



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

MONEYVAL(2011)03 SUMM

Report on Fourth Assessment Visit – *Executive Summary*

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).

© [2011] Committee of Experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL) and IMF.

All rights reserved. Reproduction is authorised, provided the source is acknowledged, save where otherwise stated. For any use for commercial purposes, no part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc.) or mechanical, including photocopying, recording or any information storage or retrieval system without prior permission in writing from the MONEYVAL Secretariat, Directorate General of Human Rights and Legal Affairs, Council of Europe (F - 67075 Strasbourg or dghl.moneyval@coe.int).

LIST OF ACRONYMS USED

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
ASP	Albanian State Police
BoA	Bank of Albania
C	Compliant
CC	Criminal Code
CDD	Customer Due Diligence
CFT	Combating the Financing of Terrorism
CPC	Criminal Procedure Code
CTR	Cash Transaction Report
DNFBP	Designated Non-Financial Businesses and Professions
EDD	Enhanced Due Diligence
FATF	Financial Action Task Force
FI	Financial Institution
FIU	Financial Intelligence Unit
FSA	Financial Supervisory Authority
FT	Financing of Terrorism
GDPML	General Directorate for the Prevention of Money Laundering
HIDAA	High Inspectorate for the Declaration and Auditing of Assets
JIU	Joint Investigative Unit
LC	Largely Compliant
LEA	Law Enforcement Authority
ML	Money Laundering
MLA	Mutual Legal Assistance
MVT	Money and Value Transfer
N/A	Not Applicable
NC	Non Compliant
NPO	Non-profit Organisation
NRC	National Registration Center
PC	Partially Compliant
PEP	Politically Exposed Person
SAR	Suspicious Activity Report
SFT	Suppression of Financing Terrorism
STR	Suspicious Transaction Report
SUGC	Supervision Unit of the Games of Chance
UN	United Nations Organisation
UNSCR	United Nations Security Council Resolution

EXECUTIVE SUMMARY

Background information

1. This report summarises 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 (15-30 November 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 organised crime with clan-based and hierarchically organised 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 criminalised 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 criminalise 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 underutilised.

Legal Systems and Related Institutional Measures

11. Albania has fully criminalised 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 criminalising 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 criminalised 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 Organised 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 Organised 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 organisations. 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 prioritisation 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 defence 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.¹
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, 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

¹ European Commission, Commission Opinion on Albania's application for membership of the European Union.

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 criminalisation 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 FT 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 (DNFBP)

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 and Non-Profit Organisations

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 FT 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 co-operation 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 MLA 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 utilised.

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 criminalising 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.

Table 1. Ratings of Compliance with FATF Recommendations

The rating of compliance vis-à-vis the FATF 40+ 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

The following table sets out the ratings of Compliance with FATF Recommendations which apply to Albania.		
Forty Recommendations	Rating	Summary of factors underlying rating ²
Legal systems		
1. ML offence	PC	<ul style="list-style-type: none"> • Self laundering is not criminalised 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 criminalised. • Ancillary conduct is not covered in all instances. <p>Effectiveness issues:</p> <ul style="list-style-type: none"> • Few convictions for ML. • Demanding proof level impact ability to use provisions.
2. ML offence—mental element and corporate liability	LC	<ul style="list-style-type: none"> • Effectiveness of sanctions not fully established because of limited numbers of prosecutions.
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • Deficiencies in criminalisation 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 These factors are only required to be set out when the rating is less than Compliant.

Preventive measures		
4. Secrecy laws consistent with the Recommendations	C	<ul style="list-style-type: none"> This Recommendation is fully observed
5. Customer due diligence	PC	<ul style="list-style-type: none"> 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. <p>Effectiveness:</p> <ul style="list-style-type: none"> Inconsistent application of CDD measures in circumstances where is a suspicion of ML/FT 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	<ul style="list-style-type: none"> No legislative requirements for foreign PEPs.
7. Correspondent banking	LC	<ul style="list-style-type: none"> No requirement to establish if respondent has been subject to a ML/FT investigation or regulatory action. Poor implementation of requirement to assess quality of supervision.
8. New technologies & non face-to-face business	PC	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> No measures in place for third party reliance despite evidence of it happening in practice.

