

GLOBAL FORUM ON
**TRANSPARENCY AND EXCHANGE OF
INFORMATION FOR TAX PURPOSES**

Peer Review Report on the Exchange of Information
on Request

ALBANIA

2023 (Second Round)

Global Forum on Transparency and Exchange of Information for Tax Purposes: Albania 2023 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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Note by the Republic of Türkiye

The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 160 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. The implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.
2. The implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

Consideration of the Financial Action Task Force Evaluations and Ratings

The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating terrorist financing (AML/CFT) standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as the FATF definition is used in the 2016 ToR (see 2016 ToR, Annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example, because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

More information

All reports are published once adopted by the Global Forum. For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published reports, please refer to www.oecd.org/tax/transparency and <http://dx.doi.org/10.1787/2219469x>.

Abbreviations and acronyms

ALL	Albanian Lek
AML	Anti-Money Laundering
CRS	Common Reporting Standard
DTC	Double Taxation Convention
EOI	Exchange of information
EOIR	Exchange of Information on Request
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
GTD	General Taxation Department
IFRS	International Financial Reporting Standard
LBOR	Law No. 112/2020 on the Beneficial Owner Register
LEC	Law No. 9901/2008 on Entrepreneurs and Companies
LTP	Law No. 9920/2008 on Tax Procedures
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
NBC	National Business Centre
NPO	Non-Profit Organisation
TSE	Tirana Stock Exchange

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request (the standard) in Albania on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as on 29 November 2022 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of exchange of information (EOI) requests received and sent during the review period from 1 October 2018 to 30 September 2021. This report concludes that Albania continues to be rated overall **Largely Compliant** with the standard.

2. In 2016, the Global Forum evaluated Albania against the 2010 Terms of Reference for both the legal implementation of the standard as well as its operation in practice. The report of that evaluation (the 2016 Report) concluded that Albania was rated Largely Compliant overall.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2016)	Second Round Report (2023)
A.1 Availability of ownership and identity information	Partially Compliant	Partially Compliant
A.2 Availability of accounting information	Largely Compliant	Compliant
A.3 Availability of banking information	Compliant	Largely Compliant
B.1 Access to information	Largely Compliant	Compliant
B.2 Rights and Safeguards	Compliant	Compliant
C.1 EOIR Mechanisms	Compliant	Compliant
C.2 Network of EOIR Mechanisms	Compliant	Compliant
C.3 Confidentiality	Compliant	Compliant
C.4 Rights and safeguards	Compliant	Compliant
C.5 Quality and timeliness of responses	Largely Compliant	Compliant
OVERALL RATING	Largely Compliant	Largely Compliant

Note: the four-scale ratings are Compliant, Largely Compliant, Partially Compliant and Non-Compliant.

Progress made since previous review

3. Since the 2016 Report, Albania has made progress in respect to availability of beneficial ownership information and access to information. Albania's legal and regulatory framework to ensure access to information (Element B.1) is now up to the standard. The 2016 Report noted a deficiency regarding availability of ownership information of legacy bearer shares that were permitted under Albanian law until 2008. Albanian authorities have explained what checks were performed to ensure that all shareholder information was registered in the commercial register when it was founded in 2008. Furthermore, Albanian authorities have confirmed that during the initial registration and transfer of information to the commercial register in 2008, no companies were found to have issued bearer shares and all registered companies had submitted information on their shareholders. The issue of bearer shares identified in the 2016 Report has therefore been addressed.

4. To further address recommendations in the 2016 Report, Albania improved its monitoring of compliance with obligations to maintain and file legal ownership information and sanctions applied for non-compliance as well as monitoring of the availability of accounting records. This improvement led to Albania being able to provide statistics and information during this review to document compliance and enforcement activities.

5. The 2016 Report acknowledged that Albania had put in place a new provision in the Law on Tax Procedures (LTP) to strengthen the information gathering powers of the tax administration for exchange of information purposes. Albania explained that the new provision was to clarify that any person must provide information to the tax authorities for exchange of information purposes. This new provision became effective after the review period and had therefore not been tested in practice. Albania now reported that no issues have been raised regarding the practical application of the provision and that the Competent Authority has been able to gather information from third party information holders by applying this provision. Furthermore, Albania reports that no third-party information holder has challenged the application of the provision. The implementation and the application of the provision has been successful and has strengthened the information powers of the tax administration.

6. Albania has introduced a beneficial owner register maintained by the National Business Centre (NBC) to both fulfil requirements from the Financial Action Task Force (FATF) and meet the standard as it was enhanced in 2016. Albania has also made changes to its anti-money laundering (AML) law to reflect European Union's (EU) 4th and 5th AML Directives.

Key recommendations

7. The standard was strengthened in 2016 to ensure availability of adequate, accurate and up-to-date beneficial owner information. To meet this requirement, Albania has established a beneficial owner register which is the key source of beneficial ownership information, where all relevant legal entities registered in Albania must report their beneficial ownership information. In addition, beneficial ownership information is available with the entities themselves and with AML-obliged persons, provided that entities have a customer relationship with them. To strengthen the framework, Albania also made changes to the AML law to improve the requirements for AML-obliged persons to identify beneficial owners of their customers. The rules are generally in conformity with the standard except for the narrow scope in terms of the control requirement of the standard. Furthermore, due to the combination of automatic initial registration of beneficial ownership information for existing entities, the reliance on discrepancy reporting of beneficial ownership information and the lack of guidance in the Law on Beneficial Owner Register (LBOR) and the Decision of the Council of Ministers No. 1088/2020, on how to interpret and apply the term “control through other means” the system in place does not ensure the availability of adequate, accurate and up-to-date information on beneficial owners in line with the standard. Additionally, the system in place does not ensure that changes of beneficial ownership are brought to the attention of all relevant legal entities and arrangements. Therefore, Albania is recommended amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements, in accordance with the standard.

8. Considering how the Law on Beneficial Owner Register was only in effect for the last eight months of the review period and that the deadline for existing companies to register beneficial ownership information was 30 June 2022 and the fact that for the majority of existing companies the National Business Centre (NBC) automatically registered beneficial ownership information, it is unclear how accurate the information in the beneficial ownership register is. Albania is therefore recommended to monitor the implementation of the Law on Beneficial Owner Register to ensure that accurate information in accordance with the standard is kept on file by legal entities and AML-obliged persons.

9. This report repeats a recommendation from the 2016 Report on the availability of ownership information for foreign companies and partnerships with nexus to Albania as in these cases the availability of legal ownership information is contingent on the law of the jurisdiction where the company or partnership is incorporated.

Exchange of information

10. The 2016 Report concluded that there were no legal restrictions in the Competent Authority's ability to respond to exchange of information requests in a timely manner and that generally peers were satisfied with responses from Albania. However, during the review period, shortage of staff had a negative impact on the response time as the Competent Authority did not follow-up with information holders that did not respect deadlines for providing information. Albania was, therefore, recommended to ensure that appropriate organisational processes and resources be put in place to ensure that requests continue to be responded to in a timely manner in all cases. The General Taxation Department (GTD) has made organisational changes and implemented an exchange of information manual in an effort to address the recommendation. Although the practice of gathering and exchanging information could be perfected, as indicated in the report, Albania globally meets the standard on these aspects.

11. During the current period under review, Albania received 100 requests for information and the response time declined slightly from the 2016 Report. The peers that provided peer input were generally satisfied with responses provided by the Albanian Competent Authority and reported that the Albanian Competent Authority is easily contactable.

Overall rating

12. The ratings that have been assigned to Albania are based on the analysis in this report, considering recommendations for Albania's legal and regulatory framework and the effectiveness of its exchange of information in practice. Albania has received a rating of Compliant for eight Elements (A.2, B.1, B.2, C.1, C.2, C.3, C.4 and C.5), Largely Compliant for one Element (A.3) and Partially Compliant for one Element (A.1). Albania's overall rating is Largely Compliant based on a global consideration of its compliance with the individual elements.

13. The Peer Review Group of the Global Forum approved this report on 28 February 2023 and the Global Forum adopted it on 27 March 2023. Albania should provide the Peer Review Group with a follow up report on the steps undertaken by Albania to address the recommendations made in this report no later than 30 June 2024 and thereafter in accordance with the procedure set out under the 2016 Methodology, as amended.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
The legal and regulatory framework is in place but needs improvement	Foreign companies with a sufficient nexus to Albania (e.g. being resident for tax purposes) and foreign partnerships that are carrying on business in Albania or having income, deductions or credits for tax purposes in Albania are not required to maintain, or provide to the authorities, ownership information in all cases. Availability of legal ownership or identity information is contingent on the law of the jurisdiction where the company or partnership is incorporated.	Albania is recommended to ensure that legal ownership information is available in all cases, in accordance with the standard, when it comes to foreign companies with sufficient nexus to Albania and foreign partnerships carrying on business in Albania or having income, deductions, or credits for tax purposes in Albania.

Determinations and ratings	Factors underlying recommendations	Recommendations
	<p>The legal definition of beneficial owner(s) and the methodology used to identify them in Albania's legal framework has a narrow scope in terms of the control requirement. Furthermore, there is no guidance available on how to interpret or apply the term "control through other means". Additionally, the methodology does not provide guidance on what to do when there is a doubt of who the beneficial owner is. This may lead to uneven application of the definition by reporting entities and anti-money laundering obliged persons and poses a risk to the accuracy of the information in the beneficial owner register.</p> <p>The requirements on anti-money laundering obliged persons do not specify the frequency to update the beneficial ownership information of their customers and they do not clarify when verification must be undertaken. Although legal entities and arrangements must update the beneficial owner register when changes occur in their beneficial ownership, the system in place does not ensure that changes in beneficial ownership are brought to their attention. This means that adequate, accurate and up-to-date information may not always be available.</p>	<p>Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements, in accordance with the standard.</p>
<p>EOIR Rating: Partially Compliant</p>	<p>There is a risk that the beneficial owner register will not in all cases contain accurate and up-to-date information.</p> <p>First, the automatic initial registration of beneficial ownership information is inadequate for some existing companies.</p> <p>Second, the National Business Centre relies on companies complying with their reporting and updating obligations while there is no mechanism in place to compel beneficial owners to provide them with sufficient information.</p> <p>This is not compensated by the discrepancy reporting obligation of other government authorities, such as the General Directorate for Prevention of Money Laundering, and anti-money laundering obliged persons. In turn, some obliged entities assume information in official registers is accurate and they are not all aware of their obligation to report discrepancies.</p>	<p>Albania is recommended to ensure that information on beneficial ownership available is adequate, accurate and up to date with respect to all relevant legal entities and arrangements, in accordance with the standard.</p>

Determinations and ratings	Factors underlying recommendations	Recommendations
	<p>Since the Law on the Beneficial Owner Register was only in effect for the last eight months of the review period and the deadline for existing companies and partnerships to report beneficial ownership information was 30 June 2022, the Albanian authorities were only able to report on limited enforcement activities and the effectiveness of the system in place in relation to exchange of information could therefore not be assessed. The same applies to the changes made to the anti-money laundering law concerning beneficial ownership requirements for anti-money laundering obliged persons.</p>	<p>Albania is recommended to monitor the implementation of the Law on Beneficial Owner Register and the anti-money-laundering law to ensure that accurate information in accordance with the standard is kept on file by reporting entities according to the Law on Beneficial Owner Register and by anti-money laundering obliged person according to the anti-money laundering law.</p>
<p>Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)</p>		
<p>The legal and regulatory framework is in place</p>		
<p>EOIR Rating: Compliant</p>		

Determinations and ratings	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
<p>The legal and regulatory framework is in place but needs improvement</p>	<p>Banks must update beneficial ownership information when they have doubts about the veracity or adequacy of the information obtained previously, but there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information on customers is not up to date.</p> <p>The legal definition of beneficial owner(s) and the methodology used to identify them in Albania's legal framework has a narrow scope in terms of the control requirement. Furthermore, there is no guidance available on how to interpret or apply the term "control through other means". Additionally, the methodology does not provide guidance on what to do when there is a doubt of who the beneficial owner is. This may lead to uneven application of the definition by banks and poses a risk to the accuracy of the information in the beneficial owner register.</p>	<p>Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all bank accounts, in accordance with the standard.</p>
<p>EOIR Rating: Largely Compliant</p>	<p>Since the changes made to the Law on Beneficial Owner Register and the anti-money laundering law concerning beneficial ownership requirements for reporting entities are recent, the Albanian authorities were only able to report on limited enforcement activities and the effectiveness of the system in place in relation to exchange of information could not be assessed.</p>	<p>Albania is recommended to monitor the implementation of the Law on Beneficial Owner Register and the anti-money laundering law to ensure that accurate beneficial ownership information in accordance with the standard is kept by banks.</p>

Determinations and ratings	Factors underlying recommendations	Recommendations
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
The legal and regulatory framework is in place		
EOIR Rating: Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
EOIR Rating: Compliant	There are gaps in the organisational processes of the Competent Authority that result in failures to follow-up with those information holders who do not respect deadlines set by the Competent Authority. This also causes delays in responses to exchange partners.	Albania is recommended improve its organisational process and resources so that in all cases requests continue to be responded to in a timely manner.
	The Competent Authority does not systematically send status updates when information cannot be provided within 90 days. Some peers reported that even in cases where the Competent Authority was specifically asked for status updates, none were provided.	Albania is recommended to provide status updates to all treaty partners systematically where it is unable to provide a response to a request within 90 days.

Overview of Albania

14. This overview provides basic information about Albania that serves as a context for understanding the analysis in the main body of the report.

15. Albania is a small state in the Balkan Peninsula in South-eastern Europe with a long Adriatic and Ionian coastline. It shares borders with Montenegro, Kosovo,¹ North Macedonia and Greece. The population of Albania is approximately 2.8 million. The official currency is the Albanian Lek (ALL) (ALL 1 = EURO (EUR) 0.0081)² and the official language is Albanian.

16. Albania is a formerly closed, centrally planned state that started transitioning to an open-market economy in the early 90s. This transition is reflected in the legal and economic framework. Albania's economy is divided between the service, industrial and agriculture sectors. The gross domestic product was US Dollars 6.5 billion in 2021. Albania's major trading partners are Italy, Greece, China, Spain, Kosovo and the United States. Foreign investment has increased in recent years following fiscal and legislative reforms. Albania's major EOI partners are Greece, Italy, Germany, Kosovo, Norway, Türkiye and Belgium.

17. Albania applied for EU membership in 2009 and has since 2014 been an official candidate for accession. Albania has already embarked on reforms in connection with membership discussions which formally began in July 2022 in areas such as the rule of law, fundamental rights, economic development and competitiveness by implementing relevant directives on anti-money laundering and corruption.

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1. This designation is without prejudice to positions on status and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence.
 2. Bank of Albania 6 July 2022 (https://www.bankofalbania.org/Markets/Official_exchange_rate/).

Legal system

18. Albania is a parliamentary democratic republic with a multi-party system. The Constitution divides government powers between three independent branches – the legislative, the executive and the judiciary.

19. The legislative power lies with the Parliament (Kuvendi) which is a unicameral and consists of 140 members elected to a four-year term by popular vote based on proportional representation. All laws passed by the Parliament are published in the official journal of the Government of Albania.

20. The President, Albania's head of state, and the Prime Minister share the executive power, with the Prime Minister being the head of government and holding most of the executive power. The Parliament elects the President to a five-year term. The President appoints the Prime Minister on the proposal of the party or coalition of parties that holds the parliamentary majority, and the Prime Minister appoints the remainder of the Cabinet, subject to parliamentary approval.

21. The judicial power is divided between three instances. The first instance courts are the district courts, the Court of First Instance for Serious Crimes, and the Administrative Court of First Instance. The second instance courts are appeal courts that hear cases appealed from the first instance and the third instance and highest courts are the Supreme Court and the Constitutional Court. The Administrative Court of First Instance hears cases on all tax matters.

22. Albanian law is codified and based on civil law. The hierarchy of laws is as follows: i) the Constitution, ii) international agreements ratified by the Parliament, iii) ordinary laws, and iv) sub-legal acts such as government decisions,³ instructions issued by ministers, etc. The Parliament ratifies international treaties concerning tax matters such as Double Taxation Conventions (DTC) as well as Tax Information Exchange Agreements and the treaties are thereby incorporated into Albanian law. Article 122 of the Constitution stipulates that ratified international treaties prevail over domestic law in case of conflict.

Tax system

23. The Albanian Constitution grants the Parliament the right to impose taxes. Albania's tax system comprises direct and indirect taxes, fees and duties. The tax system is governed by the Law on Tax Procedures (LTP) as well as specific tax acts and Council of Ministers' Regulations issued in

3. Council of Ministers' Decisions.

accordance with these acts. The LTP contains specifics on the tax system, and regulates the tax procedures, including taxpayers' rights and appeal procedures. Levied taxes consist of national and local taxes. National taxes include: i) income taxes (including corporate income tax and personal income tax), ii) value added tax, iii) excise duties (administered by the customs department), iv) taxes on games of fortune and casinos and v) other national taxes and fees. Local taxes include: i) simplified income tax (tax on small business activities), ii) property tax, iii) hotel tax, iv) advertisement tax, v) environmental tax and other local fees.

24. Albanian residents, both natural and legal persons, are taxed on their worldwide income. Individuals are tax residents of Albania if their permanent address or "usual residence" (183-day rule) is in Albania. Non-resident individuals working in Albania are only subject to tax on their Albanian sourced income. The personal income tax is progressive with three brackets with corresponding rates of 0%, 13% and 23%.

25. All companies established under Albanian law must register in the commercial register and are considered residents in Albania. Furthermore, companies incorporated in foreign jurisdictions but with head offices or headquarters or the place of effective management of business in Albania, are treated as residents for tax purposes. A foreign company that has a permanent establishment in Albania is liable to tax there with respect to Albanian source income and worldwide income that is attributable to that permanent establishment and is considered a resident for tax purposes. Non-resident companies that carry on activity in Albania (not through a permanent establishment) are only subject to tax on their Albanian sourced income. The rate of corporate income tax is 15% for taxpayers with annual turnover above ALL 14 million (EUR 113 400). For corporate taxpayers with a turnover between ALL 0 and ALL 14 million (EUR 0 and EUR 113 400), the rate is 0%.

26. The GTD and its regional tax offices along with the General Customs Department are responsible for the collection and administration of taxes. Companies must withhold tax on dividends, interests and technical services payments when such payments are made to individuals or non-residents. The withholding tax rate is 8% for dividends and 15% for other payments.

27. Albania has a special tax regime in place for "small business activities", defined as taxpayers with annual turnover up to ALL 8 million (EUR 64 800). The current tax rate applicable to them is 0%.

Financial services sector

28. Albania's financial sector comprises different activities that include banking, insurance and reinsurance activities, stock exchange related activities, and the administration of investment and pensions funds. As of December 2021, there were 12 banks registered in Albania. The non-bank financial sector has been growing and investment funds with assets under management are equivalent to 4% of the GDP. There are 38 non-bank financial institutions operating in Albania. Furthermore, Albania has 16 savings and loan associations and 1 union of savings and loan associations operating.

29. The Bank of Albania is the central bank and is responsible for licensing, regulation, monitoring and supervising of banks, savings and loan associations and their unions, foreign exchange bureaus and non-bank financial institutions that carry out financial activities such as lending, micro-credit, factoring, financial leasing, payment services and money transfers, issuance of electronic money and foreign exchanges. The Albanian Financial Supervisory Authority is the supervisory and regulatory authority for the financial markets, investment and pension funds, insurance companies and other financial operators that do not fall under the Bank of Albania's remit.

30. The Tirana Stock Exchange (TSE) is the only organised securities market in Albania. It was established in 1996 with the objective to develop the Albanian securities market. Only government securities are traded and there are no companies listed on it. In 2002, the TSE was restructured as a joint stock company with the Ministry of Finance as its only owner and was licensed by the Financial Supervisory Authority in 2007 to conduct stock exchange transactions in Albania. Since there are no companies listed on the TSE, it has not actually been a functioning exchange and there are no recorded transactions. During the on-site visit, Albania reported that the board of the Financial Supervisory Authority has decided to revoke the TSE's licence. Furthermore, the stock exchange company is currently in the status of liquidation.

31. Professions such as lawyers, accountants, auditors and notaries are regulated by law. Lawyers are regulated by the Law on the Profession of Lawyers No. 9109/2003, and the licensing and supervisory procedures are administered by the Bar Association Chamber and the Ministry of Justice. Notaries are regulated by the Law on Notaries No. 110/2018, with licensing and supervisory procedures administered by the Chamber of Notaries and the Ministry of Justice. Accountants are regulated by the Law on Legal Auditing, Organisation of the Profession of Registered Accounting Experts and Approved Accountants No. 10091/2009; the licensing and supervisory body of accountants is the Certifying Authority of Accounting Experts.

Anti-Money Laundering Framework

32. Money laundering is criminalised under the Albanian Criminal Code No. 7895/1995 and the primary legislation regulating money laundering is Law No. 9917/2008 on the Prevention of Money Laundering and Terrorism Financing (AML law).

33. Since the 2016 Report, the Parliament has amended the AML law four times with the last changes in December 2021 when Law No. 120/2021 was passed. The amendments entered into force on 6 January 2022. Furthermore, the Parliament has passed Law No. 112/2020 on the Beneficial Owner Register (LBOR), where the term beneficial owner is defined, and conditions laid out for the beneficial owner register. The LBOR was amended by Law No. 6/2022 where registration deadlines for existing companies were extended and penalties for failure to comply with the LBOR were increased. The amendment by Law No. 6/2022 also allowed the NBC to automatically populate beneficial ownership information for existing reporting entities directly owned by natural person shareholders that fulfilled the 25% threshold of the LBOR. In case this threshold was not reached, the legal representative of the entity was registered as the beneficial owner.

34. The AML law obliges a broad range of entities, AML-obliged persons, to undertake customer due diligence measures. This includes, inter alia, (i) banking entities and other non-bank financial institutions that carry out financial activities in Albania supervised by the Bank of Albania, (ii) postal services that perform payment services, (iii) stock exchanges, agents, brokers etc. which carry out services related to issuing, counselling, financing and other services related to the trading of securities, (iv) life-insurance agents and pension funds, and (v) attorneys, public notaries and other legal representatives, legal auditors and chartered accountants.

35. Regulation of AML issues is under the overall control of the General Directorate for Prevention of Money Laundering, which is the financial intelligence unit (FIU) in Albania. The FIU falls under the auspices of the Ministry of Finance and supervises AML-obliged persons and their compliance with the AML law on a national level by conducting on- and off-site inspections in co-operation with other supervising authorities.

36. MONEYVAL's 5th Round Evaluation of Albania was adopted in July 2018.⁴ Albania was rated as largely compliant with respect to Recommendation 10 (Customer due diligence) and Recommendation 22 (Designated Non-Financial Business and Professionals: Customer Due Diligence) and partially compliant with Recommendations 24 (Transparen

4. The MONEYVAL 2018 report is available here: <https://rm.coe.int/committee-of-experts-on-the-evaluation-of-anti-money-laundering-measur/1680931f70>.

cy and beneficial ownership of legal persons) and 25 (Transparency and beneficial ownership of legal arrangements). On effectiveness, Albania was rated with a moderate level of effectiveness with respect to Immediate Outcome 5 (Transparency on legal persons and arrangements). Based on this assessment, MONEYVAL decided to apply its enhanced follow-up procedure to Albania.

37. MONEYVAL's follow-up reports⁵ from 2019 and 2021 did not result in a different rating for Recommendations 10, 22, 24 and 25. However, in the 2022 follow-up report,⁶ which was adopted in May 2022, Albania was found to have addressed most deficiencies identified by MONEYVAL by adopting the LBOR and was re-rated as largely compliant with respect to Recommendation 24. Changes made to the LBOR with Law No. 6/2022 were not considered in this follow-up round as the law came into force after Albania had submitted its update report. The ratings of the other three recommendations remain the same.

Recent developments

38. To address recommendations from MONEYVAL, the Parliament amended both Law No. 9723/2007 on the Business Registration and LBOR. The amendments in both cases expanded the sanctions imposed for non-compliance to the obligation to register data in the registers. Amendments to the LBOR furthermore included provisions to allow the NBC to automatically populate beneficial ownership information to the beneficial owner register. Albania has also made changes to the AML law to align it with the 4th and 5th EU AML directives.

39. Furthermore, the Parliament approved Law No. 4/2020 for Automatic Exchange of Financial Accounts Information in January 2020 thereby implementing the Common Reporting Standard (CRS) for Automatic Exchange of Information on financial accounts. Albania started non-reciprocal exchanges of CRS information in 2020 and reciprocal exchanges in 2021.

5. The 2019 and 2021 follow-up reports are available here: <https://www.coe.int/en/web/moneyval/jurisdictions/albania>.

6. The 2022 follow-up report is available here: <https://rm.coe.int/fur-albania-3rd/1680a6cea3>.

Part A: Availability of information

40. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of banking information.

