens the AML/CFT Law and the Banking Law sanction regime.

	-The Bank of Albania, in the event of repetition of breaches, shall double the sanctions stipulated in paragraph 2 and 3 of this Law, as well as may: *a) suspend the administrators for up to twelve months;* *b) request the removal from office of one or more of the administrators;* *c) order the suspension of the remuneration for the administrators by the bank or branch of a foreign bank;* *d) place the bank in conservatorship;* *e) revoke the license of the bank or branch of a foreign bank in the territory of the Republic of Albania.*	
FSA Law. Article	*Any violation according to the first paragraph of this article by individuals who are shareholders or partners of the legal entity and have managerial functions of the legal entity or are partners of the commercial company receive a fine (…)*	*(..) Albanian lek100,000 to125,000, and in case of a repeat of the violation the fine ranges from Albanian Lek 130,000 to Albanian Lek 150,000.*

957. A review of the BOA/FSA sector specific laws and the AML/CFT Law reveals that the sector specific laws provide for a wider range of sanctions and higher penalties than the AML/CFT Law including the suspension of the administrators.

Market entry:

Fit and Proper Criteria and Prevention of Criminals from Controlling Institutions (c. 23.3 & 23.3. 1.):

958. The AML/CFT under Law Article 24 (b) provides that the Supervising Authorities shall take the necessary measures to prevent an ineligible person from possessing, controlling, and directly or indirectly participating in the management, administration or operation of an entity. Nevertheless, the AML/CFT Law does not provide for a definition about the term ineligible.

959. Article 11. d) of the AML/CFT Law requires entities to apply fit and proper procedures when hiring new employees, to ensure their integrity. During meetings with the assessors, the FIU interpreted this provision as including also directors and senior managers. Assessors do not share this interpretation, noting that other provisions of the AML/CFT law (such as Art. 14) differentiate managers from employees. As noted later on there are provisions requiring fit and proper tests for FIs but they do not cover all FIs subject to the Core Principles.

<u>Entities supervised by BOA</u>

960. Under the Article 4 para 19 of the Banking Law, the term administrator is defined as an individue who is:

- Member of the steering Council or Audit Committee of the Bank;
- Executive director;
- Director of the audit unit.

961. Regarding shareholders's fit and proper requirements tehse can be indirectly inferred from Article 19 in the Banking Law which establishes that, for those FIs under the BoA supervision, the BoA might refuse a provisional license to operate if it is proved that a least one of the FI shareholder:

- Is under criminal investigation or has been convicted by court for committing a serious criminal offence;
- Is subject to a decision of a court barring him from the exercise of such activities;
- Is under investigation or has been convicted by court for committing a criminal offence pertaining to ML or FT.

962. With regard to "fit and proper" requirements concerning the directors and senior management, Article 40 (b) of the Banking Law, provides that in order to exercise his function as an administrator of the bank, an individual must "have a good reputation" being a disqualifying criteria (Article 41) if the individual:

- is under criminal investigation or found guilty by the court of an offence punishable in law by imprisonment;
- has been subject a bankruptcy prodcedures not yet relieved;
- has been penalized by the BoA in the past five years for serious breach of this Law or for carrying out activities for which was no licensed.

Entities supervised by FSA

963. The following financial sector laws that relate toentities supervised by the FSA (securities markets, insurance market, and supplementary pension schemes, voluntary pensions funds and collective investment undertaking and securities) include, explicit and implicit, provisions to prevent an ineligible person from possessing, controlling and directly or indirectly participating in the management, administration or operation of an entity:

- Insurance and Reinsurance Law: Art.15, 17, 62, and 64.
- Securities Law: Art 84.
- Regulation 14 for licensing brokers, other intermediaries and investment advisors: Art. 12.
- Regulation on the licensing and supervision of the securities exchange.
- Decision No. 79, date January 28, 2008: Licensing and supervision rules and procedures for insurance intermediaries.
- Regulation No. 14: Art 5-7 establishing criteria persons involved in the management of insurance and reinsurance companies.

- Regulation No. 13: Art 12-14 for licensing insurance or reinsurance business.

964. "Fit and proper" requirements for shareholders, supervisory board members and directors board members are contained in the Collective Investment Law and Pension Funds Law, which are the newest laws (2009), as shown in the following table

965. The FSA affirmed that the Licensing and Monitoring Department collaborates with the FIU regarding AML issues including determining the source of established capital of some insurance companies and pension funds, as well as the purchase and transfer of shares

966. The following table includes the main legislation that contains provision to prevent criminals or their associates from participating in the financial system :

- Bank of Albania Laws and by Laws: FIs supervised

Law	**Article**	**Provision**
Banking Law	Art.13	On the subject of beneficial owner o***r*** controlling interest, the article defines the information required to give for the shareholder of the banks and the checks make to know the source of the payment.
	Art. 17, paragraph 1	States the application to acquire a license for a bank shall be submitted in writing to the Bank of Albania and also indicates which information and documents should accompany the application…e) evidence of taxation duties , f)…reputation of management other banks or companies
	Art. 17, paragraph 6	States the application to acquire a license for the branch of a foreign bank and gives the BoA rights to carry out independent checks in order to verify the accuracy of the information offered from the persona applying for a license.

	Art. 19, paragraph 2 Art.19 Paragraph 3	Defines: *The Bank of Albania shall give its initial approval for the license only after it has been satisfied that* *b) the shareholders of the bank have good reputation, lawful source of their contribution in the capital, lawful registered and regulated activities, have the financial potential to contribute additional funds, in cases where the capital falls beneath the required minimum threshold set by the Bank of Albania or to effect necessary financing for the continuation of the bank's activity.* Defines: The Bank of Albania shall refuse initial approval of a license for a bank or a branch of a foreign bank when: (…)c) *details pertaining to the identity of the shareholders with qualifying holding have not been produced;* *d) it is proved that at least one of its shareholder:* *(i) is under criminal investigation or has been convicted by court for committing a serious criminal offence.* *(ii) is subject to a decision of a court barring him from the exercise of such activities;* *(iii) is under investigation or has been convicted by court for committing a criminal offence pertaining to money laundering or financing of terrorism.* *e) fails to submit additional information requested by the Bank of Albania in accordance with paragraph 5 of Art. 17 of this Law.*
Banking Law	Art. 24, paragraph 1	Defines in which cases a bank may not do any of the following without the prior approval in writing from the BoA. (….) finalize agreements with third parties for exercise duties of administrators, appoint one o more administrators, transfer ownership or the control of the bank to third parties, distribute capital..
	Art. 25, paragraph 3/5 Art. 25, paragraph 6 Art. 25, paragraph 7 Art. 25, paragraph 8	States that: The Bank of Albania shall approve/ refuse the changes in the qualifying holding, States that: 6. *If a person holds a qualifying holding in the bank without the prior approval of the Bank of Albania, the action resulting in such occurrence shall be deemed null and void.* States that .*nobody can be a direct or indirect shareholder in a bank if that person does not have the moral reputation required by this Law or by-laws of the Bank of Albania, or who is charged or convicted at the time of the licensing of the bank of branch of a foreign bank.* States that: If the person, following the licensing or the

		approval of the Bank of Albania as a shareholder, does not meet any longer the requirements of this Law or by-laws on moral reputation, or is convicted, the Bank of Albania may order the transfer of the ownership of the person's propriety rights on the shares to third parties who satisfy the criteria.
	Art. 28, paragraph 1	States that: The license of the bank or the branch of a foreign bank in the territory of the Republic of Albania shall be revoked only by decision of the Bank of Albania, where: *h) a transfer of the control of the bank has taken place without the initial approval of the Bank of Albania;* *m) it is found or there is reliable evidence to show that the shareholders or administrators of the bank or administrators of the branch of the foreign bank are involved in illegal activities, used deception or have personally benefited in an unlawful way resulting in considerable damages to the bank;*
Referring to the matter of holding a management function, including in the executive or supervisory boards, councils, etc the Banking LAW has also the following provisions	*Art. 41*	*An individual shall not be suitable for the position of the administrator or shall be released from holding such position by a decision of Shareholders' Assembly of the bank or of foreign bank in case of the branch of the foreign bank, or of Directors' Council, accordingly, where he:* *f) is under criminal investigation or found guilty by the court of an offence punishable in law by imprisonment;*
	Art. 43:	The Bank of Albania shall have the right to order the bank or the branch of the foreign bank to dismiss an administrator where: *a) it finds that the administrator has no adequate moral or professional integrity to serve as a director;* *b) his initial approval was based upon forged documents;* *c) the administrator has breached provisions of this Law or by-laws of the Bank of Albania*.
Additional detailed provisions on the late are also provided in regulation of Bank of Albania no. 40,	Art. 14 on administrators approval, paragraph 2	Defines the application qualifying holding and the documents to present which prove; (…): (i) the person is not under a criminal investigation, (ii) the person is not under a process for penal acts committed, (iii) the person is never condemned by a definite decision of a court (issued by the Ministry of Justice),

dated 27.05.2009 "On the core management principles of banks and branches of foreign banks and the criteria on the approval of their administrators".		iv) the person has paid all its wealth duties (issued by the Bailiff Office).

967. Apart from the AML/CFT Law, the "fit and proper" criteria for FIs are only mentioned in the CI and PF Laws as indicated in the following table.

LAW	**Article**	**Provision**
Law 10198 Collective Investment Undertakings	*Art. 4*	*Requirement for authorization of FSA*
CIU Law	Art 16.b)	(…) documents attesting that the company's significant owners, directors, chief executive officers and internal auditor individually and collectively are fit and proper to lead the business
CIU Law	*Art 17. Qualification*	Establishes : The executive members of the board of directors of the management company must meet all the following criteria: b) have a clean criminal record; c) be fit and proper to hold the position in accordance with Article 18 of this Law;
	Art. 18 *Fit and Proper*	"Every person who is, or is to be, a significant owner, member of the board of directors or auditor in or with respect to a management company must be fit and proper to hold the particular position. 2. In determining whether a person is **fit and proper to hold a particular position,** the following shall be considered: a) integrity, honesty, diligence and commitment to fulfilling the responsibilities of the position; b) competence, professional skills and soundness of judgment for fulfilling the responsibilities of the position; c) whether the interests of customers of the licensee or proposed licensee are, or are likely to be, in any way threatened by a conflict of interest that would arise from the person holding

		that position. 3. In addition to the foregoing general provisions, the previous conduct and activities in business or financial matters of the person in question shall be considered and in particular special investigations carried out as to whether any evidence exists that the person has been: a) convicted of a crime; b) engaged in, or associated with, any financial losses due to dishonesty, incompetence or malpractice in the provision of financial services or the management of other companies; c) engaged in any business practices including tax evasion appearing to the Authority to be improper whether unlawful or not or which otherwise reflects discredit on the person's approach to conducting financial services or other business. 4. Individuals that have been convicted of a crime cannot hold or be beneficial owners of a controlling interest, be managers of or hold a management position in a Management company. For the purposes of this paragraph, "controlling interest" means: a) owning more than 50 percent of any class of voting securities; b) having the power to elect a majority of the directors of the board or managers of any other policy-making body; c) otherwise exercising a controlling influence over the management or policies of a management company. 5. A significant owner, director, chief executive officer or manager of a management company cannot be a significant owner, director, chief executive officer or manager of a depositary that holds the assets of the management company's collective investment undertakings or a related party of the depositary . 6. FSA shall issue a regulation to describe in detail the definition of the fit and proper requirement
Law 9879 "Securities Law" (*Cross-reference with the established in the Banking Law for FIs plus*)	*Art. 48 para 5 Application for license to operate with securities.*	Detailed information on the origin and the amount of capital posed by the substantial shareholders.
Law On securities	*Art 84*	Criteria for the appointment of Directors and Members of the Supervisory Board of the Stock Exchange

		(.d) have not been subject to any court sentencing for criminal offences in the commercial companies, taxes, economic and financial areas
	Art. 63 Revocation of Broker of Investment advisor license	The Commission shall revoke a broker or investment advisor license by a decision if: 1. it establishes that the data submitted in the course of application for a license were fraudulent. 2. the broker or the investment advisor has been sentenced by a final order for criminal offences, or if a safety measure has been pronounced by the court against him/her or is in effect prohibiting him/her to work in the profession that is partly or fully included in the business activities of an intermediary company,
Pension Funds Law (N 10197)	*Art.24 Licensing of a management company*	Requires to present: documents certifying that the company's significant owners, directors, ultimate controller, chief executive officer, manager and internal auditor are individually and collectively fit and proper to lead the business. The documents required to determine whether these persons satisfy the requirements to be fit and proper include, as a minimum (…) iii) a statement individually signed by each person, that there is no pending or ongoing penal case or investigation, against any of them.
	Art.25 Fit and Proper	Every person who is, or is to be, a significant owner, director, ultimate controller, manager or external auditor in or with respect to a management company shall be fit and proper to hold the particular position. 2. In determining whether a person is fit and proper to hold a particular position, the Authority shall assess whether the person has: a) integrity, honesty and commitment to fulfill the responsibilities of the position; b) competence, professional skills and soundness of judgment for fulfilling the responsibilities of the position; c) independence so that the interests of customers of the licensee or proposed licensee are not, or are not likely to be, in any way threatened by a conflict of interest that would arise from the person holding that position. 3. In addition to the provisions above, the Authority shall appraise the conduct and activities in business or financial matters of the person in question, investigating, in particular, whether any evidence exists that the person has been: a) convicted of a penal offence; b) engaged in, or associated with, any financial

		losses due to dishonesty, incompetence or malpractice in the provision of financial services or the management of other companies; c) engaged in any business practices, including tax evasion, appearing to the Authority to be deceitful or oppressive or otherwise improper, whether unlawful or not, or which otherwise reflect discredit on the person's method of conducting a financial services or other business. 4. Individuals that have been convicted of a crime cannot hold or be 20 beneficial owner of a controlling interest, be director of, or hold a management position in a management company. For the purposes of this paragraph, "controlling interest" shall mean: a) Owning more than 30 percent of any class of voting securities; b) Having the power to elect a majority of the directors of the board or managers of any other policy-making body; c) Exercising a controlling influence over the management or policies of a management company. 5. A significant owner, director, ultimate controller, chief executive officer or manager of a management company cannot be a significant owner, director, ultimate controller, chief executive officer or manager of the depositary, holding the assets of the management company's pension fund or a related party of the depositary .

Licensing or Registration of Value Transfer/Exchange Services (c. 23.5); Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6); Licensing of other Financial Institutions (c. 23.7): AML/CFT Supervision of other Financial Institutions

(Note: See cross-reference in criterion 23.2)

Licensing (c. 23.5)

968. Money remitters and foreign exchange bureaus are licensed, regulated, and supervised by the BoA and are subject to all legal and regulatory obligations imposed by the AML/CFT Law and Banking Law and regulations.

969. Article 54 of the 2006 Banking Law, regulates the licensing of money or value transfer services and money changing services. In addition Regulation No.11 "on Non bank Financial Institutions" also gives the BoA the power to license and supervise money transfer agents acting for other money remittance bussinessuch as Western Union or Money Gram. Money exchange services are also regulated under theExchange Bureau Law.

970. Regulations No.11 above and No.31 on granting license of Exchange Bureaus [81] [82] both contains references to AML/CFT policy in the following areas:

- Licensing.
- Criteria for granting or refusing the application of license.
- Criteria for revoking a license.
- Revocation of the agent's approval.

971. Article 90[83] of the Banking Law makes it a criminal offence to, carrying out business, without a license and is punished by fine or imprisonment of up to three years.

972. Regulation 11(for non banking financial institutions) and the Licensing Exchange Bureaus Law designates the BoA is the lisencing authority and makes provision for licensing, supervising, and sanctioning including for AML/CFT obligations.

973. Additional information is provided under SR.VI with respect to money/value transfer services, including the risk of ML associated with cross-border informal money transfer networks in a cash based economy.

974. Since 2005 up to the mission date, the BoA had approvedtwo requests for bank licenses and has rejected none. During this period, BoA has approved 225 for exchange bureaus and refused none.

975. Regulation 11 provides for the supervision and sanction of exchange bureaus, inlcuding obligations for AML/CFT. The number of exchange bureaus has been increasing since 2005 and now totals 283.

976. The table below shows the total number of these entities and those supervised by the BoA and the FIU.

	2005	2006	2007	2008	2009	2010
Total number Exchange Bureaus		60	112	189	221	283

[81] Regulation 11on the granting license of non banking financial servicesthe power to license any agent that can make money.

[82] Regulation no. 31, dated June, 06, 2007, "On the licensing, organization, activity and supervision of foreign exchange bureaus".

[83] *The carrying out of banking activity or of any other financial activity stipulated in Art. 4 as well as in Art. 54 of this Law, without a license granted by the Bank of Albania shall constitute a criminal offence punished by fine or imprisonment of up to three years.*

2. *In cases of acts, stipulated in paragraph 1 above, resulting in heavy consequences to the interests of the citizens or the State, the commission of the act is punishable by fine or imprisonment up to seven years*

Exchange Bureaux inspected by FIU	-	5	16	6	3	24
Exchange Bureaux inspected by BoA	17	25	45	13	--	--

977. The sharp increase of licensed exchange bureaus, coupled with the relatively, low number of inspections, is a significant deficiency that exposes the sector to a higher degree of ML/FT risk. This is particulary the case where no AML/CFT inspections have been carried out by the BoA (whose main focus has been on banks) especially with respect to new licensees. In addition, Albania's "cash based economy" increases the overall risk profile of the financial system.

978. There are two main remittance companies (MTV): AK invests s.A (Money Gram) and Financial Union of Tirana (Western Union). Both of these are inspected yearly by the BoA and every two years by the FIU (See Special Recommendation VI).

979. Under the AML/CFT Law and Decision 343, the BoA is responsible to carry out AML/CFT supervision of all financial entities that are under jurisdiction. Non-bank FIs are authorised under Regulation No. 11, February 25, 2009 "On the granting of license to non bank financial subject":

i. lending of all types,
ii. factoring,
iii. leasing,
iv. all payments and money transferring services,
v. guarantees and commitments,
vi. foreign exchange, and
vii. advisory, intermediation and other auxiliary financial services of all activities listed in points (i) –(vi).

980. Additionally Article 54 of the Banking Law outlines the financial activities that can be conducted by licensees including:

a) lending of all types including, inter alia, consumers credit and mortgage;
b) factoring and financing of commercial transaction;
c) leasing; (6 companies)
d) all payments and money transferring services, including credit, charge and debit cards, travelers cheques, bankers draft (…)

981. Regulation No.11 of 2001 covers Saving and Loans associations and their Unions that are subject to the regulation and supervision of the BoA.

982. Art. 14 (3) of the Banking Law provides empowers BOA to request information from any persons if, establishes, that a person is carrying on banking and financial activities without a license. The BoA also notifies the competent authorities and requests them close down such operations and to take the necessary legal measures. In such cases, the persons concerned must provide the Boa with any information it requires.

983. The table below shows the number of non banking financial institutions (NBFI) that are subject to supervision. Out of 17, six carry out financial leasing, four MTV services, one factoring, five credits, and two micro credits.

Non-banking financial institutions	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
TOTAL NBF (non Banking Financial Institutions)	7	6	6	7	13	17
NBF entities inspected by FIU	0	0	3	10	12	5
NBF entities inspected by BoA		5	5	1	3	3

984. The level of supervision of three entities is higher than the ratio of inspected exchange bureaus, so the ML/FT risk is lower. In addition, interviews with the private sector and the supervisory authorities pointed out that the risk in the leasing/factoring companies is low due to the fact that payments pass through current accounts and most of the leasing companies belong to a banking group.

985. Nevertheless the existence of an informal currency exchange sector ("informal cambiste"), that are neither registered nor supervised is a high risk the AML/CFT system.

Ongoing Supervision: Regulation and Supervision of Financial Institutions (c. 23.1); Application of Prudential Regulations to AML/CFT (c. 23.4); Guidelines for Financial Institutions (c. 25.1):

Ongoing Supervision: Regulation and Supervision of Financial Institutions (c. 23.1)
(Cross-reference criterion 23.2 for supervisory implementation)

986. As indicated above, the BoA and the FSA, as the case may be, must approve the license for all FIs wishing to operate in Albania. There are legal and regulatory requirements for licensing and supervising FIs. However, as noted above, there are informal currency exchange businesses ("informal cambiste") and cross border cash operations (by bus) that are unlicensed and unsupervised. (See criterion 23.7) For further details on supervisory authorities and financial entities activity see criterion 23.2. The table below detailed the number of FIs subject to the AML/CFT Law and their supervisors:

> For further details on supervisory authorities and financial entities activity see criterion 23.2. The table below detailed the number of FIs its licensing/supervisor authority. AML/CFT obligations cover all entities supervised by the BOA and FSA supervised securities sector and life insurance sector (companies involved in life insurance or re-insurance, agents and their intermediaries as well as retirements funds).

	2006	**2007**	**2008**	**2009**	**2010**
Foreign exchange bureaus	60	112	189	231	283
Savings and loans associations	125	130	128	125	120
TOTAL LICENSING AND SUPERVISED FIs (A+B)	**261**	**360**	**568**	**649**	**770**
Credits unions	2	2	2	2	2
(B) FSA total:	**51**	**160**	**221**	**262**	**293**
Banks and branches of foreign banks	27	125	184	237	257
Non bank financial institutions	6	6	7	3	17
Total Insurance companies	***20***	***19***	***16***	***12***	***13***

Life	2		2	2	2
Mix (life & non life)	1	1	1	1	1
Reinsurance companies		1	1	1	1
Insurance agencies	ND	3	6	8	8
Insurance agents	20	111	121	156	166
Insurance brokerage	0	0	1	4	8
Insurance broker	0	0	2	5	10
Insurance claim adjustor companies and claim adjustors	0	0	43	43	54
Voluntary pension market	3	3	3	3	6
Private pension funds	3	3	3	3	3
Pension funds management companies	0	0	0	0	1
Depositaries of assets of private pension funds	0	0	0	0	2
Total Securities market	***28***	***32***	***34***	***32***	***30***
Securities brokerage companies	9	11	12	11	12
Securities brokers	12	14	15	4	16
Registrar of securities	6	6	6	6	1
Organized market of securities	1	1	1	1	1

987. Additionally, the Albanian licensing/supervision milestones are listed in the following table:

FIs	Subject	Law	By-Laws
	Regulator/ supervisor authority: BoA	Law N 8269 dated 1997 "On the Bank of Albania"- BoA Law	
	Regulator/ supervisor authority: FSA	Law N.9572, dated 2006 "On the Financial Supervisory Authoriry" –FSA Law	
	Regulator/ supervisor authority in AML/CFT	- AML/CFT Law -Decision N343 "On reporting Method and procedures of the licensing and/or supervisory authorities"	
Banks	- Licensing of banks and branches of foreign banks - Change of qualifying holding - Revocation of license - Permitted activities for banks and branches of foreign banks - Supervision of banks - Preventive measures	Law N9662 dated 2006- Banking Law - Art. 14 ss - Art.25 - Art. 28 - Art.54	Decision N.14.of BoA Supervisory Council, Dated 2009, "On granting the license and the

	- Consolidated Supervision - Sanctions	- Art 72 - Art.75 - Art. 82 - Art 89	exercise of banking activity of banks and branches of foreign banks in the Republic of Albania"
Banks	Licencing/supervision		Decision N40 "On the core management principles of banks and branches of foreign banks and the criteria on the approval of their administrators"
Exchange Bureaus	-	Regulation "On the licensing, organization, activity and supervision of foreign exchange bureaus"	
Non Bank Financial Entities	Supervisory authoriry	- Banking Law Art 126 ()	
Non Bank Financial Entities	-license, activity, agents, revocation of license		Decision N 11 dated 2009 "On the approval of the Regulation " On the granting of license to non bank Financial subjects"
S&L and Unions	Licensing and supervision	Regulation on licensing of Saving &Loans	

		associations and their Unions	
Insurance	Object of this law is the implementation of general principles and rules with regard to the insurance and re-insurance activity, intermediary in insurance and re-insurance and the supervision by the state of the entities undertaking to perform the activities provided for in this law.	Act No. 9267 date 29.07.2004 On the Activity of Insurance, Reinsurance and Intermediary in Insurance and Reinsurance	
Securities	This Law determine types of securities, regulate the manner of and conditions for issuance, trading and registration, identification and performance of transactions in securities and persons and individuals authorized to perform transactions with securities, the conditions for the organization of the public trading of securities, the protection of investors and the securities-right holders, and the conditions for dematerialized securities, the organization and functioning of securities registries, exchanging and regulation of the securities market.	Law no. 9879 of February 21, 2008 on securities	
Pension Collective Invest. Undertakings Funds	The purpose of the law is to set the necessary standards: a) for the effective management of voluntary pension funds through investment diversification with the goal to increase contributions to pension funds; b) for the supervision of the "defined contribution" voluntary private pension fund business so as to ensure protection of pension fund unit holders; c) to promote the stability, security and good governance of the pool of pension fund assets; ç) the licensing and oversight of the pension fund management company, the occupational pension schemes, the depositary of the pension fund assets and all other related matters. The Law regulates the: a) conditions and criteria for the establishment, constitution and operation of collective investment undertakings and of management companies; b) issue and sale of units and shares; c) redemption of units; ç) promotion of collective investment undertakings; d) activities carried out by third parties on behalf of collective investment undertakings; d) Financial Supervision Authority supervision of the operation of collective investment undertakings; management companies, depositaries and persons engaged in the sale of	Law no. 10 197 of 10.12.2009 on voluntary pension funds Law no 10198 of 10 December 2009 on Collective Investment Undertakings, upon the council of ministers' proposal, the parliament of the republic of Albania	

	units and shares, required to be supervised under this Law; e) operation of foreign collective investment undertakings and foreign management companies in the Republic of Albania; ë) fair functioning of the capital market and promotion of the free movement of capital through adoption of rules.		

Application of Prudential Regulations to AML/CFT (c. 23.4);

988. All financial institutions under the regulation and supervision of the BoA and FSA are also subject to prudential supervision.

989. Consistent with the Basel, IOSC, and IAIS Principles, the Albanian financial regulation can also be applied for AML/CFT purposes that require FIs to maintain:

- adequate risk management systems,
- an effective internal control structure,
- adequate recordkeeping systems and practices, and
- an independent internal audit function to test compliance with the requirements imposed by sector specific laws, regulations, as well as those imposed by the AML/CFT and its implementing regulations. E.g "Law on the core management principles of banks and branches of foreign banks and the criteria on the approval of their administrator".

Guidelines for Financial Institutions (c. 25.1):

990. Neither the BOA nor the FSA have issued specific sectoral AML/CFT guidelines to the FIs. The GDPML has issued Regulation 12, 13, and 14 related to the obligation to complete and send the formulaire on self audit report.

991. Nonetheless, the Albanian authorities interpreted as a kind of "general guideline" the following regulations:

> BoA Decision No. 44 dated June 10, 2009 "On the prevention of money Laundering and terrorist financing" to implement the obligations arising from the law on prevention of money laundering and terrorist financing
>
> Minister of Finance Instruction no.12, dated April 5, 2009 "On the reporting methods and procedures of the obliged entities pursuant to law", and no. 9917, May 19th 2008 "On the prevention of money laundering and financing of terrorism". This regulation aims to prevent the financial system from being used for purposes of money laundering and terrorist financing and it is applicable to institutions licensed by the BoA.

992. BoA Decision 44 (Annex) provides examples of higher risk categories of customers and transactions.

Effectiveness:

Designation of Competent Authority (23.2)

993. The BoA, FSA and the FIU have been designated as the AML/CFT supervisory authorities. Nonetheless, it is the assessor's view that under the Art.22 of the AML/CFT Law, the scope of the FIU's supervisory powers is narrower than the authorities believe. Consequently, there is a need to clarify the scope of such powers in the legislation, and to reduce the potential for conflict and unnecessary overlap with the powers and activities between the FIU and the other supervisors to ensure the efficacy of AML/CFT supervisory system.

994. None of the supervisory agencies has adequately addressed the issue of the informal existence of the operators in the MSB sector operating without supervision.

995. With regard to BoA supervision, due to the recent implementation of the AML/CFT supervision, the assessors could not sufficiently assess the effectiveness of the system, including the application of an effective risk based approach to supervision. Nevertheless, the establishement of a designated AML/CFT Unit withing the BoA with specialized inspectors has been an improvement for AML/CFT supervision.

996. The FSA has not carried out AML/CFT inspections of the insurance and securities sectors. While these sectors may currently be small, supervision should take place in a degreed proportional to their size to comply with FATF requirements, even if conducted in the context of broader prudential supervision. Additional risks may also arise for institutions licensed under the new CIV Law and VPF Law.The GDMLP had carried out several inspections to insurance companies

997. From November 2010, the FIU began sending a questionnaire[84] ("self-auditing report") to the insurance and non banking financial entities for use it in offsite supervision (Regulation 11 and 12). A similar questionnaire has not been circulated to the banking sector because GDPML affirmed that inspections are carrying out every year (at the mission time, November 2010, 8 out of 16 banks have been inspected). At the time of the mission, no entity has sent back the completed questionnaire, so the efficiency and the possible use for offsite surveillance could not be assessed.

998. Inspections are generally the same for all FIs. Supervisors take samples of customer and operations records to check the compliance with the AML/CFT Law due diligence obligations. The mission was informed that while some entities have been inspected more than once by different authoritiesothers have not been inspected.

999. Inspections reports prepared by the BOA and the GDPML/FIU.showed that the following AML/CFT issues are reviewed: policies and procedures, record keeping customer identification, transactions, reporting obligations and training.

[84] The Internal Audit Report is annexed in by –law 11 and 12, was sent for the first time in November 2010 to the following entities: insurance, leasing companies, bureau de change and saving and credit Unions. The purpose of this report is to monitor entities with a yearly base document and have source for updating information on entities and to crosscheck with information contained in the analysis department database.

Powers to Monitor (29.1)

1000. The AML/CFT Law designates the supervisory authorities for each financial authority. The FSA is the designated the AML/CFT supervisory authority for the securities and insurance sectors but has not been exercising this function. A mitigating factor to this deficiency is the relatively small size of the securities market (the Organized market of securities is not operating yet) and the low percentage of life insurance policies in sector (less than 9% of the Albanian total insurance market).

1001. As indicated above, in the view of the assessors, the scope of the GDPML's supervisory powers could create overlap and conflict regarding the oversight roles of the other AML/CFT supervisory agencies if not properly coordinated. Such overlap could also adversely affect the efficiency and effectiveness of the overall supervisrory regime.

1002. The ML/FT risk monitoring system appears to be in its early stage. The BoA sources to carry out the off-site monitoring function are limited, and the GDMLP is still testing the new system introduced (the self auditing report) which doesn't include banks. The shortcomings in offsite surveillance might compromise the accuracy of the information that the supervisory authorities are providing, every three months, to the High Level Committee on ML/FT risks as a part of the National Strategy AML/CFT Plan approved in September 2009.

Authority to Conduct Inspection (29.2)

1003. Should the FIU continue to carry out full scope inspections, the text of the Art.22 of the AML/CFT Law could prevent the FIU from requesting and obtaining information different that that related to the reporting obligations. However, the mission was informed that additional information requests have not been challenged.

Power for Supervisors to Compel Production of Records (29.3 and 29.3.1)

1004. Both, the BoA and the FSA have power to compel production or to obtain access data is not predicted on the need to required a court order. As discussed above, regarding the GDPML [85] authority to request supervisory information, it has not been challenged by obliged entities, although some of the reporting entities with which the mission met, acknowledged this legal inconsistency.

Organization and Adequacy of Resources (R.30)

1005. FSA staff lacks on training and inspection procedures for AML/CFT supervision pose additional challenges for the FSA.

1006. Interviews with the private sector pointed out that BoA is perceived as a more independent authority compared to the GDPML and the FIs appreciated the deeper knowledge of the BoA inspectors about banks operations and banking procedures.

[85] Article16 and 22 of the AML/CFT Law.

1007. The budgetary arrangements of the FSA may hinder the capacity of the FSA in enhancing staff resources and training in areas such as AML/CFT supervision.

1008. Both, private entities and supervisory authorities (FSA/BoA) pointed out that practical training on AML/CFT provided by the GDPML would be desirable.

1009. As it was pointed above, the FSA's resources and knowledge expertise to supervise AML/CFT risk in the FIs under its supervision is not adequate and BoA AML/CFT Unit resources should be increased given the number of the reporting entities.

1010. The resources of the FIU could benefit from an increase.To plan joint inspection (FIU-supervisoy authorities) sould be also considered in order to extend the number of supervised entities, share knowledge and improve supervisory authorities' coordination.

Powers of Enforcement & Sanctions (29.4), Availability of Effective, Proportionate & Dissuasive Sanctions (17.1), Range of Sanctions (17.4)

1011. In order to improve efficiency a tight and close cooperation should be established among supervisors, in order to guarantee the efficiency and the soundness of the system. The effectiveness of the sactions system remains unclear to the mission, due to the dual system and the diference between the supervisor and the authority to sanction.

1012. Sanctions for non-compliance with the AML/CFT legislation have been imposed since 2008. At the time of the onsite visit, all the sanctions that had been applied are of financial nature and were only issued by the GDPML. As mentioned earlier, the GDPML reported that other violations of the AML/CFT law were found during their onsite inspections, most sanctions are for failures to comply with the reporting obligations[86]. As sanctions are issued for a violation of the reporting obligations under the AML/CFT Law, the GDPML's exercise of this kind of sanction power illustrates a possible misinterpretation regarding the GDPML's scope of supervisory powers.

1013. In addition, the fact that around 95% of the sanctions applied have been appealed raises issues as to the effective implementation of the sanctioning regime. It takes seven months for the first appeal to be heard at the First Instance Court and it is only the first stage. Meanwhile the fines cannot be applied and collected.

1014. The lack of sanctions applied by the the BoA and the FSA is a shortcoming in the implementation of the sanctions system and authorities'coordination.

1015. Additionally, the fact that the BoA and the FSA have not imposed sanctions makes difficult to assess the level of the proportionality and effectiveness of the sanctions across the system related with those activities and arise doubts about its powers on AML/CFT sanctions. Also the possibility to sanction twice for the same violation by two different authorities should be reviewed.

[86] See paragraph about the scope of the supervision powers of the GDPML

1016. With respect of sanctions imposed, Albania did not satisfy the mission that its sanctions are effective and proportionate. Additionally no sanction has been imposed to FIs managers.

Market entry (23& 25.1)

1017. All the financial sectors have developed market entry controls to prevent criminals or their associates from holding or being beneficial owner of significant controlling interest of an entity. The "Fit and Proper criteria" in banking sector regulation together with Pensions Funds and Collective Investments Funds are more detailed that the rest of sectorial financial regulation. In practice, FIs comply with the AML/CFT Law legal requirements by fulfilling criminal records checks for the shareholders, the requirements to establish the source of capital and testing the existence of the necessary amount of it.

1018. Notwithstanding the efforts of the BoA for licensing this activity and also police efforts to pursue and terminate illegal activity in the exchange bureaus sector, the informal market operations in he seems to be still quite significant. The so-called "informal cambiste", are individual persons whose activity is to exchange money in the street. In 2009 a targeted police operation closed more than 88 "informal cambiste" but the activity, even significantly reduced is still clearly visible in the streets of Tirana.

1019. The" informal cambiste", represent an ML/FT risk, as they are operating outside the law without any supervision. The data on the significance of the activity of those "cambiste" are estimated to be between 20% up to 40%. Also the "informal cambiste activity" might be extended to small foreign currency loans and it seems that an informal and small trading exchange market exists where the exchange rates are daily established for this sector. The existence of an informal agent neither registered nor supervised makes preventing AMl/CFT system less efficient.

1020. Aditional relevant information arose from the FIs interviews was the possible relation of those "cambiste"with the construction activity which is another ML/FT risk sector indentified in Albania.

1021. In addition, the existence of informal [87]organized money remittance systems appears to be very significant. "Informal networks of cross border cash couriers" through long distance bus services and travel agencies is highly vulnerable to ML/FT and a potential threat for the Albanian economy and the national strategy fight against ML/FT.

1022. There are several financial groups operating in Albania from EU countries as Italy, Austria, France, and Greece. The subsidiaries of the European banking groups have developed internal AML/CFT policies following the EU AML/CFT standards.

1023. FIs informed the mission that they would welcome guidance from the supervisory authorities with a practical approach in order to help them to fulfill the AML/CFT obligations in the

[87] With regard the existence of others organized alternative remittance system such Hawalla, form the authorities interviewed confirmed that in nowadays the risk is very little/insignificant

daily business with their clientele. Some FIs informed the mission that they use the BoA Decision 44 Annex on customers risk profiles.

3.10.2. Recommendations and Comments

Recommendation 29

1024. The authorities should:

- Address the inconsistency between the AML Law and Decision 343 regarding the designation of the supervisory authority for FIS undertaking payment services.
- Review and update insurance and securities sector laws to take into account the requirements of the AML/CFT Law.
- Ensure that all financial sectors are subject to effective supervision.
- Enhance the channels of communication and information exchange between the GDPML and the supervision authorities. In particular the GDPML should share in a timely fashion the findings of the inspections it undertakes with the BoA and the FSA so that these findings can be used to inform their supervisory activities.

1025. The authorities should consider:

- Whether the current practice of the GDPML's conducting inspections on compliance with the whole range of AML/CFT requirements is appropriate and, if it is, consider amending the AML/CFT law.
- Issuing by-laws elaborating the FSA's attributions as the AML/CFT supervisor in the securities and insurance sectors.
- Consider enhancing the coordination between the supervisiory authorities in order to cover as many FIs as possible and avoid duplication.

Recommendation 30

1026. The authorities should:

- Ensure the financial independence of the FSA.
- Ensure that the supervision authorities and the FIU have enough resources (human and technological) to carry out the obligations imposed by the AML/CFT Law commensurate with the number of entities under their responsibility and their ML/FT risk.
- Consider establishing an annual plan to train AML/CFT supervisory staff on AML/CFT supervision techniques and typologies.

Recommendation 17

1027. The authorities should:

- Review the existing process to impose sanctions in order to remove any repetition of inspections and the possibility to sanction twice for the same violation.
- Introduce a unified administrative sanctions regime for ML/FT violations in order to avoid possible "supervisory arbitrage".
- Ensure that the supervisory authorities use AML/CFT sanctions powers effectively.

1028. The authorities should consider:

- Introducing a graduated scale of sanctions which includes an early warning system of notifications.

Recommendation 23

1029. Authorities should:

- Ensure that all the Albanian financial activities are subjected to adequate AML/CFT regulation and supervision.
- Increase the inspections carried out on natural and legal persons providing a money or value transfer services and to a money and currency changing services.
- Ensure adequate and effective AML/CFT supervision of the insurance and securities sector by the FSA.
- Improve the offsite surveillance and risk-based onsite supervision.
- Establish legal requirements for fit and proper tests for all the FIs that are subject to the Core Principles.

1030. Authorities should also consider:

- Including in the supervision plan a yearly minimum number of joint inspections to be carried out by supervision authorities in order to supervise more types of financial entities.

Recommendation 25

- Authorities should establish guidelines which assist FIs with the AMl/CFT obligations.

3.10.3. Compliance with Recommendations 17, 23, 25, and 29

	Rating	Summary of factors underlying rating
R.17	**PC**	Effectiveness issues: • Authorities were not able to demonstrate that the sanctions that were applied are effective and proportionate. • No sanctions have been applied by the BoA and the FSA. • No sanctions have been applied to financial institutions' senior management.
R.23	**PC**	• Existence of the non licensed and non supervised informal financial sector. • Absence of fit and proper tests for senior managers and directors in the case of some financial institutions subject to the Core Principles. Effectiveness issues: • Insurance and securities sector are not supervised by the FSA for AML/CFT compliance. • Inadequate offsite supervision. • Limited scope and number of inspections of natural and legal persons providing money or currency changing services.
R.25	**PC**	• Insufficient guidance to the supervised sectors.
R.29	**PC**	Effectiveness issues: • Unclear GDPML scope of onsite inspections. • Possible overlap and duplication supervision and inspection functions among AML/CFT authorities.

3.11. Money or Value Transfer Services (SR.VI)

3.11.1. Description and Analysis (summary)

Currency Transaction Reports
(SR VI – rated PC in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1031. SR VI was rated as partially compliant (PC) in the Third Round MER. The report noted concerns about the potential for unregulated remittance activity, given the cash-based nature of the economy and the under-use of the formal financial sector. Although supervision of the two main non-bank remittance companies was being carried out, it was difficult to identify how many agents were operating under them.

Legal Framework:

- Law no. 9917 dated May 19, 2008 "On the Prevention of Money Laundering and Terrorism Financing", hereinafter the "AML/CFT Law".
- Law No. 9662 dated 18 December 2006 "On banks in the Republic of Albania".
- Regulation No. 11 dated 25 February 2009 "On the granting of license to non bank financial subject".

1032. Money remittance activity in Albania is partially carried out through the banking sector and, as such, is fully regulated by the Bank of Albania as an activity carried on by a financial institution.

1033. The Albanian authorities report that non-bank remittance activity is carried out mainly by two MVT operators which are affiliated to Western Union and Money Gram. Article 3 para (b) of the AML/CFT Law gives the BoA responsibility for supervising non-bank financial institutions. These include, inter alia, "all payments and money transferring services"[88].

1034. One FI spoken to considered that, in recent years, there has been a shift away from the informal sector towards the formal sector for making payments. Their estimate was that now 80% of remittances are carried out through the formal sector. This was seen less as a result of action by the authorities, and more as a result of increasing competitiveness and lower cost in the formal sector.

1035. The authorities advised the assessment team that the reduction in the use of the informal sector was as a result of actions taken by them, such as the campaign of the Bank of Albania aimed at the "Reduction of cash" in the economy, and decisions of the Council of Ministers regarding the transfer of salaries of all employees and carrying out of all business transactions through the banking system. BoA figures suggest that the amount of informal remittance activity has decreased from around 50% of the total value in 2004/2005 to around 28% today. Figures for the first 6 months of 2010 suggest that the amount of informal remittances are nonetheless significant, with an estimate of US$147,000,000 being remitted. Clearly more work is needed to reduce the amount of informal remittances further.

1036. The assessment team noticed that remittance activity is also carried out by Albania Post. The advertised service involves the deposit of cash at one post office and the collection by the recipient (upon production of a passport) at another. Albania Post also offers international remittances to Italy, France, Turkey, Belgium, Spain, Switzerland, USA, Canada and Greece. Article 3 para (e) gives the BoA responsibility for supervising payment services offered by post offices. The assessment team was not able to meet with Albania Post.

Designation of Registration or Licensing Authority (c. VI.1):

[88] Regulation No.11, February 25, 2009 "On the granting of license to non bank financial subject".

1037. MVT operators in Albania fall into the category of non-bank financial institutions and are licensed by the Bank of Albania under Regulation No. 11 dated 25 February 2009 "On the granting of license to non bank financial subject".

1038. Law No. 9662 dated 18 December 2006 "On banks in the Republic of Albania" requires the BoA to maintain a public register of licensed entities, which includes, inter alia, the "address of legal seat, and the address of the branch or agency, if applicable" (Article 128 para 1 let. b).

1039. The AML/CFT Law captures money remittance by the two main remittance companies as an activity of non-bank financial institutions, by reference to Regulation 11.

1040. The remittance activities of Albania Post are captured by reference to Article 3 let. e) of the AML/CFT Law. Albania Post is licensed by the Bank of Albania to perform the financial activity of payments and money transfer services and is considered a non-bank FI. The Bank of Albania is responsible for supervising Albania Post as a non-bank FI.

Application of FATF Recommendations (applying R.4-11, 13-15 and 21-23, and SRI IX)(c. VI.2):

1041. As non-bank financial institutions, MVT operators are subject to the requirements of the AML/CFT Law by virtue of Article 3 let, b). As such, the deficiencies recorded in section 3 above (especially for institutions supervised by the BoA) are equally applicable. In particular, it is noticeable that the non-bank FIs have only submitted one SAR since 2005. This SAR was submitted by a money remitter.

Monitoring of Value-Transfer Service Operators (c. VI.3):

1042. As non-bank financial institutions, MVT operators are subject to monitoring/supervision by the BoA. The AML/CFT Law Article 24 para 4 requires the BoA, as a supervising authority, to supervise, through on-site inspections, compliance with the key preventive measures. In addition, money remitters are subject to AML/CFT supervision by the FIU under Article 22 let. d).

1043. Figures provided by the authorities indicate that the following on-site visits with an AML component were conducted to MTV operators in recent years:

	2005	**2006**	**2007**	**2008**	**2009**	**2010**
Visits to MVT operators by FIU	0	0	1	1	2	1
Visits to MVT operators by BoA	8	4	4	0	1	1
Total	**8**	**4**	**5**	**1**	**3**	**2**

1044. Discussions with the BoA indicated that they had carried out very few inspections of remitters in the past year, due to them concentrating on the banking sector.

List of Agents (c. VI.4):

1045. The MVT operators are not directly required by Albanian Law to maintain a list of agents, or make it available to competent authorities.

1046. Law No. 9662 dated 18 December 2006 "On banks in the Republic of Albania" requires the BoA to maintain a public register of licensed entities, which includes, inter alia, the "address of legal seat, and the address of the branch or agency, if applicable" (Article 128 para 1 let. b). This would appear to go some way to meeting the objective behind the criterion. However, this would not necessarily include independent operators.

1047. Discussions with the industry indicated that both of the main MVT operators each had over 200 agents operating in Albania.

Sanctions (applying c. 17.1-17.4 in R.17) (c. VI.5):

1048. The administrative sanctions available under Article 27 of the AML/CFT Law (detailed under Recommendation 17, above) are applicable to MVT operators as non-bank financial institutions.

1049. In addition, the BoA has the power to impose administrative sanctions as set out in the analysis for Recommendation 17, above. No sanctions have been imposed to date.

Adequacy of Resources—MVT Registration, Licensing and Supervisory Authority (R.30):

1050. No specific resources have been assigned by either the BoA or the FIU to the supervision of MVTs, and they are included in the general AML/CFT supervisory measures for both. Given that the BoA has not been able to carry out inspections of remitters for the past two years due to a focus of its resources on other sectors, it would appear that additional resources are required.

Additional Element—Applying Best Practices Paper for SR VI (c. VI.6):

1051. As part of the non-bank financial institution sector, the full range of applicable measures under the AML/CFT Law are relevant to the MVT sector. As such, most of the elements of the Best Practices paper are covered, including:

- Extending all the obligations of the AML/CFT Law to money remitters, which are considered reporting entities;
- Money remitters are required to be licensed by the BoA, and are subject to regulation and supervision by the BoA;
- Money remitters are subject to sanctions for non-compliance with the AML/CFT Law.

Effectiveness

1052. Despite the fact that the AML/CFT Law applies to money remitters, several factors undermine the effectiveness of the regime. A reducing, but still substantial portion of remittance activity takes place outside the formal sector. Supervisory activity in relation to money remitters

appears to be disproportionately low to the potential ML/TF risk the sector represents. In addition, there is a lack of STR reporting from this sector

3.11.2. Recommendations and Comments

1053. The Authorities should:

- Increase supervisory resources available to supervise MVT operators;
- Impose a direct requirement for MVT service operators to maintain a current list of agents;
- Raise awareness of the obligation to report SARs among MVT operators;
- Take further steps to ensure that remittance activity takes place in the formal sector.

3.11.3. Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	**PC**	• Concerns about effectiveness in relation to the main preventive measures, especially SAR reporting, and the fact that significant remittance activity takes place outside the formal sector; • No direct requirement for MVT operators to maintain a list of agents; • Lack of supervision of MVT operators.

4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4.1. Customer Due Diligence and Record keeping (R.12 – rated NC in the 2006 MER)

4.1.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1054. The 2006 MER identified a number of shortcomings with respect to preventative measures as they apply to Designated Non-Financial Businesses and Professions (DNFBPs). In addition to the shortcomings identified for financial institutions, requirements were not extended to real estate, dealers in precious metals and stones (DPMS), attorneys, notaries, and other independent legal professionals and accountants.

Legal Framework:

- Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917, dated May 19, 2008), herein after "AML/CFT Law".

CDD Measures for DNFBPs in Set Circumstances (Applying c. 5.1-5.18 in R. 5, R. 6 and 8-11 to DNFBP) (c. 12.1/12.2 - rated NC in the 2006 MER):

1055. Preventative measures for DNFBPs are outlined in the AML/CFT Law. The requirements are substantially the same as the requirements outlined for financial institutions in Chapter 3 of this report. Please refer to the analysis in Section 3 for shortcomings in the legal framework that also apply to the DNFBP sectors. When specific requirements apply to DNFBPs they will be detailed in this section.

1056. The legal framework defining which DNFBPs have AML/CFT obligation covers all DNFBPs outlined by the standard: Article 3 of the AML/CFT Law identifies all DNFBP sectors that have obligations. These include real estate agents, attorneys, public notaries and other legal representatives; authorized independent public accountants, independent certified accountants as well as financial consulting offices; individuals or entities involved in the administration of third parties' assets/managing the activities related to them; dealers in precious metals and stones; gambling, casinos and games of chance.

1057. Attorneys, public notaries and other legal representatives trigger AML/CFT obligations when they prepare for or carry out transactions for a client in relation to the following activities (for values equal or above to lek 1.5 million or US$15,000):

- transfer of immovable properties, administration of money, securities and other assets;
- administration of bank accounts;
- administration of capital shares to be used for the foundation, operation or administration of commercial companies;

- foundation, functioning or administration of legal entities;
- legal agreements, securities or capital shares transactions and the transfer of commercial activities.

1058. There are no trusts in Albania although company formation and management services are provided by lawyers and accountants. Article 3 (o) (i) of the AML/CFT Law does confer obligations to individuals or legal entities who undertake the administration of third parties' assets/managing the activities related to them for individuals or entities that are not otherwise covered by the AML/CFT Law.

1059. For individuals or entities not covered by other provisions of the AML/CFT Law the existing provision for company service providers does not cover instances when they are acting as a formation agent of legal persons or act as nominee shareholder for another person.

1060. Accountants and auditors are covered for all their activities including any company formation and management services. Lawyers and notaries are covered when they engage in the foundation, functioning or administration of legal entities. This provision does not expressly cover instances where a lawyer or notary acts a nominee shareholder for another person. The legal framework for Company Service Providers is thus not fully comprehensive.

1061. Industry representatives in both the casino and dealers and precious stones industry have indicated that there are many jewelers and casinos operating on the black market that do not apply AML/CFT obligations.

Customer due Diligence (R.5.1-5.7):

1062. Pursuant to Article 4 (1) (b) of the AML/CFT Law casinos, gambling institutions and hippodromes are required to identify clients when they carry out a direct transfer inside or outside the country or a transaction equal to not less than lek 200,000 (~US$2,000) for buying or selling of gambling coins or their electronic equivalent.

1063. Pursuant to Article 4 of the AML/CFT Law client identification for lawyers, notaries, accountants, real estate, and dealers and precious metals is triggered when a business relationship is established. All obliged entities are required to conduct client identification when there are doubts about the identification data previously collected and when there is reasonable doubt for money laundering or terrorism financing. In instances a business relationship is not established, obliged entities are required to identify their customers when they are involved in transactions or direct transfers inside or outside the country for values that are not less than lek 1.5 million (US$ 15,000) pursuant to Article 4 (1) (b) (ii).

1064. Customer identification and verification requirements are partially understood by DNFBPs. All sectors with whom the mission met understand the requirement to identify transactions over lek 1,500,000. Obliged entities are largely unaware of their obligations to identify when establishing an on-going business relationship. No sector was aware that identification was required when there is a suspicion of ML/FT or when there are doubts about the identification data previously

collected. Most obliged entities used the national ID card, a birth certificate or a passport to identify clients.

1065. Lack of clarity exists with respect to when client identification should be undertaken. For some DNFBP sectors it is unclear whether client identification should be triggered when a business relationship is established or when a transaction of lek 1,500,000 (~US$15,000) is undertaken. This is particularly an issue for lawyers and accountants who do not necessarily conduct financial transactions but might not consider their interactions with clients as necessarily being a business relationship. There is no criteria for circumstances that would require enhanced due diligence.

1066. Attorneys, notaries, real estate, and casinos understand and implement client verification requirements. Individuals are identified with either a passport or a national identification card. The verification of legal entities and their shareholders is done through the National Registration Centre. Jewelers were unaware of client verification requirements.

1067. Other due diligence measures such as the determination of beneficial owners, obtaining information on the purpose and intended nature of the business relationship, keeping client identification up to date and on-going due diligence of business relationships are not understood by obliged entities with whom the mission met.

Risk (R.5.8 – 5.12):

1068. DNFBPs do not conduct risk assessment of their clients and do not apply enhanced due diligence to high risk relationships. Lawyers, notaries, and accountants appeared to understand the risk inherent with their business however jewelers and real estate agents did not see the vulnerabilities present within their industry. Provisions to apply reduced or simplified measures are not permitted under the AML/CFT Law. Given the limited awareness of sector vulnerabilities by some DNFBPs and the limited resources available to smaller firms prescribing additional instances were enhanced due diligence is required may be more effective than the current requirement to conduct client risk assessments.

Timing of Verification (R.5.13 – 5.14):

1069. Identification at the time a transaction of lek 1,500,000 (~US$15,000) is well understood. Obliged entities are largely unaware of their obligations to identify when establishing an on-going business relationship and they do not identify beneficial owners. There are no provisions to delay the verification of identity.

Failure to Satisfactorily Complete CDD (R.5.15 – 5.17):

1070. Most sectors indicated that they would complete the transaction even if the client refused to provide adequate identification. Accountants and notaries indicated that they would terminate the relationship and refuse to conduct the transaction if no identification was produced. No entities indicated that they reported an STR to the FIU due to failure to provide identification. The exception was the notary sector where identification of the client is a key component of the profession's activities.

PEPs (R.6):

1071. Most sectors were unaware that they must determine whether their clients are politically exposed persons. Notaries indicated that they might inquire if the client presented certain higher risk characteristics and would report to the GDPML if a client would fall under the PEP category. No sector was aware that enhanced due diligence should be applied to PEPs. It should be noted that enhanced due diligence requirements only apply to domestic PEPs. Please refer to Recommendation 6 for an analysis of the legal framework.

Non-face-to-face Transactions (R.8):

1072. Most DNFBPs do not conduct non-face-to-face transactions. However, some real estate agents do engage in non-face-to-face transactions primarily with foreign clients. A detailed client profile is collected on-line in order to facilitate the real estate transaction. Contracts are finalized remotely were a legal professional is involved and a power of attorney is in place. Copies of passports are obtained but no specific additional due diligence measures are applied. As discussed below there is some reliance on the due diligence conducted by the legal professional establishing the power of attorney however no information is exchanged between the real estate agent and the legal professional. No policies are in place to prevent the misuse of technological developments in ML or FT schemes.

Intermediaries/Introduced Business (R.9):

1073. Intermediaries and introduced business are not widely used by DNFBPs. Some real estate agents focused on foreign clients will have business introduced by affiliated foreign companies or legal firms. Lawyers and accountants also have business introduced by foreign counterparts. For all these sectors initial customer identification is conducted by the obliged entity and in cases of non-face-to-face transactions they partially rely on intermediaries to conduct the due diligence such as verification of identification for individuals and determination of the identities of the shareholders. No information on beneficial ownership is collected by the intermediary. No information is obtained from the intermediary and no effort is made to ensure that information is available, to ensure that the intermediary is regulated, or to determine whether the intermediary is located in a country that adequately applies FATF recommendations.

Record Keeping (R.10):

1074. Record keeping is understood reasonably well by DNFBPs. Most sectors keep records for a minimum of five years, the exception being dealers and precious metals and stones which were unaware of the obligation. Transaction records are sufficient to permit the reconstruction of individual transactions and they are available in a timely basis.

Attention to Complex and Unusual Transactions (R.11):

1075. No entity met during the on-site assessment was aware that they were required to pay special attention to complex and unusual transactions. No entity examined the background and purpose of transactions.

Effectiveness:

1076. Black market activities in the casino and dealers in precious metals and stones sectors are undermining the effectiveness of legal framework. Black market activity in the casino sector presents a particular concern given that authorities have identified risks related to casinos helping facilitate money laundering. Authorities have indicated that the casino sector is at high risk of being used for money laundering. They also indicated that some licensed casinos and gaming houses may at times be complicit in money laundering activities referring to a case with an individual with a criminal background owning a gaming house in Albania. All these factors contribute to heightened risk in the sector particularly when casinos operate unlicensed. Coordination between the SUGC and the ASP is insufficient resulting in illegal casino activity operating with impunity.

1077. Black market jewelers although vulnerable to money laundering do not present the same level of risk. The authorities did not specifically express a concern with respect to this sector. However, the illegal operations undermine the efforts of legitimate jewelers who are trying to comply with AML/CFT requirements but who are at a economic disadvantage vis-à-vis underground operations who avoid both taxes and the regulatory burden associated with the AML/CFT Law.

1078. Client identification requirements are not clear which impacts the effectiveness of customer due diligence measures. Obliged entities are required to identify clients when establishing a business relationship or conducting transactions of no less than lek 1.5 million (US$15,000). However, obliged entities are unaware of their obligation to identify when establishing a business relationship. Sectors that do not systematically conduct financial transactions such as lawyers and accountants were unclear about when client identification requirements were triggered. Although in practical terms clients were identified in some instances the lack of clarity in when client identification should be applied resulted in entities not identifying clients when a business relationship was established.

