



UNODC

United Nations Office on Drugs and Crime

Country Review Report of Albania

Review by Armenia and Mali of the implementation by Albania of articles 15 – 42 of Chapter III. “Criminalization and law enforcement” and articles 44 – 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the review cycle 2010 – 2015

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by Albania of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Albania, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Armenia, Mali and Albania, by means of telephone conferences and e-mail exchanges and involving the following persons:

Albania:

Ms. Iva Nathanaili, Ms. Erisa Proko, Ms. Edlira Nasi, Ms. Diana Stillo, Mrs. Sokol Selfollari, Mr. Artur Beu, Mr. Agim Muslia, Ms Fjorida Ballauri, Mr. Arben Kraja and Ms. Manuela Imeraj.

Armenia

Mr. Yeghiazar Avagyan
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Mali

Mr. Modibo Poudiougou

The staff members of the secretariat were Tanja Santucci and Badr El Banna.

6. A country visit, agreed to by Albania, was conducted in Tirana from 5-7 October, 2015. During the on-site visit, meetings were held with the Ministry of Justice, General Prosecution Office, Albanian Financial Intelligence Unit and the Albanian State Police.

III. Executive summary

1. Introduction: Overview of the legal and institutional framework of Albania in the context of implementation of the United Nations Convention against Corruption

The Convention was signed by Albania on 31 October 2003. It was ratified by Parliament on 13 March 2006 through law No. 9492 and decreed by the President with decree No. 4820, dated 28 March 2006. Albania deposited its instrument of ratification with the Secretary-General of the United Nations on 25 May 2006.

With respect to international law, article 122 of the Constitution states that generally accepted rules of international law and international conventions, when they have been ratified by an act and have come into effect, shall form an integral part of Albania's domestic law and shall override any other contrary provision of domestic law.

Albania has several competent bodies in the fight against corruption, including specialized directorates and units dealing with corruption and economic crimes, established at the prosecution offices and the State Police, both at the central and the local level. The General Directorate for the Prevention of Money Laundering (Albania's FIU) also plays an important role in the fight against money-laundering and corruption.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Active bribery of national public officials is criminalized pursuant to articles 244 (Active corruption of persons exercising public functions), 245 (Active corruption of the high State officials and local elected representatives) and 319 (Active corruption of the judges, prosecutors and of other justice official) of the Criminal Code (CC).

Passive bribery of national public officials is criminalized pursuant to articles 259 (Passive corruption by public officials), 260 (Passive corruption of the high State officials and local elected representatives) and 319/ç (Passive corruption of the judges, prosecutors and of other justice officials) of the CC. Article 23 of the Conflict of Interest Law No. 9367 dated 07.04.2005 is also relevant.

Active bribery of foreign public officials is criminalized pursuant to articles 244/a (Active corruption of foreign public employees), 319/a (Active corruption of the judge or official of international court), 319/b (Active corruption of foreign and domestic arbiters) and 319/c (Active corruption of members of foreign judicial juries) of the CC.

Passive bribery of foreign public officials is criminalized pursuant to articles 259/a (Passive corruption of foreign public employees), 319/d (Passive corruption of the judge or of officials of international courts), 319/dh (Passive corruption of domestic or foreign arbiters) and 319/e (Passive corruption of a member of foreign judicial juries) of the CC.

The relevant articles of the CC criminalizing active and passive bribery of national and foreign public officials do not explicitly cover the situation where the undue advantage is for an entity.

Active and passive trading in influence is criminalized pursuant to article 245/1 of the CC.

Active and passive bribery in the private sector is criminalized pursuant to articles 164/a and 164/b of the CC.

Money-laundering, concealment (arts. 23 and 24)

The laundering of proceeds of crime is criminalized pursuant to article 287 of the CC. However, this article does not cover the situation where the purpose of the offence is to help any person who is involved in the commission of a predicate offence to evade the legal consequences of his or her action. The CC criminalizes the different aspects of criminal participation as well the attempt (attempt: arts. 22 and 23; participation, conspiracy, aiding, abetting, facilitating and counselling: arts. 25, 26, 27 and 287/dh).

Albania adopts an “all-crimes” approach to defining predicate offences (art. 287 CC). Predicate offences include offences committed both within and outside Albania, provided the dual criminality condition is met. Article 287 of the CC explicitly criminalizes self-laundering.

Concealment is not established as a separate offence; however, the offender can be prosecuted pursuant to articles 26 (collaborators) or 287/b (money-laundering) of the CC.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Articles 135, 143, 256, 257 and 258 CC partially address the requirements of article 17 of the Convention. For example, article 256 is limited to the misuse of funds “given by the State or State institutions to be used in works and activities of public interest” and does not seem to cover private funds. Moreover, the cited articles do not explicitly cover the “diversion of funds” or third party benefits.

Abuse of functions in the public sector is criminalized pursuant to article 248 CC. However, this article subjects the offence to a condition, which is the actual obtaining of “unjust material or non-material benefits” or when the offence “has brought damages to the legitimate interests of the State, citizens, and other legal entities, when it does not constitute another criminal offence”.

Illicit enrichment is not criminalized.

Embezzlement of property in the private sector is criminalized (arts. 135, 143 and 164 CC).

Obstruction of justice (art. 25)

The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage is criminalized pursuant to articles 312 and 312/a of the CC when the purpose is to induce false testimony or to interfere in the giving of testimony, but not when the purpose is to interfere in the production of evidence.

The CC, in particular articles 237, 238, 316 and 317, addresses threats and the use of force against public and judicial officers to interfere with the exercise of their official duties.

Liability of legal persons (art. 26)

The CC (art. 45) and the Law on “the Criminal Liability of Legal Persons” provide for the criminal liability of legal persons for criminal acts performed by their bodies or representatives on their behalf or for their benefit. Civil liability of legal persons can also be recognised pursuant to article 61 (Civil lawsuit in criminal proceedings) of the Criminal Procedure Code (CPC), while criminal and administrative liability, in money-laundering cases, is recognized pursuant to article 26 of Law No. 9917 (AML Law).

The criminal liability of legal persons does not preclude the criminal liability of the natural persons who have committed the offences.

Albania's legislation, in particular articles 8 to 13 of the Law on "the Criminal liability of legal persons", subjects legal persons held liable to adequate sanctions, including fines, termination, and closure of one or more activities or structures.

Participation and attempt (art. 27)

Criminal participation is dealt with under articles 25 to 27 of the CC, and attempt is dealt with under articles 22 and 23 of the CC. While the attempt of any crime is criminalized, attempted contraventions are not. All offences covered by the Convention and criminalized in Albania, with the exception of "threatening a public official on duty" (art. 238 CC), can be sentenced to more than two years' imprisonment and fall under the category of crimes. This makes their attempt a criminal offence.

The preparatory acts for an offence are not criminalized.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Albania has adopted penalties for corruption offences that range from a fine up to twenty years' imprisonment, taking into account the gravity of the offence, in addition to accessory or supplementary penalties.

Immunities do not seem to constitute legal impediments to the effective prosecution of corruption related offences. The Constitution provides for the immunity of parliamentarians and judges. They may not be arrested, deprived of liberty or subject to control over their person or dwelling, without authorization from the Assembly or the relevant judicial body, unless caught in flagrante delicto or immediately after the commission of a crime. According to Article 90 of the Constitution, the President of the Republic may be discharged for serious violations of the Constitution and for the commission of a serious crime (which is not defined). Ministers enjoy the same immunity as parliamentarians. Immunities are limited to search and arrest and do not cover investigations.

Albania follows a system of mandatory prosecution (art. 290 CPC).

The CPC (arts. 227 – 267) provides for measures, including prohibition to leave the country, obligation to appear before the judicial police, prohibition and obligation to reside in a certain place, and property security to ensure that decisions on release pending trial or appeal take into consideration the presence of the defendant at subsequent criminal proceedings. Early release by court order is possible if a period ranging from half to three quarters of the prison sentence has been completed.

A public official accused of an offence for which the law provides a prison sentence of not less than one year may be suspended from duty by the court (art. 241 CPC). This applies to all Convention offences criminalized in Albania. Other relevant provisions can be found in the Law on the organization of the judicial power and the Law on civil servants.

The CC contains the sanction of removal/disqualification from holding public office (arts. 30 and 35). Several articles of the Constitution are also relevant.

Albania does not explicitly provide for the disqualification from holding office in State-owned enterprises, although article 30, para. 6 of the CC could be used for the deprivation of the right to undertake leading positions in such enterprise.

Article 58 of the Law on civil servants provides for disciplinary sanctions of civil servants. Both disciplinary and criminal sanctions can be imposed in corruption cases.

Albania does not have customized programmes to promote the reintegration into society of persons convicted of corruption offences.

Albania has measures in place to encourage the cooperation of offenders with law enforcement and judicial authorities, including a range of protection measures for "justice collaborators" and their "related persons", as stipulated in the Law on "Protection of witnesses and justice collaborators" and the CPC (art. 361/a). Such cooperation might also be considered a mitigating circumstance (arts. 49 and 52/a CC).

Albania does not provide for the possibility of granting immunity from prosecution to persons who provide substantial cooperation in investigations or prosecutions. However, article 52/a of the CC provides for a permissive exemption from punishment by court decision if the offender reports and gives assistance during the criminal proceedings of a number of offences relevant to the implementation of the Convention.

Albania can enter into agreements to provide for the possibility to mitigating or exempting from punishment persons collaborating with justice abroad.

Protection of witnesses and reporting persons (arts. 32 and 33)

Albania has a comprehensive Law on the "Protection of witnesses and justice collaborators", which also covers their relatives and other persons close to them. Protection measures include: change of identity; relocation; physical protection; and other measures. The law also establishes two bodies responsible for the protection programme: the Commission for the Assessment of the Protection Programme for Justice Witnesses and Justice Collaborators and the Directorate for the Protection of Witnesses and Justice Collaborators. The Law also applies to victims insofar as they are witnesses (art. 3).

However, the application of this law is limited to crimes committed intentionally, for which the law provides a 4-year minimum prison sentence. This excludes a number of corruption related offences. Moreover, the law does not provide for the protection of experts, their relatives and other persons close to them.

Albania permits testimony to be given through the use of communications technology (arts. 361 and 361/a CPC; art. 12/d Law on the protection of witnesses). This enables the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings.

Albania has signed relocation agreements with 20 European countries, pursuant to article 27 of the Law on the protection of witnesses.

Albania has a draft Law on whistleblowing, which would provide legal protection for reporting persons.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Article 36 of the CC regulates the confiscation, upon criminal conviction, of proceeds of crime and instrumentalities used or destined for use in the commission of offences. The same article also provides for value-based confiscation and for the confiscation of transformed, converted and intermingled criminal proceeds, in addition to income or other benefits derived therefrom.

The CPC (mainly arts. 198-220) and the AML Law (mainly art. 22) provide for a wide range of investigative measures available for the identification, tracing, freezing or seizure of criminal proceeds and instrumentalities.

The CPC provides some general measures to regulate frozen, seized and confiscated property; however, such measures do not seem enough to deal with perishable, depreciable and complex assets. Although Albania has established an Agency for the Administration of Seized and Confiscated Assets, the mandate of

this agency is limited to assets related to Albania's anti-mafia law (Law No. 10192).

Bank secrecy does not seem to be an obstacle to effective criminal investigations. Article 210 of the CPC empowers the court, and in urgent cases the prosecutor, to order the seizure of bank documents, negotiable instruments, sums deposited in current accounts and any other thing, even if they are in safety vaults. Financial and commercial documents can also be seized by a judge or a prosecutor (art. 208 CPC).

An offender can be required to demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, pursuant to the Law on "The prevention and combating of organized crime and trafficking through preventive measures against assets", for a number of offences covered by the Convention.

The CPC (art. 276) provides for the protection of the rights of bona fide third parties.

Statute of limitations; criminal record (arts. 29 and 41)

The statute of limitations for offences covered by the Convention and criminalized in Albania ranges from five to twenty years, with the exception of "Threatening a public official on duty" (art. 238 CC) for which the statute of limitations is two years. A longer statute of limitations or the suspension of the statute where the alleged offender has evaded the administration of justice do not appear to be covered.

Pursuant to article 10 of the CC, foreign convictions of alleged offenders can be taken into consideration for the effect of recidivism, for executing sentences comprising additional punishment, for implementing security measures, and for compensation of damages or other civil law effects.

Jurisdiction (art. 42)

Albania has established jurisdiction with regard to the circumstances referred to in article 42 (arts. 5-8 CC and art. 77 CPC), with the exception of corruption offences when the alleged offender is present in its territory and it does not extradite him or her.

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

Although corruption is a factor for exclusion from public tenders during the awarding stage, pursuant to the Law on Public Procurement (art. 26) and the Law on Concessions and Public Private Partnership (art. 11), corruption does not seem to be a relevant factor in legal proceedings to annul or rescind contracts, withdraw concessions or similar instruments or take any other remedial action.

Article 608 of the Civil Code establishes civil liability for damages. In trials for criminal offences, civil compensation for damage caused by the accused can be sought in the criminal proceedings (art. 61 CPC).

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

Albania has several competent bodies in the fight against corruption. Seven specialized directorates dealing with corruption and economic crimes have been set up within the framework of the prosecutor offices, led by the prosecutor. Those directorates involve other sub-structures such as the judicial police office, officers from Tax and customs, FIU, the High State Audit, and the Secret services. They include around 40 prosecutors and 60 police officers, in addition to contact points.

Moreover, a new structure, composed of a Chairman and four prosecutors, has been established under the prosecution of serious crimes to investigate cases related to judges, prosecutors and high ranking officials.

Regarding the State Police, a Directorate against economic and financial crimes has been established at the central level. It comprises three sections: The Corruption Section, the Money-Laundering Section and the Section on Economic and financial crimes. This structure is mirrored at the local level.

According to Law 108 of 2014 on the State Police, a national investigative bureau dealing only with corruption of high ranking officials should be established. However, the Constitutional Court suspended the related articles. An amendment of the law is planned for the future.

Albania's FIU also plays an important role in the fight against money-laundering and corruption.

These bodies appear to receive training and adequate resources, and to be sufficiently independent.

Regarding cooperation between national authorities, article 281 CPC establishes an obligation on public officials, who during the course of their work or because of their functions or service, receive notice of a criminal offence, to report the matter to a prosecutor or judicial police officer. Other articles of the CC (arts. 304 and 305/a) establish an obligation to provide, upon request, to the prosecutor all necessary information in the context of a criminal investigation. The AML Law also contains relevant provisions on cooperation between the FIU and national authorities, including the Prosecutor's office, regarding money-laundering offences (art. 22/e). Additionally, several MOUs and Joint instructions have been signed or issued to foster cooperation between competent national authorities.

Regarding cooperation between national authorities and the private sector, the AML Law establishes the obligation of a number of private sector entities, including banks, exchange offices, insurance companies, audit firms and lawyers, to report to the FIU any suspicious transactions and to provide it with any additional information it may request (art. 12 and 16/4). The FIU has been also engaged in trainings and awareness-raising activities addressed to private sector entities (art. 22/i AML Law).

Article 298 CPC establishes an obligation on all citizens who receive notice of a criminal offence to report to a prosecutor or judicial police officer. Anonymous reports are also accepted. Moreover, the CC (art. 300) establishes a general obligation to report crimes. Albania has several hotlines and web portals in place to report corruption.

2.2. Successes and good practices

In general, the following are highlights of the successful experiences and good practices in the implementation of Chapter III of the Convention:

- The offence of bribing foreign public officials and officials of public international organizations covers members of foreign public assemblies, members of international parliamentary assemblies, members of foreign juries, judges or officials of international courts, and foreign arbiters (art. 16, paras. 1 and 2);
- The offence of the trading in influence extends to foreign public functionaries (art. 18).

2.3. Challenges in implementation

The following steps would allow further enhancement of existing anti-corruption measures:

- Explicitly criminalize the active and passive bribery of national public officials when the undue advantage is for an entity (art. 15, paras. (a) and (b));
- Explicitly criminalize the active bribery of foreign public officials and officials of public international organizations when the undue advantage is for an entity (art. 16, para. 1), and consider doing the same regarding the passive bribery of foreign public officials and officials of public international organizations (art. 16, para. 2);
- Criminalize embezzlement, misappropriation or other diversion of property by public officials, in line with article 17 of the Convention;
- Consider aligning article 248 CC with the Convention (art. 19);
- Consider criminalizing “illicit enrichment” (art. 20);
- Criminalize money-laundering when the purpose of the offence is to help any person who is involved in the commission of a predicate offence to evade the legal consequences of his or her action (art. 23, subpara. 1(a)(i));
- Criminalize the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to interfere in the production of evidence (art. 25, subpara. (a));
- Establish a longer statute of limitations period or provide for the suspension of the statute where the alleged offender has evaded the administration of justice (art. 29);
- Consider establishing procedures for the disqualification of persons convicted of corruption related offences from holding office in State-owned enterprises (art. 30, subpara. 7(b));
- Consider taking further measures to promote the reintegration into society of persons convicted of corruption offences (art. 30, para. 10);
- Adopt additional measures to regulate the administration of frozen, seized and confiscated property (art. 31, para. 3);
- Extend the scope of available protection to all offences covered by the Convention, and provide for the protection of experts, their relatives and other persons close to them (art. 32, para. 1);
- Albania is encouraged to continue its efforts to incorporate into its domestic legal system appropriate measures to provide protection against unjustified treatment for reporting persons in corruption related cases (art. 33);
- Adopt additional measures to address consequences of acts of corruption, especially after the awarding stage of tenders (art. 34);
- Albania may wish to establish its jurisdiction over the offences covered by the Convention when the alleged offender is present in its territory and it does not extradite him or her (art. 42, para. 4).

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)

Extradition is governed principally by Chapter I (arts. 488-504) of the CPC, arts. 10-11 of the CC and Chapter III (arts. 31-52) of Law No. 10193 “On Jurisdictional Relations With Foreign Authorities In Criminal Matters”. Albania can proceed in extradition matters on the basis of international treaties or, in the absence of a treaty, on the basis of reciprocity as a matter of discretion by the Minister of Justice, in accordance with article 9 of Law No. 10193. As a matter of practice, Albania requires a reciprocity undertaking in cases where there is no bilateral or multilateral treaty in place. At the time of review, Albania was party

to 10 bilateral and multilateral extradition treaties. Albania recognizes this Convention as a basis for extradition (art. 122 of the Constitution).

Conditions on extradition and grounds for refusal are established (principally, arts. 11 CC, 490-491 CPC, 8 and 32, Law 10193). Dual criminality is a requirement for extradition under article 11 of the CC, article 491 CPC, article 32 of Law No. 10193, and under Albania's treaties. Moreover, there is a requirement that the foreign State has imposed a sentence of imprisonment of at least one year (article 32(a), Law 10193). Extradition is therefore limited to the extent that not all Convention offences have been criminalized. There is no legal restriction on extradition for fiscal matters.

Accessory extradition is not provided for in the Albanian legislation, and Albania would apply the Convention directly in these cases.

Albania does not consider Convention offences as political offences (arts. 11 CC, 491 CPC and 9, Law No. 10193). However, a judicial decision on the matter may be overridden by the Minister of Justice, who makes the final decision in determining what constitutes a political offence. There have been no corruption related cases to date where the issue of political or military offences has arisen.

The procedure for handling requests for the extradition of Albanian nationals is contained in article 38(5) and (7) of Law 10193. Article 6 of the CC provides for the application of Albanian criminal law to acts committed by Albanian citizens. Articles 53-61 of Law 10193 provide for the recognition and execution of foreign criminal judgments, including against nationals. No Albanian citizens have been extradited to-date in corruption-related matters.

Requests are submitted to the courts for examination within 40 days of receipt. Following a decision by the Minister, within 30 days of receipt, the request is transmitted to the relevant prosecutor, who submits it to the court for examination within 10 days of receipt, in accordance with Law 10193. If there is no objection to the extradition, the matter is handled within three months from the date of receipt (arty. 492 CPC). Albania has ratified the Third Additional Protocol to the European Convention on Extradition, which provides for simplified extradition among member States.

Albania has adopted measures to ensure the fair treatment of persons in extradition proceedings (principally, arts. 17-18 Constitution, arts. 4-9 and 496-497 CPC, art. 11 CC and arts. 8 and 32 Law 10193). Albania has further ratified the European Convention on Human Rights. The discriminatory purpose of a request is addressed (art. 11 CC, art. 491 CPC and arts. 8 and 32 of Law 10193).

No corruption-related requests for extradition have been received or refused by Albania to-date, including requests under this Convention.

Articles 60 and 64 of Law 10193 regulate the transfer of prisoners. Albania has entered into two prisoner transfer treaties.

Law 10193 regulates the transfer of criminal proceedings to and from Albania.

Mutual legal assistance (art. 46)

MLA is governed principally by Chapter II (arts. 505-511) of the CPC, article 10 of the CC and Chapter II (arts. 13-30) of Law No. 10193. As for extradition, Albania can proceed in the absence of a treaty, on the basis of reciprocity as a matter of discretion by the Minister of Justice. As a matter of practice, Albania requires a reciprocity undertaking in cases where there is no bilateral or multilateral treaty in place.

Albania has concluded several bilateral and multilateral treaties and also recognizes this Convention as a basis for MLA. In the case of a conflict between

international treaties and domestic law, the treaty provisions prevail (art. 1, Law 10193).

Dual criminality is a fundamental requirement for MLA (art. 506(4)(b) CPC). However, there is no requirement to render non-coercive action in the absence of dual criminality. A de minimis threshold is not established.

Requests are executed in accordance with domestic law and, where possible, procedures specified in the request (art. 507 and 511 CPC, art. 16, 17 and 20 Law 10193). A judicial decision is required for Albania to render certain forms of assistance (arts. 506 and 507 CPC).

Albania may provide a wide range of assistance in relation to investigative acts, as provided in the CPC and Law 10193. The spontaneous transmission of information is addressed (arts. 27 and 28, Law 10193). There is no provision that addresses a limitation on the use of information obtained through MLA.

The temporary transfer of prisoners is regulated in articles 19 and 21 of Law 10193. However, there is no obligation to guarantee the protection and return of the person within a defined period or to ensure that consent is provided.

Hearings may be conducted by telephone or videoconference or in the presence of foreign judicial authorities (arts. 20(3) and (4) CPC, art. 16 Law 10193).

The central authority for MLA is Albania's Ministry of Justice. Requests received directly between judicial authorities must be transmitted simultaneously to the Ministry. Requests may also be received through INTERPOL.

Article 121 of Law 10193 and internal orders in the Ministry of Justice and General Prosecution ensure the confidentiality of information.

No corruption-related requests for MLA have been received or refused by Albania to-date, including requests under this Convention.

Albania recognizes grounds for refusal (principally, arts. 505-506 CPC, 8 and 11, Law 10193). Assistance may not be refused on the sole ground that the offence also involves fiscal matters.

Albania's legislation provides that the expenses of executing MLA requests are borne by the requesting State. Provisions regulating the exchange of public records are not established in the domestic legislation.

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49, 50)

Albanian law enforcement authorities cooperate internationally through INTERPOL and EUROPOL channels. Albania's State Police cooperate with counterpart bodies of the region through various forms of cooperation such as bilateral and multilateral agreements, MoUs, protocols etc. The Albanian State Police also implement the Police Cooperation Convention for South East Europe (Vienna Convention) on cross border cooperation. Albania recognizes this Convention as a basis for law enforcement cooperation, although there has been no experience in its application.

Albania's State Police has posted liaison officers in a number of countries and at INTERPOL, EUROPOL and the Southeast European Law Enforcement (SELEC) Centre. A network of foreign liaison officers is also posted in Albania.

Albania participates in joint investigations on a case-by-case basis on the basis of bilateral and multilateral agreements or arrangements, including treaties under the United Nations framework, the Vienna Convention and the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters.

Albania conducts special investigative techniques, including surveillance, undercover operations and controlled delivery, on the basis of the domestic legislation (arts. 221, 294/a and 1294/b CPC), as well as bilateral and multilateral agreements and arrangements.

3.2. Challenges in implementation

The following recommendations would further strengthen existing anti-corruption measures, notwithstanding the direct applicability of the Convention on matters related to international cooperation:

- Improve systems to collect data on the types of international cooperation requests (e.g., underlying offences), the timeframe for responding to requests, and the response provided, including grounds for refusal.*
- Continue to ensure that no offences established in accordance with this Convention are considered to be political offences (art. 44(4)).*
- Provide that extradition requests cannot be refused solely on the basis that they involve fiscal offences (art. 44(16)).*
- Consider removing the requirement for judicial authorization for MLA, to streamline the provision of assistance (art. 46(1)).*
- Adopt measures to ensure that non-coercive assistance is rendered in the absence of dual criminality (art. 46(9)(b)).*
- Regulate the transfer of prisoners for MLA in accordance with the Convention and consider specifying the grounds on which the temporary transfer of prisoners may be refused (art. 46(10-11)).*
- Ensure that the notification of the central authority for requests under the Convention remains up to date (art. 46(13)).*
- Adopt a provision addressing a limitation on the use of information obtained through MLA (art. 46(19)).*
- Provide that MLA requests cannot be refused solely on the basis that they involve fiscal offences (art. 46(22)).*
- Regulate the costs of executing MLA requests in line with the Convention (art. 46(28)).*
- Consider adopting a provision regulating the exchange of public records for MLA in the domestic legislation (art. 46(29)).*

IV. Implementation of the Convention

A. Ratification of the Convention

7. The Convention was signed on 31.10.2003. It was ratified by Parliament on 13.03.2006 through law Nr. 9492 dated 13.03.2006 and decreed by the President with decree Nr. 4820, dated 28.3.2006.

The Convention and Albania's legal system

8. Article 122 of the Constitution states that generally accepted rules of international law and international conventions when they have been ratified by an act and have come into effect shall form an integral part of Albania's domestic law and shall override any other contrary provision of domestic law.

9. Accordingly, the UN Convention against Corruption has become an integral part of Albania's domestic law following ratification of the Convention by the Parliament on 13.3.2006, published in the Official and entry into force on 25.04.2006 in accordance with Article 68 of the Convention.

B. Legal system of Albania

10. Albania is a parliamentary republic with a multi-party system, whose Constitution dates from 1998. The unicameral National Assembly is composed of 140 members (deputies) who are elected for a four-year term under proportional representation within each of the country's 12 multi-member constituencies. Candidates may be presented by political parties, coalitions of parties and groups of voters.
11. The judicial power in Albania is exercised by the High Court, the appeal courts and the district courts. Courts for particular areas, but not ad hoc courts, may be established by law, as is the case for administrative courts. Although the Constitutional Court does not belong to the judicial power, any person who has exhausted other legal remedies may challenge before it the irregularity of the judicial process on the grounds that it has violated his/her right to a fair trial. The High Court consists of 19 judges and is the highest judicial authority governed by the law "On the organisation and functioning of the High Court of the Republic of Albania". Judges are independent and subject only to the Constitution and the laws. The courts have a separate budget which they administer themselves.
12. The head of State in Albania is the President of the Republic. The President is elected to a 5-year term by the Assembly of the Republic of Albania.
13. Executive power rests with the Council of Ministers (cabinet of ministers). The Chairman of the Council (prime minister) is appointed by the president; ministers are nominated by the president on the basis of the prime minister's recommendation. The Council is responsible for carrying out both foreign and domestic policies. It directs and controls the activities of the ministries and other State organs.
14. As far as local governance is concerned, Albania is divided into 12 administrative counties or prefectures with 61 municipalities (law in power on territorial reform as of August 2014, to be implemented post the 2015 local government elections).
15. Relevant laws, policies and/or other measures cited by Albania include the following.
- The Constitution of Albania
 - Law No. 7895, dated 27.01.1995 "Criminal Code of the Republic of Albania"
 - Law No. 10023, dated 27.11.2008 "On some additions and amendments to Law No. 7895, dated 27.01.1995 "Criminal Code of the Republic of Albania"
 - Law No. 7905 dated 21.03.1995, Criminal Procedure Code of The Republic Of Albania
 - Law. 9187, dated 12.02.2004 On Some Additions and Amendments To Law No. 7905, dated 21.03.1995 "Criminal Procedure Code of the Republic of Albania" Amended
 - Law No. 9917, "On the Prevention of Money Laundering and Financing of Terrorism", as amended
 - Law No. 9367 dated 07.04.2005, On The Prevention of Conflicts of Interest In the Exercise of Public Functions, amended with Law No. 9475 dated 09 February 2006 published in the

Official Journal No. 19 dated 09 March 2006) and with Law 9529 dated 11 May 2006

- Law No. 10192, dated 03.12.2009, "On the prevention and fight against organized crime and trafficking, corruption through preventive measures against property", as amended in March 2014
- Law No. 10173 dated 22.10.2009 "Protection of witnesses and justice collaborators"
- Law No. 9646, dated 27.11.2006 "On the ratification of the Convention of the Council of Europe "On Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism"

16. Currently the government is in the process of drafting the national strategy and action plan against corruption, which were provided to the reviewers. They are still not adopted by the Council of Ministers.
17. Additionally, a law on the protection of whistleblowers is also in the process of consultation and drafting.
18. Albania is a member of GRECO as of 2001, and has thus undergone 4 rounds of evaluations on its anti-corruption measures, including here:
 - Round 1 (overall overview)
 - Round 2 (proceeds of corruption, public administration and corruption, legal persons and corruption)
 - Round 3 (incriminations, political party funding)
 - Round 4 (evaluation of anti-corruption measures against judges, prosecutors and MPs)
19. Anti-corruption measures have also been evaluated in the context of the PACA project, run by the Council of Europe in Albania and which provided technical assistance. The documents can all be found online.¹
20. The EU has also reviewed Albania and the corruption state in its progress reports regarding Albania's accession to the EU.

C. Implementation of selected articles

III. Criminalization and law enforcement

Article 15. Bribery of national public officials

Subparagraph (a) of article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving, to a public official, directly or indirectly, of an undue

¹ http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/Albania/Technical%20Papers/default_TP_en.asp

advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(a) Summary of information relevant to reviewing the implementation of the article

21. Albania's Criminal Code provides in article 244 (Active corruption of persons exercising public functions) that:

"The direct or indirect proposal, offer, or giving, to a person, who exercises public functions, of any irregular benefit for himself or a third person in order to act or not act in relation to his duty, is punished by imprisonment from six months up to three years."

22. Albania's Criminal Code makes also provisions for the criminal offences committed by specific categories of public officials.

23. Specifically, Article 245 of the CC (Active corruption of the high State officials and local elected representatives) provides that:

"The direct or indirect proposal, offer, or giving, to high State officials or to a locally elected person, of any irregular benefit for himself or a third person in order to act or not act in relation to his duty, is punished by imprisonment from one up to five years"

24. Furthermore, Article 319 of the CC (Active corruption of the judges, prosecutors and of other justice officials) provides that:

"The direct or indirect promising, preposition or issuing of any irregular profit, for himself or a third party, to a judge, prosecutor or any other employee of the judicial bodies in order to act or not act, regarding their duty, is punished with a prison term of one to four years."

25. Albania provided the following statistics for 2013²:

Offences	Cases investigated by the State Police			PROSECUTION OFFICE						District and Appeal Courts			
	Initiated by State Police	With information from other institutions or person	Referred by the State Police to the Prosecution Office	Cases Registered by Prosecution Office			Total of registered proceedings in Prosecution Office	Dismissed proceedings	Proceedings sent to Court	District Court		Appeal Courts	
				References by State Police	Complaints and references from other persons or subjects	Initiated by the prosecutor				No. of judged persons	No. of convicted persons	No. of judged persons	No. of convicted persons
Public sector corruption	220	169	389	435	362	25	653	230	67	208	144	123	97
Article 244	2	0	2	3	0	1	6	2	3	9	9	11	11

² The statistical data, from the Ministry of Justice, is gathered and analysed by a working group on Statistics, set up by an order of the Minister of Justice, and functioning with the participation of representatives from Prosecution, the Ministry of Justice representing Courts and Police. The working group meets every quarter to compile corruption and organized crime statistics which are then passed on to relevant institutions. The statistics are compiled on an excel spreadsheet and organized according to the relevant criminal offences of the Criminal Code.

Article 244/a	0	0	0	0	0	0	0	0	0	0	0	0	0
Article 245/1	5	0	5	10	0	1	13	4	4	37	32	5	5
Article 248	145	139	284	366	348	18	550	197	49	132	84	88	69
Article 256	0	0	0	1	0	0	1	0	0	0	0	0	0
Article 259	68	30	98	55	14	5	83	27	11	30	19	19	12
Article 259/a	0	0	0	0	0	0	0	0	0	0	0	0	0
High-level corruption	0	0	0	6	1	0	12	5	6	6	7	1	1
Article 245	0	0	0	6	1	0	12	5	6	6	7	1	1
Article 260	0	0	0	0	0	0	0	0	0	0	0	0	0
Corruption in the judicial system	1	4	5	9	0	0	9	4	1	3	0	1	1
Article 312	0	0	0	2	0	0	2	1	1	0	0	1	1
Article 319	1	0	1	1	0	0	1	1	0	2	0	0	0
Article 319/a	0	4	4	2	0	0	2	1	0	1	0	0	0
Article 319/b	0	0	0	0	0	0	0	0	0	0	0	0	0
Article 319/c	0	0	0	3	0	0	3	1	0	0	0	0	0
Article 319/ç	0	0	0	1	0	0	1	0	0	0	0	0	0
Article 319/d	0	0	0	0	0	0	0	0	0	0	0	0	0
Article 319/dh	0	0	0	0	0	0	0	0	0	0	0	0	0
Article 319/e	0	0	0	0	0	0	0	0	0	0	0	0	0

(b) Observations on the implementation of the article

26. Albania criminalized active bribery of national public officials pursuant to articles 244 (Active corruption of persons exercising public functions), 245 (Active corruption of the high State officials and local elected representatives) and 319 (Active corruption of the judges, prosecutors and of other justice officials) of the CC. Although, the CC does not define “person, who exercises public functions” and the provisions of the Law 152/2013 on civil servants (art. 3/c) and the Code of Administrative procedures (art. 3) do not seem relevant, authorities met during the country visit made a reference to the direct applicability of the Convention pursuant to Article 122 of the Constitution.

27. Although article 45 CC recognizes the criminal liability of legal persons, the term “third person” as used in Articles 244, 245 and 319 CC does not seem to cover entities. Albania should take the necessary measures to explicitly criminalize the active corruption when the undue advantage is for an entity.

Subparagraph (b) of article 15

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) Summary of information relevant to reviewing the implementation of the article

28. Albania's Criminal Code contains relevant provisions in Articles 259, 260 and 319/ç.

29. Article 23, Law No. 9367, dated 7.4.2005, "On the Prevention of Conflicts of Interest in the Exercise of Public Functions" also provides for measures related to the acceptance of gifts, favors, promises or preferential treatment by public officials.

Criminal Code

Article 259

Passive corruption by public officials

"Soliciting or taking, directly or indirectly, by a person who exercises public functions, of any irregular benefit or of any such promise for himself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in the exercise of his duty, is punished with a prison term from two up to eight years."

Article 260

Passive corruption by high State officials or local elected officials

"Soliciting or taking, directly or indirectly, by a high state official or a local elected official, of any irregular benefit or of any such promise for himself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in the exercise of his duty, is punished with a prison term from four up to twelve years."

Article 319/ç

Passive corruption of the judges, prosecutors and other justice officials

"Direct or indirect soliciting or taking, by a judge, prosecutor, or other employees of the judicial bodies, of any irregular benefit or any such offer for himself or a third person, or accepting an offer or promise deriving from an irregular benefit in order to act or not act, regarding their duty, is punished with a prison term of three up to ten years."

Law No. 9367 dated 07.04.2005, On The Prevention of Conflicts of Interest In the Exercise of Public Functions, as amended

Article 23

Prohibition of Receiving Gifts, Favor, Promises or Preferential Treatment

1. It is prohibited for an official to seek or to accept, directly or indirectly, gifts, favors, promises or preferential treatment, given because of his position, from an individual, natural person or private juridical person, when this may cause the emergence of a conflict of interest of any kind.

2. Excluded are only the cases defined in acts of the competent organs that permit the receipt of gifts or preferential treatment for reasons of protocol.

3. An official to whom gifts, favors, promises or preferential treatment is offered according to point 1 of this article should:

a) refuse them and, if the offer was made without his knowledge or in advance, return it to the

offeror or, if this is impossible, surrender it officially to his superior or to the nearest superior institution;

b) try to identify the person who offers them and his motives and interests;

c) in any case, immediately inform his superior or the nearest superior institution about the gift, favor, promise or preferential treatment offered or given, the identify of the offeror, when he can be identified, and the circumstances, as well as giving his judgment about the possible reasons for this event and its relations to his duties as an official;

ç) continue the exercise of duty normally, especially for the problem for which the gift, favor, promise or preferential treatment was offered, and continually keep his superior informed about every possible development;

d) if the offering or granting of the above-mentioned goods is related to the commission of a criminal offense, report it to the organs competent for criminal prosecution.

(b) Observations on the implementation of the article

30. Albania criminalized passive bribery of national public officials pursuant to articles 259 (Passive corruption by public officials), 260 (Passive corruption of the high State officials and local elected representatives) and 319/ç (Passive corruption of the judges, prosecutors and of other justice officials) of the CC. Article 23 of the Conflict of Interest Law is also relevant.

31. It is noted that the Criminal Code provides for more severe punishment for passive than active bribery of public officials.

32. Although article 45 CC recognizes the criminal liability of legal persons, the term “third person” as used in Articles 259, 260 and 319/ç CC does not seem to cover entities. Albania should take the necessary measures to explicitly criminalize the passive corruption when the undue advantage is for an entity.

Article 16. Bribery of foreign public officials and officials of public international organizations

Paragraph 1 of article 16

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

(a) Summary of information relevant to reviewing the implementation of the article

33. Articles 244/a, 319/c, 319/a, 319/b and 319/c Criminal Code provide as follows.

Article 244/a

Active corruption of foreign public employees

Promise, proposal, and provision, directly or indirectly, of any kind of irregular benefit, for oneself or for other persons, the foreign public employees, employees of an international public organization, members of a foreign public assembly or members of an international parliamentary

assembly, for accomplishment or non-accomplishment of an act, related to their duties or positions, are sentenced by imprisonment from six months up to three years.