A.1. Legal and beneficial ownership and identity information

Jurisdictions should ensure that legal and beneficial ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

41. The 2016 Report concluded that the legal and regulatory framework in Albania ensured the availability of ownership and identity information (Element A.1) was in place, but Albania needed to improve certain aspects of the legal implementation. The primary reasons for this determination were that i) relevant foreign companies and partnerships were required to neither maintain nor provide to the authorities ownership information in all cases and, ii) it was uncertain whether companies that might have issued bearer shares prior to 2008 were required to compel the holders of such shares to comply with ownership registration mechanisms. In terms of application of the standard in practice, Albania was recommended to improve its system of oversight to ensure that updated ownership information is being maintained in respect of all relevant entities. As a result, Albania received a Partially Compliant rating on the availability of ownership and identity information for all relevant entities.

42. The availability of legal and beneficial ownership information in Albania is ensured by a combination of obligations in corporate law, tax law and AML law. Legal and beneficial ownership information is available in governmental registers and the General Taxation Department (GTD) has legal ownership information on certain domestic and foreign companies in its databases.

43. The Albanian Parliament has made changes to the Law on the Business Registration since the 2016 Report to expand sanctions for

non-compliance with registering obligation. The changes were made to address recommendations from MONEYVAL and in no way changed the rules on the availability of legal ownership and identity information. For that reason, Albania is again recommended to ensure that legal ownership information is available in all cases when it comes to foreign companies or partnerships with a sufficient nexus to Albania.

44. Albanian authorities report that since the LEC requires companies to report to the NBC shareholder information and all changes in stock ownership, bearer shares are de facto forbidden. Furthermore, the Albanian authorities point out that they have never encountered bearer shares in their line of work nor received a request from a peer regarding bearer shares. Albania has not made any legal changes to deal with any legacy bearer shares that might have been issued before 2008. However, considering the sunset clause in the LEC that obliged existing companies to bring their organisation and operation in line with the law, the issue of bearer shares is of low materiality. In addition, a new commercial register was put in place in 2008 and at this occasion the register did not identify any existing company with bearer shares. The matter is therefore considered closed.

45. The standard was strengthened in 2016 when the obligation of having available beneficial ownership information on all relevant entities and arrangements was introduced. To meet this obligation Albania has established a beneficial owner register that has been in operation since February 2021.

46. The Law on the Beneficial Owner Register (LBOR) applies to the following entities that must register beneficial owners with the beneficial owner register: i) limited liability companies, ii) joint stock companies, iii) general partnerships, iv) limited partnerships, v) representative offices and branches of foreign companies, vi) savings and loan associations and their unions, vii) agricultural co-operation companies, viii) any other legal entity, which by law is obliged to register at the NBC, ix) non-profit organisations (NPO), x) legal entities and enterprises, jointly owned by central/local institutions⁷ of Albania and individuals (Albanian and foreign) or legal entities (Article 2(1)). The LBOR explicitly excludes natural persons, legal entities whose sole shareholder is a central or local institution of Albania, religious communities and political parties (Article 2(1)).

47. To facilitate registration of beneficial ownership information, the NBC was granted authority to use registered shareholder information to automatically register beneficial owner information in the beneficial owner register. This approach allowed for the immediate population of beneficial owner information in the beneficial owner register to a large extent, as most companies in

7. Central institutions are institutions of the central government and local institutions are institutions of municipalities.

Albania have a simple ownership structure comprising individual shareholders. However, both the legal framework and the implementation raise concern about the accuracy of the automatically registered information. Albania's legal definition of beneficial owners in the LBOR is in line with the standard. However, when the methodology and guidance in Decision 1088/2020 of the Council of Ministers is taken into account together with the legal definition in the LBOR there is a gap when it comes to interpreting what “control through other means” stands for. Neither the decision nor the LBOR contain guidance on what aspects (personal connections, financing, historical or contractual association, use/enjoyment/benefit of entity's assets) should be taken into consideration when applying the term. Furthermore, the methodology in Decision No. 1088/2020 requires entities to move to the next step in the methodology only if the beneficial owner cannot be determined and not if there is a doubt of who the beneficial owner is. Albanian authorities have not provided guidance to reporting entities or AML-obliged persons to resolve this. This could lead to unsystematic approaches in how the term is defined and applied in practice.

48. The approach taken by Albania to automatically register the legal representatives as beneficial owners of entities directly owned by individuals when no individual shareholder meets the 25% threshold does not ensure that the information in the beneficial owner register is accurate, as persons who possess control over the entity through other means would not be captured. Furthermore, despite the legal obligation of beneficial owners to provide reporting entities with all necessary information for reporting purposes, there are no mechanisms in place to compel beneficial owners to comply with this legal obligation. Additionally, the NBC does not have investigative powers and relies on discrepancy reporting from governmental agencies and AML-obliged persons. During the on-site visit some representatives for AML-obliged persons confirmed that they report discrepancies to the NBC, while others did not seem fully aware of their discrepancy reporting obligations. The system in place does, therefore, not ensure that accurate and up-to-date beneficial ownership information is available in accordance with the standard. In light of all this, Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements, in accordance with the standard.

49. The main authorities charged with overseeing and enforcing the availability of legal and beneficial ownership information are the NBC, the GTD and the Financial Intelligence Unit (FIU). In practice, the GTD and the FIU have exercised their enforcement powers and applied relevant sanctions in situations of non-compliance, thereby ensuring a good baseline of information availability. However, since the LBOR has only recently come into effect and the deadline for existing companies and partnerships to report beneficial owner information was until 30 June 2022, a full assessment could not be made in the review. Albania is recommended to monitor

the implementation of the LBOR to ensure that accurate information in accordance is kept on file by reporting entities according to the LBOR and by AML-obliged persons according to the AML law.

50. In conclusion and with reference to the recommendations made to the legal framework and the availability of accurate and up-to-date beneficial ownership information in practice, Albania is rated as Partially Compliant with the standard for Element A.1.

51. The conclusions are as follows:

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/Underlying factor	Recommendations
Foreign companies with a sufficient nexus to Albania (e.g. being resident for tax purposes) and foreign partnerships that are carrying on business in Albania or having income, deductions or credits for tax purposes in Albania are not required to maintain, or provide to the authorities, ownership information in all cases. Availability of legal ownership or identity information is contingent on the law of the jurisdiction where the company or partnership is incorporated.	Albania is recommended to ensure that legal ownership information is available in all cases, in accordance with the standard, when it comes to foreign companies with sufficient nexus to Albania and foreign partnerships carrying on business in Albania or having income, deductions, or credits for tax purposes in Albania.
The legal definition of beneficial owner(s) and the methodology used to identify them in Albania's legal framework has a narrow scope in terms of the control requirement. Furthermore, there is no guidance available on how to interpret or apply the term "control through other means". Additionally, the methodology does not provide guidance on what to do when there is a doubt of who the beneficial owner is. This may lead to uneven application of the definition by reporting entities and anti-money laundering obliged persons and poses a risk to the accuracy of the information in the beneficial owner register. The requirements on anti-money laundering obliged persons do not specify the frequency to update the beneficial ownership information of their customers and they do not clarify when verification must be undertaken. Although legal entities and arrangements must update the beneficial owner register when changes occur in their beneficial ownership, the system in place does not ensure that changes in beneficial ownership are brought to their attention. This means that adequate, accurate and up-to-date information may not always be available.	Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements, in accordance with the standard.

Practical implementation of the Standard: Partially Compliant

Deficiencies identified/Underlying factor	Recommendations
<p>There is a risk that the beneficial owner register will not in all cases contain accurate and up-to-date information.</p> <p>First, the automatic initial registration of beneficial ownership information is inadequate for some existing companies.</p> <p>Second, the National Business Centre relies on companies complying with their reporting and updating obligations while there is no mechanism in place to compel beneficial owners to provide them with sufficient information.</p> <p>This is not compensated by the discrepancy reporting obligation of other government authorities, such as the General Directorate for Prevention of Money Laundering, and anti-money laundering obliged persons. In turn, some obliged entities assume information in official registers is accurate and they are not all aware of their obligation to report discrepancies.</p>	<p>Albania is recommended to ensure that information on beneficial ownership is adequate, accurate and up to date with respect to all relevant legal entities and arrangements, in accordance with the standard.</p>
<p>Since the Law on the Beneficial Owner Register was only in effect for the last eight months of the review period and the deadline for existing companies and partnerships to report beneficial ownership information was 30 June 2022, the Albanian authorities were only able to report on limited enforcement activities and the effectiveness of the system in place in relation to exchange of information could therefore not be assessed. The same applies to the changes made to the anti-money laundering law concerning beneficial ownership requirements for anti-money laundering obliged persons.</p>	<p>Albania is recommended to monitor the implementation of the Law on Beneficial Owner Register and the anti-money-laundering law to ensure that accurate information in accordance with the standard is kept on file by reporting entities according to the Law on Beneficial Owner Register and by anti-money laundering obliged persons according to the anti-money laundering law.</p>

A.1.1. Availability of legal and beneficial ownership information for companies

52. The availability of legal and beneficial ownership information in Albania is provided by a combination of corporate law, tax law and AML law. Legal and beneficial ownership information is available in governmental registries, namely the commercial register and the beneficial owner register, under the Law on the Business Registration, LEC and the LBOR and information in both registers is publicly accessible and free. The NBC is the governmental keeper of both registries. In addition, legal ownership

information of certain domestic and foreign companies is available in the GTD database under the LTP and the Income Tax Law No. 8438/1998.

53. Entities carrying out commercial activity in Albania are required to register in the commercial register operated by the NBC within 30 days after the day of incorporation. Registration applications are submitted electronically through a governmental portal e-Albania.

54. The NBC, the FIU, the Bank of Albania, the Financial Supervisory Authority and the GTD are the main authorities charged with overseeing compliance with the obligations of keeping legal and beneficial ownership information. In practice, these authorities have used their supervisory powers and applied sanctions where applicable.

Types of companies

55. The LEC governs the establishment and the general management of companies, their reorganisation and liquidation. Two types of stock companies can be founded in Albania: limited liability companies and joint stock companies as mentioned in the 2016 Report.

- **Limited liability companies** are legal entities that can be founded by one or more founders who can be legal or natural persons. Founders are liable for the obligations of the company up to the amount of their unpaid contribution to the company's capital. The minimum amount of equity capital of a limited liability company is ALL 100 (EUR 0.81) (Articles 68 and 70 of the LEC). As of December 2021, there were 62 404 limited liability companies in Albania.
- **Joint stock companies** are companies where the equity capital is divided into shares and subscribed by founders. Shareholders can be natural or legal persons and they are not liable for the obligations of the company except for up to the amount of their unpaid shares in the equity capital they subscribed. Joint stock companies can be with public or private offer and are commonly used by investors who would like to trade shares on a regulated commercial market. Furthermore, shares in joint stock companies are registered in the Centre of Registration of Shares. The minimum amount of equity capital of a joint stock company without public offer is ALL 3.5 million (EUR 28 350) and ALL 10 million (EUR 81 000) (Articles 105 and 107 of the LEC) for stock company with public offering. As of December 2021, there were 1 762 joint stock companies in Albania.

56. Furthermore, savings and credit companies and their unions as well as mutual co-operation companies can be established in Albania. Savings and credit companies conduct their activity in rural areas and their

purpose is to promote the economic benefit of their members, in application of the Law on Savings and Credit Companies No. 52/2016. They are licensed and supervised by the Bank of Albania as non-financial banking institutions. Mutual co-operation companies are governed by the Law on Mutual Co-operation Companies No. 8088/1996. These companies are voluntary associations of natural or legal persons and are formed to carry out economic operations in various fields. As of December 2021, there were 150 savings and credit companies registered in Albania and 15 mutual co-operations companies.

57. Foreign companies wishing to operate in Albania can choose to i) establish a new Albanian company where the foreign company is the sole shareholder, ii) establish a new Albanian company where the foreign company is a shareholder together with an Albanian company, or iii) establish a branch or representative office. A foreign branch is deemed to be a tax resident in Albania if it constitutes as headquarters or the place of effective management for the foreign company. Registered branches or representative offices with a permanent establishment in Albania are also considered residents for tax purposes. As of December 2021, there were 949 foreign branches registered in Albania and 201 representative offices of foreign companies.

58. All these types of companies, including branches and representative offices of foreign companies, are considered legal persons in Albania with the right to own movable and immovable property, acquire rights, assume obligations and file actions or have actions filed against them.

Legal Ownership and Identity Information Requirements

59. In Albania, all companies have an obligation to maintain a register of shareholders or members either directly, or indirectly to fulfil their obligation to report any change of shareholder or member to the authorities. Registered shareholders are deemed shareholders in respect of the company and third parties (Articles 74 and 116 of the LEC).

60. The LTP requires any company engaging in commercial activity to register with the NBC (Article 119 of the LTP). An NBC registration automatically entails a registration for entities engaged in commercial activity with the tax authorities (Article 59 of the Law on the Business Registration and Article 40 of the LTP). The NBC issues a unique identification number to entities registered with it. This unique number serves also as a tax identification number for national and local taxes. Company taxpayers are required to file an annual tax declaration to the GTD. The tax declaration contains no shareholder information, but tax authorities have access to the publicly accessible commercial register, which contains identity information on shareholders.

61. When legal entities have a customer relationship with AML-obliged persons, the AML-obliged persons have the responsibility to conduct customer due diligence, which would provide a complementary source of information about beneficial owners but not all legal owners or all shareholders (see paragraph 78).

62. The following table shows a summary of the legal requirements to maintain legal ownership information in respect of companies:

Companies covered by legislation regulating legal ownership information⁸

Type	Company law	Tax law	AML law
Limited liability company	All	All	Some
Joint stock companies	All	All	Some
Savings and credit companies and their unions	All	All	Some
Mutual co-operation companies	All	All	Some
Foreign companies with sufficient nexus to Albania	Some	Some	Some

Company Law requirements

63. Company law requirements and registration requirements ensure that up-to-date legal ownership information is available either at the NBC or with companies themselves.

64. Article 6 of the LEC prescribes, by referencing to Articles 32-36 of the Law on the Business Registration, that companies' statutes must identify the founding shareholders as well as any responsible person for the administration and representation of the company in relation to third parties. In addition, the Law on the Business Registration requires limited liability companies and joint stock companies to register in the NBC information on the value of the initial share capital subscribed as well as the nominal value owned by each shareholder (Articles 35 and 36).

65. The administrators, founders or any authorised person for **limited liability companies** are responsible for submitting the registration application to the NBC. Identification documents of shareholders and the responsible persons for the administration providing information on name, surname, gender and date of birth, birthplace, citizenship, and identification documents must accompany the application form. Furthermore, the following must be provided:

8. The table shows each type of entity and whether the various rules applicable require availability of information for "all" such entities, "some" or "none". "All" means that the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. "Some" means that an entity will be covered by these requirements if certain conditions are met.

(i) the value of the initial share capital subscribed, (ii) number of shares, (iii) participation in the share capital, and (iv) the kind and value of the contribution of each shareholder and whether the initial subscribed share capital is paid. Information on the identity of the shareholders must be included when the kind and value of the contribution of each shareholder is reported. The managing director is responsible for registering any change in ownership with the NBC within 30 days from the date of its occurrence (Article 74(2) of the LEC and Article 43 of the Law on the Business Registration). The LEC does not explicitly require limited liability companies to keep a register of shares, however the registration of changes in stock ownership entails that the companies in fact must keep a share register to be able to fulfil the duty.

66. For **joint stock companies**, the board members or any authorised person is responsible for submitting the application for initial registration in the commercial register. Identity information of the founding shareholders and the date of the deposits of the proposed by-laws must be filed with the initial registration application. In addition, the following information has to be included with the initial registration application: (i) the value of the initial capital subscribed, and the portion paid thereof, (ii) the number and type of the subscribed shares, (iii) the nominal value of each share and the rights attaching to the shares of each class where there are several classes of shares, (iv) number of subscribed shares by each shareholder, (v) value and type of contribution of each shareholder, and portion paid by them, (vi) special conditions if any limiting the transfer of shares and the rights attaching the shares of each class, where there are several classes of shares, (vii) procedures relating to the conversion of type of share, if provided in the by-laws, (viii) identification information of the Supervisory Board members and certified accountants, as well as the term of their office.

67. Joint stock companies are not obliged to register each ownership change with the NBC but must file annually an updated list of registered shareholders both to the NBC and the GTD. Furthermore, according to Law No. 9879/2008 on Securities, all joint stock companies must file founding shareholder information with the Centre of Registration of Shares and inform the centre whenever there is a transfer of shares. Changes in share ownership must be registered with the Centre of Registration of Shares either immediately when the changes occur or cumulatively over a period no longer than 12 months (Article 15 of the Law on Securities).

68. Article 119 of the LEC imposes an obligation on joint stock companies to keep a share register where all ownership of shares is recorded. The share register must contain information on shareholder's full names, addresses, the share's par value and the date of registration. Shareholders that are registered in the shareholder register are deemed shareholders in relation to the company and third parties.

69. **Savings and credit companies and their unions, and mutual co-operation companies** must file information on their members, the supervisory board, and the certified public accountant to the NBC with the original registration application (Articles 38 and 39 of the Law on the Business Registration). Furthermore, they are required to update this information within 30 days of any changes made (Article 43 of the Law on the Business Registration). Both the initial registration duty and the duty to update any information on members implies that a register of members must be kept.

70. As such, with respect to domestic companies, there is a sound legal framework requiring all relevant companies to keep, maintain and report information on the identity of their legal owners. Such information is kept in the commercial register of the NBC and in the shareholder register as well as the Centre of Registration of Shares for joint stock companies.

71. According to the LEC, foreign companies wishing to conduct business in Albania can choose to establish an Albanian company or conduct their business through a registered branch or a representative office. A company is considered resident for tax purposes if its principal legal seat or place of effective management is in Albania. Registered branches or representative offices with a permanent establishment in Albania are also considered residents for tax purposes. Resident entities must register with the NBC and include the foreign company's statutes, acts of incorporation or equivalent documentation must be enclosed with the registration application. However, registered branches or representative offices do not have to provide ownership information upon registration. Availability of ownership information is therefore contingent on the law of the jurisdiction where the company is incorporated, requiring the Competent Authority of Albania to request such information from foreign sources and relying on foreign laws prescribing that ownership information should be available and updated.

Tax law requirements

72. Tax authorities keep and maintain a tax register that relies on registration in the commercial register. The NBC serves as a “one-stop-shop” for entities setting up a new business as an NBC registration in the commercial register automatically entails a registration with the GTD and information from the NBC is automatically transmitted to the tax administration and other government agencies.

73. Registered taxpayers are required to submit annually a tax declaration to the GTD. The tax declaration does not contain ownership information. In addition to the GTD having access to all shareholder information registered in the NBC and the Centre of Registration of Shares, the Income Tax Law requires legal entities to notify the tax administration of change

in capital ownership or of the rights of vote within 45 days of the change of ownership (Article 27/1). Failure to do so can result in penalties from the tax administration in accordance with the LTP.

74. Regarding foreign companies, certain tax provisions and tax benefits are contingent on ownership information being available and therefore require companies to maintain this information. Ownership information must be maintained to comply with tax obligations in the Income Tax Law: (i) Article 27 conditions carry over losses on unchanged direct or indirect ownerships or voting power, (ii) Article 36 contains the transfer pricing rules between companies, (iii) Articles 26 and 33 state that foreign companies that are tax resident in Albania must apply a withholding tax on dividends payable to non-residents.

75. The obligations in the Income Tax Law therefore ensure availability of legal ownership information in some but not all cases for domestic companies and for foreign companies that are liable for tax in Albania such as having its place of effective management or administration there and thus being a resident in Albania for tax purposes.

76. These facts and circumstances were reported in the 2016 Report in which Albania was recommended to ensure the availability of ownership information for foreign companies with sufficient nexus to Albania and foreign partnerships carrying on business in Albania, or having income, deductions, or credits for tax purposes. Albania has not reported how this recommendation has been addressed and the only legal changes that could affect the recommendation and these circumstances are found in the LBOR. However, this law deals with identification of beneficial owners, which includes an ownership interest threshold of 25%. Therefore, Albania cannot rely on information to be captured under the LBOR in the beneficial owner register for information on all legal owners.

77. Availability of ownership information of foreign companies is not secured in the commercial register and is contingent on the law in the jurisdictions where the foreign company is incorporated. **Albania is therefore recommended to ensure that legal ownership information is available in all cases, in accordance with the standard, when it comes to foreign companies with sufficient nexus to Albania.**

Anti-money laundering law requirements

78. The AML law provides for the obligation of AML-obliged persons to identify beneficial owners of their customers who are legal persons or legal arrangements and understand the ownership and control structure. This obligation can lead to the identification of legal owners, as a complementary source of information (see Section on Availability of beneficial ownership information in this report). Albania reports that in practice in most cases,

AML-obliged persons identify and document legal owners as part of their understanding of the requirement to understand the ownership structure. According to Albanian authorities and AML-obliged persons interviewed during the on-site visit, ownership structures in Albanian commercial entities are usually very simple and their legal ownership generally coincides with beneficial ownership. However, the AML law does not explicitly require keeping all information on legal ownership of companies and the identification of the beneficial owners does not always ensure the identification of legal owners. Therefore, although the identification of the beneficial owners may lead, in some cases, to the identification of the legal owners, this cannot be the privileged source for obtaining legal ownership information.

Legal ownership information – Enforcement measures and oversight

79. In terms of application of the standard in practice, the conclusion in the 2016 Report was that Albania should improve its system of oversight to ensure that updated ownership information is being maintained in respect of all relevant entities.

80. The NBC keeps and maintains the commercial register for companies operating in Albania. The commercial register is a central database containing information about entities involved in commercial activity, including those entities that only have passive income such as holding companies.

81. The NBC verifies that all required information has been submitted and ascertains that registration conditions are fulfilled. Upon initial registration in the commercial register, each company is assigned a unique, electronically generated number that is used for identification purposes by the state authorities as well as banks and other institutions. The NBC publishes information on registrations in the official gazette within one day of submission of all necessary information and documents. All registration information for all companies is freely accessible to the public through NBC's official website, except for personal data such as date of birth, addresses and identification numbers that is prohibited to be disclosed by law.

82. Companies cannot operate without being registered as the unique identification number is needed for opening a bank account, filing a tax return, submitting public tenders etc. Representatives⁹ of the private sector interviewed during the on-site visit are familiar with the process and requirements for registration and updating the information in the commercial register.

9. Representatives from the Albanian Bank Association, Institute of Certified Accountants and the Public Supervisory Board for Legal Auditors. Representatives from the National Chamber of Advocacy and the Chamber of Notaries were absent.

83. Registered entities (except joint stock companies) are obliged to update initially filed shareholder/member information to the NBC within 30 days from changes that have occurred. Joint stock companies must file annually an updated shareholder list to the NBC and the Centre for Registration of Shares. Any changes that are not updated do in fact not take effect until their registration. This means that if a change of share ownership is not registered with the NBC, either within 30 days from the change in ownership for limited liability companies or annually for joint stock companies, the new shareholders are unable to exercise their rights until the ownership change has been registered.

84. False reporting or failure to report to the NBC carries a fine. Failure of initial registration and other compulsory registrations is subject to an administrative fine in the amount of ALL 60 000 (EUR 486). The same fine is applicable for reporting of false data. If shareholder information or a change of share ownership in limited liability companies (member information for savings and credit companies and their unions, and mutual co-operation companies) is not reported to the NBC within 30 days of the share transfer or changes in membership, the fine is ALL 50 000 (EUR 405). If a joint stock company does not provide yearly an updated list of registered shareholders to the Centre for Registration of Shares the fine is ALL 100 000 (EUR 810).

85. Furthermore, representatives from the NBC explained that in case that legal entities do not register the data and every change in the commercial register within the legal deadline, they are fined and cannot perform any registration in the commercial register without first paying the fine and providing the necessary information. Failure to provide shareholder information in accordance with the Income Tax Law can result in a tax audit, according to the GTD. Moreover, companies with an inactive or suspended status cannot open new bank accounts and banks must terminate their services with such companies.

86. Albanian authorities explained that the Law on the Business Registration does not provide the NBC with enforcement powers to conduct investigations or perform checks to verify that companies are fulfilling their reporting and updating obligations. This entails that the NBC does not have powers to perform on-site visits to verify that information submitted to the register is correct. Albanian authorities are satisfied, however, that despite this absence of enforcement powers, companies comply with their registration obligations as they are aware that the company will be given a suspended status if it receives a fine and that shareholder rights cannot be exercised without shareholder information being registered in the commercial register. As a result, there is reliance on companies complying with their reporting and updating obligations.

87. Moreover, the GTD reported that in practice specific audits on legal ownership information are not carried out, but compliance with filing obligations with respect to legal ownership information is checked on a continuous basis through all regular tax audits (see paragraph 73). Tax audits are risk-based where 70% of the taxpayers chosen to be audited are identified by the central risk unit and 30% are chosen by the regional tax offices. Non-compliance with filing obligations is one of the factors taken into consideration when audit subjects are chosen. During the review period, the GTD audited 7 422 taxpayers¹⁰ and imposed penalties for failure to notify the NBC of changes in ownership in 3 cases (see paragraph 244).