1079. This lack of awareness also extended to all customer due diligence requirements including obtaining information on beneficial ownership, applying enhanced due diligence to high risk relationships and non-face-to-face transactions and PEPs determination. Even entities that had participated in outreach sessions or been subject to an on-site inspection by the GDPML were not aware of due diligence measures. Entities appear to be focused on meeting threshold reporting requirements (which are most often subject to sanctions) to the detriment of all other obligations. There is a lack of understanding regarding why measures are being applied and why they are important components in the fight against money laundering. Outreach sessions should not only focus on explaining the requirements but also on putting into the broader context how their implementation will contribute to making money laundering more difficult. Guidance and quick reference tools to assist reporting entities would also be helpful in getting entities to first remember and ultimately implement due diligence measures.

1080. In particular, requirements related to non-face-to-face transactions would benefit from guidance from the authorities. Even if an entity was aware of its obligation to have policies and procedures in place to address the specific risks associated with non face-to-face transactions no guidance is in place to provide advice as to what possible mitigation measures might be. As suggested in other parts of this section the authorities may want to prescribe what is required when non face-to-face channels are used in order to increase the likelihood that measures will be applied.

1081. Record keeping obligations are understood and applied by most of the DNFBPs met during the assessment. All sectors with the exception of jewelers kept records for a minimum of five years. Records that were kept were comprehensive and easily accessible. This was more a function of operational necessity than compliance with AML/CFT requirements.

1082. The requirement to identify categories of clients where enhanced due diligence should be applied is not understood by DNFBPs. Given the limited understanding of core preventive measures it may be unrealistic to expect smaller entities in the DNFBP sector to apply a risk based approach with respect to client due diligence. A more prescriptive approach may be more appropriate given the current stage of implementation of preventive measures for DNFBPs.

1083. Awareness initiatives have been delivered in sectors however many of the entities visited during the assessment were not aware that these sessions had been organized. Despite these efforts, awareness of most requirements remains low calling into questions the effectiveness of the training provided.

4.1.2. Recommendations and Comments

1084. The authorities should:

- Extend requirements to all TCSP activities defined by the standard.
- Increase the number of sanctions applied to games of chance operating illegally. The Supervision Unit of the Games of Chance (SUGC) should work with State Police to identify casinos operating illegally and apply administrative sanctions provided by the Law on Games of Chance. Sanctions for operating games of change illegally should also be increased.
- The ASP should identify dealers in precious metals and stones that are operating illegally and apply available sanctions.
- Develop guidance detailing appropriate risk mitigation measures for non-face-to-face transactions for lawyers, accountants and real estate.
- Implement outreach programs and develop guidance to raise awareness of customer due diligence measures in the DNFBP sectors.

1085. The authorities should also consider:

- Prescribing additional high risk situations where enhanced due diligence should be applied.
- Clarifying when client identification is required for DNFBPs providing guidance on what is considered a ‘business relationship’ for each DNFBP sector.

4.1.3. Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	**PC**	• All deficiencies listed in Section 3 regarding the legal framework also apply to DNFBPs. Legal framework covering Company Service Providers is not comprehensive. • Customer identification measures for DNFBPs are unclear. • Implementation of due diligence measures is not effective: - Black market activities in the casino and dealers in precious metals and stones sector are undermining the effectiveness of the AML/CFT legislative framework. - Customer due diligence measures are not applied comprehensively. - PEPs determination is rarely undertaken and no enhanced due diligence is applied. - Policies and procedures are not in place to deal with non face-to-face transactions. - Policies are not in place to prevent the misuse of new technologies. - No measures are in place to deal with intermediaries. - Attention is not paid to complex or unusual transactions.

4.2. Suspicious Transaction Reporting (R.16 - rated NC in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1086. The Third Round Mutual Evaluation report found that no suspicious transaction report had been filed by DNFBP sectors and awareness of reporting obligations was very low. Reporting thresholds for STR reporting were in place for dealers in precious metals and stones.

4.2.1. Description and Analysis

Legal Framework:

- Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917, dated May 19, 2008), herein after "AML/CFT Law".
- Reporting Methods and Procedures of Non-Financial Professions (Instruction #11, dated February 5, 2009).
- The Reporting Methods and Procedures of the Obliged Entities (Instruction #12, dated April 5, 2009).
- Law on the Legal Profession in Albania (Law no. 9109, dated July 17, 2003).

Requirement to Make STRs on ML and TF to FIU (applying c. 13.1 and IV.1 to DNFBPs):

1087. The requirements are substantially the same as the requirements outlined for financial institutions in Chapter 3 of this report. Shortcomings in the legal framework for financial institutions will also apply to the DNFBP sectors. When specific requirements apply to DNFBPs they will be detailed in this section.

Suspicious Transactions (R. 13):

1088. Article 12 of the AML/CFT Law outlines STR reporting and internal control requirements for DNFBPs. Both accountants and auditors had a requirement to report suspicious transactions. Article 9(3) of the Law on Legal Profession in Albania stipulates that a "lawyer is not allowed to make public the data that he has learned through a protected person or a person represented by him or by the documents that the latter has made available, in view of protection required, except when he has been given written consent". Article 25 of the AML/CFT Law provides an exception stipulating that: "Attorneys and notaries shall be exempted from the obligation to report on the data that they have obtained from the person defended or represented by them in a court case, or from documents made available by the defendant in support of the needed defense". The article further specifies that entities shall not use professional confidentiality as a rationale for failing to comply with the legal provisions of the AML/CFT Law. The exemption related to legal privilege is in line with the standard. DNFBPs met during the on-site assessment did not fully understand their reporting obligations. Their focus is oriented towards threshold reporting and they did not believe that they were required to report suspicious transactions if a threshold report had been submitted.

1089. Knowledge of the risks related to their sector's ML vulnerabilities is low. All sectors recognized the risks associated in construction, real estate companies and the risk arising from corruption. Some entities thought that there was a risk associated with the inaccuracies of information maintained at the National Registration Centre. Many sectors highlighted the use of casinos in laundering activities. Lawyers, notaries, and accountants acknowledged that vulnerabilities existed in their sectors. All other sectors did not see how they could be vulnerable to money laundering.

1090. Attorneys, accountants and notaries associated their obligation to report suspicions of FT with the terrorism list published on the GDPML's website. They did not appear to understand that the requirements extended to all suspicions related to FT not only those stemming from the list. Jewelers and real estate agents were unaware of their obligation to report suspicions of FT.

Protection for STR reporting / Tipping off (R. 14):

1091. As noted in Section 3 protection for STR reporting is in place. DNFBPs have limited knowledge of the requirement not to tip off customers largely due to the fact that STR reporting requirements were poorly understood.

Internal Controls (R. 15):

1092. Article 11 (3) of the AML/CFT Law stipulates that "if the number of employees of the entities referred to in this law is less than three persons, the obligations of this law shall be met by

the administrator or by an authorized employee of the entity". This provision is particularly relevant for DNFBPs given that many of the entities have three employees or less. The authorities indicated that they included this provision as they ascertained the risk of these smaller entities to be low. They also wanted to reduce the regulatory burden on smaller entities. This is particularly applicable for the requirement to appoint a compliance officer and the performance of a compliance audit.

1093. The assessment team believes that the above concession is appropriate taking into account the interpretative note for Recommendation 15 which states: "the type and extent of measures to be taken for each of the requirements set out in the Recommendation should be appropriate having regard to the risk of money laundering and terrorist financing and the size of the business". Although some of the sectors are considered high risk the assessment team deems it appropriate that obligations be implemented by an administrator or authorized employee for entities with three employees or less given the capacity to better control activities within a smaller entity.

1094. Most sectors had limited awareness of their internal control obligations. Some entities were aware of their requirement to appoint a compliance officer. Given the small size of the entities visited the owner or a manager usually performed that function.

1095. The requirements to establish policies and procedures and to provide training to employees was not understood by most entities unless they had been subject to an inspection, although some entities that had been examined did not have policies and procedures in place during the assessment team's visit.

1096. The obligation to conduct an internal audit was not understood or applied by any of the entities met during the on-site assessment. Although an exemption has been provided allowing entities with three employees or less to have their administrator undertake some of the internal control activities this concession was not applied as no entity understood the requirement to conduct an internal audit.

Special Attention to Transactions from Some Countries (R.21):

1097. None of the entities met during the assessment were aware of their obligation to give special attention to business relationships and transactions with persons from or in countries which do not or insufficiently apply the FATF recommendations. Despite the GDPML publishing the contents of FATF advisories and providing guidance no entity was aware of this obligation.

Statistics (R.32):

Number of SARs reported from 2006-2010 in DNFBP Sectors

Sectors	**2006**	**2007**	**2008**	**2009**	**2010**
Accountants	0	0	0	0	0
Real Estate	0	0	0	0	0
Casinos	0	0	0	0	0
DPMS	0	0	0	0	0
Attorneys	0	0	0	0	0
TOTAL	**0**	**0**	**0**	**4**	**6**
Notaries	0	0	0	4	6

Effectiveness:

1098. Awareness of internal control measures are extremely low resulting in non-compliance with this requirement in almost all of the entities visited. Some entities had identified a compliance officer but only entities that were subject to an on-site inspection by the GDPML had documented policies and procedures in place.

1099. Most entities in the DNFBP sectors are small businesses who have limited resources to dedicate to the implementation of preventative measures and the development of internal controls. Guidance is required to explain the expectation with respect to internal control provisions. More specifically details should be provided on what should be contained in internal regulations, the frequency and scope of internal audits, who should conduct internal audits as well as expectations with respect to training.

1100. The current requirement for a risk-based approach to be applied to internal regulations may be unrealistic given the lack of understanding of overall requirements and money laundering vulnerabilities as well as the lack of resources in these sectors. A more prescriptive approach where areas of risks are identified and enhanced due diligence is prescribed may be a more effective approach for DNFBPs at this stage of implementation.

1101. The requirement to give special attention to transactions with persons from or in countries that do not or insufficiently apply the FATF recommendations was not understood by entities met during the assessment. Although the GDPML does issue guidance based on FATF advisories this information should be more easily accessible to entities on the GDPML website. A section dedicated to guidance and tools that assist obliged entities to comply might contribute to increased awareness amongst entities.

1102. Although threshold reporting provides an important source of data obliged entities are often exclusively focused on reporting threshold transactions to the detriment of reporting suspicious transactions.

1103. Some sectors are extremely vulnerable to being used for money laundering. Casinos do not have any controls in place to mitigate against the risk of chips being bought and then cashed in for a cheque or wire transfer. The GDPML has indicated instances where there have been suspicions that a casino might be involved in money laundering. Furthermore, the only national casino has been fined three times and consideration has been given to revoke its license for its inability to adequately implement preventative measures impacting on its ability to detect suspicious activity. Given all these factors the total absence of reports by casinos does not appear to be commensurate with the ML laundering risk present in the industry.

1104. All authorities and private sector entities met during the on-site assessment indicated that construction companies and the real estate sector were at high risk of being used for money laundering. Real estate agents, notaries and at times lawyers are involved in facilitating real estate transactions. Given that there is a DNFBP involved at almost every stage of the real estate transaction should increase the likelihood that suspicious activity would be detected. Reporting levels do not reflect the risk present in the industry.

1105. Notaries play a very important role in the formal economy in Albania as they are required to notarize all transfers of moveable and immoveable transactions. These include transactions related to real estate, the formation of companies, the transfer of shares, the sale of property, among many others. Although the majority of these transactions would be legitimate, all these types of transactions can be used to facilitate money laundering. Given the number of transactions that would be required to be notarized a total of nine suspicious activity reports over six years would not appear to be in line with the potential for money laundering present in these types of transactions.

1106. Attorneys and accountants do facilitate some financial transactions that could be vulnerable to money laundering such as company formation and management activities and involvement in various financial transactions. Authorities recognize their vulnerability given their role as gatekeepers but did not consider them high risk. Legal privilege may be a factor in low reporting levels as all lawyers that were met during the on-site assessment expressed some concern about the broadness of AML/CFT requirements and their impact on professional secrecy. Once again the total absence of report in four years likely does not reflect the money laundering risk that is present in these sectors.

1107. Based on meetings with the dealers in precious metals and stones (DPMS) industry it would appear that the jewelers operating in the formal economy deal primarily in smaller transactions. Of the jewelers that were met during the assessment no transactions were performed over lek 1,000,000 (US$ 10,000) and it was believed that this was true for the entire formal industry. The vulnerabilities to ML were believed to be located with jewelers operating in the black market. There was no awareness of obligation to report suspicious activity further contributing to the absence of reporting.

1108. The limited outreach targeted to the DNFBP sector can be seen as a contributing factor to low reporting levels. Even in instances where the reporting entity has been subject to an on-site inspection the understanding of STR obligation is very poor. Entities are focused on threshold reporting and believe that if a threshold report has been submitted no STR needs to be reported.

1109. The assessment team concurs with the FIU's assessment in its 2009 Annual Report that reporting levels of SARs are insufficient. Awareness with respect to the obligation of reporting suspicious activity is low compared to the risk of ML activities in some of the DNFBPs sectors, despite outreach efforts by the GDPML. Emphasis needs to be shifted from threshold reporting to suspicious activity monitoring and reporting.

4.2.2. Recommendations and Comments

1110. The authorities should:

- Implement training and guidance targeted to DNFBPs to enhance knowledge of STR detection reporting and internal control obligations as well as requirements to apply special attentions to transactions related to countries who insufficiently apply FATF recommendations.

1111. The authorities should also:

- Consider a more prescriptive approach to internal control requirements, specifically defining high risk situations and providing specific guidance with respect to internal regulations, internal audit and training.

4.2.3. Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.16	**PC**	• All deficiencies listed in Section 3 regarding the legal framework for financial institutions also apply to DNFBPs. • The implementation of STR reporting, internal controls and requirements to pay special attention to certain transactions is ineffective: - The requirement to report suspicious activity, including attempted, transactions is poorly understood. - Reporting levels are insufficient given the level of risk in DNFBP sectors. - Policies and procedures have not been developed by most entities. - Internal audits have not been conducted. - Training of employees has rarely been implemented.

4.3. Regulation, Supervision, and Monitoring (R.24-25 -rated NC in the2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1112. The 2006 MER determined that there was no supervisory system in place for DNFBPs. No sector specific guidelines had been issued for DNFBPs despite what the assessment team believed was an obvious lack of cooperation by these sectors.

4.3.1. Description and Analysis

Legal Framework:

- Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917, dated May 19, 2008), herein after "AML/CFT Law".

- Law on Games of Chance (Law no. 10033, dated December 11, 2008).

- Decision on the designation of the structure of the Committee for the consideration of the application, criteria, documentation and conditions to be fufilled by the applicant to be equipped with a casino license as well as the cases of revoking or removing such license (Decision no. 126, dated Feburary 17, 2010).

- Law on the Legal Profession in the Republic of Albania (Law no. 9109, dated July 17, 2003).

- The Law on Notaries (Law no. 7829, dated June 1, 1994).

Regulation and Supervision of Casinos (c. 24.1, 24.1.1, 24.1.2 & 24.1.3):

1113. Law on Games of Chance (Law no. 10033, dated December 11, 2008) defines the roles and responsibilities of the Supervision Unit of the Games of Chance (SUGC) as a supervisory authority. Article 13 confers to the SUGC "the power to supervise and control the activities of entities that organize games of chance". Article 16 details the SUGC's inspection powers including the obligation for games of chance "to allow inspectors to perform inspections anywhere where there is game equipment, and provide inspectors with all information and documentation required from them". The Law of Games of Chance does not specifically mention AML/CFT supervision.

1114. Article 24 (c) of the AML/CFT Law refers to "respective ministries" being responsible for supervision of gambling, casinos, and hippodromes although the concept of respective ministry is not specifically defined. The GDPML has indicated that the SUGC is the organization targeted by this provision. In meetings with the assessment team the SUGC did not acknowledge its responsibility for AML/CFT supervision. They also indicated that they did not have the resources or expertise necessary to undertake AML/CFT supervision.

1115. Casinos are subject to all AML/CFT requirements outlined in the AML/CFT Law. Sanctions outlined in Article 27 of the AML/CFT Law (and discussed in Section 3 of this report) are applicable to casinos.

1116. The licensing of casinos and games of chance is regulated through the Law on Games of Chance. The Gaming Commission is empowered to evaluate and carry out the necessary steps to allow for the licensing of casinos and games of chance. Article 32 to 36 outline licensing requirements for national casinos. Licensing requirements require information on the legal entity, source of funds, certificate from tax authorities, information on shareholders and main beneficiary owners. The license for national casinos is reviewed by a Commission comprised of representatives of the Gaming Commission, the GDPML and the Ministry of the Interior who make a recommendation to the Minister of Finance. The Minister of Finance has the final decision in determining whether the license is issued. Sanctions under the Law on Games of Chance cannot be applied to AML/CFT violations.

1117. The Law on Games of Chance states that one of the documents that the shareholders and members of the board of Directors should present while applying to be licensed is a self declaration that they are under no penal proceedings. This obligation does not appear to extend to managers or beneficial owners. No specific penalty is in place for false declarations. Pursuant to Article 11 of Decision 126 (dated February 17, 2010), the applicant, or its member in cases when it is a partnership, should ascertain the origin of their capital, by presenting the "Certificate of credibility" issued by the responsible state institutions in charge of prevention of money laundering in their countries, according to which the applicant or its members are not or have not been investigated and/or suspected of money laundering. It is unclear whether the state institutions in charge of the prevention of money laundering which can include Ministries of Finance or foreign financial

intelligence units have the information necessary to provide such a certification or if they have the authority to do so.

1118. Article 24 of the AML/CFT Law requires designated supervisory authorities (including the Gaming Commission) to "take necessary measures to prevent an ineligible person from possessing, controlling and directly or indirectly participating in the management, administration or operation of an entity".

1119. Although the GDPML is not the designated supervisory authority it has conducted 30 examinations in the games of chance sector. This represents a very high coverage rate with all entities having been examined and many having been subject to follow-up examinations. As will be discussed subsequently the scope of examinations conducted by the GDPML appears to go beyond the authority provided by Article 22 (d) of the AML/CFT Law. These have included verification of customer identification procedures, record keeping, reporting, internal audit, staff training and internal controls related to AML/CFT. Some of these on-site examinations were conducted jointly with the SUGC although the AML/CFT component was conducted exclusively by GDPML inspectors.

1120. Ten sanctions have been applied in the Games of Chance sector. The GDPML has noted concerns with the level of compliance with the only national casino where open table games are available. Three examinations have been conducted with minimal improvements in its compliance with preventive measures. Sanctions were applied in all three instances the biggest fine totaling lek 10,000,000 (US$100,000).

1121. The revocation of casino licenses is under the authority of the SUGC. Article 39 of the Law on the Games of Chance provides for license revocation when a casino violates or contravenes the general interest. The general interest is defined as the commission of public fraud, money laundering or the violation of public order and the incitement of crime. A recommendation for license revocation was presented by the GDPML to the SUGC pursuant to Article 26 of the AML/CFT Law. The request was ultimately refused by the SUGC on the grounds that it did not meet the criteria outlined for revocation in the Law on Games of Chance. This instance is a clear demonstration that the legal framework for casino license revocation is inadequate to address repeated violations of AML/CFT obligations.

1122. Measures to prevent criminals and their associates from holding a significant interest in a casino or game of chance operations are insufficient. Responsibility for AML/CFT supervision is not recognized by the SUGC who states that it is not responsible for AML/CFT supervision. It has indicated that it does not have the necessary resources or expertise to conduct AML/CFT examinations. The SUGC believes that there are no AML/CFT vulnerabilities in the casino sector.

Monitoring Systems for Other DNFBPs (c. 24.2 & 24.2.1):

1123. Article 24 of the AML/CFT Law identifies the supervisors for each obliged sectors. It also provides designated supervising authorities with the authority to supervise, through on site inspections, the compliance of the activity of the entities with AML/CFT obligations. Duties of designated supervisory authorities include checking the implementation of AML/CFT programs by obliged entities; taking the necessary steps to prevent an ineligible person from possessing, controlling and directly or indirectly participating in the management, administration or operation of

an entity, cooperating and providing assistance in ML/TF investigations, drafting and distributing AML/CFT training programs; and keeping statistics on supervisory activities including sanctions imposed in the area of ML/FT. A table of DNFBP sectors and designated supervisors is found below.

DNFBP	Number of licensed entities	Supervisory Body
Notaries	308	Ministry of Justice
Attorneys (Advocates)	Approximately 4000 Lawyers 57 Legal studios	The National Chamber of Advocates of the Republic of Albania
Independent auditors and auditing firms	157	GDPML*
Independent accountants and accounting firms	More than 2,000	GDPML*
Persons and casinos organizing prize games including persons organizing internet prize games	1 casino 19 games of chance	Supervision Unit of the Games of Chance.
Real estate agents/agencies	42	GDPML*
Trusts; legal person registration service providers	No trusts in existence, number of company service providers unknown	No designated supervisor
Dealers in precious metals; dealers in precious stones	Unknown	GDPML*

*The GDPML has not been specifically designated as the supervisory agency for these sectors but has conducted outreach and/or examinations in these sectors.

1124. Law on the Legal Profession in the Republic of Albania (Law no. 9109, dated July 17, 2003) governs the regulation of the legal profession in Albania and outlines the powers of the National Chamber of Advocates. The Chamber of Advocates has shared responsibility for registering advocates with the Ministry of Justice and oversees disciplinary proceedings when attorneys act in a contrary manner to the requirements of legal provisions that regulate the activity of advocacy, violate the Code of ethics for lawyers or other rules established by the National Chamber of Advocates and lawyers' chambers. It is unclear whether these disciplinary powers extend to AML/CFT obligations. Article 24 (d) of the AML/CFT Law identifies the National Chamber of Advocates as the AML/CFT supervisor for lawyers. No specific mention of AML/CFT is made within the Law on legal professions. The Chamber did not make themselves available during the assessment team's visit nor did they provide information on their AML/CFT activities. No AML/CFT examinations have been undertaken by the Chamber.

1125. Notaries are regulated through a licensing regime introduced and controlled by the Ministry of Justice. The Law on Notaries (Law no. 7829, dated June 1, 1994) regulates the notary profession as well as the activities of the National Chamber of Notaries. The Chamber of Notaries has the power to revoke licenses and plays a role in AML/CFT education. Article 24 (e) of the AML/CFT Law empowers the Ministry of Justice to supervise the Notaries sector on AML/CFT obligations.

1126. The Ministry of Justice's inspection plan is principally established on the basis of public complaints. In these cases, the Sector for the Inspection of Justice Implementation (SIJI) undertakes on-site inspections of notaries who are reported to have made a violation according to the complaint. SIJI also undertakes thematic inspection, when several violations of the same nature have been identified through public complaints. In these cases, SIJI undertakes general on-site inspection of all notaries belonging to all Chambers of Notaries. The aim of these inspections is to identify possible violations and to elaborate the necessary measure to be taken in order to prevent these violations in the future. AML/CFT is incorporated in the scope of on-site inspections. No AML/CFT violations have been identified by the SIJI.

1127. Article 24 (f) indicates that "relevant authorities" are the supervising authorities for the real estate, accounting and precious metals and stones sectors. "Relevant authorities" is not defined in the legislation. The GDPML has indicated that it serves as the supervisory agency for real estate, accounting and dealers and precious metals and stones although this assignment of responsibility is not specifically outlined in the AML/CFT Law and can be changed without an amendment to the law. It should be noted that discussions are underway to designate a new Board responsible for the oversight of the accounting sector as the supervisory authority for AML/CFT. The change in designated authority is expected to occur without any change to the AML/CFT Law.

1128. The FIU has four officers assigned to AML/CFT inspection. The FIU has undertaken a number of examinations in the DNFBP sector. The numbers of examinations conducted by the FIU are as follows:

Entities Inspected	**2006**	**2007**	**2008**	**2009**	**2010**
Notaries	-	17	42	7	13
Real Estate Offices	-	-	-	31	7
Accountants	-	-	13	-	-
Casinos/Games of Chance	9	7	11	2	5
Lawyers	-	-	-	5	2
TOTAL	**9**	**24**	**66**	**45**	**27**

1129. It is worth noting that Article 22 of the AML/CFT Law empowers the GDPML to ensure compliance with reporting requirements and to apply sanctions for non-compliance. The wording of the provision does not empower the FIU to ensure compliance with all AML/CFT obligations.

1130. Although the GDPML is working to implement a risk-based approach to supervision, it is at the early stages of implementation and conducts primarily rules-based on-site inspections. Examinations in the DNFBP sectors usually last one to three days with two to three employees participating in the inspection. All requirements are reviewed during the inspection including client identification, record keeping, internal controls, training, and reporting.

1131. The GDPML has started to undertake off-site supervisory activities. These activities are targeted to entities that will be subject to an on-site inspection. Off-site inspection activities include: sector analysis to which entity belongs and the ML/FT exposure; the review of all available data of the GDPML database's; analysis of previous inspections (if applicable); analysis of VTR-s

reported from other legal entities; the use of open source information as visual media, internet, print media; use and analysis of data from the commercial register (NRC); analysis and verification of the self assessment report.

1132. The GDPML indicates that it applies a risk based approach when selecting obliged entities for on-site inspection although for high risk sectors most if not all entities are examined. Priorities are set according the sector's level of risk and responses from entities to self declaration reports. Entities that were found to have a significant amount of violations in previous inspections are also included in the annual inspection plan.

1133. Inspections have been focused on real estate, casinos and games of chance as well as notaries. A small number of examinations (5) have been conducted in the legal profession. No examinations have been conducted for dealers in precious metals and stones. Based on the intelligence gathered during the assessment visit resources appear to be focused on the highest risk sectors.

***Sanctions (R. 17)**:*

1134. Article 27 of the AML/CFT Law provides for sanctions to address non-compliance with the AML/CFT Law. Sanctions range from lek 100,000 (~US$1, 000) to lek 5,000,000 (~US$50, 000) and can be applied to both individuals and legal entities. When a legal entity is involved provisions are in place to apply sanctions to employees, administrators and managers of the entity. Article 26 empowers the GDPML to request the suspension or revocation of an entity's license when it believes that the entity is involved in money laundering or when the entity repeatedly commits administrative violations.

1135. The GDPML has been applying sanctions related to reporting and other obligations. Sanctions applied to non-reporting obligations go beyond the GDPML's authority to supervise on reporting obligations although no sanctions have been appealed on those grounds.

1136. The following tables outline the administrative penalties that were given from 2007 to 2010.

YEAR	SECTOR	AMOUNT (LEK)
2007	Casino	1,000,000
	Games of Chance	500,000
2008	Casino	10,000,000
	Games of Chance	50,000
	Games of Chance	500,000
	Games of Chance	100,000

	Games of Chance	300,000
	Games of Chance	150,000
	Accounting Firm	200,000
	Accounting Firm	200,000
	Notary	50,000
	Notary	100,000
	Notary	100,000
	Notary	100,000
	Notary	50,000
	Notary	100,000
	Notary	300,000
	Notary	100,000
	Notary	50,000
	Notary	1,000,000
	Notary	100,000
	Notary	1,000,000
2009	Games of Chance	5,000,000
	Notary	100,000
	Notary	100,000
	Notary	300,000
2010	Games of Chance	500,000
	Games of Chance	500,000
	Notary	650,000
	Notary	330,000
	Notary	710,341

	Notary	215,300
	Notary	1,091,600
	Notary	100,000
	Real Estate	1,710,545
	Real Estate	444,800
TOTAL		**7022,387**

1137. The GDPML has applied 36 sanctions in the notary, games of chance, real estate and accounting sector. 58% of those sanctions were applied in the notary sector. Some entities have expressed concern at size of the fines related to reporting and some sanctions have been appealed on the grounds that the fine applied are not proportionate to the violation.

1138. Most sanctions are being appealed. Sanctions that are overturned are mostly due to procedural issues. Concerns were expressed that penalties were not proportionate to the violations. A sanction was applied for lek 1,710, 545 (US$17, 000) for a first time violation related to the non-reporting of two transactions that occurred within 24 hours. The case has been appealed to the Courts.

Effectiveness:

1139. The designation of supervisory authorities is confusing and ineffective. Designated authorities do not acknowledge their role in AML/CFT supervision and have taken no action to conduct inspections in their sector of responsibility which impacts the effectiveness of the supervisory regime. Sectors that do not have a licensing authority have been designated a 'relevant authority' which can change apparently at anytime. The GPDML is currently filling the role of 'relevant authority' for the real estate, accounting and DMPS sectors but has indicated that this may change (without legislative amendment) if a functional supervisor is in place.

1140. The lack of commitment towards AML/CFTsupervision from the SUGC increases the ML vulnerabilities in an already vulnerable sector. The concerns expressed by the GDPML regarding the level of compliance of the one licensed casino were not recognized by the SUGC during the on-site visit. Illegal casinos operate with impunity and the SUGC has demonstrated a lack of understanding of AML/CFT obligations and risk. An inconsistency exists between the AML/CFT Law that allows the GDPML to recommend license revocation to the SUGC and the Law on Games of Chance which does not allow licenses to be revoked in cases of repeated non-compliance with AML/CFT obligation. Furthermore, due diligence regarding owners and beneficial owners of casino is insufficient.

1141. The Chamber of Advocates is not taking a very active role in AML/CFT supervision. No targeted AML/CFT inspections have been conducted in the area of AML/CFT and there has been no engagement with industry with respect to AML/CFT obligations.

1142. The Ministry of Justice has included AML/CFT in its complaints based examination. However, the thoroughness of the examinations must be called into question given that no violations have been identified during examinations. This would appear to be inconsistent with the findings of GDPML examinations and the great potential for customer due diligence deficiencies given the number of transactions facilitated by notaries. As noted with SUGC the Chamber of Advocates and the Ministry of Justice need to acknowledge their responsibility with respect to AML/CFT supervision, increase their knowledge of AML/CFT vulnerabilities and undertake targeted inspections.

1143. The FIU has undertaken some supervisory activities in the lawyers, notaries, casino and real estate sector focusing its attention on the highest risk sectors. The scope of examinations conducted by the GDPML is comprehensive. All reporting entities interview indicated that inspections were conducted in a professional and constructive manner. Off-site activities have started to be incorporated in the GDPML's activities although they are only focused on entities subject to future on-site examinations. The off-site activities should be expanded to a broader number of activities. Given the large number of entities that the GDPML supervises it may also be a method to examine a greater number of entities. The coverage rate for real estate, casino and notaries are high sometimes surpassing 100% coverage over a four year period.

1144. Sanctioning powers appear to be comprehensive. Sanctions have been applied in 30% of DNFBP inspections although most have been appealed. Some entities have expressed concern that penalties are not proportionate and do not take into account the size of the business risking to drive some entities out of business. The application of some sanctions does appear to be disproportionate to the violations identified particularly when outreach to some DNFBP sectors has been limited and no guidance for non-reporting obligations has been published.

1145. No risk assessment of DNFBP sectors has been undertaken. This would help supervisory agencies focus their attention on higher risk sectors given limited resources.

1146. As noted in other parts of the report additional training and guidance is required to support obliged entities. Understanding of AML/CFT obligations is low in the DNFBP sector and the GDPML's emphasis on sanctioning may have a negative impact on SAR reporting if entities exclusively focus on threshold reporting for fear of receiving a sanction. It may also damage the relationship that the GDPML has with obliged entities that are the main source of its information holdings.

Guidelines for DNFBPs (applying c. 25.1):

1147. Guidance provided to reporting entities appears to be limited to the documentation providing guidance on reporting issued by the FIU and detailed in Recommendation 26 of this report. No guidance has been issued with respect to customer due diligence, record keeping and internal control requirements. The effectiveness of the guidance provided on reporting can also be called into question given the limited number of reports submitted by the DNFBP sectors.

1148. As noted earlier in the section the absence of guidance has created confusion as to when client identification requirements are triggered. The absence of guidance on what is considered

a business relationship and an occasional transaction (the two identification triggers) may lead reporting entities to fail to identify clients when they are required to do so by law.

***Adequacy of Resources—Supervisory Authorities for DNFBPs (R.30)**:*

1149. Adequacy of resources has been stated as an issue for the SUGC. The SUGC has indicated that it lacks the capacity and expertise to undertake AML/CFT supervision.

1150. AML/CFT training is required for the SUGC, Ministry of Justice and the Chamber of Advocates. These supervisors have limited understanding of AML/CTF obligations and risk for their sector.

1151. Although the GDPML has been able to conduct an impressive number of examinations with limited resources, the off-site and entity assistance program would benefit from additional resources.

4.3.2. Recommendations and Comments

1152. The authorities should:

- Designate a supervisor for real estate, accountants, and DPMS. The AML/CFT Law currently allows for designations of supervisors to be reassigned without a legislative change. This should be avoided in future designation provisions to ensure that obliged entities are aware of who their designated supervisor is.
- Require designated supervisory authorities to develop an action plan on how AML/CFT supervision will be integrated into their existing activities as well as undertake more AML/CFT inspections.
- Review the casino license revocation provisions to allow license revocation in repeated instances of non-compliance with AML/CFT obligations.
- Strengthen measures to prevent criminals or their associates from holding a controlling interest in casinos or games of chance and include the screening of key individuals by the conducting of criminal background checks on all shareholders, managers, and beneficial owners' family members and close associates.
- Clarify in the AML/CFT law the authority of the GDPML to conduct inspections related to compliance to AML/CFT requirements other than non-reporting requirements.
- Publish guidance targeted to DNFPBs on all AML/CFT requirements.
- Implement a tiered sanctions regime that is proportional taking into account the size of the entity and the severity of the violation.
- Confer additional supervisory resources to the SUGC and the GDPML.

1153. The authorities should also consider:

- Establishing a supervisory working group for all AML/CFT supervisory authorities to engage functional supervisors, coordinate supervisory activities, exchange inspection results, and ensure consistency in the application of AML/CFT obligations.

- Taking a more cooperative approach to supervision by limiting the application of sanctions to willful or repeated non-compliance and providing training to all DNFBP sectors.

- Conducting a risk assessment of DNFPB sectors in order to determine an appropriate supervisory strategy.

- Implementing AML/CFT training for individuals conducting AML/CFT supervision in the Ministry of Justice, Chamber of Advocates and the SUGC.

4.3.3. Compliance with Recommendations 24 and 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R.24	**PC**	• Measures to prevent criminals from holding a significant interest in a casino are not comprehensive. • Legal authority designating DNFBP supervisors is ineffective and needs to be clarified. • Inspection results and sanctions applied by the GDPML are vulnerable to challenge given its limited supervisory authority. • Sanctions applied are not proportionate. Effectiveness: • Sanctions for casino are not effective or dissuasive. • Designated supervisory authorities do not take an active role in AML/CFT supervision.
R.25	**PC**	• Guidance has not been provided for non-reporting requirements

4.4. Other Non-Financial Businesses and Professions—Modern, Secure Transaction Techniques (R.20 – rated NC in the 2006 MER)

1154. The July 2006 Assessment Team determined that AML/CFT measures needed to be implemented for non-financial businesses including transportation businesses, the trading of precious and antique things, the administration of third party property, travel agencies and the construction industry. AML/CFT efforts and measures to reduce cash were seriously undermined by restrictive interpretations of certain concepts such as whether cheques are considered transactions for AML/CFT

requirements purposes. It was recommended that the requirement for legal persons to disburse/pay amounts above lek 300,000 through the banking system applies to all types of payments.

4.4.1. Description and Analysis

Legal Framework:

- Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917, dated May 19, 2008), herein after "AML/CFT Law".
- Law on the tax procedures in the Republic of Albania (Law no. 9920, dated May 19, 2008).

Other Vulnerable DNFBPs (applying R. 5, 6, 8-11, 13-15, 17 & 21 c. 20.1):

1155. Article 3 of the AML/CFT Law extends AML/CFT requirements to a number of non-financial business and state authorities. Article 59 of Law on tax procedures in the Republic of Albania imposes a prohibition on cash transactions over lek 300,000 (~US$3,000).

1156. The following categories and professions (in addition to those categorized as DNFBPs) are included as obliged entities under the AML/CFT Law and required to comply with reporting and other preventive measures: hippodromes, evaluators of immovable property; entities involved in buying and selling of art master pieces, or buying and selling in auctions of objects valued lek 1,500,000 or more; trade of motor vehicles; transportation and delivery of goods; and travel agencies.

1157. The GDPML has conducted a significant number of examinations related to non-financial businesses and state agencies. The table below provides an annual breakdown of supervisory activities.

Entities inspected	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Construction Companies	-	-	-	5	63	16
Travel Agencies	-	26	-	4	-	-
NPO	-	16	-	1	-	-
Car Dealers	-	12	19	12	7	5
Assessors of Immovable Property	-	-	-	-	5	-
TOTAL	**0**	**54**	**19**	**22**	**75**	**21**

1158. As explained in Recommendation 24, the GDPML is taking a risk based approach to supervision focusing on the highest risk entities although in high risk sectors a higher coverage rate is at times applied. This approach is also taken with non-financial entities not covered by the standard.

Focus has been placed on construction companies, car dealers, travel agencies and NPOs. Based on the findings of the assessment team resources appear to be focused on the highest risk sectors.

1159. On-site examinations are conducted by two to three inspectors and can last from one to three days. All AML/CFT requirements are examined including identification requirements, record keeping, internal controls, training and reporting. A written report of findings is left at the end of the examination. Sanctions have been applied in non-designated sectors.

Modernization of Conduct of Financial Transactions (c. 20.2):

1160. Article 59 of Law No. 9920 (May 19, 2008) "On the tax procedures in the Republic of Albania" prohibits tax payers, natural persons and legal persons from conducting buying or selling transactions when the value of the transaction is greater than lek 300,000 (US$ 3,0000).

1161. Albania established in 2006 a national program to control the movement of cash currency in the Republic of Albania. As part of this initiative the Bank of Albania has undertaken several operational and reformatory initiatives to reduce cash transactions with an ultimate goal of combating the informal economy.

1162. The Bank of Albania has implemented two payment systems to facilitate interbank payments. A project for the automation of transfer orders (budget expenditures) from the Ministry of Finance directly into the payment system of the Bank of Albania was finalized in March 2010. This initiative provides the necessary technical and regulatory infrastructure for the transfer of funds to the public through the commercial banks. Companies are required to pay salaries via the banking system.

1163. In November 2009, the Albanian Association of Banks and the Bank of Albania provided for consideration to the Ministry of Finance a set of recommendations/regulatory measures for cash reduction in the economy, which were proposed from the public-private project-working group on the reduction of Cash Transactions in Albania. The working group recommended an education campaign highlighting the cost and other disadvantages of using cash as well as implementing measures to increase non-cash payment methods. In addition, the working group proposed regulatory measures to be taken by public institutions in three areas: tax control and tax policies for private businesses; the payment methods and instruments in the Public Administration Offices; and transfers of public benefits to citizens. The status of these proposals could not be ascertained by the assessment team.

1164. The Albania State Police (ASP) has been engaged in stopping the illicit trade of currency and non-declaration of money. From 2008 to 2010 the ASP has detected a large number of offences related to illegal currency trading and non-declaration of cash with a number of arrests having been made.

Illicit Trade of Currency & Non-declaration of money						
Criminal Offences	**Criminal Offences identified**	**Criminal Offences Detected**	**Perpetrators Total number**	**arrested**	**In free state**	**Left the scene**
2008	173	173	174	44	130	0
2009	122	122	142	34	108	**0**

2010 (Jan-Oct)	93	93	93	7	86	0
SUMARY	**388**	**388**	**409**	**85**	**324**	**0**

1165. The lek 5,000 (~US$50) is the largest banknote issued by the Bank of Albania which would appear to be reasonable given the economy of the country.

Effectiveness:

1166. Albania remains a cash based economy. In its 2006 National Program to Control the Movement of Cash Currency in the Republic of Albania it was estimated that only 25 -30% of the transactions pass through the banking system, and over 30% of the economy in the country is estimated to be informal.

1167. The illegal exchange of currency and the non-declaration of money remains a persistent problem. The assessment team was able to observe illegal money exchanges in operation. Various private sector companies also confirmed the existence of currency transportation channels where currency is transported into Albania through long haul passenger buses with the cash not being declared when crossing the border.

1168. Authorities appear to understand the risk associated with illegal money exchangers and the non-reporting of currency at the border. Efforts undertaken by the ASP in conducting investigations in these areas are a positive step in starting to address these issues. It does not appear however that these efforts have significantly impacted the occurrence of these activities.

1169. Albania has extended AML/CFT obligations to a large number of non-financial businesses many of which have been recognized by both the authorities and the private sector as being at high risk of ML.The GDPML has invested significant resources to ensure that compliance with these obligations have been met. Inspections have been concentrated to the highest risk sectors most notably construction companies, car dealers and travel agencies.

1170. Despite all these efforts it is unclear whether these efforts have had any concrete impact given the importance of the informal economy and the prevalence of cash in Albania.

4.4.2. Recommendations and Comments

1171. The authorities should consider:

- Enforcing the requirement requiring taxpayers, physical or legal commercial persons, not to engage in cash transactions where the amount is in excess of lek 300,000.
- Fully implementing the recommendations of the public-private project-working group on the Reduction of Cash Transactions in Albania.
- Requiring that all notarized transactions be conducted through a notary's trust account.

4.4.3. Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	**PC**	• Illegal trade of currency and non-declaration of money persists as a significant problem.

5. LEGAL PERSONS AND ARRANGEMENTS & NON-PROFIT ORGANIZATIONS

5.1. Legal Persons—Access to Beneficial Ownership and Control Information (R.33, rated NC in the 2006 MER)

5.1.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1172. The 2006 MER noted that Albania had no measures in place, at the creation/registration stage, to prevent the use of legal entities for ML/FT (the MER noted, inter alia, the lack of a computerized system, issues related to bearer shares and the lack of AML/CFT policies for the registrar of Companies). The MER recommended enhancing the requirements for the establishment of companies, to provide for a clear basis to report to the registrar changes related to the companies and to review the regime of bearer shares.

Legal Framework:

- Civil Code.
- Law no. 9723 of May 3, 2007 "On the national registration centre" (hereinafter: "law on registration").
- Law no.9879 of February 21, 2008 "On Securities".
- Law no. 9901 of April 14, 2008 "On entrepreneurs and companies" (hereinafter: "law on companies").
- Law no. 8788 of May 7, 2001 "On non-profit organizations" (hereinafter: "NPO Law").
- Law no. 8789 of May 8, 2001 "On the registration of non-profit organization" (hereinafter: RNPO Law").

Measures to Prevent Unlawful Use of Legal Persons (c. 33.1):

1173. As mentioned under Section one of this report, the Civil Code (Article 26) provides for the following types of legal persons:

- Companies (these are limited liability companies (LLC) and joint stock companies (JSC))
- Associations
- Organizations
- Foundations, and
- "Other entities of private character, which acquire legal personality in the way provided by law".

1174. There are two mechanisms on which Albania relies to ensure transparency of beneficial ownership and control of legal persons. The first one is a system of central registration: for commercial entities (LLC and JSC) a central, computerized registration system which is maintained by the National Registration Center (NRC); for associations and non-profit organizations (NPO) a central, non-computerized registration system which is maintained by the Tirana Court of First Instance. The law on Securities also provides for a Registrar on Securities. In addition to a registration system, the second mechanism that Albania employs is to rely on investigative power of its law enforcement authorities (Albanian State Police-ASP and General Prosecutor's Office-GPO).

1175. The following sections detail the kind of data that is required for the beneficial ownership and control of legal persons in the registration system.

Registration of Commercial Entities

1176. The Law on registration established the NRC, a central public institution subordinated to the Ministry of Economy, Trade and Energy. The NCR maintains the Commercial Register (CR), an electronic database where all entities that perform economic activities (including companies that are legal persons) must be registered. Registration and processing of data which is submitted to the CR is carried out through a computerized system. According to Article 19 of the Law on registration, the CR "shall include data concerning the incorporation, life and cessation of the registered Subjects, any amendment of their status and organization, data concerning the representation of the registered subject, as well as other data provided by law". The legal personality is acquired upon registration in the CR.

1177. Prior to 2007 commercial companies were subject to the same registration procedure envisaged for the associations and NPOs (discussed later on: registration at the Tirana District Court or at the District Courts located in the district where the commercial company had its headquarters). After the establishment of the NRC and of the CR and pursuant to the transitional regime envisaged by Article 75 of the law on registration, the district courts (as well as other authorities that held data relevant for commercial companies, such as the General Tax Directorate - GTD for the tax identification number and related information) were required to send the information they held on commercial companies "in hard copy and in electronic" format to the NRC. It is not clear if this process was completed (or if sanctions exist for non compliance with the transitional regime

requirements)[89]. With regard to ownership and control, the following data is subject to compulsory initial registration for all commercial entities that are legal persons (Article 32 law on registration[90]):

d) identification data of the founders	h. Identification data of the responsible persons for the administration and representation of the company in relation to third parties, the representation competences and the terms of their office; i. Specimen of signature of the persons representing the company in front of third parties.

1178. The authorities explained that "identification data" includes birth certificate, identity card or passport (notarized copies, which are scanned and loaded into the system, are used to verify the information).

1179. In addition to these data, the law on registration requires also the bylaws of the company and the act of incorporation and, if these are not to be found in these documents, the law specifically requires the submission of the "acts of appointing the bodies of the company" (Article 28). However an exception is made inter alia, for LLC which, in lieu of depositing the bylaws (with the indication/composition of the internal bodies of the company) can submit a signed declaration[91]. The law does not require that this declaration be notarized.

[89] Authorities indicated that the NRC is unable to identify the entities that have completed the re-registration. Authorities also indicated that the number of legal persons identified by the NRC that were registered at the Tirana District Court before the NRC was created was of 43,082 entities; and that the number of natural persons registered at the Tirana District Court was of 164,852 entities. Regarding entities that have not met their specific legal terms for re-registration, the authorities stated that the NRC has acted upon its legal rights (article 75 of the law 9723, Dt. 05/03/2007 "For the National Registration Center") to display them as deregistered in a complete list on its official webpage.

[90] "The following data shall be provided for the initial registration of commercial companies:
a. Name;
b. Form;
c. Date of incorporation;
d. Identification data of the founders;
e. Headquarters;
f. Object, if determined;
g. Duration, if determined;
h. Identification data of the responsible persons for the administration and representation of the company in relation
to third parties, the representation competences and the terms of their office;
i. Specimen of signature of the persons representing the company in front of third parties".

[91] Article 28.4
"Unlimited partnerships, limited partnerships and limited-liability companies may register also by filing only the application form for initial registration completed with all the mandatory data in accordance with the present law, the identification documents of the members or partners, and by signing the relevant declaration for the
(continued)

1180. Specific provisions also exist for the registration of branches and representation offices of foreign companies[92].

1181. There are also provisions that detail additional compulsory data required for LLC (inter alia: the participation in the share capital of each shareholder); for JSC (inter alia: the number of subscribed shares by each shareholder) and, in the case of a JSC with a public offer of the shares (the JSC must also file before the initial registration the identification data of the incorporators).

1182. Article 43 of the law on registration provides that each subject performing the initial registration is obliged to register every modification of previously registered data; however an exception is made for JSC in that JSC are not obliged to notify each transfer of shares, but they are nevertheless required to provide "together with the annual balance sheet and the audit report" (hence once a year) an updated list of registered shareholders with regard to nominative shares, and the total number of shares.

1183. Non-compliance with these requirements is subject to a fine of lek 15,000 (appr. US$150).

Registration of Associations and NPOs

1184. Before describing the applicable requirements in the case of associations and NPOs, it should be noted that the existing regime (registration of all associations and NPOs operating in Albania at the Tirana District Court) has been in force since 2001. Between 1994 and 2001 registration of associations and NPOs was done at the District Court were the HQ of the association/NPOs was located; prior to 1994 the registration system was fragmented among the competent ministries (based on the activities undertaken by associations/foundations). Although the RNPO law has a transitional regime that required District Courts to transfer all the registration documents (including the documents annexed to the registration), authorities indicated that this process was somehow flawed and that it cannot be excluded that not all the

acknowledgement, acceptance and application of the legal provisions in force concerning the organization and functioning of the type of company being registered. In such case, the application for initial registration and the above mentioned declaration, signed by the partners, members or by the authorized persons to act on their name and behalf, substitutes the incorporation act and the by-laws of the company".

[92] Branches and representation offices of foreign companies register by filing the application for initial registration
completed with all the required data in accordance with the present law, as well as:
a) incorporation act and by-laws of the parent company, in case these are drafted in two different documents, orthe equivalent act of incorporation in accordance with the foreign law as well as all subsequent amendments;
b) document certifying the registration of the foreign company in the foreign jurisdiction;
c) document certifying the current state of the foreign company, issued within 90 days, with its registration andrepresentation data, including the evidence of any liquidation and/or bankruptcy procedures;
d) audited balance sheet and audit report of the foreign company for the last financial year, compiled in accordance with the standards required in the foreign country, if the foreign company has performed businessfor at least one year;
e) decision or other acts of the competent body of the parent company according to the foreign jurisdiction for the opening of the branch or representation office. The acts mentioned in this point are substituted by the application for registration in case the person requiring registration is at the same time the competent body to act alone in the name of the foreign company"

registrations/documentations maintained at the District Courts have been conveyed to Tirana. The same obligation existed when the system was changed in 1994, but authorities indicated that not all Ministries maintaining registrations/documents for associations/NPOS they were responsible for were sent to the District Courts.

1185. With regard to the data required for registration under the old regime, it should also be noted that, prior to the entry into force of the NPO and RNPO laws the provisions applicable were those of the civil code (which are minimal, as they mainly refer to the internal "bodies" of the associations/NPOs) and also established "practices" at each District Court (which were made necessary because of the lack of specific provisions in the civil code). The data required by the civil code and by these practices is partially different from the data required under the current system. Moreover, while an obligation exists under the current regime (to an extent), to report subsequent changes, no such obligation existed under the previous regime.

1186. As a result, the documentation maintained by the Tirana district court concerning associations/foundations established prior to 2001 may not be fully reliable (and, as discussed later on, not current).

1187. Under the RNPO the application for registration (Article 22) should include, inter alia, the identity of the founders and "its leaders" (ie the directors). The registration of the association/NPO is done by a judge, who checks that all documents required by the law have been provided and are complete (authorities indicated that this check extends also to the verification that the person who are indicated in the bylaws of the foundations correspond to the identification data provided). Once the judge decides whether to grant the authorization for registration, the association/foundation is "registered" in a register (hard copy). Article 31 indicates what the various entries of the register should consist of inter alia: the members of the "leading organs" and subsequent changes; the person(s) authorized to legally represent the association/NPO and subsequent changes; name of founders and members of the association (and subsequent changes). However, there is no sanction for non compliance with the obligation to report subsequent changes. In practice, the implementation of this requirement is very uneven. Authorities explained that when subsequent changes are communicated, they are registered and the documentation required is annexed to the file.

1188. As mentioned earlier, the register is kept in a hard copy. A query can be made only by the registration number; it is very difficult to do queries to the registers using the name of the association/foundation. Authorities indicated that limited information is available on the register itself, most of the information would be in the documentation annexed to the request of registration, in the files. Communications of subsequent changes and supporting documentation, if done, would be found also in the files.

Registration of Securities

1189. The Law on Securities establishes a Registrar. According to article 126 "Subject to the securities it has received a license for, the Registrar shall provide the service of registering securities, by organizing the method of keeping the register in such a way that it shall ensure at any time full data on the security ownership and limitations to ownership rights over them".

1190. According to this provision the Registrar shall, inter alia, "organize the registration of transactions and relevant changes, so that it can identify at any time the data on the last owner of rights and the conditions that lead to a limitation to the securities ownership rights".

1191. The "Albanian Share Register Center", which operates since 2002, maintains the Registrar of the shares issued by joint-stock companies share.

1192. The "Albanian Share Register Center" provides other services to registered companies, such as:

- Announcement of general meeting of shareholders assembly
- Dividends calculations
- Confirmation of the updated situation at any time of the account of each shareholder[93].

Access to Information on Beneficial Owners of Legal Persons (c. 33.2):

1193. The information on the CR is publicly available, including online. For more detailed information that may not be found online the Albanian State Police (ASP) can have access to the information directly from the NRC. For information on beneficial ownerships that may not be current or accurate (for example in the case of JSC a transfer of shares prior to the yearly communication of the list of shareholders, or for information concerning commercial entities incorporated prior to the entry into force of the law on registration) the relevant information can be searched/compelled directly at the headquarters of the company, under the legal provisions described in the analysis of Recommendation 28. The Law on Securities provides that securities (including shares) should be registered electronically in "specialized centers for the registration of securities"[94]. Article 13 of the law on securities indicates the data that should be maintained in the "electronic records on the shares".[95]

[93] The Article 126 of The Law "On Securities" defines the Functions of the Registrar. These functions are:
1- organize the registration of transactions and relevant changes, so that it can identify at any time the data on the last owner of rights and the conditions that lead to a limitation to the securities ownership rights;
2- sign agreements and cooperate with security issuers;
3- ensure the confidentiality of the recorded data, unless stipulated otherwise
by the legal provisions in power;
4- perform other functions, as per the registry articles of association and regulations, as related to its main functions.

[94] Article 6 of the law provides that "securities shall be registered in specialized centers for the registration of securities, which shall be organized in line with this Law and licensed by the Authority to operate as securities registries.
Securities shall be issued, transferred and kept as electronic records at securities registries, in the way prescribed in this Law and as per the rules adopted by the Authority".

[95] Electronic records of shares in the securities registries shall contain the following data:
1. Type of the shares;
2. Issuance date;

(continued)

1194. The exercise of such powers would be more challenging in the case of associations and NPOs, because of the incompleteness/inaccurateness of the data maintained by the Tirana District Court. While access to the information can be considered timely, not in all instances the information on beneficial ownership and control is accurate or current (especially in the case of associations/NPOs and in the case of companies that issue bearer shares, as discussed later).

Prevention of Misuse of Bearer Shares (c. 33.3):

1195. Prior to the adoption of the law on securities and the law on companies, commercial entities that were legal persons (JSC) could issue shares in bearer form. There is no indication in the relevant legislation that shares cannot be issued in bearer form or that shares must be in nominative forms. The law on securities as well as the law on registration refer to "classes of shares" and, in requiring the yearly submission of the updated list of registered shareholders they refer to the list "with regard to nominative shares". The private sector representatives spoken to pointed out that for JSC with public offer it would be typical that the shares offered to the public are in bearer form. There is no indication that authorities have undertaken a risk assessment to ensure that bearer shares are not misused for ML nor have authorities determined how many such shares are in circulation.

Additional Element—Access to Information on Beneficial Owners of Legal Persons by Financial Institutions) (c. 33.4):

1196. The data concerning commercial companies can be queried online and an extract can be obtained. For the reasons explained earlier not in all instances the information available on beneficial owners of legal persons would be current. Access to information on beneficial owners of associations and NPOs can be accessed through a written request to the office in the Tirana District court responsible for the register. However the information available may not always be reliable, nor current.

Effectiveness:

1197. The introduction of the NRC and the informatization of the data collection concerning commercial companies have substantially improved the transparency of the commercial legal companies and the access to data concerning beneficial worship. However, the lack of sanctions for the transitional regime (which could result in missing information for companies established prior to the reform), the fact that the statutory sanctions for not providing the information required in case of subsequent changes are extremely low (and do not constitute an effective deterrent to encourage the provision of information) constitute shortcomings that may affect the reliability/accuracy of the information maintained by the NRC. The voluntary character of the requirement to disclose to the

3. Name, head office and registration number of the issuer in the Company Register;
4. Shareholder:
    a- for individuals: name, home address and Birth certificate or passport number,
    b- for legal entities: name, head office and Commercial Registry number;
5. Number of issued shares;
6. Nominal value of issued shares;
7. Date of entry of the shares in the share registration center.

NRC subsequent transfers of shares in the case of the JSC (although such information is presented once a year) may also constitute an hindrance to the availability of up-to-date information concerning change in ownerships.

1198. The regime of registration of NPOs is of particular concern, in that it does not allow for the registration and maintaining of accurate and up-to-date information concerning beneficial ownership and control.This hampers law enforcement's capacity to get prompt and timely access to this information.

1199. The availability of bearer shares, in a scenario in which it is unknown the number of such shares in circulation and in which no evaluation of the ML-related risks has been conducted by the authorities, present a risk of ML/FT.

5.1.2. Recommendations and Comments

1200. Authorities should:

- Conduct a review to ensure that all required information for companies established prior to the reform has been made available to the NRC.
- Establish sanctions for the transitional regime-related obligations (commercial companies); increase the existing sanctions so that they are dissuasive (commercial companies); establish dissuasive sanctions for non compliance with the requirements to provide information (associations and NPOs).
- Reform the system of registration of associations and NPOs, similarly to the reform that took place with the commercial companies and the establishment of the NRC, to ensure that beneficial ownership and control information is adequate, accurate and current.
- Conduct a review of the information maintained by the Tirana District Court to ensure that the files contain all the information required by the law and that this information is accurate and up-to-date, especially for those associations/NPOs established prior to 2001.
- Conduct a risk assessment concerning bearer shares and take appropriate measures to ensure that they are not misused for ML/FT (for example consider "dematerializing" bearer shares).

5.1.3. Compliance with Recommendations 33

	Rating	Summary of factors underlying rating
R.33	**PC**	• Issues regarding the accuracy/adequacy of data concerning beneficial ownership and control information of legal persons (especially associations and NPOs), which hinders LEAs' access in a timely fashion to these data. • Availability of bearer shares and lack of measures to ensure that they

		are not misused for ML/FT.