Article 319/c

Active corruption of members of foreign judicial juries

Promise, proposal or provision, directly or indirectly, of whatever irregular benefit for oneself or for other persons, to members of foreign judicial juries, for accomplishment or non-accomplishment of an action, which is related to their duties or functions, is sentenced by imprisonment from one up to four years.

Article 319/a

Active corruption of the judge or official of international court

Promise, proposal or provision, directly or indirectly, of any kind of irregular benefit, for oneself or for other persons, to the judge or to official of international courts, for accomplishment or non-accomplishment of an action, related to his duty or function, is sentenced by imprisonment from one up to four years.

Article 319/b

Active corruption of foreign and domestic arbiters

Promise, proposal or provision, directly or indirectly, of whatever irregular benefit for oneself or for other persons, to domestic or foreign arbiter, for accomplishment or non-accomplishment of an action, which is related to his duty or function, is sentenced by imprisonment from one up to four years.

(b) Observations on the implementation of the article and good practice

34. Albania criminalized active bribery of foreign public officials pursuant to articles 244/a (Active corruption of foreign public employees), 319/a (Active corruption of the judge or official of international court), 319/b (Active corruption of foreign and domestic arbiters) and 319/c (Active corruption of members of foreign judicial juries) of the CC. Although, the CC does not define “foreign public employees”, authorities met during the country visit made a reference to the direct applicability of the Convention pursuant to Article 122 of the Constitution.
35. Although article 45 CC recognizes the criminal liability of legal persons, the term “other persons” as used in Articles 244/a, 319/a, 319/b and 319/c CC does not seem to cover entities. Albania should take the necessary measures to explicitly criminalize the active corruption of foreign public officials and officials of public international organizations when the undue advantage is for an entity.
36. The reviewers were informed during the country visit of an indictment involving the active bribery of a foreign custom official.
37. The reviewers positively noted that the Criminal Code also includes members of foreign public assemblies, members of international parliamentary assemblies, members of foreign juries, judges or officials of international courts and foreign arbiters, within the scope of the offence.

Paragraph 2 of article 16

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) Summary of information relevant to reviewing the implementation of the article

38. Article 259/a "Passive corruption of foreign public employees" (Added by Law no.23/2012, dated 03.01.2012, Article 29), as well as the articles 319/d, 319/dh and 319/e provide as follows.

Article 259/a

Passive corruption of foreign public employees

Requesting or receiving, directly or indirectly, any kind of irregular benefits or suchlike promise, for oneself or for other persons, or acceptance of an offer or promise derived from irregular benefits, by a foreign public employee, employee of an international public organization, member of a foreign public assembly or member of an international parliamentary assembly, for accomplishment or non-accomplishment of an action, which is related to his duty or function, is sentenced from two up to eight years imprisonment.

Article 319/d

Passive corruption of the judge or of officials of international courts

Request or possession, directly or indirectly, of whatever irregular benefit or suchlike benefit, for oneself or for other persons, or acceptance of an offer or promise derived from irregular benefits, by the judge or official of an international court, for accomplishment or non-accomplishment of an action, which is related to his duty or function, is sentenced by imprisonment from three up to ten years.

Article 319/dh

Passive corruption of domestic or foreign arbiters

Request or possession, directly or indirectly, of whatever irregular benefit or suchlike benefit, for oneself or for other persons, or acceptance of an offer or promise derived from irregular benefits, by a domestic or foreign arbiter, for accomplishment or non-accomplishment of an action, which is related to his duty or function, is sentenced by imprisonment from two up to eight years.

Article 319/e

Passive corruption of a member of foreign judicial juries

Request or possession, directly or indirectly, of whatever irregular benefit or suchlike benefit, for oneself or for other persons, or acceptance of an offer or promise derived from irregular benefits, by a member of foreign judicial juries, for accomplishment or non-accomplishment of an action, which is related to his duty or function, is sentenced by imprisonment from two up to eight years.

(b) Observations on the implementation of the article

39. Albania criminalized passive bribery of foreign public officials pursuant to articles 259/a (Passive corruption of foreign public employees), 319/d (Passive corruption of the judge or of officials of international courts), 319/dh (Passive corruption of domestic or foreign arbiters) and 319/e (Passive corruption of a member of foreign judicial juries) of the CC. Although the

CC does not define “foreign public employees”, authorities met during the country visit made a reference to the direct applicability of the Convention pursuant to Article 122 of the Constitution.

40. Although article 45 CC recognizes the criminal liability of legal persons, the term “other persons” as used in Articles 259/a, 319/d, 319/dh and 319/e CC does not seem to cover entities. Albania should consider taking the necessary measures to explicitly criminalize the passive bribery of foreign public officials and officials of public international organizations when the undue advantage is for an entity.
41. The reviewers positively noted that the Criminal Code also includes members of foreign public assemblies, members of international parliamentary assemblies, members of foreign juries, judges or officials of international courts and foreign arbiters, within the scope of the offence.

Article 17. Embezzlement, misappropriation or other diversion of property by a public official

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

(a) Summary of information relevant to reviewing the implementation of the article

42. The following articles of the Criminal Code are relevant.

Article 135

Theft through abuse of office

Theft of property, committed by the person whose duty is to protect and administer it, or through abuse of office, is sentenced up to ten years of imprisonment.

Article 143

Deception/Fraud

Stealing property through lies or abuse of trust is punishable by a fine or up to five years of imprisonment.

This act, when committed with accomplices and harming some persons, or more than once, is punished by imprisonment from three to ten years and, when it brings about serious consequences is sentenced by imprisonment from ten to twenty years.

Article 256

Misusing State contributions

Misusing contributions, subsidies or financing given by the State or State institutions to be used in works and activities of public interest, is punishable by a fine or up to three years of imprisonment.

Article 257

Illegal benefiting from interests

Direct or indirect holding, retaining or benefiting from any sort of interest by a person holding State functions or public service in an enterprise or operation in which, at the time of conducting the act, he was holding the capacity of supervisor, administrator or liquidator, is punishable by a fine or up to four years of imprisonment.

Article 258

Breaching the equality of participants in public bids or auctions

Committing actions in breach of the laws which regulate the freedom of participants and the equality of citizens in bids and public auctions, by a person holding State functions or public service in order to create illegal advantage or benefits for third parties, is punishable up to three years imprisonment.

43. Albania provided the following statistics for 2013:

Offences	Cases investigated by the State Police			PROSECUTION OFFICE						District and Appeal Courts			
	Initiated by State Police	With information from other institutions or person	Referred by the State Police to the Prosecution Office	Cases Registered by Prosecution Office			Total of registered proceedings in Prosecution Office	Dismissed proceedings	Proceedings sent to Court	District Court		Appeal Courts	
				References by State Police	Complaints and references from other persons or subjects	Initiated by the prosecutor				No. of judged persons	No. of convicted persons	No. of judged persons	No. of convicted persons
Group 2: Conflict of interest and asset declarations	0	0	0	0	1	0	1	0	1	3	2	1	1
Article 257	0	0	0	0	0	0	0	0	0	1	1	1	1
Article 257/a	0	0	0	0	1	0	1	0	1	2	1	0	0

(b) Observations on the implementation of the article

44. Articles 135, 143, 256, 257 and 258 CC partially address the requirements of the article under review. For example, Article 256 is limited to the misuse of funds “given by the State or State institutions to be used in works and activities of public interest” and does not seem to cover private funds. Moreover, the mentioned articles do not explicitly cover “other diversion of funds” nor third party benefits. Albania should take the necessary measures to criminalize embezzlement, misappropriation or other diversion of property by a public official, in line with article 17 of the Convention.

Article 18. Trading in influence

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official or any other person, directly or indirectly,

of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

(a) Summary of information relevant to reviewing the implementation of the article

45. The following article of the Criminal Code is relevant.

Article 245/1

The exercising of unlawful influence on public officials

The direct or indirect proposal, offer, or giving an irregular benefit, for himself or a third person, to the person who promises and guarantees that he is able to exercise illegal influence on the accomplishment of the duties and on taking of decisions by the Albanian or foreign public functionaries, no matter whether the influence has been actually exercised or not and no matter whether the desirable consequences have occurred or not, is punished with a prison term from six months up to three years.

The direct or indirect soliciting, receiving, or accepting whatever irregular benefit for oneself or a third person, by promising and confirming the ability to exercise illegal influence on the accomplishment of the duties and on adoption of decisions by the Albanian or foreign public functionaries, no matter whether the influence has been actually exercised or not and no matter whether the desirable consequences have occurred or not, is punished with a prison term from six months up to four years.

(b) Observations on the implementation of the article and good practice

46. Albania criminalized active and passive trading in influence pursuant to article 245/1 of the CC. The reviewers were informed during the country visit of several case examples, including cases where the recipient of the bribe was a private individual.

47. The reviewers positively noted that the trading in influence offence also extends to foreign public functionaries.

Article 19. Abuse of functions

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

(a) Summary of information relevant to reviewing the implementation of the article

48. The following articles are relevant.

Article 248, CC Abuse of office

Deliberate accomplishment or non-accomplishment of actions or failures to act, in violation to the law and constituting the failure of a person, who carries out public functions, to do his duties regularly, in cases when it has led to bringing him or other persons unjust material or non-material benefits or when it has brought damages to the legitimate interests of the State, citizens, and other legal entities, when it does not constitute another criminal offence, is punished with imprisonment up to seven years.

Article 70, Military Criminal Code Abuse of office by the soldier.

Performing or not performing intentional acts contrary to law or to fulfilment of duty by the commanding staff when they have serious consequences on the State or the lawful interests of citizens, shall be punished by fine or imprisonment, release or imprisonment up to ten years. The same crime committed in time of war or state of emergency is punishable by five to fifteen years [of imprisonment].

(b) Observations on the implementation of the article

49. Albania criminalized abuse of functions in the public sector pursuant to article 248 of the CC. However, while the purpose of the offence pursuant to the Convention is “obtaining an undue advantage for himself or herself or for another person or entity”, article 248 of the CC subjects the offence to a condition which is the actual obtaining of “unjust material or non-material benefits” by the official or other persons or when “it has brought damages to the legitimate interests of the State, citizens, and other legal entities, when it does not constitute another criminal offence”. The reviewers recommend Albania to consider removing this condition and aligning article 248 CC with the Convention.

Article 20. Illicit enrichment

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

(a) Summary of information relevant to reviewing the implementation of the article

50. Albania indicated that it has partially implemented the article.
51. Beyond the criminalization of illicit enrichment for those holding public office, specific ranks of officials hold the duty to declare their assets and interests to the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest (HIDAACI).
52. This institution then, following its own internal procedures and rules, examines the declarations of officials and after cross-checking with banks and State institutions, verifies the validity of the declarations. In cases where declarations are not submitted on time, officials are fined and notified of the delay. In case they do not submit declarations, or submit false or incomplete declarations, criminal charges are filed by the Prosecution.

Article 257 Criminal Code

Illegal benefiting from interests

Direct or indirect holding, retaining or benefiting from any sort of interest by a person holding State functions or public service in an enterprise or operation in which, at the time of conducting the act, he was holding the capacity of supervisor, administrator or liquidator, is punishable by a fine or up to four years of imprisonment.

Article 32, Law No. 9049 dated 10 April 2003 Assets Obtained by Hiding Fiscal Obligations

When assets obtained are considered to be the consequence of hiding fiscal obligations, the Inspector General notifies the tax organs.

53. While inexplicable wealth remains one of the main recommendations from the EU, there needs to be good coordination among law enforcement and other bodies for the application of measures to tackle inexplicable wealth.

(b) Observations on the implementation of the article

54. Article 257 CC addresses illegal benefiting from interests, but does not establish an evidentiary standard whereby an offender may be required to demonstrate the lawful origin of assets that are disproportionate to his or her lawful income.
55. Albania has not criminalized illicit enrichment.
56. Albania should consider adopting necessary measures to criminalize illicit enrichment, in line with the provisions of article 20 of the Convention.

Article 21. Bribery in the private sector

Subparagraph (a) of article 21

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

(a) Summary of information relevant to reviewing the implementation of the article

57. The following article is relevant.

Article 164/a, CC

Active corruption in the private sector

The direct or indirect promise, offer, or giving to a person, who exercises a management function

in a commercial company or who works in any other position in the private sector, of any irregular benefit for himself or a third person, in order to act or in order to fail to act, contrary to his duty, is punished with a prison term of three months up to three years.

58. Albania provided the following statistics for 2013:

Offences	Cases investigated by the State Police			PROSECUTION OFFICE						District and Appeal Courts			
	Initiated by State Police	With information from other institutions or person	Referred by the State Police to the Prosecution Office	Cases Registered by Prosecution Office			Total of registered proceedings in Prosecution Office	Dismissed proceedings	Proceedings sent to Court	District Court		Appeal Courts	
				References by State Police	Complaints and references from other persons or subjects	Initiated by the prosecutor				No. of judged persons	No. of convicted persons	No. of judged persons	No. of convicted persons
Statistic 5: Private sector corruption	2	1	3	2	0	1	2	1	1	1	1	0	0
Article 164/a	1	0	1	0	0	0	0	0	0	0	0	0	0

(b) Observations on the implementation of the article

59. Albania has criminalized active bribery in the private sector pursuant to article 164/a of the CC.

Subparagraph (b) of article 21

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

...

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

(a) Summary of information relevant to reviewing the implementation of the article

60. The following article is relevant.

Article 164/b, CC

Passive corruption in the private sector

Direct or indirect soliciting or taking of any irregular benefit or of any such promise, for himself or a third person, or accepting an offer or a promise that follows from the irregular benefit, of the person that exercises a management function or works in whatever position in the private sector,

with the purpose to act or not to act contrary to his duty or function, is sentenced with imprisonment term of six months up to five years.

61. Albania provided the following statistics for 2013:

Offences	Cases investigated by the State Police			PROSECUTION OFFICE						District and Appeal Courts			
	Initiated by State Police	With information from other institutions or person	Referr ed by the State Police to the Prosecution Office	Cases Registered by Prosecution Office			Total of registered proceedings in Prosecution Office	Dismissed proceedings	Proceedings sent to Court	District Court		Appeal Courts	
				References by State Police	Complaints and references from other persons or subjects	Initiated by the prosecutor				No. of judged persons	No. of convicted persons	No. of judged persons	No. of convicted persons
Statistic 5: Private sector corruption	2	1	3	2	0	1	2	1	1	1	1	0	0
Article 164/b	1	1	2	2	0	1	2	1	1	1	1	0	0

(b) Observations on the implementation of the article

62. Albania has criminalized passive bribery in the private sector pursuant to article 164/b of the CC.

Article 22. Embezzlement of property in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

(a) Summary of information relevant to reviewing the implementation of the article

63. The following articles of the Criminal Code are relevant.

Article 135

Theft through abuse of office

Theft of property, committed by the person whose duty is to protect and administer it, or through abuse of office, is sentenced up to ten years of imprisonment.

Article 143

Deception/Fraud

Stealing property through lies or abuse of trust is punishable by a fine or up to five years of imprisonment.

This very act, when committed with accomplices and harming some persons, or more than once, is punished by imprisonment from three to ten years and, when it brings about serious consequences, is sentenced by imprisonment from ten to twenty years.

Article 164

Abuse of powers

Abuse of powers by members of the executive board or by managers of the company with the intent of embezzlement or favouritism of another company where they have interests, is punishable by a fine or up to five years of imprisonment.

(b) Observations on the implementation of the article

64. Albania has criminalized the embezzlement of property in the private sector pursuant to articles 135, 143 and 164 of the CC.

Article 23. Laundering of proceeds of crime

Subparagraph 1 (a) (i) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(a) Summary of information relevant to reviewing the implementation of the article

65. The following article is relevant.

Article 287, subparagraph a, CC

Laundering of proceeds of criminal offence or criminal activity

Laundering of proceeds of criminal offence or criminal activity through:

a) The conversion or transfer of property, for the purpose of concealing or disguising the illicit origin of the property, knowing that such property is the proceeds of criminal offence or criminal activity;

b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of criminal offence or criminal activity;

c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of criminal offence or criminal activity;

ç) Commission of financial actions or divided transactions to avoid reporting according to the legislation on the prevention of money laundering;

d) Investment in economic or financial activities of money or objects, knowing that they are proceeds of criminal offence or criminal activity;

dh) consultation, assistance, instigation or public call for the commission of each of the offences defined above, shall be punishable by five up to ten years of imprisonment. If this offence is committed in the course of the exercise of a professional activity, in complicity or more than once, it shall be punishable by a term from seven up to fifteen years of imprisonment.

The same offence, if inflicting serious consequences, shall be punishable by not less than fifteen years of imprisonment.

The provisions of this article shall apply even if:

- a) the criminal offence whose proceeds are laundered, is committed by a person who cannot be taken as a defendant or cannot be sentenced;
- b) the prosecution for the criminal offence, the proceeds of which are laundered, is prescribed or given amnesty for;
- c) the person who commits laundering of proceeds is the same with the person who has committed the criminal offence, the proceeds of which are laundered;
- ç) The criminal offence whose proceeds are laundered, is committed by a person, notwithstanding his citizenship, out of the territory of the Republic of Albania and at the same time it is punishable both in the foreign state and in the Republic of Albania;

Awareness, purpose or motive required by the first paragraph of this article may be revealed from objective circumstances of the fact;

66. Albania provided the following statistics for 2013:

Offences	Cases investigated by the State Police			PROSECUTION OFFICE						District and Appeal Courts			
	Initiated by State Police	With information from other institutions or person	Referred by the State Police to the Prosecution Office	Cases Registered by Prosecution Office			Total of registered proceedings in Prosecution Office	Dismissed proceedings	Proceedings sent to Court	District Court		Appeal Courts	
				References by State Police	Complaints and references from other persons or subjects	Initiated by the prosecutor				No. of judged persons	No. of convicted persons	No. of judged persons	No. of convicted persons
Money laundering	34	51	85	71	14	2	128	36	8	31	15	5	5
Article 287	34	51	85	71	14	2	128	36	8	10 (3 jane per nenin 287/b)	7	5	5

(b) Observations on the implementation of the article

67. Article 287/a of the CC largely corresponds to the provision under review, except that it does not cover the purpose of helping any person who is involved in the commission of a predicate offence to evade the legal consequences of his or her action. Albania should adopt the necessary measures to criminalize money laundering when the purpose of the offence is to help any person who is involved in the commission of a predicate offence to evade the legal consequences of his or her action.

Subparagraph 1 (a) (ii) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(ii) *The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;*

(a) Summary of information relevant to reviewing the implementation of the article

68. The following article is relevant.

Article 287, subparagraph b, CC

Laundering of proceeds of criminal offence or criminal activity

Laundering of proceeds of criminal offence or criminal activity through:

a) The conversion or transfer of property, for the purpose of concealing or disguising the illicit origin of the property, knowing that such property is the proceeds of criminal offence or criminal activity;

b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of criminal offence or criminal activity;

c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of criminal offence or criminal activity;

ç) Commission of financial actions or divided transactions to avoid reporting according to the legislation on the prevention of money laundering;

d) Investment in economic or financial activities of money or objects, knowing that they are proceeds of criminal offence or criminal activity;

dh) consultation, assistance, instigation or public call for the commission of each of the offences defined above, shall be punishable by five up to ten years of imprisonment. If this offence is committed in the course of the exercise of a professional activity, in complicity or more than once, it shall be punishable by a term from seven up to fifteen years of imprisonment.

The same offence, if inflicting serious consequences, shall be punishable by not less than fifteen years of imprisonment.

The provisions of this article shall apply even if:

a) the criminal offence whose proceeds are laundered, is committed by a person who cannot be taken as a defendant or cannot be sentenced;

b) the prosecution for the criminal offence, the proceeds of which are laundered, is prescribed or given amnesty for;

c) the person who commits laundering of proceeds is the same with the person who has committed the criminal offence, the proceeds of which are laundered;

ç) The criminal offence whose proceeds are laundered, is committed by a person, notwithstanding his citizenship, out of the territory of the Republic of Albania and at the same time it is punishable both in the foreign state and in the Republic of Albania;

Awareness, purpose or motive required by the first paragraph of this article may be revealed from objective circumstances of the fact;

Article 287/a

Opening of the anonymous accounts

Opening of deposits or bank accounts, anonymously or with fictitious names, is punished by imprisonment of up to three years.

(b) Observations on the implementation of the article

69. The provision is legislatively implemented.

Subparagraph 1 (b) (i) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(a) Summary of information relevant to reviewing the implementation of the article

70. The following article is relevant:

Article 287, subparagraph c, CC

Laundering of proceeds of criminal offence or criminal activity

Laundering of proceeds of criminal offence or criminal activity through:

a) The conversion or transfer of property, for the purpose of concealing or disguising the illicit origin of the property, knowing that such property is the proceeds of criminal offence or criminal activity;

b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of criminal offence or criminal activity;

c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of criminal offence or criminal activity;

ç) Commission of financial actions or divided transactions to avoid reporting according to the legislation on the prevention of money laundering;

d) Investment in economic or financial activities of money or objects, knowing that they are proceeds of criminal offence or criminal activity;

dh) consultation, assistance, instigation or public call for the commission of each of the offences defined above, shall be punishable by five up to ten years of imprisonment. If this offence is committed in the course of the exercise of a professional activity, in complicity or more than once, it shall be punishable by a term from seven up to fifteen years of imprisonment.

The same offence, if inflicting serious consequences, shall be punishable by not less than fifteen years of imprisonment.

The provisions of this article shall apply even if:

a) the criminal offence whose proceeds are laundered, is committed by a person who cannot be taken as a defendant or cannot be sentenced;

b) the prosecution for the criminal offence, the proceeds of which are laundered, is prescribed or given amnesty for;

c) the person who commits laundering of proceeds is the same with the person who has committed the criminal offence, the proceeds of which are laundered;

ç) The criminal offence whose proceeds are laundered, is committed by a person, notwithstanding his citizenship, out of the territory of the Republic of Albania and at the same time it is punishable both in the foreign state and in the Republic of Albania;

Awareness, purpose or motive required by the first paragraph of this article may be revealed from objective circumstances of the fact;

Article 287/b

The appropriation of money or goods which derive from the criminal offence or criminal activity
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 or criminal activity, shall be punishable by six up to three years of imprisonment.

The first paragraph of this article is applied notwithstanding the legal prohibition regarding the criminal liability of the person who has committed the criminal offence, from which derives the appropriation of money or stolen good.

(b) Observations on the implementation of the article

71. The provision is legislatively implemented.

Subparagraph 1 (b) (ii) of article 23

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) Subject to the basic concepts of its legal system: ...

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

72. The following article is relevant.

Article 287, subparagraph dh, CC

Laundering of proceeds of criminal offence or criminal activity

Laundering of proceeds of criminal offence or criminal activity through:

a) The conversion or transfer of property, for the purpose of concealing or disguising the illicit origin of the property, knowing that such property is the proceeds of criminal offence or criminal activity;

b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of criminal offence or criminal activity;

c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of criminal offence or criminal activity;

ç) Commission of financial actions or divided transactions to avoid reporting according to the legislation on the prevention of money laundering;

d) Investment in economic or financial activities of money or objects, knowing that they are proceeds of criminal offence or criminal activity;

dh) consultation, assistance, instigation or public call for the commission of each of the offences

defined above, shall be punishable by five up to ten years of imprisonment. If this offence is committed in the course of the exercise of a professional activity, in complicity or more than once, it shall be punishable by a term from seven up to fifteen years of imprisonment.

The same offence, if inflicting serious consequences, shall be punishable by not less than fifteen years of imprisonment.

The provisions of this article shall apply even if:

- a) the criminal offence whose proceeds are laundered, is committed by a person who cannot be taken as a defendant or cannot be sentenced;
- b) the prosecution for the criminal offence, the proceeds of which are laundered, is prescribed or given amnesty for;
- c) the person who commits laundering of proceeds is the same with the person who has committed the criminal offence, the proceeds of which are laundered;
- ç) The criminal offence whose proceeds are laundered, is committed by a person, notwithstanding his citizenship, out of the territory of the Republic of Albania and at the same time it is punishable both in the foreign state and in the Republic of Albania;

Awareness, purpose or motive required by the first paragraph of this article may be revealed from objective circumstances of the fact;

Article 22

Meaning of attempt

A criminal act is considered an attempt when, although the person undertakes straightforward actions to commit such criminal act, it is discontinued or is not completed due to circumstances independent of his will.

Article 23

Responsibility for the attempt

The person attempting to commit a crime shall be held responsible.

Considering the stage until the realization of the consequence, as well as the causes due to which the crime remained an attempt, the court may mitigate the sentence, and may lower it under the minimum provided for by law, or may decide for a kind of punishment lower than the one provided for by law.

Article 25

Meaning of collaboration

Collaboration is the agreement of two or more persons to commit a criminal act.

Article 26

Collaborators

Collaborators in committing a criminal act are considered: the organizers, executors, instigators, and helpers.

Organizers are those persons who organize and manage the activity to commit the criminal act.

Executors are those persons who carry out direct actions to carry out the criminal act.

Instigators are those persons who instigate the other collaborators to commit a criminal act.

Helpers are those persons who, through advice, instructions, provision of means, abolition of obstacles, promises to hide collaborators, tracks or objects deriving from the criminal act, help to carry it out.

Article 27

Responsibility of collaborators

Organizers, instigators, and helpers bear the same responsibility as the executors for the criminal

act committed.

In deciding the sentencing of collaborators, the court should consider the level of participation and the role played by everyone in committing the criminal act.

(b) Observations on the implementation of the article

73. The CC adequately covers the attempt to commit money laundering as well as other ancillary offences (Attempt: Articles 22 and 23; Participation, conspiracy, aiding, abetting, facilitating and counselling: Articles 25, 26, 27 and 287/dh).

Subparagraphs 2 (a) and 2 (b) of article 23

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

74. In the Albanian context, predicate offences in principle involve all criminal offences included in the Criminal Code, thus fulfilling the Convention's requirement.

Article 287, CC

Laundering of proceeds of criminal offence or criminal activity

Laundering of proceeds of criminal offence or criminal activity through:

a) The conversion or transfer of property, for the purpose of concealing or disguising the illicit origin of the property, knowing that such property is the proceeds of criminal offence or criminal activity;

b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of criminal offence or criminal activity;

c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of criminal offence or criminal activity;

ç) Commission of financial actions or divided transactions to avoid reporting according to the legislation on the prevention of money laundering;

d) Investment in economic or financial activities of money or objects, knowing that they are proceeds of criminal offence or criminal activity;

dh) consultation, assistance, instigation or public call for the commission of each of the offences defined above, shall be punishable by five up to ten years of imprisonment. If this offence is committed in the course of the exercise of a professional activity, in complicity or more than once, it shall be punishable by a term from seven up to fifteen years of imprisonment.

The same offence, if inflicting serious consequences, shall be punishable by not less than fifteen years of imprisonment.

The provisions of this article shall apply even if:

a) the criminal offence whose proceeds are laundered, is committed by a person who cannot be taken as a defendant or cannot be sentenced;

- b) the prosecution for the criminal offence, the proceeds of which are laundered, is prescribed or given amnesty for;
- c) the person who commits laundering of proceeds is the same with the person who has committed the criminal offence, the proceeds of which are laundered;
- ç) The criminal offence whose proceeds are laundered, is committed by a person, notwithstanding his citizenship, out of the territory of the Republic of Albania and at the same time it is punishable both in the foreign state and in the Republic of Albania;
- Awareness, purpose or motive required by the first paragraph of this article may be revealed from objective circumstances of the fact;

75. Albania provided the following statistics related to the work of its FIU:

Breakdown of disseminated cases by predicate offences:

Predicate offence	2012	2013	2014
Un-defined	116	196	300
Trafficking of narcotics	30	18	50
Fraud/Forgery	16	17	20
Concealment of the incomes/ tax evasion	15	28	40
Corruption	9	7	7
Robbery/theft	5	2	10
Trafficking of motor vehicles	5	2	2
Trafficking of human beings /prostitution	4	4	9
Other criminal precedents	3	3	15
Murder			2
Non-declaration in border crossing points			4
Smuggling, production and sale of hazardous materials	2	1	
Criminal investigation for money laundering		2	
Suspicious for financing of terrorism		1	3
Establishment of criminal organizations		1	
Unlicensed currency exchange operations		1	
Total	205	283	462

(b) Observations on the implementation of the article

76. Albania has adopted an “all-crimes” approach to defining predicate offences (art. 287 of the CC). The provision is implemented.

Subparagraph 2 (c) of article 23

2. For purposes of implementing or applying paragraph 1 of this article: ...

(c) For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party

implementing or applying this article had it been committed there;

(a) Summary of information relevant to reviewing the implementation of the article

Article 287, subparagraph ç, CC

Laundering of proceeds of criminal offence or criminal activity

Laundering of proceeds of criminal offence or criminal activity through:

a) The conversion or transfer of property, for the purpose of concealing or disguising the illicit origin of the property, knowing that such property is the proceeds of criminal offence or criminal activity;

b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of criminal offence or criminal activity;

c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of criminal offence or criminal activity;

ç) Commission of financial actions or divided transactions to avoid reporting according to the legislation on the prevention of money laundering;

d) Investment in economic or financial activities of money or objects, knowing that they are proceeds of criminal offence or criminal activity;

dh) consultation, assistance, instigation or public call for the commission of each of the offences defined above, shall be punishable by five up to ten years of imprisonment. If this offence is committed in the course of the exercise of a professional activity, in complicity or more than once, it shall be punishable by a term from seven up to fifteen years of imprisonment.

The same offence, if inflicting serious consequences, shall be punishable by not less than fifteen years of imprisonment.

The provisions of this article shall apply even if:

a) the criminal offence whose proceeds are laundered, is committed by a person who cannot be taken as a defendant or cannot be sentenced;

b) the prosecution for the criminal offence, the proceeds of which are laundered, is prescribed or given amnesty for;

c) the person who commits laundering of proceeds is the same with the person who has committed the criminal offence, the proceeds of which are laundered;

ç) The criminal offence whose proceeds are laundered, is committed by a person, notwithstanding his citizenship, out of the territory of the Republic of Albania and at the same time it is punishable both in the foreign State and in the Republic of Albania;

Awareness, purpose or motive required by the first paragraph of this article may be revealed from objective circumstances of the fact;

(b) Observations on the implementation of the article

77. The provision is implemented. Predicate offences include offences committed both within and outside the jurisdiction of Albania provided that the dual criminality condition is met.

Subparagraph 2 (d) of article 23

2. For purposes of implementing or applying paragraph 1 of this article: ...

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United

Nations;

(a) Summary of information relevant to reviewing the implementation of the article

78. Albania furnished copies of its laws to the United Nations on 5 October 2015.

(b) Observations on the implementation of the article

79. The provision under review is implemented.

Subparagraph 2 (e) of article 23

2. For purposes of implementing or applying paragraph 1 of this article: ...

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence.

(a) Summary of information relevant to reviewing the implementation of the article

80. Albania indicated that its domestic system does not contain fundamental principles as referred to in the provision.

(b) Observations on the implementation of the article

81. The provision under review is implemented. Article 287 of the CC explicitly criminalizes self-laundering.

Article 24. Concealment

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

82. Beyond the relevant articles of the CC, Albania has also approved Law Nr. 9917 dated 19 May 2008, which further addresses the prevention of money laundering and proper steps to be taken against it.

Article 26 CC

Collaborators

Collaborators in committing a criminal act are considered: the organizers, executors, instigators,

and helpers.

Organizers are those persons who organize and manage the activity to commit the criminal act.

Executors are those persons who carry out direct actions to carry out the criminal act.

Instigators are those persons who instigate the other collaborators to commit a criminal act.

Helpers are those persons who, through advice, instructions, provision of means, abolition of obstacles, promises to hide collaborators, tracks or objects deriving from the criminal act, help to carry it out.

Article 320, CC

Preventing the enforcement of court decisions

Hiding, altering, using, damaging or destroying the possessions which have been the subject of a court decision, or carrying out other acts with the intent to not execute or impede the enforcement of the court's decision, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 287, CC

Laundering of proceeds of criminal offence or criminal activity

Laundering of proceeds of criminal offence or criminal activity through:

- a) The conversion or transfer of property, for the purpose of concealing or disguising the illicit origin of the property, knowing that such property is the proceeds of criminal offence or criminal activity;
- b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of criminal offence or criminal activity;
- c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of criminal offence or criminal activity;
- ç) Commission of financial actions or divided transactions to avoid reporting according to the legislation on the prevention of money laundering;
- d) Investment in economic or financial activities of money or objects, knowing that they are proceeds of criminal offence or criminal activity;
- dh) consultation, assistance, instigation or public call for the commission of each of the offences defined above, shall be punishable by five up to ten years of imprisonment. If this offence is committed in the course of the exercise of a professional activity, in complicity or more than once, it shall be punishable by a term from seven up to fifteen years of imprisonment.

The same offence, if inflicting serious consequences, shall be punishable by not less than fifteen years of imprisonment.

The provisions of this article shall apply even if:

- a) the criminal offence whose proceeds are laundered, is committed by a person who cannot be taken as a defendant or cannot be sentenced;
- b) the prosecution for the criminal offence, the proceeds of which are laundered, is prescribed or given amnesty for;
- c) the person who commits laundering of proceeds is the same with the person who has committed the criminal offence, the proceeds of which are laundered;
- ç) The criminal offence whose proceeds are laundered, is committed by a person, notwithstanding his citizenship, out of the territory of the Republic of Albania and at the same time it is punishable both in the foreign state and in the Republic of Albania;

Article 38, Law 9049 dated 10 April 2003 Assets Obtained by Hiding Fiscal Obligations

Making a False Declaration

Declarations and all documents that accompany them are official documents. Submitting false data in them constitutes a criminal act and is punished according to the legislation in force.

(b) Observations on the implementation of the article

83. Concealment of proceeds of crime is not established as a separate offence; however, the offender can be prosecuted pursuant to article 26 of the CC (collaborators) or to article 287/b of the CC (money laundering).

Article 25. Obstruction of justice

Subparagraph (a) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

84. The following articles of the CC are relevant.

Article 312

Active corruption of the witness, expert or interpreter

Direct or indirect proposal, offer, or giving to a witness, expert or translator any irregular benefit for himself or a third party in order to secure false declarations or testimony, expertise or translation or to reject carrying out their obligation to the criminal prosecution bodies and the court is punished with a prison term of up to four years.

Article 312/a

Intimidation to issue false statements, testimonies, expertise or interpretation

Intimidation or other violent acts to a person to secure false declarations or testimony, expertise or translation or to reject carrying out their obligation to the criminal prosecution bodies and the court is punished with a prison term of one up to four years.

(b) Observations on the implementation of the article

85. The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage is criminalized pursuant to articles 312 and 312/a of the CC when the purpose is to induce false testimony or to interfere in the giving of testimony, but not when the purpose is to interfere in the production of evidence.
86. Albania should adopt the necessary measures to establish as an offence the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to interfere in the production of evidence in a proceeding in relation to the commission of offences established in accordance with the Convention.

Subparagraph (b) of article 25

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

...

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

(a) Summary of information relevant to reviewing the implementation of the article

87. The following articles of the CC are relevant.

Article 237

Assault [to an official] on duty

Assault or other violent acts committed toward an official acting in the execution of a state duty or public service, because of his state activity or service, are punishable by a fine or up to three years of imprisonment.

Article 238

Threatening [a public official] on duty

Serious threat of assassination or critical injury toward an official acting in the execution of a State duty or public service, because of his State activity or service, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 243

Assaulting family members of a person acting in exercise of his State duty

Assault or other violent acts committed toward the family member of a person acting in the exercise of his State duty or public service, with the intent of preventing the fulfilment of the duty or service, or which is related to this activity, is punishable by a fine or up to five years of imprisonment.

Article 301 Obstruction of justice

Committing actions to change the scene where a criminal act was committed by spoiling, changing or removing traces or by moving, hiding, annihilating, stealing, falsifying an item or document with the intent of increasing the difficulty on preventing the discovery of a criminal act and its perpetrator, is punishable by a fine or up to three years of imprisonment.

Article 311 Intimidation not to refer

Intimidation made to the aggrieved from the criminal act, in order for him not to report the act or not to complain or to withdraw the report or complaint made, and is punishable by imprisonment from one up to four years.

Article 316

Opposing and assaulting a judge

Violently opposing, assaulting or committing other violent acts against a judge or other members of the trial panel, a prosecutor, defence lawyer, experts, any arbitrator assigned to a case, with the intent to prevent him from carrying out his duty or because of it, is punishable by a fine or up to seven years of imprisonment.

Article 317 Threat to a judge

A threat to a judge, other members of trial panel, prosecutor, defence lawyer, experts, or every arbitrator assigned to a case because of their activity, is punishable by a fine or up to three years of imprisonment.

(b) Observations on the implementation of the article

88. The Criminal Code, in particular Articles 237, 238, 316 and 317 address threats and the use of force against public and judicial officers to interfere with the exercise of their official duties.

Article 26. Liability of legal persons

Paragraphs 1 and 2 of article 26

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

(a) Summary of information relevant to reviewing the implementation of the article

89. The following articles are relevant:

Law No. 9754, dated 14.06.2007 “On the Criminal liability of legal persons”

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 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.

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.

Article 45, CC

The Application of the criminal law on legal persons/entities

The legal persons, with the exception of the State, are criminally responsible for criminal acts performed by their bodies or representatives on their behalf or for their benefit.

The local government entities are criminally responsible only for the actions performed during the exercise of their activity that may be exercised by the delegating public services.

The criminal responsibility of the legal persons does not exclude that of the physical persons that have committed criminal acts or are collaborators for the committal of the same criminal acts.

The criminal acts and the sanctioning measures taken against the legal entities, as well as the procedures for the approval and application of these measures are regulated by a special law.

Article 61, CPC

Civil lawsuit in criminal proceedings

1. One who has suffered material injury by the criminal offence or his heirs may file a civil lawsuit in the criminal proceedings against the defendant or the person liable to pay damages (defendant), claiming the restitution of the property and reimbursement of the injury.

Law 9917 dated 19.05.2008 “on the prevention of money laundering and financing of terrorism”

Article 2 (Definitions), Law No. 9917, "On the Prevention of Money Laundering and Financing of Terrorism", as amended

22. “Person” within the meaning of this law are individuals, natural persons and legal persons.