88. In the 2016 Report, Albania was recommended to improve its system of oversight to ensure that updated ownership information is being maintained in respect of all relevant entities. The main reason for this recommendation was that the NBC and the GTD were unable to provide information on how compliance to filing obligations was monitored. Moreover, neither the NBC nor the GTD were able to provide information on sanctions applied for non-compliance with filing obligations.

89. As mentioned above, Albania has provided information on how the GTD monitors compliance to filing obligations of legal ownership and what the results are if companies do not comply with those obligations. Furthermore, the GTD provided statistics on fines imposed for non-compliance during the review period (see paragraph 244). Considering this, Albania has addressed the concerns voiced in the 2016 Report and the recommendation issued is therefore deleted.

90. None of Albania's peers that provided peer input reported issues on availability of legal ownership information.

Inactive companies

91. Companies can voluntarily file an inactive status with the NBC, which means that the company is not taking part in any economic activity. Article 44 of the LTP qualifies every transaction carried out by a company with an inactive or suspended status as an administrative violation subject to fines. Furthermore, anyone who engages in transactions with a taxpayer that has an inactive or suspended status is guilty of an administrative violation, also subject to a fine. Additionally, the GTD informed companies with this status cannot dispose of assets without being detected by the tax authorities as a fiscal invoice would have to be issued for the transfer to be fiscally recognised. Managing directors for inactive companies are still responsible for reporting to the commercial register and to the GTD any

10. The figure 7 422 relates to all legal entities and arrangements in Albania.

changes to the data, including changes in ownership. Companies that do not respect their reporting and updating obligations will be subject to fines issued both by the GTD and the NBC and will be registered as suspended with the NBC, as explained above. The NBC does, however, not monitor inactive or suspended companies as there are no supervision measures available in the Law on the Business Registration. However, the GTD has supervision of companies that are registered as inactive/suspended through their regular audit activity. The risk that absence of monitoring by the NBC poses to accurate ownership information for inactive companies is mitigated by the fact that any ownership changes do not take effect until they have been registered and the supervision activity performed by the GTD through its audits. Inactive companies constitute around 16% of registered companies and the following table shows the number of companies that have voluntarily filed an inactive status during the review period:

Year	Inactive
2018	15 500
2019	10 325
2020	7 536
2021	10 471

Entities that cease to exist

92. The LEC has provisions for company dissolution. A limited liability company or joint stock company can be dissolved and thereby struck off from the commercial register if: i) the period for which it was established for has expired, ii) the general meeting decides to dissolve it, iii) it is insolvent, iv) it has not carried out business activities for two years and has not notified its inactive status to the NBC, v) a court so decides or vi) the statute of the limited liability company provides for its dissolution for other reasons.

93. In case of solvent liquidations, a liquidator is appointed by the general meeting of the company. The managing director is responsible for registering identity information on the liquidator in the commercial register and thus the liquidator assumes the role and responsibilities of the legal representative of the company. The liquidator has the duty to bring business transactions to a close, collect claims, sell remaining assets and pay creditors. Once the liquidator has settled all obligations of the company and distributed the assets, the end of the liquidation is reported to the NBC. All documents pertaining to the beginning and end of the liquidation must be filed and registered in the commercial register, including information on legal and beneficial owners.

94. Insolvency procedures are prescribed in the Law on Bankruptcy No. 110/2016. If an insolvency procedure has been instigated, the court will nominate a bankruptcy administrator. The identity of the bankruptcy administrator must be registered in the commercial register and the administrator assumes the role and responsibilities as the legal representative of the company. All documents pertaining to the beginning and ending of the bankruptcy process must be registered in the commercial register, including information on legal and beneficial owners.

95. The same general rules and procedures apply to mutual co-operation companies that go through solvent or insolvent liquidations.

96. Savings and credit companies and their unions can be liquidated either voluntary or by force. Three quarters of the members can require voluntary liquidation and the Bank of Albania must approve such liquidation. If such a request is approved, one or more liquidators from a list of bankruptcy administrators kept by the bankruptcy court are appointed by the management board of the company or union to oversee the proceedings. The liquidator assumes the rights and obligations of the management board and administrators. The liquidator has the duty to close all actions of the company or union, collect unpaid loans, sell or dispose of assets and pay off creditors. Once all obligations have been settled, the liquidator reports the end of the proceedings to the NBC. All documents pertaining to the beginning and end of the liquidations must be filed and registered in the commercial register, including information on legal and beneficial owners.

97. The Bank of Albania can, in case a savings and credit company no longer fulfils the legal requirements for holding a licence as such a company, force liquidation on savings and credit companies and their unions. In these cases, the Bank of Albania will appoint a liquidator. The liquidator assumes the roles and responsibilities of the management board of the company or union and co-operates with the Bank of Albania during the liquidation process. The liquidator has the same reporting obligations to the NBC as a bankruptcy administrator (see paragraph 94).

98. The NBC keeps ownership information for all types of companies indefinitely, and that includes information on inactive, liquidated and dissolved companies. Ownership information for inactive entities continues therefore to be available. Furthermore, the Centre for Register of Shares keeps electronically stored information, including information on joint stock companies' shareholders indefinitely.

Availability of beneficial ownership information

99. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. In Albania, the main mechanisms for the availability of beneficial ownership information are the beneficial owner register that was established when the LBOR was passed and the AML framework.

100. The LBOR requires:

- companies, including savings and credit companies and mutual co-operation companies, to maintain up-to-date beneficial ownership information themselves (Article 5(1))
- companies, including savings and credit companies and mutual co-operation companies, to register their beneficial owners in the beneficial owner register as well as any changes in beneficial ownership (Article 5(3)).

101. Furthermore, the AML-obliged persons must carry out customer due diligence and identify and maintain beneficial ownership information on their customers (Article 4/1 of the AML law). The LTP requires all taxpayers that carry out economic activities in Albania to have a bank account in an Albanian bank and currently 32 569 legal entities and arrangements (i.e. 83.5% of the 38 998 total entities and arrangements required to register beneficial ownership information) have such accounts. They are therefore subject to customer due diligence measures as prescribed in the AML law.

102. The following table shows a summary of the legal requirements to maintain beneficial ownership information.

Companies covered by legislation regulating beneficial ownership information

Type	Company law	Tax law	AML law/customer due diligence	Law on Beneficial Owner Register
Limited liability company	None	None	Some	All
Joint stock company	None	None	Some	All
Savings and credit companies and their unions	None	None	Some	All
Mutual co-operation companies	None	None	Some	All
Non-profit organisations	None	None	Some	All
Foreign companies (tax resident) ¹¹	None	None	All	All

11. Where a foreign company has a sufficient nexus, the availability of beneficial ownership information is required as representative offices and branches of foreign companies to the extent the company has a relationship with an AML-obliged service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 footnote 9).

The definition of beneficial ownership

103. The term “beneficial owner” is defined in the LBOR and Decision No. 1088/2020 for Determining the Method and Procedures of Registration of Beneficial Ownership Information, which was issued and published in December 2020 by the Council of Ministers contains a methodology on how reporting entities should determine beneficial owners and report such information to the beneficial owner register. The AML law does not contain a definition of the term beneficial owner but refers to the definition in the LBOR. As Decision No. 1088/2020 is based on the LBOR, the guidance therein also applies to AML-obliged persons when they are identifying beneficial owners of their customers. The LBOR defines the controlling ownership interest as 25% or more.

104. Article 3 of the LBOR provides that the beneficial owner of an entity is “the individual who ultimately owns or controls the entity and/or the individual in whose name a transaction or activity is being conducted”. The article further provides that the term includes at least:

1.1.1 An individual who ultimately owns or controls a legal person,

1.1.1.1 through direct or indirect ownership of a sufficient percentage of the shares or voting rights or participation in the capital of that entity, including through the holding of shares, or

1.1.1.2 through control through other means, or

1.1.1.3 benefits from transactions carried out by the legal entity on its behalf

105. Decision No. 1088 contains instructions for the registration process of beneficial owner information as well as instructions for reporting entities if they fail to identify the beneficial owner(s) after having exhausted all possible means of identifying their beneficial owner(s) in accordance with the LBOR.

106. According to this decision, if the reporting entity cannot identify the individual who owns or controls the entity through direct or indirect ownership of 25% or more of the shares/capital shares or ownership interest as prescribed in the LBOR, it must identify and register as beneficial owner the individual who i) determines the decisions made by a legal entity, ii) controls in every way the election, appointment and removal of most of the decision-making or the executive bodies of the legal entity (Chapter III, point d). Moreover, the decision prescribes that in cases where the reporting entity cannot identify the beneficial owner according to Article 3 of LBOR or Chapter III(d), of Decision No. 1088/2020, the reporting entity must identify as the beneficial owner(s) the individual(s) who hold the position of senior manager(s) (Chapter III, point e).

107. This approach is not in line with the standard for several reasons. Firstly, the decision has a narrow scope when it comes to control of the legal entity and limits it to i) decision making for the legal entity and ii) control over elections, appointments and removal of most of the decision-making bodies and/or executive bodies of the legal entity. Secondly, the decision does not have any guidance on how to interpret the term “controls through other means” that is included in the LBOR definition and no further guidance has been issued by Albanian authorities on what situations to take into account when determining if an individual controls the legal entity through personal connection, financing, historical or contractual association or if an individual enjoys, uses or benefits from the entity’s assets. Thirdly, the decision requires legal entities to move between steps in the methodology only when no beneficial owner can be determined and not when there is a doubt of who the beneficial owner is (see paragraph 111).

108. In all cases, the reporting entity must keep documentation justifying the actions taken to identify the beneficial owner.

109. The AML law does not contain a definition of the term beneficial owner but refers to the definition in the LBOR and in Decision No. 1088/2020 (see paragraph 103). The customer due diligence measures prescribed in the AML law require AML-obliged persons to identify the beneficial owners of companies and undertake reasonable measures to verify the identity of the beneficial owner through reliable sources (Article 4/1(1)). Furthermore, AML-obliged persons must understand the ownership and control structure for legal persons or legal arrangements and determine who are the individuals owning or controlling the customer, including those persons who exercise the ultimate effective control over the legal entity. This includes the identification of individuals who constitute the decision making and administrative part of the legal entity.

110. During the on-site visit, both Albanian authorities and representatives from AML-obliged persons remarked that ownership structures in Albanian commercial entities are usually very simple and that legal ownership generally coincides with beneficial ownership. Nonetheless, representatives from the Albanian Banking Association and the Institute of Certified Accountants also reported that the LBOR and the obligation to identify beneficial owners required significant additional efforts from their members.

111. Moreover, it was not clear from the interviews how non-financial AML-obliged persons will interpret and apply the definition of the beneficial owner and it seemed that there was a certain lack of understanding that the obligation of identifying the beneficial owners can, all depending on the complexity of the company structure, demand an in-depth study of the company setup. This situation is not helped by the absence of guidance on how to interpret the term “control through other means” in the legal definition.

Furthermore, Decision No. 1088/2020 only requires moving to the control test when no individual meets the ownership threshold. It does not require to do the same when there are doubts that the person(s) who meet the 25% ownership threshold correspond to the beneficial owners, which could lead to situations where the information available is not complete/accurate.

112. Therefore, **Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements, in accordance with the standard.**

Beneficial owner register

113. The main sources of beneficial owner information in Albania are the beneficial owner register administered and maintained by the NBC, the legal entities themselves and the AML-obliged persons. The two first sources were introduced by the LBOR that was approved by the Albanian Parliament in July 2020. To address recommendations from MONEYVAL, the LBOR was amended in 2022 and some sanctions strengthened.

114. The responsibility to register and update beneficial owner information for reporting entities lies with the individuals that are authorised to represent them (Article 6(1) and 6(2) of the LBOR). New companies must file information on their beneficial owners within 30 calendar days from the date of their initial registration in the NBC. Existing companies¹² had until 30 June 2022 to register their beneficial owners.

115. Reporting entities must keep and maintain adequate, accurate and up-to-date information and accompanying documents on beneficial ownership and the LBOR requires the beneficial owners to provide the reporting entities with all necessary information and documentation in this regard. However, there is no penalty or other sanctions or mechanisms to compel beneficial owners to fulfil this obligation.

116. The LBOR does not contain a specific provision on how long the reporting entities themselves must keep the data on beneficial owners. However, Article 9 of the LBOR stipulates that the NBC must store beneficial owner information for the lifetime of the entity and for 10 years after the entity has been struck off the commercial register.

117. Any changes in beneficial ownership must be reported to the NBC within 90 days from their occurrence. Entities that do not fulfil this reporting obligation are subject to fines in accordance with the LBOR. However,

12. Existing companies mean in this context all reporting entities that were registered in the commercial register before the establishment of the beneficial owner register.

since the NBC does not actively carry out a compliance function aimed at ensuring that reporting entities comply, the NBC would remain unaware of the non-compliance and would be unable to apply sanctions in such cases. The Terms of Reference do not contain a specific time criterion on how frequently beneficial ownership information should be updated, however, since beneficial ownership does not trigger any rights, as such there may be no incentive for the beneficial owners to self-declare to the entities any changes (see paragraph 119).

118. The obligation to keep beneficial ownership information up to date lies with the reporting entities, and beneficial owners are required by law to provide relevant information and documentation on their beneficial ownership to the reporting entities.¹³ The LBOR requires entities to report to the beneficial owner register any changes in beneficial ownership within 90 days from the date of the change but does not prescribe them to periodically check whether their beneficial owners have changed. In practice change of beneficial ownership would usually happen when changes in legal ownership take place. Since any shareholder rights cannot be exercised unless ownership changes have been registered, this would be sufficient in very simple entities where there are less than a handful of individual shareholders and when legal ownership coincides with beneficial ownership. Albanian authorities have indicated that this is the case in most entities in Albania. Nevertheless, since legal ownership does not necessarily coincide with beneficial ownership in all entities (especially when beneficial ownership is exercised through means other than direct ownership), there could be cases where there has been a change in beneficial ownership without the reporting entity being aware of such change. Absent a mechanism applicable to the beneficial owner to comply with the obligation to provide relevant information and documentation to the entity, such non-reporting is not adequately dissuaded. This would in turn lead to situations where the available beneficial ownership information is not adequate, accurate and up to date. As a backstop, it is important that the reporting entity periodically confirms or validates that the beneficial ownership information it holds is accurate and up to date in case changes have not been detected nor reported.

119. Albania has a beneficial ownership register in place, which is a key source of information. Although legal entities and arrangements are obliged to keep beneficial ownership information up to date, the reporting requirement in the LBOR is change-driven without an effective mechanism in place that ensures that changes in beneficial ownership are brought to the attention of legal entities and arrangements. There are no sanctions in place for

13. The LBOR does neither expressly state that beneficial owners must spontaneously inform entities of changes in beneficial ownership nor that this should be done upon the request of the entity.

those beneficial owners who do not fulfil their obligation to provide legal entities and arrangements with information on their beneficial ownership. There is also no supervision or audit function in place at the NBC that incentivises compliance with the obligation to report changes within 90 days. Moreover, there is no requirement to periodically update or validate beneficial ownership information held in the register, which could be helpful if a company fails to identify and/or report these changes. The system in place, therefore, does not ensure that, in practice, the information in the beneficial ownership register is up to date at all times.

120. This deficiency is not compensated by the obligation of AML-obliged persons to report discrepancies that may be observed while conducting customer due diligence, as not all entities have a continuous relationship with an AML-obliged person and all AML-obliged persons did not seem aware of their duty to report discrepancies. Therefore, **Albania is recommended to ensure that information on beneficial ownership is adequate, accurate and up to date with respect to all relevant legal entities and arrangements, in accordance with the standard.**

121. Albania reported during the on-site visit that the first deadline for existing legal entities and arrangements to register beneficial ownership information was 30 April 2022 and that deadline was later extended to 30 June 2022. Up until the first deadline, 21 000 legal entities and arrangements or approximately 57% of the registered legal entities and arrangements that are required to register beneficial ownership information with the NBC have done so.

122. Since the LBOR entered into force, the NBC has provided training to reporting entities and published guidance on the process of beneficial owner information registration on its official website. Furthermore, different communication channels such as social media, emails, hotlines etc. along with a dedicated information and assistance service window have been used where reporting entities can request information and assistance about the beneficial owner information registration process.

123. The Albanian authorities also reported that reporting entities had difficulties in understanding the concept of beneficial ownership and identifying their beneficial owners. However, both the NBC and representatives from the private sector described the process of registering as smooth with some minor technical complications.

124. To facilitate compliance with the LBOR, the NBC was given the power to automatically register the beneficial owners when existing reporting entities were owned solely and directly by individuals and those individual shareholders owned 25% or more of the shares. In other cases, i.e. were individual ownership of shares in those existing entities owned solely and

directly by individuals did not amount to 25% or more, the legal representative of the entity was registered as the beneficial owner. In these cases where the NBC automatically registered the beneficial owners, the reporting entities had 30 days to correct the automatic registration.

125. This automatic population resulted in a surge of beneficial ownership information registered in the beneficial owner register and as of 30 August 2022, beneficial ownership information had been registered for 97% of reporting entities.¹⁴ This approach, however, means that inaccurate information on beneficial owners may have been registered as the NBC has not applied correctly the control element of the beneficial owner definition.

126. The beneficial owner register contains the following information:

- general information on the reporting entity such as the name of the entity and its unique identification number
- mandatory data for the beneficial owners of the reporting entity: name and surname, personal identification number, date of birth, nationality, permanent residence address and in case of foreign citizens passport details
- date of determination of the individual as a beneficial owner: type of ownership or control and percentage of ownership.

Enforcement and oversight provisions

127. The NBC can levy fines on reporting entities that do not respect the deadlines for either initial registration of beneficial ownership information or updating the information. The fine for failing the initial registration is ALL 50 000 (EUR 405) and the entity has 40 days to complete the initial registration. If this is not done after the 40-day deadline, a fine of ALL 600 000 (EUR 4 860) is issued. The fine for failing to update previously filed beneficial ownership information is ALL 400 000 (EUR 3 240).

128. As of 30 August 2022, 1 268 commercial entities have not registered beneficial owner data in the beneficial owner register. The NBC reports that all these entities are considered to be fined. However, since NBC's computer system only allows the NBC to ascertain the violation and apply the fine at the moment when the relevant entities actually register their beneficial owners, the fine will be effectively applied at that time. Currently, 8 fines of ALL 50 000 (EUR 405) each have been issued at the total value of ALL 400 000 (EUR 3 390) for late registration. The NBC will not provide services to the entities that have yet to register beneficial owner information,

14. As of 30 August 2022, 37 773 of 38 998 legal entities and arrangements had information on beneficial owners registered.

except for the registration of changes in the data of the legal representatives. Furthermore, the status of these reporting entities has been changed from active to suspended until the payment of the fine and the registration of beneficial owner information. Despite the limited number of fines applied, pre-existing entities that have not complied are thwarted in their ability to conduct their business, which works as a motivation to file the necessary information. No entities that were registered in the commercial register after the LBOR came into effect have been fined, since they have all fulfilled their obligations.¹⁵ In this respect it should be acknowledged that there are no offshore companies in Albania and the Albanian Competent Authority has never received a request regarding holding companies.

129. The NBC does not perform controls, but the GTD will verify the accuracy and compatibility of data in the beneficial owner register with data held by the entities during tax inspections as described in paragraph 87. In case the GTD finds that reporting entities have not kept and maintained appropriate, accurate and up-to-date information as well as accompanying documents, the GTD can impose a fine in accordance with the LTP of ALL 50 000 (EUR 405). As the deadline for companies to register their beneficial ownership information was only a few months ago, this activity has not started.

130. A mitigating factor in relation to the shortcomings in enforcement described above is the obligation for AML-obliged persons to report to the NBC any discrepancy they may find between their own data and the data in the beneficial owner register. In such cases, the NBC must publish a notification within two working days in the register and notify the reporting entity of the discrepancy. The reporting entity then has 20 calendar days to either update the beneficial owner information or confirm the previously registered information. In case the reporting entity does not update or confirm the beneficial owner information the NBC will terminate their services and register the entity as suspended until the beneficial ownership information is either corrected or confirmed and any penalties that might have been issued have been paid. The NBC, which maintains and administers the beneficial owner register, relies on companies complying with their reporting and updating obligations, as well as on other government authorities (such as the FIU) and AML-obliged persons to report any discrepancies they might find with the data registered in the beneficial owner register. In this regard, it is worth noting that the AML law has a risk-based approach, which entails that available beneficial ownership information retained by an AML-obliged person is not necessarily updated (see paragraph 138).

15. Since 1 January 2022, the registration of a new entity to the commercial register is rejected if beneficial ownership is not provided.

131. During the on-site visit, representatives from the Albanian Banking Association and Institute of Certified Accountants reported that in their course of business, they relied on information in official registers being accurate. In practice this could have the effect that on the one hand the NBC relies on discrepancy reporting from the FIU and the GTD and AML-obliged persons, while on the other hand some of those AML-obliged persons might place too much reliance on information already contained in the commercial register and the beneficial owner register being correct, the result being that information in the beneficial owner register is not necessarily accurate and up to date. Furthermore, during the on-site visit, all representatives from the private sector seemed not to be fully aware of their obligations to report discrepancies that they may observe while performing their own customer due diligence measures. Moreover, as representatives from the National Chamber of Advocacy and Chamber of Notaries did not attend meetings during the on-site visit, it is unclear how their members understand the reporting requirements in the AML law and the LBOR. Albania informed that when the LBOR came into effect the NBC organised various awareness campaigns with business associations of service providers, distributed leaflets and published two videos explaining the LBOR and how to report beneficial owner information.

132. Despite these shortcomings possibly leading to incorrect information being maintained in the beneficial owner register in some cases, the Albanian authorities do not expect that to be very prevalent, as the combination of fines for failure to update beneficial owner information and the verification AML-obliged persons will conduct in course of their customer due diligence procedure, will help to ensure correct information being registered with the beneficial owner register.

133. The NBC relies on companies complying with their reporting and updating obligations as well as other government authorities (such as the FIU) and AML-obliged persons to report any discrepancies they might find with the data registered in the beneficial owner register. In turn some obliged entities assume that information in official registers is accurate and they are not all aware of their obligation to report discrepancies. In practice, the result is that information in the beneficial owner register is not necessarily accurate and up to date. **Albania is recommended to ensure that information on beneficial ownership is adequate, accurate and up to date with respect to all relevant legal entities and arrangements, in accordance with the standard.**

134. Since the LBOR was only in effect the last eight months of the review period, and since the deadline for existing companies to report beneficial ownership information to the beneficial owner register was 30 June 2022, the Albanian authorities were only able to report on limited

enforcement activities and the effectiveness of the system in place in relation to EOI could therefore not be assessed. Considering this, **Albania is recommended to monitor the implementation of the LBOR and the AML law to ensure that accurate information in accordance with the standard is kept on file by reporting entities according to the LBOR and by AML-obliged persons according to the AML law.**

Anti-money laundering framework – Customer due diligence

135. The AML framework in Albania is established by Law No. 9917/2008. This law defines broadly AML-obliged institutions and professions that must conduct customer due diligence on their current and prospective customers, and includes banks, various financial service providers, attorneys, auditors, accountants and notaries.

136. As of July 2019 the LTP requires all taxpayers that carry out economic activities in Albania to have a bank account in an Albanian bank (Article 59 (1 and 1/2)). Consequently, the coverage of customer due diligence obligations for legal entities and arrangements registered in the commercial register should ensure the availability of beneficial ownership information for all such entities with an Albanian bank. Currently, 32 569 legal entities and arrangements have such accounts, which means that 16.5% of the 38 998 total legal entities and arrangements required to register beneficial ownership information in Albania do not have an Albanian bank account.

137. Article 3 of the AML law requires AML-obliged persons to apply customer due diligence measures before a business relationship is established and when certain transactions are carried out. Furthermore, if there are doubts about the veracity or adequacy of data previously obtained, the AML-obliged person must repeat the customer due diligence measures. Article 4/1 of the law also stipulates that AML-obliged persons must monitor continuously the business relationship once it has been established and analyse the transactions executed to ensure that actual information is consistent with previously obtained information on beneficial ownership.

138. The AML law has a risk-based approach that requires AML-obliged persons to update customer due diligence information based on their own risk assessment of the client and there is no specified frequency for updating beneficial ownership information. Furthermore, the FIU has not issued guidance or instructions on how often customer due diligence measures should be repeated or beneficial ownership information updated. This could lead to situations where the available beneficial ownership information contained with AML-obliged persons is not up to date.

139. Article 4/1 of the AML law requires AML-obliged persons to identify the beneficial owner of a customer and undertake reasonable measures to

verify the identity of the beneficial owner through information or data provided from reliable sources such as passports or other official identification documents. Additionally, AML-obliged persons must determine who the individuals are that own or control the customer, including those individuals that exercise the ultimate effective control over the customer. The article stipulates that this includes the identification of individuals, who constitute the decision making and administration part of the legal person. AML-obliged persons must keep records of actions they take as well as any difficulties encountered during the verification process.