5.2. Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34)

5.2.1. Description and Analysis

1201. Albanian law does not recognize legal arrangements such as trusts and Albania is not a signatory of the Hague Convention on the Law applicable to Trusts and their Recognition.

5.2.2. Recommendations and Comments

NA

5.2.3. Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
R.34	**NA**	

5.3. Non-Profit Organizations (SR.VIII)

(SR VIII – rated NC in the 2006 MER)

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1202. The main shortcomings identified by the 2006 MER were that there were no measures in place to prevent the unlawful use of NPOs in relation to ML/TF. Specifically, there had been no review of the risks they pose and no policy for supervision.

1203. Albania appears to have taken no additional steps in relation to supervision of the NPO sector since the Third Round MER, or in relation to the information held about them. The legislation in place is the same as it was then, and Albania now reportedly has 1651 registered NPOs.

1204. NPOs are now classified under the AML/CFT Law as a class of customer to which enhanced due diligence measures should apply, but this does not address the criteria of SR VIII.

Legal Framework:

- Law no. 8788 dated May 7, 2001 “On non-profit organizations”, hereinafter “NPO Law”.
- Law no. 8789 dated May 7, 2001 “On the registration of non-profit organizations”, hereinafter “RNPO Law”.
- Law no. 9917 dated May 19, 2008 “On the Prevention of Money Laundering and Terrorism Financing”, hereinafter the “AML/CFT Law”.

5.3.1. Description and Analysis

Review of Adequacy of Laws & Regulations of NPOs (c. VIII.1):

1205. Albania has not been able to demonstrate that it has carried out a review of the adequacy of its laws relating to NPOs, although the fact that NPOs are now classed as a category of customer to which enhanced due diligence applies (Article 8 para 3 AML/CFT Law) demonstrates an awareness of the potential risks involved.

1206. However, discussions with the Albanian authorities revealed an increasing level of awareness of the activities of NPOs in the country. In particular, the State Intelligence Service ("SIS") indicated that they felt NPOs were vulnerable to infiltration from religious extremists. Since 1990, when religious observance was permitted, Albania saw an influx of NPOs, including those relating to religious groups. The development of NPOs was both useful and to be expected at this time, some were found to be linked to countries in the middle-east and Gulf States.

1207. In addition, NPOs are required to be registered with the tax authorities, and must declare donations received and the number and names of their employees. Each NPO is given a tax reference number.

1208. Branches of NPOs are found in many rural areas, and they should be registered with their local tax authority. The General Tax Directorate reported that there were cases of NPOs that were operating local branches without being registered locally, as they might not want to declare certain donations, or might not want the authorities to know who their donors are or who are the employees who work for them. In addition, the tax treatment of NPOs is apparently not favorable, which might lead some not to declare donations.

Outreach to the NPO Sector to Protect it from Terrorist Financing Abuse (c. VIII.2):

1209. Albania reports that the FIU has issued advisory papers and typologies based on national and international experience in relation to terrorist financing in the NPO sector. The authorities report that, as part of the Project Against Corruption, a draft best practices paper has been prepared on how to better protect the NPO sector from the threat of terrorist financing, and steps have been taken to increase transparency. No further details were made available to the assessment team. The authorities report that the draft is being discussed with the NPO sector and will be published on its website and in paper form. No timeline has been provided as to when this work will be completed.

1210. As NPOs are not themselves "obliged entities" under the AML/CFT Law, it would appear that the FIU's outreach is aimed more at the obliged entities themselves, who are required to treat NPOs as clients to whom enhanced due diligence should be applied.

Supervision or Monitoring of NPOs that Account for Significant Share of the Sector's Resources or International Activities (c. VIII.3):

1211. There is no active monitoring of the activities of NPOs in Albania. This was a deficiency noted in the Third Round MER, and it would appear that the situation is the same now, and that the few legislative provisions governing the formation and registration of NPOs has not changed.

Information maintained by NPOs and availability to the public thereof (c. VIII.3.1):

1212. The NPO Law states that NPOs only acquire full status when they have been registered in accordance with the law (Article 13). NPOs are required to have charters which set out, inter alia, identification information and the purpose and field of activity of the NPO.

1213. The RNPO Law states that NPOs are required to register with the Court of the Judicial District of Tirana. It is not clear, on the face of the legislation, what information is recorded in the register, as this is left to the discretion of the Minister of Justice (Article 9). Discussions at the Court confirmed that the application for registration (Article 22) should include, inter alia, the identity of the founders and "its leaders". The registration of the NPO is done by a judge, who checks that all documents required by the law are provided and complete (authorities indicated that this check extend also to the verification that the person who are indicated in the bylaws of the NPO correspond to the identification data provided). Once the judge decides whether to grant the authorization for registration the NPO is "registered" in a register (hard copy) Article 31 indicates what the various entries of the register should consist of. These include details of the members of the "leading organs" and subsequent changes; the person(s) authorized to legally represent the NPO and subsequent changes; name of founders and members of the NPO (and subsequent changes).

1214. This appears to be solely a registration requirement, with no qualitative check of the information provided. The register is open to the public.

1215. Given the problems identified (see Recommendation 33) of updating the information in the register, it appears that the information required to be kept by NPOs is unreliable.

1216. Article 16 of the NPO Law requires several matters to be recorded in the NPO's establishment act, including the "source and value of property", and Article 35 further sets out that sources of income for NPOs can be from donations and economic activity by the NPO itself. This information is not held at the Court of First Instance, and the assessment team was told that this is the responsibility of the General Directorate of Tax. No further information was provided as to what role the General Directorate plays in the oversight of the tax activities of NPOs.

Measures in Place to Sanction Violations of Oversight Rules by NPOs (c. VIII.3.2):

1217. There is a power to dissolve and de-register an NPO in cases of where the members or "competent state organ" request it (NPO Law Article 44) in circumstances where, inter alia, the NPO performs illegal activity. There is no definition of "competent state organ".

1218. The authorities were not able to demonstrate that this had happened in practice.

1219. In addition, Article 22 lett. (j) of the AML/CFT Law permits the FIU to freeze accounts, and the authorities point to this power as one which they can use to freeze the account of an NPO.

1220. There are no specific parallel civil, administrative, or criminal proceedings available to NPOs or persons acting on their behalf.

1221. No outreach has been undertaken by the authorities to the NPO sector.

Licensing or Registration of NPOs and Availability of This Information (c. VIII.3.3):

1222. As detailed above, NPOs only acquire full status when they have been registered in accordance with the NPO Law (Article 13).

1223. Under the RNPO Law, NPOs are required to register with the Court of the Judicial District of Tirana. This is solely a registration requirement. The register is open to the public, and thus the information is available to the competent authorities. Again, the accuracy of the information is a matter of some concern, as little verification takes place except a basic check that the people who are named in the by-laws of the foundations correspond to the identification data provided on registration.

1224. The register itself contains limited information, and cannot be searched by the name of the NPO (only by the registration number). Information on the NPO's charter etc. is stored in an annex to the register.

Maintenance of Records by NPOs and Availability to Appropriate Authorities (c. VIII. 3.4):

1225. The Albanian authorities report that the FIU and law enforcement authorities are able to access information relating to the founding of the NPO, including the source and value of the funds used to fulfill the purpose of the entity.

1226. There is, however, no requirement for the NPOs to maintain details of domestic and international transactions that would enable the authorities to verify whether funds have been spent in a manner consistent with the objectives and purpose of the organization.

Measures to Ensure Effective Investigation and Gathering of Information (c. VIII.4):

1227. The measures available in Albania for gathering information and investigating the activities of NPOs are based on the Chapter III of the Criminal Procedures Code.

Domestic Cooperation, Coordination, and Information Sharing on NPOs (c. VIII.4.1):

1228. Albania reports that the FIU co-operates with the Intelligence Service and the Ministry of Interior regarding terrorist financing risks, and that information has been and is shared between these agencies.

Access to Information on Administration and Management of NPOs During Investigations (c. VIII.4.2):

1229. The investigative measures available under the Criminal Procedures Code (see Recommendation 28) are available in relation to investigations regarding NPOs.

Sharing of Information, Preventative Actions, and Investigative Expertise and Capability, with Respect to NPOs Suspected of Being Exploited for Terrorist Financing purposes (c. VIII.4.3):

1230. The Prosecution for Serious Crimes is empowered to handle investigations relating to the financing of terrorism, and Albania reports co-operation between this body, the FIU and State Intelligence Service.

1231. The State Intelligence Service reported that it has co-operated with the FIU in obtaining information on NPO activity. Sixty requests for information about NPOs had reportedly been referred to the FIU, and the FIU had provided responses relating to 18 of these. The FIU reports that these requests relate to NPOs that are deemed to be most vulnerable to the potential misuse for money laundering and terrorist financing and their responses to the requests were provided under Article 22 of the AML/CFT Law.

Responding to International Requests Regarding NPOs—Points of Contact and Procedures (c. VIII.5):

1232. No specific provisions apply, but the Directorate for International Relations at the General Prosecutor's Office is empowered to deal with international requests. No information was provided by the authorities to confirm whether this is happening in practice.

Effectiveness:

1233. Discussions with the Albanian authorities demonstrated that there was a information known by some the authorities about NPOs and the TF threat they posed in Albania. In particular, the State Intelligence Service demonstrated a good awareness of the history of NPOs with suspected Islamic links in Albania.

1234. However, although these efforts are to be commended, they appear to be a tactical response to the threat rather than strategic measures to identify and counter the overall potential TF threat of NPOs operating in Albania.

1235. Given the influx of NPOs with a religious background after 1990, the Albanian authorities should have a more co-ordinated and reliable system for identifying and tracking the activities of NPOs operating there.

1236. Financial institutions are now required to treat NPO clients as requiring enhanced due diligence measures. However, compliance with this requirement appears to be uneven, and this, coupled with an overall lack of SARs relating to TF show that measures for dealing with NPOs require tightening.

1237. As noted under SRII, Albania had cause in the early 2000s to freeze assets of terrorist financiers, to curtail the activities of suspect Islamic NGOs, and to expel individuals suspected of having links to terrorism. Discussions with the authorities revealed that the fall of the Communist regime led to a growth of religion and the emergence of some Al Qaeda operatives. In addition, the presence of Islamic non-governmental organizations was noticed, some of which were believed to be fronts for Al Qaeda-linked activities. This, couple with the shortcomings noted above and in Recommendation 33 on the information registered in the Court of First Instance, leads the assessors to conclude that NPO sector in Albania remains vulnerable to the influence of terrorist financiers, and that further action by the authorities is needed.

5.3.2. Recommendations and Comments

1238. The authorities should:

- Carry out a full risk assessment to establish what the TF risks are in the sector;
- Establish, on the basis of the above review, whether the current measures in place for recording and accessing information relating to NPOs are proportionate to the TF risks they pose;
- Improve the accuracy of the registration process for NPOs, including some form of verification of the information recorded and a sanctionable system for failing to update this information;
- Develop a system for supervising or monitoring NPOs on the basis of the risk they present.

5.3.3. Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	**NC**	• No review of the NPO carried out; • Lack of demonstrated outreach to the sector; • Weakness of registration requirements; • No supervision of NPOs; • No requirement for NPOs to maintain records of transactions.

6. NATIONAL AND INTERNATIONAL CO-OPERATION

6.1. National Co-operation and Coordination (R.31)

6.1.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1239. The 2006 MER indicated that the use of the various existing coordination mechanisms should be enhanced. No evaluation of the ML problem and patterns had been undertaken and more effective approaches to reduce current ML vulnerabilities had been devised.

Legal Framework:

- Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917, dated May 19, 2008), hereinafter "AML/CFT Law".
- National Strategy on the Investigation of Financial Crimes (Council of Ministers Decision no. 1077, October 27, 2010).
- Law on some amendments and additions to the Law on organization and functioning of the Judicial Police (Law no.1030, dated July 15, 2010).
- Criminal Code (Law no.7895, dated January 27, 1995 updated).
- Code of Criminal Procedure (Law no. 7905, dated March 21, 1995 updated).
- Memorandum of Cooperation between the General Prosecutor, Ministry of Interior, Ministry of Finance and National Intelligence Service has decided to establish the Joint Investigative Unit to investigate economic crime and corruption in Tirana (Memorandum of Cooperation no. 2953, dated May 22, 2007).
- Memorandum of Cooperation for the establishment of 6 new Joint Investigation Units structure comprising the Judicial District Prosecutor Durres, Vlore, Fier, Shkoder, Korce and Gjirokaster (Dated May 6, 2009).
- Joint Agreement on coordination and interaction between the structures of State Police, the Customs Administration, Tax Administration and the Administration of Road Transport usage during the control and supervision in the Republic of Albania, on combating organized crime, economic crime and corruption between the Ministry of Interior (General Directorate of State Police), Ministry of Finance (Directorate General of Customs and the Directorate General of Taxation) and Ali (General Directorate of Road Transport Exploitation) (Joint agreement no. 3368, signed November 10, 2005).

Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1):

1240. Article 23 of the AML/CFT Law establishes the Coordination Committee against Money Laundering (herein after: Committee). The Committee is responsible for the planning and the direction of general state policy in the area of prevention and fight against money laundering as well as terrorism financing. The Committee is chaired by the Prime Minister and consists of the Minister of Finance, the Minister of Foreign Affairs, the Minister of Defense, the Minister of Justice, the General Prosecutor, the Governor of the Bank of Albania, the Director of the State Information Service as well as the Director of High Inspectorate for the Declaration of Assets. The Committee must convene at least once a year to deliberate and analyze the reports on the activities performed by the competent authorities operating in the field of money laundering and terrorist financing. It last convened in July 2010 and appears to respect its annual meeting schedule.

1241. A working group has been established to support the activities of the Committee which is chaired by the General Director of the General Directorate for the Prevention of Money Laundering (GDPML) and is comprised of representatives from all the Ministries involved in the coordination committee. The Financial Supervision Authority (FSA) is also present within this working group that supports the Committee. The committee meets every two months to discuss the status of implementation of the action plan as well as operational issues with respect to financial crime including issues relating to supervision. The working group also ensures policy coordination for AML/CFT matters. It has been involved in considering policy proposals and reviewing proposed changes to the AML/CFT Law.

1242. The National Strategy on the Investigation of Financial Crimes outlines seven objectives: 1) formulation and harmonization of the legislation with international standards and recommendation of international organizations; 2) further enhancement of the effectiveness of the control and oversight in the ML /TF area; 3) increase the professional level and human capabilities of the state institutions involved in the investigations of financial crime; 4) effective evidencing and documentation of the financial crime investigation; 5) enhance inter-institutional and international cooperation; 6) enhancement of the public's awareness regarding the importance of the fight against financial crime as well as the role of the institutions; and 7) strengthening of the preventive capabilities of the law enforcement agencies and the establishment of the appropriate mechanisms to his end. The Committee is responsible for the implementation of the strategy.

1243. The objectives identify key areas were improvements and enhancements would be beneficial. The action plan provides additional details on activities that should be undertaken, the implementation period and the impacted entities. It provides a good roadmap to focus the activities of initiative partners. The timelines for completion are extremely broad potentially diluting the effectiveness of the action plan.

1244. Constructive collaboration between AML/CFT law enforcement and intelligence partners appears to be in place. Bilateral meetings appear to occur regularly between the GDPML and the Albanian State Police (ASP), State Intelligence Service (SIS), General Prosecutor's Office (GPO), General Directorate of Customs (GDC), High Inspectorate for the Declaration and Auditing of Assets (HIDAA) and the General Directorate of Taxation (GDT). The ASP and the GPO appear to be in close contact given the role of the GPO in registering cases. These collaborations appear to have been strengthened by the establishment of the Joint Investigation Units which are comprised of all of these entities.

1245. The relationship between the General Directorate of Customs and the GDPML is improving. A number of acts, memoranda of cooperation and joint agreements govern the collaboration between these agencies (refer to Legal Framework above). Cooperation is facilitated through exchanges of information, joint checks and the conduct of joint investigations. Cross border declarations were not filled out systematically but following outreach targeted to specific border crossings the quality of reports has been improving.

1246. However some issues have been noted related to roles and responsibility of the ASP and GPO given the GDPML's past practice of providing disclosures directly to the GPO without involving the ASP. As noted in a previous section the newly established practice of sending ML related disclosures to the ASP with a copy to the GPO should be maintained to avoid future confusion with respect to roles and responsibilities.

1247. The assessment team has determined that cooperation between supervisory agencies and the GDPML appears to be less developed. Although some bilateral meetings have occurred between the GDPML and all the functional supervisors, information exchange between these bodies appears to be limited. The GDPML provides the BoA, the Supervision Unit of the Games of Chance (SUGC) and the Minister of Justice with annual inspection results and a list of sanctions applied in the relevant sector. Some joint examinations have been conducted between the GDPML and the SUGC and FSA. Joint examinations of all 17 banks were undertaken with the BoA. Despite this bilateral level of cooperation there is no coordinated approach to AML/CFT supervision. Examination plans are not exchanged and there is no coordination on the application of the AML/CFT Law.

1248. Functional supervisors in the DNFBP sectors such as the FSA, SUGC, the Minister of Justice for notaries and the Chamber of Advocates are not engaged with respect to their legislatively mandated role regarding AML/CFT supervision. It was confirmed during the on-site visit that entities were not aware that these functional supervisors are the designated authority for AML/CFT supervision, no inspections have been conducted by these agencies on AML/CFT and supervisory information is not shared between the GDPML and these agencies.

1249. The BOA can respond to requests from the GDT and the GPO following a documented request. The BoA can also entertain requests from other state agencies provided that the request includes details on the purpose and use of the information requested.

Additional Element—Mechanisms for Consultation between Competent Authorities and Regulated Institutions (c. 31.2):

1250. Relationships with Self Regulatory Organizations have been established by the GDPML. A number of meetings have been held with the Bankers' Association, Chamber of Notaries, the Chamber of Advocates, the associations representing accountants and auditors to discuss AML/CFT implementation. However, other than consultations with Albanian Bank Association these fora are focused on the implementation of existing obligations rather than consultation on newly developed initiatives. No formal mechanisms for consultation between competent authorities and regulated institutions have been established.

Statistics (applying R.32):

1251. Disseminations is one mechanism to measure the level of domestic cooperation between the GDPML and law enforcement agencies. The table below details the disseminations disclosed by the GDPML to the ASP and the number of cases registered by the GPO related to these disclosures. The statistics highlight a progressive increase in disseminations since 2007.

Number of Annual Disseminations Disclosed to Police and Prosecutors					
	2006	**2007**	**2008**	**2009**	**2010**
Referred to Albanian State Police	11	5	46	135	137
Number of cases registered by the GPO based on GDPML disseminations	3	2	26	59	41

1252. The GDPML also provides intelligence to the SIS has highlighted in the table below detailing information provided to the SIS from January to October 2010.

Number of Dissemination from GDPML to SIS	
Month	**Number Of Disseminations**
January	2
February	9
March	1
April	3
May	4
June	11
July	4
August	4
September	1
October	3
TOTAL	**42**

Resources – Policy Makers (applying R.30):

1253. The Committee is responsible for ML/FT policy development. The Legislation and Inspections Unit of the GDPML in conjunction with the Legal Department of the Ministry of Finance supports the Committee by coordinating policy development with respect to AML/CFT. Two officers are assigned to the Legislation Unit of the GDPML. Information on professional standards, confidentiality and training related to GDPML employees is outlined under Recommendation 26. The resources allocated to policy development appear to be adequate.

Effectiveness:

1254. Deficiencies identified in the last mutual evaluation have largely been addressed. The establishment of the National Coordination Committee against Money Laundering has been a positive development focalizing AML/CFT activities. A National Strategy for the Investigation of Financial Crime has been approved and a working level group has been established to support the activities of the Committee and implement the national strategy. The working level group also serves as a forum to discuss operational matters.

1255. Although many concerted steps have been undertaken to implement the strategy some shortcomings have been identified. The implementation timeframe is too long. The strategy does not focus on the issues that exist within the judiciary. Implementation in the areas of evidencing and documentation, public awareness initiatives and asset recovery are only at the preliminary stage.

1256. Efforts to undertake a national risk assessment have not yet been initiated. The GDPML has been designated in the action plan as the lead agency. It is expected that the risk assessment will be completed by 2011. The risk assessment will play an important part in determining whether current activities undertaken by authorities are targeted to the highest risk sectors.

1257. Domestic cooperation and coordination mechanisms are widely used and constructive working relationships appear to be in place between the GDPML, the ASP and the GPO. The establishment of the JIUs has been heralded by all partner agencies as a positive development and collaboration between all law enforcement and intelligence partners has been enhanced as a result.

1258. Cooperation between supervisory agencies needs to be enhanced. Although the some bilateral relationships have been established between the GDPML and the functional supervisors, there are no mechanisms in place to exchange results of examination or avoid duplication of inspection activities. Functional supervisors are disengaged and, in the some instances, barely acknowledge their role in AML/CFT supervision.

1259. The gathering of statistics has improved. Information on GDPML disseminations to law enforcement, the number of cases initiated by the ASP and the number of cases registered by the GPO are accessible since the establishment of the regional JIU offices in 2009. However, statistics provided by different agencies can at times vary. A more coordinated approach to statistics gathering is required. Statistics prior to 2009 were not maintained as consistently.

6.1.2. Recommendations and Comments

1260. The authorities should:

- Conduct a review of the effectiveness of the AML/CFT system and conduct a national risk assessment to inform the future strategies on the investigation of financial crimes as well as provide guidance to obliged entities on the specific AML/CFT vulnerabilities in place in Albania.

- Establish a forum between the GDPML and other designated AML/CFT supervisors to engage functional supervisors, coordinate supervisory activities, exchange inspection results, and ensure consistency in the application of AML/CFT obligations.

- Include the GDPML and other supervisory bodies in the Committee to ensure that supervisory concerns are properly reflected in the national strategy.

- Designate an authority responsible for the collection of statistics related to AML/CFT.

1261. The authorities should consider:

- Reviewing timelines related to the National Strategy for the Investigation of Financial Crimes to provide more precise timelines in order to accelerate implementation and increase the strategy's effectiveness.

- Establishing a consultation mechanism with obliged entities to review policy proposals developed by the authorities as well as to discuss the implementation of AML/CFT requirements.

6.1.3. Compliance with Recommendation 31 & 32 (criterion 32.1 only)

	Rating	Summary of factors underlying rating
R.31	**LC**	• Domestic cooperation and coordination mechanisms for supervisory agencies are not effective. • Composition of the Coordination Committee against Money Laundering is not comprehensive.
R. 32	**PC**	• Statistics gathering is not coordinated resulting in inconsistencies in the data.

6.2. The Conventions and UN Special Resolutions (R.35 & SR.I)

6.2.1 Description and Analysis

Legal Framework:

Ratification of AML Related UN Conventions (c. 35.1):

1262. Albania signed and ratified the Vienna Convention in 2000 and the Palermo Convention in 2002. Ratification of the Vienna Convention is by Law No. 8722 of December 26, 2000. Ratification of the Palermo Convention is by Law No. 8920 of July 11, 2002.

Ratification of CFT Related UN Conventions (c. I.1):

1263. Albania signed and ratified the UN Convention on the Suppression of the Financing of Terrorism in 2002. Ratification is by Law No 8865 of March 14, 2002.

Implementation of Vienna and Palermo Convention (Articles 3-11, 15, 17 & 19, c. 35.1); Implementation of Palermo Convention (Articles 5-7, 10-16, 18-20, 24-27, 29-31 & 34, c. 35.1):

1264. The provisions of the Vienna and Palermo Conventions that require criminalization of ML have been implemented in the Albanian legal system through CC provisions Articles 287 and 287/b. They comply with most Convention requirements but issues as described in the discussion of Recommendation 1 remain including predicate offences insider trading and market manipulation not covered, limitations "to stolen goods" in the criminalization for acquisition of proceeds, no extension to self-laundering in the case of some Article 287/b offences, and some ancillary conduct not covered.

1265. In addition, there is a question regarding the effective application of the provisions as few ML cases have been instituted. The limitations for confiscation, mutual legal assistance and extradition are as noted in the discussions in the relevant sections of this report.

Implementation of SFT Convention (Articles 2-18, c. 35.1 & c. I.1):

1266. The provisions of the SFT Convention relating to the criminalization of FT have been implemented to some extent through the adoption of Articles 230/a and 230/d of the Criminal Code. The provisions taken together implement many but not all Convention requirements as described in the discussion of SR II because of, among others, a failure to cover all of the acts that constitute offences under the annex to the Convention and issues regarding specific purpose or intent requirements.

1267. The limitations for confiscation, mutual legal assistance and extradition are as noted in the discussion in the relevant sections of this report.

Implementation of UN SCRs Relating to Prevention and Suppression of FT (c. I.2):

1268. As discussed under Special Recommendation III, Albania implements UNSCR 1267 and through its Law on Measures for the Suppression of Terrorism Financing (Law No. 9258 of July 15, 2004). Although there is an administrative system that can effect freezes at least in a UNSCR 1267 context, there are issues regarding the legal basis in the case of UNSCR 1373 matters, irregular schedule of updating on lists, inadequate guidance and supervision and other issues as identified in the discussion under SR III.

Additional Element—Ratification or Implementation of Other Relevant International Conventions (c. 35.2):

1269. Albania has signed and ratified a number of other relevant Council of Europe and other conventions:

- 1961 UN Single Convention on Narcotic Drugs, as amended by the 1972 protocol.
- 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.
- 2005 Council of Europe Convention on Action against Trafficking in Human Beings.
- 2005 Council of Europe Convention on the Prevention of Terrorism.
- 2001 Council of Europe Convention on Cybercrime and its Additional Protocol.

- 1999 Council of Europe Criminal and Civil Law Conventions on Corruption.
- 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.
- 1983 Council of Europe Convention on Transfer of Sentenced Persons.
- 1970 European Convention on International Validity of Criminal Judgments.
- 1972 European Convention on the Transfer of Proceedings in criminal matters.
- 1977 European Convention on the Suppression of Terrorism.
- 1959 European Convention on Mutual Legal Assistance in Criminal Matters and its two protocols.
- 1957 European Convention on Extradition and its two Protocols (and signed its 2010 Third Additional Protocol).

6.2.2. Recommendations and Comments

1270. The authorities should:

- Criminalize ML so that it is fully in line with the Vienna and Palermo Conventions. See the discussion under Recommendations 1 and 2 above. Among other things, the authorities should address:
    - Issues on coverage for self-laundering in the case of some Article 287/b offences.
    - Use of proceeds restricted to financial and economic activities in Article 287.
    - Limitation of Article 287/b to stolen goods.
    - Some required ancillary activity not covered.
    - Consequent limitations for confiscation, mutual legal assistance and extradition.
    - Improve effectiveness by securing additional convictions.
- Criminalize the FT so the offence is fully in line with FT Convention. See the discussion under Special Recommendation II above. Among other things, the authorities should address the following:
    - That not all terrorist actions required to be covered are covered.

- The issues with intent requirements ("intended to cause" not clearly covered); some intent and purpose requirements extended to Annex 1 acts; application to government agencies rather than government).

- The lack of clarity that the offence provision applies regardless of whether the terrorist act is actually committed or attempted.

- The lack of clarity that the financing prohibited extends to the full extent of "funds" as that term is defined in the FT Convention.

- Address issues relating to UNSCR implementation that are identified in the discussion under Special Recommendation III above. Among other things, the authorities should address the following issues:

  - That the legal basis in the case of UNSCR 1373 matters is uncertain.

  - Those provisions for challenging a listing in UNSCR 1373 context are not adequate.

  - The absence of provisions/mechanism to address requests for subsistence.

  - The inadequate legal basis for some supervision.

  - Effectiveness issues (irregular schedule of updating on lists, lack of guidance and inadequate supervision).

6.2.3. Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	**PC**	**Vienna and Palermo Conventions:** Criminalization of ML not fully in line with Vienna and Palermo Conventions: • Issues on coverage for self-laundering in the case of some Article 287/b offences. • Use of proceeds restricted to financial and economic activities in Article 287. • Limitation of Article 287/b to stolen goods. • Some required ancillary activity not covered. • Consequent limitations for confiscation, mutual legal assistance and extradition. Effectiveness issues: very few convictions.

SR.I	**PC**	**FT Convention:** Criminalization of FT not fully in line with FT Convention: • Not all terrorist actions required to be covered are covered. • Issues with intent requirements ("intended to cause" not clearly covered); some intent and purpose requirements extended to Annex 1 acts; application to government agencies rather than government). • Lack of clarity that the offence provision applies regardless of whether the terrorist act is actually committed or attempted. • Lack of clarity that the financing prohibited extends to the full extent of "funds" as that term is defined in the FT Convention. **UNSCR Implementation:** • Legal basis in the case of UNSCR 1373 matters uncertain. • Provisions for challenging listing in UNSCR 1373 context not adequate. • Absence of provisions/mechanism to address requests for subsistence. • Inadequate legal basis for some supervision. • Effectiveness issues (irregular schedule of updating on lists, lack of guidance and inadequate supervision).

6.3. Mutual Legal Assistance (R.36-38, SR.V)

(R.36 rated LC; R.37 rated C; R. 38 rated PC, SR.V rated PC all in the 2006 MER R.32)

6.3.1 Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1271. The areas of concern identified in 2006 MER were: a lack of clarity that treaties as the European Convention on Mutual Legal Assistance formed a direct basis to provide mutual legal assistance ("MLA"), and took precedence over conflicting provisions of the CPC in executing MLA requests; the reliance on the diplomatic channel to send and receive requests; the lack of adequate domestic provisions to execute foreign requests to seize and confiscate proceeds and instrumentalities, and to recognize foreign decisions for the seizure or confiscation of such assets; the lack of incoming and outgoing requests both in ML/FT matters and in proceeds/instrumentalities-related matters generally; a failure to maintain specific MLA statistics regarding ML/FT matters, and statistics relating to seizure and confiscation requests; lack of guidance to judges and prosecutors on international instruments; and failure to consider sharing of confiscated assets.

Legal Framework:

- CPC Articles 505-523;
- Law No.10193 of December 3, 2009 ("On jurisdictional relations with foreign authorities in criminal matters") ("MLA Law");
- Law No. 10192 of December 3, 2009 ("On preventing and striking at organized crime and trafficking through preventive measures against assets*")* ("Organized Crime Law");
- 1959 European Convention on Mutual Legal Assistance in Criminal Matters and its protocols (taken together "European MLA Convention");
- Vienna, Palermo and FT Conventions;
- 1990 Strasbourg Convention;
- 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism; and
- Bi-lateral mutual legal assistance treaties between Albania and Greece, Italy, "the former Yugoslav Republic of Macedonia", Kosovo and Bulgaria.

Widest Possible Range of Mutual Assistance (c. 36.1):

1272. Albania is a party to the European MLA Convention; the Vienna, Palermo and FT Conventions; the 1990 Strasbourg Convention; and the 2005 Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. It is also a party to a number of bi-lateral mutual legal assistance treaties noted above, but in virtually all instances Albania uses the later European MLA Convention in executing requests with such countries.

1273. Albania is also able to provide assistance on the basis of reciprocity even in the absence of a treaty. The MoJ Central Authority indicated assistance based upon reciprocity is used to permit the provision of assistance when a State is not a party to the European Convention.

1274. As a party to the European MLA Convention, the Vienna, Palermo and FT Conventions and through its bi-lateral treaty relationships, there is a basis to provide MLA to and request assistance from the 48 States who are party to the European MLA Convention and, in the case of drug trafficking, FT, ML and other serious crimes, to an even wider range of States.

1275. Article 122 of the Albanian Constitution provides for the direct implementation of international agreements except in those instances where a law is necessary for the agreement to be implemented. The Constitution also provides that international agreements take precedence over incompatible domestic law.

1276. As MLA is subject to a wide range of legal bases, it is also subject to a range of rules and procedures. If the request is to or from a Council of Europe country, the provisions of the European MLA Convention apply. If the request is from a country with which there is a bilateral treaty, those provisions apply although as noted these treaties in practice are rarely used. If the request is to or from another country, the request can be granted on the basis of reciprocity. In such a case, CPC Articles 505-523 together the MLA Law apply. Even when the European MLA Convention or a bi-lateral treaty applies, the CPC Articles 505-523 and the MLA Law will be applied to the extent these are not inconsistent. Finally, if any of the UN Conventions apply, the provisions in such conventions apply supplemented again by the CPC articles above and the MLA Law as needed.

1277. The MLA Law was enacted since the last assessment. It is meant to supplement the CPC provisions on international requests with the CPC articles taking precedence. The law provides for international judicial cooperation generally, and adds specificity to some CPC provisions. Assistance under the law can be provided regardless of the stage of the investigation.

1278. The MLA law applies "in proceedings that are related to a criminal offence that, at the moment of submission of the request, are in the jurisdiction of the judicial authorities of the requesting state or in the Republic of Albania." Judicial authorities in the case of foreign requests are the authorities that are empowered under foreign law to make such requests. In the case of domestic requests, through a reference to the definition in Albania's law ratifying the European MLA Convention, it is an Albanian prosecutor or court. Articles 3 para. 1 and 2 para. 1 - 2, MLA Law. With these provisions, it is possible to seek assistance early in a proceeding, that is, as soon as a matter is registered. In the case of incoming requests, assistance can be provided as long as the proceeding is at a phase where it is authorized in the requesting country to be made.

1279. Under the CPC, the Minister of Justice decides whether to recommend granting the requested MLA assistance in the case of an incoming request and whether to send an outgoing request. CPC Article 505 provides the Minister may decline an incoming request in the absence of a guarantee of reciprocity. Article 9 of the MLA law also clarifies that no express guarantee of reciprocity is necessary for Albanian authorities to grant the assistance.

1280. In practice, there is rarely a necessity to consider making a declination on the grounds of reciprocity or to make a determination under Article 9 of the MLA Law.

1281. Assuming there is a treaty or other basis for assistance, under CPC Article 505 the Minister of Justice may decide to support foreign requests for "communications, notifications and the taking of proofs." This Article need not be considered in the case of the European MLA Convention requests, however, as the Convention terms would be primary. The MLA Law provides needed clarification regarding the kinds of assistance that can be forthcoming. Article 13 of the MLA Law lists: notification of a summons or order or decision of a foreign court; measures to secure property; questioning of persons including witnesses and defendants; and the temporary transfer of detained persons for questioning; and other investigative actions not prohibited by law.

1282. The MLA Law does not address the production, search and seizure of information, documents and evidence (including financial records) from financial institutions or persons including legal persons. Because the provisions of the European MLA Convention are applied in most all circumstances and because there have been few requests for financial records, the authorities have not

had to face this omission in practice. In addition, a court could conceivably rely on the last kind of MLA, "other investigative actions not prohibited by law."

1283. Article 26 of the MLA Law provides for an Albanian judicial authority, in response to an incoming request, to take preliminary measures to safeguard evidence and objects that are subject to confiscation in order to maintain the existing situation and to protect legitimate interests that may be endangered. In addition, there are provisions for audio and video hearings and for the interim transfer of detainees for the purposes of testimony. Articles 20 – 21, MLA Law. Article 22 permits searches for, and the seizure of, items subject to confiscation. Under Article 23, such items may in certain circumstances be sent to the foreign authority at its request. There are also provisions aimed at protecting third party interests, Albanian-based injured parties and Albanian State interests in any such transfer. Articles 22 and 23, MLA Law.

1284. The MLA Law also provides for the pro-active provision of information and assistance to foreign authorities. Article 27 permits Albanian judicial authorities to provide, on their own initiative, foreign judicial authorities with information on criminal offences gathered in the course of a criminal proceeding so the foreign authority can make a MLA request or open a criminal proceeding.

Provision of Assistance in Timely, Constructive, and Effective Manner (c. 36.1.1):

1285. The MLA Law provides rules and time frames that are aimed at facilitating assistance that is timely, constructive and effective. Article 5 para. 6 requires that local judicial authorities execute requests without delay. Article 10 requires the executing authority to keep the requesting authority informed regarding the progress of execution compared with the time frame requested. Under Article 14, the prosecutor must act within ten days of receipt of the letter rogatory. Although incoming requests must be delivered through diplomatic channels or the mail, they may also be delivered through other appropriate technical means provided receipt of delivery is confirmed. Article 5 para. 5, MLA Law. This means that the Central Authority will accept and forward to the prosecutor requests for assistance even before the formal papers are received. Such papers may come directly to the MoJ Central Authority or through the diplomatic channel.

1286. In the case of outgoing requests, under CPC Article 509 and MLA Law Article 6 para. 2, in cases of urgency, there can also be direct communication between Albanian judicial authorities and a foreign authority. A copy of an outgoing request is sent simultaneously to the Ministry of Justice. However, Albanian prosecutors must await the requested State's official receipt before that State can actually execute the request. Although the requesting State's receipt of the official request is a generally recognized rule for MLA, there can be delays on the Albanian side when the official request must make its way not only to the MoJ but also proceed then through diplomatic channels (Albanian Ministry of Foreign Affairs and onwards) and the request must be translated. CPC at Article 509 requires use of the diplomatic channel for outgoing requests. It is not clear the extent to which, if at all, authorities consider the European Convention to defeat the clear requirement in Article 509.

1287. In the case of a request under the European MLA Convention, incoming requests can also be sent directly to the judicial authority, and that authority awaits the official incoming request through the Albanian MoJ Central Authority.

1288. Pursuant to Article 14 of the MLA Law the MoJ transmits incoming requests to the General Prosecutor within 10 days. In urgent cases, the MoJ may transmit the request directly to the local prosecutor who then submits it to the court.

1289. Article 506 of the CPC provides that the court is to review incoming requests and appoint a person to execute the request. This procedure is used in all cases both those arising under the European MLA Convention and in other instances regardless of whether, given the nature of the request, the prosecutor could execute it without the intervention of the court. Under CPC Article 507 para. 2, CPC provisions are to be used to execute incoming requests. In addition, a foreign authority's special rules or procedures may also be used if not contrary to principles of Albanian law. MLA Law Article 5 para. 6 provides that incoming requests are to be executed without delay.

1290. If a request cannot be executed within the time period requested by the foreign authority, the foreign authority is to be notified through the MoJ (Article 10, MLA Law) and is also informed regarding the expected time frame.

No Unreasonable or Unduly Restrictive Conditions on Assistance (c. 36.2):

1291. CPC Article 505 provides the usual grounds to refuse a MLA request. The grounds apply in all situations unless a bi-lateral or multi-lateral treaty provides otherwise. The MoJ indicated that they view the standards set forth in the treaties and European MLA Convention as virtually the same as those reflected in the CPC. Under Article 8 of the MLA Law, the political offence exception is not available in the case of a crime against humanity or other value protected by international law. The exceptions provided by the CPC do not appear to set forth too wide a range of exceptions. The Minister also reviews outgoing requests, and may decline to forward a request if it is inconsistent with the security or other important interests of the State.

1292. MLA Law Article 9 para. 1 provides the general rule that reciprocity should be assured for MLA to be provided. Article 9 para. 2 however affords the Minister of Justice discretion to forward a request for execution in the absence of a guarantee of reciprocity.

1293. As is addressed under the discussion of Recommendation 37 below, dual criminality is required for a request to be executed. The MoJ Central Authority made it clear that, in evaluating requests for assistance, they do not apply a technical approach or consider each element of the offence under foreign law. Rather, they consider only whether the same conduct is an offence under Albanian law. If it is, they forward the request to executing authorities. The prosecutor confirmed this approach, and in practice very few incoming requests are ever denied. Thus, technical differences between the laws or terminology used will not impede the provision of assistance.

1294. The Central Authority could not recall a matter that raised any issue for them to consider denial on political offence grounds. Were they to receive such a case, they would consider the merits under CPC Article 505 para. 2. They indicated that they have not had experience in receiving MLA requests relating to offenses that could receive capital punishment in the requesting country but if they received such a request they would apply European MLA Convention principles.

1295. The Central Authority indicated only a very few requests are refused. The only ground that could be recalled was lack of dual criminality for certain kinds of speeding offences

where a neighboring country sought assistance. Overall, the assessors considered the MLA framework not to be not subject to any unduly or unreasonably restrictive provisions.

Efficient Processes for Timely Execution (c. 36.3):

1296. In addition to the legal framework set forth above (see discussion under c. 36.1.1) for processing MLA requests, there are practical arrangements in place that seek to ensure the prompt consideration and disposition of requests.

1297. The Central Authority for incoming and outgoing requests is the Department of Foreign Jurisdictional Relations headed by a Director within the MoJ. An International Judicial Cooperation Unit, staffed with four professionals and a unit head, deals with incoming and outgoing requests. In addition there is an Official Translations Unit staffed with a unit head and five specialists. The Central Authority indicated that if an incoming request is urgent, they will deal with it immediately. They indicated they complete a review within 24 hours (and often within just a few hours) and forward the request directly to the appropriate prosecutor or court. They indicated that in the case of non-urgent requests, they forward within five days. The MLA Law at Article 14 para. 1 requires that the MoJ forward such request within at least 10 days.

1298. The authorities indicated that if there are minor deficiencies in an incoming request, they will forward the request on to the GPO and at the same time seek the appropriate clarification. Many requests received are advance copies with the formal request sent by the official means (diplomatic channel or mail). Prosecutors may begin working on these matters but the court authorization does not occur until the formal request is received.

1299. The CPC provisions require that the court consider each request and appoint a person to execute it. This is required even for requests that a prosecutor could execute with the assistance of the judicial police without the intervention of the court.

1300. The International Cooperation Directorate within the GPO receives the MLA requests forwarded by the Central Authority (except in cases of urgency when a request has been forwarded to the prosecutor or court directly). The GPO central office then sends the request to the appropriate prosecutor for the preparation of the necessary notices or court applications. The GPO indicated that requests are forwarded to prosecutors for preparation of the papers in a matter within 24 hours, and prosecutors and courts generally handle the matters expeditiously recognizing the relative urgency of the request. If a matter is not receiving attention, the central GPO office will follow up with the assigned prosecutor. The GPO indicated that most incoming request are executed within three months of the prosecutor's receipt, except where the request is very complex, or where a number of offices must respond in order for a request to be executed, for instance when there must be contact with the many offices for registration of property and they do not all respond in a timely manner.

1301. The GPO confirmed that the courts, which are invested with authority to grant or deny a request, have not been a barrier to the granting of assistance. In general, they grant authorizations and on the whole do so expeditiously so the prosecutor can proceed with the execution of a request.

1302. Documents and other material gathered in execution of an incoming request are then forwarded by the GPO to the MoJ for the onward transmission to the requesting State. In addition, informal copies of important relevant material will be sent to the inquiring authority on an advance basis.

Offences also Involving Fiscal Matters (c. 36.4):

1303. MLA is available for any offence based upon principles of dual criminality and reciprocity (which also may not be required in some instances). This includes fiscal offences.

Provision of Assistance Regardless of Laws Imposing Secrecy (c. 36.5):

1304. The existence of confidentiality does not pose an impediment to the provision MLA in ML or FT cases. In the case of all offences, the authorities can gather documents and information for other States in response to a MLA request to the same extent as they can in domestic investigations. See, discussion under Recommendations 27 - 28 regarding confidentiality.

Availability of Competent Authority Powers for the Execution of Requests (applying R.28, c. 36.6):

1305. The investigative powers required under Recommendations 28 (compelled document production, search and seizure for such documents; power to secure witness statements) in the case of domestic investigation are also available for use in response to MLA requests. Under Article 507 para. 2, all domestic powers under the CPC are available to execute requests, and both the Central Authority and GPO representatives confirmed that this is actual practice.

Avoiding Conflicts of Jurisdiction (c. 36.7):

1306. Although there are no formal mechanisms to determine the best venue for prosecution where an offender is subject to prosecution in more than one country, in practice this is handled by the GPO considering the issues that arise in an individual case with counterparts in other countries.

1307. Also, MLA Law Article 67 provides a legal underpinning for sending a matter to another State for prosecution. It provides for the transfer of a criminal proceeding to the State where a suspect resides in a variety of circumstances where this is an appropriate resolution and respects due process.

Additional Element—Availability of Competent Authority Powers for Direct Requests (c. 36.8):

1308. The powers of authorities under R.28 are available for use when there is a direct request from a foreign judicial or law enforcement authority to their Albanian counterparts. Article 15 of the MLA Law provides that in cases of urgency a letter rogatory may be sent directly to the Albanian judicial authority, who then forwards a copy of the letter to the MoJ. Actual execution of the request must await receipt of the formal request.

International Cooperation under SR V (applying c. 36.1-36.6 in R. 36, c. V.1):

1309. The CPC and MLA Law provisions apply equally in the case of FT.

Additional Element under SR V (applying c. 36.7 & 36.8 in R.36, c. V.6):

1310. See answers to criteria 36.7 and 36.8 above.

Dual Criminality in the Provision of Mutual Assistance (c. 37.1 & 37.2); International Cooperation under SR V (applying c. 37.1-37.2 in R. 37, c. V.2):

1311. Under CPC Article 506 para. 4, an incoming request is to be denied if the facts the foreign authority presents do not equate to a criminal offence under Albanian law.

1312. MoJ representatives confirmed that they require dual criminality for requests even for less intrusive and non-compulsory measures. The only exception is when an international convention or bi-lateral MLA treaty provides otherwise. They did not indicate any treaties to which they were a party or conventions that might permit certain forms of assistance in the absence of the application of the principle of dual criminality and indicated that as a practical matter, dual criminality is always applied.

1313. The authorities confirmed that for those forms of MLA where dual criminality is required and in the case of extradition requests, mere technical differences between the law of the requesting state and Albanian law do not pose an impediment to the provision of assistance. Albanian authorities consider whether the underlying conduct is criminalized in both countries. Representatives of the MoJ indicated that since 2006 there has been only one denial of an incoming extradition request in a ML case and none in a case involving FT. The denial was based upon the fact that proceedings for the same conduct were ongoing in Albania.

Laws and Procedures for Effective Response to Foreign Requests to Identify, Freeze and Confiscate (c. 38.1 and 38.2):

1314. **Foreign Requests for Identification**. Albania's ability to provide MLA in identifying proceeds and instrumentalities is the same as itsability to do this domestically. It has reasonable laws and procedures to identify proceeds, and has assisted foreign States in identifying property. The GPO expects that a recent provision of identification information in response to an incoming request is likely to result in an incoming request to sequester assets. See discussion under Recommendation 3 regarding powers to trace and identify.

1315. **Foreign Requests to Freeze/Seize Assets**. In the case of foreign requests to freeze/seize, CPC Article 517 together with MLA Law Articles 22 and 26 provide for provisional measures and search and seizure of evidence and of anything that ultimately may be confiscated. These provisions relate back to CC Article 36 which identifies what may be confiscated under Albanian law. This extends to the full range of items under the standard including proceeds, instrumentalities used and intended to be used, objects (i.e. laundered property), and corresponding value. It applies in the case of any offence including ML and FT. Under Article 23 of the MLA Law, the items subject to provisional measures including proceeds, instrumentalities and objects, may be delivered to foreign authorities. Article 26 also provides that Albanian judicial authorities may act to protect legitimate interests.

1316. As a matter of practice, the authorities could not recall a request by another State to freeze or seize assets for confiscation but anticipate that there will be such requests going forward as the number of incoming requests is increasing and in particular there have been identification requests that will likely be followed up with requests to sequester. Regarding outgoing matters, Albanian authorities recently requested the restraint of a foreign bank account, and the account has been frozen.

1317. **Foreign Confiscation Requests**. Albanian authorities are able to confiscate at foreign request in some factual situations using the provisions of the CPC (Article 516-518) that permit recognition and enforcement of foreign judicial sentences. These provisions, unchanged since the 2006 MER, are discussed in more detail in the previous report. However, they provide only for recognition of sentences. As described in the previous report, relying solely on these provisions to provide assistance with respect to foreign confiscation requests is problematic as the provisions are not applicable in the wide range of circumstances when a request for assistance with a foreign confiscation would occur but rely on the existence of a foreign criminal sentence.

1318. In summary, CPC Article 513 provides for recognition of foreign criminal sentences and permits, in the recognition and enforcement of such sentences, the enforcement of a convicted defendant's related obligations to return property or compensate victims. Where a State seeks recognition of its confiscation order that is part of a sentence, pursuant to Article 518 para. 4 CPC, the confiscated property may be sent to the State seeking the recognition assuming the foreign State would reciprocate. Since the last assessment, there have been two developments that enhance the possibilities to provide MLA for confiscation. First, the MLA Law now permits the authorities to transfer assets that have been restrained at foreign request to the foreign authority for the purposes of that authority's confiscation action at least where there do not appear to be Albanian-based third party interests or potential compensation claims. This may mean that foreign authorities will not need assistance in confiscating assets.

1319. Secondly, the Organized Crime Law permits the civil preventive confiscation of criminally-derived assets for a range of offences. The authorities indicated that the provisions of this law may be used confiscate assets in Albania based upon foreign request.

1320. There has been no practice with respect to foreign requests relating to confiscation as no such requests have been received.

Coordination of Seizure and Confiscation Actions (c. 38.3):

1321. There are no formal procedures in place for the coordination of seizure and confiscation actions with other countries. To date no coordination of actions has been necessary because as noted above there have been no foreign requests either to freeze or confiscate assets

International Cooperation under SR V (applying c. 38.1-38.3 in R. 38, c. V.3):

1322. See analysis under Recommendation 38 above.

Asset Forfeiture Fund (c. 38.4):

1323. With the December 2009 adoption of the Organized Crime Law, an asset forfeiture fund was created. This law established the fund, prescribed a procedure for determining the use of assets in the fund, and created an agency to administer the assets

1324. With this law, the Agency for the Administration of Seized and Confiscated Assets was created to receive and administer assets. An Inter-Institutional Expert Advisory Committee for Measures against Organized Crime was created to supervise the agency and make decisions on the use of confiscated assets. For fiscal years 2009 and 2010, fifty percent of the income of the fund may be used for legal education programs and programs to prevent criminality. In later years, budgetary determinations will be made according to a procedure established in the law.

1325. Under the law, the agency holds all funds sequestered under the Organized Crime Law and administers them until they are confiscated. The agency also holds funds frozen pursuant to the UNSCRs relating to FT. It does not administer or receive funds or assets that are the subject of criminal freezes or confiscation.

Sharing Confiscated Assets (c. 38.5):

1326. Albania does not have a statutory provision that permits asset sharing, and the general rule is that assets confiscated in Albania would revert to the State. Multi-lateral agreements and bi-lateral treaties or agreements, however, could provide for sharing. No bi-lateral treaties provide for this. Albania is a party to the UN Convention against Corruption and could share in appropriate cases pursuant to its provisions. In addition, should a matter arise, it could enter into a bi-lateral agreement to share with another State. In practice, assets have not been shared, nor has Albania received a share of confiscated assets from other States.

1327. As noted above, if assets are confiscated as part of a foreign sentence that is being recognized and implemented in Albania, it is possible to return those assets to the foreign State if the foreign State could reciprocate in a similar setting.

Additional Element (R 38)—Recognition of Foreign Orders for non-criminal Confiscation (applying c. 3.7 in R.3, c. 38.6):

1328. Recognition of foreign orders is limited to the situation (recognition of sentences) described in the CPC and would not extend to civil forfeiture.

Additional Element under SR V (applying c. 38.4-38.6 in R. 38, c V.7):

1329. See response to criterion 38.5 above.

Statistics (applying R.32):

1330. The only statistics Albanian authorities routinely maintain with respect on MLA is the number of incoming letter rogatory requests received and executed on an annual basis. The authorities do not routinely maintain statistics that show the category of offence (e.g. ML or FT) or the kind of assistance requested or provided (for instance bank records, witness interviews, etc.).

1331. The authorities provided, on a post mission and exceptional basis, the following information on incoming and outgoing requests relating to ML:

Letter Rogatory relating to ML

Year	Incoming	Outgoing
2006	0	0
2007	1	0
2008	4 (executed)	3
2009	8 (5 executed)	6
2010	11 (2 executed)	3

1332. The authorities provided the following statistics regarding incoming MLA requests and execution results for such requests:

	No. of Incomings Requests	No. Executed
2006	839	346 (41.2%)
2007	1057	575 (54.4%)
2008	1095	692 (63.2%)
2009	650	

1333. Regarding FT, the authorities recalled only one request. It was in a foreign investigation of terrorist activities by an Albanian citizen who resided in the United Kingdom. Since the investigation related not only to his activities but also his finances, it falls generally under FT. The Albanian authorities provided assistance pursuant to a UK letter rogatory. UK officials travelled to Albania to participate in witness interviews.

1334. The authorities do not maintain data on the time periods from receipt of a request to the return of results to the requesting State.

1335. It is not possible to conclude based upon this data that the Albanian framework has been effective in practice. The statistics relating to ML requests were not subject to review and analysis on-site and thus there is not sufficient information regarding the nature of the assistance, the timeliness of execution or information on non-executions. The overall statistics do not provide sufficient data to make conclusions.

Effectiveness:

1336. The authorities have taken a major step towards a framework to provide legal assistance more fully, readily and quickly with the enactment of the MLA Law. Moreover, executing authorities indicated a commitment to working in tandem with foreign authorities to facilitate full and timely execution of requests particularly in urgent matters, and generally to ensuring that other States become aware of Albania's substantial ability and willingness to assist in foreign criminal matters. There is emphasis on liasioning with foreign authorities and working with law enforcement officials stationed in embassies in Albania. The authorities continue to work to increase their network of informal contacts which are important both in ensuring that other States make requests and that Albania's requests to other countries are executed. There is, for the first time, an asset forfeiture fund which was created in late 2009.

1337. Prosecutors seem aware of the possibilities of gathering evidence and information through the MLA process. There are outgoing cases in many subject matter areas including drug trafficking, trafficking in persons and murder. Although routine requests are sent from Albania without undue issues, prosecutors do encounter the often-cited problem of lack of timely responses from foreign partners.

1338. In the case of urgent outgoing requests, prosecutors have encountered problems in having the official request sent translated by the MoJ to the foreign authority in time for an execution consistent with the needs of the case. Although the current provisions permit Albanian prosecutors to send requests in urgent cases, the foreign authority must still receive the request in its language or a language acceptable under the applicable arrangements before there can be an execution of the request. The issue stems from a failure on occasion to recognize or accommodate the urgent nature of a request, and the difficulty in securing a translation on a timely enough basis.

1339. Albania continues to have a complex and confusing framework for MLA. It is often not clear whether the provisions and what provisions of the CPC and MLA Law also apply in executing requests under the European MLA Conventions and other treaties or conventions. The CPC articles and MLA Law provisions are not always consistent with (and are more restrictive than) international agreements in particular the European MLA Convention. Although Albanian law is clear that the international agreement is to take precedence, there is often a lack of understanding by the courts and others of the broader and less demanding standards that are reflected in the international agreements. This stems in part from a lack of information about what the agreements contain and their meaning, and from inadequate translations of the materials.

1340. In addition, Albania has taken the necessary steps to ratify many important conventions such as the 2005 Warsaw Convention that relate to an ability to assist foreign partners with MLA in freezing, seizing and confiscation. However, Albania so far has relied largely on pre-existing legal provisions to deal with its obligations to implement such convention obligations and should rather be reviewing and updating domestic provisions so as to fully implement the CoE obligations.

1341. Prosecutors, the judiciary and law enforcement could use written guidance in this area and training with respect to MLA and to Albania's approach and legal standards regarding MLA. These should address the similarities and differences between the various legal instruments, identify when an international instrument is used alone and when and how provisions of the CPC and MLA

Law are meant to supplement it, and emphasize the primacy of the international instruments when they provide a more flexible or different standard.

1342. Although Albania is a party to the Vienna, Palermo and FT Conventions, there did not appear to be a full understanding in the MoJ Central Authority of the potential of these instruments to be used to request and provide assistance to countries outside of Europe where the European MLA Convention would not apply in the case of requests relating to drug trafficking, ML and other serious crimes and FT. The GPO does recognize the potential to make and receive requests based upon the UN Conventions to which Albania is a party. A representative indicated that in at least one instance the Vienna Convention was used as a basis in a matter with a country outside of Europe. The matter involved a controlled delivery.

1343. Although under the Constitution international agreements take precedence, as this applies in the MLA context, however, such agreements and their precedence are not always well understood by the courts or law enforcement generally. The tendency of the courts to apply strict interpretations is exacerbated at times by poor understanding of the wider options available under international instruments. Some of this may also be due to inadequate translations of the international instruments.

1344. The MLA Law also transferred responsibility for the translation of outgoing requests to the GPO and also the translation of materials received from the foreign authority in response to the outgoing request. This occurred without the provision of resources to translate the outgoing requests or material responsive to the outgoing request. This is a serious barrier for prosecutors in securing effective international assistance, and has had a particular impact when a matter has been urgent. Although a temporary solution was found, the resources are apparently neither permanent nor sufficient to deal with prosecutorial needs.

1345. Article 506 CPC has a requirement that each incoming request receive an authorization from the court for an execution to occur, a provision which applies even when prosecutorial powers would be sufficient to execute the request. This slows the execution process and requires significant prosecutorial and judicial resources. The new MLA Law now makes an exception in the case of notifications (notice to individuals they are needed as a witness in a court proceeding elsewhere) at least where the request is made in a specific way set forth in the statute. However the issue remains for other matters that would not otherwise require court intervention for an execution to occur.