Article 26

Revocation of the license

1. The responsible authority may request the licensing/supervisory authority to restrain, suspend or revoke the license of an entity:

- a) when it ascertains or has facts to believe that the entity has been involved in money laundering or terrorism financing;

(b) Observations on the implementation of the article

90. The Criminal Code (Article 45) and the Law No. 9754, dated 14.06.2007 "On the Criminal Liability of Legal Persons" provide for the criminal liability of legal persons for criminal acts performed by their bodies or representatives on their behalf or for their benefit. Civil liability of legal persons can also be recognised pursuant to article 61 of the CPC (Civil lawsuit in criminal proceedings) while criminal and administrative liability, in money laundering cases, can be recognized pursuant to articles 2 and 26 of the AML/CFT Law.

Paragraph 3 of article 26

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

(a) Summary of information relevant to reviewing the implementation of the article

Article 45, CC

The Application of the criminal law on legal persons/entities

The legal persons, with the exception of the state, are criminally responsible for criminal acts performed by their bodies or representatives on their behalf or for their benefit.

The local government entities are criminally responsible only for the actions performed during the exercise of their activity that may be exercised by the delegating public services.

The criminal responsibility of the legal persons does not exclude that of the physical persons that have committed criminal acts or are collaborators for the committal of the same criminal acts.

The criminal acts and the sanctioning measures taken against the legal entities, as well as the procedures for the approval and application of these measures are regulated by a special law.

(b) Observations on the implementation of the article

91. The provision appears to be legislatively implemented. The criminal liability of legal persons pursuant to article 45 of the CC does not preclude the criminal liability of the natural persons who have committed the offences.

Paragraph 4 of article 26

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions

(a) Summary of information relevant to reviewing the implementation of the article

Law No. 9754, dated 14.06.2007 "On the Criminal liability of legal persons"

Article 27, Law 9917 dated 19.05.2008 Administrative sanctions

(b) Observations on the implementation of the article

92. Albanian legislation, in particular articles 8 to 13 of the Law No. 9754 "On the Criminal

liability of legal persons”, subjects legal persons held liable to adequate sanctions, including fines, termination of the legal person, and closure of one or more activities or legal entity structures.

Article 27. Participation and attempt

Paragraph 1 of article 27

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Article 25, CC

Meaning of collaboration

Collaboration is the agreement of two or more persons to commit a criminal act.

Article 26, CC Collaborators

Collaborators in committing a criminal act are considered: the organizers, executors, instigators, and helpers.

Organizers are those persons who organize and manage the activity to commit the criminal act. Executors are those persons who carry out direct actions to carry out the criminal act. Instigators are those persons who instigate the other collaborators to commit a criminal act. Helpers are those persons who, through advice, instructions, provision of means, abolition of obstacles, promises to hide collaborators, tracks or objects deriving from the criminal act, help to carry it out.

Article 27, CC

Responsibility of collaborators

Organizers, instigators, and helpers bear the same responsibility as the executors for the criminal act committed.

In deciding the sentencing of collaborators, the court should consider the level of participation and the role played by everyone in committing the criminal act.

(b) Observations on the implementation of the article

93. The provision is legislatively implemented. Ancillary offences are adequately covered pursuant to the general provisions of the Criminal Code (Articles 25, 26, 27).

Paragraph 2 of article 27

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Article 1

Criminal Law and classification of criminal acts

Criminal law defines the criminal acts, the sentencing and other measures taken against the persons who committed them.

Criminal acts are classified into crimes and contraventions. The distinction between them is made in the provisions of the Special Part of the present Code.

Article 32

Imprisonment

The imprisonment sentence for crimes ranges from five days to thirty -five years.

The imprisonment sentences for criminal contravention ranges from five days to two years.

Article 22, CC Meaning of attempt

A criminal act is considered an attempt when, although the person undertakes straightforward actions to commit such criminal act, it is discontinued or is not completed due to circumstances independent of his will.

Article 23, CC Responsibility for the attempt

The person attempting to commit a crime shall be held responsible.

Considering the stage until the realization of the consequence, as well as the causes due to which the crime remained an attempt, the court may mitigate the sentence, and may lower it under the minimum provided for by law, or may decide for a kind of punishment lower than the one provided for by law.

(b) Observations on the implementation of the article

94. The Criminal Code regulates attempt (arts. 22-23). While the attempt of any crime is criminalized, attempted contraventions are not. All offences covered by the Convention and criminalized in Albania, with the exception of "Threatening a public official on duty" (art. 238 CC) can be sentenced to more than two years imprisonment and fall under the category of crimes. This makes their attempt criminalized.

Paragraph 3 of article 27

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Article 22, CC Meaning of attempt

A criminal act is considered an attempt when, although the person undertakes straightforward actions to commit such criminal act, it is discontinued or is not completed due to circumstances independent of his will.

Article 23, CC Responsibility for the attempt

The person attempting to commit a crime shall be held responsible.

Considering the stage until the realization of the consequence, as well as the causes due to which the crime remained an attempt, the court may mitigate the sentence, and may lower it under the minimum provided for by law, or may decide for a kind of punishment lower than the one provided for by law.

Article 24, CC Giving up the committal of a criminal act

A person bears no criminal responsibility if, on his own will and in a definite way, he declines to commit a criminal act, despite the opportunities he may have for committing the act.

In the case that the actions committed up to that time contain elements of another criminal act, the person shall be held responsible for the acts committed.

(b) Observations on the implementation of the article

95. Albania has not criminalized the preparation of an offence.

Article 29. Statute of limitations

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

(a) Summary of information relevant to reviewing the implementation of the article

Article 66, CC

Prescription Statute of limitations for criminal prosecution

Criminal prosecution shall not be conducted if; from the moment the act was committed until the moment that the person is held defendant, have elapsed:

- a) twenty years on crimes for which the law provides sentences of no lower than ten years of imprisonment or other heavier punishment.
- b) ten years on crimes for which the law provides sentences between five and ten years of imprisonment;
- c) five years on crimes for which the law provides sentences up to five years of imprisonment or fine;
- ç) three years for criminal contraventions for which the law provides sentences up to two years of imprisonment;
- d) two years for criminal contraventions for which the law provides fines.

(b) Observations on the implementation of the article

96. Article 66 of the CC foresees a statute of limitations ranging from five to twenty years for crimes, and two or three years for contraventions, starting from the date of the commission of the offence.

97. The statute of limitations for all offences covered by the Convention and criminalized in Albania ranges from five to twenty years, with the exception of "Threatening a public official on duty" (art. 238 CC) for which the statute of limitations is two years.

98. A longer statute of limitations or the suspension of the statute of limitations where the alleged offender has evaded the administration of justice do not appear to be covered. Albania should establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

Article 30. Prosecution, adjudication and sanctions

Paragraph 1 of article 30

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.

(a) Summary of information relevant to reviewing the implementation of the article

99. The following information was provided by Albania.

100. Criminal provisions which provide for defined corruption-related behaviours as criminal action also provide relevant sanctions for their performance. Concerning the criminal offenses, the sentence is much more severe for passive corruption offenses. Comparing subjects of criminal offenses, the sentence is in descending order from heavy to light for

-high State officials or local elected officials

-persons who carry out public duties

-persons who exercise managerial functions in commercial companies or any position in private sectors

101. Chapter V of General Part of the CC also provides supplementary punishments for persons who have committed crimes, such as articles 35 of the CC on the removal of the right to exercise public functions, or article 40 on the deprivation of the right to hold leading positions.

102. Chapter VII of the CC provides alternatives to imprisonment which are given on specific legal conditions.

CHAPTER V, CC PUNISHMENTS Article 29

Principal punishments

The following punishments shall apply to persons that have committed crimes:

1. Life imprisonment;
2. Imprisonment;
3. Fine.

A person who has committed a criminal contravention shall suffer the following principal punishments:

1. Imprisonment;
2. Fine.

Sentence with imprisonment or fine are given together, when provided in the respective provisions

of this Code.

Article 30

Supplementary punishments

Besides the principal punishment, a person who has committed crimes or criminal contravention may also be punishable by one or some of the following supplemental punishments:

1. Denial of the right to exercise public functions;
2. Confiscation of criminal crime committal means and criminal crime 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 in one or some administrative units;
8. Expulsion from the territory;
9. Compulsion to make the court sentence public.

In particular cases, when the principal punishment is deemed to be inappropriate and when the law provides for imprisonment up to three years or other lighter punishments, the court may decide to apply only the supplementary punishment.

10. Loss of parental liability.

Article 31

Life imprisonment

The court decides for life imprisonment when a serious crime has been committed.

Life imprisonment is not applied to persons younger than eighteen years old, at the time when the crime is committed, or to women.

Article 32 Imprisonment

The imprisonment sentence for crimes ranges from five days to thirty-five years.

The imprisonment sentences for criminal contravention ranges from five days to two years.

Article 33

The manner of serving life imprisonment and imprisonment

Life imprisonment and imprisonment are served at special institutions set up specifically for this purpose.

The rules concerning the manner of serving the sentence of imprisonment, and the prisoner's rights and duties are defined by law.

Juveniles serve imprisonment sentences in separate institutions from adults. Women serve imprisonment sentences in separate institutions from men.

Article 34

Fines

Fine consists of paying to the state an amount of money within the range provided for by law.

Fines are imposed upon persons who commit crimes or criminal contraventions. Persons who commit crimes are fined in the range of 100 000 up to ten million Lek.

Persons who commit contraventions are fined in the range of 50 000 up to three million Lek. For the persons who commit crimes for motives of gaining property or securing any other kind of material benefit the Court shall decide, pursuant to article 36 of this Code, to confiscate the means of the commission of the criminal offence and the proceeds of the criminal offence or, in their absence, a punishment by a fine ranging from 100 thousand up to 5 million Lek.

The court imposes the punishment to payment of a fine after investigating the payable ability of the

person. The payable ability is determined by the personal and property status of the person and also by other circumstances related to them. The fine must be paid within the deadline fixed by the court.

The court, while considering the economic status of the defendant, may allow him to pay his fine by instalments, fixing their amount and the terms of the payment.

When the convicted defendant does not pay the fine and fine cannot be collected through imposition, the court decides to convert fines to sentence by imprisonment calculating it 5 thousands ALL for a day imprisonment.

When the convicted defendant cannot pay the fine in due time without his/her fault and if the criteria, which determine the fine, have been changed after the taking of the decision and do not justify obviously the payment of the fine, then the convicted defendant can request:

a) postponement of payment deadline up to six months; b) accomplishment of a work of public interest.

Whether the court orders the accomplishment of a public interest work, the rules under Article 63 of the Penal Code are applied. If the fine is not paid even after the postponement of the deadline, or if the convicted defendant doesn't carry out the work of public interest, the court decides to convert the fine to sentence by imprisonment.

When the fine is not paid in due time, the court decides on replacing the fine with imprisonment, calculating 5 000 Lek per one day of imprisonment.

When the fine is imposed for a crime committed, its replacement with imprisonment cannot exceed three years, whereas when is imposed for a criminal contravention, the replacement cannot exceed one year of imprisonment, but always without exceeding the maximum of imprisonment provided for by the relevant provision. If penal provisions don't prescribe the sentence by imprisonment, the maximum imprisonment punishment imposed is six months. When the person convicted, as above, pays off his fine during the imprisonment term, the court revokes its sentence and makes the calculations according to paragraph 8 of this Article.

Article 35

The removal of the right to exercise public functions

The removal of the right to exercise public functions for a period of no less than five years is obligatorily given on a person, who has committed an office-related crime by abusing with his public function, or has committed a crime, which the courts punishes with an imprisonment sentence of no less than ten years.

The removal of the right to exercise public functions can be applied for a period from three to five years for cases, on which the court has given a sentence of five to ten years of imprisonment, and from one to three years, when the sentence given is up to three years of imprisonment.

Article 36

Confiscation of means for committing the criminal crime and criminal crime proceeds

1. Confiscation is given necessarily by the court and has to do with reception and transfer in the state's favor:

a) of the objects that have served or are specified as means for committing the criminal act;

b) of criminal act proceeds, where it 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 from the criminal act committal;

c) of the promised or given remuneration for committing the criminal act; ç) of any other asset, whose value corresponds to the criminal act proceeds;

d) of objects, whose production, use, holding or their alienation make a criminal act crime, and when the sentence decision is not given;

2. If the criminal act's proceeds are transformed or partly or fully converted into other assets, the

latter is subject to confiscation;

3. If criminal act's proceeds are merged with assets gained legally, the latter are confiscated up to the value of the criminal act proceeds;

4. Subject to confiscation are also other incomes or profits from the criminal act proceeds, from assets that are transformed or altered to criminal act proceeds, or from assets with which these proceeds are involved, in the same amount and manner as the criminal act proceeds.

Article 37

Ban on driving

Ban on driving is imposed by the court for a period within the range of one to five years, toward persons who have committed a criminal act, when it is deemed that it will have a preventive effect or is linked to the nature of the act committed.

Article 38

Stripping decorations and honorary titles

A person is stripped of decorations and honorary titles if he commits a criminal act punishable by imprisonment and it is deemed that maintaining them does not comply with the nature of the criminal act committed.

Stripping decorations and honorary titles shall be permanent if the person is sentenced for a crime for more than ten years of imprisonment, and shall last from one to five years, if he is sentenced up to ten years of imprisonment.

Article 39

Deprivation of the right to exercise a profession or activity

The deprivation of the right to exercise a profession or conduct an activity prohibits the convicted person from exercising the profession or activity for which a special permit, certificate, authorisation or licence has been issued from the competent body.

Deprivation of the right to exercise a profession or conduct an activity shall be imposed from one month to five years and is a result of any sentence for criminal offences committed by abusing such exercise, or when it is estimated that the further exercising of the activity or profession violates the juridical relation which the actual criminal offence aims to protect.

Article 40

Deprivation of the right to hold leading positions

Deprivation of the right to hold leading positions within the context of legal persons denies the convicted the right to exercise the duty of director, administrator, manager, liquidator, or perform any other duty relevant to the qualification of the representative of a legal person. Deprivation of the right to hold leading positions within the context of a legal person is a result of any punishment for criminal acts and is provided for a period of time ranging from one month to five years, when the convicted has abused his authority or has acted in violation of the rules and regulations related to his duty.

When the sentence given by the court is no less than five year imprisonment, this right could be removed for a period of five to ten years.

Article 41

Denial of the right to stay in one or more administrative units

The denial of the right to stay in one or more administrative units is decided by the court for a period of time ranging from one to five years, when it is deemed that the convicted stay in those areas constitutes a danger for the public security.

Article 42

Expulsion from the territory

Expulsion from the territory of the Republic of Albania is decided by the court toward a foreign citizen or person without nationality who commits a crime and it is deemed that his further stay in the territory of the Republic of Albania should no longer continue.

The court may revoke the decision through the request of the convicted, when the foreign citizen or the person without nationality gains Albanian citizenship.

Article 43

Publication of court sentences

The court decides the publication of the court sentence when it deems that the disclosure of the content of the sentence interests legal and physical persons.

The publication of the court sentence consists of compelling the convicted to publish the court decision, at his own expenses, in one or some newspapers or RTV stations, in its entirety or partially, according to the ruling of the court.

The court decides the publication date and the length of time.

The press and mass media are obliged to publish the court sentences sent by the court. The publication of court sentences is not granted when the divulgence of a state secret is threatened, the private life of people is violated or public moral is afflicted.

Article 43/a

Loss of parental liability

Loss of parental liability is imposed by the court on the person who is exercising the parental liability, when he/she is convicted as an offender or co-offender in a criminal offense against the child or as co-offender with the child in commitment of a criminal offense”.

Article 44

The manner of serving supplementary punishments

If the court, in addition to the imprisonment punishment, gives one or more supplementary punishments provided for in Article 30 of this Code, their implementation commences simultaneously.

As for the paragraphs 1, 3, 5, 6, 7 and 8 of Article 30 of this Code, their implementation commences after the completion of imprisonment. The rights of the convicted afflicted by the supplementary punishments may not be enjoyed during the period of imprisonment.

Article 45

The Application of the criminal law on legal persons/entities

The legal persons, with the exception of the state, are criminally responsible for criminal acts performed by their bodies or representatives on their behalf or for their benefit.

The local government entities are criminally responsible only for the actions performed during the exercise of their activity that may be exercised by the delegating public services.

The criminal responsibility of the legal persons does not exclude that of the physical persons that have committed criminal acts or are collaborators for the committal of the same criminal acts.

The criminal acts and the sanctioning measures taken against the legal entities, as well as the procedures for the approval and application of these measures are regulated by a special law.

Article 46

Medical and educational sanctions

The court may decide medical sanctions toward mentally incapable persons who have committed criminal acts, whereas educational sanctions may be decided toward minors who are excluded from

punishment or, because of their age, do not bear criminal responsibility. Medical sanctions are the following:

1. Compulsory outpatient treatment medical treatment;
2. Compulsory medical treatment in a medical institution;

Educational sanction is the following:

1. Placement of a minor in an institution for education.

The court can revoke, at any time, the sentence of medical or educational sanctions if the circumstances under which they were taken cease to exist, but, in any case, the court is obliged to reconsider its decision after one year from the date of the court sentence.

The rules relevant to revoking the court sentence, which contain medical and educative sanctions, are provided for in the Code of Criminal Procedure.

Law 9917 dated 19.05.2008“on the prevention of money laundering and financing of terrorism”

Article 26

Revocation of the license

1. The responsible authority may request the licensing/supervisory authority to restrain, suspend or revoke the license of an entity:

a) when it ascertains or has facts to believe that the entity has been involved in money laundering or terrorism financing;

103. There have been several cases, as indicated in the statistics.

(b) Observations on the implementation of the article

104. Albania has established sanctions for offences established in accordance with the Convention that range from a fine up to twenty years' imprisonment, taking into account the gravity of the offence, in addition to accessory or supplementary penalties.

Paragraph 2 of article 30

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

105. Law No. 88/2012 For Some Changes In Law 8417, dated 21.10.1998 "Constitution Of The Republic Of Albania, amended" restricted the subjects' immunity as prescribed under the Constitution. Accordingly, for MPs, Constitutions Court judges, Supreme Court judges and other judges only an authorization is required for the detention or imprisonment of any form, or personal or dwelling control. Even in these cases, these subjects may be detained or arrested without authorization when they are arrested in *flagrante delicto* or after the commission of a crime.

106. The amendments to the Constitution regarding immunities also attest to the issue being addressed.

The Constitution

Article 73

1. A deputy does not bear responsibility for opinions expressed in the Assembly and votes given. This provision is not applicable in the case of defamation.
2. A deputy may not be arrested or deprived of liberty in any form or be subject to control over his person or apartment, without the authorization of the Assembly.
3. A deputy may be detained or arrested without authorization when he is apprehended during or immediately after the commission of a crime. In these cases, the General Prosecutor immediately notifies the Assembly, which, when it determines that the proceeding is misplaced, decides to lift the measure.
4. For issues contemplated in paragraphs 2 and 3, the Assembly may discuss in closed session, for reasons of data protection. The decision is taken by open voting.

Article 78

1. The Assembly decides with a majority of votes, in the presence of more than half of its members, except for the cases where the Constitution provides for a qualified majority.
2. Meetings of the deputies, which are convened without being called in accordance to the regulations, do not have any effect.

Article 90

1. The President of the Republic is not responsible for acts carried out in the exercise of his duty.
2. The President of the Republic may be discharged for serious violations of the Constitution and for the commission of a serious crime. In these cases, a proposal for the discharge of the President may be made by not less than one-fourth of the members of the Assembly and must be supported by not less than two-thirds of all its members.
3. The decision of the Assembly is sent to the Constitutional Court, which, when it verifies the guilt of the President of the Republic, declares his discharge from duty.

Article 126

The judge of the Constitutional Court shall enjoy immunity for opinions expressed and decisions taken in the exercise of his functions. The judge of the Constitutional Court may not be arrested or deprived of liberty in any form or be subject to control over his person or apartment, without the authorization of the court itself, unless caught committing or immediately after the commission of a crime. In this case, the General Prosecutor shall immediately inform the Constitutional Court. If the Constitutional Court does not give its

consent within 24 hours to send the arrested judge to court, the competent organ is obliged to release him.

Article 137

1. A judge of the High Court shall enjoy immunity for opinions expressed and decisions taken in the exercise of his functions.
2. A judge of the High Court may not be arrested or deprived of liberty in any form or be subject to control over his person or apartment, without the authorization of the Constitutional Court, unless caught committing or immediately after the commission of a crime. In this case, the General Prosecutor shall immediately inform the Constitutional Court. If the Constitutional Court does not give its consent within 24 hours to send the arrested judge to court, the competent organ is obliged to release him.
3. Judges have immunity for opinions expressed and decisions taken in the exercise of their judicial functions.
4. A judge may not be arrested or deprived of liberty in any form or be subject to control over his person or apartment, without the authorization of the High Council of Justice, unless caught committing or immediately after the commission of a crime. In this case, the General Prosecutor shall immediately inform the High Council of Justice, who may decide to lift the measure.

107. Relevant official inquiries or reports are as follows:

Immunities of Judges

http://www.parlament.al/web/pub/immunity_20of_20judges_20in_20albania_12311_1.pdf

Immunities discussed under PACA project

<http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/Albania/Technical%20Papers/1917-PACA-TP%2019%20IMMUNITIES-Sept%2711-final.pdf>

(b) Observations on the implementation of the article

108. The Constitution provides for the immunity of Members of the Parliament, the judges of the Constitutional Court and of the Supreme Court and other judges. They may not be arrested or deprived of liberty or be subject to control over their person or apartment, without authorization from the Assembly or from the relevant Judicial body, unless caught in *flagrante delicto* or immediately after the commission of a crime. According to Article 90, the President of the Republic may be discharged for serious violations of the Constitution and for the commission of a serious crime (which is not defined in the Constitution).

109. Authorities met during the country visit explained that ministers enjoy the same immunity as Members of the Parliament. They also explained that immunities are limited to search and arrest and do not cover the investigation.

Paragraph 3 of article 30

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

110. Authorities met during the country visit explained that Albania follows a system of mandatory prosecution and made reference to article 290 of the CPC.

Article 290, CPC

Circumstances that do not permit initiation of proceedings

1. The criminal prosecution may not commence and, if it has commenced, must be dismissed at any stage of the proceedings when:

- a) the person has died;
- b) the person is irresponsible or has not reached the criminal liability age;
- c) the complaint of the injured person is lacking or he withdraws it;
- ç) the act is not provided by law as a criminal offence or when it is clearly proved that the act does not exist;
- d) the criminal offence has ceased;
- dh) an amnesty has been issued;
- e) in all other cases provided by law.

(b) Observations on the implementation of the article

111. Albania follows a system of mandatory prosecution (art. 290 of the CPC). It was explained during the country visit that there is no discretion to initiate or exclude charges, other than as provided in article 290 CPC.

Paragraph 4 of article 30

4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

Constitution

Article 28

1. Everyone whose liberty has been taken away has the right to be notified immediately, in a language that he understands, of the reasons for this measure, as well as the accusation made against him. The person whose liberty has been taken away shall be informed that he has no

obligation to make a declaration and has the right to communicate immediately with a lawyer, and he shall also be given the possibility to realize his rights.

2. The person whose liberty has been taken away, according to article 27, paragraph 2, subparagraph c), must be sent within 48 hours before a judge, who shall decide upon his pre-trial detention or release not later than 48 hours from the moment he receives the documents for review.

3. A person in pre-trial detention has the right to appeal the judge's decision. He has the right to be tried within a reasonable period of time or to be released on bail pursuant to law.

4. In all other cases, the person whose liberty is taken away extra-judicially may address a judge at any time, who shall decide within 48 hours regarding the legality of this action.

5. Every person whose liberty was taken away pursuant to article 27, has the right to humane treatment and respect for his dignity.

Criminal Procedure Code

Article 227

Classification of personal remand orders

1. Personal remand orders are classified into coercive and prohibitive remand orders.

Article 228

Grounds for issuing personal remand orders

1. No one may be subjected to personal remand orders unless there is a reasonable suspicion against him, based on evidence.

2. No remand order may be enforced where there are grounds of exculpation or cessation of the criminal offence.

3. Personal remand orders are issued when:

a) there are important reasons which put into danger obtaining or truthfulness of evidence;

b) defendant has absconded or there is a danger that he may abscond;

c) due to the circumstances of the act and defendant's personality there is a danger that he may commit serious crimes or other similar criminal offences, with the one he is being prosecuted.

Article 232

Types of coercive remand orders

1. Coercive remand order are:

a) prohibition to leave the country;

b) obligation to appear before the judicial police;

c) prohibition and obligation to reside in a certain place;

ç) property security;

d) house arrest;

dh) remand in custody;

e) temporary hospitalisation in a psychiatric hospital.

Article 253

Detention of a suspect in a crime

1. When there are reasonable grounds to think that there is a danger of absconding, the prosecutor orders the detention of the person suspected of committed a crime, which the law prescribes an imprisonment sentence in maximum not less than two years.

2. Judicial police perform the detention *ex officio*, when it is not possible to wait for the order of the prosecutor because of the urgent situation.

Article 258

Application for evaluating the arrest or detention

1. When the prosecutor does not order the immediate release, within forty eight hours from the arrest or detention, applies for evaluation of the remand order to the court of the place where arrest or detention took place. Non-compliance with this time limit makes the arrest or detention void.
2. The court assigns the evaluation session as soon as possible, giving notice to the prosecutor and the defence counsel.

Article 260

Revocation and replacement of remand orders

1. Coercive and restraining remand orders are revoked immediately when it is proved that the grounds and criteria for their application are lacking.
2. When security needs are lowered or when the remand order applied does not match up to the importance of the fact or the sentence which may be issued, the court replaces the remand order with another lenient one.
3. When the security needs are elevated, the court on the application of the prosecutor replaces the applied remand order with a more severe one.
4. The application of the prosecutor or defendant for the revocation or replacement of the remand order is heard by the court within five days from its filing. When the case warrants, the court also decides *ex-officio* during pre-trial securing of evidence or during trial.

Article 266

Provisions in case of release from prison (pre-detention)

1. The court, when the requirements under which the pre-detention was ordered still exist, assigns against the defendant released from detention because of expiry of the time limits, other remand orders if there are the required conditions.
2. Pre-detention, when necessary, may be renewed:
 - a) When the defendant has intentionally breached the orders issued in connection with a remand order issued based on paragraph 1, but always when the security needs exist.
 - b) With the conviction, when the security needs provided for under article 228, paragraph 3 exists.
3. With the renewal of the pre-detention, the time limits start to run again but, for the purposes of determining the total pre-detention period, is taken into account the time served under the previous pre-detention.
4. Judicial police officers and agents may detain a defendant who, in breach of orders pursuant to a remand order issued based on paragraph 1, has fled. Provisions on detaining a person suspected of committing a criminal offence, to the extent they are consistent with, are applicable.

(b) Observations on the implementation of the article

112. The CPC (arts. 227 – 267) provides for appropriate measures, including prohibition to leave the country, obligation to appear before the judicial police, prohibition and obligation to reside in a certain place, and property security, ensuring that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

Paragraph 5 of article 30

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Procedure Code

Article 477 Conditional release

1. The court of the place of the execution orders the release on bail and revokes it, according to the criteria provided by the Criminal Code.
2. The request may not be renewed if six months have passed from the day the decision rejecting the request has become final.

Article 478 Release of prisoner

1. The court of the place of the execution may decide the release of the prisoner when the continuation of the imprisonment may threaten his life.

Article 479

Revocation of the decision because of abrogation of the criminal offence

1. In case of abrogation or constitutional unlawfulness of the criminal provision, the court revokes the sentence declaring that the fact is not provided as a criminal offence. The same way is acted in case of dismissal or acquittal because the criminal offence no longer exists.

Article 480 Other powers

1. In the stage of the execution, the court is competent to decide the termination of the criminal offence after the punishment, the termination of the punishment, the confiscation or the restitution of confiscated objects, as well as for any case provided by law.
2. In case is verified that the criminal offence or the punishment have no longer exist, the court declares this even ex-officio, taking the respective steps.

Criminal Code

Article 64

Early Release on parole

The prisoner could be released earlier on parole from serving the sentence only for specific reasons, if by his behavior and work he demonstrates that by the time served, the purpose of his education is fulfilled, and when he has spent:

- no less than half of punishment time given for criminal contraventions;
- no less than 2/3 of the punishment given for committing crimes punishable by imprisonment up to five years;
- no less than $\frac{3}{4}$ of the punishment for crimes punishable by imprisonment from five to twenty five years;

In the time spent in prison, the time reduced by amnesty or pardon is not counted.

It is not allowed to release early on parole a recidivist for crime committed with Intent as well as for persons sentenced for the criminal offences envisaged in articles 78/a, 79/a, 79/b, 79/c or the third paragraph of article 100.

Early release on parole is revoked by the court, when the convict sentenced for an intentionally committed crime, during parole period, commits another intentional criminal act; in this case, the provisions on unification of punishments shall be applied.

Article 65

[No title in the original]

A convicted serving life imprisonment is deprived of the right to release on parole.

Only in extraordinary circumstances may the convicted serving life imprisonment be released on parole, [and precisely when]:

He has served no less than twenty-five years of imprisonment and, during the period serving his

sentence, has had excellent behavior and it is deemed that the educational aim has been achieved.

(b) Observations on the implementation of the article

113. Early release is possible if a period ranging from half to three quarters of the prison sentence has been completed. The conditional release is ordered by the court.

Paragraph 6 of article 30

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

(a) Summary of information relevant to reviewing the implementation of the article

114. Suspension of Public employees is provided in the context of laws:

-Public servants -articles 54c of law 152/2013 regarding public servants

-article 29/3 of the law 9877 dated 18.2.2008 “On the organization of the judicial power”

“In the case when an authorization is granted for a judge for the initiation of criminal proceedings, he is suspended from duty until a final court decision.”

-Based on the provided Constitutional bodies, the end of mandates due to the conviction for a crime, there are expressly provided on the constitution in articles 71/2/dh, 127/1/a, 139/1/a. Removal from the office is also provided for in the context of law on public employees (article 65/4) and article 20/c of law 9877 dated 18.2.2008 2008 “On the organization of the judicial power”

Law 152/2013, On civil servants Article 54

Suspension by the law

1. The civil servant is suspended from the civil service in the cases:

a) appointed to a position provided for, by letters “b”, “c” and “g” of article 2 of this law, for the respective appointed period;

b) transferred to an international organization, foreign government or international institution in the interest of the institution or of the state, for the respective period;

c) when the court decides to suspend the civil servant as a preventive measure of exercising his duties of public services, under the applicable law;

ç) declared as disappeared by a final court decision, up until he shows up or up until a final court decision on the declaration of death intervenes;

d) registered to run as a candidate in the central or local elections, in accordance with the law, up until the end of the elections or termination of the mandate.

dh) in case of emerging of a continuous conflict of interest situation, which is properly and timely declared in accordance with the law on the prevention of the conflict of interest, up until the permanent transfer to another position in accordance with article 52 of this law occurs or up until

when the situation ceased to exist by the measures taken by the civil servant himself in accordance with the law.

e) attending the in depth training program in ASPA, for the period that follows the full-time program;

ë) in any other cases provided by the law;

2. In addition to the cases provided for by paragraph 1 of this article the civil servant of top-level management category is also suspended from the civil service for the period exercising as the steering bodies of the trade unions.

3. The suspension is declared when is received the reason of suspension from: a) the human resource unit of the institution where the civil servant is employed; b) DoPA, in the case of the TMC members.

Law 9887, on the organization of the judicial power

Criminal liability of judge

....3 In the case when an authorization is granted for a judge for the initiation of criminal proceedings, he suspended from duty until a final court decision.

Criminal Procedure Code

Article 240

Types of restraining orders

1. Restraining orders are:

a) suspension from carrying out a public duty or service;

b) temporary restraining from carrying out certain professional or business activities.

Article 241

Grounds of enforcement of restraining orders

1. Restraining orders may be enforced only when proceeding for criminal offences, which the law provides for an imprisonment sentence in maximum not less than one year.

Article 242

Suspension from carrying out a public duty or service

1. The court, with the decision which provides for suspension from carrying out a public duty or service, prohibits the defendant temporarily, wholly or in part, from activities connected to them.

2. This order is not applied against persons elected under election law.

(b) Observations on the implementation of the article

115. A public official accused of an offence, which the law provides for an imprisonment sentence in maximum not less than one year, may be suspended by the court, pursuant to article 241 of the CPC. This applies to all the offences covered by the Convention and criminalized in Albania. Other relevant provisions can be found in the Law on the organization of the judicial power and the Law on civil servants.

Subparagraph 7 (a) of article 30

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined

by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office;

(a) Summary of information relevant to reviewing the implementation of the article

The Constitution

Article 71

2. The mandate of the deputy ends or is invalid, as the case may be:
f. -- when he is convicted by a final court decision for commitment of a crime.

Article 127

1. The term of a judge of the Constitutional Court ends when he:
a. -- is sentenced with a final decision for commission of a crime;

Article 128

The judge of the Constitutional Court can be removed from office by the Assembly by two-thirds of all its members for violations of the Constitution, commission of a crime, mental or physical incapacity, acts and behavior that seriously discredit the position and reputation of a judge. The decision of the Assembly is reviewed by the Constitutional Court, which, upon verification of the existence of one of these grounds, declares the removal from duty of the member of the Constitutional Court.

Article 139

1. The term of a High Court judge ends when he:
a. -- is convicted of a crime with a final judicial decision;

Article 140

A judge of the High Court may be discharged by the Assembly with two-thirds of all its members for violation of the Constitution, commission of a crime, mental or physical incapacity, or acts and behavior that seriously discredit the position and image of a judge. The decision of the Assembly is reviewed by the Constitutional Court, which, upon verification of the existence of one of these grounds, declares his discharge from duty.

Article 147

6. A judge may be removed from office by the High Council of Justice for commission of a crime, mental or physical incapacity, acts and behavior that seriously discredit the position and image of a judge, or professional insufficiency. The judge has the right to complain against this decision to the High Court, which decides by joint colleges.

Article 149

2. The General Prosecutor may be discharged by the President of the Republic upon the proposal of the Assembly for violations of the Constitution or serious violations of the law during the exercise of his duties, for mental or physical incapacity, for acts and behavior that seriously discredit the reputation of the Prosecutor.
3. The other prosecutors are appointed and discharged by the President of the Republic upon the proposal of the General Prosecutor.

Criminal Code

Article 30

Supplementary punishments

Besides the principal punishment, a person who has committed crimes or criminal contravention may also be punishable by one or some of the following supplemental punishments:

1. Denial of the right to exercise public functions;
2. Confiscation of criminal crime committal means and criminal crime 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 in one or some administrative units;
8. Expulsion from the territory;
9. Compulsion to make the court sentence public.

In particular cases, when the principal punishment is deemed to be inappropriate and when the law provides for imprisonment up to three years or other lighter punishments, the court may decide to apply only the supplementary punishment.

10. Loss of parental liability.

Article 35

The removal of the right to exercise public functions

The removal of the right to exercise public functions for a period of no less than five years is obligatorily given on a person, who has committed an office-related crime by abusing with his public function, or has committed a crime, which the courts punishes with an imprisonment sentence of no less than ten years.

The removal of the right to exercise public functions can be applied for a period from three to five years for cases, on which the court has given a sentence of five to ten years of imprisonment, and from one to three years, when the sentence given is up to three years of imprisonment.

Article 39

Deprivation of the right to exercise a profession or activity

The deprivation of the right to exercise a profession or conduct an activity prohibits the convicted person from exercising the profession or activity for which a special permit, certificate, authorisation or licence has been issued from the competent body.

Deprivation of the right to exercise a profession or conduct an activity shall be imposed from one month to five years and is a result of any sentence for criminal offences committed by abusing such exercise, or when it is estimated that the further exercising of the activity or profession violates the juridical relation which the actual criminal offence aims to protect.

Law 152/2013, On civil servants

Article 21

General requirements to enter the civil service

1. The general requirements to enter the civil service are the following:

- a) Albanian citizenship
- b) full legal capacity to act,
- c) proficiency in the Albanian language, written and speaking;
- ç) appropriate health condition to carry out the respective duties;
- d) a clean criminal record whereby the aspirant has not been sentenced by a final court decision for a crime or for a criminal contravention committed by intention;
- dh) not having been dismissed from the civil service as a disciplinary sanction which has not been deleted in accordance with this law;

e) fulfilment of the specific criteria related to education, experience and others for the respective category, class, group and position.

Law “On Public Procurement” No. 9643 dated 20.11.2006,

Article 19/5 Termination of the function of the Public Procurement Commission member

1. The function of the Public Procurement Commission member terminates when:

b) he/she is convicted by a final court decision for carrying out a criminal offence;

(b) Observations on the implementation of the article

116. The provision is implemented. The Criminal Code contains the sanction of removal/disqualification from holding public office (arts. 30 and 35). Several provisions of the Constitution are also relevant.

Subparagraph 7 (b) of article 30

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

...

(b) Holding office in an enterprise owned in whole or in part by the State.

(a) Summary of information relevant to reviewing the implementation of the article

Criminal Code

Article 30

Supplementary punishments

Besides the principal punishment, a person who has committed crimes or criminal contravention may also be punishable by one or some of the following supplemental punishments:

1. Denial of the right to exercise public functions;
2. Confiscation of criminal crime committal means and criminal crime 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 in one or some administrative units;
8. Expulsion from the territory;
9. Compulsion to make the court sentence public.

In particular cases, when the principal punishment is deemed to be inappropriate and when the law provides for imprisonment up to three years or other lighter punishments, the court may decide to apply only the supplementary punishment.

10. Loss of parental liability.

Article 39

Deprivation of the right to exercise a profession or activity

The deprivation of the right to exercise a profession or conduct an activity prohibits the convicted person from exercising the profession or activity for which a special permit, certificate, authorisation or licence has been issued from the competent body.

Deprivation of the right to exercise a profession or conduct an activity shall be imposed from one month to five years and is a result of any sentence for criminal offences committed by abusing such exercise, or when it is estimated that the further exercising of the activity or profession violates the juridical relation which the actual criminal offence aims to protect.

Article 40

Deprivation of the right to hold leading positions

Deprivation of the right to hold leading positions within the context of legal persons denies the convicted the right to exercise the duty of director, administrator, manager, liquidator, or perform any other duty relevant to the qualification of the representative of a legal person. Deprivation of the right to hold leading positions within the context of a legal person is a result of any punishment for criminal acts and is provided for a period of time ranging from one month to five years, when the convicted has abused his authority or has acted in violation of the rules and regulations related to his duty.