140. When AML-obliged persons are unable to comply with the customer due diligence obligations in the law, including identification of the beneficial owner, they may not open accounts for the customer and must refrain from performing transactions or commence a business relationship. If the business relationship has been established, the AML-obliged person must terminate it. Furthermore, the AML-obliged person is obliged to report suspicious activity to the FIU.

141. Article 4/2 of the AML law allows AML-obliged persons to carry out simplified due diligence in case where there is a low risk of money laundering or terrorist financing. When simplified due diligence measures are applied, AML-obliged persons may reduce the frequency of updating data on the identification process and the rate of continuous monitoring and may determine the purpose and the nature of the business relationship based on an established relationship. However, the beneficial owner must in all cases be identified. Simplified due diligence measures may only be carried out based on an FIU risk assessment and a risk assessment done by the AML-obliged person on the customer type, geographical area, products, services, and transactions.

142. Article 8 of the AML law contains categories of customers and transactions that are subject to enhanced due diligences procedures. These categories include politically exposed persons, NPOs, non-resident customers and legal arrangements or companies holding bearer shares. In addition to the categories specified in the AML law, AML-obliged persons should identify other categories of high-risk business relationships, customers and transaction to apply enhanced due diligences procedures. The AML law does not prescribe what sort of enhanced measures should be taken in these cases except for requiring the physical presence of high-risk customers and their representatives prior to establishing a business relationship (Article 7(2)).

143. The AML law allows certain AML-obliged persons such as banks to rely on third parties to carry out customer due diligence measures. The AML law sets certain requirements on the third party carrying out the due diligence measures in these cases. These third parties must be regulated

by law and supervised or monitored by the relevant authority for AML purposes. Furthermore, the third parties must have an internal control structure aimed at checking compliance with the AML obligations and have to take appropriate compliance measures with the requirements for due diligence and data protection measures as defined in the AML law.

144. In such cases the AML-obliged person must: i) be able to obtain immediately the customer due diligence information and documentation, ii) undertake appropriate measures to ensure that necessary information and relevant documentation is available for supervisory authorities, iii) ensure that the third party is regulated by law, supervised or monitored by a relevant authority for the prevention of money laundering and terrorist financing and has an internal control or audit function charged with checking compliance with these obligations. Reliance on third parties is prohibited in high-risk situations and the legal responsibility remains on the AML-obliged person that relies on the third party. Albanian authorities reported that they did not often see cases where AML-obliged persons rely on third parties performing the customer due diligence measures.

145. AML-obliged persons must keep customer due diligence information (documentation originating from customer due diligence measures, correspondence with customers and analysis results) for a minimum of five years from the date of termination of the business relationship or the date of occasional transaction (Article 16(1) of the AML law). According to the FIU, the retention obligations in Article 16 of the AML law apply only for entities that are engaged in business activities. However, according to Article 53(3) of the Law on the Business Registration, deregistered entities remain responsible for obligations to public authorities such as the NBC and the GTD in accordance with the legislation in force.

146. Albania maintains that the retention duty in both the Law on Accounting and Financial statements (see A.2) and the LTP applies after entities cease to exist and according to the LEC it is the managing directors and the board of directors that are responsible for ensuring that all legally required documentation is kept for the required time. In case of solvency dissolution, the liquidators assume the duties of managing directors and the boards of directors. The LTP tasks the GTD with supervising the retention period obligations for entities both those that are under liquidation and those that are not. Furthermore, the National Bankruptcy Agency supervises liquidators in bankruptcy proceedings.

147. The availability of customer due diligence documentation from an AML-obliged person that has ceased activities has never been tested in Albania's EOI practice. However, there have been domestic cases where the availability of accounting records, including underlying documentation, from a dissolved company has been tested. In those domestic cases the

GTD did not have an issue getting the necessary records. To eliminate any doubt, Albania should monitor if retention obligations of entities that have ceased operations are respected and clarify the obligations where necessary (see Annex 1).

Enforcement and oversight provisions

148. The FIU is the overarching responsible authority for AML purposes and acts as a specialised financial unit for the prevention and fight against money laundering in addition to acting as national centre in charge of collection, analysis, and dissemination to law enforcement agencies of data regarding potential money laundering activities. Other supervisory authorities include the Bank of Albania that regulates Albanian banks, the Financial Supervisory Authority for other financial entities, the National Chamber of Advocacy for attorneys and lawyers, the Chamber of Notaries for notaries and, the Public Supervisory Board for legal auditors, and the Institute of Certified Accountants for authorised chartered accountants.

149. Supervisory authorities can verify whether AML-obliged persons comply with record keeping obligations and customer due diligence measures (beneficial ownership verification included) in the AML law. Such verifications are done by both conducting off-site and on-site inspections (Article 22). The supervisory authorities must report to the FIU every suspicion, information or data related to money laundering.

150. The administrative sanctions that the FIU can impose are: (i) warning, (ii) an order to stop certain conduct, (iii) an order for temporary suspension or replacement of heads of units responsible for AML prevention, (iv) fines, and (v) issuing a public statement regarding the offender and the nature of the offence (Article 27(1)).

151. Fines for failure to comply with customer due diligence requirements range from ALL 100 000 to ALL 6 000 000 (EUR 810 to EUR 48 600). If the breach of obligation is serious, repeated, systematic or a combination of these factors, the maximum fine that should be imposed is up to double of the amount of the benefit derived from the breach, when that benefit can be established, or up to ALL 125 000 000 (EUR 1 012 500) when the benefit cannot be determined. If the entity is a legal person, the fine imposed can be up to 10% of the total annual turnover according to the latest available approved financial statements. Fines for not supplying information when requested by the authorities or if the AML-obliged person fails to maintain documentation concerning the identification of beneficial owners range from ALL 200 000 to ALL 8 000 000 (EUR 1 620 to EUR 64 800).

152. The FIU informs the relevant supervisory authority about any sanctions imposed and may request that the supervisory authority restrains,

suspends, or revokes the licence of the non-compliant AML-obliged person when there is reason to believe (or suspect) that it has been involved in money laundering activities or when the entity is a repeat offender (Article 26(1)).

153. Albanian supervisory authorities reported that there is a holistic approach to supervision activities in practice as, when AML-obliged persons are inspected, they are inspected for compliance with the AML law as well as other relevant laws. The FIU on the other hand conducts AML specific inspections.

154. During the review period, the FIU met regularly with AML-obliged persons. The main purpose of the meetings was to raise awareness levels and focus attention on customer due diligence measures and identified deficiencies.

155. The FIU, Bank of Albania and the Financial Supervisory Authority have also conducted inspections either alone or in co-operation with each other. These inspections were risk based and aimed at sectors with high exposure to money laundering and other relevant crimes. During the review period the FIU conducted 258 on-site visits to reporting entities and 376 desk-based investigations. The FIU's compliance activity is oriented to AML risks and 73% of inspections during the review period were focused on high-risk AML-obliged persons such as banks, other financial institutions, construction companies and notaries. During the review period the FIU issued fines for various violations of the AML law, such as customer due diligence measures, risk profiling, data retention and the level of quality and timeliness of FIU reporting. The following table shows fines imposed by the FIU during the review period:

Year	Fines imposed for inadequate level of compliance with the AML law
2018	ALL 14 200 000 (EUR 1 125 020)
2019	ALL 5 700 000 (EUR 46 170)
2020	ALL 7 400 000 (EUR 59 940)
2021	ALL 8 200 000 (EUR 66 420)

156. The FIU informed that the inspections are conducted to ensure that AML-obliged persons generally fulfil their obligations according to the AML law. The FIU does for example not conduct inspections only aimed at checking how AML-obliged persons undertake their customer due diligence measures in relation to beneficial ownership information. Statistics on how many AML-obliged persons have been fined for not fulfilling their obligations when it comes to determining beneficial owners are, therefore, not differentiated from other statistics on fines applied.

157. As mentioned in this report, the definition of beneficial owner in the LBOR and Decision No. 1088/2020 was approved in July 2020. However, the reference in the AML law to the new definition of the term in the LBOR and Decision No. 1088/2020 was issued in December 2021. Keeping in mind that the onsite visit took place in June 2022, AML-obliged persons had just started applying the new definition of beneficial owner when conducting their customer due diligence measures. The same applies to the FIU and the inspections made. As a result of these factors, there is limited knowledge about how well AML-obliged persons fulfil their customer due diligence obligations and apply the new definition of beneficial owner. Therefore, **Albania is recommended to monitor the implementation of the LBOR and the AML law to ensure that accurate information in accordance with the standard is kept on file by AML-obliged persons according to the AML law.**

Nominees

158. The LEC does not permit nominee holding of shares and the NBC reported that when an entity is registered, all shareholders must be identified. The Bank of Albania further informed that since 2019 no licences have been granted to applicants that will offer nominee services.

159. Despite Article 3 of the AML law specifying certain requirements for those providing nominee services to maintain records on the securities held and apply customer due diligence measures on prospective clients before establishing a business relationship, the FIU reported that there are no nominee shareholders in Albania.

Availability of legal and beneficial ownership information in EOIR practice

160. Albania has provided contradicting information on the number of requests for beneficial ownership and what sources have been used to reply to those requests. One peer has noted that Albania has not responded to two requests for beneficial ownership information and not provided them with an update despite having received a request for an update (see Element C.5). According to Albania's records, the Competent Authority has replied to all requests regarding beneficial ownership information but in light of the peer input will contact the respective peer to clarify this.

A.1.2. Bearer shares

161. Before 2008, Albanian laws allowed joint stock companies to issue bearer shares. Since May 2008, such companies are required to issue only nominative shares and availability of legal ownership information is ensured under the LEC and the Law on the Business Registration. In the

2016 Report, these requirements were nevertheless determined not to be sufficient in the case of shares issued prior to 2008. Albania was therefore recommended to ensure that appropriate mechanisms are in place to identify holders of bearer shares issued under the 1992 Law on Companies.

162. Article 230 of the LEC contains a sunset clause for companies that were already established when the law was passed and came into force on 21 May 2008. Existing companies had three years from that date to bring their organisation and operation in line with the provisions of the law, according to Article 230(2), i.e. until 21 May 2011. According to Article 230(3), companies failing to conform to the LEC within the three-year timeframe are subject to dissolution. Consequently, joint stock companies that might have issued bearer shares before 2008 had until 21 May 2011 to identify the owners of those shares and set up a share register as required in the LEC or otherwise be dissolved. Furthermore, the Law on Securities requires joint stock companies to update at least annually any shareholder changes. This means in practice, that since May 2011 ownership information on bearer shares that might have been issued before 2008 should be available, from the joint stock companies themselves as well as the NBC.

163. During the on-site visit, the Albanian authorities referenced the Law on the Business Registration where it is stipulated that shareholder information must be registered in the commercial register. They also cited Article 119 of the LEC where it is stipulated that joint stock companies must keep and maintain a shareholder register and that joint stock companies have not been allowed to issue bearer shares since 2008. The Albanian authorities informed that they have no records of any joint stock company having issued bearer shares and consequently no joint stock companies were dissolved in accordance with the sunset clause in the LEC.

164. After the on-site visit, Albania explained that in 2008 when the LEC came into effect and the commercial register was established, information on all registered existing joint stock companies were transferred over to the new commercial register. The commercial register was accordingly prepopulated with information, including identity information for shareholders, on all joint stock companies that had been established. The NBC confirmed that if identity information for shareholders would have been missing for some joint stock companies at the time of transfer, this would have been flagged and registration transfer for those particular joint stock companies would have been halted until necessary information had been obtained or until the three-year time limit (see paragraph 162) was over. The NBC further confirmed that during the transfer of information, no such cases had surfaced.

165. The Competent Authority informed that they have never received an EOI request where legal or beneficial owner information has been sought by a peer and a joint stock company was identified as having issued bearer

shares prior to 2008. Discussions with representatives from AML-obliged persons during the on-site visit revealed that they had not come across customers with bearer shares in Albanian companies.

166. All these factors combined give an assurance that in case any bearer shares were issued before 2008, the transfer of registration information that included identity information on shareholders, to the commercial register in 2008 would have identified all companies that could have issued such shares. The 2016 recommendation is removed accordingly.

A.1.3. Partnerships

167. Jurisdictions should ensure that information is available to their Competent Authorities that identifies the partners in, and the beneficial owners of, any partnership that i) has income, deductions, or credits for tax purposes in the jurisdiction, ii) carries on business in the jurisdiction or iii) is a limited partnership formed under the laws of that jurisdiction.

168. The 2016 Report concluded that Albania's legal and regulatory framework was in place to ensure that up-to-date identity information on domestic partnerships was available. However, Albania was recommended to ensure availability of identity information regarding foreign partnerships carrying on business in Albania or having income, deductions, or credits for tax purposes in Albania in all cases.

Types of partnerships

169. Albanian law provides for the creation of three kinds of partnerships: i) simple partnerships, ii) general partnerships and iii) limited partnerships. The establishment of simple partnerships is governed by the Civil Code while the establishment of general and limited partnerships is governed by the LEC.

- A simple partnership is a contract by which two or more persons agree to carry out an economic activity in order to share the profits derived from it. Partners' shares of profits or losses are presumed to be in proportion to the contribution of each partner and partners are personally or jointly responsible for the obligations of the simple partnership. As of December 2021, there were 78 simple partnerships registered in Albania.
- A general partnership must have two or more partners that conduct business activities under a common business name based on partnership agreement. In a general partnership, the liability of the partners is unlimited towards creditors. As of December 2021, there were 366 general partnerships registered in Albania.

- A partnership is limited if at least one partner's liability is limited to the amount of his/her interest (limited partner) while other partners are general partners (with unlimited liability). As of December 2021, there were 124 registered limited partnerships in Albania.

170. All types of partnerships must be registered with the NBC. General and limited partnerships are considered legal persons under Albanian law and may own movable and immovable property, acquire rights, assume obligations and file actions or have actions filed against them. Simple partnerships, however, acquire their rights and assume obligations through their partners.

Partner information requirements

171. General and limited partnerships are required to register in the commercial register by submitting an application to the NBC within 30 days after the date of creation. Simple partnerships must register within 15 days from starting commercial activity. All types of partnerships must submit identification documents of the partners. The general partners of a limited partnerships must submit the original documentation necessary for registration. All partners of general and simple partnerships must submit the documentation necessary for registration. Any changes in ownership of limited and general partnerships must be reported to the NBC within 30 days of its occurrence while changes in ownership of simple partnerships must be reported to the NBC within 15 days of its occurrence.

172. Partnerships are not expressly required to maintain identity information of all partners. However, since the law on the Business Registration requires registration of all changes to initially registered information in the NBC, partnerships are de facto required to have identity information on all partners available to them (Article 43 of the Law on the Business Registration). Furthermore, the LEC, which applies to limited and general partnerships, requires that all data reported to the NBC be published on the partnership's website if such a website exists.

173. Partnerships are treated as a single legal entity for tax purposes and, as for companies, a registration with the NBC constitutes a registration with the tax authorities. Partnerships must file tax returns. Disclosure of partners' information to tax authorities is not obligatory but this information is required to be registered with the NBC and available to the GTD. Partners in partnerships that are residents must register for tax purposes at the GTD and file a personal tax return (Article 13(1) of the Income Tax Law). After distribution of the partnership's profits to its partners, the partners are subject to withholding tax on their part of the profits (Article 33(1) of the Income Tax Law).

Beneficial ownership information

174. All types of partnerships are defined as reporting entities in Article 2(1) of the LBOR. As such they have the obligation to keep and maintain appropriate, accurate and up-to-date information on beneficial owners of the partnerships and the type of control they have. Beneficial owners of partnerships are required to provide partnerships with all necessary information, for them to fulfil legal obligations set out in the LBOR. However, there are no actions available to the reporting entity if the beneficial owner fails to provide the necessary information. The definition of beneficial owner is the same as for all entities (see Section A.1.1).

175. Partnerships must register beneficial owner information within 30 days of initial registration in the commercial register and any changes in beneficial ownership must also be registered within 90 days of the occurrence of the change (Article 5(3)). Initial registration of beneficial ownership information is the responsibility of the person authorised to represent the partnership and any updates or change of initial data registered is done by either the person authorised to represent the partnership or by the NBC if data from other state agencies or AML-obliged persons show that the registration in the beneficial owner register is incorrect or outdated. Otherwise, partnerships are subject to the same obligations in the LBOR as companies (see Section A.1.1).

176. The obligation of AML-obliged persons to identify and update information on the beneficial owners of their customers, as described in Section A.1.1 of this report, is applicable to customers that are partnerships.

177. As previously mentioned, the LBOR and Decision No. 1088/2020 do not contain guidance on how to interpret and apply the term “control through other means” (see paragraphs 107 and 111) and no further guidance has been issued on this subject. It is also not clear whether the partners which are entities will be systematically looked through. Therefore, the **recommendation included in paragraph 112** is also applicable to partnerships and **Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all relevant legal entities and arrangements, in accordance with the standard.**

Foreign partnerships

178. A partnership that is created under the laws of a foreign jurisdiction, and establishes a branch, subsidiary or an office in Albania is subject to the same registration requirements as foreign companies and must send in statutes and acts of incorporation or equivalent documents according to the foreign law when registering in the commercial register. Foreign

partnerships are not required to provide identity information on partners upon registration and availability of such information therefore depends on the laws of the jurisdiction where the partnership was incorporated (see paragraph 71).

179. Foreign partnerships with sufficient nexus¹⁶ in Albania are obliged to file a tax return to the GTD. The tax return must be submitted by the partnership and the payment of the personal tax on partners is subject to withholding tax if the partnership distributes its profit to the partners. The partnerships tax return does not contain identity information. Nonetheless, when the total gross income of the partners exceeds ALL 2 000 000 (EUR 16 200) from all the partner's sources of income, a non-resident partner or its representative might choose to file a personal tax return (Article 13/4 of the Income Tax Law). In those cases, identity information of the partner of a foreign partnership will be available to the GTD. However, if a foreign partnership that carries on business in Albania, or has income, deductions or credits for tax purposes there does not distribute its profits to the partners, there is no obligation in Albania for partnerships to disclose the identity of the partners to the tax authorities. **Albania is recommended to ensure that identity information is available in all cases, in accordance with the standard, when it comes to foreign partnerships carrying on business in Albania or having income, deductions, or credits for tax purposes in Albania.**

180. Regarding beneficial owner information, the LBOR requires representative offices and branches of foreign companies and partnerships to file beneficial owner information with the beneficial owner register (see above). Foreign partnerships with sufficient nexus to Albania have the same obligations as domestic partnerships when it comes to keeping, maintaining, and reporting beneficial ownership information. The sanctions for non-compliance are the same as described in Section A.1.1.

Oversight and enforcement

181. The same deadlines applies for existing partnerships to register their beneficial owner information as for companies. During the on-site visit, the Albanian authorities commented that after the deadline they would start applying penalties to those reporting entities that had not fulfilled their obligations of reporting beneficial owner information. In statistics provided by Albania no distinction is made for companies and partnerships and as of 30 August 2022 eight commercial entities have been fined for non-compliance with the registration of beneficial ownership requirements and 97% of

16. Sufficient nexus in this context means any partnership that i) has income, deductions or credits for tax purposes in Albania, and ii) carries on business in Albania.

registered commercial entities have registered beneficial owner information (see Section A.1.1).

182. The recommendation made in paragraph 134 is equally applicable to partnerships and **Albania is recommended to monitor the implementation of the LBOR and the AML law to ensure that accurate information in accordance with the standard is kept on file by reporting entities according to the LBOR and by AML-obliged persons according to the AML law.**

Availability of partnership information in EOIR practice

183. Albania does not distinguish partnerships from companies when it comes to statistics on requests received from peers. Albania's peers were generally satisfied with the responses provided by Albania with respect to legal and beneficial ownership information during the review period and raised no concerns regarding the availability of such information.

A.1.4. Trusts

184. The concept of trusts is not recognised in Albania's legal system, and it does not allow for the creation of trusts. Albania is not a party to the Hague Convention on the Law Applicable to Trusts and on their Recognition. There are, however, no legal restraints in Albania's laws that prevent an Albanian resident from acting as a trustee, protector or administrator of a trust formed under foreign laws. Albania furthermore recognises that foreign trustees (or similar) may carry out business in Albania on behalf of a legal arrangement and does not prohibit such activities. Furthermore, Albania recognises that foreign trusts can be shareholders of Albanian limited liability companies and joint stock companies registered in the commercial register or members of savings and credit companies, and mutual co-operation companies.

Requirements to maintain identity and beneficial ownership information in relation to trusts

185. According to the AML law, trustees of legal arrangements must retain information about founders, beneficiaries, trustees, and persons with de facto control. Furthermore, they are obliged to declare their status and have available all necessary information required by AML-obliged persons when establishing a business relationship or when conducting occasional transactions (Article 3/1). These obligations apply equally to trustees that are professionals and non-professionals.

186. The AML law includes as AML-obliged persons any natural or legal person who acts or designates someone else to act as a trustee of a legal arrangement or performs an equivalent function for another form of legal arrangement (Article 4/1 of the AML law). The entities who fall in this category must apply customer due diligence measures and keep and maintain beneficial owner information as well information on the structure of the trust in line with general requirements of the AML law (see A.1.1).

187. The beneficial owners of trusts or other legal arrangements are defined in Article 3(1.2) in the LBOR.

1.2. In the case of a trust or other legal arrangement:

1.2.1 Creator [settlor] of the trust, custodian/trustee, advocate [protector], if any, and beneficiaries or where the persons benefitting from the legal agreement or entity have not yet been identified, the class of persons for whose primary interest the legal agreement or entity is established or operates; any other individual exercising ultimate control over the trust through direct or indirect ownership or other means.

188. This provision requires the identification as beneficial owners all relevant persons related to a trust in accordance with the standard, including its founders, trustees, beneficiaries and persons with ultimate control over the trust. There is no further guidance provided in any law or regulation on how to look through any participant that is not an individual, and the identification of beneficial ownership might therefore be difficult, especially as trusts are not commonly encountered in Albania.

189. Other AML-obliged persons that might enter into a business relationship with a trust have to apply customer due diligence measures as prescribed in Article 4/1 of the AML law. This includes verifying the trust's legal status, identify the founder, trustee, beneficiaries, or person with effective control. The AML law prescribes that enhanced due diligence should be applied in high-risk cases and Albanian authorities reported that all Albanian banks have categorised non-residents as high-risk customers.

190. In addition, as described in Section A.1.1, all legal entities and arrangements must report to the NBC legal and beneficial ownership information and that includes information on trusts that are legal and beneficial owners of Albanian companies.

Tax legislation

191. There are no specific provisions in Albanian tax laws on taxation on assets or income derived from foreign trusts. However, the Income Tax Law requires all residents carrying out economic activities to pay income tax on

all their income regardless of its source, provided they are the beneficial owners of that income (Articles 4, 7, and 17 in the Income Tax Law). In the event of Albanian residents acting as trustees of foreign trusts, they will be directly responsible for filing tax returns and will be liable for taxes on assets and income which they hold for the trust as if these were their own assets and income.

192. Resident trustees in Albania are subject to record keeping requirements pertaining to the determination of their income as any resident (Articles 46-48 of the LTP). Furthermore, trustees and beneficiaries that are resident in Albania are also obliged to provide the GTD with any information regarding their tax liability (Article 60 of the LTP).

Oversight and enforcement

193. The enforcement provisions for identity and beneficial ownership information of trusts are similar to those discussed under companies and referred to in Section A.1.1 and the same deadlines applied for trusts to register their beneficial owner information as for companies.

194. During the on-site visit, the FIU reported that in the course of its compliance activities, it had not identified any trusts operating in Albania during the review period. For instance, the FIU identified a few lawyers providing company formation services, but not acting as trustees or providers of trust formation services.

195. Since the LBOR was only in effect for the last eight months of the review period and the deadline for existing entities to report beneficial ownership information was 30 June 2022, The Albanian authorities were only able to report on limited enforcement activities and the effectiveness of the system in place in relation to EOI could not be assessed. **Albania is recommended to monitor the implementation of the LBOR and the AML law to ensure that accurate information in accordance with the standard is kept on file by reporting entities according to the LBOR and by AML-obliged persons according to the AML law.**

Availability of trust information in EOIR practice

196. The Competent Authority in Albania reported that they have never received a request concerning a trust.

A.1.5. Other entities and arrangements

Agricultural co-operation companies

197. The Law on Agricultural Co-operation Companies No. 38/2012 prescribes that agricultural co-operation companies can be founded in Albania for the “fulfilment of members’ needs in the field of production, processing, commercialisation of the livestock and agricultural products”. Their members are responsible for the obligations of the company up to the value of their respective contribution. As of December 2021, there were 149 agricultural co-operation companies registered in the commercial register.