1346. There are other barriers to effective assistance. Dual criminality is apparently applied in every instance even though for the requests under the European MLA Convention, which form the majority of requests to Albania, there are many instances when dual criminality should not be required. While this has apparently not had practical effect for denials since the MoJ has found dual criminality in almost all instances, it does reflect a lack of understanding of the international instruments that take precedence. This could also be a drain on resources.

1347. Finally, the new MLA Law at Article 13 did not list as a type of letter rogatory assistance available a request for financial or other relevant records. Because the provisions of the European MLA Convention are applied in most all circumstances and since there have been few requests for financial records, the authorities have not had to face this omission in practice. As noted,

a court could conceivably rely on the last kind of MLA, "other investigative actions not prohibited by law", but the authorities should take steps to remedy this deficiency unless they conclude that they will always be able to grant this kind of assistance using the current framework.

1348. A number of the issues raised in the previous report remain. Although it is clear that the treaty and convention provisions take precedence over domestic provisions, it is often not well understood, as noted above, what those provisions are or in what instances they would need to take precedence on the basis that they are broader than CPC and MLA Law provisions. The MLA Law does provide a clearer basis for executing foreign requests to sequester assets. However the provisions that permit execution of foreign confiscation judgments are unchanged and continue to be problematic. Although the MoJ indicated that there were some MLA requests relating to ML recently, and authorities provided some statistics on a late post-mission basis, it was not possible to discuss the statistics with the authorities or put them in context. The authorities have not undertaken a systematic effort to maintain statistics regarding requests relating to ML and FT or the time frames for execution and ultimate disposition of requests.

1349. Finally, the issues in ML and FT criminalization that are identified in the sections of this report under Recommendations 1 and SR II have potential to have a cascading effect on the provision of assistance since dual criminality is required.

6.3.2. Recommendations

1350. The authorities should:

- Enact provisions that will permit a broader ability to execute of foreign requests to confiscate assets.
- Take any steps necessary to recognize within Albania on a domestic basis that the Vienna, Palermo and FT Conventions (see Articles 7, 18 and 12) may be used as a basis for to seek and grant MLA assistance, and use such provisions if necessary particularly in the case of requests not falling under the European MLA Convention.
- Review existing domestic legal provisions that Albania uses to implement obligations to provide assistance in identification, freezing, seizing and confiscation pursuant to various international instruments to which Albania is a party, determine their adequacy to meet all such obligations, and adopt provisions as necessary to meet fully such obligations.
- Consider amending CPC Article 509 so that the diplomatic channel is no longer required in the case of MLA requests that are executed using this provision.
- Undertake a review of possible barriers to more efficient provision of MLA assistance including the application of dual criminality principles and the requirement for use of diplomatic channels. In this regard there should be an identification of the circumstances (i.e. the legal basis for the request) in which these principles or requirements must be applied. The authorities should then work to eliminate the barriers to the extent possible.

- Address resource and responsibility issues regarding translations for outgoing requests and the materials received in response to outgoing request in a way that ensures there is always timely transmission of outgoing requests and full availability of responsive materials on a timely basis.

- Develop explicit procedures for urgent outgoing requests that ensure that such requests are always identified and handled on an urgent basis.

- Undertake to maintain the full range of statistics regarding incoming and outgoing ML and FT MLA requests, including numbers of requests by category, and disposition including the relevant time periods involved.

- Address the deficiencies in ML and FT criminalization identified in the sections of this report under Recommendations and SR II to avoid cascading effect on ability to provide MLA where dual criminality is applied. For ML, for instance, deficiencies as coverage of insider trading and market manipulation and self-laundering (which does not apply in the case of all kinds of ML offences) and for FT, for instance, the amendments noted as necessary to CC Articles 230/a, 230/d and 230.

- Develop written guidance for prosecutors, law enforcement and the judiciary so that there is a clear understanding of the similarities and differences between the various legal instruments Albania uses to seek and grant MLA and of the international agreements and their broader and wider standards. With this there should be instruction on which provisions of the CPC and MLA Law also apply when the request has a treaty or convention basis. There should also be accurate and widely-distributed translations of international instruments and explanatory materials that are not already in Albanian.

- Through training, improve understanding by the judiciary and law enforcement of the wider options available under international instruments with a view towards addressing the tendency of the courts to apply strict interpretations and standards.

1351. The authorities should also:

- Enact a provision in the CPC and/or MLA Law that addresses more clearly MLA assistance in the production of documents (for instance financial records) unless they conclude that current provisions of the European Convention and MLA Law are adequate in this regard.

- Consider altering the CPC requirement that each letter rogatory must go to the court for an authorization to execute in those matters where a request could be executed using prosecutorial powers.

6.3.3. Compliance with Recommendations 36 to 38 and Special Recommendation V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	**LC**	• The shortcomings identified under Recommendation 1 may limit the Albanian ability to provide MLA.

		Effectiveness issues: • Complex and incompletely understood framework could hamper the provision of MLA. • There are a few practical barriers to more effective provision of assistance for instance, application of dual criminality in all circumstances, necessity of a court order for every execution and occasional use of diplomatic channel. • Statistical information provided is not complete.
R.37	**LC**	• Dual criminality is always applied although legal framework does not require it in all circumstances.
R.38	**PC**	• There continues to be a significan limitation stemming from the legal framework on the ability of the authorities to provide assistance in the confiscation of assets. • The authorities have not yet been able to demonstrate that their provisions are effective, given the absence of relevant foreign requests to sequester or confiscate assets; and there are a few practical barriers to the effective use of provisions in all circumstances because of, for instance, issues with dual criminality and occasional use of the diplomatic channel.
SR.V	**PC**	• The shortcomings identified under SR II may limit the Albanian ability to provide MLA. • Dual criminality is always applied although legal framework does not require it in all circumstances. • For assistance in confiscating assets, there is a limited ability under the current legal framework to execute foreign requests. Effectiveness: • Complex and incompletely understood framework could hamper the provision of MLA. • There are a few practical barriers to more effective provision of assistance for instance, application of dual criminality in all circumstances, necessity of a court order for every execution and occasional use of diplomatic channel.

6.4. Extradition (R.37, 39, SR.V)

6.4.1 Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1352. In the 2006 MER, there was a conclusion that the provisions and procedures for extradition were sound. There was concern that CPC Article 491 para. 3 provided the Minister of Justice too high a level of discretion to refuse an extradition, and that the authorities lacked information regarding extraditions for ML and FT.

Legal Framework:

- 1957 Council of Europe Convention on Extradition, and its 1975 and 1978 protocols ("Council of Europe Convention");
- Bilateral treaties with the United States, Greece, Egypt, Turkey and "the former Yugoslav Republic of Macedonia";
- Articles 10 -11 of the Criminal Code ("CC");
- Articles 488 - 503 (extradition from Albania) and 505 (extradition to Albania) of the Criminal Procedure Code ("CPC");
- Articles 31-52 of the Law No 10193 of December 3, 2009 "On Jurisdictional Relations with Foreign Authorities in Criminal Matters" ("MLA Law").

Dual Criminality and Extradition (c. 37.1 & 37.2):

1353. Albania is a party to the 1957 Council of Europe Convention on Extradition, and its protocols. It also has bilateral treaties with the United States, Greece, Egypt, Turkey and "the former Yugoslav Republic of Macedonia". The authorities indicated they could also extradite on the basis of reciprocity. These treaties provide a legal basis for extradition to and from many States.

1354. Although Albania is a party to the Vienna Convention, the Palermo Convention, and the International Convention for the Suppression of the Financing of Terrorism, the authorities indicated that they would not consider these conventions to be a treaty for the purposes of an extradition request from another State that is a signatory to such conventions.

1355. The CC provisions provide for the authority to extradite persons and to recognize foreign sentences. The CPC and the MLA Law contain the procedural rules for extradition. Treaty provisions take precedence over domestic provisions in the case of any conflict.

1356. Dual criminality is required. Under CC Article 11, extradition shall be granted "when the Albanian law and foreign law provide for the criminal act."

ML and FT as Extraditable Offences (R. 39, c. 39.1 and SR V, V.4):

1357. ML and FT are each extraditable offences. Under Article 11 of the CC extradition is possible on a dual criminality basis for criminal acts. The Council of Europe Convention applies in the case of any offense punishable by at least one year with ML and FT both qualifying. ML is also covered by the bi-lateral treaty with the United States. Bi-lateral treaties with the Arab Republic of Egypt, the Republic of Greece and "the former Yugoslav Republic of Macedonia" provide for extradition based upon dual criminality.

1358. Since dual criminality is a requirement, although both ML and FT are offences under Albanian law, the deficiencies in Albania's criminalization of these offences as set forth in the discussion of Recommendation 1 and SR II could preclude an extradition where the underlying conduct is not covered by the Albanian criminal offence provision.

1359. The MLA Law, which came into force since the 2006 MER, specifies additional details regarding extradition at Articles 31 – 52. These reflect pre-existing requirements of the CC and CPC provisions which remain unchanged. The CC and CPC provisions take precedence as code provisions rather than laws. In the case of extradition, the MLA Law for instance specifies some of the circumstances when extradition may not take place, for instance, if there is no guarantee against a death sentence; if a person has sought asylum in Albania; or if Albanian law provides a sentence of less than a year.

1360. CPC Article 491 para. 3, which provides the Minister of Justice with wide discretion to place conditions on an extradition and was noted as a concern in 2006 MER, remains. Under that provision, the Minister "may impose even other requirements which he considers as appropriate."

1361. In practice, since 2006, extradition has been denied on grounds set forth in the CC Article 11 only twice. In one case, the person was in detention and being prosecuted in Albania. In the second, a 1994 Albanian amnesty law had granted amnesty for the offence that was the subject of the request.

Extradition of Nationals or Transfer of Prosecution (R. 39, c. 39.2 and SR V, c. V.4)

1362. As noted in 2006 MER, under Article 11 of the CC, extradition of nationals is prohibited unless otherwise provided for by an international treaty. In its treaty relationships, only the Albanian – U.S. extradition treaty provides for the extradition of Albanian nationals. Albania has extradited citizens to the US. The authorities indicated that Albania has concluded a treaty with Italy that would also permit the extradition of Albanian citizens. Italy has not yet ratified the treaty.

1363. Under CC Article 6, the provisions of the CC apply to Albanian citizens who commit offences abroad as long as the conduct is concurrently punishable. Thus, Albania may institute (and has in practice instituted) domestic criminal charges based upon a citizen's extra-territorial criminal conduct assuming there is dual criminality.

1364. With the new MLA Law, there is a specific provision in the case of extradition requests relating to Albanian citizens. Article 38 provides that when there is a request to arrest an Albanian citizen, the prosecutor after seeking a temporary arrest is to verify citizenship and notify the MoJ regarding the inability to extradite because of nationality. With this notification, which is sent by the MoJ to the foreign authority, information is provided about the manner of criminal proceeding, through a transfer of proceedings, recognition of a foreign criminal judgment or the sending of the acts and evidence to Albania for action.

1365. In practice, authorities indicated they ask the foreign authority to forward the file so they may undertake a criminal case or forward the final penal decision. The authorities indicated that they regularly initiate proceedings at foreign request both by recognizing foreign decisions and sentences and by opening a criminal case and proceeding on a transfer of proceedings basis.

1366. Although there are no written procedures or policies in place regarding the treatment and processing of such matters, the authorities indicated the incoming matters are treated in a manner comparable with that afforded domestic matters of the same level of seriousness and that they are handled expeditiously.

Cooperation to Ensure Efficient Prosecution in Transfer of Prosecution (R. 39 c. 39.2, 39.3 and SR V, c. V.4)

1367. Albanian authorities indicate that they are able to cooperate on procedural and evidentiary and other aspects of a transferred prosecution. They use all the mechanisms available for judicial cooperation generally. The assessment team concluded that the authorities can and do cooperate in transferred prosecution settings.

Measures and Procedures for Effecting Extradition without Undue Delay (R. 39, c. 39.4 and SR V, c. V.4):

1368. The MLA law sets forth time frames for various steps of the extradition process from the initial receipt of a request, through consideration by the MoJ, prosecutors and the courts to the final disposition by the MoJ. Article 33-34, 40, MLA Law. The provisions should ensure that requests are reviewed and presented to the courts without undue delay and are handled expeditiously once a final court decision has been rendered.

1369. Unless it is refusing a request, the MoJ must forward the extradition request within 10 days through the General Prosecutor to the prosecutor at the relevant court. In a complex matter or one requiring translations, the time period may be extended up to 15 days.

1370. The prosecutor then has 10 days to review before summoning the person to court. When the court's decision on extradition is final, this is forwarded within seven days to the Minister of Justice who orders the extradition after verifying the documentation within 30 days from the date of the decision of the court.

1371. There are measures and procedures that will permit extradition without undue delay, but the assessment team is not able to conclude whether in practice extraditions occur without undue delay as the practice relating to ML and FT is limited. See the statistics section below.

Additional Elements – Simplified Extradition Procedures (R 39, c.39.5, SR V, c.V.8):

1372. There is no provision for the direct transmission of extradition requests between ministries. Article 44 of the MLA Law provides a procedure for simplified extradition if a person consents. A person may not be extradited based only upon a warrant of arrest or judgment.

Statistics

1373. The MoJ and other authorities maintain information on incoming and outgoing extraditions. Overall, there were 87 incoming requests in 2008 and 94 in 2009. There were 149 outgoing requests in 2008 and 105 in 2009.

1374. There has been one incoming extradition request relating to ML and no outgoing requests. This is the only request relating to extradition since 2006. There have been no incoming or outgoing requests relating to FT.

Effectiveness:

1375. The provisions provide a framework for the effective provision of extradition assistance to other States and for outgoing extradition requests. In the case of FT, there is concern however whether the inadequate criminalization in Albania could defeat the dual criminality requirement in some circumstances. As noted in the section relating to SR II, the authorities have indicated that there are amendments to the CC provisions on FT pending before Parliament that are likely to remedy the deficiencies. In the case of ML, the deficiencies in criminalization are less likely to have an impact although the absence of coverage for market manipulation and insider trading could affect extraditions.

1376. Albania has not made any such requests for extradition where the charge was ML or FT. It has received only one incoming extradition request relating to ML/FT. In neither case is it unusual that there would be few or no requests. Information is not available that indicates the average time it takes to execute extradition requests generally.

1377. Although under CC Article 11, Albania's ability to grant an extradition request appears to depend upon the existence of an international treaty, the authorities indicated in practice it was otherwise and noted they had extradited on the basis of reciprocity.

1378. The possibilities of using the Vienna, Palermo and FT Conventions as a basis for extradition in those situations where the 1957 Council of Europe Convention on extradition cannot be used do not appear to be recognized. Particularly in the case of FT but also for ML, these treaties could provide a basis for countries not part of the European Convention to request extradition.

1379. Article 491(3) of the CPC, which was of concern in the 2006 MER, is unchanged since that time. Although the provision does not appear to contemplate an outright denial of extradition, it is possible that, under this provision, a Minister of Justice could impose requirements on an extradition that have the effect of defeating the possibility of effective proceedings in the requesting country.

6.4.2 Recommendations

1380. The authorities should:

- Remedy the deficiencies in the FT (for instance, the amendments noted as necessary to CC Articles 230/a, 230/d and 230) and predicate offence for ML (market manipulation and insider trading) to ensure that dual criminality does not limit extradition in such cases.

- Amend the CPC (Article 491 para. 3) to delete the provision that appears to afford the Minister of Justice too wide discretion with respect to extradition.

- Recognize, and as necessary perfect, competent authorities' ability to extradite based upon the FT Convention (Article 11), Vienna (Article 6 para. 3) and Palermo (Article 16 para. 4 -5) Conventions. Take steps necessary to deposit instruments with the UN as necessary.

- Maintain information on the time frames involved in any request for extradition relating to ML or FT.

- Decide whether there is an adequate legal basis to grant extradition in the absence of a treaty based upon reciprocity and in what circumstances that can occur given CC Article 11, and make this clear to prosecutors and other relevant officials.

6.4.3 Compliance with Recommendations 37 & 39, and Special Recommendation V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	**LC**	• Ability to grant extradition is limited by deficiencies in the ML criminalization (absence of predicates to ML in the case of market manipulation and insider trading. • CPC provides too wide discretion to MoJ to impose requirements on extradition.
R.37	**C**	
SR.V	**PC**	• Ability to grant extradition limited by deficiencies in the FT offence (for instance, the amendments noted in SR II as necessary to CC Articles 230/a, 230/d and 230. • CPC provides too wide discretion to MoJ to impose requirements on extradition.

6.5. Other Forms of International Co-Operation (R.40 & SR.V)

6.5.1. Description and Analysis

Summary of 2006 MER Factors Underlying the Ratings and Recommendations

1381. Mechanisms were in place to cooperate in a rapid, constructive and effective manner. There was however a need to overcome the practical deficiencies in respect of information systems. GDPML is not explicitly the competent authority for CFT issues pursuant to the Law on Prevention of Money Laundering.

Legal Framework:

- Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917, dated May 19, 2008), herein after "AML/CFT Law".

- The Criminal Procedures Code (Law no. 9749, dated April 6, 2007), herein after CPC.

- Law for Jurisdictional Relationship with Foreign Authorities in Criminal Issues (Law no. 10193, dated December 3, 2009).

- Law on Bank of Albania (Law No. 8269, dated December 23, 1997).

Widest Range of International Cooperation (c. 40.1):

GDPML

1382. Article 22 (e) of the AML/CFT Law allows the GDPML to exchange information with foreign counterparts with similar confidentiality obligations if the information is to be used for the prevention of ML and FT. Information can only be disseminated subject to the party's approval.

Law Enforcement

1383. Law enforcement can provide assistance to foreign counterparts pursuant to the Code of Criminal Procedure and in Law for jurisdictional relationship with foreign authorities in criminal issues. The Albania State Police can also collaborate with foreign counterparts through Interpol. These mechanisms can be used for AML/CFT purposes.

Supervisors

1384. Article 23 of the Law on the Bank of Albania stipulates that the BoA "shall cooperate with corresponding foreign banking supervisory authority on a basis of reciprocity, with respect to the supervision and inspection of banks that operate directly in both their respective jurisdictions". The Bank of Albania may exchange with such foreign banking supervisory authorities information concerning any bank that operates in both their respective jurisdictions, provided that such authority undertakes to respect the confidentiality of the information so received. Practically these information exchanges are conducted through the signing of MOUs and apply to AML/CFT issues. For a complete list of MOUs signed by the BoA please refer to criteria 40.2.

1385. Article 25(3) of the Law of the Financial Services Authority (Law no. 9572, dated July 3, 2006) allows the FSA to exchange information with supervisory authorities of other countries who have equal or similar activity with that of the Authority, based on joint agreements with the scope of exchange of information, and when these authorities ensure at least the same level of confidentiality for the information being forwarded; have the authority and agree, that with the request of the Authority to make available the same type of information; and have justified reason for the request for information. The FSA has signed 15 agreements with foreign counterparts. For a complete list of MOUs signed by the FSA please refer to criteria 40.2. These MOU can be used to exchange AML/CFT information.

Provision of Assistance in Timely, Constructive and Effective Manner (c. 40.1.1):

GDPML

1386. Upon receiving a request from a foreign counterpart the GDPML sends a confirmation of receipt. It undertakes a search of its own databases to determine if there are any information holdings that would be pertinent to the request. If the counterpart provides consent to disseminate the request the GDPML will inquire with law enforcement agencies and state institutions to determine if additional relevant information is available. Following the information collection, analysis is undertaken and a comprehensive report is drafted and sent to the foreign counterpart. If additional relevant information is received by the GDPML it is sent to the foreign counterpart. Cooperation provided by the GDPML appears to be appropriate. Information provided seems commensurate with disseminations from other FIUs. The response time of two to three weeks may be a bit lengthy but considering that it incorporates information from law enforcement and other domestic authorities it is within reasonable timelines. The GDPML may want to inquire with requesting foreign counterpart whether the request is urgent before initiating consultations with domestic authorities.

Law Enforcement

1387. Law enforcement can provide assistance in a constructive and effective manner. However, the ASP has indicated that the speed of rogatory procedures could be increased.

Supervisors

1388. Supervisors with which the BoA and FSA exchange information must protect the information it receives. There are no obstacles in providing assistance in timely, constructive and effective manner. No information was provided with respect to the frequency and timeliness of information of these exchanges.

Clear and Effective Gateways for Exchange of Information (c. 40.2):

GDPML

1389. Egmont's Secure Web application is used by the GDPML to exchange information with foreign FIUs. Although Albanian legislation does not require a Memorandum of Understanding to exchange information, the GDPML has signed 36 MOUs with foreign FIUs that required it.

1390. A random sample of disseminations to foreign FIUs was examined by the assessment team. Disseminations included information on persons of interests, relevant financial transactions and bank account information. As noted above the response time is on average between two to three weeks. For requests where information from law enforcement and other state agencies is requested the response time is between two to three weeks. All feedback received from foreign FIUs through Moneyval indicated that they had not requested information from the Albanian FIU since 2006.

Law Enforcement

1391. Given the role of the GPO in investigations as well as prosecutions most provision of assistance is provided through mutual legal assistance channels. In addition, the ASP does provide assistance to foreign law enforcement agencies through bilateral exchanges and Interpol.

Supervisors

1392. The Bank of Albania has memoranda of understanding in place with Greece, Bulgaria, Kosovo, Turkey, "the former Yugoslav Republic of Macedonia", and Montenegro with additional MOUs being negotiated with Austria, France, Germany, and Italy. There have been seven information exchanges since 2009.

1393. The FSA has signed 15 agreements with foreign counterparts mostly in the securities area. The list of foreign counterparts is found below.

Agreements Signed by the FSA with Foreign Counterpart Institutations	
Capital Market Commission of Greece	1999
Securities Commission of Quebec	2000
Securities and Exchange Commission of Italy	2002
Capital Market Agency of Slovenia	2003
Securities and Exchange Commission of Poland	2003
Capital Market Board of Turkey	2003
Financial Market Supervisory Commission of Bulgaria	2005
National Securities Commission of Romania	2005
Securities and Exchange Commission of "the former Yugoslav Republic of Macedonia"	2005
Securities and Exchange Commission of Montenegro	2005
Securities Commission of Croatia	2005
Central Bank of Kosovo	2008
Austrian Ministry of Finance and Austrian Financial Market Authority	2009
IOSCO Multilateral Memorandum of Understanding	2009

Spontaneous Exchange of Information (c. 40.3):

GDPML

1394. The exchange of information between FIUs is possible both spontaneously and upon request, and in relation to both money laundering and the underlying predicate offenses. As of 2010, the GDPML has started to spontaneously disseminate financial intelligence to foreign FIUs disseminating seven spontaneous disclosures from January to October 2010.

Law enforcement

1395. Law enforcement can exchange information spontaneously and upon request. It can share information on both money laundering and the underlying predicate offense.

Supervisors

1396. The BoA can exchange information spontaneously.

Making Inquiries on Behalf of Foreign Counterparts (c. 40.4):

1397. Article 22 of the AML/CFT Law allows the GDPML to exchange information with foreign counterparts and responsible domestic law enforcement authorities. All information requests provided by foreign counterparts involve obtaining information from law enforcement and other domestic authorities when consent is provided by the requesting entity. A detailed breakdown of how many instances domestic authorities have been consulted is not available.

1398. No information has been provided on the ability of the BoA and the FSA to make inquiries on behalf of foreign counterparts.

FIU Authorized to Make Inquiries on Behalf of Foreign Counterparts (c. 40.4.1):

1399. The GDPML has the authority to search its own database, including information related to STRs; search other database to which it has direct or indirect access including law enforcement databases, public databases, administrative databases, and commercially available databases. It can also seek information from law enforcement agencies if consent is provided by foreign counterparts.

Conducting of Investigations on Behalf of Foreign Counterparts (c. 40.5):

1400. Investigations on behalf of foreign counterparts are facilitated pursuant to Section 505 of the CPC through the MLAT Process. The Minister of Justice can decide to grant support to a letter of application of a foreign authority regarding communications, notifications and the taking of proofs. Please refer to Recommendation 36 for a detailed analysis of the MLAT process.

No Unreasonable or Unduly Restrictive Conditions on Exchange of Information (c. 40.6):

1401. Please refer to criteria 36.2 for an analysis of restrictions that may exist in the mutual legal assistance process.

1402. The GDPML can exchange information with homologue foreign counterparts as long as the entity has similar obligations of confidentiality. This would appear to be a reasonable condition to conduct information exchanges.

1403. The BoA is empowered to exchange information with a foreign counterpart with regards to any bank that operates in both their respective jurisdictions, provided that such authority undertakes to respect the confidentiality of the information so received. The limitation with respect to ensuring that confidentiality is respected appears reasonable. Information can also be exchanged with respect to trends related to ML/FT.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 40.7):

1404. There are no conditions to the provision of assistance regarding the possible involvement of fiscal matters with foreign FIUs or other law enforcement and supervisory agencies.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 40.8):

1405. There are no prohibitions with respect to the provision of assistance relating to secrecy or confidentiality requirements on financial institutions or DNFPBs. Article 25 of the Law on the Financial Services Authority terminates the treatment of confidential information (as defined in Article 24) when it is requested by the supervisory authorities of other countries who have equal or similar activity. Article 23(2) of the Law on the Bank of Albania states that the Bank of Albania may exchange with such foreign banking supervisory authorities information concerning any bank that operates in both their respective jurisdictions, provided that such authority undertakes to respect the confidentiality of the information so received.

Safeguards in Use of Exchanged Information (c. 40.9):

1406. Information received by the FIU from foreign counterparts is treated with the same level of confidentiality as other FIU information holdings. The ASP, FSA and BoA did not provide information on safeguards in place to protect the information received by foreign counterparts.

Additional Element—Exchange of Information with Non-Counterparts (c. 40.10 & c. 40.10.1):

1407. The GDPML in the framework of information exchange with foreign FIUs upon receiving the dissemination consent regarding the ML/FT related request can inquire with law enforcement agencies as well as supervisory authorities in order to obtain additional information. This information alongside the one in the possession of the GDPML is then passed on to the respective FIU.

International Cooperation under SR V (applying c. 40.1-40.9 in R. 40, c. V.5):

1408. The mechanisms listed above also apply to terrorist financing.

Statistics (R.32):

1409. The Ministry of Justice keeps statistics on mutual legal assistance and other forms of international judicial cooperation matters.

1410. Statistics kept for letters rogatory demonstrate the following figures:

- Year 2006: 839 (executed 346 or 41.2%)
- Year 2007: 1057 (executed 575 or 54.4%)
- Year 2008: 1095 (executed 692 or 63.2%)
- Year 2009 : 650 (number of executions not available)
- There are no specific statistics related to money laundering cases.

- FIU keeps regular statistics coming from subjects of ML/FT Law. The following table provides statistics about the requests made or received during 2006-2010.

	Request from International FIUs	Response from GDPML	Requests from GDPML	Response from Int. FIU
2006	33	23	32	26
2007	24	18	20	22
2008	26	37	44	108
2009	36	50	114	124
2010	42	26	100	177

Effectiveness:

1411. The GDPML seems to have an appropriate framework to effectively respond to requests from foreign counterparts. For every request received the GPDML will consult with law enforcement and domestic authorities if consent is granted by the foreign FIU. Most responses are sent within two to three weeks. The GDPML may want to inquire with foreign counterparts whether the request is urgent prior to initiating consultations with domestic authorities.

1412. Cooperation with respect to law enforcement investigations is governed by mutual legal assistance procedures. A more thorough analysis of the mutual legal assistance process can be found at Recommendation 36. Law enforcement has indicated that the efficiency of process could be improved. No statistics are kept with respect to law enforcement cooperation with foreign counterparts outside the MLAT process making it difficult to ascertain whether cooperation mechanisms are effective.

1413. The BoA has MOUs in place with a number of countries. These channels are used when appropriate. The FSA has also signed agreements with 15 foreign counterparts although almost exclusively in the area of securities. No information was provided on information exchange mechanisms, the ability of supervisors to make inquiries or conduct investigations on behalf of foreign counterparts. Other supervisory bodies such as the Ministry of Justice, the Chamber of Advocates and the SUGC do not appear to have information exchange mechanisms in place. Information exchange mechanisms could be strengthened for all supervisors.

6.5.2. Recommendations and Comments

1414. The authorities should:

- Establish channels of cooperation with AML/CFT supervisors in the non-banking sectors.
- Establish a clear authority for supervisory agencies to make inquiries or conduct investigations on behalf of foreign counterparts.
- Establish safeguards to protect information received by foreign counterparts.
- Collect statistics with respect to cooperation outside of MLATs between law enforcement and foreign counterparts.
- Collect statistics on the number of AML/CFT exchanges/collaborations between supervisory agencies and foreign counterparts.

6.5.3. Compliance with Recommendation 40 and Special Recommendation V

	Rating	Summary of factors relative to s.6.5 underlying overall rating
R.40	**LC**	• No channels of cooperation have been established with DNFBP supervisors on AML issues. • Supervisory agencies do not have clear authority to make inquiries on behalf of foreign counterparts. • No demonstration by ASP, BoA and FSA of safeguards in place to protect information received by foreign counterparts. Effectiveness: • Effectiveness of collaboration between supervisors and law enforcement with their foreign counterparts could not be assessed.
SR.V	**LC**	• No channels of cooperation have been established with DNFBP supervisors on CFT issues. • BoA and FSA do not have clear authority to make inquiries on behalf of foreign counterparts. • No demonstration by ASP, BoA and FSA of safeguards in place to protect information received by foreign counterparts. Effectiveness: • Effectiveness of collaboration between supervisors and law enforcement with their foreign counterparts could not be assessed.

7. OTHER ISSUES

7.1. Resources and Statistics

Summary of 2006 MER factors underlying rating (R.30 – rated PC in the 2006 MER)

1415. The 2006 MER noted a number of shortcomings with respect to resources, integrity and training of competent authorities. It was determined that the FIU had insufficient means and relied too heavily on foreign assistance. More resources, awareness and training were required at the level of the police, prosecution and judges on ML and FT. It was also determined that the Insurance Supervisory Authority was not sufficiently resourced.

Description and Analysis

1416. The structure of agencies responsible for the implementation of AML/CFT initiatives is generally seen as being effective. The creation of Joint Investigation Units has resulted in a new operating structure for the coordination of financial crime investigations for participating agencies (GPO, the ASP, the GDPML, Customs, General Tax Directorate, HIDAA, SIS and the State Supreme Audit) which have been deemed as increasing collaboration between agencies. The structure of the FIU, the State Prosecutor's Office, BOA and FSA are all deemed to be adequate.

1417. Operational independence has been cited as a concern for the GDPML due to the absence of fix terms for the General Director and the hiring and dismissal powers resting with the Minister of Finance.

1418. Concerns have been expressed about the adequacy of resources, the capacity to retain employees as well as the independence of the Board of Authority of the FSA. The Board of the Authority, in accordance with the FSA Law, is the responsible body which determines the policy on wages and remuneration of staff and other employers of the Authority. However, the Law on the wages, remuneration and the structure of the constitutional independent institutions and other independent bodies established by law restricts the right of the Authority to determine its policies on wages and remuneration of staff and other employers of the FSA. As a result, the Authority does not have the sufficient financial independence to motivate the most capable and dedicated employees, to keep the technical expertise, as well as to attract and employ the necessary intellectual capacity within the FSA. Furthermore, supervisory resources dedicated to AML/CFT are deemed insufficient to adequately cover the number of obligated entities under the FSA's responsibility.

1419. The GDPML, the ASP, the GPO, the BOA and the FSA are deemed to maintain high professional standards and are appropriately skilled. Anecdotal concerns about the presence of corruption within the General Directorate of Customs and the judiciary have been expressed.

1420. The adequacy of resources varies according to the competent authorities. The resources allocated to AML/CFT within the SUGC and the General Customs Directorate are deemed to be insufficient. The BOA and FIU would also benefit from additional resources to fully implement a comprehensive risk based supervisory regime. However, the Prosecutor's Office, the ASP and the FIU's analytical and policy development sections are seen as having sufficient resources to undertake their AML/CFT mandate.

1421. The comprehensiveness of training for some agencies remains a problem. Many supervisory agencies including BOA, FSA, SUGC, the Ministry of Justice and the Chamber of Advocates require targeted training on AML/CFT. Training of the judiciary on money laundering and financial crime is required. The assessment team believes that training to courts, prosecutors and judicial police focused on making better use of existing provision could enhance the effectiveness of existing legislative measures. It is unclear whether core training on financial and proceeds of crime investigations targeted specifically to the JIU and the ASP's Sector against Money Laundering is provided. Training for customs officers on the detection of cash couriers is inadequate. Training of FIU employees is deemed to be adequate.

1422. The adequacy of resources and the maintenance of high professional standards within the Ministry of Justice and the Chamber of Advocates, for them to undertake supervisory functions, could not be ascertained given that appropriate officials did not make themselves available to the assessment team.

1423. For further analysis on the adequacy of resources for competent authorities please refer: to R. 26 for the GDPML, R. 27 and 28 for law enforcement, SR. IX for the General Directorate of Customs as well as R. 23 and 24 for supervisory agencies.

Recommendations:

1424. The authorities should:

- Specify the autonomy and independence of the GDPML in legislation and establish a fixed term for the General Director and include a provision on the independent status of the Director.
- Establish controls to reduce the occurrence of corruption within Customs and the judiciary.
- Conduct targeted training to the judiciary to increase their knowledge of ML, its inherent complexities and proceeds of crime in general.
- Provide training for courts, prosecutors and judicial police that instruct regarding practices in Europe and elsewhere that will permit better use of existing provisions under more liberal standards.
- Provide more training to customs officers in the area of AML/CFT, particularly with regard to the detection of cash couriers.
- Implement AML/CFT training for individuals conducting AML/CFT supervision in the, FSA, the Ministry of Justice, the Chamber of Advocates and the SUGC.
- Increase resources dedicated to AML/CFT within FSA, Customs and the SUGC.

1425. The authorities should consider:

- Developing core training on financial and proceeds of crime investigations targeted specifically at the FIU and the Sector against Money Laundering in the ASP.

Summary of 2006 MER factors underlying the ratings and recommendations (R.32 – rated PC in the 2006 MER)

1426. The 2006 MER highlighted that there was a lack of accurate, reliable and consistent statistics leading authorities to be unaware of the real situation with respect to ML and FT activities and vulnerabilities.

Description and Analysis

1427. A review of the effectiveness of Albania's system for combating ML and FT has not been undertaken.

1428. The GDPML maintains statistics on the number of STR and CTR report it receives and disseminates although some issues of consistency have been encountered. A breakdown of reports received by each reporting sector is also available. Statistics are available on queries made other FIUs as well as spontaneous disseminations to foreign FIUs. Statistical data is not available on annual disseminations broken down by predicate offense.

1429. Statistics are maintained on ML and FT investigations, prosecutions, convictions although data between agencies is not consistent. Some statistics are maintained on property frozen, seized and confiscated although a full range of statistics that would show sequesters and confiscations in the course of criminal proceedings for proceeds-generating crime is not maintained. Law enforcement does not maintain statistics regarding cooperation with foreign counterparts.

1430. Statistics are maintained by Customs on people entering and leaving Albania, the number of STRs reported to the GDPML by Customs, the number of declarations, total amounts declared as well as the amounts that were seized in cases of non-declaration and the amounts of currency which was subject to sequestration. Statistics broken down by border point and on the amounts of penalties applied (fine/imprisonment) in the case of non-compliance with the declarations requirements are not available.

1431. Complete data on the number and kind of letter rogatory requests received and executed on an annual basis is not maintained consistently. Statistics are not maintained on the time periods from the receipt of a request to the return of results to the requesting State.

1432. Statistics are available on the number of on-site examinations conducted by supervisors relating AML/CFT as well as applicable sanctions. No statistics are maintained on the number of formal requests for assistance made or received by supervisors relating to or including AML/CFT.

Recommendations:

1433. The authorities should:

- Review the effectiveness of Albania's AML/CFT system.
- Centralize the collection of ML, FT and proceeds of crime statistics to improve consistency of data collected.
- Maintain consistent and comprehensive statistics on STR reporting and the number of FIU disseminations that have resulted in convictions, seizures or confiscations.
- Undertake to maintain the full range of statistics regarding incoming and outgoing ML and FT MLA requests, including numbers of requests by category, and disposition including the relevant time periods involved.
- Maintain information on the time frames involved in any request for extradition relating to ML or FT.
- Collect statistics broken down by border point and amount of penalties applied in cases of non-compliance.
- Collect statistics on the number of formal requests received by supervisors relating to AML/CFT.

1434. The authorities should consider:

- Collecting statistics with respect to cooperation between law enforcement and foreign counterparts.
- Collecting statistics broken down by predicate offenses.

	Rating	Summary of factors underlying rating
R.30	**PC**	• Unable to ascertain the adequacy of resources and professional standards of the offices responsible for supervisorion in the Ministry of Justice and the Chamber of Advocates. • Training of the judiciary on money laundering and financial crimes is insufficient. • Concerns have been expressed about the integrity of the judiciary. • AML/CFT training has not been provided to the supervisory authorities in the Ministry of Justice, Chamber of Advocates and the SUGC. • Resources within the FSA, SUGC and Customs are insufficient.
R.32	**PC**	• Statistics gathering is not coordinated resulting in inconsistencies in the data. • Statistics maintened on STRs received is not consistent. • A review of the effectiveness of Albania's system for combating ML and

		FT has not been undertaken. • Statistics on money laundering investigations, arrests, convictions, seizures and confiscations are not always consistent across agencies. • Full range of statistics showing sequesters and confiscations in the course of criminal proceedings proceeds generating crime are not maintained. • Statistics broken down by border point and on the amounts of penalties applied (fine/imprisonment) in the case of non-compliance with the declarations requirements are not available. • A full range of statistics and information regarding mutual legal assistance and extradition requests is not maintained. • No statistics are maintained on the number of formal requests for assistance made or received by supervisors relating to or including AML/CFT.

7.2. Other relevant AML/CFT Measures or Issues

1435. NA.

7.3. General Framework for AML/CFT System (see also section 1.1)

1436. NA.

Table 1. Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating[96]
Legal systems		
1. ML offense	**PC**	• Self laundering is not criminalized in the case of conduct under Article 287/b. • Article 287/b offences provision is limited to stolen goods. • Full coverage of predicate offences is lacking as insider trading and market manipulation are not criminalized. • Ancillary conduct is not covered in all instances. Effectiveness issues: • Few convictions for ML. • Demanding proof level impact ability to use provisions.
2. ML offense—mental element and corporate liability	**LC**	• Effectiveness of sanctions not fully established because of limited numbers of prosecutions.
3. Confiscation and provisional measures	**LC**	• Deficiencies in criminalization of ML (no market manipulation or insider trading offences) and of FT (noted in SR II) will limit ability to sequester and confiscate. • Effectiveness not established as there are few actual confiscations and limited use of sequester authority in ML cases.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	**C**	• This Recommendation is fully observed
5. Customer due diligence	**PC**	• Availability of financial instruments in bearer form. • CDD provisions only apply to identification and verification.

[96] These factors are only required to be set out when the rating is less than Compliant.

		• Inconsistent legislative provisions for ongoing monitoring leading to poor implementation by FIs. • No requirement to verify the identity of beneficial owners. • No requirement to establish whether a person is acting on behalf of another. • Inconsistent legislative provisions for beneficial ownership. • Very limited requirement to establish nature and intended purpose of business relationship. • Incomplete requirements for legal arrangements. • No requirement for CDD on existing clients. Effectiveness: • Inconsistent application of CDD measures in circumstances where is a suspicion of ML/TF among FIs. • Poor implementation of beneficial ownership requirements. • Inconsistent implementation of requirement to conduct ongoing due diligence. • Inconsistent implementation of measures to be taken when enhanced due diligence.
6. Politically exposed persons	**NC**	• No legislative requirements for foreign PEPs.
7. Correspondent banking	**LC**	• No requirement to establish if respondent has been subject to a ML/TF investigation or regulatory action. • Poor implementation of requirement to assess quality of supervision.
8. New technologies & non face-to-face business	**PC**	• No formal requirement to manage the risks of non-face to face transactions/business relationships except for opening bank accounts.
9. Third parties and introducers	**NC**	• No measures in place for third party reliance despite evidence of it happening in practice.
10. Record-keeping	**LC**	• The mandatory record keeping period

		requirement for account files and business correspondence" is not in line with the FATF standards. Effectiveness: • No specific guidance on "the necessary details" to be kept in order to ensure the reconstruction of the cycle of transactions. • Because of the shortcomings noted about the identification of beneficial owners, the data about beneficial owners may not be fully accurate.
11. Unusual transactions	**PC**	• No requirement to record findings of examinations of complex and unusual transactions. • Monitoring of transactions takes place only as part of EDD. • Concerns about effectiveness given the prominence of the currency transaction reporting requirement.
12. DNFBP–R.5, 6, 8–11	**PC**	• All deficiencies listed in Section 3 regarding the legal framework also apply to DNFBPs. • Legal framework covering Company Service Providers is not comprehensive. • Customer identification measures for DNFBPs are unclear. • Implementation of due diligence measures is not effective: - Black market activities in the casino and dealers in precious metals and stones sector are undermining the effectiveness of the AML/CFT legislative framework. - Customer due diligence measures are not applied comprehensively. - PEPs determination is rarely undertaken and no enhanced due diligence is applied. - Policies and procedures are not in place to deal with non face-to-face transactions.

		- Policies are not in place to prevent the misuse of new technologies. - No measures are in place to deal with intermediaries. - Attention is not paid to complex or unusual transactions.
13. Suspicious transaction reporting	**PC**	• Deficiencies in criminalization of ML (insider trading and market manipulation). • Definition of FT might limit the scope of the reporting obligation. • Provisions only extend to "intended" terrorist financing. • Exemptions from requirement to report are not in line with the FATF standard. • No explicit requirement to report attempted transactions. • The number of SARs overall and in comparison with CTRs give concerns about the effectiveness of the reporting regime.
14. Protection & no tipping-off	**LC**	• Prohibition against tipping off does not explicitly extend to directors and officers.
15. Internal controls, compliance & audit	**PC**	• Not clear if compliance officer should always be appointed at management level. • CFT not among the responsibilities of the compliance officer. • No direct provision requiring timely access to data by the compliance officer. • No specific provision requiring an independent audit function. Effectiveness: • Weak AML/CFT employees training in the non-banking financial sector. • No specific requirement, for non-BoA supervised entities, of the compliance officer obligation to inform employees periodically of

		applicable AML/CFT Laws requirements.
16. DNFBP–R.13–15 & 21	**PC**	• All deficiencies listed in Section 3 regarding the legal framework for financial institutions also apply to DNFBPs. • The implementation of STR reporting, internal controls and requirements to pay special attention to certain transactions is ineffective: - The requirement to report suspicious activity, including attempted, transactions is poorly understood. - Reporting levels are insufficient given the level of risk in DNFBP sectors. - Policies and procedures have not been developed by most entities. - Internal audits have not been conducted. - Training of employees has rarely been implemented.
17. Sanctions	**PC**	Effectiveness issues: • Authorities were not able to demonstrate that the sanctions that were applied are effective and proportionate. • No sanctions have been applied but the BoA and the FSA. • No sanctions have been applied to FIs' senior management.
18. Shell banks	**PC**	• No specific legal prohibition on establishing or continuing to operate with shell banks. • No specific ban on the establishment of a direct correspondent relationship with a shell bank.
19. Other forms of reporting	**C**	• This Recommendation is fully met.
20. Other NFBP & secure transaction techniques	**PC**	• Illegal trade of currency and non-declaration of money persists as a significant problem.
21. Special attention for higher risk countries	**PC**	• No requirement to record findings of examinations of transactions with persons from or in countries which do not or insufficiently apply the FATF Recommendations; • Concerns about effectiveness, given lack of information about countries of concern or factors

		to be taken into consideration.
22. Foreign branches & subsidiaries	**LC**	• No specific requirement to pay particular attention to the principle of the application of the domestic legislation with respect to branches/subsidiaries that operate in countries which do not or insufficiently apply the FATF Recommendations. • No specific mention to apply if there is the case, a higher standard.
23. Regulation, supervision and monitoring	**PC**	• Existence of the non licensed and non supervised informal financial sector. • Absence of fit and proper tests for senior managers and directors in the case of some financial institutions subject to the Core Principles. Effectiveness: • Insurance and securities sector are not supervised by the FSA for AML/CFT compliance. • Inadequate offsite supervision. • Limited scope and number of the inspections of natural and legal persons providing money or currency changing services.
24. DNFBP—regulation, supervision and monitoring	**PC**	• Measures to prevent criminals from holding a significant interest in a casino are not comprehensive. • Legal authority designating DNFBP supervisors is ineffective and needs to be clarified. • Inspection results and sanctions applied by the GDPML are vulnerable to challenge given its limited supervisory authority. • Sanctions applied are not proportionate. Effectiveness: • Sanctions for casino are not effective or dissuasive. • Designated supervisory authorities do not take an active role in AML/CFT supervision.
25. Guidelines & Feedback	**PC**	• Insufficient feedback. • Insufficient guidance to the supervised sectors.

		• Guidance has not been provided for non-reporting requirements.
Institutional and other measures		
26. The FIU	**LC**	• The legislative framework detailing the GDPML's governance and functioning is not comprehensive. • GDPML doesnot have the authority to disseminate when there is a suspicion related to attempted ML/FT. • The GDPML does not have the legislative authority to request non-financial information from reporting entities or for attempted transactions. • Issues of operational independence such as the absence of fixed terms for the General Director. • Dissemination to HIDAA not in accordance with the law. • Effectiveness issues with regard to the GPDML's analytical capacity: - The GDPML does not conduct sufficient trends analysis. - Lack of prioritization in the analysis of SARs/CTRs.
27. Law enforcement authorities	**PC**	• No specifc provision for law enforcement to postpone/waive arrest warrants. Effectiveness: • Low number of prosecutions. • The requirement to advise defense counsel that an interception has taken place constitutes an additional burden which could hinder an investigation.
28. Powers of competent authorities	**C**	
29. Supervisors	**PC**	Effectiveness: • Unclear GDPML scope of onsite inspections. • Possible overlap and duplication supervision and inspection functions among AML/CFT

		authorities.
30. Resources, integrity, and training	**PC**	• Unable to ascertain the adequacy of resources and professional standards of the offices responsible for supervision in the Ministry of Justice and the Chamber of Advocates. • Training of the judiciary on money laundering and financial crimes is insufficient. • Concerns have been expressed about the integrity of the judiciary. • AML/CFT training has not been provided to the supervisory authorities in the Ministry of Justice, Chamber of Advocates and the SUGC. • Resources within the FSA, SUGC and Customs are insufficient.
31. National co-operation	**LC**	• Domestic cooperation and coordination mechanisms for supervisory agencies are not effective. • Composition of the Coordination Committee against Money Laundering is not comprehensive.
32. Statistics	**PC**	• Statistics gathering is not coordinated resulting in inconsistencies in the data. • Statistics maintained on STRs received is not consistent. • A review of the effectiveness of Albania's system for combating ML and FT has not been undertaken. • Statistics on money laundering investigations, arrests, convictions, seizures and confiscations are not always consistent across agencies. • Full range of statistics showing sequesters and confiscations in the course of criminal proceedings proceeds generating crime are not maintained. • Statistics broken down by border point and on the amounts of penalties applied (fine/imprisonment) in the case of non-compliance with the declarations requirements are not available.

		• A full range of statistics and information regarding mutual legal assistance and extradition requests is not maintained. • No statistics are maintained on the number of formal requests for assistance made or received by supervisors relating to or including AML/CFT.
33. Legal persons–beneficial owners	**PC**	• Issues regarding the accuracy/adequacy of data concerning beneficial ownership and control information of legal persons (especially associations and NPOs), which hinders LEAs' access in a timely fashion to these data. • Availability of bearer shares and lack of measures to ensure that they are not misused for ML/FT.
34. Legal arrangements – beneficial owners	**NA**	
International Cooperation		
35. Conventions	**PC**	**Vienna and Palermo Conventions:** Criminalization of ML not fully in line with Vienna and Palermo Conventions: • Issues on coverage for self-laundering in the case of some Article 287/b offences. • Use of proceeds restricted to financial and economic activities in Article 287. • Limitation of Article 287/b to stolen goods. • Some required ancillary activity not covered. • Consequent limitations for confiscation, mutual legal assistance and extradition. Effectiveness issues: • Very few convictions.
36. Mutual legal assistance (MLA)	**LC**	• The shortcomings identified under Recommendation 1 may limit the Albanian ability to provide MLA. Effectiveness: • Complex and incompletely understood framework could hamper the provision of MLA.

		• There are a few practical barriers to more effective provision of assistance for instance, application of dual criminality in all circumstances, necessity of a court order for every execution and occasional use of diplomatic channel. • Statistical information provided is not complete.
37. Dual criminality	**LC**	• Dual criminality is always applied although legal framework does not require it in all circumstances.
38. MLA on confiscation and freezing	**PC**	• There continues to be a significan limitation stemming from the legal framework on the ability of the authorities to provide assistance in the confiscation of assets. • The authorities have not yet been able to demonstrate that their provisions are effective, given the absence of relevant foreign requests to sequester or confiscate assets; and there are a few practical barriers to the effective use of provisions in all circumstances because of, for instance, issues with dual criminality and occasional use of the diplomatic channel.
39. Extradition	**LC**	• Ability to grant extradition is limited by deficiencies in the ML criminalization (absence of predicates to ML in the case of market manipulation and insider trading. • CPC provides too wide discretion to MoJ to impose requirements on extradition.
40. Other forms of co-operation	**LC**	• No channels of cooperation have been established with DNFBP supervisors on AML issues. • Supervisory agencies do not have clear authority to make inquiries on behalf of foreign counterparts. • No demonstration by ASP, BoA and FSA of safeguards in place to protect information received by foreign counterparts. Effectiveness: • Effectiveness of collaboration between supervisors and law enforcement with their foreign counterparts could not be assessed.
Nine Special Recommendations		

SR.I Implement UN instruments	**PC**	FT Convention: Criminalization of FT not fully in line with FT Convention: • Not all terrorist actions required to be covered are covered. • Issues with intent requirements ("intended to cause" not clearly covered); some intent and purpose requirements extended to Annex 1 acts; application to government agencies rather than government). • Lack of clarity that the offence provision applies regardless of whether the terrorist act is actually committed or attempted. • Lack of clarity that the financing prohibited extends to the full extent of "funds" as that term is defined in the FT Convention. UNSCR Implementation: • Legal basis in the case of UNSCR 1373 matters uncertain. • Provisions for challenging listing in UNSCR 1373 context not adequate. • Absence of provisions/mechanism to address requests for subsistence. • Inadequate legal basis for some supervision. Effectiveness: - Irregular schedule of updating on lists. - Lack of guidance and inadequate supervision.
SR.II Criminalize terrorist financing	**PC**	• FT criminalization provisions in Chapter VII of the CC do not comply with the standard in that: - Article 230/a does not clearly apply regardless of whether the terrorist act is actually committed or attempted. - It is not clear that the financing prohibited extends to the full extent of "funds" as that term is defined in the FT Convention.

		• The financing of individual terrorists is criminalized only if the funds are provided or collected to support terrorist activities: - Article 230 CC does not cover each specific action that is required to be criminalized under all the treaties that are annexed to the FT Convention. - Article 230 CC does not covers actions "intended to cause" death or serious bodily harm, only those that "might" cause this. - Specific purpose or intent requirement set forth in Article 2 para. 1 (b) of the FT Convention are required in the case of the conducts specified in the annexed treaties (Article 2, para. 1(a)). - Article 230 sets forth a purpose to compel Albanian or foreign governmental agencies rather than such governments. • Not all ancillary conduct is covered.
SR.III Freeze and confiscate terrorist assets	**PC**	• SFT Law does not provide clear legal basis for Council of Ministers designation pursuant to UNSCR 1373. • Secondary provisions or mechanisms not yet adopted to address potential requests by affected persons for subsistence or other expenditures. • Absence of legal mandate for supervision of the compliance of those covered by the AML/CFT Law with the obligations arising from Council of Minister Decisions and Ministry of Finance freeze orders. • Responsibility for reviewing the compliance with resolution obligations by supervised entities is not clear. • Persons listed in the UNSCR 1373 context do not have a right to challenge their listing (on grounds in addition to mistaken identity) only a freeze.

		• No publically-available information on how to seek de-listings or unfreezing of funds. Effectiveness: • Council of Minister's domestic list not updated frequently. • No clarity for other States regarding a responsible Albanian authority to receive foreign requests under UNSCRs. • Freezing orders not available immediately to other institutions and entities that may hold assets of the same person/entity. • No consideration on a regular basis of whether there are persons/entities that should be designated domestically under UNSCR 1373 or designations made. • Lack of adequate guidance to the private sector and the public at large about their obligations. • Inadequate supervisory review of institutions for compliance.
SR.IV Suspicious transaction reporting	**PC**	• Deficiencies in criminalization of TF; • Definition of FT might limit the scope of the reporting obligation; • Provisions only extend to "intended" terrorist financing; • Exemptions from requirement to report are not in line with the FATF standard; • No explicit requirement to report attempted transactions; • Low numbers of SARs relating to TF give rise to concerns about the effectiveness of the reporting regime.
SR.V International cooperation	**PC**	• The shortcomings identified under SR II may limit the Albanian ability to provide MLA. • Dual criminality is always applied although legal framework does not require it in all circumstances.

		• For assistance in confiscating assets, there is a limited ability under the current legal framework to execute foreign requests. • Ability to grant extradition limited by deficiencies in the FT offence (for instance, the amendments noted in SR II as necessary to CC Articles 230/a, 230/d and 230. • CPC provides too wide discretion to MoJ to impose requirements on extradition. • No channels of cooperation have been established with DNFBP supervisors on CFT issues. • BoA and FSA do not have clear authority to make inquiries on behalf of foreign counterparts. • No demonstration by ASP, BoA and FSA of safeguards in place to protect information received by foreign counterparts. Effectiveness: • Complex and incompletely understood framework could hamper the provision of MLA. • There are a few practical barriers to more effective provision of assistance for instance, application of dual criminality in all circumstances, necessity of a court order for every execution and occasional use of diplomatic channel. • Effectiveness of collaboration between supervisors and law enforcement with their foreign counterparts could not be assessed.
SR.VI AML/CFT requirements for money/value transfer services	**PC**	• Concerns about effectiveness in relation to the main preventive measures, especially SAR reporting, and the fact that significant remittance activity takes place outside the formal sector. • No direct requirement for MVT operators to maintain a list of agents. • Lack of supervision of MVT operators.

SR.VII Wire transfer rules	**PC**	• The option of requesting missing wire transfer information from the beneficiary of the transaction is not in line with the FATF standard. Effectiveness: • Poor implementation of the effective risk–based procedures for identifying and handling wire transfers with missing originator information and of the requirement to consider whether such transfer is suspicious and whether it should be required to be reported to the FIU. • No sanctions imposed for the non- compliance with the reporting obligation established by the AML/CFT law in the case of missing/incomplete information. • Concerns about the FIs practical understanding of the scope of the wire transfer-related requirements with regard to credit cards transactions.
SR.VIII Nonprofit organizations	**NC**	• No review of the NPO carried out. • Lack of demonstrated outreach to the sector. • Weakness of registration requirements. • No supervision of NPOs. • No requirement for NPOs to maintain records of transactions.
SR.IX Cross-Border Declaration & Disclosure	**PC**	• Definition of "bearer negotiable instruments" not in line with the FATF standard. • No requirements in the case of the shipment of currency through containerized cargo or in the case of mailing of currency. • No sanctions for the case of false/inaccurate declaration. • Minimum statutory fine is too low. • Issues of effectiveness (number of declarations very low, access to data not satisfactory, analysis of data could be improved; assessors cannot determine whether the sanctions are effective).