When the sentence given by the court is no less than five year imprisonment, this right could be removed for a period of five to ten years.

(b) Observations on the implementation of the article

117. Albania does not explicitly provide for the disqualification from holding office in an enterprise owned in whole or in part by the State, although article 30, para. 6 of the CC could be used for the deprivation of the right to undertake leading positions in such enterprise. Albania should consider establishing procedures for the disqualification of persons convicted of offences established in accordance with the Convention from holding office in an enterprise owned in whole or in part by the State.

Paragraph 8 of article 30

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

(a) Summary of information relevant to reviewing the implementation of the article

Code of Administrative Procedures

Article 23

Preliminary Issues Settled by Other Bodies

1. If a final decision in an administrative proceeding is pending by a preliminary decision to be taken by another competent administrative body or court, the body which is competent to take the final decision suspends the respective proceeding until the preliminary decision is taken by the other administrative body or court. Exception from this rule is made only if the immediate non-making of the decision causes damages to the legal interests of the parties.

2. The suspension terminates by itself in the following cases:

a) the other decision is conditioned by the claim of the interested parties, and the latter do not submit it within 30 days or the administrative proceeding for the settlement of the preliminary issue has not taken place within 30 days, due to the fault of the interested party.

Law 152/2013, On civil servants

Article 54

Suspension by the law

1. The civil servant is suspended from the civil service in the cases:
 - a) appointed to a position provided for, by letters “b”, “c” and “g” of article 2 of this law, for the respective appointed period;
 - b) transferred to an international organization, foreign government or international institution in the interest of the institution or of the state, for the respective period;
 - c) when the court decides to suspend the civil servant as a preventive measure of exercising his duties of public services, under the applicable law;
 - ç) declared as disappeared by a final court decision, up until he shows up or up until a final court decision on the declaration of death intervenes;
 - d) registered to run as a candidate in the central or local elections, in accordance with the law, up until the end of the elections or termination of the mandate.
 - dh) in case of emerging of a continuous conflict of interest situation, which is properly and timely declared in accordance with the law on the prevention of the conflict of interest, up until the permanent transfer to another position in accordance with article 52 of this law occurs or up until when the situation ceased to exist by the measures taken by the civil servant himself in accordance with the law.
 - e) attending the in depth training program in ASPA, for the period that follows the full-time program;
 - ë) in any other cases provided by the law;
2. In addition to the cases provided for by paragraph 1 of this article the civil servant of top-level management category is also suspended from the civil service for the period exercising as the steering bodies of the trade unions.
3. The suspension is declared when is received the reason of suspension from: a) the human resource unit of the institution where the civil servant is employed; b) DoPA, in the case of the TMC members.

Article 58

Disciplinary liability and sanctions

1. The disciplinary sanctions applied to the civil servants are as follows:
 - a) reprimand;
 - b) withholding up to 1/3 of the remuneration for a period up to 6 months;
 - c) suspension of the right to any type of promotion, including in the salary step, for a period up to 2 (two) years;
 - ç) dismissal from the civil service

(b) Observations on the implementation of the article

118. Article 58 of the Law on civil servants provides for the disciplinary sanctions applied to civil servants. Both disciplinary and criminal sanctions can be imposed in corruption cases.

Paragraph 10 of article 30

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

119. The Albanian prison system strives to work towards the reintegration of prisoners, while there are also Institutes for Reintegration of Juveniles set up in Albania already (in Kavaja).

Article 483, CPC

Deleting entries (From the Criminal Record Book)

1. The notes in the register are cancelled after the reception of the official notification of the death of the person to whom belong the notes or when he reaches the age of eighty.
2. There shall also be cancelled the notes related to:
 - a) decisions revoked due to review or abrogation of the criminal offence;
 - b) the decisions of acquittal or dismissal on expiry of ten years from the date on which the decision has become final;
 - c) decisions of punishment for contraventions when a fine penalty is involved, on expiry of ten years from the day when the decision has been executed.

Article 69, CC

Rehabilitation of sentencing:

The following persons are deemed not convicted:

- a) those who are convicted with imprisonment sentences less than six months or with any other lighter sentence, who have not committed any other criminal act for two years since the [last] day of their served sentence.
- b) those who are convicted of imprisonment sentences ranging from six months up to five years and who have not committed other criminal act for five years since the [last] day of their served sentence
- c) those who are convicted of imprisonment sentences ranging from five to ten years and who have not committed any other criminal act for seven years since the [last] day of their served sentence.
- ç) those who are convicted of imprisonment sentences ranging from ten to twenty-five years and who have not committed any other criminal act for ten years since the [last] day of their served sentence.

120. Related to the communist regime criminal sentences:

- as per paragraph 1 of Article 483 of the CPC, notes in the register are cancelled if related to a decision of a court of the communist regime that sentences a person to death, related to politically ex-convicted or non-politically ex-convicted, as well as related to deceased politically or non-politically ex-convicted person.
- as per paragraph 2(a) of Article 483 of the CPC, notes in the register are also cancelled for any person that suffered a sentence during the communist regime for criminal offences but, based on Law no.7514, dated 30.09.1991, as amended by way of Law no.7660, dated 14.01.2013, Law no. 7719, dated 08.06.1993 “On innocence, amnesty and rehabilitation of ex-politically prosecuted persons”, were been found innocent and that under the new Criminal Code the deed does not constitute a criminal offences any longer.
- as per paragraph 2(b), notes are cancelled from the register in respect of former sentenced persons by a court of communist regime as part of putschist and saboteur groups of the army but were found innocent by the Supreme Court.

As per the above, once cancelled, the Criminal Record Department may not resume notes in the register for these persons if requested by their families in order to benefit from special treatment or advantageous offered by the State.

121. Finally, persons who favour from Article 69 of the CC regarding rehabilitation of their criminal sentence apply for purpose of cancelling notes from the Criminal Register as per this Article 483 of the CPC.

(b) Observations on the implementation of the article

122. Albania has Institutes for Reintegration of Juveniles; however, it does not have customized programs to promote the reintegration into society of persons convicted of corruption offences.
123. The reviewing experts encourage Albania to consider taking further measures to promote the reintegration into society of persons convicted of corruption offences. Albania provided the following additional

Article 31. Freezing, seizure and confiscation

Subparagraph 1 (a) of article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

(a) Summary of information relevant to reviewing the implementation of the article

124. Albania referred to the following provisions:

Article 36 , CC

Confiscation of means for committing the criminal crime and criminal crime proceeds

1. Confiscation is given necessarily by the court and has to do with reception and transfer in the state's favor:

- a) of the objects that have served or are specified as means for committing the criminal act;
 - b) of **criminal act proceeds**, where it 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 from the criminal act committal;
 - c) of the promised or given remuneration for committing the criminal act; ç) of **any other asset, whose value corresponds to the criminal act proceeds**;
 - d) of objects, whose production, use, holding or their alienation make a criminal act crime, and when the sentence decision is not given;
2. If the criminal act's proceeds are transformed or partly or fully converted into other assets, the latter is subject to confiscation;
3. If criminal act's proceeds are merged with assets gained legally, the latter are confiscated up to the value of the criminal act proceeds;
4. Subject to confiscation are also other incomes or profits from the criminal act proceeds, from

assets that are transformed or altered to criminal act proceeds, or from assets with which these proceeds are involved, in the same amount and manner as the criminal act proceeds.

Law 9917, dated 19.5.2008 On The Prevention Of Money Laundering And Funding Of Terrorism, 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 than 72 hours. In case of observing elements of a criminal offence, the Authority shall, by this time limit, file the case with the Prosecution Office by submitting also a copy of the order on transaction temporary freezing or on the account freezing, pursuant to this law, in addition to all the relevant documentation;
- k) maintain and administer all data and other legal documentation on the reports or any other kind of documentation received over 10 years from the date of receiving the information on the last transaction;
- l) provide its feedback on the reports presented by the entities to this authority;
- m) organize and participate, together with public and private institutions, in training activities related to money laundering and terrorism financing, as well as, organize or participate in programs aimed at raising public awareness;
- n) notify the relevant supervising authority when observing that an entity fails to comply with the obligations set forth in this law;
- o) publish by the first quarter of each year the annual public report for the previous year on the activity of the responsible authority. The report shall include detailed statistics on the origin of the received reports and the results of the cases referred to the prosecution.

(b) Observations on the implementation of the article

125. The provision under review is legislatively implemented, and no examples of implementation were provided.
126. Article 36 of the CC regulates the confiscation, upon criminal conviction, of proceeds of crime. It also covers value-based confiscation.
127. Authorities met during the country visit noted that non-conviction based forfeiture was only provided for in the Albanian Anti-mafia law (Law No. 10192 dated 03.12.2009 "On the Prevention and Fight against Organized Crime and Trafficking through Preventive Measures against Assets").

Subparagraph 1 (b) of article 31

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

...

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

128. Albania referred to the following provisions:

Article 36, CC

Confiscation of means for committing the criminal crime and criminal crime proceeds

1. Confiscation is given necessarily by the court and has to do with reception and transfer in the state's favor:

a) **of the objects that have served or are specified as means for committing the criminal act;**

b) of criminal act proceeds, where it 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 from the criminal act committal;

c) of the promised or given remuneration for committing the criminal act; ç) of any other asset, whose value corresponds to the criminal act proceeds;

d) of objects, whose production, use, holding or their alienation make a criminal act crime, and when the sentence decision is not given;

2. If the criminal act's proceeds are transformed or partly or fully converted into other assets, the latter is subject to confiscation;

3. If criminal act's proceeds are merged with assets gained legally, the latter are confiscated up to the value of the criminal act proceeds;

4. Subject to confiscation are also other incomes or profits from the criminal act proceeds, from assets that are transformed or altered to criminal act proceeds, or from assets with which these proceeds are involved, in the same amount and manner as the criminal act proceeds.

(b) Observations on the implementation of the article

129. The provision under review is legislatively implemented, and no examples of implementation were provided.

130. Article 36 of the CC regulates the confiscation, upon criminal conviction, of

instrumentalities used or destined for use in the commission of the offence.

Paragraph 2 of article 31

2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

(a) Summary of information relevant to reviewing the implementation of the article

131. Albania referred to the following provisions:

Law 9917, dated 19.5.2008 On The Prevention Of Money Laundering And Funding Of Terrorism, Article 22

Duties and functions of the responsible authority

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

- a) collects, manages, processes, analyzes and disseminates to the competent authorities, data, reports and information regarding cases of money laundering and terrorism financing.
- b) has access to databases and any information managed by the state institutions, as well as in any other public registry within the competencies of this law;
- c) for the purpose of preventing money laundering and terrorism financing, requests any kind of information from the entities subject to this law;
- ç) supervises the activity of the reporting subjects regarding compliance with the requirements of laws and bylaws on prevention of money laundering and financing of terrorism, including inspections, alone or in cooperation with the supervising authorities,
- d) exchanges information with any foreign counterpart, subjected to similar obligations of confidentiality. The information offered should be utilized only for the purposes of prevention and fighting of money laundering and financing of terrorism. The information may be disseminated only upon prior consent of the parties;
- dh) enter into agreements with any foreign counterpart, subjected to similar obligations of confidentiality.
- e) exchanges information with the General Prosecutor's Office, Ministry of Interior, State Police, State Information Service and other competent law enforcement authorities on cases of laundering of proceeds of crime or financing of terrorism and may sign bilateral or multilateral memoranda of cooperation with them.
- ë) it is informed about registered criminal proceedings for money laundering and financing of terrorism and the manner of their conclusion.
- f) may issue a list of countries in accordance with paragraph 5 of article 8 of this law, in order to limit and/or check the transactions or business relations of the entities with these countries;
- g) orders, when there are reasons based on facts and concrete circumstances for money laundering or financing of terrorism, the blocking or temporary freezing of the transaction or of the financial operation for a period not longer than 72 hours. If elements of a criminal offence are noted, the Authority shall, within this timeframe, present the denunciation to the Prosecution by submitting also a copy of the order for the temporary freezing of the transaction or of the account, according to this article as well as all the relevant documentation;**
- gj) maintains and administers all data and other legal documentation for 10 years from the date

- of receiving the information on the last transaction;
- h) presents its feedback on the reports that the entities have filed with this authority;
 - i) organizes and participates, together with public and private institutions, in training activities related to money laundering and terrorism financing, as well as, organizes or participates in programs aimed at raising public awareness;
 - j) notifies the relevant supervising authority when observing that an entity fails to comply with the obligations specified in this law;
 - k) publishes within the first quarter of each year the annual public report for the previous year, regarding the activity of the responsible authority. The report should include detailed statistics on the origin of the received reports and the results of the cases disseminated to the prosecution.
 - l) orders, when there are reasonable grounds for money laundering and financing of terrorism, the monitoring, during a certain period of time, of bank transactions that are being made through one or more specified accounts.
 - ll) periodically reviews the effectiveness and efficiency of the national systems for combating money laundering and financing of terrorism through statistics and other available information. To this effect the “Responsible Authority” requests statistics and data from subjects, supervisory authorities and other competent authorities with a responsibility for combating money laundering and the financing of terrorism, that as a minimum, shall include:
 - i) suspicious transaction reports including breakdown by reporting persons, analysis and dissemination;
 - ii) on-site supervisory examinations, sanctions imposed including breakdown by type, sector and amount;
 - iii) cases investigated, persons prosecuted and persons convicted;
 - iv) property frozen, seized or confiscated;
 - v) mutual legal assistance and other international requests for cooperation;

Criminal Procedure Code

Article 30

Judicial police functions

1. Judicial police must also *ex officio*, get notice of criminal offences, prevent further consequences, search for their authors, conduct investigations and gather everything that serves the application of the criminal law.
2. Judicial police conduct every investigative action that has been ordered or delegated by the prosecutor.
3. Functions provided for under paragraphs 1 and 2 are carried out by judicial police officers and agents.

CHAPTER III

MEANS OF SEARCHING FOR EVIDENCE

SECTION I EXAMINATIONS

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 poses no danger to his health.

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 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 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 208/a Seizure of computer based records

(Added by law no 10054 dated 29.12.2008, article 3)

1. In criminal proceedings involving crimes in the information technology field, the court shall decide, upon request of the prosecutor, to seize the computer-based records and the computer systems. The court shall set forth in this decision the right to access, request and take data from the computer, and prohibits any further actions or obtaining of the data or of the computer system.

2. When there is reasonable ground to believe that the required computer-based records are stored in another computer, or part of it, and they may be, in a lawful way, accessed from or made available from the first computer, which is being controlled, the court shall order, upon request of the prosecutor, an immediate search or access to the latter computer.

3. Following the court decision, the prosecutor or the judicial police officer delegated by the prosecutor, shall take measures to:

a) prevent further actions, or taking the computer, only a part of it, or another data storage device;

b) extract and receive copies of the computer-based records;

c) prohibit access to the computer-based records, or to remove these records from accessible computers;

ç) provide inviolability of the respective stored records.

4. The prosecutor may authorise calling a computer expert, or an expert in protection of computer-based records, to carry out these actions. The expert may not refuse this task for unreasonable cause.

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, CPC 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 274, CPC

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 208, CPC 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.

Albania provided the following statistics:

Money Laundering	Cases investigated by the State Police			PROSECUTION OFFICE		District and Appeal Courts			
	Initiated by State Police	With information from other institutions or person	Referred by the State Police to the Prosecution Office	References by State Police	Total of registered proceedings in Prosecution Office	District Court		Appeal Courts	
						No. of judged persons	No. of convicted persons	No. of judged persons	No. of convicted persons
Seizures result of implementation of Article 287 of Penal Code	85.000 Euro + 1.1 mil Euro	30.000 Euro	115.000 Euro + 1.1 mil Euro	1	1	21	8	0	0

TEMPORARY FREEZING: Statistical data from the FIU

During the period January-December of 2013, 15 freezing orders were issued with regard to funds and bank accounts suspected as being associated with illegal activities. The amount seized is 29,890,522.8 ALL, which constitutes 24.2% of the total amount frozen of approximately 123,433,898 ALL.

Years	No.of Freezing Orders	Total frozen in ALL	Total seized in ALL	% of seized frozen
2009	23	702,664,198	590,337,613	83.9
2010	23	181,589,247	132,983,006	66.5
2011	13	226,731,196	122,097,477	53.5
2012	8	181,589,247	160,434,099	88.3
2013	15	123,336,890	29,893,265	24.2
2014	65	2,545,726,400	1,955,487,800	76.8
TOTAL	147	3,961,637,178	2,991,233,260	75.5

Between January and September 2015, GDPML (the Albanian FIU) has issued 36 freezing orders for a total amount of 8,727,100 Euros. From this amount, 6,315,868 Euros is seized with court orders.

(b) Observations on the implementation of the article

132. The Criminal Procedure Code (mainly arts. 198-220) and the AML/CFT Law (mainly art. 22) provide a wide range of investigative measures available for the identification, tracing, freezing or seizure of criminal proceeds and instrumentalities.

Paragraph 3 of article 31

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

133. Albania indicated that the Agency for the Administration of Seized and Confiscated Assets³ exists and administers said properties. The Agency is established pursuant to Law No. 9284, dated 30.09.2004 "On the prevention and suppression of organized crime" and currently operates pursuant to Albania's Anti-mafia law (Law No. 10192, dated 03.12.2009 "On the Prevention and Fight against Organized Crime and Trafficking through Preventive Measures Against Assets").

134. From 2005 to July 2008, the Agency has worked as staffing structure within the Ministry of Finance. With the emergence of Decision No. 968, No. 02/07/2008, the Agency was reorganized into a budgetary institution under the Ministry of Finance.

³ <http://www.aapsk.gov.al/>

135. The Agency functions in application of the following laws:

Law 10192, dated 03.12.2009 "On the Prevention and Fight against Organized Crime and Trafficking through Preventive Measures against Assets" (Anti-mafia law)

Law 157/2013 "For The Financing of Terrorism Measures"

136. The following provisions are referred to.

Criminal Procedure Code

Article 190

Provisions on material evidence

1. The court or prosecutor in the final decision or in the decision dismissing the case decides what shall be done with the material evidence, ordering:
 - a) items that have served or designated as means for committing a criminal offence and items which constitute benefits gained from it or given or promised payment for its commission shall be acquired and transferred to the State, except in cases when they belong to persons who have not been involved in the commission of the criminal offence;
 - b) items, the maintenance or transfer of which is prohibited shall be delivered to the respective entities or destroyed;
 - c) items that have no value shall be destroyed;
 - d) other items are returned to the persons that they belong to and, when there is dispute on their ownership, shall be kept until the it is resolved by the court.
2. Material evidence may also be returned to the persons they belong to before the conclusion of the proceedings, provided it does not harm the solution of the case.

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.

(b) Observations on the implementation of the article

137. The CPC provide for some general measures to regulate frozen, seized and confiscated property; however, such measures do not seem enough to deal with perishable, depreciable and complex assets. Although Albania has established the Agency for the Administration of Seized and Confiscated Assets, the mandate of this agency is limited to assets related to the anti-mafia law.
138. It is recommended that Albania adopt additional measures to regulate the administration by the competent authorities of frozen, seized or confiscated property. It could consider, in this context, expanding the mandate of the Agency to matters not limited to organized crime.

Paragraphs 4, 5 and 6 of article 31

- 4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.*
- 5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.*
- 6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.*

(a) Summary of information relevant to reviewing the implementation of the article

139. Albania referred to the following provisions:

Article 36 , CC

Confiscation of means for committing the criminal crime and criminal crime proceeds

1. Confiscation is given necessarily by the court and has to do with reception and transfer in the state's favor:
 - a) of the objects that have served or are specified as means for committing the criminal act;
 - b) of criminal act proceeds, where it 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 act committal;

c) of the promised or given remuneration for committing the criminal act; ç) of any other asset, whose value corresponds to the criminal act proceeds;

d) of objects, whose production, use, holding or their alienation make a criminal act crime, and when the sentence decision is not given;

2. If the criminal act's proceeds are transformed or partly or fully converted into other assets, the latter is subject to confiscation;

3. If criminal act's proceeds are merged with assets gained legally, the latter are confiscated up to the value of the criminal act proceeds;

4. Subject to confiscation are also other incomes or profits from the criminal act proceeds, from assets that are transformed or altered to criminal act proceeds, or from assets with which these proceeds are involved, in the same amount and manner as the criminal act proceeds.

(b) Observations on the implementation of the article

140. The provision under review is legislatively implemented, and no examples of implementation were provided.

157. Article 36 of the CC provides for the confiscation of transformed, converted and intermingled criminal proceeds, in addition to income or other benefits derived from such proceeds.

Paragraph 7 of article 31

7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

141. Albania referred to the following provisions:

Article 210, CPC 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 274, CPC

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 208, CPC 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.

(b) Observations on the implementation of the article

142. The provision under review is legislatively implemented, and no examples of implementation were provided.
143. Articles 210 of the CPC empowers the court, and in urgent cases the prosecutor, to order the seizure of bank documents. Financial and commercial documents can also be seized based on article 208 of the CPC by a judge or a prosecutor

Paragraph 8 of article 31

8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

144. Albania referred to the following provisions:

Law 10192, dated 03.12.2009 on "The prevention and combating of organized crime and trafficking through preventive measures against assets", in Article 3, defines the scope of the law stating that

"1. The provisions of this law apply to the assets of persons, on which there is a reasonable suspicion, based on the indications for:

- a) participation in a criminal organization or structured criminal groups, according to the provisions of articles 333 and 333 / a of the Criminal Code and crimes committed by them; ...
- ç) committing crimes stipulated in Articles 109, 109 / b, 110 / A, 114 / b, 128 / b, 278 / A, 282 / A, 283, 283 / a and 284 / a of the Criminal Code.
- d) committing crimes for the purpose of acquiring illegal assets as provided in Articles 114 / a and 287 of the Criminal Code."

Law No. 24/2014 on some amendments and additions to Law No. 10192, dated 03.12.2009 on "The prevention and combating of organized crime and trafficking through preventive measures against assets" states that

The scope of the law become broader by including also offences prescribed by Articles 164/a,

244, 244/a, 245, 260, 312, 319 and 319/ç of the Penal Code. Furthermore, Article 21 of this law states that:

"The request for the confiscation of property and the burden of proof

1. The measure of confiscation is ordered at the request of the prosecutor, who presents the reasons to the court where the application is based.
2. The confiscation of property is requested and is applied also in cases where no measure of sequestration is placed and applied.
3. **The burden of proof to prove that the assets were acquired lawfully, belong to the person against whose property confiscation is required."**

(b) Observations on the implementation of the article

145. An offender can be required to demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, pursuant to the Law on "The prevention and combating of organized crime and trafficking through preventive measures against assets", for a number of offences covered by the Convention, namely: active corruption of persons exercising public functions; active and passive corruption of high State officials and local elected representatives; active and passive corruption of judges, prosecutors and of other justice officials; active corruption of foreign public employees; active corruption in the private sector; and active corruption of the witness, expert or interpreter.

Paragraph 9 of article 31

9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

146. Albania referred to the following provisions:

Article 274, CPC

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 208, CPC 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 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.

(b) Observations on the implementation of the article

147. The provision under review is legislatively implemented.

Article 32. Protection of witnesses, experts and victims

Paragraph 1 of article 32

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

(a) Summary of information relevant to reviewing the implementation of the article

148. Albania referred to the following provisions:

Law No. 10173 dated 22.10.2009 "Protection of witnesses and justice collaborators"

Article 2

The provisions of this law are applicable in the context of criminal proceedings for crimes committed intentionally, for which the law provides imprisonment of not less than 4 years, at minimum. The risk of these crimes and their perpetrators must be such as to justify the incurring of expenditure necessary for the protection of one or more persons.

Article 3

Definitions

In this law, the following terms have these meanings:

1. "Protection program" is the special, supporting and extraordinary measures applied by the Directorate for the Protection of Witnesses and Justice Collaborators, for the protection of the life and health of protected persons, under the conditions foreseen by this law.
2. "Justice witness" is a person, who, in the capacity of witness or aggrieved person, declares or testifies about facts and circumstances that constitute evidence in a criminal proceeding, and who is in a situation of danger, because of these declarations or testimony.

3. "Justice collaborator" is a person who serves a criminal sentence or is a defendant in criminal proceedings, with regard to crimes committed in complicity, and who is in a situation of danger, because of his collaboration with justice, declarations or testimony about facts and circumstances that constitute evidence in the same criminal proceedings or in related proceedings.
4. "Related persons" are persons who are in a situation of danger because of their kinship or marriage relations, actual cohabitation or close personal relationships with the justice witness or justice collaborator.
5. "Protected persons" are, jointly or separately, justice witnesses, justice collaborators and persons related to them, according to the definitions provided in points 2, 3 and 4 of this Article.
6. "Situation of danger " is a current, concrete and serious situation, because of which life and health are in danger, as a consequence of the testimony of the witness or justice collaborator in criminal proceedings for the criminal offences foreseen by this law.

Article 4

Responsible bodies

The bodies responsible for the preparation, assessment, approval and implementation of the protection program for justice witnesses and justice collaborators are:

- a) The Commission for the Assessment of the Protection Program for Justice Witnesses and Justice Collaborators (below, "the Commission").
- b) The Directorate for the Protection of Witnesses and Justice Collaborators (below, "the Directorate").

Article 27

International cooperation

1. International cooperation is achieved on the basis of the rights and obligations stemming from international agreements to which the Republic of Albania is a party or through agreements for specific cases, entered into by the director of the Directorate with similar entities in other countries.
2. The agreements on specific protection programs may provide for the mutual implementation of the protection program, including the change of residence and the stay of protected persons in the respective territories of the parties.
3. The agreements on specific cases shall be considered "Classified information", and the general rules as in the case of international agreements foreseen by the legislation in force shall not be applied.

(b) Observations on the implementation of the article

149. Albania has a comprehensive and dedicated Law on the "Protection of witnesses and justice collaborators" which also covers their relatives and other persons close to them. The law also establishes two bodies responsible for the preparation, assessment, approval and implementation of the protection programme: the Commission for the Assessment of the Protection Program for Justice Witnesses and Justice Collaborators and the Directorate for the Protection of Witnesses and Justice Collaborators.
150. However, the application of this law is limited to crimes committed intentionally, for which the law provides imprisonment of not less than 4 years, at minimum. This leaves out of its scope a number of offences relevant to the implementation of the Convention, namely: active corruption of persons exercising public functions (art. 244, CC); active corruption of foreign public employees (art. 244/a, CC); active trading in influence (art. 245/1, CC); active

corruption in the private sector (art. 164/a, CC); assault [to an official] on duty (art. 237, CC); threatening [a public official] on duty (art. 238, CC); assaulting family members of a person acting in exercise of his State duty (art. 243, CC); and threat to a judge (art. 317, CC). Moreover, the law does not provide for the protection of the experts, their relatives and other persons close to them.

151. Authorities met during the country visit explained that there were no corruption related cases in which such protection had been provided and that protection was being mainly provided in cases of organized crime, drug trafficking and prostitution.
152. In order to fully implement the provision under review, Albania should take the appropriate measures to extend the scope of the protection which can be provided to all offences covered by the Convention. Albania should also provide for the protection of experts, their relatives and other persons close to them.

Subparagraph 2 (a) of article 32

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(a) Summary of information relevant to reviewing the implementation of the article

153. Albania referred to the following provisions:

Law No. 10173 dated 22.10.2009 “Protection of witnesses and justice collaborators”

Article 12

Protection measures

1. In the framework of protection programs, one or more protection measures that are applied for protected persons are:

- a) change of identity;
- b) change of residence;
- c) furnishing false documents;
- ç) temporary protection of identity, data and documents;
- d) giving testimony under another identity and administration with special means for voice and image deformation, and other forms set according to law, in compliance with Article 361/a of the Code of Criminal Procedure;
- dh) physical and technical protection, in the place where the protected person resides, as well as during his movements;
- e) social rehabilitation;
- ë) provision of financial assistance;
- f) professional retraining;
- g) provision of advice and specialised legal assistance;
- gj) any other measure that is evaluated and approved as necessary in compliance with this law.

(b) Observations on the implementation of the article

154. The provision under review is legislatively implemented.

Subparagraph 2 (b) of article 32

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

...

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

(a) Summary of information relevant to reviewing the implementation of the article

155. Albania referred to the following provisions:

Law No. 10173 dated 22.10.2009 “Protection of witnesses and justice collaborators”

Article 12

Protection measures

1. In the framework of protection programs, one or more protection measures that are applied for protected persons are:

d) giving testimony under another identity and administration with special means for voice and image deformation, and other forms set according to law, in compliance with Article 361/a of the Code of Criminal Procedure;

Article 361/a, CPC

The interrogation of justice collaborators and protected witnesses

1. The interrogation of justice collaborators and protected witnesses is conducted under special measures for their protection, which are determined by the court, sua sponte or upon the request of parties.

When technical means are available, the court may determine that the interrogation will be conducted at a distance, via audiovisual connection According to the rules stipulated in article 361, paragraph 7.

2. When the court had decided the modification of the identity of the person to be interrogated, the court orders appropriate measures to be taken to enable that the voice and face of the person to be unrecognizable by the parties.

If the recognition of identity or line-up of the person is indispensable, the court orders the summoning or obligatory accompaniment to perform this action. In this case, the court orders necessary measures to be taken to avoid the distinct appearance of the face of the person whose identity is modified.

(b) Observations on the implementation of the article

156. The provision under review is legislatively implemented.

Paragraph 3 of article 32

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

157. Albania referred to the following provisions:

Article 27 of the Law No. 10173 dated 22.10.2009 “Protection of witnesses and justice collaborators” allows for international cooperation in the protection of witnesses.

Article 27

International cooperation

1. International cooperation is achieved on the basis of the rights and obligations stemming from international agreements to which the Republic of Albania is a party or through agreements for specific cases, entered into by the director of the Directorate with similar entities in other countries.

2. The agreements on specific protection programs may provide for the mutual implementation of the protection program, including the change of residence and the stay of protected persons in the respective territories of the parties.

3. The agreements on specific cases shall be considered “Classified information”, and the general rules as in the case of international agreements foreseen by the legislation in force shall not be applied.

(b) Observations on the implementation of the article

158. Article 27 of the law 10173 on the protection of witnesses allows for entering into agreements with other States for the relocation of persons under protection. Authorities met during the country visit noted that Albania has had more than 12 cases of relocation abroad, in non-corruption related cases. They have also noted that Albania signed relocation agreements with over 20 European countries.

Paragraph 4 of article 32

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

(a) Summary of information relevant to reviewing the implementation of the article

159. Albania referred to the following provisions:

Law No. 10173 dated 22.10.2009 “Protection of witnesses and justice collaborators”

Article 3

Definitions

In this law, the following terms have these meanings:

2. "Justice witness" is a person, who, in the capacity of witness **or aggrieved person**, declares or testifies about facts and circumstances that constitute evidence in a criminal proceeding, and who is in a situation of danger, because of these declarations or testimony.

(b) Observations on the implementation of the article

The Law 10173 on “Protection of witnesses and justice collaborators” applies to victims insofar as they are witnesses (art. 3). Authorities met during the country referred to a non-corruption related case where the victim was relocated to a neighboring country.

Paragraph 5 of article 32

5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

(a) Summary of information relevant to reviewing the implementation of the article

160. Albania referred to the following provisions:

Article 361, CPC Examination of witnesses

1. The questioning of the witnesses is made directly by the prosecutor or the defence lawyer or attorney who has demanded the questioning. After this, the questioning continues by the parties, orderly.
2. The one who has demanded the questioning may ask questions even after the other parties have terminated them.
3. There are prohibited the questions which influence negatively to the impartiality of the witness or which intend to suggest the answers.
4. The president may permit the witness to look at the documents prepared by him in order to help the memory.
5. The questioning of the juvenile witnesses may be performed by the chairman, on parties requests and objections. The chairman may be assisted by a member of the juvenile's family or by an expert of children education. When it is considered that the direct questioning of the juvenile does not harm his psychological condition, the chairman orders the continuation of the questioning according to the provisions of paragraph 1 and 2. The order may be revoked during the questioning.
6. During the questioning of the witness the chairman may ask questions and, when there is the case, intervenes to provide the order of the questioning, the truthfulness of the answers, the accuracy of the interrogations and objections, as well as to provide for the respect to the person.
7. **A witness may be interrogated at another location, in the country or abroad, through an audio-visual connection, in compliance with rules stipulated in international agreements and in the provisions of this Code.** A person authorized by the court is to remain at the witness's location, to confirm his/her identity, as well as to ensure proper procedures for interrogation and for the implementation of protective measures. He or she is to report these actions in an official record.

(b) Observations on the implementation of the article

161. The provision under review is legislatively implemented. The CPC (arts. 361 and 361/a) and the Law on “Protection of witnesses and justice collaborators” (art. 12/d) enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders through the use of communications technology.

Article 33. Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

162. Albania referred to the following provisions:

Article 20, Law No. 9367 dated 07.04.2005, On The Prevention of Conflicts of Interest In The Exercise of Public Functions

Protection for giving of Information

2. Every official or every subject who offers well-grounded information about cases of conflicts of interests not declared by the subjects of this law earn, as the case may be, a special administrative protection as follows:

a) the official about whom the information is given may not exercise any administrative competency with punitive effect over the informing subject nor be an obstacle for the earning of lawful rights by the latter because of the giving of the information;

b) when the taking of a measure against the subject who informs is determined by another legal reason, it is taken only by an official who is in a vertical relationship of dependency over the official about whom the information was given, except when the administrative measure is taken under the conditions of article 37 point 6 of this law.

--Law No. 9508, dated 3.4.2006, "Public collaboration in the fight against corruption"

--Labor Code (Law No. 7961 12.07.1997)

Article 10/1 "Trade Union Liberty is defended by law"

Article 25/6 "The employee has the right to denounce at the bodies of competence of the offenses, the violations of the labor legislation, or of the contract he/she is familiar with"

(b) Observations on the implementation of the article

163. With the exception of article 20 of the Law On The Prevention of Conflicts of Interest In The Exercise of Public Functions, which provides legal protection for reporting persons in cases of conflicts of interests, Albanian legislation does not explicitly provide for such a protection in other corruption related cases.

164. Authorities met during the country visit explained that the Law on "Public collaboration in the fight against corruption" provides for financial remuneration for officials who report corruption, and also provides for anonymity and for protection from any kind of responsibility if the report was not true. However, they have noted that this law does not have a practical implementation. The authorities further explained that a draft Law on whistleblowing, which would provide legal protection for reporting employees of any suspected corrupted practice occurring in their working place has been prepared. The draft law was passed by the Council

of Ministers in its meeting of 16 December 2015 and it was sent to the Parliament. The Law Commission and the Security Commission of the Parliament have already discussed and approved in principle the draft law in its meeting of 17 February 2016 and 1 March 2016 respectively. Then, public consultations with civil society and interested groups, as well as discussion of each article of the draft law in the Law Commission, are scheduled for March 2016, before the draft law is ultimately voted in the Plenary of the Parliament.

165. The reviewing team encourages Albania to continue its efforts to incorporate into its domestic legal system appropriate measures to provide protection against any unjustified treatment for reporting persons in corruption related cases.

Article 34. Consequences of acts of corruption

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

(a) Summary of information relevant to reviewing the implementation of the article

166. Albania referred to the following provisions:

Law “On Public Procurement” No. 9643 dated 20.11.2006,

Article 2

Awarding Principles

The award of public contracts is governed by the following general principles:

- (a)** non-discrimination and equality of treatment of actual and potential tenderers;
- (b)** transparency of procurement procedures;
- (c)** proportionality of requirements and obligations imposed to actual and potential tenderers;

Article 13 The Public Procurement Agency (PPA)

2. In the performance of its tasks, the **PPA**:

- (i)** in case of misconduct, in compliance with Article 72 **PPL**, penalizes with fines or proposes to the head of **CA** or higher bodies disciplinary measures against the individual in the **CA**, who committed the infringement.

3. The **PPA** can exclude an economic operator from participation in awarding procedures – without prejudice of criminal proceedings, which may have started – for a period of 1 to 3 years in the cases of:

- (b)** corruption within the meaning of item a), para 1, Article 26; or
- (c)** conviction for any of the crimes listed in Article 45, para 1 **PPL**.

Article 19/7

Nobody should influence the decision-making of the Commission’s members. Every effort, either direct or indirect to influence shall be penalized with a fine in accordance with this law, irrespectively of the civil or penal proceedings that might have already started.

Article 26 Corruption and Conflict of Interests

1. CA shall reject a tender, or a request to participate, if:

a) the tenderer or candidate gives, or promises to give, directly or indirectly, to any current officer a gratuity in any form, an employment or any other good or service of value, as an inducement with respect to an act, or decision of, or procedure followed by, the CA in connection with the awarding procedure.

b) the tenderer or candidate is in circumstances of conflict of interest.

Such rejection and the reasons therefore shall be recorded in the record of the procurement proceedings provided for in Article 12 PPL and promptly communicated officially to the candidate or tenderer concerned. The decision may be subject to judicial review.

2. Decisions taken by CA, pursuant to para 1 of this Article, are without prejudice of any obligation to file a complaint with the prosecuting authorities, when the action concerned is considered a criminal offence under criminal law.

3. In the event that, at the time of bid opening, it is observed that one or more of the economic operators are in a conflict of interest with one or more of the officers who are assigned to evaluate the bids, and this conflict situation could not have been observed before this moment, then officer/officers in question should be replaced and then the procurement process should continue.

Article 45 Exclusion criteria of candidates or tenderers

1. Any candidate or tenderer, convicted by final judgment of which the CA is aware for any of the reasons listed below, must be excluded from participation in awarding procedures:

(a) participation in a criminal organization;

(b) corruption;

(c) fraud;

(ç) money laundering

(d) forgery

CA may ask tenderers to supply the documents referred to in para 3 of this Art. and may, where they have doubts concerning the personal situation of such tenderers, also apply to the competent authorities to obtain any information they consider necessary on the personal situation of the tenderers concerned. Where the information concerns a tenderer established in a foreign country, contracting authorities may seek the cooperation of the competent authorities.

Law No.125/2013 on “Concessions and Public Private Partnership”

Article 9

Basic Principles

The procedure for awarding concessions/PPP shall be implemented in accordance with the principles of transparency, non-discrimination, proportionality, efficiency, equal treatment, mutual recognition and legal certainty.