198. Agricultural co-operation companies are required to be registered in the commercial register and upon registration they acquire their legal personality (Article 9 of the Law on Agricultural Co-operation Companies). The company statute must contain identity information on the founding members and this information is filed in the commercial register. Furthermore, Article 10 prescribes that any changes to the information that is registered initially, including identity information, must be registered in the commercial register.

199. Agricultural co-operation companies have the same legal requirements of keeping, maintaining and reporting appropriate, accurate and up-to-date information on their beneficial owners as savings and credit companies, and mutual co-operation companies.

Foundations and non-profit organisations

200. In Albania, the concept of foundation refers to non-profit organisations (NPOs whose activity is conducted independently and without being influenced by the state (Article 2 in the Law No. 80/2021 on NPOs). NPOs have the right to perform economic activities but limited to the maintenance and utilisation of their own properties and to achieve their goals which cannot be profit making. It is forbidden to divide NPO’s profits among its founders as the profits can only be used for purposes specified in the articles of association (Article 32 in the Law on NPOs). As of December 2021, there were 5 234 registered NPOs in Albania.

201. Foundations become legal persons when they are registered in the NPO register maintained by the Tirana District Court (Articles 14 and 32 in the Law on NPOs). Upon registration, foundations must submit their statutes and founding acts with identity information on persons related to them. Furthermore, the founders are obliged to submit to the court an application explaining the form and purpose of the non-profit organisation, the object of its activity along with identity of the founders and members of the executive board, the structure of the leading organs, location of its headquarters

and the identity of its legal representatives. Any changes to these elements must be reported to the court within 30 days from the change (Article 16 in the Law on NPOs).

202. In addition to registering with the Tirana District Court, foundations are required to register with local and central tax authorities. Identity information on managers, directors and legal representation of the foundation must be included in the registration with the tax authorities. All changes to the name, business or contact address, legal status, establishment, or closure of branches, or change in economic activity must be notified to tax authorities within 15 days of the date when the change occurs (Article 43 of the LTP). Failure of registration or update is punishable by fine of ALL 25 000 (EUR 202) per violation (Article 112 of the LTP).

203. As concluded in the 2016 Report, Albania's legal and regulatory framework ensures the availability of information on NPOs' founders and members of the executive board, or any other person with the authority to represent the foundation (see paragraph 128 in the 2016 Report). Since the 2016 Report was published, the Albanian Parliament has passed the LBOR and made certain changes to the AML law.

Beneficial ownership information

204. The LBOR applies to foundations in the same way as it applies to companies (see Section A.1.1). The definition of the beneficial owner of an NPO differs, however, to take into account their specificities (Article 3 of the LBOR). Article 3(1.1.2) further stipulates:

1.1.2. The founder or legal representative or the individual who exercises the ultimate effective control over the administration and control of non-profit organisation, including foundations, associations, centres, as well as branches of non-profit organisations. The ultimate effective control is the relationship in which a person:

- a) determines the decisions taken by the non-profit organisation;
- b) controls in any way the election, appointment, and removal of most of the decision-making bodies and/or executive bodies of the non-profit organisation.

205. The LBOR defines NPOs as reporting entities (Article 2(1) of the LBOR). As such, NPOs are obliged to keep and maintain appropriate, accurate and up-to-date data and accompanying documents on the beneficial owners of the entity and the type of control of their beneficial owners have (Article 5).

206. The AML framework described in this report applies to NPOs insofar as they are serviced by AML-obliged persons such as banks. Article 59(1/2) of the LTP requires all NPOs to open a bank account in an Albanian bank and declare the account to the tax administration. Thus, information on the beneficial ownership of all NPO must be available both in the beneficial owner register and with AML-obliged persons.

Oversight and enforcement

207. The enforcement provisions for beneficial ownership information on NPOs are similar to those discussed in this report in Section A.1.1 and the same deadlines apply for existing NPOs to register their beneficial ownership information as for companies.

208. Furthermore, the GTD established a working group to address recommendations from MONEYVAL aimed at NPOs. NPOs were required to self-declare general and specific information about their activity, funding, income, and expenses, use of funds, transactions, and information related to founders, memberships and agreements. These self-declarations were used to create a database to be able to develop a risk-based audit approach for NPOs. In the period under review, the GTD in co-operation with the FIU planned to audit 37 NPOs and so far, 27 full audits are completed. These audits were mainly targeted at the possible tax liability of the NPOs and were not focused on identity or beneficial ownership information. The law on NPOs does not expressly require NPOs to keep a register of beneficiaries. However, as GTD's audits of NPOs include a review of how they use and distribute their funds implies that NPOs must keep information on their beneficiaries.

209. During the on-site visit, the Albanian authorities commented that after the deadline, they would start applying penalties to those reporting entities that had not fulfilled their obligations of reporting beneficial owner information before the deadline. As of 30 August 2022, 95.8% of NPOs have registered beneficial ownership information with only 99 NPOs remaining to register the information.¹⁷

210. Since the LBOR was only in effect for the last eight months of the review period and the deadline for existing entities to report beneficial ownership information was 30 June 2022, the Albanian authorities were only able to report on limited enforcement activities and the effectiveness of the system in place in relation to EOI could therefore not be assessed. **Albania is recommended to monitor the implementation of the LBOR and the**

17. As of 30 August 2022, 2 280 NPOs of the registered 2 379 NPOs had registered beneficial ownership information.

AML law to ensure that accurate information in accordance with the standard is kept on file by reporting entities according to the LBOR and by AML-obliged persons according to the AML law.

Availability of foundation information in EOIR practice

211. The Albanian Competent Authority reported that they have never received a request from a peer concerning an NPO.

A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

212. The 2016 Report concluded that all relevant entities and arrangements in Albania were required to maintain adequate accounting records, including underlying documentation, for at least five years. However, since the adequacy of the oversight system could not be fully ascertained as relevant statistics were not available, Albania was recommended to enhance its system of oversight to ensure that accounting information is being maintained by all relevant entities. The legal and regulatory framework on the availability of accounting information was determined to be “in place” and Albania was rated Largely Compliant to the standard for ensuring that reliable accounting records are kept for all relevant entities and arrangements (Element A.2).

213. To address the recommendation in the 2016 Report, Albania has implemented a statistical system to ensure the availability of data regarding the compliance with filing requirements, sanctions applied to non-filers and percentage of taxpayers subject to audits and fiscal visits. During the review period, the GTD conducted 4 160 audits of which 3 929 were closed with fines and 3 262 fiscal visits of which 2 007 were closed with fines. The audits and fiscal visits are planned according to an internal risk assessment of taxpayers. This is a sound approach where special focus is put on those taxpayers that have not complied with tax filing requirements.

214. The Albanian Parliament has approved a new Law on Accounting and Financial Statement No. 25/2018 for accounting record keeping requirements that replaced the 2004 law assessed in the 2016 Report. The retention period on accounting records and underlying documentation according to the law is 10 years.

215. Albania received 53 requests for accounting records and according to peer input, peers were generally satisfied with responses provided by Albania regarding accounting records and no specific issues were raised in the peer input in this regard.

216. Considering this, Albania is rated Compliant in respect of this element:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Albania in relation to the availability of accounting information.

Practical implementation of the Standard: Compliant

The availability of accounting information in Albania is effective.

A.2.1. General requirements

217. The standard requires jurisdictions to ensure that reliable accounting records are kept for all relevant entities and arrangements. Accounting records should i) correctly explain all transactions, ii) enable the financial positions of the entity or arrangement to be determined with reasonable accuracy at any time and, iii) allow financial statements to be prepared.

218. In Albania, the requirement to keep accounting records and their underlying documentation in line with the standard is mainly covered by the Law on Accounting and Financial Statements and the LTP.

Accounting law

219. The Law on Accounting and Financial Statements applies to all for-profit entities that operate in Albania, including companies that are covered by the special tax regime for small business activities and financial institutions, and holding companies, as well as NPOs, partnerships and foreign companies, irrespective of their legal structure or specific legal requirements. The Law on Accounting and Financial Statements does not contain express provisions on trusts or trustees; however, trustees of foreign trusts are covered by the provisions of the law as taxable entities in respect of trust income on which they are taxed (see paragraph 191). Moreover, the Law on Banks imposes additional accounting requirements on banks (see paragraph 252).

220. Entities that fall under the scope of the Law on Accounting and Financial Statements must maintain accounts that truthfully and reliably present the financial position, financial performance, changes in capital/net assets and cash flows of economic entities. All transactions and events must be entered into the accounts in such a manner that they comply with accepted accounting principles contained in the accounting standards.

221. The annual financial statements for medium and large entities must contain at least the statement of the financial position of the entity,

statement of income and expenses and financial statement notes. Financial statements for small and micro entities¹⁸ are simplified as they can draw up abbreviated overviews. However, these simplified rules do not apply to small and micro entities if they are investment entities or holding companies.

222. The executive management body of a company and the supervisory body are jointly responsible for ensuring that the annual financial statements and other necessary statements are drawn up and published. Failure to comply with the requirements in the Law on Accounting and Financial Statements is the subject to administrative, civil and criminal sanctions depending on the severity and damage caused (Article 29 of the Law on Accounting and Financial Statements).

223. Entities that are subject to the law are obliged to apply the National Accounting Standards. These standards are drafted by the National Accounting Council and are based on the International Financial Reporting Standards (IFRS) with certain simplifications. Medium and large companies, banks and insurance companies are required to use IFRS in their accounting and financial reporting. Companies are considered “medium or large” if two of the following is exceeded: i) assets over ALL 750 000 000 (EUR 6 075 000), ii) annual income is higher than ALL 1 500 000 000 (EUR 12 150 000), or iii) average number of employees during the reporting period is 250 or more.

224. All commercial companies that are required to apply the IFRS, all joint stock companies and certain limited liability companies must have their financial statements audited prior to publication, as stipulated in the Law on Statutory Audit No. 10091/2009. The same applies to savings and credit companies, their unions and mutual co-operation companies. This obligation to have the financial statements audited by an independent licensed auditor does not release the entity’s managers or supervisory body from the responsibility of maintaining and preserving accounting records.

225. All entities that fall under the scope of the Law on Accounting and Financial Statements must file their annual financial statements for publication within seven months from the closing date of each financial year. Furthermore, the Law on the Business Registration requires entities that have an obligation to prepare annual financial statements to deposit such statements with the NBC no later than seven months from the closing date of each financial year. In case of non-filing, the legal entity will receive a fine

18. Micro entities are entities that at the reporting date do not exceed the limits of at least two of the following three criteria: (i) assets over ALL 15 million, (ii) income over ALL 30 million or (iii) average number of employees during the reporting period: 10. Small entities are entities that at the reporting date do not exceed the limits of at least two of the following three criteria: (a) assets over ALL 150 million, (b) income over ALL 300 million, (c) average number of employees during the reporting period: 50.

in the amount of ALL 60 000 (EUR 486) and will be registered as suspended until the fine is paid, and the necessary statements filed.

Tax law

226. Both the Income Tax Law and the LTP stipulate that the taxable income of taxpayers is based on the balance sheet and other financial statements prepared according to the Law on Accounting and Financial Statements. The annual tax return must be accompanied by the annual accounts of the entity (Article 19 in the Income Tax Law).

227. Furthermore, the LTP requires taxpayers to maintain registers, accounting records, books, and financial information in addition to issuing tax invoices and receipts in respect to all payments received (Article 46-48 of the LTP).

Anti-Money Laundering Law

228. In addition to the obligations in the Law on Accounting and Financial Statements, AML-obliged persons, according to the AML law, must keep records of all data and documents on all transactions within a business relationship regardless of whether the transaction has been executed in the name of the customer or third parties. This includes all supporting documentation, account files and business correspondence.

229. All customer due diligence data as well as transaction data must be maintained with all necessary details for 5 years from the date of termination of the business relationship, but no more than 40 years from the date of each transaction (Article 16 of the AML law). Failure to maintain customer due diligence data and transaction data is subject to administrative fines in the amount of ALL 200 000 to ALL 8 000 000 (EUR 1 620 to EUR 64 800).

230. Compliance of AML-obliged persons is one of the main objectives of the FIU and is done either on its own or in collaboration with other supervisory authorities. The process is risk-based so that the focus is aimed at sectors with high exposure to money laundering. During the review period no fines were issued for only breach of Article 16 of the AML law and breach of Article 16 is only one of the obligations the FIU checks compliance with when conducting inspections (see paragraph 155).

Retention period and companies that have ceased to exist

231. All types of legal entities and arrangements must keep accounting records and supporting evidence for ten consecutive years after the end of the accounting period to which they relate, unless a longer period

is compulsory in accordance with other laws (Article 8 of the Law on Accounting and Financial Statements). This applies to both accounting records on paper and digital accounting data. Furthermore, accounting documents must be kept at the headquarters of the company (Article 8) where the economic activity takes place. Financial statements of a group must be kept at the parent entity.

232. The LTP requires all types of legal entities and arrangements to retain financial and accounting documents for the purpose of substantiating the accuracy of tax liability for five years starting from the end of the tax year to which the documents pertain (Article 48). The LTP requires accounting records that are necessary to perform the correct calculation of taxpayers' tax liabilities to be available to the tax administration on request, either in original form or as notarised copies, for tax inspection (Article 60).

233. Neither the LEC nor laws pertaining to other types of companies that can be formed under Albanian law expressly state who is responsible for keeping accounting records for companies that have ceased to exist. Such an obligation is also not found in the Law on Accounting and Financial Statements. However, as mentioned previously in this report, financial statements must be filed with the NBC and are therefore accessible there after entities have been dissolved, however this reporting obligation does not extend to underlying accounting documentation (see paragraph 225).

234. As described in Section A.1.1, the LEC and laws pertaining to other company types that can be formed under Albanian law have provisions pertaining to voluntary dissolution of companies and partnerships and the winding-up procedures in those cases. Liquidation of limited and general partnerships is either carried out by all partners or by an unanimously nominated liquidator while liquidation of limited liability companies, joint stock companies, savings and credit companies and their unions, and mutual co-operation companies are carried out by an appointed liquidator. If a company is dissolved by a court decision, the court will appoint the liquidator. All powers and duties of the managing director or management board are transferred to the liquidator and the liquidator is responsible for preparing a balance sheet at the beginning and at the end of the liquidation. If the liquidation procedures take longer than a year, the liquidator is also responsible for preparing the annual statement of accounts and filed it with the NBC.

235. Albania maintains that one of the duties that the appointed liquidator assumes is the duty to keep accounting records, including underlying documentation for ten years in accordance with the Law on Accounting and Financial Statements and the same applies to the retention obligation in the LTP. This duty is not directly stipulated in any law and since Albania has never received a request for accounting records for companies that have been dissolved, it is unclear if appointed liquidators do in fact keep the

accounting records for dissolved entities. However, there have been domestic cases of dissolved entity where the availability of accounting records, including underlying documentation, has been confirmed and the LTP tasks the GTD with supervising retention obligations for entities under liquidation. To eliminate any doubt, Albania should monitor if retention obligation of entities that have ceased operations are respected and clarify the obligations where necessary (see Annex 1).

236. In the case of insolvency dissolutions or bankruptcy, the Law on Bankruptcy specifies that the court appointed bankruptcy administrator is responsible for keeping accounting records in accordance with trade and fiscal legislation (Article 84). Since bankruptcy is a trigger for a tax audit, the GTD monitors whether the bankruptcy administrator keeps relevant accounting records. Furthermore, the National Bankruptcy Agency supervises liquidators in bankruptcy proceedings.

A.2.2. Underlying documentation

237. The 2016 Report concluded that under Albanian law accounting and tax requirements for underlying documentation to be available are sufficient to meet the standard. Despite the new Law on Accounting and Financial Statements from 2018, there have not been substantive changes to the legal framework in this respect since the 2016 Report.

238. According to the Law on Accounting and Financial Statements, accounting entries should be based on accounting documents either in paper or digital form and the accounting documents must be kept as documentary evidence for ten consecutive years, after the end of the reporting period to which they belong. Albanian law defines accounting documents as source documents that contain the initial records of every event and economic action, supplementary documents that carry information obtained from the source documents, and accounting registers (books) where information is recorded chronologically and systematically of the effects of economic actions performed.

239. All relevant Albanian entities as well as foreign entities with sufficient nexus to Albania are required to keep underlying documentation or any other relevant information that are required to be created and maintained to determine the amount of taxes owed by such a taxpayer.

240. The same in-text recommendation in paragraph 235 extends to underlying accounting documentation and to eliminate any doubt, Albania should monitor if retention obligations of entities that have ceased operations are respected and clarify the obligations where necessary (see Annex 1).

Oversight and enforcement of requirements to maintain accounting records

241. In practice, compliance with accounting obligations under accounting and tax law is supervised by the GTD during tax audits that are conducted on a risk-based approach. The GTD issues audit manuals and audit programmes for the regional tax offices that are responsible for the field and desk audits. Audit of financial reports is an integrated part of audits as well as the review of the maintenance of books, registers and documentation.

242. The GTD has since the 2016 Report implemented a statistical system with the Audit Directorate of the GTD that ensures the availability of statistics on filing requirements, applied sanctions to non-filers and more.

243. Over the review period, the GTD carried out a general audit programme where the taxpayers were chosen by a risk-based assessment, with around 70% of cases selected centrally while the remaining 30% are selected due to mandatory audit obligations such as taxpayer deregistration, bankruptcy and audit requests from other agencies. Filed tax returns are checked for inconsistencies and irregularities, which trigger further follow-up. Additionally, the GTD pays special attention to non-filers. The annual income tax return filing rate with the GTD is 94% at average. Due to the Covid-19 pandemic, the number of audits during 2020 fell but for 2021 the GTD managed to get on track again with audits.

244. During the review period, the GTD fined 12 324 entities where the following penalties were applied:

Type of penalty	2018		2019		2020		2021	
	No.	Amount (ALL)*	No.	Amount (ALL)*	No.	Amount (ALL)*	No.	Amount (ALL)*
Failure to provide information	471	8 686	303	6 752	292	4 781	454	7 245
Obstruction of tax audit or investigation	29	23 510	28	26 20	17	15 746	26	23 300
Non-compliance with the registration obligation	87	1 453	57	3 941	34	435	34	23 300
Penalty for incorrect maintenance of books, registers and documentation	2 191	162 547	2 451	62 595	1 918	70 436	2 036	101 345
Failure to notify change of ownership	0	0	2	16	1	20	0	0
Total	3 617	210 342	3 303	106 424	2 614	97 943	2 790	139 401

*The amounts are in thousand ALL.

245. Furthermore, a total of 2 048 entities were fined for not filing annual statements with the NBC.

Availability of accounting information in EOIR practice

246. Law No. 87/2019 on Invoices and Circulation Monitoring System requires all taxpayers engaged in commercial activities and which are liable for-profit tax in accordance with the Income Tax Law to issue electronic invoices through a central government system. The GTD has, according to the law, real time access to all invoices issued through the system. Albanian Competent Authority reports that, because of this system, accounting information is easily obtained since the IT system of the Albanian tax administration contains all the accounting data self-declared by Albanian resident taxpayers, such as the sales and purchase books and statements related to service provided by non-residents. Furthermore, the commercial register has available information related to legal documents, such as contracts for the sale and purchase of quotas and concession contracts.

247. Most of the requests for accounting information that Albania received during the review period relate to the amount of income and capital, the amount of the economic transactions carried out and sale invoices for import or export. Albania has furthermore been requested to provide information on the outstanding balance of obligations between two taxpayers and to provide documents on transactions related to capital investments. No peer reported issues with obtaining accounting information from Albania during the review period and peers were generally satisfied with the information provided.

A.3. Banking information

Banking information and beneficial ownership information should be available for all account holders.

248. The 2016 Report concluded that banks' record keeping requirements and their implementation in practice in Albania were satisfactory and banking information in line with the standard would be available in respect to all transactions and all account holders. The legal and regulatory framework on the availability of banking information was determined to be "in place" and Albania was rated Compliant with the standard on ensuring that bank information is available for all account holders (Element A.3).

249. The standard was strengthened in 2016 with an additional requirement of ensuring the availability of beneficial ownership information on all account holders. The amended AML law requires banks to obtain and maintain beneficial ownership information on all account holders and monitor continuously their business relationships. Financial institutions must retain these records for a period of at least five years. The AML law in Albania relies on the definition of beneficial ownership in the LBOR and Decision No. 1088/2020.

250. Since there is no specified frequency of updating beneficial ownership information there could be situations where the available beneficial ownership information is incorrect or not up to date. Furthermore, since the LBOR and amended AML law were only in effect for the last eight months of the review period, the effectiveness of the system in place and the enforcement powers awarded to the relevant authorities could not be assessed.

251. The conclusions are therefore as follows:

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement.

Deficiencies identified/Underlying factor	Recommendations
<p>Banks must update beneficial ownership information when they have doubts about the veracity or adequacy of the information obtained previously, but there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information on customers is not up to date.</p> <p>The legal definition of beneficial owner(s) and the methodology used to identify them in Albania's legal framework has a narrow scope in terms of the control requirement. Furthermore, there is no guidance available on how to interpret or apply the term "control through other means". Additionally, the methodology does not provide guidance on what to do when there is a doubt of who the beneficial owner is. This may lead to uneven application of the definition by banks and poses a risk to the accuracy of the information in the beneficial owner register.</p>	<p>Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all bank accounts, in accordance with the standard.</p>

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/Underlying factor	Recommendations
<p>Since the changes made to the Law on Beneficial Owner Register and the anti-money laundering law concerning beneficial ownership requirements for reporting entities are recent, the Albanian authorities were only able to report on limited enforcement activities and the effectiveness of the system in place in relation to exchange of information could not be assessed.</p>	<p>Albania is recommended to monitor the implementation of the Law on Beneficial Owner Register and the anti-money laundering law to ensure that accurate beneficial ownership information in accordance with the standard is kept by banks.</p>

A.3.1. Record-keeping requirements

Availability of banking information

252. Banks are required by the Law on Banks in the Republic of Albania No. 9662/2006 to maintain accounts and prepare financial reports to reflect accurately and in accordance with accounting rules and methods their financial state. The accounts and financial statements must be prepared according to the Albanian accounting standards and IFRS (Article 47 of the Law on Banks). In cases of non-compliance, the Bank of Albania can issue fines from ALL 500 000 to ALL 800 000 (EUR 4 050 to EUR 6 480).

253. Article 16 of the AML law prescribes the record keeping obligations for banks and other AML-obliged persons. According to the article, banks are obliged to keep records of all data and documents on all transactions performed in the course of a business relationship. The scope of the article is broad and comprises information on the nature and date of transactions, type and amount of currency involved and the type and identifying number of any account involved in the transaction.

254. The AML law prohibits banks from opening and keeping anonymous accounts, accounts with fictitious names or accounts identified only with a number or a code since the AML law requires banks to apply customer due diligence. Furthermore, banks must determine for all customers, before the business relationship is established, if they are acting on behalf of another person and undertake reasonable measures to obtain sufficient data for the identification of that person (Article 4/1). Banks are obliged to close accounts where the owners cannot be identified (Article 4/1(2)).

255. More recently, according to the Law on Central Registry of Bank Accounts No. 154/2020, all bank accounts are registered in a central register kept by the GTD. Albanian banks must send real-time account data to this register along with identity information on bank account holders and safety deposit holders.

256. The AML law requires banks to apply customer due diligence measures before entering into a business relationship (Article 4/1). In case of occasional transactions above ALL 100 000 (EUR 810), financial institutions must verify whether the identification data presented are up to date, regardless of whether they have already collected information on the customer during a previous occasional transaction. The AML law takes a risk-based approach to updating or renewing customer due diligence information and does not require banks to regularly renew customer due diligence measures (see paragraph 138).

257. Article 16 of the AML law dictates that the retention period on all documentation is minimum five years after the termination of the contractual

relationship with the customer or after the transaction takes place. Banks are free to choose if they retain this information on electronic format or in hard copies, but they must ensure that all customer and transaction data is available immediately to all relevant authorities. The AML law does not prescribe where records should be kept but the Law on Accounting and Financial Statements prescribes that accounting records must be kept at the headquarters of the entity. The general retention rules for customer due diligence and accounting records are described in paragraphs 145, 146, 234 and 235. The same retention period and record keeping requirements apply for foreign banks operating in Albania.

Beneficial ownership information on account holders

258. The standard was strengthened in 2016 to specifically require that beneficial owner information be available in respect of all account holders who have accounts in banks in a jurisdiction.

259. As discussed under Section A.1, the AML law requires all AML-obliged persons under the AML framework to obtain, verify and maintain beneficial owner information on their customers (account holders). Banks are defined as AML-obliged persons (Article 3 and 4/1). Non-compliance with the record keeping obligations carries a fine from ALL 200 000 to ALL 8 000 000 (EUR 1 620 to EUR 64 800) (Article 27).

260. Article 4/1 of the AML law prescribes that banks must identify the beneficial owners of their clients and undertake reasonable measures to verify their identity through information or data provided from reliable sources.

261. Finally, the banks must understand the ownership and control structure for the customers who are legal persons or legal arrangements and determine who are the individuals owning or controlling the customer, including those persons who exercise the ultimate effective control over the legal person or legal arrangement.