Table 2. Recommended Action Plan to Improve the AML/CFT System

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 & 2)	The authorities should: • Enact a provision or amend existing provisions so that self-laundering is covered for the Article 287/b offences; • Extend criminalization of use beyond the use and investment in economic or financial activities; • Amend Article 287/b so that it is clear that its coverage extends beyond acquisition, possession or use in the case of stolen goods; • Enact provisions to cover insider trading and market manipulation; • Make clear that property derived indirectly is covered, if needed by way of amendment; • Enact provisions so that required ancillary activity is covered in situations where currently it is not (for instance applies to facilitating even in the absence of an agreement); • Provide training for courts, prosecutors and judicial police that instruct regarding practices in Europe and elsewhere that will permit better use of existing provisions under more liberal standards; • Utilize Article 287/b CC more pro-actively by instituting proceedings for use of property knowing that it was obtained as a result of a criminal offence particularly in subject matter areas where there is a significant criminality problem; • Address the issue of the demanding proof levels

	by considering the legislative and practical approaches taken in other civil law systems where for instance the amount of the proceeds may be estimated, and confiscation may extend to proceeds of other criminal activity once a single criminal offence is established. The authorities should also: • Evaluate whether the criminal fines available in the case of convictions of legal persons for ML will be sufficient in all instances.
2.2 Criminalization of Terrorist Financing (SR.II)	The authorities should: • Enact amendments to the FT criminalization provisions in Chapter VII of the CC provisions, so that: o Article 230/a applies regardless of whether the terrorist act is actually committed or attempted and when there is only an intention that the funds be used; o it is clear that the financing prohibited extends to the full extent of "funds" as that term is defined in the FT Convention; o the financing of individual terrorists regardless of whether the funds are provided or collected to support terrorist activities is criminalized. • Enact amendments to Article 230 CC so that: o it covers each specific action that is required to be criminalized under all the treaties that are annexed to the FT Convention; o it covers actions "intended to cause" death or serious bodily harm, not simply that "might" cause this; o the specific purpose or intent requirement set forth in Article 2 para. 1 (b) of the FT Convention is not required

	in the case of the conducts specified in the annexed treaties (Article 2, para. 1(a)); o the purpose set forth in the Article is to compel the Albanian or foreign government rather than "Albanian or foreign governmental agencies". • Either revise CC provisions on ancillary offences to deal with gaps in coverage as set forth in Recommendation 1, or incorporate coverage for all required ancillary conduct (facilitating in the absence of an agreement) directly in the CC Chapter VII – Terrorist Act provisions. • Work towards developing additional cases as domestic intelligence, coordination with foreign partners working on FT and terrorism matters, and STR reporting provide such opportunities. The authorities should also: • Consider making it clear that the Article 230 reference of "actions with terrorist purposes" is coextensive with the Article 230/a use of the term "terrorism".
2.3 Confiscation, freezing, and seizing of proceeds of crime (R.3)	The authorities should: • Criminalize FT in conformity with the standard as set forth SR II, so that instrumentalities used and to be used and proceeds can to be sequestered and confiscated and extend ML criminalization to insider trading and market manipulation as set forth in Recommendation 1. • Use the CC provision permitting the confiscation of assets of equivalent value to seek recoveries in a wide range of circumstances. • Through enhanced CC or CPC legislative provisions and/or the better use of existing provisions in criminal cases and/or parallel use of Organized Crime Act civil proceedings, work towards developing a framework that is effective in actually recovering criminal assets without the same degree of tracing, specificity and linkage between specific criminal acts and

	specific monies. • Provide training to the judiciary and prosecutors so they have a greater understanding of how provisions similar to the existing CC and CPC provisions for criminal confiscation in other civil law contexts are applied in a more lenient and effective fashion. • Make fuller use of the provisions in part by emphasizing the importance to law enforcement and prosecutors that criminal assets be pursued early on in every proceeds-generating crime under investigation/prosecution. • Establish a national registry of bank accounts administered by the BoA, which, upon proper authority, can be accessed on request by Law Enforcement authorities' powers to facilitate the investigation of ML/FT, in order to enhance their capacity to identify and trace property that is or may become subject to confiscation or is suspected of being the proceeds of crime. • With corruption as an important proceeds-generating crime, include corruption as an offence under the Organized Crime Law which provides a civil standard and reverse onus in the recovery of proceeds of crime. • As necessary, provide explicitly in the CPC that provisional measures are to be issued on an ex parte basis. The authorities should also: • Even in the absence in practice of inappropriate automatic cessations of provisional measures on technical grounds, consider amending Article 276 CPC and replacing it with an affirmative requirement on the court to act within a certain period to ensure that, going forward, an inappropriate lifting of sequestered assets does not occur because of inaction by a court. • Consider enacting specific provisions on law enforcement powers to secure customer information and monitor financial accounts so that there is an improved ability to identify and

	trace for both domestic and foreign cases.
2.4 Freezing of funds used for terrorist financing (SR.III)	The authorities should: • Revise the SFT Law to provide a clear legal basis for the Council of Ministers to make a designation pursuant to UNSCR 1373. • Enact a provision that gives persons listed in the UNSCR 1373 context a right to challenge not only a freeze but their listing (on grounds in addition to mistaken identity). • Adopt secondary provisions or mechanisms to address potential requests by affected persons for subsistence or other expenditures. • Provide a legal mandate for the review of the compliance by entities subject to the AML/CFT Law with their obligations regarding the Council of Ministers list and regarding freezing of funds. • Continuously update the Council of Minister's domestic list or provide a legal mechanism for automatic incorporation of the UNSCR 1267 list. • Consider on a regular basis whether there are persons/entities that should be designated domestically under UNSCR 1373 and make such designations. • Provide clear information to other States regarding the authority within Albania responsible (e.g., MoFA, FIU) to receive foreign requests under UNSCR 1373. • Adopt practices such that freezing orders issued by the Ministry of Finance are available more quickly to other institutions and entities that may hold assets of the same person/entity. • Provide guidance to the private sector and the public at large about their obligations. • Undertake more vigorous supervisory review of institutions for compliance with UNSCR obligations and include material in supervisory inspection manual/checklists.

	• Develop guidance and make it available publically on how to seek de-listings or unfreezing of funds for instance through appropriate websites. The authorities should also: • Consult and use in an appropriate manner as a reference point the EU lists of designated terrorists as well as other lists developed by neighboring countries. • Consider wether it is necessary to make it clear that the law in covering "control rights" extends to both direct and indirect control. •
2.5 The Financial Intelligence Unit and its functions (R.26)	The authorities should: • Expand the GDPML's authority to request additional information by specifically allowing it to request non-financial information that could assist in its functions. • Amend the Council of Minister's Decision outlining the organization and functioning of the GDPML to reflect the FIU's new responsibilities. • Clarify the GDPML's authority to exchange information with non law enforcement authorities. • Enhance the GDPML's strategic analytical capacity by conducting an in-depth review of existing disseminations to identify ML/FT trends specific to Albania. This information should be disseminated to help inform risk assessment activities by both authorities and obliged entities. • Enhance the IT system so that it allows for the prioritization of STRs and identifies patterns of suspicious transactions generating cases based on these findings. • Specify the autonomy and independence of the GDPML in legislation and establish a fixed term for the General Director and include a provision on the independent status of the Director.

	• Reinforce guidance related to reporting by providing enhanced sector specific training, expanding the list of sector specific indicators as well as clarifying that STRs should be reported even when a threshold report is required. • Maintain consistent and comprehensive statistics on STR reporting and the number of FIU disseminations that have resulted in convictions, seizures or confiscations. The authorities should also consider: • Amending Article 22 of the AML/CFT Law to clarify the power to disseminate information concerning suspected ML/FT activities. • Amending the AML/CFT Law to require obliged entities and state authorities to report to the GDPML electronically unless they do not have the capability to do so. • Entrenching the practice of disseminating suspicions of ML activities to the ASP with a copy to the GPO in order to increase efficiency and respect attributed roles and responsibilities. As in the current practice the Serious Crime Prosecutor's Office should be designated the recipient of FT disseminations (with copy to SIS, if and as appropriate). • Amending the STR reporting form to require information on the person on whose behalf the transaction is being performed, information on the beneficiary or information on the disposition of the transaction (ie. where the money went). • Consider extending the retention period for reports to 20 years to align with the statute of limitations for ML and FT.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	The authorities should: • Amend the relevant legislation to specifically allow law enforcement to have the ability to waive arrests warrants of suspected persons or the seizure of money for the purpose of identifying persons involved in such activities or for evidence gathering.

	• Conduct targeted training to the judiciary to increase their knowledge of ML, its inherent complexities and proceeds of crime in general. • Amend the provisions related to interception to remove the requirement to advise defense counsel that an interception activity has occurred five day following the activity. • Centralize the collection of ML, FT and proceeds of crime statistics to improve consistency of data collected. The authorities should also consider: • Initiating a review of ML and TF methods, techniques and trends by law enforcement authorities. This information should be disseminated to authorities involved in fighting AML/CFT to inform risk assessment exercises. • Developing core training on financial and proceeds of crime investigations targeted specifically at the JIU and the Sector against Money Laundering in the ASP. • Making full use of simulation or infiltration techniques that are available in legislation for money laundering or terrorism financing cases. • Extending the application of the Organized Crime Law to corruption offenses. • Amending the provisions related to judicial immunity to facilitate the conduct of corruption investigations within the judiciary. • Establishing a national registry of bank accounts administered by the BoA, which, upon proper authority, can be accessed on request by LEAs to facilitate the investigation of ML/FT. •
2.7 Cross-Border Declaration & Disclosure (SR IX)	Authorities should: • Define the notion of "negotiable instruments", so that it is fully consistent with the FATF definition of "bearer negotiable instruments", and harmonize Article 187a of the Criminal Code so that a proper reference to bearer

	negotiable instruments is included. • Extend the declaration requirements also to the shipment of currency through containerized cargo or in the case of mailing of currency. • Improve Customs officers' access to information by: • Providing Customs access to TIMS; • Requiring the BMP to provide Customs all information related to the declaration requirements (such as in the case of ascertained violations concerning the non-compliance with the declaration reporting false declarations/failure to declare); • Providing Customs with the lists of terrorists; • Interconnecting the databases at the Customs point and the database at the Customs HQ Unit for the Prevention of ML, so that they can be mutually queried. • Provide the GDPML the data concerning the non-compliance with the declaration reporting false declarations/failure to declare. • Amend the Criminal Code or the AML/CFT law to include sanctions for the case of false/inaccurate declaration. • Increase the minimum statutory fine for failure to declare. • Develop analysis techniques of the data received from the declaration-related requirement with the view of creating intelligence that can be used for the detection of cash couriers. • Develop more comprehensive programs to target cash couriers. • Boost the implementation of the declaration requirement and increase monitoring especially at Border points other than Rinas airport.

	• Extend the uniform computer program for the registration of the declarations of currency to all border points. • Require that cash deposits that are purported to be remittances from abroad are accompanied by the Customs declaration, when they exceed the threshold. • Provide more training in the area of AML/CFT, particularly with regard to the detection of cash couriers. • Increase the staff of the Unit for the Prevention of ML. Authorities should consider: • Clarify the division of responsibilities between Customs and BMP for checking compliance with the implementation of the declaration-related requirements. • Have Customs Judicial Officers at Customs point that may present a higher risk of cash smuggling.
3. Preventive Measures– Financial Institutions	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5–8)	**Recommendation 5** The authorities should: • Amend Articles 1025 and 1026 of the Civil Code and/or pass legislation to prohibit the issuing of bearer passbooks; • Pass legislation to prohibit the issuing of any other bearer instruments (e.g. certificates of deposit); • Prohibit the use of cheques with multiple endorsements over a certain threshold; • Extend the circumstances when "CDD" is required to all aspects of CDD, not just

	identification and verification; • Clarify or amend the term "reasonable doubt for money laundering or terrorist financing" in Article 4 of the AML/CFT Law to ensure that it fully covers cases where there is a suspicion of money laundering or terrorist financing; • Clarify in law or regulation the requirement to verify that a person acting on behalf of another is so authorized; • Include a requirement in law or regulation to verify the identity of a beneficial owner; • Extend the requirements in relation to beneficial ownership to include beneficial ownership of legal arrangements; • Clarify the inconsistency between the AML/CFT Law and Instruction 12 regarding the threshold for identifying the shareholding and voting rights of legal persons in determining beneficial ownership; • Clarify the meaning of "de facto controls the decisions made by the legal person" in the AML/CFT Law, or otherwise provide a specific requirement in law, regulation or other enforceable means ("OEM") to understand the ownership or control structure of customers who are legal persons, and in law or regulation the requirement that obliged entities must take reasonable measures to determine who are the natural persons who exercise effective control over a legal person or arrangement; • Establish a requirement in law or regulation to determine whether a person is acting on behalf of another; • Include a requirement in law, regulation or OEM that obliged entities obtain information on the purpose and intended nature of the business relationship; • Clarify the requirements in the AML/CFT Law on carrying out "continuous monitoring", and on "periodically" updating client data by either amending the Law itself or issuing further

	guidance to ensure that ongoing monitoring is fully and consistently implemented by the obliged entities; • Provide further guidance on the categorization of clients deemed to require enhanced due diligence for all obliged entities, and (for entities supervised by the BoA) clarify that the indicators of suspicious activity given in Annexes I and II of Decision 44 can be used for this purpose, as well as for STR reporting. • Clarify in law, regulation or OEM, or in guidance, the steps to be taken in when obliged entities are required to apply enhanced due diligence; • Establish in law, regulation or OEM requirements for all obliged entities not to open accounts and to consider submitting an SAR when they are unable to comply with criteria 5.6, and additionally for all obliged entities not supervised by the Bank of Albania when they are unable to comply with criteria 5.1 to 5.5; • Set out in law, regulation or OEM a requirement to apply CDD measures to existing clients on the basis of materiality and risk, for example by clarifying what is meant by the term "periodically" in Article 6 of the AML/CFT Law. The authorities should also: • Consider prohibiting cash transactions in all currencies over a certain threshold, given the AML risk in Albania associated with the use of cash; • Consider prohibiting cash transactions in all currencies over the amount of lek 1,000,000 in circumstances where the customer declares that the source of funds is from his/her employment abroad, unless accompanied by a relevant customs declaration form. **Recommendation 6**

	The authorities should: • Extend the requirements relating to PEPs to foreign PEPs; • Extend the definition of PEPs to include family members and close associates of PEPs; • Require obliged entities to have appropriate risk management systems to determine whether a customer is a PEP/becomes a PEP, rather than relying solely on a list produced by the authorities; • Provide a clear requirement to obtain on source of wealth and source of funds of PEPs; • Clarify what is meant by the requirement in the AML/CFT Law to perform "an increasing and continuous monitoring" of business relationships with PEPs. The authorities should also: • Consider revising the definition of domestic PEP to include public officials that give rise to greatest concern, given the perceived level of corruption in Albania. **Recommendation 7** The authorities should: • Include a requirement for obliged entities to obtain information on whether a respondent institution has been subject to a ML/TF investigation. The authorities should also: • Consider providing guidance to the banking sector as to the steps to be taken when establishing cross-border correspondent banking relationships to ensure consistent and effective implementation of the legal requirements, including the need to assess the supervisory regime in which the respondent operates.

	Recommendation 8 The authorities should: • Provide guidance to FIs on the types of policies and procedures they should put in place to prevent the misuse of new technologies; • Raise awareness of the ML/TF risks in new technologies amongst obliged entities which are likely to encounter them (especially the banking sector); • Take steps to require FIs to manage the risks of non-face to face transactions.
3.3 Third parties and introduced business (R.9)	The authorities should: • Consider the ML/TF risks in allowing third party reliance, and then decide whether allowing third party reliance would be appropriate and feasible in Albania; • Either: expressly prohibit the practice of third party reliance in law, regulation or OEM and raise awareness amongst obliged entities of the CDD measures that they should perform on their own account, and that third party reliance is not permitted; or establish a system for allowing third party reliance in accordance with Recommendation 9.
3.4 Financial institution secrecy or confidentiality (R.4)	• The authorities could consider establishing provisions to regulate specifically the procedures and scope for the exchange of information between financial institutions if reliance on third parties will be allowed and regulated.
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	**Recommendation 10** Authorities should: • Amend the record keeping requirement for "account files and business correspondence" in the AML/CFT Law so that the five year period is calculated "following the termination of an account or business relations", as required by the FATF standard.

	• Clarify the scope of "financial transactions" ensuring that it covers all types of transactions linked with the FI's customer operations. The authorities should also: • Consider providing specific guidance to FIs on the "necessary details" needed to ensure the reconstruction of the entire cycle of customer's transactions in order to ensure, if necessary, evidence for prosecution of criminality, and guidance on the records to be kept in the case of beneficial owners. • Consider clarifying the term "financial" transactions in the AML/CFT Law to ensure that it fully covers all the types of FIs customer transaction records. **Special Recommendation VII** Authorities should: • Remove the option of requesting missing wire transfer-related information from the beneficiary of the transaction. • Ensure that the obligation to report in the case of missing information, established by article 10.3, is fully observed. The authorities should also: • Consider introducing a minimum threshold to identify the originator in international incoming wire transfers. This threshold should be in line with the Albanian economy and financial system characteristics. • Consider developing guidelines to assist FIs to understand relation to the monitoring process of wire transfers and to ensure the accuracy of the data used to complete the payer information that is missing from incoming transfers received by the FIs.
3.6 Monitoring of transactions and relationships (R.11 & 21)	**Recommendation 11**

	The authorities should: • Increase awareness amongst FIs of the need to examine complex and unusual transactions. • Impose a specific requirement for FIs to pay special attention to all complex, unusual large transactions and unusual patterns of transactions which have no apparent economic or visible lawful purpose. • Require obliged entities to record the findings of their examination of complex and unusual transactions in law, regulation or OEM. **Recommendation 21** The authorities should: • Require obliged entities to examine and make written findings of business relationships and transactions with persons in countries with poor AML/CFT controls, if they have no apparent economic or visible lawful background. • Give guidance as to the factors to be taken into consideration when determining if a country is not applying or is insufficiently applying the FATF Recommendations. • Specify the counter-measures to be taken in cases where an FI deals with a person in or from such a country. The authorities should also: • Consider asking FIs to take into account the wider information contained in the FATF statements on improving global AML/CFT compliance.
3.7 Suspicious transaction reports and other reporting (R.13, 14, 19, 25, & SR.IV)	**Recommendation 13** The authorities should: • Ensure that the SAR requirement extends to all categories of offences required in the FATF standards;

	• Extend the definition of STR (Article 12 para 2) to include the proceeds of criminal activity; • Set out an explicit requirement in law or regulation that attempted transactions should be reported; • Remove the exemptions in Article 13 of the AML/CFT Law that relate to SARs; • Take steps to raise awareness amongst obliged entities of the difference between the currency transaction reports, suspicious activity reports and suspicious transaction reports that are required under the AML/CFT Law; • Encourage greater reporting of SARs by obliged entities by raising awareness of the reporting requirement in sectors/parts of sectors which have submitted few SARs; • Ensure that all instances of tax evasion are reported. The authorities should also: • Consider reviewing the whole CTR reporting system to determine whether it adds value to the fight against ML/TF, especially given that FIs give it precedence over reporting suspicion; • Provide adequate and timely feedback to obliged entities which report SARs. **Recommendation 14** The authorities should: • Clarify the AML/CFT law so that the prohibition against tipping off explicitly applies to directors and officers as well as employees; • Provide guidance to obliged entities on the steps to be taken to avoid tipping off when an STR is submitted under Article 12 para 2 of the AML/CFT Law.

	Special Recommendation IV The authorities should: • Encourage greater reporting of SARs related to TF by obliged entities by raising awareness of the reporting requirement in sectors/parts of sectors which have submitted few SARs; • Ensure that the SAR requirement extends to all categories of TF offences required in the FATF standards, and that it applies to situations beyond intended terrorist financing. **Recommendation 25** The authorities should: • Enhance feedback to reporting entities having regard to the FATF Best Practices Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	**Recommendation 15** Authorities should: • Clarify that the 'compliance officer" should be at management level. • Specifically include FT among the responsibilities of the compliance officer. • Specify that the FIs internal regulations should include prodedures to detect unusual and suspicious transactions. • Require that compliance officer has timely access to the data he/she may need. • Require FIs to establish an independent audit function. • Ensure that non-banking FIs provide proper AML/CFT training to their employees. • Ensure that FIs put in place screening procedures to follow high standards when hiring employees.

	Authorities should also: • Consider developing guidelines on employee screening procedures requirements. • Consider introducing the requisite of the independence of the compliance officer. **Recommendation 22** Authorities should: • Introduce a specific requirement for FIs to pay particular attention to the principle of the application of the domestic legislation to foreign branches/subsidiaries that operate in countries which do not or insufficiently apply the FATF Recommendations. • Introduce a specific requirement to FIs adopt the highest AML/CFT in case of branch subsidiaries or branches in foreign countries. • Ensure that the Albanian AML/CFT standards are applied in a consistent way among the Albanian FIs foreign branches as a part of a group policy. • Consider to introduce a requirement to FIs draft a group AML/CFT policy manual to ensure consistent CDD measures at the group level.
3.9 Shell banks (R.18)	• Due to the gap in the redaction of the Article 9 AML/CFT Law, the authorities are recommended to amend the AML/CFT Law forbidding FIs specifically from operating with shell banks (either as a customer or as a correspondent).
3.10 The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	**Recommendation 29** The authorities should: • Address the inconsistency between the AML Law and Decision 343 regarding the designation of the supervisory authority for FIS undertaking payment services.

	• Review and update insurance and securities sector laws to take into account the requirements of the AML/CFT Law. • Ensure that all financial sectors are subject to effective supervision. • Enhance the channels of communication and information exchange between the GDPML and the supervision authorities. In particular the GDPML should share in a timely fashion the findings of the inspections it undertakes with the BoA and the FSA so that these findings can be used to inform their supervisory activities. The authorities should consider: • Whether the current practice of the GDPML's conducting inspections on compliance with the whole range of AML/CFT requirements is appropriate and, if it is, consider amending the AML/CFT law. • Issuing by-laws elaborating the FSA's attributions as the AML/CFT supervisor in the securities and insurance sectors. • Consider enhancing the coordination between the supervisiory authorities in order to cover as many FIs as possible and avoid duplication. The authorities should (R30): • Ensure the financial independence of the FSA. • Ensure that the supervision authorities and the FIU have enough resources (human and technological) to carry out the obligations imposed by the AML/CFT Law commensurate with the number of entities under their responsibility and their ML/FT risk. • Consider establishing an annual plan to train AML/CFT supervisory staff on AML/CFT supervision techniques and typologies. **Recommendation 17** The authorities should:

	• Review the existing process to impose sanctions in order to remove any repetition of inspections and the possibility to sanction twice for the same violation. • Introduce a unified administrative sanctions regime for ML/FT violations in order to avoid possible "supervisory arbitrage". • Ensure that the supervisory authorities use AML/CFT sanctions powers effectively. The authorities should consider: • Introducing a graduated scale of sanctions which includes an early warning system of notifications. **Recommendation 23** Authorities should: • Ensure that all the Albanian financial activities are subjected to adequate AML/CFT regulation and supervision. • Increase the inspections carried out on natural and legal persons providing a money or value transfer services and to a money and currency changing services. • Ensure adequate and effective AML/CFT supervision of the insurance and securities sector by the FSA. • Improve the offsite surveillance and risk-based onsite supervision. • Establish legal requirements for fit and proper tests for all the FIs that are subject to the Core Principles. Authorities should also consider: • Including in the supervision plan a yearly minimum number of joint inspections to be carried out by supervision authorities in order to

	supervise more types of financial entities. **Recommendation 25** • Authorities should establish guidelines which assist FIs with the AMl/CFT obligations.
3.11 Money value transfer services (SR.VI)	The Authorities should: • Increase supervisory resources available to supervise MVT operators; • Impose a direct requirement for MVT service operators to maintain a current list of agents; • Raise awareness of the obligation to report SARs among MVT operators; • Take further steps to ensure that remittance activity takes place in the formal sector.
4. Preventive Measures– Nonfinancial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	The authorities should: • Extend requirements to all TCSP activities defined by the standard. • Increase the number of sanctions applied to games of chance operating illegally. The Supervision Unit of the Games of Chance (SUGC) should work with State Police to identify casinos operating illegally and apply administrative sanctions provided by the Law on Games of Chance. Sanctions for operating games of change illegally should also be increased. • The ASP should identify dealers in precious metals and stones that are operating illegally and apply available sanctions. • Develop guidance detailing appropriate risk mitigation measures for non-face-to-face transactions for lawyers, accountants and real estate.

	• Implement outreach programs and develop guidance to raise awareness of customer due diligence measures in the DNFBP sectors. The authorities should also consider: • Prescribing additional high risk situations where enhanced due diligence should be applied. • Clarifying when client identification is required for DNFBPs providing guidance on what is considered a 'business relationship' for each DNFBP sector.
4.2 Suspicious transaction reporting (R.16)	The authorities should: • Implement training and guidance targeted to DNFBPs to enhance knowledge of STR detection reporting and internal control obligations as well as requirements to apply special attentions to transactions related to countries who insufficiently apply FATF recommendations. The authorities should also: • Consider a more prescriptive approach to internal control requirements, specifically defining high risk situations and providing specific guidance with respect to internal regulations, internal audit and training.
4.3 Regulation, supervision, monitoring, and sanctions (R.17, 24, & 25)	The authorities should: • Designate a supervisor for real estate, accountants, and DPMS. The AML/CFT Law currently allows for designations of supervisors to be reassigned without a legislative change. This should be avoided in future designation provisions to ensure that obliged entities are aware of who their designated supervisor is. • Require designated supervisory authorities to develop an action plan on how AML/CFT supervision will be integrated into their existing activities as well as undertake more AML/CFT inspections.

	• Review the casino license revocation provisions to allow license revocation in repeated instances of non-compliance with AML/CFT obligations. • Strengthen measures to prevent criminals or their associates from holding a controlling interest in casinos or games of chance and include the screening of key individuals by the conducting of criminal background checks on all shareholders, managers, and beneficial owners' family members and close associates. • Clarify in the AML/CFT law the authority of the GDPML to conduct inspections related to compliance to AML/CFT requirements other than non-reporting requirements. • Publish guidance targeted to DNFPBs on all AML/CFT requirements. • Implement a tiered sanctions regime that is proportional taking into account the size of the entity and the severity of the violation. • Confer additional supervisory resources to the SUGC and the GDPML. The authorities should also consider: • Establishing a supervisory working group for all AML/CFT supervisory authorities to engage functional supervisors, coordinate supervisory activities, exchange inspection results, and ensure consistency in the application of AML/CFT obligations. • Taking a more cooperative approach to supervision by limiting the application of sanctions to willful or repeated non-compliance and providing training to all DNFBP sectors. • Conducting a risk assessment of DNFPB sectors in order to determine an appropriate supervisory strategy. • Implementing AML/CFT training for individuals conducting AML/CFT supervision in the Ministry of Justice, Chamber of Advocates and the SUGC.

4.4 Other designated non-financial businesses and professions (R.20)	The authorities should consider: • Enforcing the requirement requiring taxpayers, physical or legal commercial persons, not to engage in cash transactions where the amount is in excess of lek 300,000. • Fully implementing the recommendations of the public-private project-working group on the Reduction of Cash Transactions in Albania. • Requiring that all notarized transactions be conducted through a notary's trust account.
5. Legal Persons and Arrangements & Nonprofit Organizations	
5.1 Legal Persons–Access to beneficial ownership and control information (R.33)	Authorities should: • Conduct a review to ensure that all required information for companies established prior to the reform has been made available to the NRC. • Establish sanctions for the transitional regime-related obligations (commercial companies); increase the existing sanctions so that they are dissuasive (commercial companies); establish dissuasive sanctions for non compliance with the requirements to provide information (associations and NPOs). • Reform the system of registration of associations and NPOs, similarly to the reform that took place with the commercial companies and the establishment of the NRC, to ensure that beneficial ownership and control information is adequate, accurate and current. • Conduct a review of the information maintained by the Tirana District Court to ensure that the files contain all the information required by the law and that this information is accurate and up-to-date, especially for those associations/NPOs established prior to 2001. • Conduct a risk assessment concerning bearer shares and take appropriate measures to ensure that they are not misused for ML/FT (for example consider "dematerializing" bearer

	shares).
5.2 Legal Arrangements– Access to beneficial ownership and control information (R.34)	***N/A***
5.3 Nonprofit organizations (SR.VIII)	The authorities should: • Carry out a full risk assessment to establish what the TF risks are in the sector; • Establish, on the basis of the above review, whether the current measures in place for recording and accessing information relating to NPOs are proportionate to the TF risks they pose; • Improve the accuracy of the registration process for NPOs, including some form of verification of the information recorded and a sanctionable system for failing to update this information; • Develop a system for supervising or monitoring NPOs on the basis of the risk they present.
6. National and International Cooperation	
6.1 National cooperation and coordination (R.31)	The authorities should: • Conduct a review of the effectiveness of the AML/CFT system and conduct a national risk assessment to inform the future strategies on the investigation of financial crimes as well as provide guidance to obliged entities on the specific AML/CFT vulnerabilities in place in Albania. • Establish a forum between the GDPML and other designated AML/CFT supervisors to engage functional supervisors, coordinate supervisory activities, exchange inspection results, and ensure consistency in the application of AML/CFT obligations. • Include the GDPML and other supervisory bodies in the Committee to ensure that supervisory concerns are properly reflected in the national strategy. • Designate an authority responsible for the

	collection of statistics related to AML/CFT. The authorities should consider: • Reviewing timelines related to the National Strategy for the Investigation of Financial Crimes to provide more precise timelines in order to accelerate implementation and increase the strategy's effectiveness. • Establishing a consultation mechanism with obliged entities to review policy proposals developed by the authorities as well as to discuss the implementation of AML/CFT requirements.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	The authorities should: • Criminalize ML so that it is fully in line with the Vienna and Palermo Conventions. See the discussion under Recommendations 1 and 2 above. Among other things, the authorities should address: • Issues on coverage for self-laundering in the case of some Article 287/b offences. • Use of proceeds restricted to financial and economic activities in Article 287. • Limitation of Article 287/b to stolen goods. • Some required ancillary activity not covered. • Consequent limitations for confiscation, mutual legal assistance and extradition. • Improve effectiveness by securing additional convictions. • Criminalize the FT so the offence is fully in line with FT Convention. See the discussion under Special Recommendation II above. Among other things, the authorities should address the following: • That not all terrorist actions required to be covered are covered. • The issues with intent requirements ("intended to cause" not clearly covered); some intent and

	purpose requirements extended to Annex 1 acts; application to government agencies rather than government). • The lack of clarity that the offence provision applies regardless of whether the terrorist act is actually committed or attempted. • The lack of clarity that the financing prohibited extends to the full extent of "funds" as that term is defined in the FT Convention. • Address issues relating to UNSCR implementation that are identified in the discussion under Special Recommendation III above. Among other things, the authorities should address the following issues: • That the legal basis in the case of UNSCR 1373 matters is uncertain. • Those provisions for challenging a listing in UNSCR 1373 context are not adequate. • The absence of provisions/mechanism to address requests for subsistence. • The inadequate legal basis for some supervision. • Effectiveness issues (irregular schedule of updating on lists, lack of guidance and inadequate supervision). •
6.3 Mutual Legal Assistance (R.36, 37, 38 & SR.V)	The authorities should: • Enact provisions that will permit a broader ability to execute of foreign requests to confiscate assets. • Take any steps necessary to recognize within Albania on a domestic basis that the Vienna, Palermo and FT Conventions (see Articles 7, 18 and 12) may be used as a basis for to seek and grant MLA assistance, and use such provisions if necessary particularly in the case of requests not falling under the European MLA Convention.

	• Review existing domestic legal provisions that Albania uses to implement obligations to provide assistance in identification, freezing, seizing and confiscation pursuant to various international instruments to which Albania is a party, determine their adequacy to meet all such obligations, and adopt provisions as necessary to meet fully such obligations. • Consider amending CPC Article 509 so that the diplomatic channel is no longer required in the case of MLA requests that are executed using this provision. • Undertake a review of possible barriers to more efficient provision of MLA assistance including the application of dual criminality principles and the requirement for use of diplomatic channels. In this regard there should be an identification of the circumstances (i.e. the legal basis for the request) in which these principles or requirements must be applied. The authorities should then work to eliminate the barriers to the extent possible. • Address resource and responsibility issues regarding translations for outgoing requests and the materials received in response to outgoing request in a way that ensures there is always timely transmission of outgoing requests and full availability of responsive materials on a timely basis. • Develop explicit procedures for urgent outgoing requests that ensure that such requests are always identified and handled on an urgent basis. • Undertake to maintain the full range of statistics regarding incoming and outgoing ML and FT MLA requests, including numbers of requests by category, and disposition including the relevant time periods involved. • Address the deficiencies in ML and FT criminalization identified in the sections of this report under Recommendations and SR II to avoid cascading effect on ability to provide MLA where dual criminality is applied. For

	ML, for instance, deficiencies as coverage of insider trading and market manipulation and self-laundering (which does not apply in the case of all kinds of ML offences) and for FT, for instance, the amendments noted as necessary to CC Articles 230/a, 230/d and 230. • Develop written guidance for prosecutors, law enforcement and the judiciary so that there is a clear understanding of the similarities and differences between the various legal instruments Albania uses to seek and grant MLA and of the international agreements and their broader and wider standards. With this there should be instruction on which provisions of the CPC and MLA Law also apply when the request has a treaty or convention basis. There should also be accurate and widely-distributed translations of international instruments and explanatory materials that are not already in Albanian. • Through training, improve understanding by the judiciary and law enforcement of the wider options available under international instruments with a view towards addressing the tendency of the courts to apply strict interpretations and standards. The authorities should also: • Enact a provision in the CPC and/or MLA Law that addresses more clearly MLA assistance in the production of documents (for instance financial records) unless they conclude that current provisions of the European Convention and MLA Law are adequate in this regard. • Consider altering the CPC requirement that each letter rogatory must go to the court for an authorization to execute in those matters where a request could be executed using prosecutorial powers.
6.4 Extradition (R. 39, 37 & SR.V)	The authorities should: • Remedy the deficiencies in the FT (for instance, the amendments noted as necessary to CC Articles 230/a, 230/d and 230) and predicate offence for ML (market manipulation and insider trading) to ensure that dual criminality

	does not limit extradition in such cases. • Amend the CPC (Article 491 para. 3) to delete the provision that appears to afford the Minister of Justice too wide discretion with respect to extradition. • Recognize, and as necessary perfect, competent authorities' ability to extradite based upon the FT Convention (Article 11), Vienna (Article 6 para. 3) and Palermo (Article 16 para. 4 -5) Conventions. Take steps necessary to deposit instruments with the UN as necessary. • Maintain information on the time frames involved in any request for extradition relating to ML or FT. • Decide whether there is an adequate legal basis to grant extradition in the absence of a treaty based upon reciprocity and in what circumstances that can occur given CC Article 11, and make this clear to prosecutors and other relevant officials.
6.5 Other Forms of Cooperation (R. 40 & SR.V)	The authorities should: • Establish channels of cooperation with AML/CFT supervisors in the non-banking sectors. • Establish a clear authority for supervisory agencies to make inquiries or conduct investigations on behalf of foreign counterparts. • Establish safeguards to protect information received by foreign counterparts. • Collect statistics with respect to cooperation outside of MLATs between law enforcement and foreign counterparts. • Collect statistics on the number of AML/CFT exchanges/collaborations between supervisory agencies and foreign counterparts.
7. Other Issues	
7.1 Resources and statistics	**Recommendation 30**

(R. 30 & 32)	The authorities should: • Specify the autonomy and independence of the GDPML in legislation and establish a fixed term for the General Director and include a provision on the independent status of the Director. • Establish controls to reduce the occurrence of corruption within Customs and the judiciary. • Conduct targeted training to the judiciary to increase their knowledge of ML, its inherent complexities and proceeds of crime in general. • Provide training for courts, prosecutors and judicial police that instruct regarding practices in Europe and elsewhere that will permit better use of existing provisions under more liberal standards. • Provide more training to customs officers in the area of AML/CFT, particularly with regard to the detection of cash couriers. • Implement AML/CFT training for individuals conducting AML/CFT supervision in the, FSA, the Ministry of Justice, the Chamber of Advocates and the SUGC. • Increase resources dedicated to AML/CFT within FSA, Customs and the SUGC. The authorities should consider: • Developing core training on financial and proceeds of crime investigations targeted specifically at the FIU and the Sector against Money Laundering in the ASP. **Recommendation 32** The authorities should: • Review the effectiveness of Albania's AML/CFT system. • Centralize the collection of ML, FT and proceeds of crime statistics to improve

	consistency of data collected. • Maintain consistent and comprehensive statistics on STR reporting and the number of FIU disseminations that have resulted in convictions, seizures or confiscations. • Undertake to maintain the full range of statistics regarding incoming and outgoing ML and FT MLA requests, including numbers of requests by category, and disposition including the relevant time periods involved. • Maintain information on the time frames involved in any request for extradition relating to ML or FT. • Collect statistics broken down by border point and amount of penalties applied in cases of non-compliance. • Collect statistics on the number of formal requests received by supervisors relating to AML/CFT. The authorities should consider: • Collecting statistics with respect to cooperation between law enforcement and foreign counterparts. • Collecting statistics broken down by predicate offenses.
7.2 Other relevant AML/CFT measures or issues	***N/A***
7.3 General framework – structural issues	***N/A***

Annex 1. Authorities' Response to the Assessment

The Albanian authorities would like to thank the team of evaluators for their professional work and the considerable amount of time and efforts they have dedicated to the assessment of Albania's AML/CFT regime.

The detailed report presents in earnest the conclusions and the findings of this assessment that are reflected in a very comprehensive manner. During the on site visit that took place in November of 2010, the Law Enforcement Agencies, supervisory institutions as well as a wide array of private entities had the possibility to discuss at great lengths the steps undertaken both at the legislative level as well as the practical implementation of the AML/CFT standards in Albania.

Albanian government has continued its efforts to enhance the level of compliance with international standards aiming at preventing and tackling money laundering and the financing of terrorism financing.

To this end the financial system regulators (Bank of Albania and Financial Supervisory Authority) the Financial Intelligence Unit as well as Law Enforcement Agencies have received on going support in order to increase their proffessional capabilities while at the same time foster a culture of compliance among the supervised entities and contribute to confidence building throughout the country.
The Financial Intelligence Unit has also continued to play an important role in engaging with the obligors in order to increase the level of compliance with the AML/CFT Legislation. The relations with DNFBPs have been at the very center of such efforts given their role as gatekeepers.

The international relations with the foreign FIUs have also been enhanced by using the the secure platform provided by Egmont group. In that regard responses to the foreign requests have been sent in a timely manner while at the same time aiming at providing the widest possible support to our foreign counterparts.

This proactive approach has made it possible in the last years to set up close and mutually beneficial relationships with foreign authorities and international organizations in the AML/CFT sector.

Albania will continue to further strengthen its already established AML/CFT system while continuously striving to advance the level of cooperation of within the country and beyond.

Some of the recommendations of the report have already been taken into consideration and are being implemented mainly in the legislative domain. This changes will contribute to further approximate the legislation with the standards regarding operational independence of the FIU, record keeping, customer due diligence, foreign politically exposed persons, correspondent banking relationships etc.

Albanian authorities will continue to take effective steps in order to further strengthen the overall AML/CFT system in order to guarantee a reliable and sustainable implementation of international standards.

Annex 2. Details of All Bodies Met During the On-Site Visit

Authorities, State institutions:

Agency for the Administration of Seized and Confiscated Assets
Albanian State Police
Bank of Albania
Financial Supervision Authority
First Instance Court of Tirana
General Directorate of Customs
General Directorate for the Prevention of Money Laundering
General Directorate of Taxation
General Prosecutor's Office
High Inspectorate for the Declaration and Auditing of Asset
Joint Investigation Units
Ministry of Finance
Ministry of Finance – Gaming Commission
Ministry of Foreign Affairs
Ministry of Justice
National Registration Centre
State Intelligence Service

Private sector, civil society:

AE Kont Center (Accountant)
AK Invest Premises (Money remitter)
Albanian Bankers' Assocation
Alfa Information (Real estate)
Alfa Bank
Arjana Mallkuçi (Notary)
Armando Fetahaj (Accountant)
Astra Albania (Games of Chance)
Balkima Real Estate
Chamber of Notaries
Credins Bank
Fatmir Laçej (Notary)
Gjirondi Jeweler
INSIG (Life Insurance Company)
Insurance Association
Intesa Sao Paolo Bank
Kalo and Associates (Law firm)
Manushi shpk (Bureau de change)
National Commercial Bank
Optima Law Firm
Pirro Jewelry
Raiffaisen Bank
Regency Casino
SIGAL (Life Insurance)
Shqiperia sot (Accountant)
Tirana Leasing (Leasing Company)
Unioni Shqiptar I Kursim-Kredidit (Saving and Credit Entity)
Western Union (Money Remitter)

Annex 3. List of All Laws, Regulations, and Other Material Received

- The Criminal Code (Law no. 7895, dated January 27, 1995)
- The Criminal Procedures Code (Law no. 9749, dated April 6, 2007)
- Law on the Bank of Albania (Law no. 8269, dated December 23, 1997)
- Law on Banking (Law no. 9662, dated December 18, 2006)
- Law on the Civil Servant Status (Law no. 8549, dated November 11, 1999)
- Law on the criminal liability of legal persons (Law no.9754, June 14, 2007)
- Law on Employees of the State Police (Law no. 9749, dated June 4, 2007)
- Law on the Financial Supervisory Authority (Law no. 9572, dated July 3, 2006)
- Law on Games of Chance (Law no. 10033, dated December 11, 2008)
- Law for Jurisdictional Relationship with Foreign Authorities in Criminal Issues (Law no. 10193, dated December 3, 2009)
- Law on Information Classified "State Secret" (Law no. 8457, dated November 2, 1999)
- Law on the Legal Profession in the Republic of Albania (Law no. 9109, dated July 17, 2003)
- Law on Notaries (Law no. 7829, dated June 1, 1994)
- Law on Non-Profit Organizations (Law no. 8788, dated May 7, 2001)
- Law on Prevention and Fight against Organized Crime (Law no. 10192, dated December 3, 2009
- Law on the Prevention of Money Laundering and Terrorism Financing (Law no. 9917 dated May 19, 2008)
- Law on Measures for the Suppression of Terrorism Financing (Law no. 9258, July 15, 2004)
- Law on the Organization and Functioning of the Prosecutor's Office in the Republic of Albania (Law no. 8737, dated February 12, 2001)
- Law on the Registration of Non-Profit Organizations (Law no. 8789, dated May 7, 2001)
- Law on State Police (Law no. 9749, dated June 4, 2007)
- Law on Tax Procedures in the Republic of Albania (Law no. 9920, dated May 19, 2008)

Decisions

- Decision on the approval of the Regulation on Prevention of Money Laundering and Terrorist Financing" hereinafter "Decision 44" approved by the Supervisory Council of the Bank of Albania (Decision, no. 44, dated June 6, 2009)
- Decision on the designation of the structure of the Committee for the consideration of the application, criteria, documentation and conditions to be fufilled by the applicant to be equipped with a casino license as well as the cases of revoking or removing such license (Decision no. 126, dated February 17, 2010).
- Decision on reporting Methods or Procedures of the Licensing and/or Supervisory Authorities" hereinafter "Decision 343"approved by the Council of Ministers (Decision no. 343, dated April 8, 2009)
- Council of Ministers Decision No. 718 of October 29, 2004 as amended by Decisions No. 671 (October 26, 2005), No. 767 (November 14, 2007), No. 442 (June 16, 2010) and No. 721 (September 1, 2010)

Guidance:

Reporting Methods and Procedures of Nonfinancial Professions (Instruction #11, dated February 5, 2009)

The Reporting Methods and Procedures of the Obliged Entities (Instruction #12, dated April 5, 2009)

Strategies:

National Strategy on the Investigation of Financial Crimes (Council of Ministers Decision no. 1077, October 27, 2010)Copies of Key Laws, Regulations, and Other Measures

LAW ON THE PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM
(Law no. 9917, dated May 19, 2008)

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

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA
DECIDED

CHAPTER I
GENERAL PRINCIPLES

Article 1
Purpose

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

Article 2
Definitions

The terms used in this law have the following meaning:

1 **"Responsible authority"** is the General Directorate of Money Laundering Prevention that reports directly to the Minister of Finances, and serves as Financial Intelligence Unit of Albania.

2 **"Shell bank"** means a bank, which does not have a physical presence, including lack of administration and management, and, which is not included in any regulated financial group.

3 **"Correspondent bank"** means a bank that provides banking services in the interests of another bank (initiating bank) or its clients to a third bank (receiving bank) based on an agreement, or a contractual relation reached between them for this purpose.

4 **"Financing of terrorism**" has the same meaning as provided by articles 230/a through 230/d of the Criminal Code.

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

6 **"Client"** means every person, who is or seeks to be party in a business relation with one of the entities referred to in Article 3 of this law.

7 **"Business relation"** means any professional or commercial relationship, which is related to

the activities exercised by this law entities and their clients and, which, once established, is considered to be a continuous relation.

8 **"Cash"** means banknotes (paper banknotes and coins, national and foreign) in circulation.

9 **"Laundering of criminal offence proceeds"** has the same meaning as provided by Article 287 of the Criminal Code.

10 **"Politically exposed persons"** means persons who are obliged to declare their properties pursuant to law Nr. 9019, date April 10, 2003 "On the declaration and auditing of properties and financial obligations of elected officials and public employees".

11 **"Criminal offence proceeds"** has the same meaning as provided by Article 36 of Criminal Code.

12 **"Beneficiary owner"** means the individual or legal entity, which owns or, is the last to control a client and/or the person in whose interest a transaction is executed. This also includes the persons executing the last effective control on a legal person. The last effective control is the relationship in which a persons:

a) owns, through direct or indirect ownership, the majority of stocks or votes of a legal entity,
b) owns by himself the majority of votes of a legal entity, based on an agreement with the other partners
or shareholders,
c) de facto controls the decisions made by the legal person,
d) in any way controls the selection, appointment or dismissal of the majority of administrators of the legal person.

13 **"Property"** means the right or property interest of any kind over an asset, either movable or immovable, tangible or intangible, material or non material, including those identified in an electronic or digital form including, but not limited to, instruments such as bank loans, traveler's cheques, bank cheques, payment orders, all kinds of securities, payment bills, and letters of credit, as well as any other interest, dividend, income or other value that derives from them.

14 **"Entity"** is a person or legal entity, which establishes business relations with clients in the course of its regular activity or, as part of its commercial or professional activity.

15 **"Money or value transfer service"** means the performance of a business activity to accept cash and other means or instruments of the money and/or payment market (cheques, bank drafts, bills, deposit bills, credit or debit cards, electronic payment cards etc.), securities, as well as any other document to hereby confirm the existence of a monetary obligation or any other deposited value, and to pay to the beneficiary of a corresponding amount in cash, or in any other form, by means of communication, message, transfer or by means of the clearing or disbursement service, to which the service of the transfer of money or value belongs.

16 **"Transaction"** means a business relation or an exchange that involves two or more parties.
17 **"Linked Transactions"** means two or more transactions (including direct transfers) where each of them is smaller than the amount specified as threshold according to the article 4 of this law and when total amount of these transactions equals or exceeds the applicable threshold amount.

18 **"Direct electronic transfer"** means every transaction made in the name of a first mandating person (individual or legal entity) through a financial institution, through electronic or wire transfer, with the purpose of putting a certain amount of money or other means or instruments of the money and/or

 payment market at the disposal of a beneficiary in another financial institution. The mandator and the beneficiary can be the same person.

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

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

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

Article 3
Entities subject to this law

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

i) transfer of immovable properties, administration of money, securities and other assets;
ii) administration of bank accounts;
iii) administration of capital shares to be used for the foundation, operation or administration of commercial companies;
iv) foundation, functioning or administration of legal entities;

v) legal agreements, securities or capital shares transactions and the transfer of commercial activities;

l) Real estate agents and evaluators of immovable property;
m) Authorized independent public accountants, independent certified accountants, as well as, financial consulting offices;

n) The Agency for Legalization, Urbanization and Integration of Informal Areas/ Constructions;
o) Any other individual or legal entity, except for those mentioned above, engaged in:
i) The administration of third parties' assets/ managing the activities related to them;
ii) Financial lease;
iii) Constructions;
iv) The business of precious metals and stones;
v) Financial loans;
vi) Financial agreements and guarantees;
vii) Buying and selling of art master pieces, or buying and selling in auctions of objects valuable 1,500,000 ALL or more;
viii) Insurance and administration of cash or liquid securities in the name of other persons;
ix) Cash exchange;
x) Trade of motor vehicles,
xi) Transportation and delivery;
xii) Travel agencies.

CHAPTER II DUE DILIGENCE

Article 4

Identification of clients

1. The entities should identify their clients and verify their identities by means of identification documents:
a) Before establishing a business relation;
b) when the client carries out or, is willing to carry out in cases other than those referred to in letter "a" of this paragraph, the following:
- A direct transfer inside or outside the country;
- A transaction at an amount equal to:

 (i) Not less then 200,000 (two hundred thousand) ALL or its equivalent in foreign currency for buying or selling of gambling coins or their electronic equivalent, such as the case of gambling, casinos and hippodromes of any kind;
 (ii) Not less that 1 500 000 (one million five hundred thousand) ALL or its equivalent in foreign currency in the case of a sole transaction or several transactions linked to each other. If the amount of the transaction is unknown at the time it is executed, the identification shall be made as soon as the amount is made known and the aforementioned limit is reached.
c) When there are doubts about the identification data previously collected
d) In all cases when there is reasonable doubt for money laundering or terrorism financing.

2. The entities should identify the beneficiary owner.

Article 5
Required documents for client's identification

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

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

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

c) In the case of private legal entities, which carry out for-profit activity: name, number and date of registration with the National Registration Center, documents certifying the object of activity, Number of Identification as Taxable Person (NIPT), address and all changes made in the moment of execution of the financial transaction;

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

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

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

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

Article 6
Monitoring of the business relation with the client

The entities must carry out continuous monitoring of business relations with their clients, in order to make sure that they are in conformity with the entity's information about the clients, the scope of their activity and their classification according to the level of risk they represent. The entities must periodically update the client data in accordance with paragraph 1 of this Article and immediately when they have reasons to suspect that the conditions and the actual situation of the client have changed.

CHAPTER III
ENHANCED DUE DILIGENCE
Article 7
Enhanced due diligence

In order to reduce the risks of money laundering, the entities shall specify categories of clients and transactions, in addition to those referred to in Articles 8 and 9 of this law, against whom they will apply the enhanced due diligence. In order to implement the enhanced due diligence, the entities should require the physical presence of clients and their representatives in the cases provided hereunder:

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

Article 8
Categories of clients subject to enhanced due diligence

1 The entities should verify, based on the list referred to in Article 28, paragraph 2 of this law, if a client or a beneficiary owner is a politically exposed person and when this is the case:
a) Obtain the approval of the higher instances of administration or management before establishing a business relation with the client;
b) Obtain a declaration on the source of the client's wealth that belongs to this financial action;
c) Perform an increasing and continuous monitoring of the business relations.

2 When an existing client becomes a politically exposed person, the measures provided in the paragraph 1 of this Article shall be applied.
3 For clients that are non-profit organizations, the entities shall hereby:

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

Article 9
Categories of transactions subject to enhanced due diligence

1 With regard to correspondent cross border banking services provided by banks subject to this law, they should, before establishing a business relationship, perform the following:
a) Gather sufficient information about the correspondent institution, in order to fully understand the character of its activity;
b) Determine the reputation of the recipient institution and the quality of its supervision through public information;
c) Evaluate whether or not the internal auditing procedures of the recipient institution against money laundering and financing of terrorism are satisfactory and effective;
d) Obtain the approval of the higher instances of administration/management and document the respective responsibilities of every institution.
e) Draft special procedures for the constant monitoring of direct electronic transactions.

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

banks.

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

4 The entities must apply enhanced due diligence to business relation and transactions with nonresident clients.

5 The entities must verify and apply enhanced due diligence to business relationships and transactions with clients residing or acting in countries that do not apply or partly apply the relevant international standards on the prevention and fight against money laundering and financing of terrorism.

6 The entities must apply enhanced due diligence to business relations and transactions with trusts and joint stock companies.

7 The entities must apply enhanced due diligence to business relations and transactions carried out by clients in the name of third parties, including the representation documents with which third parties have authorized the transactions.

8 The entities must adopt policies or respond appropriately according to the circumstances, in order to prevent the misuse of new technological developments for the purposes of money laundering or terrorism financing.

9 If an entity fails to fulfill its enhanced due diligence obligations, as prescribed in this article then:
a) it shall therefore not establish or carry on business relations with the client;
b) It shall report to the Responsible Authority its inability to fulfill its enhanced due diligence obligations and declare the reasons for this.

Article 10
Money or values transfer service obligations

1 The entities, the activities of which include money or value transfers, must ask for and verify first name, last name, permanent and temporary residence, document identification number and account number, if any, including the name of the financial institution from which the transfers is made. The information must be included in the message or payment form attached to the transfer. In case there is no account number, the transfer shall be accompanied by a unique reference number.

2 The entities transmit the information together with the payment, including the case when they act as intermediaries in a chain of payments.

3 If the entity referred to in paragraph 1 receives money or value transfers, including direct electronic transfers, which do not include the necessary information about the ordering person, the entity must request the missing information from the sending institution or from the beneficiary. If it fails to register the missing information, it should refuse the transfer and report it to the responsible authority.

Article 11
Prevention measures to be undertaken by entities

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

 (i) A clients acceptance policy, and
 (ii) A policy for the application of procedures of enhanced due diligence in the case of high-risk clients and transactions.

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

   c) establish a centralized system, in charge of data collection and analysis;

   d) apply fit and proper procedures when hiring new employees, to ensure their integrity.

   e) train their employees on the prevention of money laundering and terrorism financing through regular organization of training programs.

   f) assign the internal audit to check the compliance with the obligations of this law and of the relevant sublegal acts;

   g) make sure that branches, sub-branches, as well as their agencies, inside or outside the territory of the Republic of Albania act in compliance with this law. If the laws of the country where the branches or agencies have been established stipulate impediments against meeting the obligations, the entity should report about those impediments to the responsible authority and, as per the case, to its supervising authority.

   h) submit information, data and additional documents to the responsible authority, in accordance with the provisions and time limits set forth in this law. The responsible authority may extend this time limit in writing for a period of no more than 15 days.

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

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

CHAPTER IV

OBLIGATION TO REPORT

Article 12
Reporting to the responsible authority

1 When the entities suspect that the property is proceeds of a criminal offence or is intended to be used for financing terrorism, they shall immediately present to the responsible authority a report, in which they state their doubts by the time limit set forth in the sublegal acts pursuant to this law.

2 When the entity, which is asked by the client to carry out a transaction, suspects that the transaction may be related to money laundering or terrorism financing, it should immediately report the case to the responsible authority and ask for instructions as to whether it should execute the transaction or not. The responsible authority shall be obliged to provide a response within 48 hours.

3**.** The entities shall be required to report the following to the responsible authority within the time limits set forth in the sublegal acts pursuant to this law:

- a. all cash transactions, equal to or greater than 1,500,000 (one million and five hundred thousand) ALL or its equivalent in other currencies,
- b. all non-cash transactions, equal to or greater than 6,000,000 (six million) ALL or its equivalent in other currencies executed as a single transaction or as series of linked transactions.

Article 13
Exemption from reporting

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

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

Article 14
Exemption from legal liability of reporting to the responsible authority

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

Article 15
Tipping Off Prohibition

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

Article 16
Obligations to maintain data

1 The entities must store the documentation used for the identification of the client and the client's beneficiary owner for 5 years from the date of the termination of the business relation between the client and the entity. When requested by the responsible authority, the information shall be stored longer than 5 years.

2 The entities must keep data registers, reports and documents related to financial transactions, national or international, regardless of whether the transaction has been executed in the name of the client or of third parties, together with all supporting documentation, including account files and business correspondence, for 5 years from the date of the execution of the financial transaction. With the request of the responsible authority, the information shall be stored longer than 5 years, even if the account or the business relation has been terminated.

3 The entities must keep the data of the transactions, including those specified in article 10, with all the necessary details to allow the reestablishing of the entire cycle of transactions, with the aim of providing information to the responsible authority in accordance with this Law and the sub legislation pursuant to it. This information shall be stored for 5 years from the date when the last financial transaction has been carried out. This information shall, upon the request of the responsible authority, be stored longer than 5 years.

4 The entities must make sure that all client and transaction data, as well as the information kept according to this article, shall immediately be made available upon the request of the responsible authority.

Article 17
Customs authorities reporting

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

2 Customs Authorities shall apply the provisions of article 11 of this law.

Article 18
Tax authorities reporting

Tax authorities identify their clients, according to procedures set in article 4 of this law, and report in all cases to the Competent Authority immediately and no later than 72 hours, every suspicion, indication, notification or data related to money laundering or terrorism financing. Tax authorities apply the requirements of the article 11 of this law.

Article 19
Central Immovable Properties Registration Office Reporting

1 The Central Immovable Properties Registration Office shall report on the registration of contracts for the transfer of property rights for amounts equal to or more than lek 6,000,000 (six million) or its equivalent in foreign currencies.

2 The Central Immovable Properties Registration Office shall report immediately and no later than 72 hours to the responsible authority every suspicion, information or data related to money laundering or terrorism financing for the activities under its jurisdiction.

3 The Central Immovable Properties Registration Office shall apply the provisions set forth in the article 11 of this law.

Article 20
Non-profit Organizations

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

Article 21
Organization of the Responsible Authority

1 The General Directorate of Money Laundering Prevention shall, pursuant to this law, exercise the functions of the responsible authority as an institution subordinate to the Minister of Finances. This directorate, within its scope of activity, shall hereby be entitled to define the way of handling and resolving cases related to possible money laundering and to financing of possible terrorist activities.

2 The General Directorate of Money Laundering Prevention shall, pursuant to this law, operate as a specialized financial unit for the prevention and fight against money laundering and terrorism financing. Moreover, this directorate shall operate as the responsible national center for collection, analysis and dissemination to law enforcement agencies of information and the potential money laundering and terrorism financing activities.

3 Labor relations of the staff of this Directorate shall be regulated by the law no. 8549, date November 11, 1999 “On the Civil Servant Status” and by the Labor Code for the assistant staff.