Article 11

Public Procurement Agency

The Public Procurement Agency shall carry out the following duties:

a) Coordinate its work with the unit for concessions/PPPs for the preparation of draft proposals for the amendment of legislation in the field of concessions/private public partnerships, and of instructions for the implementation of the provisions of this law;

b) Monitor compliance with the competitive procedures for concessions/PPPs pursuant to the legislation on public procurements and in case of violations of this law and bylaws, issued for its implementation, it shall impose fines or propose administrative measures to be taken;

c) **Exclude an economic operator from the procedure of concessions/private and public**

partnerships;

d) Draw up and publish the standard bid documents.

Article 36

Termination of the Concession/PPP Contract

1. Unless otherwise provided for in the contract, the Contracting Authority may terminate the contract when:

a) It may be proved that the concessionaire/private partner can no longer perform its obligations, owing to insolvency, serious breach or other cases, which hinder or do not allow the continuation of the contract in accordance to technical and other standards agreed;

b) concessionaire/private partner fails to ensure the financing of the project within 12 months as of signing or of coming into force of the contract.

2. Either party shall, unless otherwise provided for in the contract, have the right to terminate the contract when:

a) Performance of its obligations is rendered impossible because of circumstances of either party;

b) There is serious breach by the other party, and that party fails to rectify such breach within the time period and in the manner established in the contract.

3. The parties shall also have the right to terminate the contract upon mutual consent.

4. Prior to contract being terminated in accordance to this Article, Contracting Authority shall inform Ministry of Finance on all known circumstances leading to and giving ground for termination and shall request its opinion.

Article 45 Administrative Violations

1. Violation of the law by those responsible, if not a criminal offense, it is an administrative offenses and it shall be penalized by a fine of 50,000 up to 1,000,000 Albanian Leks. The fine shall be imposed by the Public Procurement Agency. 2. Minister of Finance, Public Procurement Agency or the Public Procurement Commission, where appropriate, may propose to the contracting authority manager disciplinary action against those responsible.

Article 70 , CPC

Consequences of a criminal decision to civil and administrative case

1. A final criminal decision is mandatory to the court hearing the civil consequences of the offence only pertaining to the fact whether the criminal offence has been committed and whether it is committed by the person tried.

2. A criminal decision that incidentally settles a fact connected to a civil, administrative or criminal case has no mandatory consequences to any other case.

(b) Observations on the implementation of the article

167. Although corruption is a factor for exclusion from a public tender during the awarding stage pursuant to the Law on Public Procurement (art. 26) and the Law on Concessions and Public Private Partnership (art. 11), corruption does not seem to be a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

168. To implement the provision under review, Albania should take additional measures to address the consequences of corruption, especially after the awarding stage.

Article 35. Compensation for damage

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

(a) Summary of information relevant to reviewing the implementation of the article

169. Albania referred to the following provisions:

Article 3/dh Law No. 8510, dated 15.07.1999 “On the extra contractual liability of the State administration”, as amended by Law No.10005, dated 23.10.2008

“dh) when performing an act of corruption in the exercise of their functions.”

CIVIL CODE

Article 608 The person who illegally and for his fault, causes a damage to another person or to his property, is obliged to recompense the damage caused. The person who has caused the damage is not liable if he proves that he is innocent. The damage is illegal when it results from the violation of the interests and rights of the other person, which are protected by law, judicial order, or custom.

Article 61, CPC

Civil lawsuit in criminal proceedings

1. One who has suffered material injury by the criminal offence or his heirs may file a civil lawsuit in the criminal proceedings against the defendant or the person liable to pay damages (defendant), claiming the restitution of the property and reimbursement of the injury.

(b) Observations on the implementation of the article

170. Article 608 of the Civil Code establishes civil liability for damages. In trials for criminal offences, civil compensation for damage caused by the accused can be solicited in the criminal proceedings (art. 61 of the CPC).

Article 36. Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

(a) Summary of information relevant to reviewing the implementation of the article

171. Albania indicated that specialized bodies have been set up which fight corruption.

Independent ones include:

-Prosecution, the prosecution has organized specified directorates dealing with corruption and economic crimes, while task forces (Joint Investigative Units) have been set up also with the cooperation of other institutions to fight corruption.

-High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest

-Supreme State Audit

Other ones include:

-The Directorate for the Prevention of Money Laundering

-The police and dedicated Units within it have been organized to effectively tackle corruption.

Additionally the Minister of State for local Issues coordinates policy on anti-corruption.

172. Albania indicated that specialized independent bodies have specified budgets allowing them to carry out their functions, adequate resources to fulfil their missions, as well as independence in decision -making over the work of their organizations.

173. Staff selection is carried out by the institutions, in accordance with relevant laws on recruitment of civil servants or prosecutors and/or judges and their appointment. Training for them is continuous and contingent on the coordination and needs of the institutions.

174. Albania referred to the following provisions:

DECISION

No. 1012, dated 22.11.2013

ON

DETERMINING THE AREA OF STATE RESPONSIBILITY OF THE MINISTER OF STATE ON LOCAL ISSUES

Pursuant to article 100 of the Constitution and point 2, article 5 of law no. 90/2012, "On the organization and functioning of the state administration", following a proposal of the Prime Minister, the Council of Ministers

DECIDED:

- I. To approve the areas of state responsibility of the minister of State for Local Issues, as well as competencies for their realization, pursuant to what is set forth in this decision.
- II. The minister of State for Local Issues, pursuant to the Constitution and the applicable legislation coordinates the work for drafting policies and preparing legal and by-legal acts for the prevention of and fight against corruption, reform for the decentralization of the government and the administrative and territorial reform.
- III. The Minister of State for Local Issues, for purposes of fulfilling his responsibility,

exercises the following competencies:

1. In the quality of the National Coordinator against Corruption, he coordinates the work, follows and is accountable for the implementation of the state general policy in the area of prevention of and fight against corruption.
2. Proposes and/or coordinates the work for purposes of drafting legal and by-legal draft-acts in the area of the fight against corruption.
3. Gives specialized opinions on legal draft-acts and secondary legislation of a normative character of the Council of Ministers, ministers and heads of other central institutions which have to do with the prevention of and fight against corruption.
4. In the quality of the National Coordinator against Corruption, he is responsible for drafting the National Anti-Corruption Strategy and action plan in the framework of this strategy, as well as monitors and reports on the progress of the implementation of these two documents of the state policies on anti-corruption.
5. Cooperates and coordinates the activity of independent state bodies and institutions, both at the local and central level, for the prevention of and fight against corruption, as well as represents the government in its relations with constitutional bodies in the framework of the work coordination in this area.
6. Coordinates the work through inter-ministerial/inter-sectorial structures for purposes of preventing and fighting corruption.
7. Represents the policies of the government before international mechanisms and organizations that deal with matters related to the fight against corruption.
8. Coordinates the work and supports the state and/or other subjects' activities for training, professional preparation, increasing capacities and specializing the state and public administration bodies in the prevention of and fight against corruption.
9. Coordinates the work and supports the activities and relations with the civil society organizations that operate in the area of the fight against corruption and transparency.
10. Coordinates the work for the collection from all state institutions of information and statistics on corruptive practices and fight against them.
11. Undertakes initiatives and educational and awareness raising activities at a national level to prevent and eliminate corruption in all the levels of governance.
12. Leads, coordinates the work and follows in its entirety the process of the implementation of the administrative and territorial reform.
13. Coordinates the work and follows the implementation of the general state policy in the area of the decentralization of local governance.
14. Drafts and/or coordinates the work for the legal and by-legal draft-acts in the area of the decentralization of the local governance.

15. Leads and/or coordinates the work among structures established in the framework of the inter-institutional relations with the local government units and associations of locally elected representatives.
16. Represents the policies of the government in the area of the reform on decentralization and local government before international initiatives and organizations.
17. Carries out other functions and activities within the area of responsibility, as assigned to him pursuant to the law, international agreements, decisions of the Council of Ministers and orders of the Prime Minister or which have not been specifically assigned to another state body or institution.

IV. The Minister of State on Local Issues is in charge of following and implementing this decision.

This decision shall enter into force immediately and is published in the “Official Journal”.

THE PRIME MINISTER

EDI RAMA

(SIGNED)

PROT. NO. 3927/1

TO ALL MINISTRIE

(b) Observations on the implementation of the article

175. Albania has several competent bodies in the fight against corruption.
176. Seven specialized directorates dealing with corruption and economic crimes have been set up within the framework of the prosecutor offices, led by the prosecutor. Those directorates involve other sub-structures such as the judicial police office, officers from Tax and Customs, FIU, the High State Audit, and the Secret services. They include around 40 prosecutors and 60 police officers, in addition to contact points.
177. Moreover, a new structure, composed of a Chairman and four prosecutors, has been established under the prosecution of serious crimes to investigate cases related to judges, prosecutors and high ranking officials.
178. Regarding the State Police, a Directorate against economic and financial crimes has been established at the central level. It comprises three sections: The Corruption Section, the Money-Laundering Section and the Section on Economic and financial crimes. This structure is mirrored at the local level.
179. According to Law 108 of 2014 on the State Police, a national investigative bureau which deals only with corruption of high ranking officials should be established. However, the Constitutional Court suspended the related articles. An amendment of the law is planned for the

future. At the time of the country visit, the Commission established at the National Assembly to review draft laws was considering the establishment of a new structure to investigate corruption crimes. Based on the discussions during the county visit, the reviewing experts welcome the creation of such a specialized agency.

180. The General Directorate for the Prevention of Money Laundering (Albania's FIU) also plays an important role in the fight against money laundering and corruption. These bodies appear to receive training and adequate resources, and to be sufficiently independent.

Article 37. Cooperation with law enforcement authorities

Paragraphs 1 and 2 of article 37

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

181. Albania referred to the following provisions:

Law No. 10173 dated 22.10.2009 "Protection of witnesses and justice collaborators"

Article 3

Definitions

In this law, the following terms have these meanings:

3. "Justice collaborator" is a person who serves a criminal sentence or is a defendant in criminal proceedings, with regard to crimes committed in complicity, and who is in a situation of danger, because of his collaboration with justice, declarations or testimony about facts and circumstances that constitute evidence in the same criminal proceedings or in related proceedings.

4. "Related persons" are persons who are in a situation of danger because of their kinship or marriage relations, actual cohabitation or close personal relationships with the justice witness or justice collaborator.

Article 48, CC Mitigating circumstances

The following circumstances mitigate the punishment:

- a) When the act is committed due to motivations of positive moral and social values;
- b) When the act is committed under the effect of a psychiatric distress caused by provocation or the unfair acts of the victim or some other person;
- c) When the act is committed under the influence of wrong actions or instructions of a superior; ç)
- When the person who has committed the act shows deep repentance;
- d) When the person has compensated for the damage caused by the criminal act or has actively helped to eliminate or decrease its consequences;

dh) When the person gives himself over to the competent authorities after committing the criminal act;

e) When the relationship between the offender and the victim has improved to normalcy.

The mitigating circumstance envisaged in letter “a” of the first paragraph of this article, shall not mitigate the sentence in the event the criminal offence is committed under the circumstances envisaged in letter “j” of Article 50 of this Code.

The mitigating circumstance envisaged in letter “e” of the first paragraph of this article, shall not mitigate the sentence of a person who commits a criminal offence against children or a criminal offence related to domestic violence

Article 49 Regardless of the circumstances mentioned in Article 48 of this Code, the court may also consider other circumstances as long as it deems them as such to justify the mitigation of the sentence.

Article 52/a

Exemption from serving the sentence or reduction of the sentence for collaborators of justice and victims

The person who promises or gives rewards or other benefits, according to articles 164/a, 244, 244/a, 245, 312, 319, 319/a, 319/b, 319/c and 328 of this Code, may obtain an exemption from serving the sentence or a reduction of the sentence, in the event the person reports and gives assistance during the criminal proceedings of these offences. When issuing the decision, the court shall also consider the time when the report is filed, and the occurrence, or not, of the consequences of the offence.

The victim of criminal offences related to trafficking in human beings, may obtain exemption from the sentence for committing criminal offences during the trafficking period and to the extent the person had been obliged to commit the illegal actions or failure to act”.

The person sentenced for one of the criminal offences related to trafficking of narcotics, arms or munitions, trafficking in human beings or criminal offences committed by criminal organisations, who collaborates and assists the criminal prosecuting authorities in fighting against them, or, where appropriate, in uncovering other persons who commit such crimes, cannot be sentenced for a period of more than half of the sentence foreseen for the offence committed by him/her. In particular cases, the person may be excluded from such sentence when mitigating circumstances are in his favour.

Article 361/a, CPC

The interrogation of justice collaborators and protected witnesses

1. The interrogation of justice collaborators and protected witnesses is conducted under special measures for their protection, which are determined by the court, *sua sponte* or upon the request of parties.

When technical means are available, the court may determine that the interrogation will be conducted at a distance, via audiovisual connection According to the rules stipulated in article 361, paragraph 7.

2. When the court had decided the modification of the identity of the person to be interrogated, the court orders appropriate measures to be taken to enable that the voice and face of the person to be unrecognizable by the parties.

If the recognition of identity or line-up of the person is indispensable, the court orders the summoning or obligatory accompaniment to perform this action. In this case, the court orders necessary measures to be taken to avoid the distinct appearance of the face of the person whose

identity is modified.

(b) Observations on the implementation of the article

182. The provision under review is legislatively implemented. Albania has measures in place to encourage the cooperation of offenders with law enforcement and judicial authorities, including a range of protection measures for "justice collaborators" and their "related persons", as stipulated in the Law on "Protection of witnesses and justice collaborators" and the CPC (art. 361/a). Such cooperation may also be considered as a mitigating circumstance pursuant to the CC (arts. 49 and 52/a). It was explained by the authorities that the new provision dated from 2013 and had been applied several times in corruption cases.

Paragraph 3 of article 37

3. Each State Party shall consider providing for the possibility, in accordance with the fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

183. Albania referred to the following provisions:

Article 48, CC Mitigating circumstances

The following circumstances mitigate the punishment:

- a) When the act is committed due to motivations of positive moral and social values;
- b) When the act is committed under the effect of a psychiatric distress caused by provocation or the unfair acts of the victim or some other person;
- c) When the act is committed under the influence of wrong actions or instructions of a superior; ç) When the person who has committed the act shows deep repentance;
- d) When the person has compensated for the damage caused by the criminal act or has actively helped to eliminate or decrease its consequences;
- dh) When the person gives himself over to the competent authorities after committing the criminal act;
- e) When the relationship between the offender and the victim has improved to normalcy.

The mitigating circumstance envisaged in letter "a" of the first paragraph of this article, shall not mitigate the sentence in the event the criminal offence is committed under the circumstances envisaged in letter "j" of Article 50 of this Code.

The mitigating circumstance envisaged in letter "e" of the first paragraph of this article, shall not mitigate the sentence of a person who commits a criminal offence against children or a criminal offence related to domestic violence

Article 49

Regardless of the circumstances mentioned in Article 48 of this Code, the court may also consider other circumstances as long as it deems them as such to justify the mitigation of the sentence.

(b) Observations on the implementation of the article

184. Albania does not provide for the possibility of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention. However, article 52/a of the CC provides for a

permissive exemption from punishment by a court decision in the event the offender reports and gives assistance during the criminal proceedings of a number of offences relevant to the implementation of the Convention. Those offences include: active corruption in the private sector (art. 164/a, CC); active corruption of persons exercising public functions (Art. 244, CC); Active corruption of foreign public employees (art. 244/a, CC); active corruption of the high state officials and local elected representatives (art. 245, CC); active corruption of the witness, expert or interpreter (art. 312, CC); active corruption of judges, prosecutors and other officials of the justice bodies/system (art. 319, CC); active corruption of the judge or official of international court (art. 319/a, CC); active corruption of foreign and domestic arbiters (art. 319/b, CC); and active corruption of members of foreign judicial juries (art. 319/c, CC).

Paragraph 4 of article 37

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

185. Albania referred to the following provisions:

Law No. 10173 dated 22.10.2009 "Protection of witnesses and justice collaborators"

Article 3

Definitions

In this law, the following terms have these meanings:

3. "Justice collaborator" is a person who serves a criminal sentence or is a defendant in criminal proceedings, with regard to crimes committed in complicity, and who is in a situation of danger, because of his collaboration with justice, declarations or testimony about facts and circumstances that constitute evidence in the same criminal proceedings or in related proceedings.

4. "Related persons" are persons who are in a situation of danger because of their kinship or marriage relations, actual cohabitation or close personal relationships with the justice witness or justice collaborator.

Article 361/a, CPC

The interrogation of justice collaborators and protected witnesses

1. The interrogation of justice collaborators and protected witnesses is conducted under special measures for their protection, which are determined by the court, *sua sponte* or upon the request of parties.

When technical means are available, the court may determine that the interrogation will be conducted at a distance, via audiovisual connection According to the rules stipulated in article 361, paragraph 7.

2. When the court had decided the modification of the identity of the person to be interrogated, the court orders appropriate measures to be taken to enable that the voice and face of the person to be unrecognizable by the parties.

If the recognition of identity or line-up of the person is indispensable, the court orders the summoning or obligatory accompaniment to perform this action. In this case, the court orders necessary measures to be taken to avoid the distinct appearance of the face of the person whose

identity is modified.

(b) Observations on the implementation of the article

186. Albania has in place a range of protection measures for "justice collaborators" and their "related persons", as stipulated in the Law on "Protection of witnesses and justice collaborators" and the CPC (art.361/a).
187. Authorities met during the country visit referred to examples in a number of non-corruption related cases.

Paragraph 5 of article 37

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

188. Authorities met during the country visit confirmed that nothing in the law prevents Albania from entering into such agreements as referred to in the provision under review; however, no such agreements exist.

(b) Observations on the implementation of the article

189. Albania can enter into agreements as referred to in the provision under review; however, no such agreements exist.

Article 38. Cooperation between national authorities

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

(a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or

(b) Providing, upon request, to the latter authorities all necessary information.

(a) Summary of information relevant to reviewing the implementation of the article

190. Albania referred to the following provisions:

Criminal Procedure Code

Article 281

Criminal report by public officials

1. Public officials, who during the course of their work or because of their functions or service, receive notice of a criminal offence that is prosecuted *ex-officio*, are bound to lodge a written criminal report even if the person to whom the criminal offence is attributed is not identified.
2. The criminal report is presented to a prosecutor or judicial police officer.
3. Where during civil or administrative proceedings, a fact which constitutes a criminal offence prosecuted *ex-officio* is uncovered, the relevant authority lodges a criminal report to the prosecution office.
4. The criminal report contains the essential elements of the fact (act), the sources of evidence, personal details, residence and anything else which serves to identify the person whom the fact (act) is attributed to, of the injured person and those who are able to clarify the circumstances of the fact (act).

Criminal code

Article 300

Failure to report a crime

Failure to report a crime that is in the process of being committed or which has been committed, to the organs of criminal prosecution, to the court, to the organs of public order, [or to the appropriate] authorities or administration, is punishable by a fine or up to three years of imprisonment.

Linear ascendants and offspring, brothers and sisters, spouses, adoptive parents and adopted children, as well as persons obliged to keep secrecy because of their capacity or profession, are excluded from the obligation to report.

Article 304

Obligation to report the evidence

Failing to appear promptly to report or testify before the prosecutor, court or organs of public order about evidence that a person knows which exculpates an accused or convicted person from a criminal act, is punishable by a fine or up to five years of imprisonment.

The perpetrator of the criminal act, as well as the individuals who become aware of the evidence because of their capacity and profession and due to this reason are compelled not to report or testify, are excluded from the obligation to report.

Article 305/a

False declarations before the prosecutor

Whoever that, during investigations or criminal proceedings, is interrogated by a prosecutor to give appropriate information on the investigation, gives oral or written information knowing that this information is, completely or partially, false or hides facts or evidence is punished by fine or imprisonment up to one year.

The provisions of this article are not applicable if the fact was committed at any stage of the criminal proceeding by a suspect or defendant for the criminal act or by a person that should have been exempted by the requirement to give information or testimony for any legal ground, or by a person that was not warned for the right not to testify or answer questions.

...

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:

e) exchanges information with the General Prosecutor's Office, Ministry of Interior, State Police, State Information Service and other competent law enforcement authorities on cases of laundering of proceeds of crime or financing of terrorism and may sign bilateral or multilateral memoranda of cooperation with them.

Additionally a series of MoUs enable such cooperation.

1. Memorandum of Cooperation between the General Directorate of State Police, Prosecutor General, Directorate of Road Transport Use and General Directorate of Customs to establish a joint "Task Force" unit with the scope "Prevent and Investigate offenses related to trafficking, smuggling, evasion of customs duties, forgery of documents and administrative violations through monitoring the implementation of the National Action Plan 2012-2014, No 284, dated 09.05.2012 "On prevention and suppression of criminal activity of trafficking stolen and smuggled vehicles and other legal violations".
2. Cooperation Memorandum No 940/2, dated 14.02.2013 "On the collection, processing and reporting of statistical data to the General Directorate for Prevention of Money Laundering" signed among the Minister of Interior, Minister of Finance, Minister of Justice and the Prosecutor General.
3. Cooperation Agreement No 2844 protocol, dated 18.05.2012 "On granting the right to use State Police' TIMS system and the database of suspicious cases reported by GDPML to law enforcement agencies".
4. Memorandum of Cooperation No 2953, dated 22.05.2007, among the Prosecutor General, Ministry of Interior, Ministry of Finance and State Intelligence Service "On setting up a Joint Investigative Unit for the investigation of corruption and economic crime" composed also of judicial police officers of the Ministry of Interior and specialists from GDPML.
5. Memorandum of Understanding dated 6 May, 2009 on setting up 6 Joint Investigative Units, with representatives from District Prosecutor Offices in Durrësi, Vlora, Fieri, Shkodra, Korça and Gjirokastra, signed by the Prosecutor General, Minister of Interior, Minister of Finance, Director of the State Intelligence Service, the Inspector General of the High Inspectorate for the Declaration and Audit of Assets and Chairman of the Supreme State Audit.
6. Memorandum of Cooperation between the Ministry of Interior, Prosecutor General, Ministry of Finance, Ministry of Justice, and Ministry of Public Works and Transport, with Prot No 154, dated 9.01.2013 on strengthening cross-agency cooperation in the fight against organized crime and trafficking through preventive measures against property.
7. Memorandum of Cooperation between the State Police and the Agency for Handling Seized and Confiscated Assets at the Ministry of Finance, "On the support, assistance, coordination and exchange of information for the scope of identifying, locating and preserving confiscated assets", registered with No 5660, dated 29.09.2009 and No 498, dated 29.09.2009 respectively.
8. Memorandum of Cooperation dated 26.11.2007 between the Ministry of Interior and the Ministry of Public Works, Transport and Communications "On the exchange of information between the General Directorate of State Police and the General Directorate of Road Transport Services for the verification of motor vehicles in Interpol's e-ASF2 system prior to being plated in Albania".
9. Joint Instruction No 1243/3, dated 18.05.2010 of the Minister of Interior and the Prosecutor General "On conditions, rules, procedures and implementation modalities of the witness protection programme, as well as criteria and procedures for storing, handling and classification of the witness protection information".
10. Joint Instruction No 1243/2, dated 18.05.2010 of the Minister of Interior and the Prosecutor General "On detailed rules, duties, responsibilities, modalities and procedures for cross-agency coordination and information".

11. Joint Instruction No 1243/1, dated 18.05.2010 of the Minister of Interior and the Prosecutor General "On criteria and procedures for storing, handling and classification of the information concerning the collaborators and witness protection programme".

12. Joint Instruction No 555/2, dated 16.03.2010 of the Minister of Interior and the Minister of Finance "On rules for handling assets and funds for the exercise of the activity of the Witness Protection Directorate, cost documentation audit and financial assistance scales for persons in the protection program".

13. Joint Instruction No 3962/1, dated 10.11.2011 of the Minister of Interior and the Minister of Finance, "On some amendments and addenda to the Joint Instruction No 555/ 2, dated 16.03.2010 of the Minister of Interior and Minister of Finance.

14. Joint Guidelines of the Minister of Interior, Minister of Defence, Minister of Health and Minister of Transport "On storing, maintaining and handling information concerning collaborators and witness protection programme".

15. A draft Joint Instruction between the Minister of Interior and Minister of Justice "On treatment modalities of collaborators of justice in penitentiary institutions" is being drafted.

16. A Cooperation Agreement was signed on 31/12/2013 between the State Police and the Psycho-Social Centre "On the strengthening police capacity at local level and enhance acquaintance with the rights of victims / potential victims of Trafficking.

17. Joint Instruction on Telecommunications Interception No 45/1, dated 31.10.2008 signed by the Ministry of Interior, the Prosecutor General and State Intelligence Service, pursuant to the Law on interception of telecommunications. It lays down rules for the organization and operation of telecommunications interceptions.

191. Albania provided the following statistics related to the work of its FIU:

Number of cases disseminated to submitted ASP and Prosecutor's Office for the period 2009 – 2013:

Year	2009	2010	2011	2012	2013
Disseminated to Police	135	137	160	171	248
Disseminated to Prosecution	59	64	51	34	35
TOTAL	194	201	211	205	283

Number of cases disseminated to Law Enforcement Authorities for the period January – September 2015:

Total	
Gen. Prosecutor's Office	97
Albanian State Police	203
Total	300

(b) Observations on the implementation of the article

192. Regarding cooperation between national authorities, article 281 of the CPC establishes an obligation on public officials, who during the course of their work or because of their functions or service, receive notice of a criminal offence, to report the matter to a prosecutor or to a judicial police officer.

193. Moreover, the CC (art. 300) establishes a general obligation to report crimes. Other articles

(arts. 304 and 305/a) establish an obligation to provide, upon request, to the prosecutor all necessary information in the context of a criminal investigation. The AML/CFT Law also contains relevant provisions on the cooperation between the FIU and national authorities, including the Prosecutor's office, regarding money-laundering offences (art. 22/e).

194. Additionally, several MOUs and Joint instructions have been signed/issued to foster the cooperation between competent national authorities.

Article 39. Cooperation between national authorities and the private sector

Paragraph 1 of article 39

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

195. Albania referred to the following provisions:

Article 9, Law No. 9662, dated 18.12.2006 "On Banks on the Republic of Albania" Prevention of money laundering and financing of terrorism

1. The subjects of this Law, and the Bank of Albania shall implement the requirements emanating from the Law "On the prevention of money laundering" and Law "On measures against financing of terrorism" and other by-laws in force.

Article 12, Law No. 9917, "On the Prevention of Money Laundering and Financing of Terrorism", as amended

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 16

Obligations to maintain data

4) The entities must make sure that all customer 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 3

Entities subject to this law

Entities of this law include:

- a) banking entities, and any other entity licensed or supervised by the Bank of Albania, including, but not limited to the entities designated in letters „b“, „c“ and „ç“ of this article.
- b) non-bank financial entities;
- c) exchange offices;
- ç) savings and credit companies and their unions;
- d) postal services that perform payment services;
- dh) repealed
- e) stock exchange and any other entity (agent, broker, brokerage house etc.), which carries out activities related to issuing, counselling, intermediation, financing and any other service related to securities trading;
- ë) companies involved in life insurance or re-insurance, agents and their intermediaries as well as retirement funds;
- f) 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;
- g) gambling, casinos and hippodromes, of any kind;
- gj) attorneys, public notaries and other legal representatives, authorized independent chartered accountants, approved independent accountants, financial consulting offices and regulated professions that offer financial consulting services when they prepare or carry out transactions for their customers in the following activities:
 - i) transfer of immovable properties, administration of money, securities and other assets;
 - ii) administration of bank accounts;
 - iii) administration of shares of capital to be used for the foundation, functioning or administration of commercial companies;
 - iv) foundation, functioning or administration of legal persons and/or legal arrangement;
 - v) legal agreements, sale of securities or shares of joint stock companies and the transfer of commercial activities;
 - h) Real estate agents in accordance with the definition specified in the albanian legislation for this category, when they are involved in transactions on behalf of their customers related to purchasing or sale of immovable property;
 - i) repealed.
 - j) the Agency for Legalization, Urbanization and Integration of Informal Areas/ Constructions;
 - k) any other natural or legal person, in addition to the aforementioned ones, engaged in:
 - i) the administration of third parties' assets/ managing the activities related to them;
 - i/1) foundation, registration, administration, functioning of the legal arrangement or legal persons that are not included under letter „gj“.
 - ii) repealed;
 - iii) Constructions;
 - iv) the business of precious metals and stones;
 - v) repealed;
 - vi) financial agreements and guarantees;
 - vii) buying and selling of works of art, or buying and selling in auctions of objects valued at 1,000,000 (one million) Lek or more;
 - viii) safekeeping and administration of cash or liquid securities in the name of other persons;

- ix) repealed;
- x) trade of motor vehicles; `
- xi) transportation and delivery activity;
- xii) travel agencies.

Article 22

Duties and functions of the responsible authority

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

- i) organizes and participates, together with public and private institutions, in training activities related to money laundering and terrorism financing, as well as, organizes or participates in programs aimed at raising public awareness;

196. Albania provided the following statistics related to the work of its FIU:

Number of SARs, comparatively for the years 2012 and 2013, categorized according to the reporting entities:

SUBJECT	SAR 2012	SAR 2013	Difference
Banks	352	420	+68
Money services businesses	73	45	-28
GDC	30	36	+6
GDT	33	10	-23
CORIP	29	20	-9
Notaries	19	15	-4
<i>Bureaux de change</i>	14	8	-6
HIDAA	2	0	-2
Auditing companies	0	1	+1
Accountants	0	1	+1
Lawyers	1	1	-
Other	2	1	-1
Leasing companies	1	0	-1
Total	556	558	+2

Number of SARs, for the period January – September 2015, categorized according to the reporting entities:

Obligated entities	No. of SAR's
Banks	616
Custom Office	33
Taxation Office	50
Notary public	64
MSB	62
Bureau de change	9
HIDAACI	6
CORIP	15
Other	2
Leasing companies	1
Lawyers	2
Certified Accountants	4
Microcredit financial institutions	2
Car dealers	9
Construction companies	1
Total	876

Number of trained entities for the years 2012 – 2014:

SUBJECT	NO. OF TRAINED PERSONS		
	YEAR 2012	YEAR 2013	YEAR 2014
Banks	116	84	120
Exchange Offices	179	151	70
Non bank financial institutions	50	---	68
Gambling games	--	15	12
Notary public	71	75	237
Lawyers	5	---	0
Accounting experts	88	63	1
Insurance companies	18	---	0
Supervising authorities and institutions (FSA, CORIP, ASP, GDC, GDT)	37	13	139
Car dealers	--	---	14
Construction companies	---	---	38
Private pensions institutions	3	---	0
TOTAL	589	401	699

(b) Observations on the implementation of the article

197. Regarding cooperation between national authorities and the private sector, the CC (art. 300) establishes a general obligation to report crimes. Other articles (arts. 304 and 305/a) establish an obligation to provide, upon request, to the prosecutor all necessary information in the context of a criminal investigation.
198. The AML Law establishes the obligation of a number of private sector entities, including banks, exchange offices, insurance companies, audit firms and lawyers, to report to the FIU any suspicious transactions and to provide it with any additional information which it may request (art. 12 and 16/4). The FIU has been also engaged in trainings and awareness raising activities addressed to private sector entities, pursuant to article 22/i of the AML Law.

Paragraph 2 of article 39

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

199. Albania referred to the Law on the Cooperation of the Public in the Fight against Corruption and indicated that reporting might be made to the Unit on Internal Administrative Control and Anti-Corruption at the Prime Minister's office and to the Prosecution and Police. Several hotlines have been established in law enforcement agencies and with service providers to denounce corruption, including web portals.
200. The following provisions are referred to.

Criminal Procedure Code

Article 283

Criminal report from citizens

1. Any person that has received notice of a criminal offence prosecuted *ex-officio* must lodge a criminal report of it. In cases specified by law, lodging of criminal report is compulsory.
2. The criminal report is lodged orally or in writing to a prosecutor or to a judicial police officer, personally or through a representative.
3. Anonymous criminal reports may not be used except in cases provided for by article 195.

Criminal Code

Article 300

Failure to report a crime

Failure to report a crime that is in the process of being committed or which has been committed, to the organs of criminal prosecution, to the court, to the organs of public order, [or to the appropriate] authorities or administration, is punishable by a fine or up to three years of imprisonment.

Linear ascendants and offspring, brothers and sisters, spouses, adoptive parents and adopted children, as well as persons obliged to keep secrecy because of their capacity or profession, are excluded from the obligation to report.

(b) Observations on the implementation of the article

201. The provision under review is implemented. Article 298 of the CPC establishes an obligation on all citizens who receive notice of a criminal offence to report the matter to a prosecutor or to a judicial police officer. Anonymous reports are also accepted. Moreover, the CC (art. 300) establishes a general obligation to report crimes. Other articles (arts. 304 and 305/a) establish an obligation to provide, upon request, to the prosecutor all necessary information in the context of a criminal investigation. Albania has also in place several hotlines and web portals to denounce corruption.

Article 40. Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

(a) Summary of information relevant to reviewing the implementation of the article

202. Albania referred to the following provisions:

Article 12, Law No. 9917, "On the Prevention of Money Laundering and Financing of Terrorism", as amended

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 23, Law on Banks (Law 8365)

Additional activities

1. In exercising its activity the bank or the branch of a foreign bank shall have the right to request that the Bank of Albania permits it to carry out other activities not included in the annex of the granted license in accordance with Article 20 of this Law.
2. Notwithstanding paragraph 1, the branch of the foreign bank, may not carry out activities for which the foreign bank has not been licensed to.

3. The Bank of Albania shall approve the carrying out of additional activities, to the extent that it finds that such activity does not pose a threat to financial stability of the bank or the branch of the foreign bank and that the necessary administrative and technical requirements for its safe exercise are met.

4. In case the application is refused, the Bank of Albania shall give in writing the reasons for such refusal.

Article 210, CPC

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.

(b) Observations on the implementation of the article

203. The provision under review is legislatively implemented, and no examples of implementation were provided.

204. Articles 210 of the CPC empowers the court, and in urgent cases the prosecutor, to order the seizure of bank documents, negotiable instruments, sums deposited in current accounts and any other thing, even if they are in safety vaults.

Article 41. Criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

205. Albania referred to the following provisions:

Article 10, CC

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 declare the committal of 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) for executing sentences comprising additional punishment; c) for implementing security measures;
- d) for compensation of damages or other civil law effects.

(b) Observations on the implementation of the article

206. The provision under review is implemented. Pursuant to article 10 of the CC, foreign convictions of alleged offenders can be taken into consideration for the effect of recidivism, for executing sentences comprising additional punishment, for implementing security measures, and for compensation of damages or other civil law effects.

Article 42. Jurisdiction

Subparagraph 1 (a) of article 42

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

(a) The offence is committed in the territory of that State Party; or

(a) Summary of information relevant to reviewing the implementation of the article

207. Albania referred to the following provisions:

Article 5, CC

Territory of the Republic of Albania

The Republic of Albania's territory in the sense of criminal law, is defined as the land space, the width of the territorial and internal maritime waters, the air space extending over the land space and over the territorial and internal maritime waters space, as well as over any other place under the sovereignty of the Albanian State, such as the residencies of the Albanian diplomatic and consular missions, the ships carrying the flag of the Republic of Albania, the ships belonging to the military navy, [the carriers] and civil and military aviation wherever they happen to be.

Article 6, CC

The applicable law on criminal acts committed by Albanian citizens

As concerning criminal acts committed by Albanian citizens within the territory of the Republic of Albania, the criminal law of the Republic of Albania shall apply.

The criminal law of the Republic of Albania shall also be applicable to the Albanian citizen who commits a crime within the territory of another country, when that crime is concurrently punishable, unless a foreign court has given a final sentence. The rule of Concurrent Sentence is not executed in the territory of another state in the event of crimes of corruption in public or private sectors, and also exercise of illegal impact.

In the sense of this article, Albanian citizens shall also be considered those persons who apart from the Albanian citizenship hold another one too.

Article 7, CC

The applicable law on criminal acts committed by foreign citizens

The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania...

(b) Observations on the implementation of the article

208. The provision under review is implemented in Albania's legislation.

Subparagraph 1 (b) of article 42

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

...

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

(a) Summary of information relevant to reviewing the implementation of the article

209. Albania referred to the following provision:

Article 5, CC

Territory of the Republic of Albania

The Republic of Albania's territory in the sense of criminal law, is defined as the land space, the width of the territorial and internal maritime waters, the air space extending over the land space and over the territorial and internal maritime waters space, as well as over any other place under the sovereignty of the Albanian State, such as the residencies of the Albanian diplomatic and consular missions, the ships carrying the flag of the Republic of Albania, the ships belonging to the military navy, [the carriers] and civil and military aviation wherever they happen to be.

(b) Observations on the implementation of the article

210. The provision under review is implemented in Albania's legislation.

Subparagraph 2 (a) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

(a) Summary of information relevant to reviewing the implementation of the article

211. Albania referred to the following provisions:

Article 7, CC

The applicable law on criminal acts committed by foreign citizens

The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania.

The criminal law of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits one of the following crimes against the interests of the Albanian State or an Albanian citizen:

a) crimes against humanity;

b) crimes against Albanian independence and its constitutional order; c) crimes with terrorist purposes;

d) organizing the prostitution, illegal trafficking of human beings, children and women, manufacturing and illegally trafficking arms, drugs, other narcotic and psychotropic substances,

nuclear substances, pornographic materials, and illegal traffic of art works, and objects that have historical, cultural, and archaeological values;

e) 1

f) falsifying the Albanian state seal, Albanian currency, or Albanian bonds or stocks;

g) crimes which affect the life or health of Albanian citizens, to which the law provides for a punishment by imprisonment of five years or any other heavier punishment;

h) **Laundering the proceeds of the criminal offence or criminal activity.**

i) **Corruption in the public or private sector crimes, and insider trading.**

j) criminal offences in the area of information technology.

(b) Observations on the implementation of the article

212. The provision under review is implemented in Albania's legislation. The Criminal Code establishes Albania's passive personal jurisdiction regarding several offences covered by the Convention, namely: Laundering the proceeds of the criminal offence or criminal activity and Corruption in the public or private sector.

Subparagraph 2 (b) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

213. Albania referred to the following provisions:

Article 6, CC

The applicable law on criminal acts committed by Albanian citizens

As concerning criminal acts committed by Albanian citizens within the territory of the Republic of Albania, the criminal law of the Republic of Albania shall apply.