10. Record-keeping	LC	<ul style="list-style-type: none"> The mandatory record keeping period requirement for account files and business correspondence” is not in line with the FATF standards. <p>Effectiveness:</p> <ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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	PC	<ul style="list-style-type: none"> Deficiencies in criminalisation of ML

reporting		<p>(insider trading and market manipulation).</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Prohibition against tipping off does not explicitly extend to directors and officers.
15. Internal controls, compliance & audit	PC	<ul style="list-style-type: none"> • 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. <p>Effectiveness:</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> - 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: <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • This Recommendation is fully met.
20. Other NFBP & secure transaction techniques	PC	<ul style="list-style-type: none"> • Illegal trade of currency and non-declaration of money persists as a significant problem.
21. Special attention for higher risk countries	PC	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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. <p>Effectiveness:</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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. <p>Effectiveness:</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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 GDPML’s analytical capacity: <ul style="list-style-type: none"> - The GDPML does not conduct sufficient trends analysis. - Lack of prioritisation in the analysis of STRs/CTRs.
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> • No specific provision for law enforcement to postpone/waive arrest warrants. <p>Effectiveness:</p> <ul style="list-style-type: none"> • Low number of prosecutions. • The requirement to advise defence counsel that an

		interception has taken place constitutes an additional burden which could hinder an investigation.
28. Powers of competent authorities	C	<ul style="list-style-type: none"> This Recommendation is fully observed
29. Supervisors	PC	<p>Effectiveness:</p> <ul style="list-style-type: none"> Unclear GDPML scope of onsite inspections. Possible overlap and duplication supervision and inspection functions among AML/CFT authorities.
30. Resources, integrity, and training	PC	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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

		<p>mutual legal assistance and extradition requests is not maintained.</p> <ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> 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	<p>Vienna and Palermo Conventions: Criminalisation of ML not fully in line with Vienna and Palermo Conventions:</p> <ul style="list-style-type: none"> 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. <p>Effectiveness issues:</p> <ul style="list-style-type: none"> Very few convictions.
36. Mutual legal assistance (MLA)	LC	<ul style="list-style-type: none"> The shortcomings identified under Recommendation 1 may limit the Albanian ability to provide MLA. <p>Effectiveness:</p> <ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Dual criminality is always applied although legal framework does not require it in all circumstances.
38. MLA on confiscation	PC	<ul style="list-style-type: none"> There continues to be a significant limitation

and freezing		<p>stemming from the legal framework on the ability of the authorities to provide assistance in the confiscation of assets.</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Ability to grant extradition is limited by deficiencies in the ML criminalisation (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	<ul style="list-style-type: none"> • 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. <p>Effectiveness:</p> <ul style="list-style-type: none"> • Effectiveness of collaboration between supervisors and law enforcement with their foreign counterparts could not be assessed.
Nine Recommendations	Special	
SR.I Implement UN instruments	PC	<p>FT Convention: Criminalisation of FT not fully in line with FT Convention:</p> <ul style="list-style-type: none"> • 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

		<p>defined in the FT Convention.</p> <p>UNSCR Implementation:</p> <ul style="list-style-type: none"> • 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. <p>Effectiveness:</p> <ul style="list-style-type: none"> - Irregular schedule of updating on lists. - Lack of guidance and inadequate supervision.
SR.II Criminalise terrorist financing	PC	<ul style="list-style-type: none"> • FT criminalisation provisions in Chapter VII of the CC do not comply with the standard in that: <ul style="list-style-type: none"> - Article 230/a does not clearly apply regardless of whether the terrorist act is actually committed or. - 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 criminalised only if the funds are provided or collected to support terrorist activities: <ul style="list-style-type: none"> - Article 230 CC does not cover each specific action that is required to be criminalised under all the treaties that are annexed to the FT Convention. - Article 230 CC does not cover 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	<ul style="list-style-type: none"> • SFT Law does not provide clear legal basis for Council of Ministers designation pursuant to

		<p>UNSCR 1373.</p> <ul style="list-style-type: none"> • 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. <p>Effectiveness:</p> <ul style="list-style-type: none"> • 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.
<p>SR.IV Suspicious transaction reporting</p>	<p>PC</p>	<ul style="list-style-type: none"> • Deficiencies in criminalisation of FT; • 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 FT give rise to concerns about the effectiveness of the reporting

		regime.
SR.V International cooperation	PC	<ul style="list-style-type: none"> • 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. <p>Effectiveness:</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • The option of requesting missing wire transfer information from the beneficiary of the transaction is not in line with the FATF standard. <p>Effectiveness:</p> <ul style="list-style-type: none"> • Poor implementation of the effective risk-based

		<p>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.</p> <ul style="list-style-type: none"> • 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 Non-profit organisations	NC	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Definition of “bearer negotiable instruments” not in line with the FATF standard. • No requirements in the case of the shipment of currency through containerised 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).