4 The organization and functioning of the Directorate shall be hereby regulated by Council of Ministers’ Decision.

Article 22
Duties and functions of the responsible authority

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

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

b) access databases and any information managed by the state institutions, as well as in any other public registry in compliance with the authorities set forth in this law;

c) request, pursuant to its legal obligations, financial information from the entities on the completed transactions with the purpose money laundering and financing of terrorism prevention; d) supervise the compliance of the entities with the obligations to report set in this Law, including on site inspections alone or in collaboration with relevant supervising authorities;

e) exchange information with any foreign counterpart, entity to similar obligations of confidentiality. The provided information should be used only for purposes of preventing and fighting money laundering and financing of terrorism. Information may be disseminated only upon parties' prior approval;

f) enter in agreements with any foreign counterpart, which exercises similar functions and is subject to similar obligations of confidentiality;

g) exchange information with the Ministry of Interior, State Intelligence Service and other responsible law enforcement authorities regarding individuals or legal entities, if there is ground to suspect that this entity has committed money laundering or financing of terrorism;

h) inform, in cooperation with the prosecution office, the responsible authority on the conclusions of the registered criminal proceedings on money laundering and terror financing;

i) may issue a list of countries in accordance with paragraph 5 of article 9 of this law, in order to limit and/or check the transactions or business relations of the entities with these countries;

j) order, when there are reasons based on facts and concrete circumstances for money laundering or financing of terrorism, blocking or temporary freezing of the transaction or of the financial operation for a period not longer that 72 hours. In case of observing elements of a criminal offence, the Authority shall, by this time limit, file the case with the Prosecution Office by submitting also a copy of the order on transaction temporary freezing or on the account freezing, pursuant to this law, in addition to all the relevant documentation;

k) maintain and administer all data and other legal documentation on the reports or any other kind of documentation received over 10 years from the date of receiving the information on the last transaction;

l) provide its feedback on the reports presented by the entities to this authority;

m) organize and participate, together with public and private institutions, in training activities related to money laundering and terrorism financing, as well as, organize or participate in programs aimed at raising public awareness;

n) notify the relevant supervising authority when observing that an entity fails to comply with the obligations set forth in this law;

o) publish by the first quarter of each year the annual public report for the previous year on the activity of the responsible authority. The report shall include detailed statistics on the origin of the received reports and the results of the cases referred to the prosecution.

Article 23
Coordination Committee for the Fight against Money Laundering

1 The Coordination Committee for the Fight against Money Laundering shall be responsible for planning the directions of the general state policy in the area of the prevention and fight against money laundering and terrorism financing.

2 The Prime Minister shall chair the Committee consisting of the Minister of Finances, the Minister of Foreign Affairs, the Minister of Defense, the Minister of Justice, the General Prosecutor, the Governor of the Bank of Albania, the Director of the State Information Service and the General Inspector of High Inspectorate for the Assets Declaration and Auditing.

3 The Committee shall convene at least once a year to review and analyze the reports on the activities performed by the responsible authority and the reports on the documents drafted by the institutions and international organizations, which operate in the field of the fight against money laundering and terrorism financing. The general director of the responsible authority shall provide advice to the Committee upon its request and act as an advisor during the meeting of the Committee.

4 Ministers, members of the parliament, managers or representatives of institutions and experts of the field of prevention and fight against money laundering and financing of terrorism may be invited to the meetings of the Committee.

5 The Committee may establish technical and/ or operational working groups to assist in the execution of its functions, as well as, to study money laundering and terrorism financing typologies and techniques.

6 The operation rules of Committee shall be defined in its internal regulation to be adopted by this Committee.

Article 24
Functions of supervisory authorities

1. The Supervising Authorities are:

a) The Bank of Albania for the entities referred to in letters “a”, ”b”, “c”, “d” and “e”, of Article 3,

b) The Financial Supervisory Authority for the entities referred to in letters “f”, “g” and “h” of Article 3,

c) Respective ministries for the supervision for the entities referred to in letters “i” and “j” of Article 3,

d) The National Chamber of Advocates for lawyers;

e) The Ministry of Justice for notaries;

f) The relevant authorities for supervising entities defined in letters “l”, “m”, “n” and “o” of Article 3,

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

2 The Supervising Authorities shall immediately report to the responsible authority on every suspicion, information or data related to money laundering or financing of terrorism for the activities falling under their jurisdiction.

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

Article 25
Exclusion from speculation with professional secrecy or its benefits

1 Entities shall not use professional confidentiality or benefits deriving from it as a rationale for failing to comply with the legal provisions of this law, when information is requested or when, in accordance with this law, the release of a document, which is relevant to the information, is ordered.

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

Article 26
License revoking

1. The responsible authority may request the licensing/supervisory authority to restrict, suspend or revoke the license of an entity when:

a) it ascertains or has facts to believe that the entity has been involved in money laundering

or terrorism financing;

b) when the entity repeatedly commits one or several of the administrative violations set forth in article 27 of this law and the sublegal acts.

2. The licensing / supervisory authority shall review the application of the responsible authority based on the accompanying documentation, which shall represent the suspicions or the data, based on concrete circumstances and facts, according to the paragraph 1 of this article. The licensing/supervisory authority shall make a decision to accept or refuse it in compliance with the provisions of this law and with the legal and sublegal provisions, which regulate its activity and the activity of the entities licensed and supervised by it.

Article 27 Administrative sanctions

1 Unless being a criminal offence, the violations committed by the entities shall be classified as administrative ones, while the entities shall be subject to sanctions;

2. In the cases when they fail to apply monitoring and identification procedures, as well as customer due diligence versus the client and transactions according to their risk level that they present as set forth in articles 4, 5, 6, 7, 8 and articles 9, paragraph 1 through 8, and the sub legislation pursuant to this law, the entities shall be subject to the following fines:
a) individuals: from lek 100,000 up to lek 500,000;
b) legal entities: from lek 500,000 up to lek 1,500,000;

3 In the cases of failing to collect data according to article 10 of this law: a) individuals: from lek 400,000 up to lek 1,600, 000; b) legal entities: from lek 1,200,000 up to lek 4,000,000;

4 In the cases when they shall fail to apply the provisions of article 9, paragraph 9, and article 10, paragraph 3, entities shall be subject to the following fines;
a) individuals: from lek 500,000 up to lek 2, 000,000;
b) b) legal entities: from lek 2,000, 000 up to lek 5,000,000;

5. In the cases when the entities shall fail to implement the preventive measures set forth in article 11 of this law, they shall be subject to the following fines:
a) individuals: from lek 300,000 up to lek 1,500,000 ;
b) legal entities: from lek 1,000, 000 up to lek 3,000,000;

6. In cases when failing to meet the reporting obligations as set forth in 12 of this law, the entities shall be subject to the following fines;
a) individuals: from 5 to 20 percent of the amount of the unreported transaction;
b) legal entities: from 10 to 50 percent of the amount of the unreported transaction;

7. For the violations prescribed in article 15 and 16 of this law, the entities shall be subject to the following fines:
a) individuals: lek 2,500,000;
b) legal entities: lek 5,000,000;

8. In addition to what is prescribed in the paragraphs 2, 3, 4, 5, 6, 7 of this article, when a legal entity is involved and the administrative violation is committed by:
a) an employee or non administrator of the entity, the person who has committed the violation shall

be fined from lek 60,000 up to lek 300,000.
b) from an administrator or a manager of the entity, the person who has committed the violation shall be fined from lek 100,000 up to lek 500,000.

9 The fines shall be defined and set by the responsible authority.

10 The responsible authority shall inform the supervising/licensing authority on the sanctions imposed.

11 The procedures for the appeal against the decisions shall be performed in accordance with the Law No. 7697, dated July 04, 1993 "On the Administrative violations", as amended.
The execution procedures of the administrative sanctions will be enforced in accordance with the articles 510 through 526/a of the Civil Procedures Code.

Article 28
Passing of regulations

1 The Council of Ministers, with the proposal of the Minister of Finance, shall, pursuant to this law, adopt, within 6 months of its coming into effect, detailed rules on the form, methods and data reporting procedures for the licensing and supervising authorities, the Central Immovable Properties Registration Office, and the Agency for the Legalization, Urbanization and Integration of Informal Areas and Buildings.

2 General Inspector of High Inspectorate for the Assets Declaration and Auditing shall regularly, although not less than twice per year, present to the responsible authority the complete and updated list of the politically exposes persons drafted based on the provisions set forth in Law No. 9049, date April 10, 2003 "On the declaration and auditing of assets and financial obligations of the elected officials and of a number of public servants".

3 The Minister of Finance shall, upon the proposal of the responsible authority, adopt, within 6 months from the publishing of this law in the Official Journal, detailed rules related to the following:

a) Approaches and procedures for the reports of the entities described in article 3 of this law
b) Methods and procedures for the reports of the customs authorities,
c) Methods and procedures for the reports of the tax authorities,
d) Applicable standards or criteria in addition to the time limit for reporting suspicious activities, according to tendencies and typologies, in compliance with international standards, e) Detailed procedures for the verification of administrative violations committed by the reporting entities.

Article 29
Transitional Provisions

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

they are substituted by other sub legal acts to be issued pursuant to this Law.

Article 30
Repealing Provision

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

Article 31
Coming into effect

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

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

SPEAKER OF THE PARLIAMENT
JOZEFINA TOPALLI (ÇOBA)

CRIMINAL CODE
(Law no. 7895, dated January 27, 1995)

Article 10
Validity of criminal sentences of foreign courts

Unless otherwise provided for by bilateral or multilateral treaties, the criminal sentences of foreign courts on Albanian citizens who plead guilty of committing a criminal act are valid in Albania within the limits of the Albanian law, also on the following merits:
a) for the effect of qualifying as recidivist the person who has committed the criminal act;
b) to execute sentences comprising additional punishment;
c) for implementing security measures;
d) for compensation of damages or other civil law effects.

Article 11
Extradition

Extradition may be granted only when explicitly provided for by international treaties where the Republic of Albania is a party.
Extradition shall be granted when both Albanian law and foreign law provide for the criminal act, which constitutes the object of the request for extradition, as such simultaneously.
Extradition shall not be granted:
a) if the person to be extradited is an Albanian citizen, unless otherwise provided for by the treaty;
b) if the criminal act constituting the object of the request for extradition is of a political or military nature;
c) when there is reasonable ground to believe that the person requested to be extradited will be persecuted, punished or wanted because of his political, religious, national, racial or ethnic beliefs;
d) if the person requested to be extradited has been tried for the criminal act for which a competent Albanian court demands the extradition.

Article 30
Supplementary punishments

Besides the principal punishment, a person who has committed offences or criminal contravention may also be punishable by one or some of the following supplemental punishments:

1. Denial of the right to public functions;
2. Confiscation of criminal offence committal means and criminal offence proceeds;
3. Ban on driving;
4. Stripping off decorations, honorary titles.
5. Deprivation of the right to exercise a profession or skill;
6. Deprivation of the right to undertake leading positions related to juridical persons;
7. Denial of the right to stay[11] in one or some administrative units;
8. Expulsion from the territory;
9. Compulsion to make the court sentence public.

In particular cases, when the criminal punishment is deemed to be inappropriate and when the law provides for imprisonment up to 3 years or other lighter punishments, the court may decide only for the supplementary sentence.

Article 36
Confiscation of means for committing the criminal offence and criminal offence proceeds

1. Confiscation is given necessarily by the court and has to do with reception and release in the state's favor:
a) to the objects that have served or are specified as means for committing the criminal offence;
b) of criminal offence proceeds, where is included any kind of asset, as well as legal documents or instruments verifying other titles or interests in the asset waiting upon or gained directly or indirectly form the criminal offence committal;
c) of the promised or given remuneration for committing the criminal offence;
ç) of any other asset, whose value corresponds to the criminal offence proceeds;
d) of objects, whose production, use, holding or their alienation make a criminal offence, and when the sentence decision is not given;
2. If the criminal offence's proceeds are transformed or partly or fully converted into other assets, the latter is subject to confiscation;
3. If criminal offence's proceeds are joined with assets gained legally, the latter are confiscated up to the value of the criminal offence proceeds;
4. Subject to confiscation are also other income or profits from the crime proceeds, from assets that are transformed or altered to criminal offence proceeds, or from assets with which these proceeds are involved, in the same amount and manner as the criminal offence proceeds.

CRIMINAL PROCEDURE CODE
(Law no. 9749, dated April 6, 2007)

Article 155
Legal capacity to testify

1. Any one has the legal capacity to testify, except those who because of their mental disorder or physical disabilities are unable to testify.

2. When for the evaluation of sayings, the verification of mental or physical capacity to testify is required, the court, even *ex-officio*, may order the appropriate verifications.

Article 156

Incompatibility with the task of a witness

1. May not be questioned as witnesses:

a) persons who, due to physical disabilities or psychological disorders, are not able to give a proper testimony;

b) defendants in a joint criminal offence or in a connected proceeding, even when the case against them has not been initiated, or they have been acquitted or convicted, except in cases when the decision of acquittal has become final;

c) those who, in the same proceedings, perform or have performed the function of a judge or prosecutor;

ç) the defendant in the civil case.

Article 157
Obligations of a witness

1. A witness is bound to appear in court, to comply with its orders and to answer truthfully the questions asked.

2. A witness may not be compelled to testify on facts, which may incriminate him.

Article 158
Exemptions from obligation to testify

1. It is not obliged to testify:

a) a defendant's close kindred or in-laws, according to definitions of article 16, except in cases where they have lodged a criminal report or complaint or where they or a close relative of them are injured by the criminal offence;

b) a spouse, for facts learnt from defendant during their marital life;

c) a spouse divorced from defendant;

d) one, who even though is not defendant's spouse, cohabitates or has cohabitated with him;

e) one, who is related to the defendant in an adoptive relationship.

2. The court explains to the persons mentioned above their right not to testify and asks them if they wish to benefit from this right. Non compliance with this rule causes the testimony to be invalid.

Article 159
Maintaining professional secrecy

1. May not be compelled to testify on what they know due to their profession, except in cases where they have the obligation to report to proceeding authorities:

a) religious representatives, whose statutes are not in contravention of the Albanian legal order;

b) attorneys at law, legal representatives and notaries;

c) physicians, surgeons, pharmacists, obstetrics and anyone who exercises a medical profession,

d) those who exercise other professions, which the law recognises them the right not to testify on what is related to professional secrecy.

2. When the court has reasons to suspect that the claim made by these persons in order to avoid the testimony has no grounds, orders the necessary verification. Where it (claim) results baseless, the court orders the witness to testify.

3. Provisions provided under paragraph 1 and 2 shall also apply to professional journalists pertaining to the names of persons whom they have got information from during the course of their profession. But, when the information is indispensable to prove the criminal offence and the truthfulness of the information may only be proved through identification of the source, the court orders the journalist to reveal the source of his information.

Article 160
Maintaining state secrecy

1. State employees, public employees and persons appointed to a public service are obliged not to testify on facts that are state secret.

2. When the witness claims that the fact is a state secret, the proceeding authority requests a written confirmation from the competent state authority.

3. When the secret is confirmed and the evidence is not essential to the solution of the case, the witness is not examined, whereas, the evidence is essential, the proceeding authority adjourns the case until the highest authority of the state administration shall reply. Subsequently, the witness is compelled to testify.

4. If after thirty days from the service of the request, the competent state authority does issue the confirmation of the secret, the witness is requested to testify.

5. Judicial police officers and agents, as well as, state intelligence service personnel may not be compelled to reveal the names of their informers. Information given by them may neither be obtained nor used if these officials are not questioned as witnesses in relation to the information.

Article 198
Cases and types of examination

1. Examination of persons, places and items is ordered by the proceeding authority when it is necessary to discover traces and other material consequences of the criminal offence.

2. When the criminal offence has left no traces or material consequences or when those have destroyed, lost, altered or removed, the proceeding authority describes the situation and, when possible, verifies how it has been prior to changes and also takes steps to ascertain the way, time and grounds for changes that may have occurred.

3. The proceeding authority may order photographing, filming and any other technical act.

Article 199
Examination of persons

1. Examination is performed by honouring the dignity and, as far as possible, the protection of the person being examined.

2. Prior to examination, the person examined is informed of his right to request the presence of a confidant, provided that he may be found immediately and is suitable.

3. Examination may also be performed by a physician. In such a case, the proceeding authority may choose not to take part in the examination.

4. When it is necessary to ascertain facts that are important to the case, it is permitted to take blood specimen and other bodily interventions even without the consent of the person, if it posses no danger to his health.

Article 200
Corpse examination

1. Corpse examination is performed by proceeding authority in the presence of a forensic doctor.

2. A judge or prosecutor for the examination of a corpse may order (his) exhumation, informing a member of the deceased family to participate, except when the participation may harm the purpose of the examination.

Article 201
Examination of places and items

1. Defendant or the one, who is in charge of the place where the examination will be performed or the item which will be examined, shall initially be given a copy of the order for performing the examination.

2. In case of examination of places, the proceeding authority may order, on reasonable grounds, that the persons present shall not leave before the conclusion of the examination and may use force to get back those who leave.

SECTION II
SEARCHES
Article 202
Grounds for conducting searches

1. When there are reasonable grounds to think that someone hides in his body material evidence of the criminal offence or items belonging to the criminal offence, the court issues a decision for body search. When these items are located at certain place, search of the place or house is ordered.
2. The court which has issued the decision may act itself or order judicial police officers to conduct the search, stipulated in the search order.
3. In case of flagrant arrest or chasing of a person fleeing, which does not allow the obtaining of a search order, judicial police officers conduct a search of the person or place, complying with the rules prescribed under article 299.

Article 203
Request to hand in

1. When a certain item is sought, the proceeding authority may request its handing in. If the item is handed in, the search is not conducted, except when it is judged necessary.
2. In order to specify the items that may be seized or to verify certain circumstances, necessary for the investigation, the proceeding authority or its authorised judicial police officers may search bank operations, documents and correspondence.

Article 204
Body search

1. Prior to conducting a body search, the one who will be searched, is handed over a copy of the search order, informing him of his right to request the presence of a reliable person, provided that can be found immediately and is suitable.
2. The search is conducted in compliance with the dignity and safety of the one being searched.

Article 205
Search of premises

1. Defendant, when present and the one who is in charge of the place, is handed over a copy of the search order, informing them of the right to request the presence of a reliable person.
2. When the persons stipulated in paragraph 1 are absent, a copy of the order is handed over to a relative, neighbour or to a person who works with him.
3. The proceeding authority may search the persons present when it judges that they may conceal material evidence or items belonging to the criminal offence. It may order that persons present may not leave prior to conclusion of the search and may use force to get back those who leave.

Article 206
Time of house search

1. A house search or a search of a closed place attached to it may not commence before seven o'clock and after twenty o'clock. In urgent cases, the proceeding authority may order in writing that the search be conducted beyond these restrictions.

Article 207
Seizure during search

1. Items found during search may be seized in compliance with the provisions on seizures.

SECTION III
SEIZURES
Article 208
Scope of seizure

1. A judge or prosecutor may order, by a reasoned decision, seizure of material evidence and items connected to the criminal offence, when they are necessary to prove the facts.

2. Seizure is carried out by the one who has issued the order or by judicial police officers being authorised in the same order.
3. A copy of the seizure decision is handed over to the interested person, if he is present.

Article 209
Seizure of correspondence

1. When the court has reasonable grounds to think that in the postal or telegraphic offices there are letters, negotiable instruments, envelopes, boxes, telegrams and other items of correspondence sent by or to the defendant, even under other name or through another person, it is ordered their seizure.
2. When seizure is performed by a judicial police officer, he must hand in to the judicial authority the correspondence items seized without opening and without having access to their content in any other way.
3. The items seized but do not form part of the correspondence that can be seized, are returned to the one they belong to and may not be used.

Article 210
Seizure in banks

1. The court may order the seizure of bank documents, negotiable instruments, sums deposited in current accounts and any other thing, even if they are in safety vaults, when there are reasonable grounds to think that they are connected to the criminal offence, even though they do not belong to the defendant or are not under his name. In urgent cases this decision may be taken by the prosecutor.

Article 211
Obligation to hand in and maintain secrecy

1. Persons bound to maintain professional or state secrecy must immediately hand in to the proceeding authority acts and documents, even in the original copies, and anything else kept by them because of their duty, service or profession, except when they declare that it is a state secret or a secret related to their duty or profession. In the latter case, the necessary verifications are conducted and, when it results that the declaration is groundless, the proceeding authority orders the seizure.
2. When the competent authority confirms the state secret and the evidence is crucial to the solution of the case, the proceeding authority decides to acquire the evidence.
3. If within thirty days from the request, the competent authority does not confirm the secret, the proceeding authority orders its seizure.

Article 212
Appeal against the seizure decision

1. Defendant, the person in whose possession the items have been seized and the one who has the right to request their return, may appeal in court against the decision of seizure.
2. The appeal does not suspend the execution of the decision.

Article 213
Copies of seized documents

1. The preceding authority may order the issuing of copies of seized acts and documents, returning the original copies and, when the original copies must be retained, orders the secretariat to issue certified copies.
2. In any case, the person or office where the seizure took place has the right to have a copy of the records of seizure.
3. When the seized document is part of a volume or register which cannot be severed from, and the proceeding authority needs the original, the volume or register shall be under the order of the proceeding authority. Secretary of the proceeding authority issues to the interested persons, when they request, copies, extracts or certificates of parts of the volume or register which have are not subject of seizure.

Article 214
Custody of seized items

1. Items seized are kept under the custody of secretariat. If this is not possible or appropriate, the proceeding authority orders that they be kept in custody in another place, specifying the manner of custody.
2. During the delivery, the person in charge is warned on the obligation of custody and presentation of items when requested by the proceeding authority and the punishment also provided by the criminal law for the one who violates the obligation of preservation.

Article 215
Sealing of seized items

1. Seized items are kept under the seal of the proceeding authority or, depending on the nature of the items, by other adequate means, stating that they are maintained for the needs of justice.
2. The proceeding authority issues copies of the documents and photographs or other reproductions of seized items which may alter or which are difficult to be preserved, which he attaches to the documents and orders them to be filed in the secretariat.
3. Items that may alter, the proceeding authority orders, as the case may be, their conversion or destruction.

Article 216
Opening and closing of seals

1. The proceeding authority, when it wants to open seals, verifies whether or not they are damaged and when it ascertains any changes, it keeps the records. After performing the action that required the opening of seals, the items seized are sealed again, attaching close to the seal the date of intervention.

Article 217
Return of seized items

1. If retaining of seizure is not necessary for purposes of evidence, the items seized are returned to the one they belong to, even before the final decision is issued. When it is necessary, the proceeding authority orders the repossession of returned items.
2. The court may order, on the request of prosecutor or civil claimant, not to return the items seized, when seizure must be retained to secure the civil claim.
3. The items seized are returned to the person they belong to, after the decision becomes final, except when confiscation is ordered.

Article 218
Rules on returning of seized items

1. The court decides to return the seized items where there is no doubt on their belonging.
2. When items are seized from a third party, they may not be ordered to be returned in favour of others parties, without the third party being heard by the court.
3. During the preliminary investigations, the return of seized items is ordered by the prosecutor. Interested parties may appeal in court against the order.

Article 219
Provisions in case of non-returning of items

1. If after one year from the day the decision has become final, the request for return has not been filed or has not been accepted, the court which has issued the decision, orders that the money and

negotiable instruments shall be deposited in a bank, in a special account. Items are ordered to be sold, but when they have scientific or artistic value, they are transferred to the relevant institutions.
2. The sale may be ordered also before the time period stipulated in paragraph 1, when the items may not be preserved without the danger of deteriorating or considerable expenses.

3. The proceeds gained from the sale are deposited in a special bank account.

Article 220
Expenses for seized items

1. Expenses necessary for maintaining seized items, are covered by the state, which has priority over any other creditor to the sums deposited from the items and values not returned.

Article 221
Restriction on permission

1. Interception of communications of a person or a telephone number, by telephone, fax, computer or other means of any kind, the secret interception by technical means of conversation in private place, the interception by audio and video in private places and the recording of incoming and outgoing telephone numbers, is permitted only where there is a proceeding:
   a) for intentionally committed crimes for which is provided a punishment of imprisonment of not less than seven years, in maximum;
   b) for the criminal contravention of insult and threat committed through the means of telecommunications.

2. Secret photographic, filmed or video surveillance of persons in public places and use of tracking devices of whereabouts are permitted only when there is a proceeding for intentionally committed crimes which a punishment of imprisonment of no less than two years is provided.
3. . Interception/Surveillance may be ordered against:
   a) a person suspected of committing a criminal offence;
   b) a person who is suspected of receiving or transmitting communications from the suspect;
   c) a person who takes part in transaction with the suspect;
   ç) a person whose surveillance may lead to the discovery of the crime scene or the identity of the suspect.

4. The results of interception/surveillance are valid for all the communicators.

5. Preventive interception/surveillance is governed by a separate law. It results may not be used as evidence.

Article 222
Decision on permitting interception/surveillance

1. The court authorises interception on the request of prosecutor or private prosecutor (injured party), in cases permitted by law on a reasoned decision, when it is indispensable for carrying on the investigations, and when there are sufficient evidence to prove the charge. A special appeal lies against the decision of the court, which refuses the request for interception.
Surveillance in public places, recording of incoming and outgoing telephone numbers and the use of tracking devices for whereabouts are authorised by the prosecutor.

When one of the two persons who will be subjected to surveillance is willing to commit and record the respective action, according to an agreement with the judicial police officer, the action is permitted with the authorisation of the prosecutor.
2. When there are reasonable grounds to think that the delay may seriously damage the investigations, the prosecutor orders the interception by a reasoned decision and informs the court immediately, but not later than twenty-four hours. The judge, within twenty-four hours from the order of the prosecutor, makes the evaluation by a reasoned decision. When evaluation is not done within the determined time period, interception cannot continue and its results cannot be used.
3. Decision on interception stipulates the way it shall be done and its duration, which cannot exceed fifteen days. This time-limit can be extended by the court on the request of the prosecutor whenever it is necessary for a period of 20 days when proceeding for crimes and up to 40 days when proceeding for serious crimes.
The decision of the court on secret photographic or video surveillance or on the interception/surveillance of conversations in private places (premises) may authorise a judicial police officer or a qualified expert to enter into these places in a secret way, acting in conformity with the decision. This authorisation should be carried out within 15 days.
4. A prosecutor acts in person or through a judicial police officer in performing an interception/surveillance.
5. In the book which is maintained by the prosecution office are entered documents ordering, authorising, evaluating or extending interceptions/surveillances, as well as the time of commencing and finishing each interception/surveillance proceeding.

Article 222/a
Appeal against a decision permitting interception/surveillance

1. An appeal may be made against a decision permitting interception/surveillance within ten days by an interested party who has learned of the surveillance for breach of criteria provided under article 221.

2. The appeal is examined by Court of Appeal or General Prosecutor if the authorisation is issued by a prosecutor. When the appeal is found correct, the Court of Appeal or the General Prosecutor cancels the writ that authorises the interception/surveillance and orders the deletion of all materials obtained from interception/surveillance.

Article 223
Interception Proceedings

1. Interception proceedings may be performed only through equipments installed in designated places, authorised and supervised/controlled by the district prosecutor.

1/1 When one of the conditions of interception/surveillance no longer exist , the judicial police officer immediately notifies the prosecutor who orders the discontinuance of interception/surveillance and informs the court, when the order is issued by the court.

2. Communications intercepted are recorded and the actions performed are recorded. The records specify the transcription of the contents of communications intercepted.

3. Minutes and (other) records shall be immediately handed over to the prosecutor and within five days from the conclusion of the actions, they are filed with the secretariat alongside writs which have ordered, authorised, evaluated or extended the interception/surveillance. When the filing may damage the investigation, the court authorises the prosecutor to postpone the filing until the conclusion of the preliminary investigations.

4. Defence lawyers and representatives of the parties are immediately informed on the filing with the secretariat and of their right to examine the documents and to listen to the records. The court, after hearing the prosecutor and defence lawyers, decides to remove records and minutes, which use is prohibited.

5. The court orders full transcription of records that must be obtained. Transcriptions are entered into trial file. Defence lawyers may make copies of transcriptions.

Article 230
Actions with terrorist purposes

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

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, fixed platforms on the continental shelf, private property in large scale
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 weapons of mass destruction, named above.

Article 230/a
Financing of terrorism

Financing of terrorism or its support of any kind is punished by not less than fifteen years of imprisonment or with life imprisonment and with a fine from lek 5 million up to lek 10 million.

Article 230/b
The hiding of funds and other wealth/goods that finance terrorism

The transfer, conversion, concealing, movement or change of property of the funds and of other goods, which are put under measures against terrorism financing, in order to avoid the discovery and their location, is punished from 4 to 12 years of imprisonment and with a fine from lek 600,000 to 6 million.

When committed during the exercise of a professional activity, in cooperation or more than one time, this crime is punished from 7 to 15 years of imprisonment and with a fine from lek 1 to 8 million, whereas when it caused serious consequences, it is punished by no less than 15 years of imprisonment and with a fine from lek 5 to 10 million .

Article 230/c
Giving information from persons carrying public functions or persons on duty or in exercise of the Profession

Getting acquainted identified persons or of other persons with data regarding the verification or the investigation of funds or other goods towards which measures against terrorism financing are applied,

from persons exercising public functions or in exercise of their duty, is punished by 5 to 10 years of imprisonment and with a fine from lek 1 to 5 million.

Article 230/ç

The performance of services and activities with identified persons

The giving of funds and other wealth for the performance of financial services as well as of other transactions with identified persons towards whom measures of terrorism financing are applied, is punished by 4 to 10 years of imprisonment and with a fine from lek 400,000 to 5 million.

Article 230/d Collection of funds for the financing of terrorism

The collection of any type of financial means, directly or indirectly, for the financing of terrorist organizations or the commission of acts for terrorism purposes, is punishable by 4-12 years of imprisonment and by a fine varying from lek 600,000 to 6 million.

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 in jail.

Article 234/a
Terrorist organizations

The establishment, organization, leading and financing of the terrorist organizations is punishable by no less than fifteen years of imprisonment. The participation in terrorist organizations is punishable by 7 to 15 years of imprisonment.

Chapter VI – Patrimonial Precautionary Measures
Section II – Preventive Seizure

Article 274
Object of preventive seizure

1. When there is a danger that free possession of an item connected to the criminal offence may aggravate or prolong its consequences or facilitate the commission of other criminal offences, the competent court, on the application of the prosecutor, orders its seizure by reasoned decision.

2. Seizure may also be ordered against items, proceeds of the criminal offence and against any other kind of property that is permitted to be seized conform Article 36 of the Criminal Code.

3. When the application conditions alter, the court, on the application of the prosecutor or interested person, cancels the seizure.

Article 275

Cessation of seizure

1. The court or prosecutor with the decision of acquittal or dismissal of the case, orders the return of items seized to the one they belong, unless they must be confiscated because they have served or were assigned to commit a criminal offence or because they are product or profit of the criminal offence.

2. When a decision of conviction has been issued, the effects of seizure continue if the confiscation of the items seized has been ordered.

3. The items seized are not returned if the court decides to maintain the seizure to guarantee the credits.

Article 276
The appeal against the decision

1. Whoever has an interest may appeal against the issue or rejection of seizure order.

2. The appeal may be filed within ten days from the issuing of the decision or from the day the interested person received knowledge of the seizure.

3. The appeal is filed with the secretariat of the court which issued the decision.

4. The appeal does not suspend the execution of the order.

5. The court of appeal rules on the appeal within fifteen days from receiving the documents.

6. The court may decide, as the case warrants, the overruling, amending or approval of the decision appealed.

7. When the decision is not announced or executed within the specified time, the decision of seizure ceases to have any effects.

Article 287
Laundering of crime proceeds

1. Laundering of the proceeds of the criminal offence committed through:

a) the conversion or transfer of an asset that is known to be a product of a criminal offence with the purpose of hiding, concealing the origin of the asset or aiding to avoid legal consequences related to the commission of the criminal offence;

b) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of an asset or rights that are the proceeds of a criminal offence;

c) performance of financial activities and fragmented/structured transactions to avoid reporting according to the money laundering law;

d) advice, encouragement, or public call for the commission of any of the offences described above;

dh) the use and investment in economic or financial activities of money or objects that are proceeds of a criminal offence

is punishable by three to ten years of imprisonment and by 500 000 to five million Lek fine.

2. When this offence is committed during the exercise of a professional activity, in collaboration or more than once, it is punishable by five to fifteen years of imprisonment and by 800 000 to eight million Lek of fine, while when the offence caused grave consequences, it is punishable by not less that fifteen years of imprisonment and by three to ten million Leke of fine.

3. Provisions of this article shall also apply in cases where the person that has committed the offence the crime proceeds derive from, cannot be a defendant, cannot be convicted, there is a cause that wipes out the offence or one of the conditions for criminal proceedings of such an offence is missing.

Article 287/b
Appropriation of money or stolen goods

Whoever purchases, receives, hides or, in any other way, appropriates 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 criminal offence, is punished by six to three years of jail and a fine up to lek 100.000.
The lack of responsibility of the person or the barrier for the prosecution of the related criminal offence does not exclude the responsibility of the person that committed the criminal offence of appropriation of stolen money or goods in the meaning of this article.

Article 293
Reporting the criminal offence to prosecutor

1. On receiving notice of a criminal offence the judicial police, without delay, report in writing to the prosecutor, the essential elements of the fact (act) and other elements gathered until that point in time. It reports, wherever possible, the personal details, residence and anything else that serves to identify the person under investigations, the injured person and those who are able to provide the circumstances of the fact (act).

2. In urgent and serious crimes cases, the report is made immediately even orally.
3. Judicial police in the report, stipulate the day and hour when they received notice of the criminal offence.

Article 294
Preserving sources of evidence

1. The judicial police, even after reporting the criminal offence, continue to perform the functions stipulated under article 30, gather and record every element valid for reconstruction of the fact (act) and for identifying the perpetrator. In particular it proceeds:

a) In searching for and recording items and traces of the criminal offence, as well as in preserving them and the crime scene for as long as this is necessary;

b) In searching for and questioning the persons who are able to tell the circumstances of the fact (act).

c) In performing the acts provided for in subsequent articles.

2. After the intervention of the prosecutor, the judicial police performs all the investigative actions necessary as well as any other action ordered or delegated by the prosecutor.

3. The judicial police, when performing acts which require special technical knowledge, may assign experts, who cannot refuse the assignment.

Article 294/a
Simulated actions

1. A judicial police officer and agent or a person authorized by them may be assigned to (perform) a simulated purchase of items that derive from a crime or to simulate a corrupt act or to commit other simulated acts in order to uncover financial or ownership information of a person who is suspected of committing a crime, concealing the cooperation with the police or their duty as police personnel.

2. These acts are done with the authorization of the prosecutor who oversees the investigations or the prosecutor who has territorial jurisdictions of the place where the action will take place. After these acts are performed, the judicial police should submit all the evidence collected to the prosecutor and a summary report.

3. A criminal act should not be provoked, by abetting a person to commit a crime, which he would not have committed it if police had not intervened. When provocation is proved the results may not be used.

Article 294/b
Infiltrated Police Personnel

1. For the purposes of uncovering serious crimes, a judicial police officer may, with the authorization of the prosecutor, be infiltrated into composition of a criminal group in order to identify the members of the group and collect information necessary for the investigation, concealing his cooperation with the police or his duty as police personnel.

2. The infiltrated police personnel should not provoke a criminal act that would not have been committed without his intervention. When provocation is proved the results may not be used.

3. The authorization of the prosecutor should specify the time period of the infiltration, which may be extended by the prosecutor for up to six months and the permitted scope of the infiltrated personnel, stipulating, according to the case, the unlawful actions that he may commit, without endangering the life of others.

4. The infiltrated police personnel may be questioned as a witness.

Article 297
Gathering other information

1. Judicial police gather information from persons who may tell u
seful circumstances for the purposes of investigation.

2. Provisions of articles 155 to 160 shall apply.

Article 300
Summary/Immediate verification on site

1. Judicial police officers and agents take measures that traces and instruments of the criminal offence are recorded and preserved and the state of crime scene and objects are not changed before the intervention of the prosecutor, when he has confirmed his participation.

2. When there is danger that items may change or be lost and the prosecutor may not intervene urgently, judicial police officers conduct the necessary investigations and, if it is the case, seize the material evidence and items connected to the criminal offence.

Article 301
Evaluation of seizure

1. When judicial police order a seizure according to article 300, enters in the records the ground and gives a copy of the records to the person whose items were seized. The records are sent without delay and, in any case, not later than forty eight hours, to the prosecutor of the place where the seizure was enforced.

2. The prosecutor within the next forty eight hours approves the seizure if the conditions exist by a reasoned decision or return the items seized. A copy of the decision is served to the person whose items were seized. The decision may be appealed in court within ten days by the defendant or his defence counsel, the person whose items are seized and by the one who has the right to their return. The appeal does not suspend the execution of seizure.

Article 312
Obtaining of information

1. The prosecutor obtains information from the injured person and those who can provide useful circumstances for the purposes of investigation, complying with the rules prescribed for obtaining of testimony.

2. The persons are summoned which contains:
a) personal details of the person;
b) day, time and the venue of appearance;
c) the warning that the prosecutor may order compulsory appearance in case of non appearance without lawful impediments.

3. The prosecutor summons in the same way the interpreter and expert. **INTERNATIONAL**

TITLE X
JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES
CHAPTER I
EXTRADITION
SECTION I
EXTRADITION ABROAD

Article 488 Meaning of Extradition

1. The surrender of a person to a foreign country to execute a sentence by imprisonment or the delivery of an act, which proves his proceedings for a criminal offence, can be made only by means of extradition.

Article 489
Application for extradition

1. The extradition is permitted only upon request submitted to the Minister of Justice.

2. The request for extradition are attached:
a) the copy of the sentenced by imprisonment or of the act of proceedings;
b) a report of the criminal offence in charge of the person subject to extradition indicating the time and the place of the commission of the offence and its legal qualification;
c) the text of legal provisions to be applied, indicating whether for the criminal offence subject to extradition the law of the foreign country provides death penalty.
d) personal data and nay other possible information which supports to define the identity and the citizenship of the person subject to extradition.

3. When several requests for extradition compete the Minister of Justice sets forth the order of examination. He takes into consideration all of the circumstances of the case and, particularly the date of the reception of the request, the importance and the place where the criminal offence is committed, the citizenship and the domicile of the person subject to request, as well as the possibility of a re-extradition by the requesting country.
4. In case for a sole offence the extradition is requested simultaneously by several countries it shall be provided to the country subject to the criminal offence or to the country within which territory has been committed the criminal offence.

Article 490
Conditions on extradition

1. The extradition is permitted by expressed condition that the person subject to extradition shall not be prosecuted, shall be not sentenced nor shall he be surrendered to another country for a criminal offence which has occurred before the request for extradition and which differs from that which the extradition is provided for.

2. The requirements of the paragraph 1 shall be not considered when:
a) the extraditing party gives expressed consent that the extradited is prosecuted even for another criminal offence and the extradited does not mind;
b) the extradited, although has been able, has not left the territory of the country he is extradited. After thirty days from his release or after has left is returned voluntarily.

3. The Minister of Justice that permits the extradition may impose even other requirements which he considers as appropriate.

Article 491
Dismissal of the extradition application

1. The extradition may not be provided:

a) for an offence of a political nature or when it results that it is requested for political reasons.

b) when there are grounds to think that the person subject to extradition shall be subjected to persecution or discrimination due to race, religion, sex, citizenship, language, political belief, personal or social state or cruel, inhuman or degrading punishment or treatment or acts which constitute violation of fundamental human rights.
c) when the person subject to the request for extradition has committed a criminal offence in Albania.
ç) when he is being tried or has been tried in Albania regardless the criminal offence has been committed abroad.
d) when the criminal offence is not provided as such by the Albanian legislation;
e) the Albanian state has provided an amnesty for this offence;
f) when the requested person is Albanian citizen and there is no agreement otherwise providing;
g) when the law of the requesting state does not provide the prosecution or the punishment for the same.

Article 492
Actions of the prosecutor

1. When receives a request for extradition from a foreign country, the Minister of Justice, if does not rejects it, shall send along with the documents to the prosecutor in the competent court.

2. The prosecutor, after receiving the request, orders the appearance of the interested person in order to identify him and to obtain his eventual consent for the extradition. The interested is explained the right to be assisted by a defence lawyer.

3. The prosecutor, through the Minister of Justice, requests from the foreign authorities the documents and the information which he considers necessary.

4. Within three months from the date on which the request for extradition has arrived, the prosecutor submits the request to the court for examination.

5. The request of the prosecutor shall be deposited in the secretary of the court along with the acts and attached objects. The secretary shall take care of the notification of the person subject to extradition, his defence lawyer and the eventual representative of the requesting country who, within ten days, have the right to access to the documents and to issue copies of them as well as to examine the attached objects and to present memos.

Article 493
Coercive measures and seizures

1. Upon request of the Minister of Justice, presented through the prosecutor, the person subject to request for extradition may be subjected to coercive measures and an order imposing the attachment of the real evidence and of the objects related to the criminal offence for which is requested the extradition may be issued.

2. The imposing of the coercive measures shall be subjected to the provisions of the title V of this Code, as far as this can be done, considering the requirements which provide that the person subject to extradition shall not try to skip the extradition.

3. The coercive measures and the attachment shall be not imposed when there are reasons to believe that the requirements to provide a decision in the favour of extradition do not exist.

4. The coercive measures are revoked when within three months from the start of their execution it has not terminated the proceedings before the court. Upon the request of the prosecutor the time period can be prolonged, but not longer than one month, when necessary to make particularly complex verifications.

5. The competent authority to render decision on basis of the paragraphs hereinof is the district court or, during the proceedings before the court of appeal, this one.

Article 494
Temporary execution of coercive measures

1. Upon request of the foreign country, presented by the Minister of Justice through the prosecutor in the competent court, the court may impose temporarily a coercive measure before the request for extradition arrives.

2. The measure may be imposed when:
a- the foreign country has declared that the person has been subjected to a measure restricting his personal freedom or to a sentence by imprisonment and that it is going to present request for extradition;
b- the foreign country has presented circumstantial data regarding the criminal offence and sufficient elements for the identification of the person;
c- there is the eventual event of his escape.

3. The competency to impose the measure shall belong to, respectively, the court of the district where in which territory the person has the domicile, residence or the dwelling- house or the court of the district where he is. In case the competency cannot be determined by the above ways, competent shall be the court of Tirana district.

4. The court may also order the attachment of the real evidence and of the objects pertaining to the criminal offence.

5. The Minister of Justice gives notice to the foreign country of the temporary coercive measure and of the eventual attachment. 6. The coercive measures are revoked if, within eighteen days and anyhow in a maximum of forty days from the notification herein of, the request for extradition and the documents enclosed do not arrive to the Ministry of Justice.

Article 495
Arrest by the judicial police

1. In case of urgency, the judicial police may carry out the arrest of the person who is subject to request for temporary arrest. It also carries out the attachment of the real evidence of the criminal offence and of the objects connected with it.

2. The authority which has carried out the arrest shall immediately inform the prosecutor and the Minister of Justice. The prosecutor, within forty-eight days, shall make the arrested available to court of the territory where the arrest has taken place, sending also the relevant documents.

3. The court, within forty eight hours from the arrest, approves it if there are the requirements or orders the release of the arrested person. The decision rendered by the court shall be informed to the Minister of Justice.

4. The arrest shall be revoked in case the Minister of Justice does not request, within ten days from the approval, its continuance.

5. The copy of the decision rendered by the court regarding the coercive measures and attachments, in accordance with these articles, shall be notified to the prosecutor, interested person and his defence lawyers who may appeal to the court of appeal.

Article 496
Right of the person under coercive measure to be heard

1. In case a precautionary measure is imposed, the court, as soon as possible and anyway not later than five days after the execution of the measure or its evaluation, makes sure of the identity of the person and takes its eventual consent for extradition, noting this in the minutes.

2. The court makes known to the interested person the right to a defence lawyer and, ex- officio, if he is absent, can appoint another defence lawyer. The defence lawyer must be notified, at least twenty-four hours before for the above-mentioned actions and has the right to participate in them.

Article 497
Hearing the extradition application

1. After the reception of the request of the prosecutor, the court fixes the hearing and notifies, at least ten days in advance, the prosecutor, the person subject to request for extradition, his defence lawyer and the eventual representative of the requesting state.

2. The court collects data and makes the necessary verifications and hears the persons summoned to appear before the trial.

Article 498
Court decision

1. The court renders the decision in favour of the extradition when it possesses important data on the guilt or when there is a final decision. In this case, when there is a request of the Minister of Justice, presented through the prosecutor, the court decides the holding into custody of the person who should be extradited and who is in free state, as well as the attachment of the real evidence and objects which belong to the criminal offence.

2. The court renders the decision rejecting the extradition in cases provided for the non-acceptance of the request for extradition.

3. When the court renders the decision against extradition, the extradition cannot be executed.

4. The decision against the extradition prohibits the rendering of a successive decision in the favour of extradition as a result of a new request presented for the same facts by the same state, except when the request is based on elements that are not evaluated by the court.

5. The decision of extradition regarding the request for extradition may be appealed to the court of appeal by the interested person, his defence lawyer, the prosecutor and the representative of the requesting state, according to the general rules of appeal.

Article 499
Powers on extradition

1. The Minister of Justice decides for the extradition within thirty days from the date the decision of the court has become final. After the expiration of this time period, even in case the decision is not rendered by the Minister, the person subject to extradition, if imprisoned, shall be released.

2. The person shall be released even in case the request for extradition is rejected.

3. The Minister of Justice communicates the decision to the requesting state and, when this is favourable, the place of the surrender and the date by which it is expected to start. The time period of the surrender is fifteen days from the fixed date and, upon motivated request of the requesting state, it may be also extended to fifteen other days. For reasons that do not depend on the parties it can be it can be set another day for surrender but always respecting the time periods defined by this paragraph.

4. The decision of extradition shall lose its effect and the extradited shall be released in case the requesting state does not act, within the fixed time period, to receive the extradited.

Article 500
Suspension of handing over

1. The execution of extradition is suspended when the extradited should be tried in the territory of Albanian State and must serve a punishment for criminal offences committed before or after that subject to extradition. But the Minister of Justice, after listening the competent proceeding authority of the Albanian state or the one of the execution of sentence, might order the temporary surrender in the requesting state of the person subject to extradition, defining the time periods and the way how to operate.

2. The Minister may agree the rest of the punishment to be served in the requesting state.

Article 501
Extending extradition and re-extradition

1. In case of new request for extradition, submitted after the delivery of the extradited and which subject is a criminal offence occurred before the delivery, different from that subject to the provided extradition, there are respected, as far as they are applicable, the provisions of this chapter. The request must be attached to the statements of the extradited, made before the judge of the state requesting the extension of the extradition.

2. The court proceeds in absentia of the extradited.

3. It shall not be any trial in case the extradited, by his statements provided in paragraph 1, has accepted the extension of extradition.

4. The above provisions are also applied in case the requesting state, which is surrendered the person, requests the consent for extradition of the same person in another state.

Article 502
Transiting

1. The transit through the territory of the Albanian state of an extradited person from a state to another, is authorised, upon request of the latter, by the Minister of Justice, if the transfer does not impair the sovereignty, the security or other state interests.

2. The transfer is not authorized:
a) when the extradition is provided for facts which are not provided as criminal offences by the Albanian law;

b) in cases provided by article 491, paragraph 1;
c) when an Albanian citizen, for whom the extradition in the state which has requested the transit transfer should not have been provided, is involved.

3. The authorization is not required in case the transit transfer is made by plain and there is not expected the landing in the Albanian territory. But, when the landing takes place, there shall apply, as far they are in accordance with the fact, the provisions for the precautionary measures.

Article 503
The costs of extradition

The expenses done in the Albanian territory are covered by the Albanian party when there is no other agreement.

SECTION II
EXTRADITION FROM ABROAD
Article 504
Application of Extradition

1. The Minister of Justice is competent to request from a foreign state the extradition of the proceeded or sentenced person, who must be subjected to a measure that restricts the individual freedom. In this case, the prosecutor in the court of the territory where the proceedings take place or the sentence is rendered, makes a request to the Minister of Justice, sending the necessary acts and documents. In case does not accept the request, the Minister notifies the authority which has made it.

2. The Minister of Justice is competent to decide about the conditions eventually imposed by the foreign country to provide the extradition, when they do not run against the main principles of the Albanian rule of law. The proceeding authority is obliged to respect the accepted conditions.

3. The Minister of Justice may decide, for the purpose of extradition, the searching abroad for the proceeded or sentenced person and his temporary arrest.
4. The detention abroad, as a consequence of a request for extradition introduced by the Albanian state, is calculated in the duration of the detention, according to the rules provided in title V of this Code.

ROGATORY LETTERS
SECTION I
ROGATORY LETTERS FROM ABROAD

Article 505
Ministry of Justice Powers

1. The Minister of Justice decides to grant support to a letter of application of a foreign authority regarding communications, notifications and the taking of proofs, except when evaluates that the requested actions impair the sovereignty, the security and important interests of the state.

2. The Minister does not grant support to the letter of application when it is certain that the requested actions are prohibited expressly by law or contradict the fundamental principles of the Albanian rule of law. The Minister does not grant support to the letter of application when there are motivated reasons to think that the considerations regarding race, religion, sex, nationality, language, political beliefs or the social state may cause a negative influence to the performance of the process, and when it is certain that the defendant has expressed freely his consent for the letter of application.

3. In cases the letter of application has as subject the summons of the witness, expert or a defendant before a foreign judicial authority, the Minister of Justice does not grant support to the letter of application when the requesting state does not give sufficient guarantee for the un-encroachment of the cited person.

4. The Minister has the right to not grant support to the letter of application in case the requesting state does not give the necessary guarantee of reciprocity.

Article 506
Judicial Proceedings

1. The foreign letter of application cannot be executed unless the court of the place where he must be proceeded has rendered a favourable decision rendered.

2. The district prosecutor, after taking the acts from the Minister of Justice, submits his request to the court.

3. The court disposes of the execution of the letter of application by a decision.

4. The execution of the letter of applications not accepted:
a) in cases the Minister of Justice does not grant support to the letter of application
b) when the fact for which the foreign authority proceeds is not provided as a criminal offence by the Albanian law.

Article 507
Execution of letters rogatory

1. The decision for the execution of the letter of application shall appoint the panel that must carry out the requested action.

2. For the performance of the requested actions the provisions of this Code shall apply, except in case the special rules requested by the foreign judicial authority, which are not in contrary with the principles of the Albanian rule of law, must be observed.

Article 508
Summoning witnesses requested by the foreign authority

1. The citation of the witnesses, residing in the territory of the Albanian state, to appear before the foreign judicial authority, are sent to the prosecutor of respective district, who takes measures for the notification, acting as in case of notification of the defendant in free condition.

SECTION II: LETTERS ROGATORY FOR ABROAD
Article 509
Service of letters rogatory to foreign authorities

1. The letters of application of the courts and prosecution offices, addressed to foreign authorities for notification and the taking of the proofs, shall be sent to the Minster of Justice who takes the measures to send them through diplomatic channel.

2. When ascertains that the security or other important interests of the state could be in danger the Minister, within thirty days from the reception of the letter of application, decides to give it up.

3. The Minister communicates to the proceeding authority that has presented the request, the date of its reception and the notification that he has sent the letter of application or the order to give up the procedure in relation to the letter.

4. In case of urgency the proceeding authority may order the sending of the letter of application through diplomatic channel informing the Minister of Justice.

Article 510
Inviolability of the person summoned

1. The person summoned on basis of the letter of application, when appears, may not be subjected to restrictions of personal freedom due to facts occurred before the writ of summons.

2. The un-encrochement provided by paragraph 1 shall cease when the witness, the expert or the defendant, even having the possibility, has not left the territory of the Albanian state, after the expiration of fifteen days from the moment his presence is no longer requested by the judicial authority or when, after has left, he has come back voluntarily.

Article 511
Value of the documents received through letter rogatory

1. When the foreign country has imposed conditions for the usage of the requested acts, the Albanian proceeding authority must respect them in case they do not run against the prohibitions provided by law.

CHAPTER III EXECUTION OF CRIMINAL DECISION
SECTION I EXECUTION OF FOREIGN CRIMINAL DECISION

Article 512
Recognition of foreign criminal decision

1. The Minister of Justice, when receives a sentence rendered abroad for Albanian citizens or foreigners or persons without citizenship, but residing in the Albanian state or for persons proceeded criminally in the Albanian state shall send to the prosecutor in the district court of the domicile or residence of the person a copy of the decision and relevant documents, along with the translations in Albanian language.

2. The Minister of Justice demands the recognition of a foreign sentence when judges that in accordance with an international convention this decision must be executed or must be recognised other effects in the Albanian state.

3. The prosecutor shall submit a request to the district court for the recognition of the foreign sentence. Through the Minister of Justice he may request from foreign authorities the necessary information.

Article 513
Recognition of criminal decision of foreign courts on civil liabilities

1. Upon request of the interested, in the same proceedings and by the same decision, may be declared valid the civil dispositions of the foreign sentence in relation to the obligation to restitute the property or to compensate for the damage.

2. In other cases the request is presented, by the one who has an interest, to the court where the civil dispositions of the foreign sentence should be executed.

Article 514
Terms of recognition

1. The foreign court sentence may not be recognized when:

a) the sentence has not become final according to the laws of the state in which it has been rendered,

b) the sentence contains dispositions which run against the principles of the rule of law of the Albanian state,

c) the sentence has been not rendered by an independent and impartial court or the defendant has been not cited to appeal before the trial or has been not recognized the right to be questioned in a language that he understands and to be assisted by a defence lawyer,

ç) there are grounded reasons to think that the proceedings have been influenced by considerations regarding race, religion, sex, language or political beliefs,

d) the fact for which is rendered the sentence is not provided as a criminal offence by the Albanian law,
dh) for the same fact and against the same person in the Albanian state has been rendered a final decision or a criminal proceeding is in course.

Article 515
Coercive measures

1. Upon request of the prosecutor the court that is competent to recognize a foreign sentence may impose a coercive measure to the sentenced person who is in the Albanian territory.

2. The chairman of the court, within five days from the execution of the coercive measure, takes steps regarding the identification of the person and notifies him the right to a defence lawyer.

3. The coercive measure imposed under this article shall be revoked when from the start of its execution have expired three months without being rendered the decision of recognition from the district court or six months without becoming final the decision.

4. Revocation and replacement of the coercive measure is subject to decision of district court.

5. The copy of the decision rendered by the court is notified, after the execution, to the prosecutor, the sentenced from the foreign court and his defence lawyer who may appeal to the court of appeal.

Article 516
Issuing the decision

1. When recognises a foreign sentence the court determines the punishment to be served in the Albanian state. It converts the punishment imposed in the foreign sentence into one of the sentences provided for the same fact by the Albanian law. This punishment shall be similar as a nature with that which is rendered by the foreign sentenced. The duration of the sentence may not exceed the maximal limit provided for the same fact by the Albanian law.

2. When the foreign sentence does not specify the duration of the sentence, the court provides it on basis of criteria indicated in the Criminal Code.

3. When the execution of the sentence rendered in the foreign state is suspended on parole the court, by the decision of recognition, in addition to other issues, does also dispose of the suspension on parole of the sentence. The same does the court when the defendant has been released on parole in the foreign country.

4. In order to specify the punishment by fine, the sum specified in the foreign sentence shall be converted in equal value into Albanian currency, observing the exchange rate of the day on which the recognition has been provided.

5. The decision of recognition regarding the execution of a confiscation shall also order the execution of the confiscation.

Article 517

Seizure

1. Upon request of prosecutor the competent court may impose the attachment of sequestrable objects.

2. The decision is subject to appeal.

3. Shall be respected, as far as they are applicable, the provisions regulating the preventive attachment.

Article 518
Execution of the foreign decision

1. After being recognised, the criminal sentences of foreign courts are enforced in conformity to Albanian law.

2. The prosecutor in the court which has made the recognition of a sentence takes the measures for its execution.

3. The sentence by imprisonment served in the foreign country is calculated for the effects of the execution.

4. The sum deriving from the execution of the fine penalty is paid into the bank of Albania. It may be paid into the state where the sentence is rendered, upon its request when that state, under the same circumstances should have decided the payment to be executed into the favour of the Albanian state.

5. The confiscated objects shall be delivered to the Albanian state. They are delivered, upon its request, to the state where the decision subject to recognition is rendered when this state is under the same circumstances should have decided the delivery in the Albanian state.

SECTION II: EXECUTION ABROAD OF ALBANIAN CRIMINAL DECISION
Article 519
Conditions for executing abroad

1. In cases provided by international conventions or by article 501, paragraph 2, the Minister of justice requests the execution the execution of the sentences abroad or gives the consent when it is requested by a foreign state.

2. The execution of a sentence by a restriction of personal liberty abroad may be requested or permitted only if the sentenced has become aware of the consequences, has declared freely that he gives consent and when the execution in the foreign state is appropriate to his social rehabilitation.

3. The execution abroad is also allowed when there are conditions provided by paragraph 2, if the sentenced is in the territory of the state subject to request and the extradition is rejected or anyway is not possible.

Article 520
Judgment

1. Before requesting the execution of a decision abroad the Minister of Justice shall send the acts to the prosecutor who presents a request to the court.

2. When it is necessary the consent of the sentenced, this should be given before the Albanian court. In case he is abroad the consent may be given before the Albanian counsellor authority or before the foreign court.

Article 521
Cases when execution of the sentence abroad is not allowed

1. The Minister of Justice may not request the execution abroad of a criminal sentence by restriction of personal liberty when there are grounds to think that the sentenced shall be subjected to persecution or discrimination acts due to race, religion, nationality, language or political beliefs or inhuman, cruel or degrading punishment and treatment.

Article 522
Application for pre-detention abroad

1. When it is requested the enforcement of a sentence restricting the personal liberty and the sentenced is abroad, the Minister of Justice requests his detention.