The criminal law of the Republic of Albania shall also be applicable to the Albanian citizen who commits a crime within the territory of another country, when that crime is concurrently punishable, unless a foreign court has given a final sentence. The rule of Concurrent Sentence is not executed in the territory of another state in the event of crimes of corruption in public or private sectors, and also exercise of illegal impact.

In the sense of this article, Albanian citizens shall also be considered those persons who apart from the Albanian citizenship hold another one too.

Article 8, CC

Applicable law on criminal acts committed by a person without nationality

If a person who does not hold any nationality commits a criminal act within the territory of the Republic of Albania or a crime outside it, the provisions of Articles 7 and 7/a of this Code shall apply.

(b) Observations on the implementation of the article

214. The provision under review is implemented in Albania's legislation.

Subparagraph 2 (c) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

215. Albania referred to the following provisions:

Article 7, CC

The applicable law on criminal acts committed by foreign citizens

The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania. The criminal law of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits one of the following crimes against the interests of the Albanian State or an Albanian citizen:

- a) crimes against humanity;
- b) crimes against Albanian independence and its constitutional order; c) crimes with terrorist purposes;
- d) organizing the prostitution, illegal trafficking of human beings, children and women, manufacturing and illegally trafficking arms, drugs, other narcotic and psychotropic substances, nuclear substances, pornographic materials, and illegal traffic of art works, and objects that have historical, cultural, and archaeological values;
- e) 1
- f) falsifying the Albanian state seal, Albanian currency, or Albanian bonds or stocks;
- g) crimes which affect the life or health of Albanian citizens, to which the law provides for a punishment by imprisonment of five years or any other heavier punishment;
- h) Laundering the proceeds of the criminal offence or criminal activity.
- i) Corruption in the public or private sector crimes, and insider trading.
- j) criminal offences in the area of information technology.

Article 77, CPC

Jurisdiction for criminal offences committed abroad

1. If the offence is committed wholly abroad, the jurisdiction is determined, in order, by the residing place, domicile, and place of arrest or surrender of the defendant. In case of several defendants, the proceedings shall be carried on by the court, which is competent for their biggest number.
2. If it cannot be determined in the ways stipulated in paragraph 1, the jurisdiction belongs to the court where the prosecution office which recorded the criminal offence first, is located.
3. In case where the criminal offence is partly committed abroad, the jurisdiction is determined according to the general rules pertaining to territorial jurisdiction.

(b) Observations on the implementation of the article

216. The provision under review is implemented in Albania's legislation.

Subparagraph 2 (d) of article 42

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

...

(d) The offence is committed against the State Party.

(a) Summary of information relevant to reviewing the implementation of the article

217. Albania referred to the following provisions:

Article 7, CC

The applicable law on criminal acts committed by foreign citizens

The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania. The criminal law of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits one of the following crimes against the interests of the Albanian State or an Albanian citizen:

- a) crimes against humanity;
- b) crimes against Albanian independence and its constitutional order; c) crimes with terrorist purposes;
- d) organizing the prostitution, illegal trafficking of human beings, children and women, manufacturing and illegally trafficking arms, drugs, other narcotic and psychotropic substances, nuclear substances, pornographic materials, and illegal traffic of art works, and objects that have historical, cultural, and archaeological values;
- e) 1
- f) falsifying the Albanian state seal, Albanian currency, or Albanian bonds or stocks;
- g) crimes which affect the life or health of Albanian citizens, to which the law provides for a punishment by imprisonment of five years or any other heavier punishment;
- h) **Laundering the proceeds of the criminal offence or criminal activity.**
- i) **Corruption in the public or private sector crimes, and insider trading.**
- j) criminal offences in the area of information technology.

(b) Observations on the implementation of the article

218. The provision under review is implemented in Albania's legislation. The Criminal Code establishes Albania's jurisdiction over several offences covered by the Convention, when committed against the interests of the Albanian State, namely: Laundering the proceeds of the criminal offence or criminal activity and Corruption in the public or private sector.

Paragraph 3 of article 42

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite

such person solely on the ground that he or she is one of its nationals.

(a) Summary of information relevant to reviewing the implementation of the article

219. Albania referred to the following provisions:

Article 6, CC

The applicable law on criminal acts committed by Albanian citizens

As concerning criminal acts committed by Albanian citizens within the territory of the Republic of Albania, the criminal law of the Republic of Albania shall apply.

The criminal law of the Republic of Albania shall also be applicable to the Albanian citizen who commits a crime within the territory of another country, when that crime is concurrently punishable, unless a foreign court has given a final sentence. The rule of Concurrent Sentence is not executed in the territory of another state in the event of crimes of corruption in public or private sectors, and also exercise of illegal impact.

In the sense of this article, Albanian citizens shall also be considered those persons who apart from the Albanian citizenship hold another one too.

(b) Observations on the implementation of the article

220. The provision under review is implemented in Albania's legislation.

Paragraph 4 of article 42

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

(a) Summary of information relevant to reviewing the implementation of the article

221. Albania referred to the following provisions:

Article 7, CC

The applicable law on criminal acts committed by foreign citizens

The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania. The criminal law of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits one of the following crimes against the interests of the Albanian State or an Albanian citizen:

- a) crimes against humanity;
- b) crimes against Albanian independence and its constitutional order;
- c) crimes with terrorist purposes;
- d) organizing the prostitution, illegal trafficking of human beings, children and women, manufacturing and illegally trafficking arms, drugs, other narcotic and psychotropic substances, nuclear substances, pornographic materials, and illegal traffic of art works, and objects that have historical, cultural, and archaeological values;
- e) 1
- f) falsifying the Albanian state seal, Albanian currency, or Albanian bonds or stocks;
- g) crimes which affect the life or health of Albanian citizens, to which the law provides for a

- punishment by imprisonment of five years or any other heavier punishment;
- h) Laundering the proceeds of the criminal offence or criminal activity.
 - i) Corruption in the public or private sector crimes, and insider trading.
 - j) criminal offences in the area of information technology.

Article 7/a, CC

Universal jurisdiction

The criminal law of the Republic of Albania is also applicable to the foreign citizen, who is situated in the territory of the Republic of Albania and has not been extradited, and who has committed outside of the territory of the Republic of Albania one of the following crimes: a) crimes against humanity;

b) war crimes;

c) genocide;

d) crimes with terrorist purposes;

dh) Financing of terrorism.

e) torture.

The criminal law of the Republic of Albania is also applicable to the foreign citizen, who commits outside of the territory of the Republic of Albania one of the criminal offenses for which specific laws or international agreements, in which Albania is party, provide the applicability of Albanian criminal law.

(b) Observations on the implementation of the article

222. Albania has not established its jurisdiction over the offences covered by the Convention when the alleged offender is present in its territory and it does not extradite him or her.

223. Albania may wish to establish its jurisdiction over the offences covered by the Convention when the alleged offender is present in its territory and it does not extradite him or her.

Paragraph 5 of article 42

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

(a) Summary of information relevant to reviewing the implementation of the article

224. Albania referred to the following provisions:

Article 7, CC

The applicable law on criminal acts committed by foreign citizens

The foreign citizen who commits a criminal act within the territory of the Republic of Albania is held responsible on the basis of the criminal law of the Republic of Albania. The criminal law of the Republic of Albania is also applicable to a foreign citizen who, outside of the Republic of Albania, commits one of the following crimes against the interests of the Albanian State or an Albanian citizen:

a) crimes against humanity;

- b) crimes against Albanian independence and its constitutional order;
- c) crimes with terrorist purposes;
- d) organizing the prostitution, illegal trafficking of human beings, children and women, manufacturing and illegally trafficking arms, drugs, other narcotic and psychotropic substances, nuclear substances, pornographic materials, and illegal traffic of art works, and objects that have historical, cultural, and archaeological values;
- e) 1
- f) falsifying the Albanian state seal, Albanian currency, or Albanian bonds or stocks;
- g) crimes which affect the life or health of Albanian citizens, to which the law provides for a punishment by imprisonment of five years or any other heavier punishment;
- h) Laundering the proceeds of the criminal offence or criminal activity.
- i) Corruption in the public or private sector crimes, and insider trading.
- j) criminal offences in the area of information technology.

Article 11 CC

Extradition

Extradition may be granted only when explicitly provided for by international treaties in which 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 by a competent Albanian court for the same criminal act for which extradition is requested.

(b) Observations on the implementation of the article

- 225. Authorities met during the country visit confirmed that nothing in the law prevents the competent authorities in Albania from consulting with foreign authorities to coordinate their actions.
- 226. The provision under review appears to be implemented, although no examples of implementation were provided.

Paragraph 6 of article 42

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

- 227. Albania indicated that it has adopted grounds of criminal jurisdiction as described above.

(b) Observations on the implementation of the article

228. The provision under review is implemented in Albania's legislation.

IV. International cooperation

229. The reviewing experts found it difficult to assess in detail Albania's international cooperation practice in corruption cases (extradition and mutual legal assistance), due to the absence of cases and data on any requests Albania has received and refused, and, more generally, the absence of a specific system for collecting data. It is recommended that Albania improve its systems to collect data on the types of international cooperation requests (e.g., underlying offences), the timeframe for responding to these requests, and the response provided, including any grounds for refusal.

Article 44. Extradition

Paragraphs 1 and 2 of article 44

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

230. Albania referred to the following provisions.

Article 10 CC

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 declare the committal of 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) for executing sentences comprising additional punishment;
- c) for implementing security measures;
- d) for compensation of damages or other civil law effects.

Article 11 CC

Extradition

Extradition may be granted only when explicitly provided for by international treaties in which 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 by a competent Albanian court for the same criminal act for which extradition is request

Article 491 CPC

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.

Articles 1, 8, 9, 31 and 32, Law No. 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 1

Object

- 1. This law has the object of defining supplementary procedural rules in the field of jurisdictional relations with foreign authorities in criminal matters.
- 2. The provisions of this law are not applicable when it is provided otherwise in international agreements to which the Republic of Albania is a party.

Article 8

Refusal of the letter request

- 1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.
- 2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.
- 3. In the case of criminal offences against humanity or other values protected by international law, attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.
- 4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

Article 9

Reciprocity

- 1. A letter request of a foreign judicial authority is accepted if it contains guarantees of reciprocity

given by the requesting state, which include the expectation that this state will execute a similar request addressed by the local judicial authorities.

2. Notwithstanding paragraph 1 of this article, the Ministry of Justice may open the way to letters rogatory even in the absence of express guarantees about reciprocity.

Article 31

Applicable law

The surrender of a person under investigation, a defendant or a convicted person toward a foreign state is done according to this law, the rules of Albanian legislation and international agreements to which the Republic of Albania is a party.

Article 32

Conditions for extradition

In addition to the conditions provided in the Criminal Code and the Code of Criminal Procedure, the extradition of a person toward to foreign state is permitted when the following conditions are also met:

- a) Albanian legislation provides for the criminal offence for which the foreign state has imposed a coercive security measure, a sentence of imprisonment no less than one year;
- b) the measure or remaining part of the sentence given by the final judicial decision is at least four months at the time of submission of the request for extradition;
- c) criminal prosecution or the execution of the criminal sentence has not been prescribed according to the legislation of the requesting state;
- ç) the conditions exist for starting the criminal proceeding again in the requesting state, although a criminal proceeding in Albania for the same criminal offence has been dismissed;
- d) the requesting state gives guarantees that it will not give a sentence of death or, if it has given such a sentence, will not execute it.
- dh) the person whose extradition is sought, at the time of submission of the extradition request, has not applied for or been granted asylum in Albania against the requesting state.

(b) Observations on the implementation of the article

- 231. The Albanian authorities indicated that Albania can proceed in extradition matters on the basis of international treaties in specific cases (for example, involving requests for the extradition of nationals, as explained under article 44(11) below) or, in the absence of a treaty, on the basis of reciprocity as a matter of discretion by the Minister of Justice, in accordance with article 9 of Law No. 10193. It was further explained that as a matter of practice, Albania requires a reciprocity undertaking (applied in respect of any request, including requests for extradition) in cases where there is no bilateral or multilateral treaty in place (as, for example, in the case of a request from Ecuador for an offence not related to corruption).
- 232. At the time of review, Albania was party to 10 bilateral and multilateral treaties covering extradition matters, which are listed under paragraph 18 below. Albania also recognizes this Convention as a basis for extradition.
- 233. Dual criminality is a requirement for extradition under article 11 of the CC, article 491 CPC, article 32 of Law No. 10193, as well as under Albania's treaties covering extradition. Hence, Albania has not implemented paragraph 2 of the article under review. Moreover, there is a requirement that the foreign State has imposed a sentence of imprisonment of at least one year (article 32(a), Law 10193). There were no reported cases where dual criminality issues were raised or resolved. Albania has not implemented paragraph 2 of the article under review.

234. It was explained that no corruption-related requests for extradition have been received by Albania to-date, including requests under this Convention. Regarding the refusal of extradition in matters not related to corruption, a small number of requests have been refused by Albania on procedural grounds (e.g., Serbia, Egypt, Italy). Whilst these cases did not involve offences under the Convention, the national authorities provided the following additional information.

- One request was refused to Serbia because there was evidence that the subject of extradition was suspected to be prosecuted for political reasons dealing with Kosovo.
- One request was refused to Egypt because of the absence of dual criminality.
- Three requests were refused to Italy because of the statute of limitations of the criminal offences.

Paragraph 3 of article 44

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

(a) Summary of information relevant to reviewing the implementation of the article

235. Albania referred to the following provision.

Article 11 CC Extradition

Extradition may be granted only when explicitly provided for by international treaties in which 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 by a competent Albanian court for the same criminal act for which extradition is requested.

(b) Observations on the implementation of the article

236. Accessory extradition is not provided for in the Albanian legislation. While no such cases have arisen to-date, the authorities explained that Albania would apply the Convention directly in the relevant cases. No exception to this is established in Albania's extradition treaties.

Paragraph 4 of article 44

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

(a) Summary of information relevant to reviewing the implementation of the article

237. Albania referred to the information provided under paragraphs 1 and 2 of the article above.

(b) Observations on the implementation of the article

238. It was confirmed during the country visit that UNCAC offences are included among the extraditable offences under Albania's bilateral extradition treaties.

239. Albania may apply the Convention directly in extradition cases and does not consider UNCAC offences as political offences, in accordance with articles 11 CC, 491 CPC and 9 of Law No. 10193. Albania has refused extradition in matters not related to corruption on these grounds (see paragraph 1 above). There is no definition in the legislation of a political offence. Regarding the procedure for determining what constitutes a political offence, it was explained that the request is made by a judge, but that the judicial decision may be overridden by the Minister of Justice, who makes the final decision regarding extradition and whose decision cannot be challenged. There have been no cases to date where the issue of political or military offences has arisen. In the absence of any relevant cases, and given the direct applicability of the Convention, Albania is encouraged to continue to ensure that no offences established in accordance with this Convention are considered to be political offences.

Paragraph 5 of article 44

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

(a) Summary of information relevant to reviewing the implementation of the article

240. Albania indicated that it does not make extradition conditional on the existence of a treaty. Article 31 of Law 10193 "On Jurisdictional Relations With Foreign Authorities In Criminal Matters" provides that extradition takes place according to Albania's legislation and international treaties signed by Albania. Moreover, extradition is possible on the basis of reciprocity in the absence of a treaty.

241. Albania indicated that it considers this Convention as the legal basis for extradition in respect to offences to which the article under review applies, in accordance with article 122 of the Albanian Constitution.

Article 10 CPC

Application of international agreements

1. Relations with foreign authorities in the criminal sphere shall be governed by international agreements, recognized by the Albanian state, by generally admitted principles and norms of international law and also by provisions of this code.

Article 31, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Applicable law

The surrender of a person under investigation, a defendant or a convicted person toward a foreign state is done according to this law, the rules of Albanian legislation and international agreements to which the Republic of Albania is a party.

Constitution of Albania

Article 122

1. Any international agreement that has been ratified constitutes part of the internal juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, is done with the same majority.

2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.

3. The norms issued by an international organization have superiority, in case of conflict, over the laws of the country if the agreement ratified by the Republic of Albania for its participation in the organization expressly contemplates their direct applicability.

242. Albania made the following depositary notification.

“Pursuant to Article 44, paragraph 6, subparagraph a, the Republic of Albania regards this Convention as the legal basis for cooperation on extradition with other state parties to this Convention.”

(b) Observations on the implementation of the article

243. Albania considers this Convention as a basis for extradition, in accordance with article 122 of the Albanian Constitution. No corruption-related requests for extradition have been received by Albania to-date, including requests under this Convention.

Paragraph 6 of article 44

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek,

where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

(a) Summary of information relevant to reviewing the implementation of the article

244. Albania indicated that it does not make extradition conditional on the existence of a treaty. Article 31 of Law 10193 provides that extradition takes place according to Albania's laws and international treaties signed. Moreover, extradition is possible on the basis of reciprocity in the absence of a treaty.

245. Albania made the following depositary notification.

"Pursuant to Article 44, paragraph 6, subparagraph a, the Republic of Albania regards this Convention as the legal basis for cooperation on extradition with other state parties to this Convention."

(b) Observations on the implementation of the article

246. Albania does not make extradition conditional on the existence of a treaty. Albania considers this Convention as a basis for extradition, in accordance with article 122 of the Albanian Constitution, and has made the relevant depositary notification. The Albanian legislation is in compliance with the provision under review.

Paragraph 7 of article 44

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

(a) Summary of information relevant to reviewing the implementation of the article

247. Albania referred to the information provided under paragraphs 1 and 2 of the article above, in particular article 10 of the CPC.

(b) Observations on the implementation of the article

248. UNCAC offences are extraditable under Albania's laws, subject to the conditions provided for in the Criminal Code, the Code of Criminal Procedure and Law 10193, in particular article 32(a) of Law 10193 on dual criminality and the requirement of a one-year sentence of imprisonment in the foreign State. No corruption-related requests for extradition have been received by Albania to-date, including requests under this Convention.

Paragraph 8 of article 44

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

(a) Summary of information relevant to reviewing the implementation of the article

249. Albania referred to the following provisions.

Article 11 CC Extradition

Extradition may be granted only when explicitly provided for by international treaties in which 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 by a competent Albanian court for the same criminal act for which extradition is request

Articles 8, 32 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 8

Refusal of the letter request

- 1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.
- 2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.
- 3. In the case of criminal offences against humanity or other values protected by international law, attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.
- 4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

Article 32

Conditions for extradition

In addition to the conditions provided in the Criminal Code and the Code of Criminal Procedure, the extradition of a person toward to foreign state is permitted when the following conditions are also met:

- a) Albanian legislation provides for the criminal offence for which the foreign state has imposed a coercive security measure, a sentence of imprisonment no less than one year;
- b) the measure or remaining part of the sentence given by the final judicial decision is at least four months at the time of submission of the request for extradition;
- c) criminal prosecution or the execution of the criminal sentence has not been prescribed according to the legislation of the requesting state;
- ç) the conditions exist for starting the criminal proceeding again in the requesting state, although a criminal proceeding in Albania for the same criminal offence has been dismissed;
- d) the requesting state gives guarantees that it will not give a sentence of death or, if it has given such a sentence, will not execute it.
- dh) the person whose extradition is sought, at the time of submission of the extradition request, has not applied for or been granted asylum in Albania against the requesting state.

Article 490, CPC

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 without exceeding requirements under any international act that the Republic of Albania is party to or legal reserves or statements.

Article 491 CPC

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.

(b) Observations on the implementation of the article

250. There is no minimum penalty requirement for extradition under Albania's legislation; however, the offence must have been punished in the foreign State by a sentence of imprisonment of no less than one year. There have been no relevant cases where the minimum imprisonment threshold has been invoked or addressed to-date. The review of the cited Albanian legislation demonstrates that overall Albanian law contains reasonable conditions applicable to extradition and grounds for refusal.

Paragraph 9 of article 44

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

(a) Summary of information relevant to reviewing the implementation of the article

251. Albania referred to the following provisions.

Article 492 CPC

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.

Articles 34, 44, 53 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 34

Actions of the prosecutor's office

1. After receiving the request for extradition, the prosecutor within 10 days orders the interested party summoned for the purpose of identifying him and in order to receive his eventual consent to the extradition.
2. The order of summons of the prosecutor contains:
 - a) data about the time and place of appearance;
 - b) the right to select a defence attorney;
 - c) the reason for the summons, with a short summary of the facts; and also
 - ç) a warning of the person's being taken in obligatorily [lit. obligatory accompaniment of the person] in case of failure of the person to appear without lawful reasons.
3. The prosecutor documents the actions with the interested person in official written records according to the rules of the Code of Criminal Procedure.
4. Subsequently, the prosecutor respects the rules of the Code of Criminal Procedure for the submission of the request to court.

Article 44

Simplified extradition

1. The person whose extradition is sought may give consent to surrender himself to the requesting state and to waive the right the benefit from the principle of speciality through a simplified procedure. The consent and waiver are irrevocable.
2. This consent is given by the person in a judicial session that is held with the essential participation of the prosecutor and the defence attorney. The court informs the person about the advantages, consequences of simplified extradition and the impossibility of revoking the consent and waiver. In this case, a trial on the examination of the request for extradition is not held.
3. Within five days from the holding of this session, the General Prosecutor notifies the Ministry of Justice of the consent to simplified extradition, sending a copy of the judicial minutes that document this session. The Minister of Justice notifies the requesting state within 10 days from

the holding of the session.

4. The rules for ordinary extradition are subsequently not applied.

Article 53

General provisions

1. The Ministry of Justice and the local judicial authorities apply the rules of the Code of Criminal Procedure and of this law for the recognition and execution of foreign criminal decisions.
2. The decision of a foreign court for a sentence of imprisonment may be recognised:
 - a. at the request of the sentencing state, when the convicted person is an Albanian citizen and has a residence or domicile in Albania; and
 - b. at the request of an Albanian citizen who is serving a sentence in the sentencing state, for transfer and continuation of serving the sentence in Albania.
3. When a request comes from the sentencing state in a foreign language for the recognition of a foreign criminal decision, the Ministry of Justice may ask the sentencing state for its translation into the Albanian language. If the translation is done by the Ministry of Justice, evidence is taken of the expenses of translation to be included as a part of the procedural expenses.
4. The Ministry of Justice sends the acts within 30 days of their receipt to the prosecutor of the district of the residence or domicile of the person, through the General Prosecutor.
5. The prosecutor submits a request in court within 10 days from receipt of the acts. If the court that has received the acts finds that it is not competent to take a decision, it declares its lack of competence and sends the acts to the competent court, notifying the Ministry of Justice at the same time.

(b) Observations on the implementation of the article

252. Regarding the timeframe for processing extradition requests, Albanian authorities explained that requests are submitted to the courts for examination within 40 days of their receipt. More specifically, following the decision by the Minister of Justice, within 30 days of receipt of the request, to proceed with the extradition, the request is transmitted to the relevant prosecutor, who submits it to the court for examination within 10 days of receipt, in accordance with the procedures contained in Law 10193. If there is no objection to the extradition, the matter is handled within three months from the date of receipt, as provided in Article 492 CPC.
253. Albania has also ratified the Third Additional Protocol to the European Convention on Extradition (Strasbourg, 10.XI.2010), which provides for simplified extradition among member States of the Council of Europe.
254. There were no reported cases where the issue of inordinate delay has arisen in practice in corruption-related cases.

Paragraph 10 of article 44

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

255. Albania referred to the following provisions.

Articles 35, 36, 38 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 35

Coercive measures and sequestrations

1. On receipt of an international arrest warrant from the Interpol Office, in which the purpose of the requesting state to extradite a foreign citizen is declared, the Ministry of Justice forwards it to the General Prosecutor within five days, in order to act according to the rules of the Code of Criminal Procedure.
2. The Ministry of Justice also acts in the same way on receipt of a request from a requesting state to order other coercive measures or for the sequestration of material evidence and objects that are the proceeds [lit. benefit] of the criminal offence as to which extradition has been or will be sought.
3. The General Prosecutor sends the acts to the prosecutor at the competent court, so that the latter will deposit the request in court no later than 15 days from the time of submission of the request of the requesting state.
4. In setting the coercive measures and the sequestration, the court respects the rules of the Code of Criminal Procedure.
5. The coercive measures and the sequestration are set if the international arrest warrant or request of the foreign state contains:
 - a) general personal information about the foreign citizen;
 - b) data about the foreign judicial authority who has issued the international arrest warrant or a copy of the act by which the coercive measure or sequestration was ordered;
 - c) data about the criminal offence for which the coercive measure or sequestration is sought; and
 - ç) the declaration of the requesting state that it will submit a request for extradition.
6. The General Prosecutor notifies the Ministry of Justice of the setting of the coercive measures and sequestrations according to this article within five days from the date of announcement of the judicial decision.
7. The Ministry of Justice notifies the requesting state within 10 days from the date of announcement of the judicial decision.
8. The coercive measures are revoked according to the time periods defined in articles 493 point 4 and 484 point 6 of the Code of Criminal Procedure. Those time periods begin to run from the time defined in those articles, even if the person whose extradition is sought has been detained on the basis of another judicial decision.
9. When the coercive measures set before the submission of the request for extradition are revoked because of the end of the time periods, a coercive measure cannot be set again against the person, except when the requesting state submits the request for extradition.

Article 36

Arrest by the judicial police

1. In urgent cases of the arrest of a person against whom a request for temporary arrest has been submitted, the rules of article 495 of the Code of Criminal Procedure are applicable.
2. At the request of the General Prosecutor, the Ministry of Justice realises the translation of the acts required within 24 hours.

Article 38

International arrest warrant of Albanian citizens

1. On receipt of an international arrest warrant from a foreign state against an Albanian citizen, in

which the purpose of the requesting state for the extradition of the person is declared, immediately and in any event within five days, the Interpol Office forwards it to the Ministry of Justice.

2. Within five days from receipt of the international warrant, the Ministry of Justice forwards it to the General Prosecutor.

3. The General Prosecutor, through the prosecutor at the court competent for a criminal proceeding of the Albanian citizen, may proceed for the temporary arrest of the Albanian citizen, respecting the rules of articles 493-495 of the Code of Criminal Procedure and articles 35-36 of this law.

4. Within 10 days from receipt of the international warrant from the Ministry of Justice, the General Prosecutor, through the services of the Judicial Police:

a. verifies the precise personal data about the wanted Albanian citizen, including his citizenship;

b. obtains data about the exact location of the wanted Albanian citizen;

c. verifies whether the Albanian citizen has been convicted by a final decision of imprisonment by the local judicial authorities;

ç. verifies whether a coercive security measure has been set against the Albanian citizen for purposes of the criminal proceeding by the local judicial authorities.

5. Within five days from the end of the actions defined in point 4 of this article, the General Prosecutor notifies the Ministry of Justice about the inability of extraditing the Albanian citizen because of his citizenship. This notification also contains information about the ways of a criminal proceeding accepted by Albanian legislation, as the case may be, through:

a. transferring the criminal proceedings;

b. recognition of the foreign criminal decision; or

c. sending the acts and evidence through letters rogatory.

6. Within five days from receipt of the notification of the General Prosecutor according to point 4 of this article, the Ministry of Justice forwards it to the foreign state that has issued the international arrest warrant.

7. If he does not proceed according to point 3 of this article, the prosecutor at the court competent for the criminal proceeding against the Albanian citizen notes in the register of notification of criminal offences the data of the international arrest warrant, for the purpose of performing verifying procedural actions for the beginning of a criminal proceeding. If the prosecutor decides not to start a criminal proceeding, he notifies the Ministry of Justice of this decision through the General Prosecutor, within five days of taking it.

8. The same way of acting is also applied if the Albanian citizenship of the person is proven during the setting and implementation of coercive measures.

9. The rules of this article are not applicable in the case of international agreements that permit the extradition of an Albanian citizen.

Article 493 CPC

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 herein of is the district court or, during the proceedings before the court of appeal, this one.

Article 494 CPC

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 CPC

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.

(b) Observations on the implementation of the article

256. Albania has adopted measures in line with the provision under review. No examples of implementation were provided.

Paragraphs 11 to 13 of article 44

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

(a) Summary of information relevant to reviewing the implementation of the article

257. Albania referred to the following provisions.

Article 6 CC

The applicable law on criminal acts committed by Albanian citizens

As concerning criminal acts committed by Albanian citizens within the territory of the Republic of Albania, the criminal law of the Republic of Albania shall apply.

The criminal law of the Republic of Albania shall also be applicable to the Albanian citizen who commits a crime within the territory of another country, when that crime is concurrently punishable, unless a foreign court has given a final sentence. The rule of Concurrent Sentence is not executed in the territory of another state in the event of crimes of corruption in public or private sectors, and also exercise of illegal impact.

In the sense of this article, Albanian citizens shall also be considered those persons who apart from the Albanian citizenship hold another one too.

Article 11 CC Extradition

Extradition may be granted only when explicitly provided for by international treaties in which 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 by a competent Albanian court for the same criminal act for which extradition is request

Article 38, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters International arrest warrant of Albanian citizens

1. On receipt of an international arrest warrant from a foreign state against an Albanian citizen, in which the purpose of the requesting state for the extradition of the person is declared, immediately and in any event within five days, the Interpol Office forwards it to the Ministry of Justice.
2. Within five days from receipt of the international warrant, the Ministry of Justice forwards it to the General Prosecutor.
3. The General Prosecutor, through the prosecutor at the court competent for a criminal proceeding of the Albanian citizen, may proceed for the temporary arrest of the Albanian citizen, respecting the rules of articles 493-495 of the Code of Criminal Procedure and articles 35-36 of this law.
4. Within 10 days from receipt of the international warrant from the Ministry of Justice, the General Prosecutor, through the services of the Judicial Police:
 - a. verifies the precise personal data about the wanted Albanian citizen, including his citizenship;
 - b. obtains data about the exact location of the wanted Albanian citizen;
 - c. verifies whether the Albanian citizen has been convicted by a final decision of imprisonment by the local judicial authorities;
 - ç. verifies whether a coercive security measure has been set against the Albanian citizen for purposes of the criminal proceeding by the local judicial authorities.
5. Within five days from the end of the actions defined in point 4 of this article, the General Prosecutor notifies the Ministry of Justice about the inability of extraditing the Albanian citizen because of his citizenship. This notification also contains information about the ways of a criminal proceeding accepted by Albanian legislation, as the case may be, through:
 - a. transferring the criminal proceedings;
 - b. recognition of the foreign criminal decision; or
 - c. sending the acts and evidence through letters rogatory.
6. Within five days from receipt of the notification of the General Prosecutor according to point 4 of this article, the Ministry of Justice forwards it to the foreign state that has issued the international arrest warrant.
7. If he does not proceed according to point 3 of this article, the prosecutor at the court competent for the criminal proceeding against the Albanian citizen notes in the register of notification of criminal offences the data of the international arrest warrant, for the purpose of performing verifying procedural actions for the beginning of a criminal proceeding. If the prosecutor decides not to start a criminal proceeding, he notifies the Ministry of Justice of this decision through the General Prosecutor, within five days of taking it.
8. The same way of acting is also applied if the Albanian citizenship of the person is proven during the setting and implementation of coercive measures.
9. The rules of this article are not applicable in the case of international agreements that permit the extradition of an Albanian citizen.

Article 491 CPC

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.

(b) Observations on the implementation of the article

258. The procedure for handling requests for the extradition of Albanian nationals, including the prosecution in lieu of extradition and recognition of a foreign sentence, is contained in article 38(5) and (7) of Law 10193. Article 6 of the Albanian Criminal Code provides for the application of Albanian criminal law to acts committed by citizens of Albania. It was explained by the authorities that article 6 CC is applied in cases where there is no treaty in place providing for the possibility of transferring a criminal proceeding to Albania or recognizing a foreign judgment (as per article 38(5) of Law 10193). Thus, article 6 CC was applied in the case of a request for the extradition of an Albanian citizen to Belgium.

259. Articles 53-61 of Law 10193 provide for the recognition and execution of foreign criminal judgments, including against nationals, whilst articles 71-75 of the same law address the acceptance of foreign criminal proceedings. The recognition of foreign judgments is also addressed in articles 512-514 of the CPC

260. The extradition of nationals is also addressed in Albania's bilateral extradition treaties, including those with the USA and Italy. It was confirmed by the Albanian authorities that no Albanian citizens have been extradited to-date in corruption-related matters, but that Albania has requested the extradition of nationals from other States, including Ecuador, Bahrain and Canada (in matters not related to corruption).

261. It was further confirmed during the country visit that Albania does not recognize or require the conditional extradition of nationals, as provided under paragraph 12 of article 44.

Paragraph 14 of article 44

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

(a) Summary of information relevant to reviewing the implementation of the article

262. Albania referred to the following provisions.

Article 17, Constitution of Albania

1. The limitation of the rights and freedoms provided for in this Constitution may be established

only by law for a public interest or for the protection of the rights of others. A limitation shall be in proportion with the situation that has dictated it.

2. These limitations may not infringe the essence of the rights and freedoms and in no case may exceed the limitations provided for in the European Convention on Human Rights.

Article 18, Constitution of Albania

1. All are equal before the law.

2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or ancestry.

3. No one may be discriminated against for reasons mentioned in paragraph 2 if reasonable and objective legal grounds do not exist.

Article 4 CPC

Presumption of innocence

1. The defendant is presumed innocent until proven guilty by a final court decision. Any doubt on the charge is judged in favor of the defendant.

Article 5 CPC

Restrictions on the personal freedom

1. The freedom of person may be restricted by remand orders only in cases and ways prescribed by law.

2. No one may be subjected to torture or humiliating punishment or treatment.

3. Persons convicted to imprisonment are ensured of human treatment and moral rehabilitation.

Article 6 CPC

Right of defense

1. The defendant has the right to present his own defense or with the assistance of a defense counsel. When he has no sufficient means, he is provided with the services of a defense counsel free of charge.

2. The defense counsel shall assist the defendant to have his procedural rights guaranteed and his legitimate interests protected.

Article 7

Prohibition of double jeopardy (twice for the same offence)

1. No one may be tried again for the same criminal offence, for which one has been tried by a final decision, except when the competent court has decided the retrial of the case.

Article 8

Use of Albanian Language

1. Albanian language shall be used in all stages of the proceeding.

2. Persons who do not know Albanian language shall use their own language and through an interpreter, have the right to speak and to be informed of the evidence, documents (acts) and also on the process of proceeding.

Article 9

Restitution of rights

1. Individuals who are prosecuted contrary to law or who are unfairly convicted shall have their rights restituted and shall be compensated for the damage suffered.

Article 496 CPC

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 CPC

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.

(b) Observations on the implementation of the article

263. In addition to the above-cited provisions, which the Albanian authorities confirmed are applicable in extradition proceedings, Albania also referred to article 11 CC and articles 8 and 32 of Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters (cited under paragraph 8 above). Albania has further ratified the European Convention on Human Rights, as amended (Rome, 4.11.1950).
264. Taking into account the provisions of the Albanian legislation provided, it should be mentioned that the Albanian legislation does not contain any separate provision providing protection for the rights and guarantees for persons in extradition cases. It was explained during the country visit that the fundamental and procedural safeguards under Albania's, Constitution, laws and treaties are applied in all extradition cases, and that the issue of fair treatment has not arisen or been invoked in practice in any extradition cases to-date.

Paragraph 15 of article 44

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

(a) Summary of information relevant to reviewing the implementation of the article

265. Albania referred to the following provisions.

Article 11 CC Extradition

Extradition may be granted only when explicitly provided for by international treaties in which 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 by a competent Albanian court for the same criminal act for which extradition is request

Articles 8 and 32, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters (cited under paragraph 8 above)

CPC 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.

(b) Observations on the implementation of the article

266. Albania has adopted measures in line with the provision under review. With regard to the application of these measures in practice, it was explained during the country visit that Albania has refused extradition for the aforementioned reasons only in three cases to-date, involving requests from Serbia, Egypt and Italy, on procedural grounds. Albania has implemented the provision under review.

Paragraph 16 of article 44

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

267. Albania referred to the following provisions.

Article 11 CC Extradition

Extradition may be granted only when explicitly provided for by international treaties in which 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 by a competent Albanian court for the same criminal act for which extradition is request

Article 32, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters Conditions for extradition

In addition to the conditions provided in the Criminal Code and the Code of Criminal Procedure, the extradition of a person toward to foreign state is permitted when the following conditions are also met:

- a) Albanian legislation provides for the criminal offence for which the foreign state has imposed a coercive security measure, a sentence of imprisonment no less than one year;
- b) the measure or remaining part of the sentence given by the final judicial decision is at least four months at the time of submission of the request for extradition;
- c) criminal prosecution or the execution of the criminal sentence has not been prescribed according to the legislation of the requesting state;
- ç) the conditions exist for starting the criminal proceeding again in the requesting state, although a criminal proceeding in Albania for the same criminal offence has been dismissed;
- d) the requesting state gives guarantees that it will not give a sentence of death or, if it has given such a sentence, will not execute it.
- dh) the person whose extradition is sought, at the time of submission of the extradition request, has not applied for or been granted asylum in Albania against the requesting state.

Article 491 CPC

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.

(b) Observations on the implementation of the article

268. The fact that the offence also involves fiscal matters is not among the grounds for refusing extradition provided in the cited articles of the CC, CPC and Law 10193. Albania has also ratified the Second Additional Protocol to the European Convention on Extradition (Strasbourg, 17.III.1978), which provides for extradition involving fiscal offences among member States of the Council of Europe, subject to dual criminality.

269. No examples of implementation were provided.

270. Notwithstanding that the Convention is directly applicable by Albania, it is recommended that Albania explicitly includes in the legislation that the request cannot be refused solely on the basis that it involves fiscal offences.

Paragraph 17 of article 44

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

(a) Summary of information relevant to reviewing the implementation of the article

271. Albania referred to the following provisions.

Article 499 CPC

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 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.

Articles 11 and 33, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 11

Completion of letter requests and impediments to executing them

1. If a foreign letter request does not contain information necessary for its execution, the Ministry of Justice notifies the foreign judicial authority to complete it, without forwarding it to the organ of the prosecutor's office. The letter request is forwarded by the Ministry of Justice after its completion by the foreign judicial authority.
2. If a letter request can be executed partially or in a conditioned manner, the Ministry of Justice even on its own initiative notifies the requesting state and gives it the possibility to give its

opinion or to complete the request.