262. As described in Section A.1.1, the AML law refers to the definition of beneficial owner in the LBOR and the guidance provided in Decision No. 1088/2020, which is not fully in line with the standard. Considering the gap in the legal framework described in Section A.1.1 when it comes to guidance on how to apply and interpret the term “control through other means” and the narrow approach taken on the subject of control in Decision No 1088/2020 and that the LBOR and the changes to the AML law are relatively new, it is unclear how banks will apply the term “beneficial owner” in practice. **Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date**

beneficial ownership information is available for all bank accounts, in accordance with the standard.

263. The AML law requires banks to accept only authentic documents, notarised copies, or valid electronic documents from customers for verification of e.g. beneficial ownership information (Article 5(2)). The obligation imposed on banks in Article 6 of the LBOR to notify the NBC if they find that data in the beneficial owner register does not match data in their possession, suggests that banks must verify beneficial owners independently and without relying on data in the beneficial owner register. However, during the on-site visit representatives from the Albanian Bank Association seemed to be somewhat unfamiliar with this obligation. This unfamiliarity may lead to Albanian banks not reporting discrepancy in information obtained through the customer due diligence measures and information contained in the beneficial owner register. Furthermore, as explained in paragraph 131, there is an issue of AML-obliged person putting too much reliance on the information already registered in the beneficial owner register.

264. Once the business relationship between a bank and a customer has been established and all necessary identification and verifications of beneficial ownership information has been accomplished, the banks must continuously monitor the business relationship to ensure that the knowledge on the customer is up to date. Banks must update beneficial ownership information when they have doubts about the veracity or adequacy of the information obtained previously, but when no such doubt occur, the AML law does not specify how often banks should follow-up and verify customer due diligence information, including beneficial owner information. Furthermore, the FIU has not issued guidance on the interval of repeating customer due diligence measures for low-, medium- or high-risk customers. However, the FIU has pointed out the FATF¹⁹ requires AML-obliged persons to apply customer due diligence measures on the basis of materiality and their own risk assessment and should conduct customer due diligence on such existing relationships with appropriate intervals. Moreover, the FIU stressed during the onsite visit that particular attention is paid to the effectiveness of the customer due diligence process rather than applying a prescriptive approach that would, in their opinion, conflict the risk-based approach prescribed by the FATF.

265. The FIU explained that this entails that the frequency for updating customer due diligence information, including information on beneficial ownership, varies from bank to bank as it is dependent on the bank's risk

19. FATF Recommendation 10 on Customer Due Diligence: <https://www.fatf-gafi.org/content/dam/recommendations/FATF%20Recommendations%202012.pdf.core-download.inline.pdf>.

assessment and could range from annual updates for high-risk customer and up to an update every five years for low-risk customers. The standard calls for regular updates of beneficial ownership information to ensure that such information is up to date. The AML framework in Albania does not set a specified frequency by which the information must be updated and therefore does not ensure adequate, accurate and up-to-date information on beneficial ownership.

266. Banks must update beneficial ownership information when they have doubts about the veracity or adequacy of the information obtained previously, but there is no specified frequency of updating beneficial ownership information, so there could be situations where the available beneficial ownership information on customers is not up to date. **Albania is recommended to amend its legal and regulatory framework so that adequate, accurate and up-to-date beneficial ownership information is available for all bank accounts, in accordance with the standard.**

267. As discussed in Section A.1.1, banks can rely on regulated third parties with internal control structures to perform customer due diligence measures, but in such cases the banks take on the responsibility to ensure that all customer due diligence documentation is readily available for supervisory authorities when needed. If the obligations are not fulfilled by the third parties the legal responsibility remains on the banks that relies on the third party. Reliance on third parties created in high-risk sites is prohibited.

Oversight and enforcement

268. In practice, the representatives of the Albanian Bank Association interviewed during the on-site visit are largely familiar with the AML obligations with respect to the customer due diligence measures applicable and the obligation to identify the beneficial owners.

269. Banks are supervised by the Bank of Albania that verifies whether banks comply with accounting, record keeping and customer due diligence requirements. The Bank of Albania has a risk-based approach to the supervision of banks and has adopted a three-year cycle for full inspection for all banks in Albania. Supervision activities include off-site and on-site inspections, and the frequency of inspections depends on the client profile of the bank and the complexity of its transactions.

270. During the review period, the Bank of Albania, in co-operation with the FIU, conducted 29 on-site and off-site inspections of banks. No sanctions were applied, but one warning was issued for untimely reporting to the FIU and a public statement made regarding the offender and the nature of offence. These results are in harmony with what the FIU and the Bank of

Albania expressed during the on-site visit that banks in general are familiar with their AML-obligations and record keeping requirements.

271. The Bank of Albania and the FIU exchange results of audits and inspections and co-operate in joint inspections where necessary.

272. Since the LBOR and the amended AML law were only in effect for the last eight months of the review period, the Albanian authorities were only able to report on limited enforcement activities and the effectiveness of the system in place in relation to EOI could therefore not be assessed. Therefore, **Albania is recommended to monitor the implementation of the LBOR and the AML law to ensure that accurate beneficial ownership information in accordance with the standard is kept by banks.**

Availability of banking information in EOI practice

273. During the review period, Albania received in total 13 requests for banking information of which 9 requests were regarding individuals and 4 were regarding entities. The Albanian Competent Authority reported that it had not encountered difficulties in obtaining banking information directly from Albanian banks. A peer remarked that four requests for banking information were sent to Albania during the review period and the requested information had been received in all cases except one. Albania has informed that the Albanian Competent Authority will contact the respective peer and provide a response to the outstanding request.

Part B: Access to information

274. Sections B.1 and B.2 evaluate whether Competent Authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards are compatible with effective EOI.

B.1. Competent Authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

275. The 2016 Report concluded that the Albanian Competent Authority had broad access powers to obtain and provide information requested for EOI held by persons within its territorial jurisdiction, including information from third parties. However, since the legislation and regulations that explicitly provided access powers to collect information for EOI purposes entered into force after the period under review in the 2016 Report, Albania was recommended to monitor the application of the new legislation and regulations to ensure that they allow for effective EOI. The legal and regulatory framework on the ability to obtain and provide information was determined to be “in place” and Albania was rated Largely Compliant to the standard for ensuring that the Competent Authority has the power to obtain and provide information for EOI purposes (Element B.1).

276. In practice, Albanian authorities have not encountered difficulties or issues in using their access powers to respond to information requests from peers received during the period from 1 October 2018 to 30 September 2021. There is now enough practice to conclude that the Competent Authority's powers are adequate to answer exchange of information requests.

277. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of Albania in relation to access powers of the competent authority.

Practical implementation of the Standard: Compliant

No issues in the implementation of access powers have been identified that would affect EOIR in practice.

B.1.1. Ownership, identity and banking information

Accessing information generally

278. The Albanian Competent Authority for the purpose of exchange of information is the GTD within the Ministry of Finance. It has broad access powers to obtain all types of relevant information, including ownership (legal and beneficial ownership) information, accounting and banking information from natural and legal persons within Albania. The 2016 Report concluded that appropriate access powers are in place for EOI purposes.

279. Those powers are manifested in Articles 60, 61, 61/1 and 62 of the LTP. Article 60 requires taxpayers to provide the GTD with information such as books, records, information and other documents necessary for correct calculation of taxes. Taxpayers are furthermore obliged to allow entry to the premises of economic activity and provide oral and written explanations.

280. Article 61 requires third parties to provide the GTD with written or oral information, make available books and records and other information for tax liability of a taxpayer which they have traded with or had financial transactions with. Article 62 defines third parties in relation to Article 61 of the LTP. This definition includes among other: legal entities, banks and financial institutions, brokerage firms or investment funds, real estate agents, buyers and sellers of real estates, notaries, government institutions and employees of government administrations, those making payments to non-residents.

281. As discussed in the 2016 Report, Albania amended the LTP in December 2014 and added a new article (Article 61/1) to the law to make access to information for EOI purposes explicit. The amendments took effect as of 1 January 2015, after the end of the review period of the 2016 Report and were therefore their application could not be assessed. Article 61/1 reads as follows:

Upon request of the tax administration, for the purpose of the implementation of tax treaties on tax issues or for the purposes of international agreements, which permits administrative assistance on tax issues, which are effective in the Republic of Albania, any person must provide information in conformity with provisions of the international agreement in the tax field.

282. This addition to the LTP does not replace other access powers but is an addition and awards the GTD with explicit access powers for EOI purposes and therefore, eliminates doubt on a need for a possible domestic tax interest for applying access powers.

283. Both Articles 61 and 61/1 of the LTP can be used to obtain information for EOI requests pertaining to both civil and criminal tax matters and for group requests i.e. where taxpayers are not identified by the GTD in the request sent to third party information holder.

284. Article 61 of the LTP still applies to third parties that are required to provide the GTD with information when requested (see paragraphs 177-180 in the 2016 Report) and can be used for information gathering in relation to cases under criminal proceedings.

285. The Ministry of Finance has published in 2015 Instruction No. 15 detailing the procedures to be followed to reply and collect information pursuant to an EOI request. According to the instruction, any person that receives a request from the GTD based on an international exchange agreement is given 30 days to respond to the request.

286. Additionally, the GTD maintains databases with vast amount of information and has, in addition, the powers to request information held in other government databases. Furthermore, the commercial register and the new beneficial owner register both maintained by the NBC are open to the GTD.

287. The Albanian Competent Authority reported that most requests they receive are not complex in nature and can be replied to with information already available within the GTD or with other government agencies. In those cases where information is not available in government databases, the Competent Authority gathers the information by writing to the taxpayer or to third parties and requesting documents or information. As mentioned, the powers are broad and extend to “information concerning a taxpayer’s commercial transactions, technical processes or procedures, and financial transactions between a taxpayer and third parties” (Article 60 of the LTP).

288. Regarding the recommendation in the 2016 Report, Albanian Competent Authority informed that they have not encountered difficulties or had issues when applying Article 61/1 of the LTP when requesting information from third-party information holders and they have been able to respond

to EOI requests from peers using those access powers. Moreover, in the six years since Article 61/1 was introduced, there have been no cases of information holders, taxpayers included, that have disputed the information gathering powers of the GTD. The recommendation is therefore considered as addressed.

Accessing beneficial ownership information

289. As discussed in other parts of this report, beneficial owner information is available from the legal entities themselves, the beneficial owner register maintained by the NBC and from AML-obliged persons. The AML law has specific confidentiality provisions on AML-obliged persons and the access powers in Articles 60-62 in the LTP ensure that the Competent Authority can access beneficial ownership information from all these sources. The GTD has direct access to all information in the beneficial owner register.

290. Since the beneficial owner register is new, the Competent Authority reported that they had mainly used information in the commercial register when replying to requests for beneficial ownership information during the review period. Since Albanian entities are relatively simple in structure and legal ownership coincides with beneficial ownership in majority of cases, this has proved sufficient. However, they also discussed that the beneficial owner register will be used for future requests.

Accessing banking information

291. Access to banking information is ensured by the access powers granted to the GTD in the LTP. Article 61 of the LTP stipulates that the tax administration can request third parties to provide books and records and other information concerning the tax liability of a taxpayer with whom they have entered into commercial or financial transactions. Article 62 of the LTP adds that banks must provide upon request information on interest payments, deposits and liabilities at the end of the year, and other banking transactions. The process for obtaining banking information is the same as for other information. The GTD will send a written request to the bank requesting the necessary information within 15 days.

292. The Competent Authority reported that it would be able to provide banking information even if the requesting jurisdiction provides a bank account number but is not able to provide the name of the account holder or the name of the bank if the foreseeable relevance is clear. The same would apply in cases where the requesting jurisdiction does not provide a bank account number but other identifying information such as tax identification number or date of birth. The Albanian Competent Authority has not received requests of this nature, but the recollection would be facilitated by the existence of a

central register of bank accounts kept directly by the GTD, created according to the Law on Central Registry of Bank Accounts No. 154/2020.

293. The Albanian Banking Association expressed the view that with all the bank information available directly to the GTD, the Competent Authority ought to be able to respond to most requests for banking information directly without requesting the information from banks. However, there has not been a significant drop in requests from the GTD. The Competent Authority explained that the expectation is that the register will be a valuable source of information when replying to simple requests relating to banking information such as requests for the name of a specific bank account holder or the bank account number for a specific taxpayer. However, if the requesting jurisdiction wants copies of opening documentation or information related to bank account transactions, the main source will always be the banks directly and not the register.

294. The types of information that can be provided by banks or other financial institutions to the GTD are broad enough to allow effective exchange of information. Albanian authorities reported that there are no limitations on the ability of the Competent Authority to obtain banking information in response to an EOI request. The GTD can request access to banking information without having a court order. The Competent Authorities further reported that the GTD has ample experience in collecting information from banks and other financial institutions both for domestic and EOI purposes.

B.1.2. Accounting records

295. The LTP requires taxpayers to maintain and provide access on request by the tax administration, to registers, accounting records, financial books, information, and documents necessary to determine the accurate calculation of the taxpayer's tax liability (Articles 46, 48 and 60 of the LTP). The same powers can be used to access information for EOI purposes (Articles 24 and 61/1 of the LTP).

296. Furthermore, the GTD has direct access to tax databases, which include all tax returns and financial statements accompanying them. Accordingly, if a requesting party asks for limited information such as annual tax returns or elements of income etc., the Competent Authority can directly use information contained in the GTD's databases.

297. During the review period, Albania received 53 requests for accounting records. The Competent Authority gathered the necessary information to reply to the requests from NBC databases and from the regional tax directorates who in turn gathered the information from the taxpayers' files or by verification at taxpayers' premises. Thus, the Competent Authority was able to reply to all requests pertaining to accounting information with information either from GTD's databases, NBC's databases or from the taxpayers themselves.

B.1.3. Use of information gathering measures absent domestic tax interest

298. The concept of “domestic tax interest” describes a situation where a contracting party can only provide information to another contracting party if it has an interest in the requested information for its own tax purposes. The 2016 Report concluded that the information powers provided to the GTD under the LTP can be used to provide EOI assistance regardless of whether Albania needs the information for its own taxation purposes. However, since Albania had recently amended the LTP, Albania was recommended to monitor the application of Article 61/1 of the LTP in practice. Article 61/1 of the LTP specifically ensures that domestic information gathering powers can be used for EOI purposes.

299. The Albanian Competent Authority reported that it had no problems or issues with collecting and exchanging information absent a domestic tax interest (see paragraph 350).

B.1.4. Effective enforcement provisions to compel the production of information

300. Sanctions for non-compliance with information requests from the GTD are clearly specified in Albanian tax law.

301. The LTP establishes that refusal to provide information to the GTD is subject to a penalty ranging from ALL 10 000 to ALL 50 000 (EUR 81 to EUR 405) per violation (Article 126). These sanctions are applicable to both taxpayers and third parties that refuse to provide the GTD with requested information for domestic or EOI purposes.

302. Furthermore, if tax authorities have reliable information that the taxpayer is hiding information on its economic or financial state, they can independently seize tax documents, computers and fiscal equipment such as cash registers or other devices used to record sales or other business transactions, and other equipment that might contain taxpayer’s documentation or information (Article 127(3) of the LTP).

303. As discussed in Section C.5, Albania does not have systematic procedure in place to follow up on information holders that do not respect the deadline given when Competent Authority requests information from them. During the review period, the Albanian authorities reported that they did not rely on the above-mentioned compulsory powers to access information or issue penalties as third-party information holders always complied to their requests, although not always within the given deadline.

B.1.5. Secrecy provisions

Bank secrecy

304. The 2016 Report concluded that Albania's legal framework contained sufficient defined exceptions to bank secrecy to ensure that bank information can be accessed for EOI purposes and that enforcement measures were in place, should a bank refuse to furnish the GTD with requested information. This remains the case.

305. The Law on Banks establishes that banking information should be kept secret. Articles 91 and 125 define the obligation of banks, supervisory authorities of banks, bank employees (current and former) to protect information that banks receive in their normal course of business. Article 125 provides for the protection of client information.

306. Furthermore, Article 91(2) indicates under which circumstances clients' banking information can be disclosed. Accordingly, the information will be made available only to the Bank of Albania, the statutory auditor of the bank or branch of a foreign bank, administrators, agents, and employees of supervisory authorities of the foreign correspondent bank, to juridical authorities whose right derives from the law, as well as when it is necessary for the protection of interests of the bank or branch of foreign bank during legal proceedings, and to the conservator or liquidator appointed by the Bank of Albania.

307. Albanian authorities clarified that the wording referring to "juridical authorities whose right derives from the law" together with Article 62 of the LTP, which requires banks to give information to the GTD, impose an obligation to disclose information to the GTD. The term "juridical authorities" is defined in the Civil Code and includes any administrative body provided for in current legislation with regard to the administrative procedures, law making and judicial and prosecution body of every level. This definition includes the GTD, which has special access powers under the LTP to banking information.

308. In practice there has never been a case where a bank has disputed the information gathering powers of the GTD and the Competent Authority was able during the review period to obtain banking information from banks for both domestic tax investigations and EOI requests.

Professional secrecy

309. The 2016 Report highlighted that it was unclear whether Article 63 of the LTP would require notaries and tax advisors to disclose information to the GTD in case of exchange of information for criminal tax matters.

The 2016 report noted that Albania had recently introduced new legislation and regulation explicitly providing for access powers to collect information for EOI purposes. In May 2015 the Minister of Finance issued Instruction No. 15/2015 that contains procedures for information gathering from third-party information holders for EOIR purposes. The instruction reiterates that domestic access powers that the GTD has according to the LTP extend to information gathering for EOIR purposes. The instruction furthermore states that the GTD takes measures to apply penalties if the information holder does not provide the necessary information. However, since this new legislation entered into force after the review period, it could not be tested in practice and Albania was recommended to monitor the application of the new legislation to ensure that the access powers allow for effective EOI.

310. Article 63 of the LTP contains exemptions from the obligation to provide information to lawyers, notaries, tax advisors, doctors and medical staff. The information those professions might be privy to in the regular conduct of their business is exempted from disclosure to the GTD in tax investigation cases.

311. The Albanian authorities explained that the provision would not impede effective exchange of information since the term “tax investigation” in the article refers to domestic criminal tax investigations. Foreign tax investigations (criminal and civil) would not be covered by the provision. Furthermore, in December 2014 a new article was added to the LTP, Article 61/1, which gives the GTD powers to request from “any person”, “any information” needed to fulfil obligations contained in an international exchange agreement in force in Albania.

312. It is unclear whether the National Chamber of Advocacy and the Chamber of Notaries share those views as their representatives did not attend the on-site visit. Moreover, during the review period Albania did not receive any EOI requests that required them to gather information from lawyers, attorneys, notaries or tax advisors. It is therefore still unclear whether notaries and tax advisors would disclose information to the GTD in case of exchange of information for criminal tax matters. Albania is recommended to continue monitoring the effectiveness of Article 61/1 of the LTP and Instruction No. 15/2015 of the Ministry of Finance (see Annex 1).

313. Furthermore, Article 9 of the Law on the Profession of Lawyers states that lawyers are prohibited from disclosing information provided by a person that the lawyer is representing or defending. The same prohibition applies to documents that this person provides for in the context of defence. The client can expressly in writing authorise the release of information and documents. Therefore, the lawyer is forbidden to reveal information, unless the client has given written permission.

314. The Albanian Authorities explained that the scope of this professional secrecy only covers documents and information that a client provides in the framework of their defence. In this sense, for instance, a contract drafted by a lawyer, which is not used in defence of the client, would not be subject to professional secrecy under Article 9. Albanian authorities further clarified that professional secrecy under Article 9 would never cover the identity of a beneficial owner. Therefore, the activities of lawyers covered by professional secrecy are restricted and the scope of the attorney-client privilege does not go beyond what the standard prescribes.

315. As explained by the GTD, Article 61/1 of the LTP would prevail over Article 9 of the Law on Profession of Lawyers. However, this has not been tested in practice as the Competent Authority did not receive requests during the review period that required them to seek information from lawyers. Furthermore, since no representatives from the bar association were present during the on-site visit, it is unclear if they share the views of the GTD on this matter. Albania should therefore continue to monitor the effectiveness of Article 61/1 of the LTP (see Annex 1).

B.2. Notification requirements, rights, and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

316. The 2016 Report found that there are no provisions in Albanian law that oblige the GTD to notify a person subject to an EOI request of the existence of the request. Nor is there a requirement to notify the person prior to contacting third parties to obtain information. The rights and safeguards in respect of Element B.2 were found to be “in place” and Albania was rated Compliant.

317. There have been no relevant changes in the applicable general rules and the situation as assessed for this review remains the same. The conclusions are as follows:

Legal and Regulatory Framework: in place

The rights and safeguards that apply to persons in Albania are compatible with effective exchange of information.

Practical implementation of the Standard: Compliant

The application of the rights and safeguards in Albania is compatible with effective exchange of information.

B.2.1. Rights and safeguards should not unduly prevent or delay effective exchange of information

Notification

318. There are no provisions in Albanian law that require the GTD to issue either pre- or post-exchange notices to a taxpayer that is a subject of an EOI request. Furthermore, there are no requirements to notify such a person prior to contacting third parties to obtain information.

319. The GTD is however required to inform the taxpayer of any administrative act, or of any action or omission made for collection of tax liabilities against a taxpayer's property, except when the tax authorities consider that there is a real danger that the taxpayer will transfer property and therefore jeopardise the tax assessment (Article 32 of the LTP). Albanian authorities confirmed that the right under Article 32 does not apply in the context of obtaining and providing information in relation to an EOI request and such notification does not occur in practice.

320. Furthermore, in Instruction No. 15 from the Ministry of Finance from 18 May 2015 on collection of information for EOI, no notification is required.

321. The EOI manual used by the Albanian Competent Authority reflects the absence of notification rights. Albanian authorities confirmed that they did not notify any taxpayers regarding an EOI request during the review period.

322. In practice, Albanian Competent Authority may have to require the taxpayers themselves to provide necessary information to be able to respond to EOI requests. In those cases, the taxpayers are provided with the minimum amount of information needed to allow them to respond to the requests. On no account does the Competent Authority provide the taxpayers with the requests themselves.

323. The EOI manual, furthermore, prescribes that where it is necessary to contact a third-party information holder to gather information needed to reply to an EOI request, the Competent Authority sends a request for information to the third party. The request contains the legal reference granting the access power, in this case Articles 61 and 61/1 of the LTP, and a description of the requested information. Any reference to Article 61/1 indicates to the information holder that the information is required in connection with an EOI request, but the name of the requesting jurisdiction or the EOI request are never disclosed. Albanian authorities indicated that the requesting jurisdiction usually asks that the taxpayer should not be informed of the existence of the request. Although the Albanian law does not contain any anti-tipping off mechanisms for tax matters, the risk that the taxpayer be informed of the EOI request is limited in practice due to an anti-tipping

off tradition. This tradition was confirmed during the on-site visit, during which representatives from the Albanian Banking Association informed that in practice they never notify their customers that the GTD has requested information in relation to an EOI request.

Appeal rights

324. The LTP (Article 106) allows taxpayers and third-party information holders to appeal against any assessment notice, any decision that affects their tax liability, any claim for refund or tax relief, or any specific tax-related executive act including notice to produce information, in relation to the taxpayers, in accordance with the Code of Administrative Procedures. Such an appeal must be made in writing within 30 days from the date of the decision and filed with the Directorate of Appeals. Decisions of the Directorate of Appeals can then be appealed to the courts within 30 days from the date of becoming aware of the decision.

325. The Albanian Competent Authority reported that to date no taxpayer or third-party information holder has appealed against a notice to produce information.

Part C: Exchange of information

326. Sections C.1 to C.5 evaluate the effectiveness of Albania's network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all of Albania's relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether Albania's network of EOI mechanisms respects the rights and safeguards of taxpayers and whether Albania can provide the information requested in an effective manner.

C.1. Exchange of information mechanisms

Exchange of information mechanisms should provide for effective exchange of information.

327. The 2016 Report concluded that Albania's network of EOI relationships was in line with the standard and provided for effective exchange of information by ensuring that all requests which meet the principle of foreseeable relevance can be responded to. The report nonetheless pointed out limitations with certain EOI agreements and advised that Albania continue its programme of renegotiating its older treaties to incorporate wording in line with Article 26(4) and 26(5) of the OECD Model Tax Convention. The 2016 Report further noted that Albania had in total 102 EOI relationships, based on 40 bilateral DTCs²⁰ of which 35 were in force and the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention). The DTC between Albania and Switzerland that was signed in 1999 does not contain a provision that allows for exchange of information and was not considered for the purpose of the 2016 Report.

328. Since then, Albania signed Protocols with Kosovo,²¹ Luxembourg and Switzerland and thereby updated the DTCs with these jurisdictions

20. The 2016 Report does not mention the DTC between Albania and Qatar that has been in force since 2 July 2012 and is covered in the present review.

21. See footnote 1.

so that they are in line with the exchange of information article in the OECD Model Tax Agreement.