2. By the request for the execution of a confiscation the minister of Justice has the right to request the attachment of attachable objects.

Article 523
Suspension of Execution in Albanian State

1. The execution of the sentenced in the Albanian state is suspended once the execution in the foreign state has started.

2. The sentence may no longer be enforced in the Albanian state when, according to the foreign countries laws, it has been entirely served.

LAW ON BANKS IN THE REPUBLIC OF ALBANIA
(Law no. 9662 dated December 18, 2006)

Article 14
The licensing authority

1. The Bank of Albania is the sole competent authority in charge of granting licenses to banks and branches of foreign banks to carry out banking and other financial activities as defined in this Law.

2. The right to commence banking and financial activity is acquired only after the bank and the branch of the foreign bank has obtained a license from the Bank of Albania.

3. The Bank of Albania shall request information from any persons if, based on the circumstances of fact it finds that the person is carrying out banking and financial activities without a license, as well as notifies the competent authorities and requests from them close down these activities and take the necessary measures pursuant to the legislation in force. In the aforementioned case the person shall be obliged to give any such information, as required by the Bank of Albania

Chapter VI
The supervisory process
Subchapter 1
General provisions on supervision
Article 71
The supervisory authority

1. The Bank of Albania shall be the authority charged with the supervision of banks, branches of foreign banks in the Republic of Albania and the branches of the banks licensed by the Bank of Albania operating outside the territory of the Republic of Albania, licensed pursuant to this Law.

2. The Bank of Albania supervises the banks, banking and financial activities in accordance with this Law and other by-laws issued pursuant to it.

Article 72
Exercise of the power to supervise

1. The Bank of Albania shall exercise its power to supervise through:
a) licensing;
b) regulatory framework;
c) financial analyses and forecasting, checking the data reported periodically by the banks or branches of foreign banks;
d) full or partial inspections of the banking activity;
e) corrective measures pursuant to the supervisory framework;
f) cooperation agreements with foreign supervisory authorities and foreign banks which operate in the Republic of Albania through their branches or subsidiaries.

2. The subjects of this Law shall be obliged to provide the Bank of Albania with the necessary documentation required for the performance of the supervisory process.

3. The Bank of Albania, in discharging its supervisory function, shall evaluate the lawfulness and regularities of the banking and financial activity, the ability of a bank or the branch of a foreign bank to administer the faced risk and shall order the adoption of necessary measures aiming at eliminating the breaches and identified irregularities, as well as improve the financial situation of the banks.

4. The Bank of Albania has the right to require from the competent supervisory authority of the foreign bank the necessary information regarding the supervision of this bank's connected persons.

5. The Bank of Albania, for the purposes of supervision of banks, has the right to require information from commercial companies with qualifying holding in banks and commercial companies in co-ownership with the banks.

Article 73
Supervision of a bank, a branch of foreign bank and a branch of banks outside the territory of the Republic of Albania

1. A bank, branch of a foreign bank, branch of a bank outside the territory of the Republic of Albania, and any other natural or legal person owning a qualifying holding in the bank, shall be subject to inspections by the inspectors of the Bank of Albania and the statutory auditor. The Bank of Albania and the statutory auditor have the right to:
a) scrutinise and examine accounts, books of the company, documents and any other data situated in their archives;
b) request, at any time from the administrators, employees and agents of the bank or the branch of the foreign bank to provide information pertaining to the management, direction and transactions. The information shall be prepared in a form set out by the Bank of Albania and the statutory auditor, in accordance with the approved accounting plan.

2. The Bank of Albania may enter into respective agreements, for the inspection of the branch of the foreign bank and subsidiary of the bank outside the territory of the Republic of Albania, based on the reciprocity principle, with the competent supervisory authorities of the foreign country, for the purposes of banking supervision in that country.

3. Balance sheets and financial reports of the branches of the foreign banks shall be prepared in accordance with the Law "On Accounting and financial reports" and international accounting standards which are in line with Albanian legislation in force.

4. The bank prepares and submits to the Bank of Albania, one or more reports for the evaluation of the financial situation of the bank or the branch of the foreign bank, as the case may be, on individual or consolidated basis, as stipulated in by-laws of the Bank of Albania.

5. Authorised employees of the foreign supervisory authority, in charge of banking supervision in that country, following an agreement with the Bank of Albania, may be allowed to inspect a bank which:
a) is a branch or a subsidiary of the foreign bank, which has its head office in that

country;
b) has a qualifying holding in the foreign bank, the legal seat of which are situated in that country.

6. The bank or the branch of the foreign bank shall allow the control and cooperate with the inspectors of the Bank of Albania and the statutory auditor, approved by the Bank of Albania.

7. The branch of the foreign bank, at least once a year informs the Bank of Albania on the names of the shareholders and their participation in the capital of the foreign bank.

Article 74
Supervisory measures

1. The Bank of Albania, based on the conclusions of the supervisory process or any other available information, shall decide upon the bank's or branch of the foreign bank's compliance with the legal and regulatory framework for the purposes of a safe and sustainable banking activity. To this end, the Bank of Albania, in accordance with the dispositions of this Law, shall adopt supervisory measure towards the subjects of this Law.

2. The Bank of Albania, in accordance with the provisions of this Law, shall adopt one or more of the following measures toward the bank of branch of foreign bank:
a) warns the subject of corrective measures in case of the failure to observe the standards on a safe and sustainable activity;
b) orders the interruption of the unlawful actions, and rectification of breaches of legal and regulatory provisions;
c) sanctions;
d) places the bank in conservatorship;
e) revokes the license ;
f) commences the procedures for compulsory liquidation.

3. The Bank of Albania shall define detailed conditions and methods for adoption and application of supervisory measures.

Article 75
Preventive measures

1. The Bank of Albania shall warn the bank or the branch of the foreign bank on corrective measures in case of failure to observe standards on a safe and sustainable activity, and through the inspection report, requires from the bank or the branch of a foreign bank, the provision of a plan or agreement for the abatement of the unlawful acts and rectification of the breaches of the dispositions of this Law and compliance with the standards for a safe and sustainable activity.

2. The bank or the branch of a foreign bank shall submit to the Bank of Albania the plan or agreement for the correction of unlawful actions, within 30 days from receipt of the request, according to paragraph 1 of this article or according to the time-limits decided by the Bank of Albania.

3. The Bank of Albania, within 30 days of receipt of the proposed plan or agreement from the bank or the branch of the foreign bank, shall inform the latter in writing on the grant or not of the approval for the plan or agreement, and may request additional information if necessary. The Bank of Albania may extend the deadline for the notification of the approval of the plan or the agreement.

4. The Bank of Albania shall undertake further action in cases of non-compliance with the obligations pursuant to paragraph 1 to 3 of this Article.

Article 76
Order for the abatement of the unlawful acts

1. The Bank of Albania shall order the abatement of unlawful acts and shall require the rectification of the breaches of this Law and other by-laws, if, during the inspection, it finds that:
a) the set out conditions for carrying out the banking and financial activity are not fulfilled;
b) the rules on risk management are breached;
c) the accounting rules are breached;
d) the internal control rules are breached;
e) there is a breach of obligations on reporting and notifications;
f) the administrator of the bank or branch of foreign bank has not been initially approved by the Bank of Albania;
g) the requirements of investment for the branch of the foreign bank, stipulated in Article 59, paragraph 8 are not met.
h) the bank or branch of foreign bank is in breach of the provisions of this Law and other by-laws implementing it.

2. The Bank of Albania shall determine the time-limits for the rectification of the breaches stipulated in the first paragraph of this article.

3. A bank or branch of foreign bank subject to an order issued by the Bank of Albania as stipulated in the first paragraph of this article, may request in writing to the Bank of Albania that it revises or revokes the order issued, if the circumstances change.

Article 77
Reporting on the implementation of the order

1. A bank or the branch of a foreign bank, shall submit to the Bank of Albania a detailed report on the measures taken to rectify the breaches, within time-limits define by the Bank of Albania in the issued order.

2. The Bank of Albania shall verify the rectification of the breaches following receipt of report by the bank or branch of a foreign bank as stipulated in paragraph 1 above.

3. The Bank of Albania shall take a decision on whether to accept the report on the rectification of breaches, within 30 days of receipt.

Article 78
Breaches of risk management rules

1. The bank or branch of a foreign bank shall be deemed to have breached risk management rules when:
a) solvency of the bank or liquidity of the foreign bank has fallen below the required limit;
b) the bank or branch of a foreign bank carries out activities not included in the annex to the license;
c) the branch of a foreign bank carries out activities for which the foreign bank is not licensed to carry out;
d) the bank or branch of foreign carries out activities which threaten the liquidity and solvency.

2. The Bank of Albania, defines through by-laws the time-limits for the rectification of the breaches defined in paragraph 1 of this Article.

Article 79
Measures for the implementation of the risk management rules

1. The Bank of Albania, when it finds, throughout its supervision activity of banking and financial activities, that there are breaches of risk management rules, despite the order for the elimination and rectification of the breaches stipulated in Article 76, shall also order:
a) the bank or branch of a foreign bank to draw up a plan to meet the required solvency limit of the company;
b) the bank to call a Shareholders' Assembly meeting, and propose the increase of the initial minimum capital through new investments, or by retaining profit (by not declaring dividends);
c) the bank or branch of foreign bank to suspend payment to particular legal persons;
d) full or partial suspension of the dividend or any other form of profit distribution;
e) the taking of measures for lowering the operational costs of the bank or branch of the foreign bank, including the limitations on payment of wages and other remuneration of the responsible persons and employees of the bank or the branch of the foreign bank, as well as limitations on the extension of the bank or branch of a foreign bank's network;
f) the taking of measures for the limitations on the increase of bank's or branch of the foreign bank's assets, including off-balance sheet items carrying risk;
g) the taking of measures to require from the bank and branch of the foreign bank or their connected persons, to alter, decrease, and suspend the carrying out of activities which the Bank of Albania has determined as carrying high risk for the bank or branch of a foreign bank or as a result of which the bank has incurred considerable losses;
h) the suspension of one or more of banking and financial activities of the bank or branch of a foreign bank;
i) compliance with provisions relating to deposit insurance.

2. The Bank of Albania, may order the steering organs of the bank or branch of a foreign bank, in case of serious breaches of risk management rules, to dismiss one or more executive directors and their substitution within a period of 1 month.

Article 80
Serious breaches

1. The bank or branch of a foreign bank, shall be deemed to have committed serious breaches, in the exercise of its banking and financial activities according to this Law when:
a) there are breaches of legal acts and by-laws as a result of which the bank or branch of a foreign bank has incurred considerable financial losses;
b) it has refused to abate unlawful acts, or has refused to rectify breaches of legal acts and by-laws;
c) there are breaches of the Law "On accounting and financial reports" as well as international accounting standards, resulting in difficulties in the determination of the financial situation of the bank;
d) there is incompatibility with standards of a safe and sustainable banking activity, for a relatively long period;
e) there are serious problems in the internal control programs and systems, of the policies of banking activities, in the operational methods or information systems of its administration, despite the fact that these problems have influenced or not the financial situation of the bank or the branch of the foreign bank;
f) there are concrete facts relating to internal abuse, despite the fact that the bank or the branch of the foreign bank has not incurred any damage;
g) there are voluntary or gross breaches of legal acts or by-laws by the staff and directing organs or these breaches had been repeated;
h) there are breaches of legal acts and by-laws, committed by employees or connected persons of the bank or branch of the foreign bank, which have resulted in material profits or favours by the banking and financial activities;
i) the bank or branch of foreign bank has not insured the deposits in compliance with the Law "On deposit insurance".

Article 81
Measures for the implementation of requirements on the report of capital adequacy

The Bank of Albania when, in exercising the supervision of banking and financial activity, finds that the ratio of capital adequacy of the bank is lower than the minimal ratio stipulated in Article 59 of this Law, orders:
a) the prohibition of profit distribution;
b) lowering of bank's expenditure;
c) limitations on the increase of financial assets of the bank, including items off-balance sheet carrying risk;
d) prohibition on the bank to invest in the participation in other legal persons capital;
e) prohibition on establishing of new branches of the bank, extension of banking network and commencement of new activities;
f) prohibition of the bank's exposure to a person.

Subchapter III
Sanctions

Article 89
Penalizing measures

1. The Bank of Albania for the purposes of eliminating the breaches of a bank or branch

of foreign bank, in addition to measures stipulated in Articles 75, 79 and 81 of this Law, shall order, despite their ranking, one or more of the following measures:
a) fine the administrators of the bank or branches of a foreign bank.
b) issues written warning notices to the administrators of the bank or branch of a foreign bank.

2. The Bank of Albania shall fine the administrators of the bank or branch of a foreign bank up to the amount of 2.000.000-2.500.000 Lek when:
a) there are breaches of provisions of article 7 and 22 of this Law;
b) the bank or branch of a foreign bank carries out banking and financial activity included in the annex to the license;
c) the bank has established a branch outside the Republic of Albania without prior approval by the Bank of Albania ;
d) there are breaches of provisions of article 24, 25, 26 paragraph 1, 55, 64, 65 and 70 of this Law;
e) the bank or branch of foreign bank has not established reserves as required in articles 67 and 68 of this Law;
f) the bank or branch of foreign bank has not maintained the appropriate level of regulatory capital.

3. The Bank of Albania shall fine the administrators of the bank or branch of a foreign bank up to the amount 500.000-800.000 when it finds:
a) breaches of provisions of article 26 paragraph 2, 41, 47, 48, 52 and 53 of this Law;
b) breaches of rules pertaining to internal control;
c) there has been no rectifying measures for the elimination of breaches, or such rectifications have been taken beyond the set time limits.

4. The Bank of Albania, in the event of repetition of breaches, shall double the sanctions stipulated in paragraph 2 and 3 of this Law, as well as may:
a) suspend the administrators for up to twelve months;
b) request the removal from office of one or more of the administrators;
c) order the suspension of the remuneration for the administrators by the bank or branch of a foreign bank;
d) place the bank in conservatorship;
e) revoke the license of the bank or branch of a foreign bank in the territory of the Republic of Albania.
f) place the bank or branch of the foreign bank in liquidation

5. The Bank of Albania, in cases of the bank or branch of a foreign bank not complying with one or more of the imposed measures for the improvement of the bank's or branch of a foreign bank's situation or the rectification of breaches, shall escalate the penalizing measures.

6. The Bank of Albania, besides ordering one or more of the sanctions stipulated in paragraph 2 of this Article, shall also request from the shareholders to rectify the situation within 6 months in cases of the ratio of the regulatory capital of the bank and its assets carrying risk as well as off-balance sheet items is higher than half of the minimal required ratio but lower than the minimal required ratio, as defined by the Bank of Albania.

7. The Bank of Albania shall place the bank in conservatorship as stipulated in Article 96, in case the ratio of the regulatory capital of the bank and its assets carrying risk and off-balance sheet items, with the termination of the time-limit, is lower than the minimal ratio required by the Bank of Albania.

8. The Bank of Albania shall inform the bank or branch of the foreign bank as well the responsible persons for all ordered penalizing measures, within 10 calendar days from the date of the decision.

9. The Supervisory Council of the Bank of Albania determines the appropriate authority (representative organ) in the Bank of Albania for the issuance of acts pertaining to the abovementioned measures.

Article 90
The carrying out of unlicensed activity

1. The carrying out of banking activity or of any other financial activity stipulated in Article 4 as well as in Article 54 of this Law, without a license granted by the Bank of Albania shall constitute a criminal offence punished by fine or imprisonment of up to three years.

2. In cases of acts, stipulated in paragraph 1 above, resulting in heavy consequences to the interests of the citizens or the State, the commission of the act is punishable by fine or imprisonment up to seven years.

Article 91
The obligation to protect professional secrecy

1. The administrators, employees, actual as well as previous agents of the bank, judicial authorities, and the inspectors or other employees of the Bank of Albania or of other respective foreign authorities of banking supervision, shall keep the secrecy for every information obtained in the exercise of their activity in the bank or branch of a foreign bank and shall not utilize it for personal profits or third parties outside the bank or branch of a foreign bank, whom they serve or have served.

2. The information stipulated in paragraph 1 of this Article, shall be made available only to the Bank of Albania, the statutory auditor of the bank or branch of the foreign bank, administrators, agents, and employees of every information system or official service stipulated in Article 23 of the Law “On the Bank of Albania”, as amended, to juridical authorities whose right derives from the law, as well as when it is necessary for the protection of interests of the bank or branch of a foreign bank during legal proceedings.

3. All breaches of the provisions of this Article constitute summary offence. The persons who are guilty of such breaches shall be punished by fine or imprisonment of up to one year.

4. In cases of commission of this act for the purposes of profit or incurring damage to another person, it shall constitute a summary offence and will be punishable by fine or imprisonment of up to two years.

Article 92
Right to be heard of the interested party

The Bank of Albania, prior to issuing the administrative measure, shall grant to the subject, against which, the proposed measure is to be affected, the right to express in writing within 5 days its opinion in relation to the proposed measure.

Article 93
Administrative and judiciary appeal

1. All the subjects affected by an administrative act of the Bank of Albania, may request from the Governor of the Bank of Albania the nullification or alteration of the act, within 15 days from the day the complainant has received notification of the act or from the date of its publication.

2. The administrative appeal to the Governor is a necessary condition for the exhaustion of the administrative recourse, to enable the subject to seek redress from the court.

3. The administrative appeal as stipulated in paragraph 1 of this Article will not suspend the application of the administrative act issued by the Bank of Albania in cases when the latter values that the interest of the depositors and the security or stability of the banking system and the financial system as a whole is threatened by the suspensive effect of the complaint.

4. The administrative appeal is submitted in a written form and shall contain the reasons for which the act is being appealed, and a copy of the administrative act should be attached to it.

5. The Bank of Albania shall condition the administrative appeal on the offering of appropriate legal guarantees by the affected citizens or other legal subjects, for the initial and immediate execution of the administrative act, when it deems that the implementation of the administrative act shall contribute to the maintenance of safety and sustainability of the financial system as a whole.

6. In all cases of judicial complaint, against the claim resulting from a decision of the Bank of Albania, the Appeal Court may decide only if the Bank of Albania has acted arbitrarily or recklessly.

Article 94
Civil or penal liability

The penalizing measures and penalties stipulated in Article 89 of this Law shall not exclude civil or penal liability as defined in other laws.

Article 95
Fines cashing up

Fines imposed according to Article 89 of this Law are cashed up for the account of the Bank of Albania

LAW ON THE BANK OF ALBANIA
(Law no. 8269, dated December 23, 1997)

Article 1

1. The Bank of Albania shall be the central bank of the Republic of Albania and shall operate in accordance with the provisions of this law.

2. The Bank of Albania shall be a public legal entity with its head office in Tirana.

3. Within the limits of its authority established by this Law, the Bank of Albania shall be entirely independent from any other authority in the pursuit of its objectives and the performance of its tasks. Any person should respect the independence of the Bank of Albania, and no person shall seek improperly to influence any member of a decision making body of the Bank of Albania in the discharge of his duties towards the Bank of Albania or interfere in the activities of the Bank of Albania.

4. The Bank of Albania shall have the capacity to :
a) enter into contract;
b) issue rules and regulations;
c) for the purpose of its business: hold, dispose and acquire properties, whether estate or immovable;
d) to deal in securities, to distribute securities for the account of the Government of the Republic of Albania and issue securities for its own account.

5. Whenever used in this Law, the following terms shall have the following meanings:
a) "bank" means any juridical person engaged in banking business under a proper license issued by the Bank of Albania.
b) "banking business" means the business of accepting deposits from the public in Albania and using such funds either in whole or in part to make loans, advances or investments for the account of and at the risk of the person carrying on the business, and such other related business as the Bank of Albania may, by Resolution, specify.
c) "bank account holder" means any bank that holds all account on the books of the Bank of Albania;
d) "debt security" means any negotiable instrument of indebtedness and any other instrument equivalent to such instrument of indebtedness, whether in certificate or in book-entry form.
e) " state" means Republic of Albania.

LAW FOR THE CRIMINAL LIABILITY OF LEGAL PERSONS
(Law no. 9754, dated June 14,2007)

Article 3 Liability of the legal person for committing the offense

The legal person is responsible for criminal acts committed:
a) in its name or benefit from his organs and representatives;
b) in its name on its behalf by a person who is under the authority of the person who represents, leads and manages the legal person;
c) in its the name or on its behalf, because of lack of control or supervision by a person who leads, represents and manages the legal person.

Article 4 Bodies and representatives acting on behalf or for the benefit of legal person

In terms of article 3 letter "a" of this law, body and representative organ of the legal person, acting on behalf or for the benefit of the legal person is any person who, by law or legal person acts, is responsible for representation, management, administration or control of the activity of the legal person and its structures.

CHAPTER III Punitive measures towards legal persons

Article 8
Kinds of punitive measures against legal persons

1. Legal persons, who are responsible for committing the criminal offense, are subjected to the following punitive measures are:
a) Main penalties;
b) Additional penalties.

Article 9
Main penalties

1. Legal persons responsible for committing the criminal offense, are subjected to the following main penalties:
a) fine;
b) termination of the legal person.

2. The main penalty, as defined in paragraph 1 of this Article shall not apply to local government units, public legal persons and political parties and trade unions.

Article 10
Additional Penalties

1. Legal persons responsible for committing the criminal offense together with the main penalty may be subjected to one or more of these additional sentences:
a) Closure of one or more activities or legal entity structures;
b) establishment of a legal person in management control;
c) the prohibition to take part in procurement procedures of public funds;
d) removing the right of making or use of licenses, authorizations, concessions or subsidies;

d) prohibition to seek public funds and financial resources;
f) removal of the right to exercise one or more activities or operations;
e) the obligation to publish the court decision.

2. Additional penalties provided in the letters "a", "b", "d" and "f" of point 1 of this Article shall not apply to local government units, public legal entities, political parties and trade unions.

3. Additional penalties are applied together with the main penalty.

4. The court, under the conditions laid down in Article 36 of the Criminal Code, decides in each case, the confiscation of the means of committing the offense and of the proceeds offense.

Article 11
A fine

1. A fine, according to Article 9 of this law consists in the payment, in favor of the state of an amount of money, within the limits provided for in this Law.

2. The fine is retrieved from the property of the convicted legal person, in the manner and deadlines assigned by the court.

3. If impossible, or in case of obstacles to the payment of the fine, the court at the request of the prosecutor, decides the mandatory enforcement of the decision. If a legal person does not have funds and assets for the payment of the fine, the court may replace it with the main sentence, termination of a legal person.

4. Depending on the type of criminal offences, penalties with fine are applied as follows:
a) for crimes punishable by the Criminal Code with a penalty of at least not less than fifteen years of imprisonment or life imprisonment, legal person shall be punished with fine from lek 25 million to 50 million;
b) for crimes punishable by the Criminal Code with a penalty of at least, not less than seven years to fifteen years of imprisonment, legal person shall be punished with fine from lek five million to 25 million;
c) for crimes punishable by Criminal Code with a penalty in the maximum of less than seven years, the legal person shall be punished by a fine of lek 500 thousand up to 5 million.

5. In the case of liability of legal person for committing a criminal contravention, a legal person shall be punished by a fine of lek 300 thousand to 1 million.

Article 12
Termination of legal person

1. Termination of a legal person, because of the liability for committing a criminal offence, is applied when there is one of the following reasons:
a) is established for the purpose of committing the offense;
b) has used a significant measure of his area of activity to serve the criminal act;
c) have been serious consequences from the commission of the offense.

2. Termination of the legal person, due to the liability for committing a criminal act can be given in cases of criminal acts committed more than once and other aggravating circumstances under the Criminal Code and other criminal provisions.

3. The decision to terminate the legal person is realized through mandatory liquidation procedures by the competent authorities according to law. Part of the income and assets at the end of compulsory liquidation procedure of the legal person, result to be means or proceeds of the offense are seized.

Article 13
Closure of one or more activities or legal entity structures

1. Permanently closing one or more activities or structures of the legal person is given when they are used in the commission of a crime that has serious consequences and it is deemed that their holding does not agree with the nature of the offense committed.

2. Closure of one or more activities or structures of the legal person may be given for a period of one to five years.

LAW ON THE FINANCIAL SUPERVISORY AUTHORITY

(Law no. 9572, dated July 3, 2006)

Article 2
Scope of activity of the Authority

The scope of activity of the Authority is the regulation and supervision of:
a. the securities market and the activity of the securities market, including the activities of other subjects included in this market;
b. The insurance market and the activities of the insurance market, which includes all activities of insurance, re-insurance, brokerage and operations that derive from these activities;
c. The supplementary pensions market and the activity of supplementary pensions market, which includes all activities of insurance of supplementary pensions offered by private supplementary pensions institutions;
ç. and other activities related to financial leasing, factoring, mortgage and other nonbanking financial activities according to the definitions provided by the relevant legislation, which are going to be referred to as "non-banking financial markets".

CHAPTER II
THE STATUS, STRUCTURE AND ADMINISTRATION OF THE AUTHORITY
Article 3
The status of the Authority

The Authority is a public legal person independent with the residence in Tirana specialized in the regulation and supervision of the activity of the subjects engaged in one or more of the activities mentioned in article 2 of this Law.The Authority for the activity it exercises in line with this law reports to the Assembly.

CHAPTER XII
ADMINISTRATIVE SANCTIONS
Article 31

Any individual who prevents the Financial Supervisory Authority and its structures or the authorized staff of its administration in the exercise of their supervisory competencies established in this law or any other act, are penalized with a fine ranging from Albanian Lek 50.000 up to Albanian Lek 75.000. In case of a repeat of the violation from Albanian Lek 80.000 to Albanian Lek 100.000. Any violation according to the first paragraph of this article by individuals who are shareholders or partners of the legal entity and have managerial functions of the legal entity or are partners of the commercial company receive a fine from100.000 to125.000, and in case of a repeat of the violation the fine ranges from Albanian Lek 130.000 to Albanian Lek 150.000. Administrative sanctions placed by the Board according to this article and the notification for the taken decisions are signed by the chairman of the Board. Appealing the decision via court does not hinder the execution of the decision of the Board.

CHAPTER XII
AUTHORITY COMPETENCIES FOR APPLYING ADMINISTRATIVE MEASURE
Article 32
Utilization of administrative measures

The Board in order to prevent or suspend the violations of the law and the by-laws, to prevent or stop severe consequences of the violations of the law, and in case of hindrances in the exercise of the supervisory activity of the Authority may take decisions for the supervised subject. The orders shall contain the method that needs to be pursued by the supervised subject to correct the situation or to prevent the damage. The order contains the deadlines for these changes to take place or for the correction of actions as well as may put the obligation of changing of the administrators or managers when are cases of breaching of the law. The Authority may inform the public regarding the measures it has taken in implementation of the first paragraph of this article.

LAW OF GAMES OF CHANCE

Article 13
Functions of the SUGC

The Supervision Unit of the Games of Chance exercises the following functions:
a) supervises and controls the activities of entities that organize games of chance, in the whole territory of the Republic of Albania, in accordance with the legislation for this activity and bylaws in force;
b) decides the amount of the fine in cases when violations of the provisions of this Law are noticed;
c) checks and verifies whether the equipment of games of chance are certified by accredited authorities, in accordance with rules established in this law. It certifies the equipment of bets, according to technical specifications set forth by instruction of the Minister of Finance;
d) supervises and controls entities authorized by the Minister of Finance to play the promotional games of chance;
e) maintains the register of entities that exercise this activity and of halls opened by them throughout the territory of the country, the number of machines / equipment for any game hall and their specific characteristics, the number of employees and their relevant qualification, the number of national lottery tickets for sale and sold, the number of lots drawn by the organizer of the national lottery and organizers of television bingo;
f) checks and verifies income and profit of entities licensed for games of chance, and settlement of tax liabilities from them, reconciled in cooperation with the Directorate General of Taxation and its branches in the districts.

2. Printing and production of tickets is made every month, according to procedures established by instruction of the Minister of Finance.

3. The SUGC notifies the Directorate General of Taxation for all data related to taxes.

4. When a natural or legal person develops activities in the field of games of chance against the provisions of this law or without the relevant license issued by the authority authorized to grant it, the inspectors of the SUGC set a fine, stop the activity and confiscate the equipment of the games of chance in accordance with the provisions of chapter IX of this law.

Article 16
Inspection

1. Inspection of the activity of any legal person, who exercises activities in the field of games of chance, is performed by inspectors of the SUGC.

2. The inspectors of the SUGC are provided with a special document of identification. They carry out inspections in areas where natural or legal person exercises the activity without informing in advance to verify the implementation of the provisions of this law and by-laws issued in its implementation.

3. Any legal person that exercises activities in the field of games of chance is obliged to allow inspectors to perform inspections anywhere where there are game equipment, and provide inspectors with all information and documentation required from them.

Article 39
Prohibitions for the casino

1. If games of chance, which are held in the casino, contravene or violate the general interest, on the proposal of the Minister of Finance, the authority authorized by the law revokes the license for their development or interrupts without notice procedures for granting the license to the organizer, who is the application process.

2. Cases when the general interest is violated, in terms of point 1 of this article and when these measures should apply are:
a) public fraud;
b) money laundering;
c) violation of public order and incitement of crime.

LAW ON THE LEGAL PROFESSION IN THE REPUBLIC OF ALBANIA
(Law no. 9109, dated July 17, 2003)

Article 9

1. The lawyer has a duty to exercise his profession with honesty and dignity, to respect the rules of professional ethics and use all lawful means to protect the fidelity of the rights and interests of persons protected or represented by him.

2. A lawyer should ensure that there is no conflict of interest between him and the person who defends or represents.

3. Lawyer is not allowed to make public the data that has learned through the protected person or represented by him or by the documents that the latter has made available, in view of protection required, except when he has given his written consent.

4. Lawyer is not allowed to make charges in the criminal prosecution body and can not be questioned as a witness for the person who performed the services and legal assistance, and circumstances that he has learned in the exercise of the profession of lawyer.

5. Lawyer is not allowed to participate in a matter of when he was first charged in as judges, prosecutors, judicial police officer or a witness.

6. A lawyer is not allowed to provide legal assistance or represent a person, when advised or represented before the opposing party in the same issue, or when the lawyer is related by blood or has an interest equal to the opposing party.

7. Lawyers who serve in the same chambers, are not allowed to represent opposing parties in the same issue.

8. Lawyers, who practice their profession with the same law firm is presumed to be aware and possess the documents to anyone who is protected or represented by their office.

9. Except as provided above in this section, the lawyer is obligated to ensure that it acts in the interests of a protected person or represented by him. When the lawyer doubts that he is acting in conflict of interest, he must obtain the written consent of the parties, which are thought to be affected by this conflict.

Article 25

The legal profession in the Republic may exercise every Albanian citizen who meets the following requirements:

a) have completed higher legal education within the country or abroad, but with unified;
b) be recorded in a room advocacy and the Ministry of Justice as an assistant to an attorney, has

completed one-year period of probation and have received a positive opinion of counsel;
c) have received more than 50 percentage points in the qualification examination for the practice of advocacy;
d) enjoy the moral and civic integrity, to protect human rights and fundamental freedoms, and to meet the demands of ethics for the practice of a lawyer;
d) not be punished for criminal acts committed intentionally, as defined in the "Code of ethics of the lawyer;
f) not be participating in the relationship or a public or private, which, by law, the Statute of the National Chamber of Advocates and "Code of ethics of lawyers" are inconsistent or incompatible with the image and the exercise of the profession of lawyer;
e) be a member of the Bar in the jurisdiction of which is his office's work.

LAW ON MEASURES AGAINST FINANCING OF TERRORISM
(Law no. 9258, dated July 15, 2004)

Pursuant to articles 78 point 1 and 83 point 1 and 2 of the Constitution, with the proposal of the Council of the Ministers.

THE ASSEMBLY OF THE REPUCLIC OF ALBANIA

DECIDED: CHAPTER 1 GENERAL PROVISIONS

Article 1
Object

This law determines the measures against financing of terrorism, competences and rapports among the authorities charged with the proposal, approval, control and application of measures.

Article 2
Goal of the law

This Law has the aim at preventing and suppression of terrorists' activities and those individuals who support financing of terrorism, by the means of blocking and sequestrating their assets and properties, according to the respective resolutions of the United Nations Council of the Security, activities of other international organizations and international agreements where the Republic of Albania is a party.

Article 3
Definitions

Under the meaning of this law, except when defined explicitly otherwise in its special provisions the terms as follow mean:

1. "Temporary blocking" is the blocking of transactions or participation in transfer, change, alienation or removal of assets and other properties, according to the terms of the duration of the validity of actions undertaken by the corresponding authorities, in conformity with this law. Assets and other properties blocked temporary remain under the ownership of the persons that have property rights, in the moment of the imposition of the measure for the temporary blocking.

2. " Sequestration" is the blocking of transactions or participation in the transfer, change, alienation or removal of assets and other properties, according to the terms of the duration of the validity of actions undertaken by the corresponding authorities, in conformity with this law. Assets and other properties blocked temporary remain under the ownership of the persons that have property rights, in the moment of the imposition of the measure for the sequestration. Subsequently to the imposition of the measure for the sequestration, the responsible authorities exercise all the rights for the control on assets and other properties sequestrated, including here the ownership, administration and other acts considered as necessary.

3. "Assets and other properties", financial assets and property of any kind, real estate or

personal property, regardless of the way of benefit and legal documents or instruments of any kind, including electronic and digital documents that prove the ownership or interests in these assets and other properties. Here there are included, but not limited, bank credits, bank or traveler's cheques, order payments, shares, bonds, ballot, payments, letters of credit and any other interest, dividend or other incomes and the values collected or generated from assets or other properties.

4. "Terrorist", is a natural person suspected of having committed or having tempted to commit a willful murder, terrorist acts with the use of any kind of means, directly or indirectly; collaborators in the commission of terrorist acts or in their financing; organized or directed other persons to commit terrorist acts or their finance; contributed willingly or having information on the commission of terrorist acts or their financing from a group of persons who act for a common purpose.

5. " Terrorist subject", legal person, any type of organization of undertaking or another entity that is owned or controlled from terrorists.

6. " Person that finances terrorism", person who assures or collects, with the use of any kind of means, directly or indirectly assets and other properties that can be wholly or partly used for the commission of terrorist acts or any other person who acts on behalf of these persons or under their management. This category includes persons that offer or collect assets and other properties for their use or who have information that shall be used for the commission of terrorist acts.

7. "Declared person", Albanian or foreign citizen, or person without citizenship and any legal person, registered or not, included in the list as a terrorist, subject of terrorism or person that finances terrorism against whom similar decisions based on the resolutions of the Council of Security of the United Nations, respective acts of the international organizations or other international agreements are taken, where the Republic of Albania is a party.
8. " Person concerned", a person who claims of having a lawful property or assets right in assets and other properties of the declared person.

Article 4
Field of the law enforcement

1. This law is applied on declared persons for having committed terrorist and financing of terrorism related acts, inside or outside the territory of the Republic of Albania.
2. This Law is applied on terrorism related criminal offences and on other assets and properties used for financing terrorism, committed prior of the entry of this law in force.

Article 5
Declared persons

1. Pursuant to the resolutions of the United Nations Council of the Security, the Council of the Ministers, in conformity with the principles and procedures provided for in this Law, decides to include the declared persons in the list, according to these resolutions and taking necessary measures on them.

2. The Council of the Ministers may decide to include in the list the persons declared by virtue of acts of other international organizations or from other international agreements, where the Republic of Albania is a party.

Article 6
Measures with regard to assets and other properties of the declared persons

The Minister of the Finance orders to take one or some of the measures as follows with regard to assets and other properties of the persons declared from the Council of the Ministers based on this law:

a) temporary blocking;
b) sequestration;
c) terminating to give financial services, assets, financial means or other assets.

CHAPTER II RESPONSIBLE AUTHORITIES AND OBLIGATIONS OF THE SUBJECTS TO COOPERATE

Article 7
Responsible bodies on measures against financing terrorism

1. The Council of the Ministers issues decisions for approval, change or revocation of the list with the declared persons, pursuant to article 5, point 1 and 2 of this law and for other matters related to the measures against financing of terrorism.
2. The Minister of the Finance is the responsible authority for the implementation of the measures provided for in article 6 of this law.

Article 8
Administration of the data

1. The collection, processing, arranging, analysis, exchange and present of the data for the implementation of the measures against terrorism, according to this law are carried out by the General Directorate for the Prevention of the Money Laundering.

2. The Minister of the Finance, the Minister of the Public Order, the General Prosecutor, the Director of the State Intelligence Service and the management level of other informative services, according to their field and responsibilities define in common the rules for the notification, collection, exchange and the use of the data for the declared personas, data on suspicion on financial actions, other transactions and actions that have the aim at financing terrorism.

3. The Minister of the Finance attends the development of the relations of international cooperation for the investigation, exchange of the data and the commission of other activities for measures against financing of terrorism.

Article 9
Data collection

1. The General Directorate for the Prevention of the Money Laundering takes measures for the collection and administration of the data about:

a) the declared persons;
b) assets and other properties persons gained or linked with other rights and interests of the declared persons.

2. The collection, administration and protection of the data is done in documents and electronically.

3. The detailed rules for the administration, maintenance, classification of the data, on the cases and manner of notification and for making acts of the data according to this law are defined by virtue of the order of the Minister of Finance.

Article 10
Liability for the informing and reporting

1. Persons that are aware about financial actions, transactions or other acts that have the aim at financing terrorism, have the liability to inform the Minister of the Finance, General Directorate for the Prevention of the Money Laundering or other structures charged for the detection and investigation of the criminal offences, immediately.

2. Persons charged for the identification and reporting, according to the law no 8610, dated 17.5.2000 " For the prevention of money laundering", are obliged to inform the General Directorate for the Prevention of the Money laundering immediately, if they have information or suspicions about financial actions, transactions or other acts with the aim financing terrorism, notwithstanding their value. In any case the General Directorate for the Prevention of the Money Laundering exercises respective rights and obligations provided for in the above mentioned law.

3. The notification and the reporting, according to point no. 2, should include the data for the identification of assets and other properties, data with regard to their properties and other interests related to these properties as well as explanations about the motives on which the reasons ware grounded for the financing of terrorism.

4. In cases provided for in point 1 and 2 the Minister of the Finance may immediately decide, without the obligation of the preliminary notification, to suspend an operation or transaction, for a period of time until 7 working days, starting from the first day after the entry of this order in force. At the same time, he informs the General Prosecutor about the necessary data for this transaction or act for the purpose of the criminal possible proceeding.

Article 11
Protection of the identity of persons that give notification

1. The responsible authorities that take the data, notifications and reporting under the implementation of this law, are obliged to keep the anonymity of persons that give notification.

2. The Council of the Ministers approves detailed rules for the measures and procedures on the guarantee of the anonymity of the persons that give notification in conformity with this law.

Article 12
Discontinuing of the publication of the data

1. The data taken under the implementation of this law may be used only for the purposes of the enforcement of this law, for the prosecution or other aims defined by law.

2. The responsible authorities, subjects of the reporting and persons employed near them that take the data, notification and reports under the implementation of this law cannot make public the facts taken during or because the duty function.

3. The responsible authorities, subjects of the reporting and persons employed near them have the liability to put in disposal to the court the required documents and to testify only in cases provided for in article 160 of the Code of the Criminal Procedure.

Article 13
Protection of persons in good faith

Person that fulfils or require to fulfill the obligations in good faith, according to the provisions of this law, cannot be appealed, prosecuted or subdued to a similar act or to be brought in front of any other responsibility because of this cause.

CHAPTER III LIST WITH THE DECLARED PERSONS

Article 14
Verification of the identity, assets and other properties

1. The Minister of the Finance, in cooperation with the authorities defined in point 2 of article 8 of this law, carried out the verification of the identity of the persons subdued to procedures about declared persons, and of other assets and properties owned, controlled or on which they have any other right or interest.

2. In the first possible case, but not later than 7 days from the day of notification, the authorities mentioned in point 2of article 8 of this law present to the Minister of the Finance, through the General Directorate for the Prevention of the Money Laundering, a report in writing including:

a) Reasonable data on which the declared person has rights and interests in assets and other properties;
b) Incapacity of the valuation within the timeframe defined in this point, if the declared person has rights and interests in other assets and properties.

Article 15
Criteria for the drafting of the list with declared persons and for taking measures against other assets and properties

1. In the case provided for in point 1 of article 5 of this law, definitions from structures and resolutions of the United Nations Council of the Security are grounded data to create the conviction that the person is a terrorist, subject of terrorism, or person that finance terrorism. In these cases the Council of the Ministers decides to include them in the list of the declared persons.

2. In the case provided for in point 2 of article 5 of this Law, the Council of the Ministers, for the undertaking of the decision, is based on reasonable data, where not limited are included the acts issued from international organizations or international agreements where Albania is a party. The acts can be filled with the information presented from the General Directorate for the Prevention of the Money Laundering, the Prosecution Office, the State Intelligence

Service, other national and international institutions and the information assured from the holder of the assets and other properties, according to article 10 of this law.

3. The Minister of the Finance, based on the documents presented according to point 1 and 2 of this article, proposes to the Council of the Ministers to include a person in the list of the declared persons or to define a declared person and to undertake measures for blocking his assets and other properties, temporary.

4. Measures provided for in article 6 of this law are imposed on all assets and properties on which the declared person exercises property rights, control or other rights or interests.

5. The measures provided for in article 6 of this law are decided regardless of who has other assets and properties under ownership as well as for any other assets or property found in ownership or kept from the declared persons.

6. Application of the temporary blocking or sequestration does not obstruct the collection of interests and profits from other assets and properties. These measures are imposed automatically on other assets and properties gained after their implementation.

7. Actions or transactions for other assets and properties, which are blocked temporary, are not allowed except in cases provided explicitly in the law and determinations done based on the corresponding act for the temporary blocking.

Article 16
Temporary blocking

1. The Minister of the Finance orders the temporary blocking of other assets and properties of a declared person immediately, and even prior to the issue of the respective decision of the Council of the Ministers, according to article 18 of this law, if considering that this is the only way to prevent the avoidance from the implementation of measures provided for in this law or to assure their efficiency.

2. The order of the Minister of the Finance for the temporary blocking of other assets and properties enters in force immediately and it is valid only for a period of no more than 30 working days, starting from the first day after the issuance of the order.

3. If there is any information for the commission of a terrorist act or financing of terrorism, the Minister of the Finance orders the immediately blocking of assets and other properties according to this article and informs the General Prosecutor immediately, sending him the necessary data about the suspected person and his assets and other properties.

Article 17
Appeal against the temporary blocking

1. The person concerned can appeal in the District Judicial Court of Tirana against the order of the Minister of the Finance for the temporary blocking of assets and other properties, issued according to point 1 article 16 of this law, in the District Court of Tirana.

2. The Court examines the case within 10 days, applying the provisions for the administrative trials. The appeal does not suspend the immediate execution of the Order of the Minister of Finance.

3. The person concerned has the liability to prove in the Court that he has:

a) a legal right in assets and other properties assets of the declared person;
b) lawful resources for his rights and interest in assets and other properties;
c) the assets and other assets, object of trial are not linked to terrorists, terrorist subjects, persons that finance terrorism or other persons linked with them.

4. The person concerned is considered as notified if he has taken notice on the issuance of the order. The case is examined within the timeframe provided for in point 2 of this article, if the Minister of the Finance or his representative presents enough data for the incapacity to find the address, whereabouts of the person concerned or his presence within the legal timeframe of the analyze of the case.

5. In case of blocking a real estate the copy of the order for the temporary blocking and the decision of the court is sent to the office that deals with the real estate. The last is obliged to take measures for the immediate execution of these measures.

Article 18
Decision of the Council of the Ministers

1. The Council of the Ministers, with the proposal of the Minister of the Finance, decides on the approval, change or revocation of the list of the declared persons, on whom there are applied measures against financing of terrorism, and issues related to the sequestration of assets and their assets.

2. The Decision of the Council of the Ministers enters in force immediately and is published in the Official Journal.

Article 19
Appeal against the Decision of the Council of the Ministers

1. The declared person may file a special appeal against the decision of the Council of the Ministers in the District Court of Tirana, within 15 days from taking the notification. The right of appeal can be used only in case when the person claims that he is not the declared person.

2. The Court examines the case based on the provisions for administrative trials. The appeal does not suspend the immediate execution of the decision and other measures, taken for its implementation.

Article 20
Execution of the decision of the Council of Ministers

1. Under the implementation of the decision of the Council of Ministers, the Minister of the Finance takes measure to block temporary or sequestrate and administer all the assets and other properties or transactions related to the ensuring of these assets and other properties of the declared persons.

2. In the event of the sequestration of a real estate the copy of the respective acts and the decision of the court are sent to the relevant office of the registration of the real estate. The

last has the liability to take measures for their immediate execution.
3. For the administration of the blocked or sequestrated assets, there are applied provisions in force for the responsible structures and procedures on assets and sequestrated and confiscated properties, in criminal proceeding or outside them, based on this law.

Article 21
Permitted expenses from assets and other assets

1. The Minister of the Finance, within 72 hours from the submission of the request authorizes payments from assets and other sequestrated properties to be used for medical, family and personal needs of the declared person, for the payment of obligations toward the state or those deriving from the work done and obligated insurances.

2. The declared person may appeal against the decision of the Council of Ministers in the Judicial District Court of Tirana. The right of appeal cannot suspend the immediate execution of the decision and other measures for its implementation.

3. The Minister of Finance imposes detailed rules and procedures for the permitted expenses, keeping in mind the criteria provided for in the resolutions of the United Nations Council of the Security.

Article 22
Appeal of the persons concerned and third persons

1. The persons concerned and third persons that pretend that are in good faith may require their rights on assets and other properties sequestrated, by appealing in the Judicial District Court of Tirana, not later than 30 day from the date of receiving the notification for the act of sequestration. The right of appeal cannot suspend the immediate execution of the decision and other measures for its implementation.

2. The persons concerned and third persons that pretend to be in good faith apply the obligations provided for in point 3 of article 17 of this law.

Article 23
Change and revocation of the decision for declared persons

1. The Council of the Ministers may decide the change or the revocation of the list of the persons declared within 15 days from the submission of the proposal to the Minister of Finance or on the appeal of the declared person, along with the explanations for the change of the respective circumstances that have motivated the issue of the decision.

2. Effect of the change or the revocation of measures against the declared person starts seven days from the day when the decision is published in the Official Journal.

3. The change or the revocation of the decision of the Council of the Ministers on the list with the declared persons is done only when there are verified circumstances and facts that make its further implementation not necessary because of a:

a) later decision issued from the United Nations Council of the Security, according to Chapter VII of the Chart of the United Nations, for cases provided for in point 1 of article 6 of this law;

b) an obligation required or raised from the Republic of Albania, according to article 25 of the Chart of the United Nations.
c) respective decision of other international organizations based on an international agreement where Albania is a party.

CHAPTER IV
SANCTIONS

Article 24
Administrative violations

1. If it not considered a criminal offence, the non - fulfillment of obligations provided for in this law and law No. 8610, dated 17.05.2000 from subjects “On the prevention and money laundering”, amended, makes an administrative violation and is given the fine from 50 thousands ALL to 10 million ALL and the obligation in favor of the state, the value, assets and other properties, if verified that the declared person has interest.

2. Administrative punishments, based on point 1 of this article, are decided by the Minister of the Finance.

3. The procedures for the appeal and execution of decisions for administrative violation are done in conformity with law No 7697, dated 7.4.1993 "On administrative violations ", amended.

CHAPTER V
PROVISIONARY AND FINAL PROVISONS

Article 25
Criminal proceeding

Notwithstanding from the implementation of the provisions of this law, the prosecutor and the court, under the implementation of the criminal procedures, may proceed with the sequestration and confiscation of assets and other properties, blocked temporary or sequestrated under the implementation of this law.

Article 26
Approval of sub - legal acts

Responsible bodies, according to this law, are obliged to issue sub - legal acts under the implementation of article 7, 9, point 3, 11 and 21 point 3, within 60 days from the entering of it in force.

Article 27
Internal rules

Within 90 days from the day when this law enters in force in conformity with respective obligations, the supervising authorities and subjects mentioned in article 3 of the law No. 8610, dated 17.05.2000 “On the prevention of money laundering”, amended, shall approve and implement the internal special rules for the criteria and procedures for the identification of actions, transactions and persons suspected of having connection with the financing of

terrorism, and for the identification of financial actions, transactions and other suspected actions for the financing of terrorism.

Article 28
Entry in force

This Law enters in force 15 days after its publication in the Official Journal.
Proclaimed by the Decree No 4281, dated 26.7.2004 of the President of the Republic of Albania, Alfred Moisiu.

LAW ON NON-PROFIT ORGANIZATIONS
(Law no. 8788, dated May 7, 2001)

In reliance on articles 78 and 83 point 1 of the Constitution, on the proposal of Council of the Ministers,

THE ASSEMBLY

OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER 1
GENERAL PROVISIONS
Article 1
Object of the Law

This law sets out rules for the establishment, registration, functioning, organization and activity of non-profit organizations, which follow purposes in the good and interest of the public..

Article 2
Definitions

Within the meaning of this law, the following phrases have these meanings:

1. "Public collection of funds" means the collection of funds by means of broad-scale public awareness campaigns.

2. "Competent state organ" means the state organ whose field of competency is the same as or similar to the field of activity of a non-profit organization or the state organ specified by law.

3. "Non-profit organization" means associations, foundations and centers whose activity is conducted in an independent manner and without being influenced by the state.

4. "Non-profit activity" means any economic or non-economic activity on the condition that the income or properties of the non-profit organizations, if there are any, are used only for the fulfillment of the purposes specified in the charter of the organization.

5. "Temporary activity" means activity exercised by a foreign non-profit organization in Albanian territory for the fulfillment of specific concrete purposes during a calendar year for a period of no less than 30 consecutive days and no more than six months.

6. "Activity in the good and interest of the public" means any activity that supports and develops spiritual and other humanitarian values for the individual and society, protects human life or health, secures and realizes public and social services, help and support in cases of disasters, protects the environment and develops culture and education about it, supports and develops cultural and historical values and traditions, science, education, physical and

spiritual education, helps in the development of good habits and democratic values as well as any other aspect in the good and interest of the public.

Article 3
Subjects of the Law

The subjects of this law are the associations, foundations and centers contemplated in article 2 point 1 of this law.

Trade unions, political parties and other non-profit organizations whose activity, organization and functioning is regulated by separate law are not subjects of this law.

Everyone has the right to collective organization without needing to register this as a non-profit organization.

CHAPTER II
GENERAL PRINCIPLES
Article 4

The Right to Establish and Participate

Every natural or juridical, local or foreign person has the right to establish a non-profit organization, to be a member of it or to take part in its management organs or in the administrative personnel of the non-profit organization.

Article 5
The Principle of Protection and Respect for Human Rights

Non-profit organizations base their activity on the principle of respecting, protecting and implementing the fundamental human rights and freedoms provided in the Constitution, laws and international agreements ratified by law.

Article 6
The Principle of Independence from the State

Non-profit organizations exercise their activity in a manner independent from state organs and interests.

Article 7
Relationships of Non-profit Organizations with State Organs

The state supports and encourages the activity of non-profit organizations. The realization by the state of conditions and facilities for non-profit organizations to achieve the purpose and object of their activity is done by law.

State organs do not interfere in the activity of non-profit organizations.

A prohibition or limitation of the activity of non-profit organizations is done only in the cases and the manner specified by law.

Article 8
Civil Rights and Duties

Non-profit organizations have rights and carry out duties in conformity with the provisions of the Civil Code, except when it is provided otherwise in this law or other legal provisions.

CHAPTER III
NON-PROFIT ORGANIZATIONS
Article 9
Forms of Non-Profit Organizations

The establishment, forms, organization, functioning and field of activity of non-profit organizations is done in conformity with the Civil Code and with this law.

Article 10
Division of Non-Profit Organizations according to Organization

Depending on the manner of organization, non-profit organizations are divided into:

1. non-profit organization with membership:

   Non-profit organizations with membership are established by the free will of natural or juridical persons. The minimum number of founding members is five natural persons or at least two juridical persons.

   Every member has the right to leave the non-profit organization for any reason. The charter may provide rules on the responsibility of the member who leaves in connection with the duties and responsibilities of the organization against third parties up to the moment the member leaves. The responsibility of the member who leaves is the same as that of other members of the non-profit organization for activity performed up to the moment of leaving.

   The highest steering organ of a non-profit membership organization is the general meeting or assembly of all of its members. Other steering organs are elected and are responsible to this highest organ.

2. non-profit organizations without membership:

   Non-profit organizations without membership are foundations and centers.

   Non-profit organizations without members are created by one or more persons or by testament.

   The highest steering organ of non-profit organizations without membership is the board of directors.

Article 11
Centers

1. A center is a juridical person, without membership, that has the object of its activity the performance of services and the realization of projects for purposes in the good and interest of the public, with funds and income secured according to law. It is not permitted for a center to perform profit-making activity.

2. A center is created by one or more natural or juridical persons, by notarial act.

3. The act for creation of a center is registered in court on the request of its founder.

4. The respective legal provisions for a foundation are applied to the establishment, organization and functioning of a center, except when it is expressly provided otherwise in this law and other legal provisions.

Article 12
Division of Non-Profit Organizations according to the Law

Depending on the place of their registration, non-profit organizations are divided into:

1. local non-profit organizations:

   Local non-profit organizations are those which are established, recognized and registered as such according to Albanian law.

   Local non-profit organizations may establish their branches in the center or in any other territorial-administrative unit of Albania. These branches are not separate legal persons, but part of the organization.

   Local non-profit organizations have the right establish their branches, affiliates and so forth outside the territory of Albania.

2. foreign non-profit organizations:

   Foreign non-profit organizations are those organizations established, recognized and registered as such according to the law of another country.

   Foreign non-profit organizations are permitted to exercise one or more specific activities in the territory of Albania, provided that they do not conflict with the Constitution and Albanian legislation.

   Foreign non-profit organizations are also permitted to exercise their activity in the territory of Albania by establishing and registering, according to Albanian law, a branch or a new non-profit organization.

CHAPTER IV
ESTABLISHMENT AND REGISTRATION OF NON-PROFIT ORGANIZATIONS

Article 12 [1]
Founding Subjects

Non-profit organizations are founded by natural or juridical persons, local or foreign.

Article 13
Registration of Non-Profit Organizations

Non-profit organizations that are subjects of this law acquire juridical ability after they are established and registered in court, in conformity with the conditions and procedures provided for in the law. Branches of foreign non-profit organizations are also subject to the same registration procedures.

The founders of a non-profit organization meet and approve its establishment act and its charter, and may also authorize one or more persons to perform the acts of registration.

The conditions contemplated in the second paragraph of this article are not applicable to foundations that are established based on the basis of a testament. If they meet the legal criteria, these foundations shall be registered by respecting the general juridical-civil rules of execution of a testament.

The procedures for the registration of non-profit organizations in court and the deposit of their documents into the respective Register are regulated by separate law.

Article 14
Judicial Personality

A non-profit organization is recognized as a juridical person on the day the decision of the court for its registration becomes final.

After it has gained juridical personality, a non-profit organization is responsible to the third parties for the obligations and damages caused during its activity.

The juridical personality of a non-profit organizations terminates on the day the decision of the court for its de-registration becomes final.

Article 15
Duration of non-profit organizations

Non-profit organizations are established with or without a term.

The duration of the activity of a non-profit organization and the rules for changing it are set in its charter.

Article 16
Establishment Act

The establishment act is the document through which its founders express their will to establishment the non-profit organization.

A foundation may also be established through a testament. In that case, the testament constitutes the establishment act of the foundation.

The establishment act is drafted in writing and contains, in a summary manner: the type, name, headquarters, identity of the founders, purposes and field of activity, duration, the name of the person authorized to follow the necessary procedures for the registration of the non-profit organization and for its legal representation relation with third parties.

In the case of a foundation, the establishment act shall show the nature, source and value of the property necessary to fulfill the aim and field of activity of the foundation.

In the case of establishment of a foundation through a will, its content does not have to provide all the items indicated in the third and fourth paragraphs of this article.

Decisions for changes in the act of establishment with respect to the name, symbol, object, purposes, field of activity of non-profit organizations, as well decisions to transform it into another form of non-profit organization, shall be submitted to the court within 30 days from the date the decision is taken. Changes in the establishment act are subject to the same procedure used in the case of initial registration of the organization.

Article 17
The Charter

The detailed regulation of the issues of organization, functioning and activity of the non-profit organization is provided in its charter.

The charter of a non-profit organization is drafted by the founders and approved in the founding meeting of the organization. If the case of the establishment of a foundation through a testament, the charter may be drafted and approved by the executor of the testament, except when the testament provides otherwise.

The charter of a non-profit organization shall contain:

a) the form of organization;

b) the name, seal and special symbol of the organization;

c) the founders;

ç) the purpose and field of activity of the organization;

d) a prohibition of the distribution of profits;

dh) the duration;

e) the steering organs and their competencies;

ë) the composition of the first steering organs provided in the charter;

h)[2] procedures and methods for electing or changing the steering organs;

i) rules for holding a meeting, the participation, the manner and procedure of voting to take decisions;

j) criteria for administration of property;

k) the manner of approving an amendment of the charter, the establishment act and the internal rules;

l) rules for the merging and dissolution of the non-profit organization;

ll) the method of legal representation;

m) rules for liquidation and the destination of property after the termination of the organization.