3. The notifications referred to in [lit. requests or requirements of] points 1 and 2 of this article may also be submitted by the local judicial authority that is proceeding if upon receipt of the acts it considers that such a thing [is necessary]. It submits the requests directly to the authority of the requesting state, notifying the Ministry of Justice at the same time.

Article 33

Actions of the Ministry of Justice

1. When it does not refuse a request for extradition, the Ministry of Justice forwards it within 10 days to the prosecutor at the competent court, through the General Prosecutor. In complicated cases, because of the volume of the acts or the need for translation, this time period may be extended up to 15 days.

2. If it finds that not all the necessary acts have been attached to the request for extradition, but nevertheless reached the conclusion that it is not a case for refusal of the request, the Ministry of Justice acts according to article 11 of this law. The supplemental acts submitted by the requesting state are forwarded to the organ of the prosecutor's office within seven days from their receipt, also respecting the obligation for translation.

3. The Ministry of Justice also acts in the same way if a request to complete the acts is submitted by the local judicial authorities.

(b) Observations on the implementation of the article

272. There have been no relevant case examples. Albania has implemented the provision under review.

Paragraph 18 of article 44

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

(a) Summary of information relevant to reviewing the implementation of the article

273. Albania has concluded bilateral and multilateral agreements on extradition with other States parties.

(b) Observations on the implementation of the article

274. At the time of review, Albania was party to less than 10 bilateral and multilateral treaties covering extradition matters. Albania also recognizes this Convention as a basis for extradition.

Multilateral treaties and conventions

- European Convention on Extradition (ETS 024) and 4 Additional Protocols;
- Rome Statute on ICC (2002);
- UN Convention on Transnational Organized Crime.

Bilateral treaties

- Egypt: Agreement between the Government of Albania and the Government of Arab Republic of Egypt on Extradition (2004);

- "FYROM": Agreement between the Former Yugoslav Republic of Macedonia and Albania on Extradition (1998);
- Greece: Agreement between the Government of Albania and the Government of Greece on Legal Assistance in Criminal and Civil Matters (Extradition included)(1993);
- Romania: Agreement between Romania and Albania on Legal Assistance in Civil, Family and Criminal Matters (Extradition included)(1961);
- USA: Agreement between the Kingdom of Albania and the Government of the USA on Extradition (1933); (Providing the extradition of nationals abroad);
- (Agreement between the Republic of Albania and Republic of Italy, as Addenda to European Convention on Extradition of 13 December 1957 and European Convention on Mutual Assistance on Criminal Matters of 20 April 1959 entered into force in August 2011); (Providing the extradition of nationals abroad);
- Kosovo: Agreement between the Republic of Albania and Republic of Kosovo (2013), (Providing the extradition of nationals abroad).

Article 45. Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

(a) Summary of information relevant to reviewing the implementation of the article

275. Albania referred to the following provisions.

Article 60, 64 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 60

Execution of foreign decisions in case of transfer for continuation of serving of the sentence

1. An Albanian citizen who is serving a sentence of imprisonment in a foreign state may, at his request, be transferred to Albania to continue serving the sentence of imprisonment after the decision has been recognised by the local judicial authorities.
2. If the sentencing state subjects the act by which the convicted person has received notification about the recognition decision, the Ministry of Justice forwards this act of notification to the General Prosecutor and the court that has given the recognition decision.
3. After the foreign criminal decision has been recognised and the competent authorities of the sentencing state have accepted the transfer of the convicted person, the taking of measures begin for transferring the convicted person from the sentencing state to Albania, applying, to the extent possible, the rules for the surrender of an extradited person.
4. The manner of paying and the division of the expenses of transfer is defined by joint instructions of the Minister of Finance, the Minister of the Interior and the General Prosecutor.

Article 64

Transferring foreign citizens for continuation of serving a sentence rendered in Albania

1. For transferring a foreign citizen convicted by a criminal decision rendered in Albania, the rules of article 520 of the Code of Criminal Procedure are applied.
2. The judicial session is held with the mandatory participation of the prosecutor and the defence

attorney. The prosecutor sends the acts to the Ministry of Justice within 10 days from the holding of the session.

3. For the surrender of the convicted person to the sentencing state, the taking of measures begins, implementing to the extent possible the rules for the surrender of an extradited person.

(b) Observations on the implementation of the article

276. Albania has entered into the following treaties on the transfer of prisoners to and from Albania.

- Council of Europe Convention “On the transfer of prisoners”;
- Bilateral agreement on the transfer of prisoners with Belgium, Italy, United Kingdom, Kosovo.

Article 46. Mutual legal assistance

Paragraph 1 of article 46

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

277. Albania referred to the following provisions.

Article 10 CPC

Application of international agreements

1. Relations with foreign authorities in the criminal sphere shall be governed by international agreements, recognized by the Albanian state, by generally admitted principles and norms of international law and also by provisions of this code.

Articles 505-507, CPC

SECTION I

REGATORY 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 within 5 days from the submission of acts by the Minister of Justice.

3. The court disposes of the execution of the letter of application by a decision within 10 days from the submission of such request.

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 in accordance also with international acts international act that the Republic of Albania is party to or legal reserves or statements.

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 rogatory letters

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 510, CPC

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-encroachment 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, CPC

Value of the documents received through rogatory letter

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.

Article 3, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Field of application

The provisions of this law are applicable:

1. in proceedings that are related to criminal offences 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;

2. in proceedings that are in the jurisdiction of the European Court of Human Rights or other international courts whose jurisdiction has been accepted by the Republic of Albania.

Article 9, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Reciprocity

1. A letter request of a foreign judicial authority is accepted if it contains guarantees of reciprocity given by the requesting state, which include the expectation that this state will execute a similar request addressed by the local judicial authorities.

2. Notwithstanding paragraph 1 of this article, the Ministry of Justice may open the way to letters rogatory even in the absence of express guarantees about reciprocity.

Article 17, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Special procedure

If a foreign judicial authority asks in a letter rogatory for special conditions to be fulfilled related to form and procedure, the local judicial authority acts for its execution in conformity with those requests, provided that the requests shall not be in violation of the fundamental principles of the legal order of the Republic of Albania.

Article 22, Law No. 9917, On the Prevention of Money Laundering and Financing of Terrorism,
as amended

Duties and functions of the responsible authority

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

a) collects, manages, processes, analyzes and disseminates to the competent authorities, data, reports and information regarding cases of money laundering and terrorism financing.

b) has access to databases and any information managed by the state institutions, as well as in any other public registry within the competencies of this law;

c) for the purpose of preventing money laundering and terrorism financing, requests any kind of information from the entities subject to this law;

ç) supervises the activity of the reporting subjects regarding compliance with the requirements of laws and bylaws on prevention of money laundering and financing of terrorism, including inspections, alone or in cooperation with the supervising authorities,

d) exchanges information with any foreign counterpart, subjected to similar obligations of confidentiality. The information offered should be utilized only for the purposes of prevention and fighting of money laundering and financing of terrorism. The information may be disseminated only upon prior consent of the parties;

dh) enter into agreements with any foreign counterpart, subjected to similar obligations of confidentiality.

e) exchanges information with the General Prosecutor's Office, Ministry of Interior, State Police, State Information Service and other competent law enforcement authorities on cases of laundering of proceeds of crime or financing of terrorism and may sign bilateral or multilateral memoranda of cooperation with them.

ë) it is informed about registered criminal proceedings for money laundering and financing of terrorism and the manner of their conclusion.

f) may issue a list of countries in accordance with paragraph 5 of article 8 of this law, in order to limit and/or check the transactions or business relations of the entities with these countries;

g) orders, when there are reasons based on facts and concrete circumstances for money laundering or financing of terrorism, the blocking or temporary freezing of the transaction or of the financial operation for a period not longer than 72 hours. If elements of a criminal offence are noted, the Authority shall, within this timeframe, present the denunciation to the Prosecution by submitting

- also a copy of the order for the temporary freezing of the transaction or of the account, according to this article as well as all the relevant documentation;
- gj) maintains and administers all data and other legal documentation for 10 years from the date of receiving the information on the last transaction;
 - h) presents its feedback on the reports that the entities have filed with this authority;
 - i) organizes and participates, together with public and private institutions, in training activities related to money laundering and terrorism financing, as well as, organizes or participates in programs aimed at raising public awareness;
 - j) notifies the relevant supervising authority when observing that an entity fails to comply with the obligations specified in this law;
 - k) publishes within the first quarter of each year the annual public report for the previous year, regarding the activity of the responsible authority. The report should include detailed statistics on the origin of the received reports and the results of the cases disseminated to the prosecution.
 - l) orders, when there are reasonable grounds for money laundering and financing of terrorism, the monitoring, during a certain period of time, of bank transactions that are being made through one or more specified accounts.
 - ll) periodically reviews the effectiveness and efficiency of the national systems for combating money laundering and financing of terrorism through statistics and other available information. To this effect the “Responsible Authority” requests statistics and data from subjects, supervisory authorities and other competent authorities with a responsibility for combating money laundering and the financing of terrorism, that as a minimum, shall include:
 - i) suspicious transaction reports including breakdown by reporting persons, analysis and dissemination;
 - ii) on-site supervisory examinations, sanctions imposed including breakdown by type, sector and amount;
 - iii) cases investigated, persons prosecuted and persons convicted;
 - iv) property frozen, seized or confiscated;
 - v) mutual legal assistance and other international requests for cooperation;

(b) Observations on the implementation of the article

278. It was explained during the country visit that the procedure for executing mutual legal assistance (MLA) requests is the same as with extradition in that Albania can proceed in the absence of a treaty, on the basis of reciprocity as a matter of discretion by the Minister of Justice. As a matter of practice, in accordance with article 505(4) CPC and article 9 of Law 10193, Albania requires a reciprocity undertaking in cases where there is no bilateral or multilateral treaty in place (as, for example, in the case of requests from Mexico, Ecuador and Kuwait (not related to corruption) where there was no treaty in place).
279. Albania has concluded several bilateral and multilateral treaties (as listed under paragraph 30 below) and also recognizes this Convention as a basis for MLA. In the case of a conflict between international treaties and domestic law, the treaty provisions prevail, as provided in article 1 of Law 10193.

Article 1, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Object

1. This law has the object of defining supplementary procedural rules in the field of jurisdictional relations with foreign authorities in criminal matters.
2. The provisions of this law are not applicable when it is provided otherwise in international agreements to which the Republic of Albania is a party.

280. It was explained that no corruption-related requests for MLA have been received by Albania to-date, including requests under this Convention. No data was available on the number of MLA requests made or received by Albanian authorities in matters not related to corruption.
281. It was explained that dual criminality is a fundamental requirement for MLA, in accordance with article 506(4)(b) CPC, and that requests for assistance (not related to corruption) have been refused on the grounds of absence of dual criminality. The observations under paragraph 9 are referred to.
282. It is noted that a judicial decision is required under Albania's legislation to render MLA (e.g., article 506 CPC). It was explained that this requirement for a court order is necessary for assistance to be rendered under articles 506 and 507 but not article 508 CPC (summoning witnesses requested by the foreign authority). Notwithstanding that the Convention is directly applicable by Albania and supersedes contrary provisions of domestic law, the reviewing experts welcome indications by the authorities that Albania is considering removing the requirement for judicial authorization for MLA, to streamline the provision of assistance in accordance with the Convention.

Paragraph 2 of article 46

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

283. Albania referred to the following provisions.

Article 505, CPC

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, CPC

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 within 5 days from the submission of acts by the Minister of Justice.
3. The court disposes of the execution of the letter of application by a decision within 10 days from the submission of such request.
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 in accordance also with international acts international act that the Republic of Albania is party to or legal reserves or statements.
 - b) when the fact for which the foreign authority proceeds is not provided as a criminal offence by the Albanian law.

Article 3, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Field of application

The provisions of this law are applicable:

1. in proceedings that are related to criminal offences 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;
2. in proceedings that are in the jurisdiction of the European Court of Human Rights or other international courts whose jurisdiction has been accepted by the Republic of Albania.

Article 13 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Types of letters rogatory and field of application

1. The types of letters rogatory are:
 - a. a notification of the act of summons against a person under investigation, defendant, witness, expert, convicted person or other parties in the criminal proceeding;
 - b. a notification of the orders, decisions of judicial authorities and of other necessary documents related to the criminal proceeding in the requesting state;
 - c. measures of property security for purposes of a criminal proceeding;
 - ç. the questioning of a person under investigation, defendant, convicted person, witness and expert, even through holding a hearing session by means of telephonic and audio-visual connections;
 - d. the temporary transferring of detained persons for the purpose of questioning them;
 - dh. other investigative actions that are not prohibited by law.
2. In addition to cases of the criminal proceeding provided by article 3 of this law, the letters rogatory of foreign judicial authorities are executed in administrative proceedings if a decision rendered at the end of them may be appealed to a court with criminal jurisdiction. This rule is applicable up to the degree provided in international agreements binding on the Republic of Albania.

Article 8 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Refusal of the letter request

1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.
2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.
3. In the case of criminal offences against humanity or other values protected by international law,

attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.

4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

(b) Observations on the implementation of the article

284. Albania recognizes the criminal liability of legal persons and there are no impediments to the provision of MLA in cases of offences involving legal persons. Albania has also ratified the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 8.XI.2001), which provides in article 1(4) that “Mutual assistance shall not be refused solely on the grounds that it relates to acts for which a legal person may be held liable in the requesting Party.” No case examples were provided.

Paragraph 3 of article 46

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;*
- (b) Effecting service of judicial documents;*
- (c) Executing searches and seizures, and freezing;*
- (d) Examining objects and sites;*
- (e) Providing information, evidentiary items and expert evaluations;*
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;*
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;*
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;*
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;*
- (j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;*
- (k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.*

(a) Summary of information relevant to reviewing the implementation of the article

285. Albania referred to the following provisions.

Article 10, 505 and 507 CPC (quoted above)

Article 13 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Article 13

Types of letters rogatory and field of application

1. The types of letters rogatory are:

- a. a notification of the act of summons against a person under investigation, defendant, witness, expert, convicted person or other parties in the criminal proceeding;
- b. a notification of the orders, decisions of judicial authorities and of other necessary documents

related to the criminal proceeding in the requesting state;

- c. measures of property security for purposes of a criminal proceeding;
- ç. the questioning of a person under investigation, defendant, convicted person, witness and expert, even through holding a hearing session by means of telephonic and audio-visual connections;
- d. the temporary transferring of detained persons for the purpose of questioning them;
- dh. other investigative actions that are not prohibited by law.

2. In addition to cases of the criminal proceeding provided by article 3 of this law, the letters rogatory of foreign judicial authorities are executed in administrative proceedings if a decision rendered at the end of them may be appealed to a court with criminal jurisdiction. This rule is applicable up to the degree provided in international agreements binding on the Republic of Albania.

Article 17 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters (quoted above)

Articles 22, 23 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 22

Searching for and sequestration of objects

1. At the request of foreign judicial authorities, a local judicial authority may order the permission of a search of places or the sequestration of items that can be confiscated which are located in the territory of the Republic of Albania in connection with the facts specified in the letter rogatory. The decision may be appealed within 10 days from the day following receipt of knowledge according to the rules of the Code of Criminal Procedure.
2. The competent local judicial authority performs the search and sequestration in compliance with the rules of the Code of Criminal Procedure.
3. When a third party, who has gained the right in good faith, a state authority or an injured party who has [his] residence or domicile in Albania claims ownership of the objects, documents or profits, the object provided in point 1 of this article are sent only if the foreign judicial authority guarantees their return at the end of the proceedings in connection with the evidence.
4. The sending may be postponed for as long as the objects, documents or profits are necessary for criminal proceedings that have begun in Albania.

Article 23

Delivery of sequestered objects

1. The objects sequestered are sent to the foreign judicial authority at its request, in execution of the letter rogatory, to be confiscated or to be returned to the lawful owner.
2. These objects include:
 - a) objects used for the commission of a criminal offence;
 - b) objects that come from the commission of a criminal offence or values equivalent to them;
 - c) profits from a criminal offence or values equivalent to them;
 - ç) other objects given with the purpose of inciting the commission of a criminal offence as well as compensation for a criminal offence.
3. The objects or profits may be kept in a permanent manner in Albania if:
 - a) their owner has [his] residence or domicile in the Republic of Albania;
 - b) there are serious claims of the Albanian state authorities in connection with the objects or profits;
 - c) a person, who has not taken part in the commission of a criminal offence and whose claims are not guaranteed by the requesting state proves that he has earned the right to those objects and

profits in good faith, as well as that the person has [his] residence in Albania.

Article 13, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters Types of letters rogatory and field of application

1. The types of letters rogatory are:

- a. a notification of the act of summons against a person under investigation, defendant, witness, expert, convicted person or other parties in the criminal proceeding;
- b. a notification of the orders, decisions of judicial authorities and of other necessary documents related to the criminal proceeding in the requesting state;
- c. measures of property security for purposes of a criminal proceeding;
- ç. the questioning of a person under investigation, defendant, convicted person, witness and expert, even through holding a hearing session by means of telephonic and audio-visual connections;
- d. the temporary transferring of detained persons for the purpose of questioning them;
- dh. other investigative actions that are not prohibited by law.

2. In addition to cases of the criminal proceeding provided by article 3 of this law, the letters rogatory of foreign judicial authorities are executed in administrative proceedings if a decision rendered at the end of them may be appealed to a court with criminal jurisdiction. This rule is applicable up to the degree provided in international agreements binding on the Republic of Albania.

Article 22, Law No. 9917, “On the Prevention of Money Laundering and Financing of Terrorism (quoted above)

(b) Observations on the implementation of the article

286. Albania is able to provide a wide range of assistance in relation to investigative acts under the Convention. Moreover, the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 8.XI.2001) provides in article 1(3) that “Mutual assistance may also be afforded in proceedings brought by the administrative authorities in respect of acts which are punishable under the national law of the requesting or the requested Party by virtue of being infringements of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.”

Paragraphs 4 and 5 of article 46

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restriction on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not

possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

(a) Summary of information relevant to reviewing the implementation of the article

287. Albania referred to the following provision.

Article 27 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Forwarding data without a request

1. Local judicial authorities even on their own initiative forward to foreign judicial authorities information that is related to criminal offences collected during a criminal proceeding, if they judge that forwarding such information may assist in the opening of a criminal proceeding or the submission of a request for legal assistance from the foreign state. This information is forwarded if the progress of the criminal proceeding in Albania is not hindered and respecting the conditions of reciprocity.

2. The competent local judicial authority may ask the foreign judicial authorities that have received the information mentioned in the first point of this article for data about the measures taken in connection with the information forwarded. In addition, the competent local judicial authority may establish other conditions related to the use of this information in the state to which the information has been forwarded.

Article 28, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Forwarding information about foreign citizens proceeded against or convicted

1. Every three months, the Ministry of Justice sends information to the foreign judicial authority about final criminal decisions rendered against citizens of that state. This information is taken from the register of judicial status.

2. At the request of the competent foreign judicial authorities, the Ministry of Justice forwards an abbreviated version of the final criminal decision or a certification of judicial status.

3. At the request of a foreign state, the Ministry of Justice may forward data about persons who are citizens of the requesting state and who are subjects of a criminal proceeding that has been started in the Republic of Albania. For fulfilling this request, the Ministry of Justice cooperates with the General Prosecutor.

(b) Observations on the implementation of the article

288. Albania has legislatively implemented the provisions under review in article 27 of Law 10193. The authorities indicated that there have been many examples where information was provided spontaneously to foreign countries, for example in the case of subscriber telephone records sent through INTERPOL.

Paragraph 8 of article 46

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

289. Albania referred to the following provisions.

Article 505 CPC

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 507 CPC

Execution of rogatory letters

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 13 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 13

Types of letters rogatory and field of application

1. The types of letters rogatory are:
 - a. a notification of the act of summons against a person under investigation, defendant, witness, expert, convicted person or other parties in the criminal proceeding;
 - b. a notification of the orders, decisions of judicial authorities and of other necessary documents related to the criminal proceeding in the requesting state;
 - c. measures of property security for purposes of a criminal proceeding;
 - ç. the questioning of a person under investigation, defendant, convicted person, witness and expert, even through holding a hearing session by means of telephonic and audio-visual connections;
 - d. the temporary transferring of detained persons for the purpose of questioning them;
 - dh. other investigative actions that are not prohibited by law.
2. In addition to cases of the criminal proceeding provided by article 3 of this law, the letters rogatory of foreign judicial authorities are executed in administrative proceedings if a decision rendered at the end of them may be appealed to a court with criminal jurisdiction. This rule is applicable up to the degree provided in international agreements binding on the Republic of Albania.

Article 8 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Refusal of the letter request

1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.

2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.
3. In the case of criminal offences against humanity or other values protected by international law, attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.
4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

Article 22, Law No. 9917, On the Prevention of Money Laundering and Financing of Terrorism (quoted above)

(b) Observations on the implementation of the article

290. Bank secrecy is not a ground for refusal under Albania's legislation. No statistics or examples of implementation were provided. Albania has legislatively implemented the provision under review.

Paragraph 9 of article 46

9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

(a) Summary of information relevant to reviewing the implementation of the article

291. Albania referred to the following provisions.

Article 10 CPC

Application of international agreements

1. Relations with foreign authorities in the criminal sphere shall be governed by international agreements, recognized by the Albanian state, by generally admitted principles and norms of international law and also by provisions of this code.

Articles 505-507, CPC

SECTION I

REGATORY 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 within 5 days from the submission of acts by the Minister of Justice..

3. The court disposes of the execution of the letter of application by a decision within 10 days from the submission of such request.

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 in accordance also with international acts international act that the Republic of Albania is party to or legal reserves or statements.

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 rogatory letters

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 8 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Refusal of the letter request

1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.

2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.

3. In the case of criminal offences against humanity or other values protected by international law, attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.

4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

(b) Observations on the implementation of the article

292. It was explained that dual criminality is a fundamental requirement for MLA, in accordance with article 506(4) CPC, and that requests for assistance (not related to corruption) have been refused on the grounds of the absence of dual criminality. No de minimis threshold is provided for in the Albanian legislation.

293. Although the Convention is directly applicable and trumps any contrary provisions of domestic law, and notwithstanding the terms of its existing treaties, it is recommended that Albania adopt measures to assure that it will render assistance where the request does not involve coercive action, in accordance with paragraph 9(b) of the article under review.

Paragraphs 10 to 12 of article 46

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with

paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

(a) Summary of information relevant to reviewing the implementation of the article

294. Albania referred to the following provisions.

Article 505 CPC

Ministry of Justice Powers

...

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 510, CPC

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-encroachment 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 13 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Types of letters rogatory and field of application

1. The types of letters rogatory are:

a. a notification of the act of summons against a person under investigation, defendant, witness, expert, convicted person or other parties in the criminal proceeding;

b. a notification of the orders, decisions of judicial authorities and of other necessary documents related to the criminal proceeding in the requesting state;

c. measures of property security for purposes of a criminal proceeding;

ç. the questioning of a person under investigation, defendant, convicted person, witness and expert, even through holding a hearing session by means of telephonic and audio-visual connections;

d. the temporary transferring of detained persons for the purpose of questioning them;

dh. other investigative actions that are not prohibited by law.

2. In addition to cases of the criminal proceeding provided by article 3 of this law, the letters rogatory of foreign judicial authorities are executed in administrative proceedings if a decision rendered at the end of them may be appealed to a court with criminal jurisdiction. This rule is applicable up to the degree provided in international agreements binding on the Republic of Albania.

Article 19, 21 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 19

Untouchability of the person summoned

1. When a person who is requested to be notified of a summons to a proceeding in Albania does not succeed in acting in conformity with the act of summons issued by the requesting state, no mandatory [or] coercive measure or criminal sanction are taken against him.
2. If the local judicial authorities call a witness or expert with a residence or domicile outside the state, during the time of [his] stay in Albania, he will not be subjected to a criminal proceeding for an offence committed before [his] appearance in Albanian territory nor will he be sent to serve a criminal sentence given by a local judicial decision rendered before his appearance.
3. Point 2 of this article is not applicable if the witness or expert, although he has been given the possibility, has not left Albanian territory within 15 days after being notified that his presence is no longer necessary. This time period does not include the period during which the witness or expert could not have left Albanian territory for lawful documented reasons.

Article 21

Temporary transfer of detained persons

1. When a foreign judicial authority summons a person detained in Albania for questioning, he may be temporarily transferred to the requesting state.
2. The temporary transferring of the person is decided by the Minister of Justice if the requesting state gives guarantees for the protection and return of the person within a defined period.
3. The transferring is refused when:
 - a) the detained person does not give consent. If the detained person has given consent, he cannot revoke it;
 - b) the transferring may extend his detention;
 - c) there are other fundamental reasons for not transferring him.
4. When the presence of the detained person is necessary in criminal proceedings being conducted by local judicial authorities, the transferring may be postponed.
5. When a third state is requested to transfer a detained person through Albanian territory, his transit passage is permitted if he is not an Albanian citizen.
6. The office of Interpol, in cooperation with the homologous authority of the requesting state takes technical measures to realise the delivery of the detained person and immediately notifies the Ministry of Justice of the place and date of delivery of the temporarily transferred person. The delivery of the transferred person is performed by the Interpol Office, which immediately notifies the Ministry of Justice and the General Prosecutor.
7. The time of detention in the requesting state is calculated in the amount of the sentence served in Albania.
8. The rules provided by this article are also applicable to a person detained in Albanian territory or who has been transferred to serve a sentence given by the requesting state, when his personal appearance has been requested for purposes of a review of the decision by the requesting state.

(b) Observations on the implementation of the article

295. Articles 19 and 21 (in particular) of Law 10193 partially address the requirements of paragraphs 10 and 11 of the article under review. However, it is noted that article 21 of Law 10193 applies to foreign States requesting the transfer of prisoners from Albania and does not impose corresponding obligations on Albania to guarantee the protection and return of the person within a defined period or to ensure that consent is provided by the foreign prisoner transferred to Albania. In this context it was explained by the Albanian authorities that the temporary transfer of prisoners is regulated by Article 3 of the Second Additional Protocol of the European Convention on MLA in Criminal Matters and Article 21 of Law 10193 cited mentioned above. There was no further explanation as to the grounds on which the temporary

transfer of the sentenced person may be refused pursuant to subparagraph c) para. 3 of Article 21 of Law 10193, if there are “other fundamental reasons for not transferring him”, and it is recommended that Albania consider specifying the matter in its legislation.

296. It was explained that there have been no cases of prisoner transfer to Albania for purposes of MLA.

297. Notwithstanding that the Convention is directly applicable by Albania and supersedes contrary provisions of domestic law, it is recommended that Albania adopt measures to more fully implement paragraphs 10 and 11 of the article.

Paragraph 13 of article 46

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

(a) Summary of information relevant to reviewing the implementation of the article

298. Albania provided the following information.

The Department of Internal Administrative Control and Anti-Corruption is set as the institution in the law ratifying UNCAC (Law No. 9492 dated 13.03.2006).

299. Albania made the following depositary notification.

“Pursuant to Article 46, paragraph 13, of the Convention, the central authorities that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution, are:

1. The General Prosecutor Office, which shall have the responsibility for criminal investigations and proceedings,

Address: Office of the General Attorney

Rr. Qemal Stafa, Nr. 1

Tirana, Albania

2. The Ministry of Justice, which shall have the responsibility for the requests during the trial process and the execution of verdicts, as well as the requests for extradition and transfer of the convicted persons.

Address: Ministry of Justice

Blv: "Zogu I"

Tirana, Albania”

300. Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters provides as follows:

Article 6

Central authority

1. A letter request of local judicial authorities is forwarded to the foreign judicial authorities through the Ministry of Justice, except for the case when this law provides otherwise. If the Ministry of Justice observes that the letter request does not meet with conditions of article 5 of this law, it returns it to the local judicial authority for filling in the defects.
2. In urgent cases, the local judicial authorities may forward letter requests directly, except for cases when the domestic legislation provides otherwise. In a case of direct forwarding of letter requests, the local judicial authority notifies the Ministry of Justice at the same time.
3. The letter requests of foreign judicial authorities are transmitted to the local judicial authorities through the Ministry of Justice, except for cases when the domestic legislation provides otherwise.

Article 7

Forwarding a letter request to the competent authority

1. The Ministry of Justice opens the way to a foreign letter request after it evaluates the conditions defined in the domestic legislation. Subsequently, the letter request is forwarded to the prosecutor of the district where the letter request is to be executed, through the General Prosecutor.
2. If the local judicial authority has competence for the execution of one or more of the actions requested, then it may proceed with the execution of all the actions, if such a thing is appropriate.
3. When a local judicial authority that receives a letter request does not have competence for its execution, it forwarded the request without delay to the competent local judicial authority and notifies the Ministry of Justice at the same time.

Article 8

Refusal of the letter request

1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.
2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.
3. In the case of criminal offences against humanity or other values protected by international law, attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.
4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

(b) Observations on the implementation of the article

301. The central authority for mutual legal assistance is Albania's Ministry of Justice. Requests for assistance that are received directly between judicial authorities must be transmitted at the same time to the Ministry of Justice. It was explained during the country visit that requests do not need to be made through diplomatic channels and may also be received through INTERPOL.
302. It is recommended that Albania ensure that the notification of its central authority for mutual legal assistance for requests transmitted under the Convention remains up to date.

Paragraph 14 of article 46

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

(a) Summary of information relevant to reviewing the implementation of the article

303. Albanian has been set as the language accepted at the time of the deposit of ratification.
304. Albania made the following depositary notification.

"Pursuant to article 46, paragraph 14 of the Convention, the Albanian language is the acceptable language for the Republic of Albania, and if it is not possible, a certified translation in the Albanian language will be the acceptable one."

305. Article 5 of Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters further provides as follows:

General rules about a letter request

1. A letter request of local judicial authorities is submitted in writing and except when this law provides otherwise should contain:
 - a) the authority that has submitted the letter request, the name of the requested state and, when possible, the name of the authority to which the letter request is addressed;
 - b) a precise definition of the type of request that creates international jurisdictional relations, the reasons for sending the letter request and the legal basis;
 - c) a description of the criminal proceeding that is being conducted;
 - ç) a description of the criminal fact, showing its time and place, the legal designation of the criminal offence, as well as a copy of the text of the domestic legal provisions applied;
 - d) general personal information, mentioning the citizenship of the person who has a relation to the object of the letter request, as well as his position in the criminal proceeding;
 - dh) the acts that are attached to the letter request, if any, also shown in a list;
 - e) a declaration of whether the case is urgent and the time period within which execution is necessary, together with the reasons of the urgency or the time period;

ë) all other information that may be of importance for the procedure of execution of the letter request.

2. A letter request of the foreign judicial authorities and the attached documents, if they are not accompanied by a copy in the Albanian language, are translated by the Ministry of Justice.

3. A letter request is submitted by the local judicial authorities signed and sealed, and accompanied by a translation into the language of the country to which the letter request is addressed. When a foreign state has specified that it accepts letter requests in another language, the local judicial authority may submit the request in the accepted language. The translation is done by the Ministry of Justice. The expenses of translation are noted [lit. evidenced] and forwarded to the local judicial authority to be included in prepaid procedural expenses according to article 485 of the Code of Criminal Procedure. More detailed rules about the form of the letter request, the procedure and the translation of the acts are regulated by joint instructions of the Minister of Justice and the General Prosecutor.

4. A local judicial authority, if it considers it necessary, may make additions to the letter request in conformity with the conditions of this article.

5. A letter request is delivered through the postal service, diplomatic courier. It may also be delivered through other appropriate technical means, but provided that receipt of delivery shall be confirmed.

6. Local judicial authorities execute letter requests without delay.

(b) Observations on the implementation of the article

306. It was explained that requests should be transmitted by post, but in urgent cases advance copies may be accepted by fax or email to the Ministry of Justice.

Paragraphs 15 and 16 of article 46

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and (f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

(a) Summary of information relevant to reviewing the implementation of the article

307. Albania referred to the following provision.

Article 5Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters (quoted above)

(b) Observations on the implementation of the article

308. Article 5 of Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters provides the required content of requests for mutual legal assistance. Albania has legislatively implemented the provision under review.

Paragraphs 17 and 18 of article 46

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

18. Whenever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

309. Albania referred to the following provisions.

Article 507, CPC

Execution of rogatory letters

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 511, CPC

Value of the documents received through rogatory letter

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.

Article 17 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Special procedure

If a foreign judicial authority asks in a letter rogatory for special conditions to be fulfilled related to form and procedure, the local judicial authority acts for its execution in conformity with those requests, provided that the requests shall not be in violation of the fundamental principles of the legal order of the Republic of Albania.

Article 20, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Hearing sessions through telephonic or audio-visual connections

1. Local judicial authorities may address a request to foreign judicial authorities for questioning at a distance of a witness or expert located outside the state, through telephonic or audio-visual connections.

2. A request addressed to a foreign judicial authority for the holding of a session through telephonic or audio-visual connections should contain, in addition to the information provided by point 1 of article 5 of this law:

- a) the name of the local judicial authority and of the persons that will direct the hearing session;
- b) the reason why it is not possible for the witness or expert to participate personally.

3. Local judicial authorities execute foreign letters rogatory with the object of holding hearing sessions through telephonic or audiovisual connections when:

- a) the witness or expert does not desire or does not have the possibility to appear at the foreign judicial authorities, and also has given consent for the holding of the session in this form;
- b) the competent court has approved the request of the requesting state for holding the session in this form.

4. The questioning of witnesses or experts at a distance is done by the local judicial authorities while respecting the rules of international agreements and the provisions of the Code of Criminal Procedure.

Article 16, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters Presence of foreign judicial authorities in the receipt of evidence

1. At the express request of a foreign judicial authority, the local judicial authority gives information about the time and place of execution of the letter rogatory.

2. The court may permit representatives of foreign judicial authorities to take part in the receipt of evidence and to address questions to the person who is questioned according to the rules of the Code of Criminal Procedure.

(b) Observations on the implementation of the article

310. Albania has adopted measures providing for the possibility of conducting hearings by telephone or videoconference or in the presence of foreign judicial authorities, in line with provisions in the CPC (articles 20(3) and (4) and 16 of Law 10193).

311. Albanian authorities explained that they have conducted hearings by videoconference and in the presence of U.S. and Austrian judicial authorities in cases not related to corruption. Albania has implemented the provisions under review.

Paragraph 19 of article 46

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

(a) Summary of information relevant to reviewing the implementation of the article

312. Albania referred to the following provision.

Article 511, CPC

Value of the documents received through rogatory letter

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.

(b) Observations on the implementation of the article

313. Article 511 CPC partly addresses the requirements of the provision under review in cases where the request imposes conditions on the use of information. It was confirmed that there is no provision that generally addresses a limitation on the use of information obtained through MLA. It is recommended that Albania adopt a corresponding provision, notwithstanding that the Convention is directly applicable by Albania and supersedes contrary provisions of domestic law.

Paragraph 20 of article 46

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

314. Albania referred to the following provision.

Article 12 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 12

Confidentiality

1. At the request of a foreign judicial authority, the Ministry of Justice and the competent local judicial authority apply the rules on keeping state secrets and protection of personal data in connection [with] the information indicated in the letter request.

2. If the request referred to in paragraph 1 of this article cannot be fulfilled, the Ministry of Justice or the local judicial authority notifies the foreign judicial authority within five days.

(b) Observations on the implementation of the article

315. The provision is legislatively implemented. It was further explained that there are internal orders in the Ministry of Justice and General Prosecution, as well as confidentiality restrictions applicable to personnel, that ensure the confidentiality of information. No examples of implementation were provided.

Paragraphs 21 and 22 of article 46

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

316. Albania referred to the following provisions.

Article 505, CPC

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, CPC

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 within 5 days from the submission of acts by the Minister of Justice.
3. The court disposes of the execution of the letter of application by a decision within 10 days from the submission of such request.
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 in accordance also with international acts international act that the Republic of Albania is party to or legal reserves or statements
 - b) when the fact for which the foreign authority proceeds is not provided as a criminal offence by the Albanian law.

Article 8, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Refusal of the letter request

1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.
2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.
3. In the case of criminal offences against humanity or other values protected by international law, attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.
4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

Article 11, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Completion of letter requests and impediments to executing them

1. If a foreign letter request does not contain information necessary for its execution, the Ministry of Justice notifies the foreign judicial authority to complete it, without forwarding it to the organ of the prosecutor's office. The letter request is forwarded by the Ministry of Justice after its completion by the foreign judicial authority.
2. If a letter request can be executed partially or in a conditioned manner, the Ministry of Justice even on its own initiative notifies the requesting state and gives it the possibility to give its opinion or to complete the request.
3. The notifications referred to in [lit. requests or requirements of] points 1 and 2 of this article may also be submitted by the local judicial authority that is proceeding if upon receipt of the acts it considers that such a thing [is necessary]. It submits the requests directly to the authority of the requesting state, notifying the Ministry of Justice at the same time.

(b) Observations on the implementation of the article

317. Albania's legislation provides for grounds for refusal in line with the provisions under review. However, it is recommended that Albania explicitly includes in the legislation that the request cannot be refused solely on the basis that it involves fiscal offences. No corruption-related requests for MLA have been refused by Albania to-date, including requests under this Convention.

Paragraph 23 of article 46

23. Reasons shall be given for any refusal of mutual legal assistance.

(a) Summary of information relevant to reviewing the implementation of the article

318. Albania referred to the following provision.

Article 8, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Refusal of the letter request

1. The Ministry of Justice and the local judicial authority open the way to a letter request when the conditions defined in the domestic legislation are met.
2. Those authorities may also refuse letter requests provided in article 4, point 2 of this law for other reasons provided by law.

3. In the case of criminal offences against humanity or other values protected by international law, attempts to commit them, as well as collaboration in their commission, the Ministry of Justice and the local judicial authority may not refuse a letter request with the reason that it constitutes political criminal offences.
4. The decision of refusal of a letter request contains the reasons of refusal and the legal basis.

(b) Observations on the implementation of the article

319. Albanian law appears to be in compliance with the provision under review (article 8(4) of Law 10193).

Paragraphs 24 and 25 of article 46

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

(a) Summary of information relevant to reviewing the implementation of the article

320. Albania referred to the following provisions.

Article 10, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Notifications

1. At the request of a foreign judicial authority, a local judicial authority that is proceeding gives notification of the beginning of execution of the letter request, except when the execution is immediate.
2. If the letter request is not fulfilled within the time period requested in the letter request and this has consequences in the proceeding that the foreign judicial authority is conducting, the local judicial authority that is proceeding immediately notifies the foreign judicial authority as to when it is possible for the letter request to be executed.
3. Notifications according to this article are forwarded to the foreign judicial authority through the Ministry of Justice.