329. Albania has now an EOI network covering 147 jurisdictions, through 46 DTCs and the Multilateral Convention, with 2 DTCs²² not covered by the Multilateral Convention.

330. Since the 2016 Report, Albania has signed DTCs in line with the standard with Finland, Israel and Saudi Arabia. In addition, the DTC between Albania and Iceland entered into force on 1 January 2016. There are still three DTCs not in force, but EOIR with each of these partners can take place through the Multilateral Convention.

331. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms of Albania.

Practical implementation of the Standard: Compliant

No issues have been identified that would affect EOIR in practice.
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Other forms of exchange of information

332. In addition to EOIR, Albania also exchanges information spontaneously with treaty partners. The EOI manual contains procedures for both sending and receiving spontaneous information. During the review period, Albania received spontaneous information on ten taxpayers but did not send any spontaneous information to its treaty partners.

C.1.1. Standard of foreseeable relevance

333. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic taxes of the requesting jurisdiction.

334. All EOI instruments of Albania refer to information that is “foreseeable relevant”, relevant” or “necessary” to the administration and enforcement of the domestic taxes. The words “relevant” or “necessary” are interpreted by the Albanian Competent Authority as an alternative term to foreseeable relevance (see paragraphs 224-227 of the 2016 Report).

22. Egypt and Kosovo.

Clarifications and foreseeable relevance in practice

335. The 2016 Report did not describe any difficulties that Albania had regarding the standard of foreseeable relevance. Albania had neither declined a request on the basis that it was not foreseeably relevant nor did the Competent Authority ask for clarifications from its treaty partners in this regard.

336. The Albanian EOI manual states that an EOI request must be validated by verifying that the request is in line with the exchange agreement that it is based on, and the Competent Authority reported that this verification includes a check on the foreseeable relevance of the information requested. However, during the on-site visit the Competent Authority was unable to provide information on what steps it takes to verify that requests fulfil this requirement and did not appear to demonstrate a full understanding of the meaning of the term. The Albanian Competent Authority further reported that most of the requests received during the review period were not complex in nature, and that there had been no cases where clarifications on foreseeable relevance were necessary. Albania's peers have not reported any issues with this requirement. However, the Albanian Competent Authority should broaden their knowledge on the concept of foreseeable relevance and include guidance in the EOI manual in this respect to avoid wrongly declining more complex requests that Albania could receive in the future (see Annex 1).

Group requests

337. None of Albania's DTCs exclude group requests. The EOI manual does not contain any specific guidance for group requests, but Albania's Competent Authority indicated that despite never having received a group request, they are familiar with the Commentary to Article 26 of the OECD Model Tax Convention and would be capable of addressing a group request, should such a request be received. This has however, never been tested in practice. Albania should include in its EOI manual guidance to tax officials on how to handle group requests (see Annex 1).

C.1.2. Provide for exchange of information in respect of all persons

338. The 2016 Report discusses that at that time 37 of Albania's DTCs specifically provided for exchange of information in respect of all persons and that the DTCs with Luxembourg, Malaysia and Türkiye were limited to persons covered by the Agreement. However, the DTCs with Luxembourg and Türkiye provide for the exchange of information as necessary for carrying out the provisions of the domestic laws of the Contracting States

concerning taxes covered by the Agreement. To the extent that domestic laws are applicable to residents and non-residents, information can also be exchanged under these agreements in respect of all persons, including non-residents.

339. The 2016 report concluded that this rationale also applies to the DTC between Albania and Malaysia, which provides that it shall apply to exchange of information for purposes of prevention or detection of evasion or avoidance of taxes covered by the convention. Since the Albanian Income Tax Law is applicable to residents and non-residents alike, it can be stated that even in the absence of reference to Article 1 of the OECD Model Tax Convention, the contracting states are under obligation to exchange information in respect of all persons.

340. Since the 2016 Report, Albania and Luxembourg have revised their DTC with a Protocol signed in October 2020 that explicitly indicates that exchange applies irrespective of the tax residence of the persons concerned. The DTCs with Malaysia and Türkiye are also now complemented by the Multilateral Convention in force in the three jurisdictions.

341. As stated previously in this report, all of Albania's EOI relationships now allow for exchange of information in respect to all persons.

342. During the review period Albania did not receive any request for information with respect to persons who were not residents either in Albania or in the requesting jurisdiction.

C.1.3. Obligation to exchange all types of information

343. All DTCs that Albania has negotiated since the 2016 Report contain language in line with Article 26(5). The 2016 Report noted that out of Albania's 40 DTCs, 9 contained language akin to Article 26(5) of the OECD Model Tax Convention providing for the obligation of the contracting parties to exchange information held by financial institutions, nominees, agents and ownership and identity information. The report, furthermore, reported that 31 of these DTCs would be covered by similar provision in the Multilateral Convention. That left 8 DTCs²³ where Albania had not signed a bilateral or multilateral agreement with language in line with to Article 26(5). Albania was invited to continue its programme of renegotiating older treaties and incorporate wording in line with Article 26(5) of the OECD Model Tax Convention. Since then, a protocol to 1 DTC was signed that includes the language of Model Article 26(5) and 6 other jurisdictions are now covered by the Multilateral Convention. This leaves only the DTC

23. Bosnia and Herzegovina, Egypt, Kuwait, North Macedonia, Malaysia, Montenegro, Serbia and Kosovo.

with Egypt lacking in this respect. Albanian authorities nonetheless reported that they are in the process of using diplomatic channels to exchange notes with these 7 jurisdictions, to propose that Article 26 of the existing DTCs be interpreted in line with the standard.

344. The 2016 Report however, concluded that the absence of this language did not automatically create restrictions on exchange of bank information as the commentary to Article 26(5) indicates that the addition of Paragraph 5 represents a change in the structure of the article and should not be interpreted to suggest that previous versions of the Article did not authorise the exchange of such information.

345. Furthermore, Albanian authorities report that they would not have any issues with exchanging all types of information (including bank information, or information that is held by nominees or persons acting in an agency or fiduciary capacity or because the information relates to ownership interest). Albania is nonetheless invited to bring its EOI relationship with Egypt clearly in line with the standard (see Annex 1).

346. The Albanian Competent Authority reported that during the review period they were able to reply to requests for banking information, including requests from Kosovo and North Macedonia, and that no requests were concerning information held by nominees or persons acting in an agency or fiduciary capacity. During the on-site visit representatives from the Albanian Banking Association informed that banks comply with request for banking information from the Albanian Competent Authority. Peers noted that generally there were no issues in obtaining banking information from Albania.

C.1.4. Absence of domestic tax interest

347. New DTCs that Albania has negotiated since the 2016 Report and protocols that have been signed to update older DTCs all contain language akin to Article 26(4) that indicates that EOI is not subject to a condition of domestic tax interest for the requested jurisdiction.²⁴

348. There are no domestic tax interest restrictions in Albania's powers to access information for EOI purposes (see Section B) but if some exist in the partner's legislation, this could be an impediment to exchange of information in case the underlying EOI instrument does not contain a clause similar to Model Article 26(4) and exchange is subject to reciprocity – this is the case with Egypt only.

24. This is also the case for the Multilateral Convention and DTC analysed in the 2016 Report with Estonia, Germany, India, Ireland, Morocco, Singapore, Spain, United Kingdom and the United Arab Emirates.

349. Albanian authorities reported that this jurisdiction does not have significant economic relations with Albania and that Albania is in the process of using diplomatic channels to exchange notes to propose that Article 26 of the existing DTC be interpreted in line with the standard. In addition, Albanian authorities reported that they would not have an issue with exchanging information where there is no domestic interest, should this exchange partner send an EOI request to Albania.

350. During the review period, the Albanian Competent Authority received 46 requests for information on non-resident taxpayers and replied to all of them. In all cases, the aim of the requests was to verify whether these non-resident taxpayers had realised or declared income from employment, taxable economic activity and such in Albania.

C.1.5 and C.1.6 Civil and criminal tax matters

351. Albania's exchange agreement network provides for exchange of information in both civil and criminal matters, with no dual criminality restriction.

352. The Competent Authority advised that the same procedure is applied regardless of whether the information is requested for civil or criminal tax purposes as per Instructions No. 15 from the Ministry of Finance and the EOI manual.

353. During the review period, Albania did not receive EOI requests in relation to criminal tax matters.

C.1.7. Provide information in specific form requested

354. There are no restrictions in Albania's domestic laws that would prevent it from providing information in a specific form if it is consistent with its own administrative practices. Peer input indicated that Albania provides the requested information in adequate form and no issues were reported in this respect.

C.1. 8 and C.1.9 Signed agreements should be in force and be given effect through domestic law

355. All the EOI relationships of Albania are in force, except where the partner has not deposited its instruments of ratification of the Multilateral Convention.

356. Three bilateral instruments are not in force but are complemented by the Multilateral Convention, which is in force with these three partners. First, Albania has not ratified the bilateral DTC with Morocco and has not provided an explanation on why the Albanian Parliament has not ratified this DTC.

Second, the Albanian Parliament has ratified both the DTC and the Protocol between Albania and Luxembourg and has taken all necessary legal and procedural steps in order for this agreement to enter into force, but the same has not been done by Luxembourg. Thirdly, the ratification process of the DTC between Albania and Finland (signed in June 2022) is under way.

357. The ratification process in Albania takes generally less than a year from the signature of the DTC. The Ministry of Finance, the Ministry of Justice and the Council of Ministers must approve the convention after its signature and before it is sent to a Parliamentary Commission for discussion. The final step is the approval of Parliament.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	147
In force	137
In line with the standard	136
Not in line with the standard	1 [Egypt]
Signed but not in force	10
In line with the standard	10 (Multilateral Convention)
Not in line with the standard	0
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	2
In force	2 [Egypt and Kosovo]
In line with the standard	1
Not in line with the standard	1
Signed but not in force	0

C.2. Exchange of information mechanisms with all relevant partners

The jurisdiction's network of information exchange should cover all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.

358. The 2016 Report concluded that Albania had in place a network of information exchange instruments that covered all significant partners, including Albania's main trading partners, and rated Albania Compliant with the requirement of the standard of having a network of EOI mechanisms that covers all relevant partners (Element C.2). Albania was encouraged to continue to develop its exchange of information network with all relevant partners.

359. Albania has now an EOI network of 147 partner jurisdictions where 145 are covered by the Multilateral Convention (alone or in addition to DTCs) and 2 are covered by DTCs alone.

360. Albanian authorities have indicated that Albania is always willing to negotiate EOI agreements with other jurisdictions and has never declined a negotiation request. While most of the increase in number of EOIR partners is due to the increased number of signatories to the Multilateral Convention, Albania continued negotiating and signing DTCs and EOIR protocols to DTCs that are in line with the standard (see Annex 2).

361. Comments were sought from Global Forum members and no Global Forum member indicated, in the preparation of this report, that Albania refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering such relationship, Albania should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

362. The conclusions are as follows:

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of Albania covers all relevant partners.

Practical implementation of the Standard: Compliant

The network of information exchange mechanisms of Albania covers all relevant partners.

C.3. Confidentiality

The jurisdiction's information exchange mechanisms should have adequate provisions to ensure the confidentiality of information received.

363. The 2016 Report concluded that the applicable treaty provisions and statutory rules that apply to officials with access to treaty information and the practice in Albania regarding confidentiality were in accordance with the standard.

364. All the new EOI agreements that Albania has entered into since the 2016 Report are in line with the confidentiality standard. The confidentiality legal obligations have not changed since the 2016 Report and continue to be enforced in practice.

365. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms and legislation of Albania concerning confidentiality.

Practical implementation of the Standard: Compliant

No material deficiencies have been identified and the confidentiality of information exchanged is effective.

C.3.1. Information received: disclosure, use and safeguards

366. All of Albania's EOI agreements meet the standard for confidentiality, including the limitation on disclosure of information received and use of the information exchanged, which are reflected in Article 26(2) of the OECD Model Tax Convention. The wording in a few DTCs may vary slightly from Article 26(2) in the OECD Model Tax Convention, but contains nevertheless, all essential aspects of the OECD wording.

367. Accordingly, Albania should treat any information received from its exchange partners confidential and only disclose the information to certain specified persons or authorities and for certain specified purposes.

368. Article 31 of the LTP prescribes that tax and financial information of a taxpayer that is held by the tax authorities is confidential. Furthermore, Article 25(1) of the LTP prohibits civil servants in the tax administration from disclosing any taxpayer information which they become aware of in their statutory duties without taxpayer consent. In case of unlawful disclosure, administrative and criminal sanctions apply. This confidentiality obligation remains indefinitely following a termination of engagement. Article 25(5) and Article 61/1 of the LTP provide that the same confidentiality rules as for information relevant for domestic tax purposes apply to information exchanged pursuant to an EOI instrument. The confidentiality provisions cover the EOI request itself, background documents to such requests and any other document that contains such information, including communication between Albania and the exchange partner.

369. There are a few provisions in Albanian law, which allow for taxpayer information being made public. These exceptions refer to cases where tax collection procedures have commenced, and where taxpayers have waived the right to confidentiality in writing. The Terms of Reference, as amended in 2016, clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides that the information may be used for

such other purposes under the laws of both contracting parties and the Competent Authority supplying the information authorises the use of information for purposes other than tax purposes. The Multilateral Convention provides for such a possibility. In any case, exchanged information is only used and disclosed in accordance with the terms of Albania's international exchange agreements, which according to Article 122 of the Constitution prevail over ordinary laws in all cases.

370. In the period under review, Albania reported that there were no requests where the requesting partner sought Albania's consent to utilise the information for non-tax purposes and similarly Albania did not request its partners to use information received for non-tax purposes.

371. In addition, information holders, including taxpayers, do not have the right to access information contained in the EOI file.

372. The Albanian Competent Authority reported that information requests sent to third-party information holders identify the relevant taxpayer only if that is necessary and list the requested information in detail.

373. The requests that Albania receives are relatively simple and the Competent Authority copies from the request what information is sought by the requesting state and translates it to Albanian in the request to the information holder. Since the GTD must cite Article 61/1 of the LTP when requesting information for EOI purposes, the information holder knows that the request is made to respond to an EOI request. Moreover, the Competent Authority does not disclose what jurisdiction has made the request and does not include in the request to the information holder the foreseeable relevance reasoning provided by the requesting jurisdiction (see also Section B.2).

C.3.2. Confidentiality of other information

374. Article 61/1 and Article 25(5) of the LTP provide that the confidentiality rules that apply to domestic information also applies to information that is exchanged under EOI instruments, unless the EOI instrument provides otherwise. The scope of these provisions extends to all institutions and individuals involved in the exchange of information. Furthermore, the wording of these provisions covers the request for information itself, background documents and any other document reflecting such information.

Confidentiality in practice

Human resources and training

375. The Law on Civil Servants No. 152/2013 sets the general requirements that must be fulfilled when entering civil service. According to

Article 21, candidates may not have been sentenced by a final court decision for the commission of crime or an intentional criminal contravention. Furthermore, candidates may not have been dismissed from the civil service as a disciplinary sanction. To ascertain that these conditions are fulfilled, all new recruits of the GTD undergo a criminal background check. Criminal background checks for existing staff are conducted annually. Furthermore, employees with access to exchanged information undergo a security clearance every five years.

376. When taking up duty, staff are required to sign a statement acknowledging their confidentiality obligations in respect of data collected. Confidentiality responsibilities of staff are further documented in employment contracts and the Code of Ethics. The EOI manual reiterates the confidentiality provisions in the LTP and explains further the confidentiality conditions in EOI instruments.

377. Confidentiality obligations continue after the termination of staff engagement. Upon staff departure, managers are responsible for notifying all relevant departments within the GTD so that all staff access, physical and logical, is revoked. Employees that are leaving the administration must obtain a certificate stating that all assets (computer, printer, access card, etc.) have been returned.

378. All tax administration staff receive training when taking up duty (induction training) that covers inter alia confidentiality issues and use of data. Annual training with respect to confidentiality and data safeguards is delivered to all staff at least once a year. Confidentiality requirements of EOI is a subject of yearly training for the Competent Authority and other staff involved in EOI work.

379. Managers are responsible for ensuring the staff fully understand and comply with confidentiality and security requirements. The Law on Civil Servants requires employees to report suspected or actual unauthorised access to their direct manager.

Physical and logical security measures

380. The GTD has a physical access policy and procedures in place as well as a policy and procedures on access to IT systems and applications. Access is based on the “need to know” and “least privilege” principles. Buildings are guarded and have restricted access. Staff have photo-ID access cards and visitors are registered and always escorted. Security incidents are recorded and managed in a systematic manner.

381. The GTD has adequate IT security controls in place and monitors those controls. Workstations and servers have antivirus software and

there are restrictions on software installation and execution. Workstations are password protected and passwords are subject to regular changes. Workstations are screen locked when they have been inactive for 15 minutes, and tax systems sessions are logged out after 3 minutes of inactivity. Successful and failed login attempts are logged and monitored. USB ports on workstations are disabled and there is a technical software solution in place that prevents them from being used.

Labelling and storing of EOI information

382. Exchanged information is classified as Confidential and the EOI manual prescribes how EOI data should be stored and who has access to the information. EOI data are either stored electronically in password-protected files or physically in locked cabinets, with the same level of security with access awarded only to the Competent Authority and the EOI staff. Clean desk and clean screen policies are in place.

383. The Competent Authority usually receives EOI requests by encrypted or password protected email through a dedicated EOI email address and replies to the requests in the same manner. Outgoing requests are usually sent by email unless the receiving jurisdiction prefers another method.

384. Incoming EOI requests both in hardcopy and on email are usually labelled by the requesting jurisdiction as treaty exchanged. If incoming hardcopy requests are not labelled, the Competent Authority will stamp the request as treaty exchanged as prescribed in the EOI manual and store them in locked cabinets in the Competent Authority's office (in the Director General's office after the file has been closed). Incoming email requests are stored on a separate network on password protected files which only the Competent Authority has access to. During the on-site visit, the Competent Authority admitted that email requests are not labelled by Albania if such a label is missing from the requesting country. However, emails and other correspondence between the Albanian Competent Authority and the partner jurisdictions are never shared outside of the EOIR staff.

385. Outgoing requests are labelled as confidential and treaty exchanged. When the Competent Authority receives the requested information and shares it with tax auditors, a cover letter is prepared and enclosed where the rules on confidentiality and use of exchanged information are explained. During the on-site visit, the Competent Authority disclosed that a treaty exchange warning is not always stamped on every page. However, after the on-site visit the Competent Authority informed that practices and processes have changed to ensure that all received EOI information is labelled accordingly.

386. Not labelling exchanged information as treaty exchanged carries the risk that the persons who have access to the information are unaware of the confidentiality rules that apply to such information. Albania should, therefore, ensure that digitally received EOI information is labelled as treaty exchanged (see Annex 1).

Breach monitoring and breach response

387. The GTD logs and monitors use of operating systems and equipment for unusual activity. Access logs are backed up and securely protected from manipulation. As mentioned in paragraph 379, all staff have the obligation to report suspected or actual breaches. There is an incident management system in place to ensure the reporting and escalation of incidents, including confidentiality breaches.

388. Where misconduct is suspected or observed, an investigation will be launched according to a set procedure and matters referred to a disciplinary commission that decides which sanctions to apply. Potential criminal cases are referred to the prosecutor's office.

389. Albania's legal framework provides for the imposition of penalties and sanctions for improper use and disclosure of taxpayer information, including exchanged information, by employees. According to the Criminal Code, it is a criminal offence punishable by a fine or imprisonment up to two years for a person to illegally disclose information obtained in the course of his/her profession or duty. Unauthorised disclosure of tax information, including exchanged information, can constitute a crime of abuse of duties punishable by imprisonment up to seven years. Administrative and disciplinary sanctions prescribed in the Law on Civil Servants include salary reductions, suspension of promotion possibility and of salary increases or up to two years.

390. Albanian authorities report that so far there have been no data breaches or leaks concerning exchanged information.

C.4. Rights and safeguards of taxpayers and third parties

The information exchange mechanisms should respect the rights and safeguards of taxpayers and third parties.

391. The 2016 Report concluded that Albania's legal framework and practices concerning rights and safeguards of taxpayers and third parties are in line with the standard. Albania has not reported any change in this area since the 2016 Report.

392. The Multilateral Convention and all of Albania's DTCs contain a provision akin to Article 26(2) of the OECD Model Tax Convention that stipulates that a Contracting State is not obliged to supply information, which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information which if disclosed would be contrary to public policy.

393. Albania reported that communication between a client and an attorney or other legal representative are only privileged to the extent that attorneys or other legal representatives act in their capacity as an attorney or other legal representative. Professional privilege does, therefore, not cover information when attorneys or other legal representatives act in another capacity, such as nominee shareholders, trustees, settlors or company directors, and relates only to documents and information that a client provides in the framework of their defence, which is in line with the standard.

394. During the review period, there were no cases where the Competent Authority had to request information from attorneys, lawyers or other legal representatives where professional privilege could have been claimed.

395. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the information exchange mechanisms of Albania in respect of the rights and safeguards of taxpayers and third parties

Practical implementation of the Standard: Compliant

No material deficiencies have been identified in respect of the rights and safeguards of taxpayers and third parties.

C.5. Requesting and providing information in an effective manner

The jurisdiction should request and provide information under its network of agreements in an effective manner.

396. The 2016 Report concluded that there were no legal restrictions in the Albanian Competent Authority's ability to respond to EOI requests in a timely manner, and in practice this was generally the case. The report also set out that input by Albania's peers was generally positive. However, it was noted that during the review period (from 1 January 2012 to 31 December 2014), the Tax Treaties Unit designated to handle inbound EOI requests had a shortage of staff and Albania was recommended to ensure that

appropriate organisational processes and resources were put in place so that requests continue to be responded to in a timely manner in all cases.

397. Since the 2016 Report, the GTD has made changes to the structure so that EOI matters now fall under the Direct Tax Section where four employees work full time with the application of DTCs and EOIR. Furthermore, the GTD has implemented an EOI manual and conducts annual training sessions for EOI staff.

398. These structural changes have not had a positive impact on requests' response time, as it has declined slightly from the 2016 Report. This is against the background that the EOIR activity increased, from 16 requests received in the previous review period to 100 requests during the current period (1 October 2018 to 30 September 2021). The Direct Tax Section has additionally seen an increase in domestic treaty benefit claims that has put a strain on resources and affected the overall EOI work negatively. However, jurisdictions are responsible for providing adequate resources to keep up with increased number of requests.

399. During the review period, peers generally reported that they were satisfied with responses from the Albanian Competent Authority. A number of peers however, reported that status updates were not provided in cases where it took longer than 90 days to send the requested information. The Competent Authority has not systematically sent status updates to exchange partners or follow-up with third party information holders that do not respect deadlines for providing information. These factors have negatively affected response time for simple requests.

400. For these reasons, Albania is recommended to ensure that appropriate organisational processes and resources are put in place so that in all cases requests continue to be responded to in a timely manner.

401. The conclusions are as follows:

Legal and Regulatory Framework

This element involves issues of practice. Accordingly, no determination has been made.

Practical implementation of the Standard: Compliant

Deficiencies identified/Underlying factor	Recommendations
There are gaps in the organisational processes of the Competent Authority that result in failures to follow-up with those information holders who do not respect deadlines set by the Competent Authority. This also causes delays in responses to exchange partners.	Albania is recommended to improve its organisational process and resources so that in all cases requests continue to be responded to in a timely manner.
The Competent Authority does not systematically send status updates when information cannot be provided within 90 days. Some peers reported that even in cases where the Competent Authority was specifically asked for status updates, none were provided.	Albania is recommended to provide status updates to all treaty partners systematically where it is unable to provide a response to a request within 90 days.

C.5.1. Timeliness of responses to requests for information

402. Over the period under review Albania received 100 requests for information from its peers. The information requested pertained to i) general taxation and residency information, ii) legal and beneficial ownership information, iii) banking information, and iv) accounting information. The main EOI partners were Greece, Italy, Germany, Kosovo, Norway, Türkiye and Belgium.

403. The Albanian government ordered a general lockdown in March 2020 to combat the Covid-19 pandemic. During the lockdown, which lasted around three months, most of GTD's employees, including the EOIR staff, worked remotely. The main consequence was on the communication methods used between Competent Authorities as they transitioned from paper to digital communication. The lockdown did not affect the timeliness of responses to EOI requests.

404. The following table relates to the requests received during the period under review and gives an overview of response times of Albania in providing a final response to these requests, together with a summary of other relevant factors affecting the effectiveness of Albania's practice during the period reviewed.