In addition to what is mentioned in the third paragraph of this article, the charter of an association shall also indicate:

a) rules for acceptance and of expulsion of members;

b) the rights and duties of members;

c) rules related to membership dues.

In addition to what is mentioned in the third paragraph of this article, for a foundation and centers the charter shall also indicate the financial and material sources provided by the founder and the manner of their use.

Article 18
Amendment of the Charter

The amendment of the charter of an association is done by a general assembly of its members. If the charter does not provide for a higher voting majority, amendments to the charter are done by a simple majority of the members of the association.

In the case of a foundation and centers, their highest decision-making organ, in conformity with the procedures provided in the charter, has the competency to amend the charter. If the foundation was established by a testament, an amendment of the testator's will cannot be done when it is specifically prohibited in the testament.

The decision of the general assembly or the highest decision-making organ of a non-profit organization to amend the charter is deposited in the Registry of Non-Profit Organizations, according to the procedures set by law.

otherwise the question is resolved by the court.

CHAPTER VI
FOREIGN NON-PROFIT ORGANIZATIONS
Article 29
The Activity of Foreign Non-profit Organizations

Foreign non-profit organizations have the right to exercise temporary or permanent activities in the Republic of Albania, respecting Albanian legislation and good customs and under the same conditions with those of local non-profit organizations.

For the exercise of their activity in the Republic of Albania, foreign non-profit organizations may establish and register the non-profit organizations, or their branches, according to Albanian law.

Article 30
Permission for Temporary Activity

Except when it is provided otherwise in bilateral or multilateral agreements, foreign non-profit organizations, in order to exercise temporary activity, on their application receive only preliminary permission of the state organ that conducts activity in the same field or in fields similar to the foreign non-profit organizations.

The decision of the respective state organ to issue a temporary license for activity is given no later than one month from the date of submission of the request. Otherwise the approval is considered as given. Refusal of any request can be appealed in court within 30 days of receipt of notice.

Temporary activities that last no longer than 30 consecutive days do not need temporary permission.

Article 31
A Request and Associated Acts for Obtaining Permission for Temporary Activity

Foreign non-profit organizations that intend to exercise temporary activity, besides meeting the other requirements of this law, and receipt of the permission of the respective state organ that exercises activity in the same field or in fields close to that of the foreign non-profit organization, together with the request shall also present the following documents

a) A document that shows they are a juridical person in their country of origin;

b) A declaration from the foreign non-profit organization itself, that the activity it intends to realize in Albania is in conformity with the purpose for which it was created and with the legislation of that country.

The accompanying acts issued in other countries shall be authentic or certified regularly by the competent organ of the country where the act was issued, translated and notarized in the Albanian language.

Article 32
Documents Necessary for the Registration of a Branch of a Foreign Non-Profit Organization

Foreign non-profit organizations that intend to establish a branch in Albania, in addition to meeting the other requirements of law, also accompany the request for registration with the establishment act

and the charter, together with the decision of its competent organ for the opening of a branch in Albania.

Accompanying documents issued in other countries shall be authentic or certified regularly by the competent organ of the country where the act was issued, translated and notarized in the Albanian language.

Article 33
Rights and Duties

In the conduct of their activity, foreign non-profit organizations have all the rights, facilities and legal obligations as if they were local, except when it is otherwise provided by law or international agreement.

CHAPTER VII
LICENSING, INCOME AND ECONOMIC ACTIVITY
Article 34
Licensing

For the realization or support of the purpose and object of activity contemplated in the charter, non-profit organizations have the right to exercise any kind of lawful activity.

When the exercise of an activity is subject to the need to obtain a license or permission, the non-profit organization submits a request to the competent organ, which, after determining that it fulfils all the criteria and the relevant legal procedures, gives it the respective license or permission. In the registration decision, the judge shall also give an expression about the fulfillment of the obligation to request and obtain the respective license or permission as a condition for the exercise by the non-profit organization of the activity that is subject to licensing or permission. A copy of the permission or license obtained by the non-profit organization, certified according to law, is deposited in the respective register of the court.

Article 35
Sources and Use of Income

The sources of income of a non-profit organization are income from dues, when there are such, grants and donations offered by private or public subjects, local or foreign, as well as income from economic activity and the assets owned by the non-profit organization.

Non-profit organizations acquire income from the sources recognized by this law and incur expenses only to realize the purpose and object of the activity for which they were created, as well as to manage and maintain their property.

No form of distribution of profit or financial and material advantage benefit from the income and profits of the non-profit organization is permitted to the persons to are subjects of the charter or establishment act, except for obligations in the form of salary, wages, payments, emoluments and compensation that derives from an employment contract or another contracts similar to it or to cover expenses performed on the order and for the account of the non-profit organization.

In special cases, associations may give financial aid to their members, outside persons or other subjects. Associations may give such assistance also from donated funds or those put at their disposition, when the donors have expressly granted such a right.

Article 36
Economic activity

A non-profit organization has the right to exercise economic activity for the realization of the purpose and object of its activity.

A non-profit organization may exercise economic activity without having to create a separate subject for this reason, provided that the activity is in conformity with the purposes of the non-profit organization, has been declared as one of the sources of income, and provided that the activity is not the primary purpose of the activity of the organization.

If a non-profit organization realizes profits through the exercise of economic activity, it shall be used to accomplish the purposes specified in the charter and the establishment act.

Article 37
Collection of funds

Non-profit organizations have the right to perform activities for the collection of funds and to use them for meeting the purposes and object of their activity, or to support the purposes and activities of other non-profit organizations.

The rules for the public collection of funds are determined by separate law.

Article 38
Relations with donors

Financial relations and mutual rights and obligations with donors are realized in conformity with the respective agreements, but respecting the requirement of the charter of the non-profit organization and of this law.

Financial or material assistance given for illegal purposes or which is obtained through illegal sources is not allowed.

Article 39
Donations and Contracting with State Organs

Non-profit organizations have the right to take part, like all other juridical persons, in the filed of undertaking projects, tendering and procuring grants, contracting and purchases and sales by state organs of public services, public properties and goods, as well as the transferring of public services and the respective properties from the public sector to the non-profit organizations.

Article 40
Relief and Exemption from Fiscal Obligations

Relief and exemptions of non-profit organizations from tax and customs obligations are set by law.

Regardless of the form of organization, the purpose they follow and the activity they exercise, non-profit organizations are exempt from tax on revenues realized from donations and membership dues.

Natural and juridical persons who give assistance by donations to non-profit organizations are entitled to obtain relief from income tax according to law.

Article 41
Supervision of Non-Profit Organizations

The competent state organs have the right to supervise non-profit organizations regarding the implementation of tax and customs legislation, social insurance legislation, the licensing of the exercise of economic activity, contracting of the exercise of public and social services, and for the fulfillment of their activities with funds from the State Budget.

CHAPTER VIII
TRANSFORMATION, MERGER, INTERRUPTION OF ACTIVITY AND DISSOLUTION
Article 42
Transformation and merger

Non-profit organizations have the right to be transformed or merged by a decision of the competent organ according to the basic act and are considered dissolved upon the registration of the new subject.

The transformation of an organization without membership, merger with another non-profit organization or their division can be done only when it is contemplated in the charter.

Transformation and merger of foundations and centers into associations or of associations into a foundation is not permitted.

Article 43
Self-dissolution

A non-profit organization is dissolved on its own initiative.

Article 44
Dissolution by Court Decision

A court may decide the dissolution of a non-profit organization on the request of its members, its decision-making organs, or the competent state organ in cases when:

a) the activity of the non-profit organization comes into conflict with the Constitution;

b) the non-profit organization performs illegal activity;

c) the non-profit organization was not established according to the requirements of law;

ç) the non-profit organization has gone bankrupt according to the law of bankruptcy.

Except when the activity of the organization constitutes a serious threat to the public, the court shall inform the organization in writing about the violation of law and give it 30 days to correct its activity.

Article 45
Manner of Examining the Request

The examination of a request to dissolve a non-profit organization is done in the presence of representatives of the non-profit organization, of the supervising organ and, as the case may be, the members who presented the request.

When, on the request of the interested parties contemplated in the first paragraph of article 44, the court assesses that it is the case, it preliminarily recommends to the non-profit organization to take action to conform its program or activity with the Constitution and this law, in a set time period, suspending the examination of the case.

When the recommendations are applied properly, the court decides to end the adjudication. Otherwise, it examines the case after the set time period has been completed.

LAW ON PREVENTING AND STRIKING AT ORGANISED CRIME AND TRAFFICKING THROUGH PREVENTIVE MEASURES AGAINST ASSETS
(Law no. 1019, dated December 3, 2009)

Article 2
Purpose

The purpose of this law is preventing and striking at organised crime and trafficking through the confiscation of the assets of persons who have an unjustified economic level as a result of suspected criminal activity.

Article 3
Field of application

1. The provisions of this law are applicable to the assets of persons as to whom there exists a reasonable suspicion, based on indicia, of:

a) participation in criminal organisations or structured criminal groups, according to the provisions of articles 333 and 333/a of the Criminal Code and of the commission of crimes by them;
b) participation in terrorist organisations or armed bands, according to the provisions of articles 234/a and 234/b of the Criminal Code, and of the commission of crimes by them;
c) the commission of other actions for terrorist purposes, provided in the special part of the Criminal Code, chapter VII;
ç) the commission of the crimes provided in articles 109, 109/b, 110/a, 114/b, 128/b, 278/a, 282/a, 283, 283/a, 284/a of the Criminal Code;
d) the commission of the crimes for purposes of earning unlawful assets provided in articles 114/a and 287 of the Criminal Code.

2. The provisions of this law are also applicable to assets of:

a) close persons (spouse, children, ancestors, descendants, brothers, sisters, uncles, aunts, grandsons/nephews, granddaughters/nieces, children of brothers and sisters, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, cohabitant, stepson, stepdaughter, step-father and step-mother) of the subjects of point 1 of this article;
b) natural or legal persons as to which there are sufficient data that their assets or activities are possessed, partially or entirely, in a direct or indirect way, or have been used, have facilitated or in a form have affected the commission of unlawful activities by the persons provided in point 1 of this article.

3. Preventive measures may also be sought against the heirs of a person subject to the implementation of this law, but in any case, no later than five years from the date of death.

4. This law is also applicable to the assets of persons created before the entry of this law into force, provided that the assets shall have been gotten during his suspected inclusion in criminal activity according to this law.

Article 4

Preventive measure

In the meaning of this law, a "preventive measure" is any measure of a property nature that the court orders in a judicial proceeding through the sequestration of assets, the economic, commercial and professional activity of persons, as well as through their confiscation.

Article 5
Relation to the criminal proceeding

1. The procedure of setting and implementing preventive measures according to this law is autonomous from the condition, level or conclusion of a criminal proceeding that is held against the persons who are subjects of this law.

2. Verifications, investigations and trial according to this law rely on the procedural rules of this law and are supplemented by the rules defined in the Code of Civil Procedure.

3. In cases when the assets sequestered or confiscated according to this law are also subject to sequestration or confiscation according to the Criminal Code and the Code of Criminal Procedure, the court orders the suspension of the consequences of the implementation of the measures of sequestration and confiscation according to this law. The suspension ends with the rendering of a criminal judicial decision for the revocation or extinguishment of those measures.

Article 6
Object of the verifications

1. Verifications are performed against the persons provided in article 3 of this law about the financial means, assets, economic, commercial and professional activities, economic level and sources of their income.

2. The verifications are done, in particular, if these persons have permits, licenses, authorisations, concessions and other rights to conduct economic, commercial and professional activity, as well as to verify whether they enjoy contributions, financing or credit of any kind given by or gained from the state, public legal persons or entities, international institutions or bodies as well as to verify whether the assets, activities or property rights are justified.

Article 9
Obligation to hand over information and documents

1. Directly or through the Judicial Police, the prosecutor may ask any office of the state administration, public legal person or entity, and other natural and legal persons for data and copies of documents that are judged essential for purposes of verifying the assets of the persons provided in article 3 of this law.

2. With an authorisation issued by the prosecutor or the court, the officers of the Judicial Police may order the sequestration of the documents examined, according to the rules provided in articles 208, 209, 210 and 211 of the Code of Criminal Procedure.

SEQUESTRATION OF ASSETS
Article 11
Criteria for sequestration of assets

1. At the motivated request of the prosecutor, the court orders the sequestration of assets of the persons according to article 3 of this law, when there is a reasonable suspicion based on indicia that show that the person may be included in criminal activity and has assets or

income that do not respond obviously to the level of income, profits or lawful activities declared, nor are they justified by them and when:
a) a real danger exists of the loss, taking or alienation of the funds, assets or other rights over which the putting into implementation of the measure of confiscation according to the provisions of this law is provided; or
b) there are reasonable suspicions that show that the possession of the assets and the exercise of the particular economic, commercial and professional activities are in a state of danger or influence by a criminal organisation or that may facilitate criminal activities.
2. The request of the prosecutor for the sequestration of assets contains the indicia on which the reasonable suspicion is based, as well as the reasoning for at least one of the conditions of point 1 of this article.

CHAPTER IV
CONFISCATION OF SEQUESTERED ASSETS
Article 21
Request for the confiscation of assets and burden of proof

1. The measure of confiscation is ordered at the request of the prosecutor, who submits to the court the reasons on which he bases the request.
2. The confiscation of assets is also sought and ordered in cases when a sequestration measure has not been sought and ordered against the assets.
3. The burden of proof to prove that the assets were gained in a lawful manner belongs to the person against whose assets confiscation is sought.

Article 22
Judicial procedure of confiscation

1. During the adjudication of a request for confiscation, the provisions of the Code of Civil Procedure are applied, so long as it is possible.
2. At the request of the prosecutor, the court may also continue the adjudication in cases when the person does not have a known residence within the country, has left the country or despite all the searches made is not found. In this case, the court declares the person not found, designating a lawyer for him. The lawyer may be designated by the court on its own initiative or be selected by the relatives of the person.
3. When during the judicial examination it comes out that the sequestered assets belong to third persons, the court, even on its own initiative, by a reasoned decision, calls them to intervene n the proceeding.
4. Within the time period designated by the court, the third person has the right to present his claims in a session, as well as to seek that other necessary data be received.
5. When it is proven that some of the assets have been transferred or were registered in the name of third parties by fictitious or simulated legal actions, the court finds the invalidity of those legal actions. For this purpose, when the contrary is not proven, [the following] are also presumed to be fictitious or simulated:
a) transfers and registrations in the name of third parties and with a title that has a burden or charge on it done within two years before the submission of the request to take a preventive measure against the close persons;
b) transfers and registrations in the name of third parties and with a title given for free or obviously below the market value done within two years before the submission of the request to take the preventive measure.

Article 23
Time length of the trial of a request for confiscation

1. Within three months from the date of submission of a request of the prosecutor according to article 21 of this law, the court decides on the request for the confiscation of the assets.
2. In complex cases, the court even on its own initiative may give its decision at a later time period, but always within one year from the date of submission of the request for confiscation.

Article 24
Acceptance of the request for confiscation

1. The court decides the confiscation of assets when all the following conditions are met:
a) when there are reasonable suspicions based on indicia of the participation of the person in the criminal activities provided in article 3 of this law;
b) when it is not proven that the assets have a lawful provenance or the person does not justify the possession of the assets or income that do not respond obviously to the level of income, profits or lawful activities declared, nor are they justified by them; and
c) when it turns out that the assets are directly or indirectly in the full or partial ownership of the person.
2. The court may also decide the acceptance of the request for the confiscation of assets when:
a) a criminal proceeding started against the person is dismissed by the proceeding organ because:
i) of the insufficiency of the evidence;
ii) of the death of the person;
iii) the person cannot be taken as a defendant and cannot be convicted;
b) the person is declared criminally innocent because:
i) of the insufficiency of the evidence;
ii) the criminal offence was committed by a person who cannot be accused or convicted;
c) the person was proceeded against for a criminal offence that is included in the field of application of this law, but during the criminal proceeding the legal qualification of the offence is changed and the new offense is outside the field of application of this law.

CHAPTER V
DECISION, APPEAL AND EXECUTION OF PREVENTIVE MEASURES
Article 26
Elements of the court decision

The decision of the court to take a preventive measure, in addition to the elements provided in article 310 of the Code of Civil Procedure, also contains:

a) the type of preventive measure and its time length, if the measure has been set with a time limit;
b) the type of assets with all the data that serve for their identification, including the location or anything else that has value in identifying it;
c) a summary presentation of the fact and the legal reason of the preventive measure;
ç) the amount of procedural expenses, their type as well as data about the person to whom they are charged.

LAW ON THE REGISTRATION OF NON-PROFIT ORGANIZATIONS
(Law no. 8789, dated May 7, 2001)

In reliance on articles 78 and 83 point 1 of the Constitution, on the proposal of the Council of Ministers,
THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA
DECIDED:

CHAPTER I
GENERAL PROVISIONS
Article 1
Object of the Law

This law specifies the procedures for registering non-profit organizations, as well as rules for maintaining the registry.

Article 2
Legal Basis

The rules about the form of organization, of the establishment, of the activity and of the functioning of non-profit organizations are specified by law.

Article 3
Registration

Associations, foundations, and other forms of non-profit organizations that can exercise their activity and acquire the quality of a legal person only after registration in court, are expressly designated by law.

CHAPTER II
THE REGISTER
Article 4
Competent Court

The register of Non-profit Organizations, hereafter called the "Register," is kept by the Court of the Judicial District of Tirana.

Article 5
Sole Judge

1. A decision for the registration of non-profit organizations, as well as any other decision related to actions related to their registration, is made one judge of the commercial section of the court.

2. The judge has all the competencies to carry out the actions that have to do with the Register, except for those that according to law are performed by the Secretary of the Register.

Article 6
Secretary of the Register

1. The Secretary of the Register of non-profit organizations performs the following actions:

a) Sees to the maintenance and administration of the Register.
b) Registers and keeps the decisions of the judge and the documentation attached.
c) Issues the certification of registration and of the deposit of official documents acts to the Register as well as other certifications in the cases provided by law.
ç) Issues copies of the registration and the documents deposited in the annexes of the Register. When an abbreviated copy is requested, the judge determines the content issued to the applicant.

2. When the Secretary of the Register opposes the issuance a document with a content different from the previous one, the request to issue it is reviewed by a judge of the Register. The decision of the judge may be appealed to the Court of Appeals of Tirana.

3. Actions for the registration, deposit of documents, issuance of certificates and copying them and the documents that are kept in the Register are done by the Secretary of the Register, against payment of a service fee. The service fees are set by a joint order of the Minister of Justice and the Minister of Finance.

Article 7
Access to the Register

The Register and the documents deposited in the annex of the Register are open to the public. Every interested person has the right to get a copy of the documentation of the Register against payment of a service fee.

Article 8
Publication of Legal Announcements

During the month of November of every year, the Council of Ministers designates the means for publishing legal announcements regarding the Register for the next calendar year.

CHAPTER III
FORM AND CONTENT OF THE REGISTER
Article 9
Register Card Files

The Register is kept in card files. The Minister of Justice determines the form of the Register, the content and the technical rules for keeping it.

Article 10
Annexes and Files of the Register

1. The decision of the judge, the actions of the Secretary of the Register and the Secretary and the attached documentation for each entry in the Register are kept in individual files. The entirety of the files of the Register files constitutes its annex.

2. The documentation kept in the annex of the Register shall be original. On the request of an interested party, the judge may decide to return an original document to him, after it has been replaced by photocopies certified by a public notary.

Article 11
Regularity

The entries in the Register shall be done clearly and, as a rule, without abbreviations. No action tha t eliminates, wipes out, or makes the Register entries illegible is permitted.

Article 12
Register Entry

1. Every non-profit organization is registered by an individual registration number that contains one or more cards in the Register.

2. The change of name of a non-profit organization is registered in the same entry of the Register. To distinguish the subject more clearly, the new name may be registered along with all prior registrations that are still valid, with a new registration number and in a new entry on the Register. In this case, reference to the other entry is given on each entry.

Article 13

1. Each registration is done under a new ordinal number, separated from the next registration entry with a horizontal line that goes through all the columns of the Register.
2. In the case of several simultaneous registrations, they are done under the same ordinal number.

Article 14
Date of Registrations

The registration date is indicated for every registration. The registration date and it place in the register are shown in the decision of the judge who orders the registration and the opening of the respective file in the Register.

Article 15
Change in the Registrations

Changes in the content of a registration and cancellation by underlining shall be registered under a new ordinal number. The judge decides on underlining a registration that has lost its importance because of a new registration.
At the same time as the registration, a notation related to the cancellation by underlining is also underlined.

CHAPTER IV
REGISTRATION AND PUBLICATION PROCEDURES
Article 22
Application for Registration and Deposit

1. The registration of non-profit organizations as well as the deposit of their documents in the Register is done on an application from the interested subject.

2. The application shall contain explanations regarding the form and purpose of the non-profit organization, the object of its activity, identity of the founders and its leaders, the structure of the leading organs, the location of its headquarters and the identity of its legal representatives.

3. The respective documentation, in the original or certified by a notary, is attached to the application for registration or deposit of documents in the Register.

Article 23
Exclusion of a Judge

A judge is obligated to resign from reviewing an application for registration or deposit in the cases contemplated in article 72 of the Code of Civil Procedure. Articles 73 and 74 of the Coe of Civil Procedure are applicable to the resignation and exclusion of a judge from reviewing an application.

Article 24
Decision of the Judge

1. The judge decides on applications for registration or deposit within 15 days from the date the request is deposited in court.

2. When during the review of an application and attached documentation, the judge finds out that their content is not complete, after calling and listening to applicant, he decides on the questions that should be completed, setting a reasonable deadline for completing them.

3. A decision on the registration is given by the judge even when another court has taken the decision to perform this action.

Article 25
Rejection of the Application for Registration

1. The rejection of an application for registration of a non-profit organizations in done by decision of the judge competent for the Register.

2. An appeal may be taken to the Court of Appeals of Tirana against the decision of the judge rejecting the application.

Article 28
Copies of the Register

1. Copies are made by copying the entry of the register or the documents deposited in the annex of the Register. Simple copies are not signed and are accompanied by the notation "Copies made on ….(date)".

2. The certification of identity of the documents with the original is made by a notation put below the last registration of the copy, with the text: "The identity of the copy with the original registrations in the Register of Associations, Foundations and other Entities of a private non-profit nature is certified."

3. The notation shall indicate the place and the date the action was done, it is signed by the Secretary of the Register and it bears the stamp of the court.

4. When copies certified with the original of the documents deposited in the annex of the Register are requested, the notation of the Secretary of the Register shall indicate whether the principal document is an original or a copy certified with the original.

CHAPTER VI
PROCEDURES REGARDING REGISTRATION
Article 34
Suspension of the Procedure for a Decision pertaining to the Register

The court may suspend the continuation of a procedure for the implementation of a decision for the Register, when this depends on the evaluation of a legal situation that is the object of a judicial procedure. So long as this procedure has not commenced, the court may set a term for one of the interested parties to initiate a judicial instance.

Article 35
Decision for the Fulfillment of a Legal Obligation

The court may order an interested person to fulfill, within a term determined by it, the obligation to deposit in the annex of the Register a signature or another documentation required according to law.

CHAPTER VIII
FINAL PROVISIONS
Article 40
Re-registration of Associations and Foundations Previously Registered

1. Within 3 months from the entry of this law into force, the courts of the judicial districts are obligated to transfer in the Court of the Judicial District of Tirana the registration documents of associations and foundations as well as the accompanying documentation of registration.

2. The form and the content of the Register, as well as detailed regulations regarding the transfer of the documents contemplated in point 1 of this article, are determined by the Minister of Justice.

Article 41
Effective Date

This law enters into force 15 days after publication in the Official Journal.

LAW ON STATE POLICE
(Law no. 9749, dated June 4, 2007)

Article 4
Responsibilities of Police

(1) The responsibilities of Police are as follows:

a) To protect people's life, their security and personal property;
b) To prevent, detect and investigate in compliance with Criminal Code and Criminal Procedure Code, the criminal offences and their perpetrators;
c) To protect public order and security;
ç) To supervise and direct road traffic in the roads for public use and in compliance with road legislation;
d) To supervise and control state borders of the Republic of Albania;
dh) To protect specific individuals, premises and objects from potential risks;
e) To administer and protect classified information, with the exception of cases when it is otherwise envisaged by the legislation;
ë) To perform duties defined in this law, in other laws and sub normative acts, which contemplate duties for the police.

(2) Every member of the State Police has a duty to perform all the responsibilities stated in paragraph (1) regardless of the structure where they serve.

(3) Every member of the Albanian State Police officer possesses the attributes of Judicial Police in compliance with Criminal Procedure Code and the respective law on the organization and functioning of the judicial police.

LAW OF TAX PROCEDURES IN THE REBLIC OF ALBANIA
(Law no. 9920, dated May 19, 2008)
Article 59
Cash Payments

1. A taxpayer, physical or legal commercial person, must not engage in cash transactions between them , where the amount of consideration for the transaction is in excess of 300,000 Leks.

2. In addition to other requirements provided in this Law, a taxpayer is required to display prominently prices of goods and services offered in accordance with tax legislation. A taxpayer engaged simultaneously in retail and wholesale activities must operate such activities in separate locations.

BANK OF ALBANIA
SUPERVISORY COUNCIL
REGULATION ON PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING
(Adopted by the Decision No.44, dated June 10, 2009 of Supervisory Council of the Bank of Albania)

Chapter I
General provisions
Article 1
Subject-matter

This Regulation lays down the procedures and documentation for the identification of customer, regulations for record-keeping, preservation of data and their reporting to the responsible authority from the subjects of this Regulation.

Article 2
Purpose

The purpose of this Regulation is the prevention of the use of the financial system for the purpose of money laundering and/or terrorist financing.

Article 3
Subjects

This Regulation shall apply on the entities which are subject of the Law No. 9917, dated 19.05.2008 "On Prevention of Money Laundering and Terrorist Financing "and the bylaws issued for its purpose, which are licensed and supervised by the Bank of Albania.

Article 4
Legal ground

This regulation is issued in accordance with Article 12, letter "a" and Article 43 letter "c" of the Law 8269, dated 23.12.1997 "On Bank of Albania", of Article 9 of the Law No.9662, dated 18.12.2006 "On Banks in the Republic of Albania", Articles 7, 11, 24 and 26 paragraph 2 of Law No. 9917, dated 19.05.2008 "On Prevention of Money Laundering and Terrorist Financing" and Article 27 of Law No. 9258, dated 15.07.2004 "On measures against terrorist financing" .

Article 5

The terms used throughout in the Regulation shall have the meanings given by the Law No. 9917, dated 19.5.2008 "On Prevention of Money Laundering and Terrorist Financing", by the bylaws issued for the purpose of this Law implementation, and by the Law No.9662, dated 18.12.2006 "On Banks in the Republic of Albania".

The term "Law On prevention of money laundering" shall imply the Law No. 9917, dated 19.5.2008 "On Prevention of Money Laundering and Terrorist Financing".

Definitions

Chapter II
Due diligence
Article 6
Procedures and documentation on the identification of the customer

Subjects shall identify and verify the identity of their customers for the purposes of prevention of money laundering and terrorist financing in compliance with the requirements of the Law on Prevention of Money Laundering, and bylaws issued for the purpose of this Law and Regulation.

Subjects shall compile internal procedures for the identification, registration, monitoring and reporting of customers' transactions. These procedures are compiled in compliance with the requirements of the Law on Prevention of Money Laundering, particularly the requirements related to "The procedure to know your customer", stipulated in paragraph 21 of Article 2 of this Law.

Subjects shall identify completely and correctly their customers and beneficiaries, and require additional information in case they deem necessary.

Subjects shall verify the customer's identity through the available legal documents. The customer shall submit the documents in original or notarised copy. Subjects, at the moment of establishing business relationships or carrying out the transactions, shall keep in the customer's file copies of documents submitted by this later. Copies of these documents should be sealed by the seal of subject, within their availability term.

Opening of a banking account, even in case it shall be used for transactions carried out electronically (e-banking account), shall be conducted only upon the physical presence of the customer.

In the event a customer is represented by a third person through a representation certificate, subjects shall request the data for the identification of customer and his representative, and maintain in the customer's file all the documentation submitted from the third person, including the original or a notarised copy of the representation certificate. In such cases, subjects do not open the account without the physical presence of customer meanwhile the following operations after the account opening may be carried out from his representative.

Subjects, prior to establishing a business relationship and/or to carry out transactions on behalf and for the account of the customer, shall consult the updated list of persons declared as terrorist financing, approved by the Decision of the Council of Ministers according to the Law No. 9258, dated 15.07.2004 "On measures against terrorist financing".

Subjects shall refuse to open a customer's account and shall not enter into business relationships, in the event of failure of meeting the requirements regarding customer' identity.

In case subjects suspect at any time regarding the customer's identity, they suspend immediately every operation with this latter and inform the responsible authority, in compliance with the requirements on reporting as set out in Article 9 of this Regulation.

In case of customers that have business relationship with banks and branches of foreign banks, transactions on their account are carried out in any case through the account of the customer/customers.

Article 7
Registration and record-keeping of data

Subjects shall register on their database any information related to the customer's identification and on any financial transaction carried out on this latter behalf or account. The record-keeping of this information, along with the subordinating documentation, is carried out in line with the requirements and terms set out in Article 16, of the Law on Prevention of Money Laundering.

Article 8
Responsible structures of subjects

Subjects shall establish the needed structure/structures and infrastructure for the prevention of money laundering and terrorist financing.

Subjects shall assign one of their executive directors as responsible person to accomplish the duties of this subject related to the prevention of money laundering and terrorist financing.

Subjects shall submit to the Bank of Albania the name of the responsible person assigned in line with paragraph 2 of this Article, and in all the cases that there are changes of this person.

Subjects prepare, approve and submit to the Bank of Albania, upon their approval, a copy of internal procedures on prevention of money laundering and terrorist financing. Subjects compile and approve regulations/procedures on categorisation of customers and transactions according to the risk degree they represent, in accordance with Article 8 and 9 of the Law on Prevention of Money Laundering. To accomplish this categorisation, subjects may refer to the criteria set out in Annexes 1 and 2 therein of this Regulation.
Respective structures shall make available to the responsible person, set out in line with paragraph 2 of this Article, the sufficient asset and sources to fulfil his duty (such as the adequate technique, sufficient personnel, a reasonable budget, etc).

Branches and agencies of subjects operating in the Republic of Albania register all the financial and banking operations of each customer at amounts set out in this Regulation and in the Law on Prevention of Money Laundering, or their counter value in the foreign currencies. The head office of subject preserve and maintain all the reports supplied by the subject's branches and agencies, and summarised data regarding its network throughout Albania.

The responsible persons of subjects, assigned in accordance with paragraph 2 of this Article, shall compile and implement an annual training program of subjects' employees, related to the internal regulations and procedures adopted for the purpose of preventing money laundering and terrorist financing.

The responsible persons of subjects, assigned as stipulated in paragraph 2 of this Article, shall inform periodically the employees of these subjects related to the changes of applicable legal provisions on the prevention and punishment of penal offence of money laundering and terrorist financing, and on their obligations related to the implementation of these changes.

Subjects take measures to implement the expanded diligence versus clients, based on Chapter III of the Law "On Prevention of Money Laundering".

Subjects carry out ongoing monitoring of business' relationships with their customers, to ensure they are in line with the information subject owns about the customer, on the purpose of his activity, etc.

Employees of subjects shall preserve the confidentiality for the reporting process related to prevention of money laundering and terrorist financing and are not allowed to inform the customer on the procedures to verify suspicions and for the reporting to the responsible authorities.

Article 9
Reporting to the responsible authority

1. Subjects shall report to the responsible authority as provided in the reporting forms and the terms set out by the bylaw act from the responsible authority regarding to:

a. all transactions carried out in physical money, amounting to or higher than LEK 1. 500. 000 or the counter value in other foreign currencies;
b. all transactions not in physical money, at an amount equal or higher than LEK 6. 000.000 or the counter value in foreign currencies, carried out as an only one transaction related with each other.

Subjects whenever believe or have reason to believe that transaction applied to be carried out by a client or by another person on behalf for the account of customer, may include money laundering or terrorist financing, shall report
immediately the case to the responsible authority. In these cases, subjects shall wait until 48 (forty-eight) hours after reporting to the responsible authority for the instructions of this latter, if they should carry out the transaction or not.

Subjects, whose activities, include money transfers or values, in case of incoming transfers shall require information related to the sender of money as provided in the Law, "On Prevention of Money Laundering". In case this information is not complete, subjects shall refuse the conduction of transaction and shall inform the responsible authority. The complete identifying information shall accompany the transfer at the phases of its transmission from original sender to the beneficiary.

Chapter III
Final Provisions
Article 10
Supervisory requirements

Bank of Albania shall supervise the implementation of the provisions set out in the Law "On Prevention of Money Laundering", the bylaws issued for its implementation and the requirements of this Regulation.

Bank of Albania shall report to the responsible authority any suspicion, information or data it assesses as potentially relating to money laundering or terrorist financing, concluded over the supervision process.

Bank of Albania shall assess the adequacy of internal control systems and programs of the subject, for the purpose of preventing money laundering and terrorist financing.

Bank of Albania, regarding all the evidenced violations which may be classified as administrative infringement, according to Article 27 of the Law "On Prevention of Money Laundering", shall inform the responsible authority by providing the complete documentation related to the conclusion of infringement.

Bank of Albania shall take supervisory measures against the subjects of this Regulation if concluding these subjects do not implement the applicable legal and regulatory framework on the prevention of money laundering and terrorist financing.

Article 11
Transitory provisions

Subjects of this Regulation, no later than 3 (three) moths from the entry into force of this Regulation, are obliged to carry out in compliance with the requirements of this Regulation, the review and/or approval of internal regulations and procedures on the prevention of money laundering and terrorist financing.

ANNEX I

A) Classification of customers according to the risk they reveal

Classification of customers according to risk is carried out by judging on the possibility the subject be used from customer for the purpose of money laundering and/or terrorist financing, or that customer uses his legal business to mix illegal money with legal income.

The concept of expanded indulgence is mainly implemented on customers classified with high risk, as mentioned in Article 8 of the Law "On Prevention of Money Laundering and Terrorist Financing".

Some customers' categories, including customers with high risk, are set out in the following list, which is not restricted and do not substitute any legal obligation related to the reporting of customers that are suspected to carry out doubtful transactions. However, categorisation is a choice up to the subject itself.

Categories of customers:
a. Politically exposed persons;
b. Non-profit organisations (NPO);
c. Offshore customers*;*
d. Non-resident customers;
e. Casinos / fortune games;
f. Exchange bureaus;
g. Trusts*;*
h. Import/export companies;
i. Merchandise natural persons;
j. Gold and precious metals merchandisers;
k. Employees;
l. Pensioners.

B) Classification of transactions according to the risk they display

Classification according to risk is made based on the potentiality that customer uses the transaction with the purpose of money laundering/terrorist financing or to mix illegal money with legal incomes.

Annex II provides categories of transactions, which may be classified with high risk, nevertheless categorisation remains a choice to the subject itself.

ANNEX II Suspicious transactions

Subjects, as regular part of conducting their activity, monitor the elements or individual transactions which may reveal funds included in the money laundering and terrorist financing process.

Subjects inform the responsible authority on a suspicious account or transaction, after the complete review of available elements to assess at best the conducted transactions.

The following indices on potential suspicious or unusual operations set out certain types of transactions that may serve as ground on further monitoring. This list is not a restricted one and does not substitute any legal obligation related to the reporting of suspicious or unusual transactions. The following list summarises a number of transactions to be dealt with carefully by subjects as suspicious transactions.

I. Indices of abnormality in transactions addressed to all subjects

II.

f. Transactions, which by judging about the subject applying to carry these latter, appear at an unusual value or unjustifiable from economic point of view.

g. Transactions of the same nature, repeated at the same branch or agency in such a way, which arise doubts on illegal purposes.

h. Transactions carried out continuously for the benefit of third parties, that do never appear personally at the bank, when this latter does not derive from the evident operative or organizative application of the client, particularly when there are provided justifications that can not be certified (for example illness, work etc.).
i. Transactions on which data are notably incorrect or incomplete or such ones that arise a suspect aiming to hide intentionally crucial information, particularly regarding the subjects being interested to that operation.
j. Transactions with persons related to the bank, which are unjustified and out of business nature or unusual.
k. Complex, unusual and large transactions
l. Transactions to non-resident subjects in countries with banking or financial paradise, from countries that allow the opening of anonymous accounts or whose legislation does not consider and classify money laundering as a penal offence from which the money or assets originate.
m. Transactions with *"Off shore" companies,* transactions with companies and persons involved in financial scandals or in other severe crimes.

II. Indices of abnormality in cash transactions

III.

a. Frequent applications and at large amounts of cheques against cash deposits.
b. Large cash withdrawals or depositing, not being motivated by the business of customer (particularly, when deposited amounts are then transferred within a short time period or with data or destinations which do not correlate to the regular activity of customer).
c. Mixing of cash deposits and monetary instruments in an account within which such transactions seem to have no relation with the normal use of the account.
d. The conduction of many transactions in the same day, at the same branch of bank, but with an obvious effort to use various cashiers.
e. Frequent use of cash at large amounts to conduct payment orders (for the benefit of third parties), without any acceptable reason regarding the regular activity of customer, particularly it the operation takes place abroad.

f. Frequent cash deposits or withdrawals, carried out in such a way that the value of individual transactions not be notable, while the overall value results at a considerable amount (for example partial deposits in some accounts).

g. Depositing or withdrawal of monetary instruments at amounts resulting continuously under the identification or reporting limit, while the total amount results at a considerable level, particularly if instruments bear a continuous serial number.
h. Conduction of transactions, as cash deposits and withdrawals, different from payment instruments and means usually used in the business activity carried out by customer.
i. Frequent cash exchange transactions, in other foreign currencies regarding considerable amounts, particularly if carried out without being transferred to the current account.
j. Exchanges of a large amount of banknotes or coins with banknotes and coins of a different denomination.
k. Frequent purchases of metallic coins and banknotes at large amounts with commemorative values for numismatic purposes.
l. Purchase or sale of large amounts of coins, precious metals or other values, without a reasonable ground and/or in compliance with the customers' economic conditions.
m. Sale and purchase of winning tickets bids, lotteries, casinos tickets, sports lotteries, fortune games, etc.
n. Sale and purchase of assets (houses, cars, equipment etc) registered above the real market value.
o. Subjects pay attention to cases where individual branches request cash supply or cases, that represent transactions in cash for values that exceeds considerably the usual applications, depending on characteristics of the area and to the customers it serves.

III. Indices of abnormality regarding securities transactions

a. Purchase and/or depositing of securities at large amounts, when this does not comply with the financial conditions of customer.
b. Cash depositing, with reliable guarantees, of securities at a considerable amount, domestically or foreign, particularly if they are of a limited allocation, when the operation does not appear regular compared to the customer's characteristics and an acceptable justification is not provided regarding the origin.
c. Negotiation of securities on cash depositing or for the purchase of other securities (equities, bonds, pubic securities, etc) without the transfer of operation to the current account used from the customer.
d. Transfers at larger amounts than usually, more frequent or not typically of government securities, acquired through the Bank of Albania, carried out by one or some natural persons.
e. Purchase and immediately the supplying for sale of government securities prior to maturity, acquired through the Bank of Albania, at large amounts and under circumstances that seem unusual regarding the regular ways of carrying out this activity.
f. Amounts at large and repeated volumes of the government securities unusual trading for the account and at expenses of a third party, versus the submission of procurement or on the name of persons under 18 years old.

IV. Indices of abnormality regarding cross-border transactions
V.

a. Transfers from or to abroad, including e-transfers, of huge amounts at value or cash payment orders, particularly when they are not transferred through an account or when operation characteristics, including cases when the foreign country of origin or destination of amounts, are not justified by the economic activity carried out by from client or upon other circumstances.

b. Transactions carried out with subsidiaries or branches of financial institutions, rounded by geographical areas known as drug traffic areas or as offshore areas, which are not justified by the economic activity carried out from the customer.
c. Use of other trading founding systems to transfer amounts among countries, where the respective transaction is not justified by the regular economic activity carried out from customer.
d. Frequent depositing of travellers cheques, securities or of other financial instruments denominated in foreign currency, without reasonable justifications.

e. Conduction of some transfers at a determined destination, different transfers that have a solely beneficiary, notwithstanding the amount.

VI. Indices of abnormality in transactions and other services
VII.

a. Repeated use of security safes or storage services, or frequent deposits and withdrawals of sealed plicos, not justified from the activity and habit of customer.
b. Delegation to operate with security safes to the third parties, who are not part of family relationships of holders, or who are not related with cooperation relations or of an other type, that would justify this delegation.
c. Granting of guarantees from third parties, who are not customers of bank, or differently known, no sufficient data are provided on these latter regarding reactions with the benefiting customer of confidence or the reasons that justify the granting of such a guarantee.
d. Application submitted to the bank, from one customer, to provide a financing for another subject, on which the customer himself provides a genuine guarantee (for example a real estate or securities) in case the relationships between the customer and other subject are not justified.

VII. INDICES OF ABNORMALITY REGARDING THE ACCOUNT PERFORMANCE

a. An account opened by a legal subject or organisation that has the same address with other legal subjects or organisations, but for which the same person or persons have the right of signature, when there is no evident economic or legal reasons for such an organisation (for example, individuals serving as directors of companies for a lot of companies have head offices in the same country etc.).

b. An account opened in the name of a legal subject created recently and where it is deposited a higher amount than the one expected, compared to the revenues of subject founders.

c. An account on which some persons have signature right, who do not have relations with each-other (neither familiar nor business).

d. An open account and/or deposits in the name of a legal subject, a foundation or organisation, which may be related or involved in a terrorist organisation and which apply for funds' transfer upper the expected level of revenues.

e. An account and/or open deposit on behalf of a legal entity, which may be linked and/or involved in the activity of an association or foundation whose goal is related to claims or requirements of a terrorist organisation.

f. Accounts not used for regular personal transactions or economic activities associated with them, but to receive or pay large amounts, according to the elements available, do not provide a justification or connection with the account holder and/or his activity.

g. Accounts which are less active or not without reasonable justification for a long time, and immediately begin to conduct transactions at large amounts or long ago that few have received large and unexpected lending, especially if they come from abroad.

h. Accounts representing a huge assets outstanding, which do not comply with the usual financial performance of customer, especially if transferred in an account abroad.

i. Accounts, that receive a huge number of deposits regarding amounts received without reasonable justifications.

j. Accounts, revealing an unjustified movement arising due to the customer's activity (for example, frequent cheques depositing, especially when there appear repeated elements, from one subject, which does not carry out the activity of founding).

k. Configuration, abnormal from economical point of view, of relations hold from customer with the bank for example, many accounts open without any justification at the same bank, frequent transfers of amounts among different accounts or the equivalence in a short time of period between the cash withdrawals and deposits in the same account or deposit, the conscious acceptance of unfavourable taxes conditions and which do not comply with those of market.

VIII. INDICES OF ABNORMALITY REGARDING CUSTOMERS' BEHAVIOUR

a. Customers that apply to reconstruct the transaction, when the configuration disclosed since the beginning includes identification and registering forms or investigations or verifications types from the broker personnel, or adoption of restricting clauses of securities circulation freedom (for example, reduction of transaction value under the limits set out to avoid identification).

b. Structuring of deposits through many branches of the same bank, or from groups of individuals which enter in a sole branch at the same time.

c. Customers refusing or hesitating without any reasonable justification to provide the required information on the conduction of transactions, to declare their activities, to submit the accounting documentation or of any other type, to signal the relationships held with other subjects, to provide information which under normal circumstances shall entail the customer himself as adequate to receive the loan or other banking/financial services.

d. Customers at economic difficulties, that unexpectedly apply to settle fully or partially their obligations through unexpected deposits at a high amount, without a clear justification and without providing the correct origin of funds.

e. Customer who evade direct contacts with the bank personnel, by issuing procurements in the name of third parties, frequently and unjustifiably.

f. Customers, who without any justification, have many accounts and carry out cash transactions at large amounts, on each of them, or which result to have, without justifiable reasons, accounts open at many financial institutions within the same area.

g. Customers that without providing reasonable justifications appear at the window of a subject, far from the area where they live or carry out their activity.

h. Customers that insist to hold an account, seeming to be managed for the account of third parties (well confidence account), (for example, accounts representing transfers, which do not relate to the activity carried out by the holder of the account or at a value that does not comply with the volume of his work, or accounts issued in favour of administrators, of dependants or customers, used by enterprises or entities to carry out cash deposit or withdrawal or by using other financial instruments).

i. Customers or their representative that present identification documents of suspicious origin.

j. Customers that provide the address of a third person as their own address.
k. Customer who opens some accounts and conducts frequent transfers of funds amongst them.
l. Customers carrying out transactions with unusual partners.
m. The lack of justification by the respective documentation of the operations carried out from non-residents with the accounts opened at subjects.

IX. INDICES OF ABNORMALITY REGARDING TRANSFERS' TRANSACTIONS

a. Transfers ordered at small amounts, at notably effort to avoid the requirements regarding the identification or reporting.

b. Transfers delivered or received from an individual, where the information regarding transfer initiator, or the person for which the transaction is carried out, is not provided in the transfer, while it is needed the inclusion of such an information on the conduction of the transfer.

c. Use of many personal or business accounts of non-profit organisations or charity to gather and subsequently transfer funds immediately or after a short period to a small number of non-resident beneficiaries.

d. Foreign exchange transactions which are carried out on benefit of a customer from a third party, followed by transfers of funds to countries, which do not have clear business relationships with the customer or countries that represent particular concerns/problems.

X. INDICES OF ABNORMALITY OF CUSTOMER'S CHARACTERISTICS OR RELATED COMPANY

a. Funds created from a business that is owned by individuals of the same country of origin or the involvement of many individuals of the same origin from countries with special problem/concern operating for the interest of similar types of companies.

b. Address used jointly for individuals included in cash transactions, particularly when the address is a business and/or does not seem to correspond with the declared profession (for example student, unemployed, self-employed, etc.).

c. The declared profession of person carrying out the transactions does not comply with the level and type of activity (for example, a student or unemployed individual, who sends or receives large number of transactions, or who carries out a maximum daily cash withdrawal in different countries at an extended geographical expansion).

d. Regarding non-profit organisations or of charity, financial transactions bearing no logical economic purpose or there exists no relation between the activities declared from the organisation and the other party in transaction.
e. A security safe in the name of a trading subject where the activity of business is unknown or such an activity should not justify the use of a security safe.

f. Unexplained disagreements arising due to the process of identification or verification of customer (for example, related to the previous or current residency place, passport issuance place, visited countries according to the passport and documents provided to certify name, address and date of birth).

XI. TRANSACTIONS REGARDING COUNTRIES THAT REPRESENTS CONCERNS/PROBLEMS

a. Transactions that include foreign currency exchange followed within a short time from transfers to countries with special situations/positions/problems (for example countries set out by the domestic authorities or/and FATF as non-collaborative countries and authorities);

b. Deposits followed within a short time by funds transfers, particularly in or through countries with particular situations/positions/problems (for example countries set out by the domestic authorities or/and FATF as non-collaborative countries and authorities, etc.).

c. A business account through which there is carried out a large number of incoming and outgoing transfers and there is no business logic on these latter or any other economic purpose, particularly when this activity is directed, through or from countries with special situations/positions/problems.

d. The use of many accounts to gather and subsequently to send funds to a small number of non-resident beneficiaries, individuals and companies, particularly situated in countries with special situations/positions/problems.

e. A customer receives a loan instrument or participates in trading financial transactions that encompass transfer of funds directed to or from countries with special situations/positions/problems where there appear no logic business reason to operate with this countries.

f. Opening of financial institutions' accounts from countries with special situations/positions/problems.
g. Sending or receiving of funds from international transfers from and/or to countries with particular situations/balance/problems.

XII. MONEY LAUNDERING THROUGH THE INVOLVEMENT OF BANK'S EMPLOYEES

a. An unmotivated big change of living conditions of a bank's employee that reveals immediately the elements of an expensive living way.

b. A change occurring in the condition of duties, such as a sudden increase of cash transactions volume.

CHAIRMAN OF SUPERVISORY COUNCIL

DECISION ON THE APPROVAL OF THE REGULATION ON PREVENTION OF MONEY LAUNDERING AND TERRORIST FINACING
(Decision no. 44, dated June 10, 2009)

The Supervisory Council of the Bank of Albania, having regard to the proposal from Supervision Department, in accordance with Article 9 of the Law No. 9662, dated 18.12.2006 "On Banks in the Republic of Albania", Articles 7, 11, 24 and 26 paragraph 2 of the Law No. 9917, dated 19.05.2008 "On prevention of money laundering and terrorist financing", Article 27 of Law No.9258, dated 15.07.2004 "On measures against terrorist financing" and Article 12, letters "a" and Article 43, letter "c" of Law No. 8269, dated 23.12.1997 "On Banks in the Republic of Albania"

D e c i d e d:

1. To approve the Regulation "On Prevention of Money Laundering and Terrorist Financing", as provided in the texture therein.

2. The Supervision Department of the Bank of Albania is charged with the implementation of this decision.

3. The Foreign Relations, European Integration and Communication Department is charged with the publication of this Decision in the Official Bulletin of the Bank of Albania and in the Official Journal of the Republic of Albania.

4. The Regulation "On Prevention of Money Laundering" adopted with the Decision No.10, dated 25.02.2004 of Supervisory Council, shall be abrogated.

This Regulation shall enter into force on the 15th (fifteenth) day following its publication in the Official Journal of the Republic of Albania.

SECRETARY CHAIRMAN
Ylli Memisha Ardian Fullani

COUNCIL OF MINISTERS DECISIONS ON THE DESIGNATION OF THE STRUCTURE OF THE COMMITTEE FOR THE CONSIDERATION OF THE APPLICATION, CRITERIA, DOCUMENTATION AND CONDITIONS TO BE FULFILLED BY THE APPLICANT TO BE EQUIPPED WITH A CASINO LICENSE AS WELL AS THE CASES OF REVOKING OR REMOVING SUCH LICENSE
(Decision no. 126, dated February 17, 2010).

Article 9

The application which includes all the correspondence and documents for the application should be in the Albanian and/or English language, in addition to the published materials (e.g. leaflets) presented by the applicant could be in other languages and accompanied with a certified translation in Albanian or English language.

Article 11

The applicant, or it member in cases when it is a partnership should ascertain the origin of their capital, by presenting the "Certificate of credibility" issued by the responsible state institutions in charge of prevention of money laundering in their countries, according to which the applicant or its members are not or have not been investigated and/or suspected of money laundering.

DECISION ON REPORTING Methods AND PROCEDURES OF THE LICENSING AND/OR SUPERVISORY AUTHORITIES
(Decision no.343, dated April 8, 2009)

Pursuant to article 100 of the Constitution and articles 24, paragraph 5, 28, paragraph 1, of the law no.9917, May 19 2008 "On the prevention of money laundering and the financing of terrorism", upon the proposal of the Minister of Finance, the Council of Ministers.

DECIDED:

1. Based on article 24 of the law no.9917, May 19 2008 "On the prevention of money laundering and the financing of terrorism", the licensing and supervisory authorities are:

a) Bank of Albania for the entities:

i) Commercial Banks;
ii) Non bank financial institutions;
iii) Exchange offices;
iv) Saving and credit companies and their unions;
v) Postal services that perform payment services;
vi) Any natural or legal person engaged in insuring and management of cash and easily convertible securities on behalf of third parties;
vii) The business of precious metals and stones;
viii)Any natural or legal entity engaged in financial agreements and guarantees;
ix) Any other natural or legal entity that issues or manages means of payment or handles value transfers (debit and credit cards, cheques, traveller's cheques, payment orders and bank payment orders, emoney or other similar instruments);
x) Any other individual or legal entity, except for those mentioned above, engaged in
- financial lease;
- financial loans;
- cash exchange;

b) Financial Supervision Authority for the entities:

i) Any natural or legal person involved in the administration of third parties' assets, and managing the activities related to them;
ii) Stock exchange and any other entity (agent, broker, brokerage house etc.), which carries out activities related to issuing, counselling, mediation, financing and any other service related to securities trading;
iii)Companies involved in life insurance or re-insurance, agents and their intermediaries as well as retirement funds;

c) The Ministry of Finance for:

i) The Responsible State Authority for Administration and Sale of Public Property and any other public legal entity, which engages in legal transactions related to the public

property alienation and granting of usage over it or which carries out recording, transfer or alienation of public property;
ii) Customs Authorities;
iii) Tax Authorities.

d) The Gambling Commission in the Ministry of Finance, concerning the games of chance, casinos and hippodromes, of any kind;

e) The Ministry of Justice for notaries;

f) National Bar Association for lawyers.

g) The Ministry of Public Works, Transportation and Telecommunication for:

i) Real estate agents and assessors;
ii) The Agency for Legalization, Urbanization and Integration of Informal Areas/ Constructions;
iii) Any natural or legal person, engaged in:
- trading of motor vehicles;
- transportation and delivery activities;
- travel agencies;
- construction Companies.

h) The Public Supervisory Board for:

i) IAAE - Institute of Authorized Accounting Experts;
ii) IAA - Institute of Approved Accountants;
iii) AAAF – Albanian Association of Accountants and Financiers;
iv) Authorized independent accountants;
v) Independent certified accountants and financial consulting offices;

f) **Ministry of Tourism, Culture, Youth and Sports**, regarding the buying and selling of works of art or auctioning of items valued over 1 500 000 (one million five hundred thousand) lek.

g) **Ministry of Labor, Social Issues and Equal Chances**, for non profit organizations.

. Pursuant to paragraph 2, of article 24 of the law no.9917, May 19 2008 "On the prevention of money laundering and the financing of terrorism", the licensing and/or supevisory authorities oversee, by means of inspections, the compliance of the activity of their subjects with the obligations laid down in articles 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the above mentioned law.

Licensing and supervisory authorities should report to the compentent authority any grounded suspicion, regarding the source and the origin of the capital, nature of the financial transaction, regardless of the thresholds stipulated in article 12 of the law no.9917, May 19 2008 "On the prevention of money laundering and the financing of terrorism", in cases when:

a) have doubts based on fact or circumstantial evidence that could be related to irregularities, concerning the identification and supporting documentation as to the legal source of capital with the real ones;

b) note that the property or the funds declared are not justified from the economic or legal point of view;

c) have information, notifications and data that the funds or property deposited for licensing is derived from criminal offences or are commingled with other property or funds, or suspect that the licensing for the establishment of the activity, is performed to conduct or support money laundering;

d) licensing and supervisory authorities should notify the competent authority in the same manner, in any case when they have information or suspect implication or intentions, that lead to believe that the activity will support, facilitate, protect, incite or conceal terrorist acts or finance terrorism;

e) have additional doubts, based on the situation and circumstances that are not foreseen above.

The licensing and/or supervisory authorities will report to the General Directorate for the Prevention of Money Laundering, instantly and no later than 72 hours from the moment of noting any suspicion, reception of any information or data, related to money laundering or financing of terrorism, concerning the activities under their jurisdiction.

Reporting to the General Directorate for the Prevention of Money Laundering is carried out by means of a suspicious activity report form, attached to this decision in annex I "Suspicious activity report form from licensing and supervisory authorities", accompanied by instructions on filling it out.

The licensing and/or supervisory authorities, that report or provide information in good faith, in accordance with the provisions of this law, to the General Directorate for the Prevention of Money Laundering, are exempted from the criminal, civil or administrative liability stemming from the proffessional secrecy.

The licensing and/or supervisory Authorities are prohibited to inform the client or any other person regarding the verification procedures related to suspicious cases, as well as any reporting to the General Directorate for the Prevention of Money Laundering.

The exchange of the information among institutions will be performed based on mutual confidentiality.

The licensing and/or supervisory Authority should respond to requests made by the General Directorate for the Prevention of Money Laundering, within and no later than 15 days from the day of the receipt of the request for information.

In urgent cases, the competent authority will address a verbal request to the licensing and/or supervisory authority, that will be documented in writing within three working days.

The identification documentation of all natural or legal persons to be licensed, is kept for a period of time not less than 5 years from the day of the termination of the legal or civil relations with them.

The licensing and/or supervisory authority upon request from the General Directorate for the Prevention of Money Laundering may restrict, suspend or withdraw the license of an entity:

a) when it notices or has grounded reasons to believe that the entity is involved in money laundering or financing of terrorism;

b) when the entity repeatedly, performs one or some of the administrative violations, prescribed in article 27, of the law no.9917, May 19 2008 "On the prevention of money laundering

and the financing of terrorism", and its bylaws.

The licensing and/or supervisory authority takes into account the request of the competent authority, based on the supporting documentation, which provides data or suspicion grounded on circumstantial evidence or tangible facts, in accordance with paragraph 1, of this article. The licensing and/or supervisory authority decides on whether to accept or refuse it, in conformity with the provisions of this law and the legal and sublegal provisions that regulate their own activity as well as that of the entities that licenses or supervises.

The General Directorate for the Prevention of Money Laundering and the licensing and/or supervisory authorities will be responsible for the implementation of this decision and the filling out of the reporting form (annex I).

Reporting to the General Directorate for the Prevention of Money Laundering will be in conformity with the standards laid down in the provisions of this decision.

Council of Minister's Decision no.3, of March 18, 2004 "On the format and identification/reporting procedures from the entities that license the natural and legal persons concerning the process of the prevention of money laundering", is repealed.

This decision enters into force upon being published in the Official Journal.

PRIME MINISTER SALI BERISHA