Article 24, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Postponing the execution of requests

1. A local judicial authority may postpone or condition the execution of requests if it may affect the good conduct of criminal proceedings started by local judicial authorities.
2. The local judicial authority notifies the foreign judicial authority, declaring the reasons for postponement or conditioning. If the notification is made directly to the foreign judicial authority, the local judicial authority informs the Ministry of Justice at the same time.

Article 11, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Completion of letter requests and impediments to executing them

1. If a foreign letter request does not contain information necessary for its execution, the Ministry of Justice notifies the foreign judicial authority to complete it, without forwarding it to the organ of the prosecutor's office. The letter request is forwarded by the Ministry of Justice after its completion by the foreign judicial authority.
2. If a letter request can be executed partially or in a conditioned manner, the Ministry of Justice even on its own initiative notifies the requesting state and gives it the possibility to give its opinion or to complete the request.
3. The notifications referred to in [lit. requests or requirements of] points 1 and 2 of this article may also be submitted by the local judicial authority that is proceeding if upon receipt of the acts it considers that such a thing [is necessary]. It submits the requests directly to the authority of the requesting state, notifying the Ministry of Justice at the same time.

Article 506 of the Criminal Procedure Code:
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 within 5 days from the submission of acts by the Minister of Justice..
3. The court disposes of the execution of the letter of application by a decision within 10 days from the submission of such request.
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 in accordance also with international acts international act that the Republic of Albania is party to or legal reserves or statements.
 - b) when the fact for which the foreign authority proceeds is not provided as a criminal offence by the Albanian law.

(b) Observations on the implementation of the article

321. The cited measures address the possibility of providing status updates, upon request, and for postponing assistance. There is also an obligation to notify the foreign judicial authority if the request is not fulfilled within the time period requested (article 10, Law 10193).
322. As noted under paragraph 1 of the article under review, a judicial decision is required under Albania's legislation to render MLA (e.g., article 506 CPC). It was explained that this requirement for a court order is necessary for assistance to be rendered under articles 506 and 507 but not article 508 CPC (summoning witnesses requested by the foreign authority). The reviewing experts welcome indications by the authorities that Albania is considering removing the requirement for judicial authorization for MLA, to streamline the provision of assistance in accordance with the Convention, notwithstanding that the Convention is directly applicable by Albania and supersedes contrary provisions of domestic law.

Paragraph 26 of article 46

26. *Before refusing a request pursuant to paragraph 21 of this article or postponing its*

execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

(a) Summary of information relevant to reviewing the implementation of the article

323. Albania referred to the following provision.

Article 11, Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Completion of letter requests and impediments to executing them

1. If a foreign letter request does not contain information necessary for its execution, the Ministry of Justice notifies the foreign judicial authority to complete it, without forwarding it to the organ of the prosecutor's office. The letter request is forwarded by the Ministry of Justice after its completion by the foreign judicial authority.

2. If a letter request can be executed partially or in a conditioned manner, the Ministry of Justice even on its own initiative notifies the requesting state and gives it the possibility to give its opinion or to complete the request.

3. The notifications referred to in [lit. requests or requirements of] points 1 and 2 of this article may also be submitted by the local judicial authority that is proceeding if upon receipt of the acts it considers that such a thing [is necessary]. It submits the requests directly to the authority of the requesting state, notifying the Ministry of Justice at the same time.

(b) Observations on the implementation of the article

324. The provision is legislatively implemented. No examples of implementation were provided.

Paragraph 27 of article 46

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

(a) Summary of information relevant to reviewing the implementation of the article

325. Albania referred to the following provisions.

Article 505 CPC

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 510, CPC

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-encroachment 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 19 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

Article 19

Untouchability of the person summoned

1. When a person who is requested to be notified of a summons to a proceeding in Albania does not succeed in acting in conformity with the act of summons issued by the requesting state, no mandatory [or] coercive measure or criminal sanction are taken against him.

2. If the local judicial authorities call a witness or expert with a residence or domicile outside the state, during the time of [his] stay in Albania, he will not be subjected to a criminal proceeding for an offence committed before [his] appearance in Albanian territory nor will he be sent to serve a criminal sentence given by a local judicial decision rendered before his appearance.

3. Point 2 of this article is not applicable if the witness or expert, although he has been given the possibility, has not left Albanian territory within 15 days after being notified that his presence is no longer necessary. This time period does not include the period during which the witness or expert could not have left Albanian territory for lawful documented reasons.

(b) Observations on the implementation of the article

326. The provision is legislatively implemented. It was explained that Albania has sent witnesses to the United Kingdom to testify, and that foreign experts but not witnesses have been received through MLA channels for purposes of testimony in domestic proceedings.

Paragraph 28 of article 46

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless

otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

(a) Summary of information relevant to reviewing the implementation of the article

327. Albania referred to the following provision.

Article 25 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters Expenses

1. The Albanian state, through the Minister of Justice, may waive the reimbursement of expenses of execution of letters rogatory from the requesting state.
2. The expenses of execution of local letters rogatory are paid by the local judicial authority who has asked for the letter rogatory.
3. A witness or expert who appears in execution of a letter rogatory of local judicial authorities has the right of reimbursement of the expenses of travel and food, which are documented as a part of the procedural expenses in conformity with the Code of Criminal Procedure.
4. In case a letter rogatory of a local judicial authority has the object of the giving of testimony of an expert, then the local judicial authority may deposit ahead of time an amount for coverage of the expenses of the testimony of the expert if the foreign judicial authority expressly requests it.
5. The letters rogatory of local juridical authorities in the cases of points 2 and 3 of this article show the expenses payable and those that are reimbursable. At the request in writing of the persons summoned, they are given ahead of time a sum to cover the expenses.
6. Local judicial authorities do not pay the expenses of executing foreign letters rogatory for:
 - a) the travel and stay of persons summoned to be questioned or to perform a procedural action;
 - b) the temporary transferring of detained persons;
 - c) the holding of hearing sessions through telephonic or audio-visual connections;
 - ç) the preservation or administration of evidence or objects;
 - d) the performance of procedural actions with high or extraordinary expenses.

(b) Observations on the implementation of the article

328. Albania's legislation provides that the expenses of executing MLA requests are borne by the requesting State. Although Albania has reportedly never asked for reimbursement of the costs of executing a request, it is recommended that Albania amend its legislation in line with the requirements of the article under review, notwithstanding that the Convention is directly applicable by Albania and supersedes contrary provisions of domestic law.

Paragraph 29 of article 46

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

(a) Summary of information relevant to reviewing the implementation of the article

329. Albania referred to the following provision.

Article 30 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters
Notifications about legislation

1. At the request of local judicial authorities, the Ministry of Justice obtains [lit. takes] the text of legislation in force in other states, as well as all information about special legal questions, if this is necessary.
2. The Ministry of Justice forwards the text of domestic legislation or information about special legal questions to foreign judicial authorities when requested by them.

(b) Observations on the implementation of the article

330. It was confirmed that there is no provision in the CPC or the domestic legislation addressing the provision of government records, documents or information. It was explained that such information, if publicly available, may be provided. The provision of non-public records is dependent on the internal rules on the sharing and confidentiality of information applicable in each government ministry. Accordingly, the General Prosecutor may authorize the release of information in specific cases if not in accordance with applicable laws, including those addressing confidentiality, State secrets and access to information. Additional information sharing agreements and memoranda of understanding among agencies may also address the sharing of information. In the interest of greater legal certainty, Albania may wish to specify the matter in its domestic legislation, notwithstanding that the Convention is directly applicable by Albania and supersedes contrary provisions of domestic law.

Paragraph 30 of article 46

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this article.

(a) Summary of information relevant to reviewing the implementation of the article

331. Albania has concluded several bilateral and multilateral treaties (as listed below) and also recognizes this Convention as a basis for MLA. In the case of a conflict between international treaties and domestic law, the treaty provisions prevail, as provided in article 1 of Law 10193.

- Council of Europe Convention on Mutual Assistance in Criminal Matters and its two additional protocols, of 8 November 2001;
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, of 8 November 1990 ratified by Law No. 8646 dated 20.07.2000;
- United Nations Convention against Transnational Organized Crime, of 15 November 2000;
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 20 December 1988;
- Council of Europe Convention against Corruption, of 27 January 1999;
- Convention on Cybercrime, of 23 November 2001;

- Bilateral Agreement between the Republic of Albania and Greece “On mutual legal assistance on civil and criminal matters”, approved by Law No. 7760, dated 14.10.1993;
- Bilateral Agreement between the Republic of Albania and Macedonia “On mutual legal assistance on civil and criminal matters”, approved by Law No. 8304, dated 12.03.1998;
- Bilateral Agreement between the Republic of Albania and Turkey “On mutual legal assistance on civil, criminal and commercial matters”, approved by Law No. 8036, dated 22.11.1995;
- Bilateral Agreement between the Republic of Albania and Romania “On mutual legal assistance on civil, criminal and family matters”, 1969;
- Bilateral Agreement between the Republic of Albania and Hungary “On mutual legal assistance on civil, criminal and family matters”, 1969;
- Bilateral Agreement between the Republic of Albania and Russia “On mutual legal assistance on civil, criminal and family matters”, approved by Law No. 8061, dated 08.03.1996.
- Bilateral Agreement between the Republic of Albania and Czechoslovakia “On mutual legal assistance on civil, criminal and family matters”, 1996.

(b) Observations on the implementation of the article

332. Albania has concluded treaties on MLA in line with the provision under review.

Article 47. Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

(a) Summary of information relevant to reviewing the implementation of the article

333. Albania referred to the following provisions.

Article 66-75 Law 10193 On Jurisdictional Relations With Foreign Authorities In Criminal Matters

CHAPTER V

TRANSFERRING CRIMINAL PROCEEDINGS

SECTION I

TRANSFERRING CRIMINAL PROCEEDINGS TO FOREIGN STATES

Article 66

Transferring a criminal proceeding to a foreign state

When a person is suspected of the commission of a criminal offence punishable according to the Albanian criminal law, the Minister of Justice asks the foreign state, when the conditions of the article 67 of this law are met, to start a criminal proceeding.

Article 67

Conditions of transferring a criminal proceeding

The transferring of a criminal proceeding is asked for when:

- a. the suspected person has a residence or domicile in the requested state;
- b. proceeding against the person in Albania is not possible or appropriate for one or more of the following reasons:
 - i. the suspected person is a citizen of the requested state or the requested state is his state of origin;
 - ii. the suspected person is serving or is to serve a sentence of imprisonment in the requested state;
 - iii. the requested state has started a criminal proceeding against the suspected person for the same criminal offence or for other criminal offences;
 - iv. it is considered that transferring the criminal proceeding serves the fair and appropriate resolution of the case and due legal process;
 - v. the execution in the requested state of the criminal sentence that has been given may serve a better social rehabilitation of the convicted person;
 - vi. the summoning of the suspected person and his participation in the criminal proceeding in Albania cannot be assured;
 - vii. the execution of a possible sentence of imprisonment may be difficult and may not be realised through an extradition procedure or an extradition request has been refused.

Article 68

Decision to ask for transfer

1. A decision to ask for the transfer of a criminal proceeding is taken by the organ of the prosecutor's office or the court that is proceeding. The decision may be appealed by the defendant, his defence attorney or the injured party in court within 10 days from receiving knowledge. In this case, the court decides on the appeal within five days from its submission, on the basis of the documents.
2. A decision to ask for transfer in the phase of preliminary investigations does not hinder the prosecutor from receiving evidence. The prosecutor decides to extend the time period of the investigations according to article 324 of the Code of Criminal Procedure while awaiting the decision of the requested state. He notifies the Ministry of Justice through the General Prosecutor of the decision to extend the investigative time period.
3. If the decision to ask for transfer is taken during the judicial examination, the court suspends the judicial examination and applies, to the extent possible, the rules of article 343 of the Code of Criminal Procedure. The suspension does not hinder the local judicial authority from receiving evidence that may lead to the innocence of the defendant and, when delay presents danger, any other piece of evidence sought by the parties.

Article 69

Forwarding the request

1. Within 15 days from the date when the decision of transfer has become final, the prosecutor of the case, through the General Prosecutor, forwards the judicial decision of transfer and the judicial file to the Ministry of Justice.
2. Within 30 days from receipt of the acts from the General Prosecutor, the Ministry of Justice forwards them to the requested state and asks to be notified about the acceptance or not of the transfer [of] the criminal proceeding.
3. The acts are translated by the Ministry of Justice into the language of the requested state or a language accepted by it. The expenses of translation are noted and forwarded to the organ of the prosecutor's office to be included in prepaid procedural expenses according to article 485 of the Code of Criminal Procedure.

Article 70

Consequences of acceptance or refusal by the requested state

1. The Ministry of Justice forwards to the prosecutor of the case, through the General Prosecutor, the notification of the foreign state for the acceptance or refusal of transfer of the criminal proceeding.
2. If the requested state accepts the transfer of the criminal proceeding, the local judicial authority who is proceeding orders the dismissal of the criminal proceeding for this reason.
3. If the requested state refuses the transfer of the criminal proceeding or does not send a notification within six months from receipt of the request, the local judicial authority decides to continue the criminal proceeding.

SECTION II

TRANSFERRING CRIMINAL PROCEEDINGS FROM FOREIGN STATES

Article 71

Conditions for acceptance of a criminal proceeding from a foreign state

1. The Minister of Justice may accept the transfer of a criminal proceeding to Albania when:
 - a. the suspected person has his residence or domicile in Albania;
 - b. it is not possible or appropriate to proceed in the requesting state against the person for one or more of the following reasons:
 - i. the suspected person is an Albanian citizen or the Albanian state is his state of origin;
 - ii. the suspected person is serving or is to serve a sentence of imprisonment in Albania;
 - iii. the local judicial authorities have begun a criminal proceeding for the same criminal offence or for other criminal offences against the suspected person;
 - iv. it is considered that transferring the criminal proceeding serves the fair and appropriate resolution of the case and due legal process;
 - v. the execution in Albania of the criminal sentence that has been given may serve a better social rehabilitation of the convicted person;
 - vi. the summoning and participation of the suspected person in a criminal proceeding in the requesting state cannot be secured;
 - vii. the execution of a possible sentence of imprisonment in the requesting state may be difficult and cannot be realised through an extradition procedure or a request for extradition has been refused.
2. The transfer of the criminal proceeding is not accepted if any of the circumstances exist that do not permit the beginning of a criminal proceeding provided by the domestic legislation.

Article 72

Actions of the Ministry of Justice

1. If he accepts the request for transferring the criminal proceeding, the Minister of Justice forwards the acts within 30 days to the prosecutor of the district of the residence of the suspected person, through the General Prosecutor, at the same time also notifying the requesting state.
2. The acts are translated by the Ministry of Justice. The expenses of translation are evidence and forwarded to the organ of the prosecutor's office, to be included in the procedural expenses prepaid according to article 485 of the Code of Criminal Procedure. In complicated cases, because of the volume of acts for translation, the time period defined in point 1 may be extended for an additional 15 days.
3. If he has observed that all the necessary acts have not been attached to the request for transfer, but nonetheless reaches the conclusion that it is not a case for refusal of the request for transfer, the Ministry of Justice operates according to article 11 of this law. The supplementary acts submitted by the requesting state are forwarded to the organ of the prosecutor's office within seven days from their receipt, also respecting the obligation for translation.

4. The Ministry of Justice also operates in the same manner if a request for completion of the acts is submitted by the local judicial authorities.

Article 73

Actions of the prosecutor

1. The prosecutor of the judicial district or of serious crimes, on receipt of the request and the acts for transfer, registers the criminal proceeding and follows the rules of the Code of Criminal Procedure.
2. If the prosecutor decides not to start a criminal proceeding because of circumstances that do not permit the beginning of a criminal proceeding, within five days he notifies the Ministries of Justice, through the General Prosecutor, sending all the acts together with the decision not to begin. In this case, the Minister of Justice returns the acts to the requesting state, together with the decision not to start a criminal proceeding, within 20 days from receipt of the acts from the prosecutor's office.
3. The prosecutor who proceeds notifies the Ministry of Justice through the General Prosecutor for every decision that suspends or concludes the criminal proceeding. The Minister of Justice immediately forwards those acts to the requesting state.
4. At the request of the foreign judicial authority, the Ministry of Justice asks the General Prosecutor for all necessary about the progress of the criminal proceeding in Albania as well as the final judicial decision.

Article 74

Civil lawsuit in a transferred criminal proceeding

If the acts forwarded by the requesting state according to this Section also contain a civil lawsuit, it is examined according to the rules of the Code of Criminal Procedure.

Article 75

Validity of actions of receipt of evidence

The means of seeking evidence received by foreign judicial authorities are valid in a criminal proceeding accepted in Albania, except when they conflict with the fundamental principles of the Albanian legal order and the principles of international acts for the protection of the fundamental human rights and freedoms.

(b) Observations on the implementation of the article

334. Albania has adopted measures allowing for the possibility of transferring criminal proceedings to and from Albania, in accordance with the requirements of Law 10193. It was explained that Albania has received criminal proceedings from Greece and Kosovo.

Article 48. Law enforcement cooperation

Paragraph 1 of article 48

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

335. Albania referred to the following provisions.

Article 22d/dh of Law No. 9917, On the Prevention of Money Laundering and Financing of Terrorism

Duties and functions of the responsible authority

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

...

d) exchanges information with any foreign counterpart, subjected to similar obligations of confidentiality. The information offered should be utilized only for the purposes of prevention and fighting of money laundering and financing of terrorism. The information may be disseminated only upon prior consent of the parties;

dh) enter into agreements with any foreign counterpart, subjected to similar obligations of confidentiality.

(b) Observations on the implementation of the article

336. Albanian law enforcement authorities cooperate internationally through INTERPOL and EUROPOL channels. Albania's State Police cooperate with counterpart bodies of the region

through various forms of cooperation such as bilateral and multilateral agreements, MoUs, protocols etc.

337. Albania's State Police has posted liaison officers in a number of countries, including Italy, Greece, USA, UK, Kosovo, Turkey, France and at INTERPOL, EUROPOL and the Southeast European Law Enforcement (SELEC) Centre. In Albania there is also a network of foreign liaison officers from countries including Italy, Greece, the Benelux, Nordic countries, UK, Switzerland (based in Kosovo) and Japan (based in Italy).
338. Cooperation through SELEC and EUROPOL is done in order to develop analytical outputs, threat assessments and information sharing, and to conduct joint operations using various channels of international cooperation.
339. The Albanian State Police also implement the Police Cooperation Convention for South East Europe (Vienna Convention) on cross border cooperation, including through joint investigation teams and other forms of cooperation.
340. The Albanian State Police implements the UN Convention against Corruption, as well as the Additional Protocol of the Criminal Convention on Corruption of the Council of Europe, through Law No. 9245 dated 24.06.2004, published in the Official Gazette No. 49, dated 19 July 2004.
341. It was reported that some requests have been received through INTERPOL in matters related to corruption, but not on the basis of UNCAC.
342. The following statistics on law enforcement cooperation were provided by Albania's State Police.

INTERPOL

In 2014, cooperation with INTERPOL continued to stay on an excellent level. The following statistical data was reported by NCB Interpol Tirana for 2014 and covers all criminal offences (not limited to corruption-related offences):

- There have been declared internationally wanted, 326 nationals compared to 187 in 2013.
- There have been declared internationally wanted by the counterpart NCBs, 159 nationals compared to 141 in 2013;
- There have been arrested for inbound extradition, 90 nationals compared to 95 in 2013;
- There have been arrested for outbound extradition, 116 nationals compared to 117 in 2013;
- There have been extradited towards Albania, 71 nationals sentenced by Albanian judicial authorities compared to 49 in 2013.
- There have been extradited towards other countries, 78 nationals wanted foreign counterpart NCBs compared to 73 in 2013.

343. The following statistical data was reported by NCB Interpol Tirana for 2015 (January-September 2015):

No	Description	Data on persons		Total
		Albanian nationals	Foreigners	
1	Declared internationally wanted	198	7	205
2	Redeclared internationally wanted	13	0	13
3	Declared wanted by the other NCBs	100	1	101
4	Arrested with the purpose of extradition toward Albania	47	1	48
5	Arrested with the purpose of extradition toward other countries	64	20	84
6	Extradited toward Albania	52	1	53
7	Extradited toward other countries	28	17	45
Total		502	47	549

Cooperation with EUROPOL

The signing of the Operational Agreement on 09 December 2013 marked an important milestone in increasing the level of cooperation of the Albanian State Police with EUROPOL European Police Service.

The signing of this agreement led to the necessity of taking measures for its implementation. The ratification of the operational agreement was done in the Parliament on 20 March 2014. On 6 June 2014 the Operational Cooperation Agreement between Europol and the Republic of Albania entered into force. From 13 June 2014 it has begun the sharing of the operational information including personal data, between EUROPOL, liaison offices of EU countries and third countries which are part of EUROPOL.

An important part of the operational agreement is the signing of a Memorandum of Understanding. Following consultation with the relevant ministries for opinion, concrete suggestions related to specific articles of this document and comments were sent to EUROPOL.

The impact of signing the agreement is reflected in the growing number of exchanged messages through the Secure Information Exchange Network Application (SIENA) network. Specifically, for the period January - December 2014, in total about 1,026 correspondences were exchanged through the EUROPOL office, compared with only 216 in 2013, amounting to a five-fold increase (502.3%). The following is a breakdown of the 1,026 correspondences:

- Submitted to Europol: 302 answers; 4 pieces of information; 15 requests;
- Received by Europol: 151 pieces of information; 544 requests.

With the entry into force of the operational agreement, Albania took measures to ensure

participation and contribution through the exchange of operational data via “Analytical Work Files”, which are a unique instrument of EUROPOL. EUROPOL analysts work together with specialists of the organized crime and terrorism to gather criminal intelligence, which covers all areas of high priority crime. Analytical Work Files offer a variety of operational and strategic products offered to members who have access, in their fight against serious and organized crime. In June 2015, the Director of Albania’s State Police signed five Analytical Work Files or focal points in relation to illegal immigration, Albanian-speaking criminal groups, computer crime, Trafficking in Firearms, and Trafficking in Human Beings.

Cooperation with the Southeast European Law Enforcement (SELEC) Centre

Between January and December 2014, through the SELEC Liaison Office, Albania exchanged in total 110 correspondences, of which 44 were requests for information and 66 were pieces of information. In comparison with the year 2013, this amounted to an increase in 2014 of 20% in the exchange of information between the Albanian State Police and the police agencies of SELEC Member States.

During 2015 (January-October) 147 pieces of information were exchanged.

In addition, through the network of Liaison Officers:

In the year 2013, 1233 pieces of information were exchanged

In the year 2014, 1681 pieces of information were exchanged

In the first semester of 2015, 958 pieces of information were exchanged.

344. Albania’s financial intelligence unit (FIU) cooperates with its counterparts through the EGMONT group. It has adopted MOUs with 44 foreign FIUs and can also provide information in the absence of an agreement. The following statistics were provided.

Exchange of information with partner FIUs

Requests from partner FIUs	Requests from Albanian FIU	Response from partner FIUs	Response from Albanian FIU
52	42	36	42

Paragraph 2 of article 48

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

- (a) **Summary of information relevant to reviewing the implementation of the article**

345. Albania indicated that it has entered into bilateral or multilateral agreements or arrangements on direct cooperation with law enforcement agencies of other States. Several agreements have been in force before implementation and following implementation of the Convention.
346. Albania indicated that it considers this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention.

(b) Observations on the implementation of the article

347. In addition to the agreements mentioned under paragraph 1 above, Albania's State Police cooperate with counterpart bodies of the region by using various forms of cooperation such as bilateral and multilateral agreements, MoUs, protocols etc. Albania also provided copies of cooperation agreements by the General Prosecutor's Office of Albania with its foreign counterparts, including:
- Joint Declaration between the Ministry of Justice of the Republic of **Turkey** and General Prosecutor's Office of Republic of Albania
 - Agreement on Cooperation between the General Prosecutor's Office of Republic of Albania and the Federal Prosecutor's Office of **Belgium**
 - Memorandum of Understanding on Cooperation between Supreme State Prosecutor's Office of Republic of **Montenegro** and the General Prosecutor's Office of Republic of Albania
 - Memorandum on Cooperation between the General Prosecutor's Office of Republic of Albania and the National Anti-Mafia Directorate (Direzione Nazionale Antimafia) of the Republic of **Italy**
 - Memorandum of Understanding on Cooperation between the General Prosecutor's Office of Republic of Albania and the General Prosecutor's Office of Republic of **Croatia** in the fight against transnational crime and laundering of the respective proceeds
 - Memorandum of Understanding on Cooperation between the General Prosecutor's Office of Republic of Albania and the General Prosecutor's Office of Republic of **Macedonia** in the fight against transnational crime, human trafficking and illegal immigration
 - Memorandum of Understanding on Cooperation in criminal matters between the State Prosecutor of Republic of **Kosovo** and the General Prosecutor's Office of Republic of Albania
 - Memorandum of Understanding of the Public Prosecutor's Office of the Republic of Macedonia, of the General Prosecutor's Office of the Republic of Albania, of the Prosecutor's Office of **Bosnia and Herzegovina**, of the State Attorney's Office of the Republic of **Croatia**, of the Republic Public Prosecutor's Office of the Republic of **Serbia** and of the Supreme State Prosecutor's Office of **Montenegro** for Regional Co-Operation against Organized Crime and other forms of serious crime
 - Memorandum of Understanding (amended on 25.01.2010) of the Public Prosecutor's Office of the Republic of Macedonia, of the General Prosecutor's Office of the Republic of Albania, of the Prosecutor's Office of **Bosnia and Herzegovina**, of the

State Attorney's Office of the Republic of **Croatia**, of the Republic Public Prosecutor's Office of the Republic of **Serbia** and of the Supreme State Prosecutor's Office of **Montenegro** for Regional Co-Operation against Organized Crime and other forms of serious crime

- Memorandum of Understanding on Cooperation between the Supreme Prosecutor's Office of Republic of **China** and the General Prosecutor's Office of Republic of Albania
- Protocol on Cooperation between the General Prosecutor's Office of Republic of Albania and the Public Ministry of **Romania** (in the process of amendment)
- On October 12, 2015 a Memorandum with the GPO of **Bosnia & Herzegovina** will be signed.

348. Albania also recognizes this Convention as a basis for direct law enforcement cooperation, although there has been no experience in its application. Albania has implemented the provision under review.

Paragraph 3 of article 48

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

(a) Summary of information relevant to reviewing the implementation of the article

349. The CPC provides, in article 191/a, for the obligation to submit computer-based records and allows, in article 208/a, for the seizure of computer-based records as means for better investigation of offences.

Article 191/a, CPC

Obligation to submit computer-based records

(Added by law no 10054 dated 29.12.2008, article 2)

1. In criminal proceedings regarding criminal offences in the information technology field, the Court, upon request of the prosecutor or the plaintiff, shall order the holder or the controller to submit the electronic data stored in the computer or in any other storage device.
2. During these proceedings, the Court shall order the service provider to submit any information about the subscribers, in connection with the services rendered by the provider.
3. When there is reasonable ground to believe that the delay may cause serious damage to the investigation, the prosecutor shall decide, by a reasoned decision, that it is obligatory to submit the computer-based records, set out in point 1 and 2 of this article, and shall immediately inform the Court. The Court shall review the prosecutor's decision within 48 hours from the notification date.

Article 208/a CPC

Seizure of computer based records

(Added by law no 10054 dated 29.12.2008, article 3)

1. In criminal proceedings involving crimes in the information technology field, the court shall decide, upon request of the prosecutor, to seize the computer-based records and the computer systems. The court shall set forth in this decision the right to access, request and take data from the computer, and prohibits any further actions or obtaining of the data or of the computer

system.

2. When there is reasonable ground to believe that the required computer-based records are stored in another computer, or part of it, and they may be, in a lawful way, accessed from or made available from the first computer, which is being controlled, the court shall order, upon request of the prosecutor, an immediate search or access to the latter computer.

3. Following the court decision, the prosecutor or the judicial police officer delegated by the prosecutor, shall take measures to:

- a) prevent further actions, or taking the computer, only a part of it, or another data storage device;
- b) extract and receive copies of the computer-based records;
- c) prohibit access to the computer-based records, or to remove these records from accessible computers;
- ç) provide inviolability of the respective stored records.

4. The prosecutor may authorise calling a computer expert, or an expert in protection of computer-based records, to carry out these actions. The expert may not refuse this task for unreasonable cause.

(b) Observations on the implementation of the article

350. In addition to the above-cited measures it was explained that Albania's domestic legislation allows the authorities to exchange information, data and records seized electronically with foreign counterparts through mutual legal assistance channels or on the basis of bilateral and multilateral agreements. Albania has implemented the provision under review.

Article 49. Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

(a) Summary of information relevant to reviewing the implementation of the article

351. Albania is party to bilateral and multilateral agreements and arrangements that provide for the possibility of conducting special investigative techniques.

(b) Observations on the implementation of the article

352. It was explained that there is no provision in the domestic legislation addressing the use of joint investigations, but that Albania participates in joint investigations on a case-by-case basis on the basis of bilateral and multilateral agreements or arrangements, including treaties under the United Nations framework, the Police Cooperation Convention for South East Europe (Vienna Convention) and the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 8.XI.2001), which provides as follows:

Article 20 – Joint investigation teams

1 By mutual agreement, the competent authorities of two or more Parties may set up a joint investigation team for a specific purpose and a limited period, which may be extended by mutual consent, to carry out criminal investigations in one or more of the Parties setting up the team. The composition of the team shall be set out in the agreement.

A joint investigation team may, in particular, be set up where:

aa Party's investigations into criminal offences require difficult and demanding investigations having links with other Parties;

b a number of Parties are conducting investigations into criminal offences in which the circumstances of the case necessitate co-ordinated, concerted action in the Parties involved.

A request for the setting up of a joint investigation team may be made by any of the Parties concerned. The team shall be set up in one of the Parties in which the investigations are expected to be carried out.

2 In addition to the information referred to in the relevant provisions of Article 14 of the Convention, requests for the setting up of a joint investigation team shall include proposals for the composition of the team.

3 A joint investigation team shall operate in the territory of the Parties setting up the team under the following general conditions:

A the leader of the team shall be a representative of the competent authority participating in criminal investigations from the Party in which the team operates. The leader of the team shall act within the limits of his or her competence under national law;

B the team shall carry out its operations in accordance with the law of the Party in which it operates. The members and seconded members of the team shall carry out their tasks under the leadership of the person referred to in sub-paragraph a, taking into account the conditions set by their own authorities in the agreement on setting up the team;

C the Party in which the team operates shall make the necessary organisational arrangements for it to do so.

4 In this article, members of the joint investigation team from the Party in which the team operates are referred to as "members", while members from Parties other than the Party in which the team operates are referred to as "seconded members".

5 Seconded members of the joint investigation team shall be entitled to be present when investigative measures are taken in the Party of operation. However, the leader of the team may, for particular reasons, in accordance with the law of the Party where the team operates, decide otherwise.

6 Seconded members of the joint investigation team may, in accordance with the law of the Party where the team operates, be entrusted by the leader of the team with the task of taking certain investigative measures where this has been approved by the competent authorities of the Party of operation and the seconding Party.

7 Where the joint investigation team needs investigative measures to be taken in one of the Parties setting up the team, members seconded to the team by that Party may request their own competent authorities to take those measures. Those measures shall be considered in that Party under the conditions which would apply if they were requested in a national investigation.

8 Where the joint investigation team needs assistance from a Party other than those which have set up the team, or from a third State, the request for assistance may be made by the competent authorities of the State of operation to the competent authorities of the other State concerned in accordance with the relevant instruments or arrangements.

9 A seconded member of the joint investigation team may, in accordance with his or her national law and within the limits of his or her competence, provide the team with information available in the Party which has seconded him or her for the purpose of the criminal investigations conducted by the team.

10 Information lawfully obtained by a member or seconded member while part of a joint investigation team which is not otherwise available to the competent authorities of the Parties concerned may be used for the following purposes:

a for the purposes for which the team has been set up;

b subject to the prior consent of the Party where the information became available, for detecting, investigating and prosecuting other criminal offences. Such consent may be withheld only in cases where such use would endanger criminal investigations in the Party concerned or in respect of which that Party could refuse mutual assistance;

c for preventing an immediate and serious threat to public security, and without prejudice to sub-paragraph b. if subsequently a criminal investigation is opened;

d for other purposes to the extent that this is agreed between Parties setting up the team.

11 This article shall be without prejudice to any other existing provisions or arrangements on the setting up or operation of joint investigation teams.

12 To the extent that the laws of the Parties concerned or the provisions of any legal instrument applicable between them permit, arrangements may be agreed for persons other than representatives of the competent authorities of the Parties setting up the joint investigation team to take part in the activities of the team. The rights conferred upon the members or seconded members of the team by virtue of this article shall not apply to these persons unless the agreement expressly states otherwise.

353. There have been no joint investigation teams (JIT) in matters related to corruption at the international level, but Albanian authorities reported that they participated in a JIT in a case involving offences of murder and drugs at the time of review. Albania has implemented the article under review.

Article 50. Special investigative techniques

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

2. For the purpose of investigating the offences covered by this Convention, States parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the

States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

(a) Summary of information relevant to reviewing the implementation of the article

354. Articles 221, 294/a and 294/b of the CPC allow for the implementation of this article.

355. Regarding paragraphs 3 and 4 of the article, Albania cited Law 9157 dated 4.12.2003 On interception of electronic communications, Chapter 3.

Article 221 CPC

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 a punishment of imprisonment of no less than seven years is provided;
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 for which a punishment of imprisonment of no less than two years, in maximum, 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. Its results may not be used as evidence.

Article 294/a CPC

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 if police had not intervened. When provocation is proved the results may not be used.

Article 294/b CPC

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.

Law 9157 dated 4.12.2003 On Interception of Electronic Communications

Chapter III

Special Requirements for Interception

Article 19

Interception upon request of foreign intelligence/policy services

Upon request of the intelligence/policy services and the approval of the General Prosecutor, the responsible Structure for Interceptions before National Intelligence Service, and interception section of the State Police, and of the Internal Service Control in the Ministry of Interior can realize, accordingly, interception pursuant to the provision of this law, on account of the foreign intelligence/policy service.

Article 20

Preservation and copying of the interception material

1. The interception material, is preserved when, upon appreciation of the General Prosecutor, there are chances to make it important for the protection of the live, national security, public order or prevention of serious crimes.

2. The head of the state intelligence institution submits written request to the General Prosecutor for the preservation of the interception material. The General Prosecutor has to respond in writing to the head of the state intelligence institution within 72 hours from the reception of the request.

In case the request is refused, the interception material shall immediately be annihilated, according to the manner established by the General Prosecutor, Minister of Interior, Minister of Justice and the Director of National Intelligence Service.

In case when is requested the copy of the interception material, the written request of the head of the state intelligence institution shall be addressed to the General Prosecutor for its approval together with the reasons for the copying.

356. Albania provided the following statistics on the use of special investigative techniques for 2013:

	Use of special methods of investigation			Proactive investigation
	Article 222 of CPC	Article 294/a of CPC	Article 294/b of CPC	
CORRUPTION	54	33	0	63
Money laundering	1	2	0	3

(b) Observations on the implementation of the article

357. Albania has implemented the article under review. The authorities are able to conduct special investigative techniques, including surveillance, undercover operations and controlled delivery, on the basis of the domestic legislation (articles 221, 294/a and 294/b of the CPC). Albania also conducts such techniques at the international level on the basis of bilateral and multilateral agreements and arrangements, including treaties under the United Nations framework, the Police Cooperation Convention for South East Europe (Vienna Convention) and the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 8.XI.2001), which provides as follows:

Article 17 – Cross-border observations

1Police officers of one of the Parties who, within the framework of a criminal investigation, are keeping under observation in their country a person who is presumed to have taken part in a criminal offence to which extradition may apply, or a person who it is strongly believed will lead to the identification or location of the above-mentioned person, shall be authorised to continue their observation in the territory of another Party where the latter has authorised cross-border observation in response to a request for assistance which has previously been submitted. Conditions may be attached to the authorisation.

On request, the observation will be entrusted to officers of the Party in whose territory it is carried out.

The request for assistance referred to in the first sub-paragraph must be sent to an authority designated by each Party and having jurisdiction to grant or to forward the requested authorisation.

...

Article 18 – Controlled delivery

1Each Party undertakes to ensure that, at the request of another Party, controlled deliveries may be permitted on its territory in the framework of criminal investigations into extraditable offences.

2The decision to carry out controlled deliveries shall be taken in each individual case by the competent authorities of the requested Party, with due regard to the national law of that Party.

3Controlled deliveries shall take place in accordance with the procedures of the requested Party. Competence to act, direct and control operations shall lie with the competent authorities of that Party.

4Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

Article 19 – Covert investigations

1The requesting and the requested Parties may agree to assist one another in the conduct of investigations into crime by officers acting under covert or false identity (covert investigations).

2The decision on the request is taken in each individual case by the competent authorities of the requested Party with due regard to its national law and procedures. The duration of the covert investigation, the detailed conditions, and the legal status of the officers concerned during covert investigations shall be agreed between the Parties with due regard to their national law

and procedures.

3Covert investigations shall take place in accordance with the national law and procedures of the Party on the territory of which the covert investigation takes place. The Parties involved shall co-operate to ensure that the covert investigation is prepared and supervised and to make arrangements for the security of the officers acting under covert or false identity.

4Parties shall at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession, by means of a declaration addressed to the Secretary General of the Council of Europe, indicate the authorities that are competent for the purposes of paragraph 2 of this article. They subsequently may, at any time and in the same manner, change the terms of their declaration.

358. It was reported by the authorities that Albania has employed special investigative techniques in a number of cases related to corruption, including one recent case that was discussed during the country visit where undercover police personnel were used. The matter was handled by a special operational directorate within the State Police that includes surveillance and undercover departments.
359. It was further reported that evidence derived from special investigative techniques (other than preventive techniques, the evidence of which is not admissible, pursuant to article 221(5) CPC and which are governed by a separate law) is admissible in criminal proceedings by order of the court. There are no reported challenges in obtaining the admissibility of such evidence.