Statistics on response time and other relevant factors

	1 Oct to 31 Dec 2018		2019		2020		1 Jan to 30 Sep 2021		Total	
	Num.	%	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received [A+B+C+D+E]	6	100	41	100	26	100	27	100	100	100
Full response: ≤ 90 days	5	83	35	85	23	88	26	96	89	89
≤ 180 days (cumulative)	6	100	35	85	23	88	26	96	90	90
≤ 1 year (cumulative) [A]	6	100	35	85	23	88	26	96	90	90
> 1 year [B]	0	0	6	15	3	8	1	4	9	9
Declined for valid reasons	0	0	0	0	0	0	0	0	0	0
Outstanding cases after 90 days	1	100	6	100	3	100	1	100	10	100
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)	1	100	4	67	1	50	1	100	7	70
Requests withdrawn by requesting jurisdiction [C]	0	0	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested [D]	0	0	0	0	0	0	0	0	0	0
Requests still pending at date of review [E]	0	0	0	0	1	4	0	0	1	1

Notes: a. Albania counts each request with multiple taxpayers as one request, i.e. if a partner jurisdiction is requesting information about four persons in one request, Albania counts that as one request.

b. The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

405. The overall response time has declined slightly from the previous review. The 2016 Report found that on average 94% of requests were answered within 90 days and 100% were responded to within one year. During this review period, 90% of requests are replied to within the 90 days, 91% within 180 days and 9% after one year.

406. The Competent Authority reported that most of the requests that Albania receives are simple, where the requesting jurisdiction is asking for resident status, income information, tax filing situation and addresses. In all those cases, except for address requests, the Competent Authority can reply with information contained in GTD's databases. When the requesting jurisdiction asks for address information, the Competent Authority must request the information from the regional tax offices and the municipalities, and the relevant information holder has 30 days to provide the information.

407. Furthermore, the Competent Authority informed that in cases where other information such as banking information and accounting records is sought, they request the information from third party information holders

such as banks and from accountants acting in their capacity as accountants of the taxpayers or other information holders. In case of banking information, the bank is given 15 days to reply to the request and in other cases the time limit is 30 days.

408. Information on legal and beneficial owners would be gathered by the Competent Authority from the commercial register.

409. The Competent Authority informed that in the exceptional cases when information must be gathered from third party information holders, the request would always have a specific deadline. However, there is not a systematic follow-up process in place, so requests are not always followed up on in a timely manner if the information holder does not respond within the given deadline (see below). This has led to delays in responding to requests.

410. During the review period, the Albanian Competent Authority did not ask its exchange partners for clarifications and found all requests to meet the standard of foreseeable relevance.

Status updates and communication with partners

411. The Albanian Competent Authority reported that it maintains good communication with its EOI partners and peers confirmed that communication is generally easy.

412. The standard requires jurisdictions to provide an update on the status of requests when they are unable to respond to a request within 90 days. The GTD has in its EOI manual an obligation to provide an interim reply or an update every 90 days until a final reply is issued. Despite this obligation in the EOI manual, the Albanian Competent Authority admitted to not always providing peers with status updates or interim replies when appropriate. This was confirmed by peer input and one peer mentioned that Albania did not provide updates when directly asked for updates. Furthermore, the Albanian authorities explained the lack of status updates with increased workload in domestic application for double taxation relief, which are handled by the EOI unit. Therefore, **Albania is recommended to improve its organisational process and resources so that in all cases requests continue to be responded to in a timely manner.**

C.5.2. Organisational processes and resources

413. The 2016 Report concluded that due to a shortage in staff during the review period, the resources of the Competent Authority were at times overstretched. Furthermore, there was no specific training for EOI work nor was there a formal EOI manual to guide staff on the steps and processes for handling incoming EOI requests. Albania was therefore recommended

to put in place appropriate organisational processes and resources so that requests continue to be responded to in a timely manner in all cases.

414. Since the 2016 Report, the GTD has reorganised, and matters concerning applications of DTCs, such as domestic applications for double taxation relief, as well as exchange of information are now placed in the Direct Taxes Section. The GTD also reports that during the last four years, the staff dealing with EOIR have participated in several trainings organised by the Intra-European Organisation of Tax Administrations and OECD and now receive annual training on confidentiality requirements relating to exchange of information. Furthermore, in 2018 the GTD put an EOI manual in place. The manual is based on the Global Forum's Model Manual on Exchange of Information for Tax Purposes.²⁵

Organisation of the Competent Authority

415. In Albania, the Competent Authority for EOI is the Director General of the GTD who has delegated the daily tasks of the Competent Authority to the Director of Legal and Technical Directorate and the Head of Direct Taxation Section. The Head of Direct Taxation Section is responsible for all practical matters of EOI, including all types of exchange of information and mutual agreement procedures. The responsibility for general policy matters and negotiations of tax treaties remains with the Ministry of Finance.

416. The Albanian Competent Authority is clearly identified to members of the Global Forum in the Global Forum's secure Competent Authorities' database. The persons authorised to sign on behalf of the Competent Authority are the Director General of the GTD, the Head of Direct Taxation Section and the Director of Legal and Technical Directorate. The Albanian Competent Authority has a dedicated email address for EOI purposes that is published in the Competent Authorities' database.

417. Currently, the number of staff dealing with DTCs and EOI matters is seven (six inspectors and one Head of Direct Taxation Section). Four of them work with EOIR matters (sending and receiving requests) with EOIR taking up about 40% of one employee's time.

418. In practice, almost all inbound information requests are handled by either the Head of Direct Taxation Section or an inspector on her team. The Albanian authorities considers this number of staff sufficient to handle the current volume of EOI requests and reports no financial or technical limitations that could negatively affect exchange of information. However, this is in contradiction to the explanation given by the Competent Authority to why Albania failed to send status updates in all cases where the response time

25. <https://www.oecd.org/tax/transparency/documents/EOI-manual.pdf>.

was longer than 90 days (see paragraph 412). The GTD also reports that they are seeking to add one expert to the EOI team.

Resources and training

419. The seven staff members involved with work related to EOI and DTCs have received initial internal training for EOI matters, including on obligations under EOI mechanisms, internal processes on handling EOI requests and confidentiality obligations and attend annual trainings on confidentiality and EOI related issues. Furthermore, the Competent Authority staff have attended symposium and training events held by the Vienna University and OECD on various subjects related to exchange of information.

420. During the on-site visit the knowledge of the Competent Authority and the staff members directly involved with EOI matters on confidentiality obligations was confirmed.

Incoming requests

421. The process for incoming requests is described in the EOI manual. The Competent Authority keeps a registration document (Excel) to monitor inbound and outbound requests. When a request is received, the Head of Direct Taxation Section conducts a preliminary review to check whether the request is valid by verifying: (i) if there is an exchange instrument with the requesting jurisdiction, (ii) if the request should have been submitted to a different jurisdiction, (iii) if the request is regarding tax periods or taxes which are not covered by the exchange agreement, and (iv) if the request is signed by an authorised person from the requesting jurisdiction. The EOI manual specifies that the “validity and completeness” of requests have to be examined “in light of the relevant treaty requirements, and that the request is clear, specific and relevant”. The Competent Authority confirmed that this includes checks on the foreseeable relevance of the requested information. However, when probed on what steps are taken to verify the foreseeable relevance, the Competent Authority was unable to answer. Albania should make sure that necessary steps are taken to ensure that requests fulfil the requirement of foreseeable relevance as a part of the verification process for incoming EOI requests and expressly add guidance on foreseeable relevance to the EOI manual (see Section C.1 and Annex 1).

422. If the incoming request is not sufficient, the Competent Authority will ask the requesting jurisdiction by official letter for clarification. In case of an invalid or incomplete request, the requesting jurisdiction is notified of the deficiency within 60 days of receipt of the request. If the request is incomplete in part, the case will be worked on to provide the information for the

part of the request that is valid. These situations have not occurred during the period under review.

423. When the Competent Authority is satisfied that the request is valid, a designated EOI officer will search for the requested information in GTD's own systems. If the information is available in the GTD's own systems, as it was in many cases during the review period, the EOI officer will draft a response to the requesting jurisdiction and the Head of Direct Taxation Section will sign the response.

424. In certain cases, the EOI officers will not have access to the information despite it being held in the GTD's databases and will have to contact another Directorate or a regional office within the GTD to obtain the information. In those cases, the relevant Directorate will have 30 days to respond to a written request from the Competent Authority and provide the requested information. The Competent Authority will set an alert in the EOI registration document for a follow-up. The same procedure applies when the information must be obtained from sources outside the GTD.

425. When the requested information is in the possession of a taxpayer or entity that is the subject of the enquiry, the Regional Tax Directorate that administers that taxpayer or entity is contacted. A letter is issued by the Competent Authority requesting the assistance of the Regional Tax Directorate in obtaining the requested information within 30 days.

426. In practice the Competent Authority has not experienced difficulties in obtaining information in these cases but remarked that the deadlines given to provide information were not always respected. Furthermore, the Competent Authority remarked that they had not always adhered to the rule of following-up with other Directorates, including the Regional Tax Directorate when deadlines have not been respected.

427. The EOI manual states that when the requested information is in the possession of a bank, a formal letter that is approved and signed by the Director General of the GTD is sent to the bank, requesting the information. The letter allows the bank 15 days from the receipt of the letter to provide the information or give an explanation on why it is unable to do so. If the bank does not provide the information within the specified deadline, the responsible EOI officer should follow up either by phone or email. In exceptional cases, the bank can ask for an extension. The Competent Authority reported that extensions should never be longer than 30 days from the date of receipt of the original letter to the bank. During the on-site visit representatives from the banking sector expressed the view that they were able to respond to requests for banking information within the given time limit.

428. The Competent Authority explained during the on-site visit that requests for bank information that fulfil the foreseeable relevance criteria

would not have to identify account holders by name if other identifying information such as account number, credit card number etc. was included in the request. The same applies for requests where the financial institution is not known. Albania has received requests where the bank is not identified and in those cases the Competent Authority contacts all banks in Albania and asks for the requested information.

429. In all cases, the Competent Authority verifies that all requested information has been gathered and labels the information as treaty exchanged before sending a reply to the requesting jurisdiction. A copy of the signed reply is put on file and the EOI registration document is updated accordingly.

430. The Competent Authority reported that they have had, in few cases, practical difficulties in obtaining information from third party information holders including when the information is held by other government authorities, mainly due to the information holders not respecting the time deadlines set by the GTD. The Competent Authority also acknowledged that a more systematic follow-up procedure was needed in those cases.

431. As described by the Albanian authorities, there is a system in place that prompts the Competent Authority to send status updates and follow up in those cases where the information holder has not respected the deadline given for providing information. However, since the update process as well as the follow-up process is manual, there is nothing systematic in place that ensures that updates as well as follow-ups are sent, and in practice this was not done in several cases. Therefore, **Albania is recommended to provide status updates to all treaty partners systematically where it is unable to provide a response to a request within 90 days.**

Outgoing requests

432. The process for outgoing requests is described in the EOI manual. Local tax auditors can send requests for information from foreign sources to the Competent Authority. The Competent Authority labels the request accordingly and registers it in the EOI registration document with the necessary details (case name, receipt date, taxpayer's name, etc.). Acknowledgement of receipt is then sent to the local tax auditor.

433. The Competent Authority checks if: i) there is an EOI arrangement with the relevant jurisdiction, ii) the request should be sent to a different jurisdiction, iii) the period and taxes are covered by the EOI agreement, iv) the submitted information is sufficient and the request is clear and specific, v) the auditor has used all possible domestic means to obtain the needed information, and vi) the information is "necessary" or "foreseeably relevant". If no EOI agreement exists with the jurisdiction from which the information is requested or if the request deals with tax periods or taxes

that are not covered by the exchange instrument, the Competent Authority notifies the auditor and closes the case.

434. If, however, the request is valid, the Competent Authority will assign an EOI officer to the case. The EOI officer will open an electronic file secured with a password and accessible only by authorised persons of the EOI unit. The EOI officer will then prepare a letter to the foreign Competent Authority with all supporting documents attached. The Albanian Competent Authority signs off on the request before it is sent. The EOI manual requires that the request be complete and comprehensive and include as much detail as possible. It contains a template for EOI requests as well as a detailed checklist of what to include in a request. The request is then sent by secure traceable mail or by encrypted email. The responsible EOI officers can track the progress of the request and update the EOI registration document each time an action is taken on the file.

435. Once a response is received, it is stamped with a receipt date and recorded in the EOI registration document. The responsible EOI officer verifies the information sent against the request and if the response is perceived to be incomplete or inadequate, further enquiries are made to the jurisdiction providing the information. In case the provided information is complete, an acknowledgement letter is sent and the local tax auditor notified of the response and the received information. Furthermore, the local tax auditors are reminded of the confidentiality obligations in respect to exchanged information and any documents forwarded bear a confidentiality and treaty protected stamp (see Section C.3 above).

436. During the review period, Albania sent 43 EOI requests. Three requested jurisdictions asked for clarifications in 4 cases (i.e. in 9% of the cases). In 2 cases, a peer sought clarification on the foreseeable relevance of the requested information. Two peers reported that in 2020 Albania had not replied to the clarification requests (total of three cases). The Albanian Competent Authority noted that due to time constraints and lack of resources, they had not been able to reply to the clarification requests. Albania should ensure that requests for clarifications from its EOI partners are responded to in a timely manner (see Annex 1).

437. Generally, peers noted that Albania's requests are overall complete and compliant with the standard, including with the requirement of foreseeable relevance.

C.5.3. Unreasonable, disproportionate, or unduly restrictive conditions for EOI

438. There are no factors or issues identified that could unreasonably, disproportionately, or unduly restrict effective EOI in the case of Albania.

Annex 1: List of in-text recommendations

The Global Forum may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, the circumstances may change, and the relevance of the issue may increase. In these cases, a recommendation may be made; however, it should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be stated in the text of the report. A list of such recommendations is reproduced below for convenience.

- **Element A.1:** Albania should monitor if retention obligations of entities that have ceased operations are respected and clarify the obligations where necessary (see paragraphs 147, 235 and 240).
- **Element B.1:** Albania should continue monitoring the effectiveness of Article 61/1 of the LTP (that explicitly provides for access powers for collecting information for EOI) and Instruction No. 15/2015 of the Ministry of Finance (on related procedures) (see paragraphs 312 and 315).
- **Element C.1:** The Albanian Competent Authority should broaden their knowledge on the concept of foreseeable relevance and include guidance in the EOI manual in this respect to avoid wrongly declining more complex requests that Albania could receive in the future (see paragraph 336).
- **Element C.1:** Albania should include in its EOI manual guidance to tax officials on how to handle group requests (see paragraph 337).
- **Element C.1:** Albania is invited to bring its EOI relationship with Egypt clearly in line with the standard (see paragraph 345).
- **Element C.2:** Albania should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 361).
- **Element C.3:** Albania should ensure that digitally received EOI information is labelled as treaty exchanged (see paragraph 386).

- **Element C.5:** Albania should make sure that necessary steps are taken to ensure that requests fulfil the foreseeable relevance requirement as a part of the verification process for incoming EOI requests and expressly add guidance on foreseeable relevance to the EOI manual (see paragraph 421).
- **Element C.5:** Albania should ensure that requests for clarifications from its EOI partners are responded to in a timely manner (see paragraph 436).

Annex 2: List of Albania’s EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Austria	DTC	14.12.2007	01.09.2008
2	Belgium	DTC	14.11.2002	01.09.2004
3	Bosnia and Herzegovina	DTC	17.06.2008	10.05.2012
4	Bulgaria	DTC	09.12.1998	01.07.1999
5	China (People’s Republic of)	DTC	13.09.2004	28.07.2005
6	Croatia	DTC	02.12.1994	05.06.1997
7	Czech Republic	DTC	22.06.1995	10.09.1996
8	Egypt	DTC	23.03.2005	14.12.2005
9	Estonia	DTC	05.04.2010	01.01.2018
10	Finland	DTC	08.06.2022	Not in force
11	France	DTC	24.12.2004	01.10.2005
12	Germany	DTC	06.04.2010	23.11.2011
13	Greece	DTC	14.07.1995	13.12.2000
14	Hungary	DTC	14.11.1992	21.12.1995
15	Iceland	DTC	24.09.2014	06.01.2016
16	India	DTC	08.07.2013	04.12.2013
17	Ireland	DTC	16.10.2009	12.07.2011
18	Israel	DTC	03.05.2021	29.12.2021
19	Italy	DTC	12.12.1994	21.12.1999
20	Korea	DTC	17.05.2006	13.01.2007

	EOI partner	Type of agreement	Signature	Entry into force
21	Kosovo ²⁶ Protocol	DTC	28.03.2014 02.10.2020	11.03.2015 16.03.2021
22	Kuwait	DTC	04.04.2010	23.06.2013
23	Latvia	DTC	21.02.2008	10.12.2008
24	Luxembourg Protocol	DTC	14.01.2009 21.10.2020	Not in force Albania has ratified
25	Malaysia	DTC	24.01.1994	21.08.1995
26	Malta	DTC	02.05.2000	23.11.2000
27	Moldova	DTC	06.12.2002	06.06.2003
28	Montenegro	DTC	22.12.2004	17.11.2005
29	Morocco	DTC	05.10.2015	Albania has not ratified
30	Netherlands	DTC	22.07.2004	15.11.2005
31	North Macedonia*	DTC	15.01.1998	02.09.1998
32	Norway	DTC	14.10.1998	13.08.1999
33	Poland	DTC	05.03.1993	27.06.1994
34	Qatar	DTC	18.10.2011	02.07.2012
35	Romania	DTC	11.05.1994	18.10.1994
36	Russia	DTC	11.04.1995	09.12.1997
37	Saudi Arabia	DTC	06.02.2019	01.12.2019
38	Serbia*	DTC	22.12.2004	17.11.2005
39	Singapore	DTC	23.11.2010	19.07.2011
40	Slovenia	DTC	27.02.2008	04.05.2009
41	Spain	DTC	02.07.2010	04.05.2011
42	Sweden	DTC	26.03.1998	09.02.1999
43	Switzerland Protocol	DTC	12.11.1999 09.09.2015	21.12.2000 01.12.2016
44	Türkiye	DTC	04.04.1994	26.12.1996
45	United Arab Emirates	DTC	14.03.2014	26.03.2015
46	United Kingdom	DTC	26.03.2013	30.12.2013

Note: Albania, North Macedonia and Serbia signed a Memorandum of Co-operation of Tax Administrations in June 2022. The memorandum aims at deepening co-operation and promoting mutual relations, development and exchange of experiences between the tax institutions.

26. See footnote 1.

Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).²⁷ The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

Albania signed the Multilateral Convention on 1 March 2013 and entered into force on 1 December 2013 in Albania. Albania can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus,²⁸ Czech Republic,

27. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention (the Multilateral Convention) which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.
28. Note by Türkiye: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Jordan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

439. In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Benin (entry into force 1 May 2023), Burkina Faso (entry into force on 1 April 2023), Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Rwanda (entry into force on 1 December 2022), Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

Annex 3: Methodology for the review

This review is based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and amended in 2020 and 2021, and the Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 29 November 2022, Albania's EOIR practice in respect of EOI requests made and received during the three year period from 1 October 2018 to 30 September 2021, Albania's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by Albania's authorities during the on-site visit that took place 21, 22 and 23 June 2022 in Tirana, Albania.

List of laws, regulations and other materials received

Laws

Albanian Constitution

Criminal Code No. 7895/1995

Income Tax Law No. 8438/1998

Law for Automatic Exchange of Financial Accounts Information Law
No. 4/2020

Law on Accounting and Financial Statements No. 25/2018

Law on Bank of Albania No. 8269/1997

Law on Bankruptcy No. 110/2016

Law on Banks in the Republic of Albania No. 9662/2006

Law on Beneficial Owner Register (LBOR) No. 112/2020 as amended
by Law No. 6/2022

Law on the Business Registration No. 9723/2007

Law on Central Registry of Bank Accounts No. 154/2020
Law on Civil Servants No. 152/2013
Law on Entrepreneurs and Companies (LEC) No. 9901/2008
Law on Financial Supervisory Authority No. 9572/2006
Law on Invoices and Circulation Monitoring System No. 87/2019
Law on Legal Auditing, Organisation of the Profession of Registered Accounting Experts and Approved Accountants No. 10091/2009
Law on Mutual Co-operation Companies No. 8088/1996
Law on Non-Profit Organisations Law No. 80/2021
Law on Notaries No. 110/2018
Law on the Prevention of Money Laundering and Terrorism Financing (AML law) No. 9917/2008 as last amended by Law No. 120/2021
Law on the Profession of Lawyers No. 9109/2003
Law on Savings and Credit Companies No. 52/2016
Law on Securities No. 9879/2008
Law on Statutory Audits No. 10091/2009
Law on Tax Procedures (LTP) No. 9920/2008

Other material

Decision of the Council of Ministers No. 1088/2020
EOI Manual approved in August 2018
Instructions No. 15/2015 on defining procedures for providing information from each person in accordance with the provisions of international agreements in the field of taxation
Instructions No. 28 on the reporting methods, procedures and the preventive measures taken by reporting entities according to the anti-money laundering law.
Instructions No. 29 on the reporting methods and procedures on non-financial professions

Authorities interviewed during on-site visit

Ministry of Finance
The General Taxation Directorate

The General Directorate for the Prevention of Money Laundering
 The Bank of Albania
 The Financial Supervisory Authority
 The National Business Centre

Current and previous reviews

This report contains Albania's outcome of the second peer review of the implementation of the EOIR standard conducted by the Global Forum.

Albania's previous review of its legal and regulatory framework for EOI was done in 2015 and in 2016 it was followed by an assessment of the practical implementation of the framework. Both these reviews were conducted in accordance with the Terms of Reference approved by the Global Forum in February 2010 and the Methodology used in the first round of reviews.

The table below contains information on the reviews:

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Ms Silke Voss, Senior Tax Specialist, Federal Ministry of Finance of Germany Mr James Karanja, Principal Revenue Officer, Kenya Revenue Authority Ms Wanda M. Montero Cuello and Mr Boudewijn van Looij for the Global Forum Secretariat	n.a.	May 2015	July 2015
Round 1 Phase 2	Ms Silke Voss, Senior Tax Specialist, Federal Ministry of Finance of Germany Mr James Karanja, Principal Revenue Officer, Kenya Revenue Authority Ms Elaine Leong and Ms Renata Teixeira for the Global Forum Secretariat	1 January 2012 to 31 December 2014	May 2016	July 2016
Round 2 Combined Phase 1 and Phase 2	Ms Emer Smith, Assistant Director, Irish Revenue Ms Sabina I. Mirzayeva, Deputy Head of International Taxation and Tax Monitoring Department, State Tax Service of Azerbaijan Ms Gudrun Jonsdottir and Mr Lloyd Garrochinho for the Global Forum Secretariat	1 October 2018 to 30 September 2021	29 November 2022	27 March 2023

Annex 4: Albania's response to the review report²⁹

Albania would like to express its sincere gratitude to the Global Forum Secretariat and the assessment team for providing the necessary assistance and guidance to our team, in completing our Exchange of Information on Request (EOIR) Peer Review Process.

Since the commencement of exchanges of information, Albania has placed a high priority on ensuring that the necessary technical, legislative and operational measures are in place, to ensure the continuous implementation of the internationally agreed EOIR Standard.

As per the beneficial owners' registry, Albania stands by its commitment to improve all the elements that might clarify and simplify the process of registering the beneficial owners.

As the registration of beneficial owners by existing reporting entities is mostly done, Albania remains engaged to populating the registry with adequate, accurate and up to date information. This is an obligation to existing and newly registered legal entities.

In this framework, Albania informs that it is part of the Open Government Partnership project and the NBC, as the institution responsible for the administration of the beneficial owners' register, has undertaken several commitments related to the registration of beneficial owner data and to change the already registered data by reporting entities according to the deadlines and requirements provided in the law "On the Register of Beneficial Owners", as amended. In this regard:

- The awareness of the reporting entities about this obligation remains a very important mechanism to have an updated register at any time, since after the activation of the register of beneficial owners in February 2021 and the population of the register, the registration of the data of the beneficial owners of the newly created entities and updating the data remains a commitment of Albania.

29. This Annex presents Albania's response to the review report and shall not be deemed to represent the Global Forum's views.

- The evaluation of best practices in cooperation with representatives of reporting entities and interest groups remains a commitment that will lead to the improvement of the practices followed by Albania in registering their beneficial owners and in changing the already registered data.
- The revision of the legislation on registration of beneficial owners data within the framework of the improvement of the procedure followed on the registration of beneficial owners data, with the reporting entities being confronted with the new notion of the beneficial owner and the implementation of a new procedure for the registration of beneficial owners data, brings the need for a recognition of legislation in force in order to implement it correctly and make changes if necessary.

This engagements and the respective activities for each one of them are foreseen to be performed during 2023-2024 and Albania's expectations in this direction are: improvement of the regulatory framework in order for legal entities to have a better understanding of beneficial owner concept; a better understanding from the obliged entities of their legal obligations and for the responsible authorities the necessary mechanisms to secure adequate, accurate and up to date data on beneficial ownership.

Albania agrees with the content of this Report and accepts the recommendations as suggested in this report. All efforts will be made in order to further improve processes relating to the Exchange of Information on Request.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report on the Exchange of Information
on Request ALBANIA 2023 (Second Round)**

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 160 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This publication presents the results of the Second Round Peer Review on the Exchange of Information on Request for Albania.



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