

Extractive Industries Transparency Initiative (EITI)

## **Second Validation of Albania**

### **Final assessment by the EITI International Secretariat**

22 May 2019

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## 1. Summary

Albania’s second Validation commenced on 13 February 2019. The EITI International Secretariat has assessed the progress made in addressing the 12 corrective actions established by the EITI Board following Albania’s first Validation in 2017<sup>1</sup>. The 12 corrective actions relate to:

1. Civil society engagement (Requirement 1.3)
2. MSG oversight (Requirement 1.4)
3. License allocation (Requirement 2.2)
4. License register(s) (Requirement 2.3)
5. Contract disclosure (Requirement 2.4)
6. State participation (Requirement 2.6)
7. Direct subnational payments (Requirement 4.6)
8. Data reliability (Requirement 4.9)
9. Revenue distribution (Requirement 5.1)
10. Social expenditures (Requirement 6.1)
11. Quasi-fiscal expenditures (Requirement 6.2)

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<sup>1</sup> [LINK TO BOARD DECISION](#)

## 12. Follow-up on EITI recommendations (Requirement 7.3).

In addition, the Secretariat has reviewed progress in meeting Requirements 4.1 (on comprehensiveness of disclosures) and 4.7 (on disaggregation), given concerns over back-sliding since the first Validation.

**The Secretariat's assessment is that, at the commencement of Validation (13 February 2019), Albania had sufficiently addressed five of the 12 corrective actions, having made "satisfactory progress" on the corresponding requirements, and had made "meaningful progress" with considerable improvements in addressing the other seven corrective actions.**

Additional information disaggregated to levels commensurate with the EITI Standard and nominations procedures for the industry constituency were published in February-March 2019, two months after the commencement of Albania's Validation. In the Secretariat's view, the information disclosed after the commencement of Validation meets the Board-approved criteria<sup>2</sup> for considering information published subsequent to the commencement of Validation. **If the Board agrees to exercise its discretion to consider this additional information, the Secretariat's assessment is that Albania has made "satisfactory progress" on seven corrective actions, and "meaningful progress" with considerable improvements on the remaining corrective actions.**

**In addition, the Secretariat's assessment is that there has been back-sliding in Requirement 4.1 on the comprehensiveness of disclosures. The Secretariat is satisfied that Requirement 4.7 should continue to be assessed as "satisfactory progress".**

The outstanding gaps relate to civil society engagement (*Requirement 1.3*), license allocations (*Requirement 2.2*), state participation (*Requirement 2.6*), comprehensiveness of disclosures (*Requirement 4.1*), direct subnational payments (*Requirement 4.6*) and data reliability (*Requirement 4.9*).

The draft assessment was sent to the AlbEITI Multi-Stakeholder Group (MSG) on 26 April 2019. Following comments from the MSG on 17 May 2019, the assessment was finalised for consideration by the EITI Board.

## 2. Background

Albania was accepted as an EITI Candidate in May 2009 and was designated compliant with the EITI Rules in May 2013. The first Validation of Albania against the EITI Standard commenced on 1 April 2017. On 13 February 2018, the EITI Board found that Albania had made meaningful progress in implementing the 2016 EITI Standard. Fourteen corrective actions were identified by the Board, pertaining to the following requirements: civil society engagement (#1.3), MSG oversight (#1.4), license allocation (#2.2), license register(s) (#2.3), contract disclosure (#2.4), state participation (#2.6), comprehensive disclosures of taxes and revenues (#4.1), direct subnational payments (#4.6), level of disaggregation (#4.7), data reliability (#4.9), revenue distribution (#5.1), social expenditures (#6.1), quasi-fiscal expenditures (#6.2) and follow-up on EITI recommendations (#7.3). The Board asked Albania to address these corrective actions to be assessed in a second Validation commencing on 13 February 2019.

<sup>2</sup> EITI (February 2019), 'The Board adopted criteria to consider developments and information disclosed after the commencement of Validation', accessed [here](#) in March 2019.

Albania has undertaken a number of activities to address the corrective actions:

- On 18 July 2016, the MSG approved the Independent Administrator contract for the 2015 and 2016 EITI Reports with Deloitte Audit Albania.
- In February 2018, the AlbEITI MSG held a launch conference for the 2016 EITI Report. After incorporating final comments to the report, the AlbEITI MSG published the 2016 EITI Report on its website in June 2018.<sup>3</sup>
- On 28 March 2018, the MSG approved the 2018-2019 EITI work plan following input from MSG members and discussed the development of civil society's action plan for addressing weaknesses in the constituency's engagement identified during Validation.
- On 13 May 2018, civil society MSG members submitted an action plan to address issues related to civil society engagement highlighted in the Validation decision both to the AlbEITI MSG and to the International Secretariat.
- On 13 May 2018, the MSG agreed to draw up an action plan for addressing the corrective actions identified in Validation.
- In June 2018, the MSG approved and published the 2017 annual progress report on the AlbEITI website.<sup>4</sup>
- On 7 December 2018, the MSG approved the formalized process of selecting civil society members of the MSG.
- In December 2018, the MSG reviewed the draft commodity trading pilot report prepared by Deloitte covering Albpetrol's crude oil sales over the 2013-2016 period.
- On 11 January 2019, the MSG agreed to initiate procedures for the election of MSG members from civil society, a process that was finalized on 12 February 2019.
- On 12 February 2019, the MSG established a working group to draft the 2019 EITI work plan, through consultations with wider stakeholder groups, to address corrective actions from Validation and use of EITI recommendation to highlight discrepancies in the legal, fiscal and regulatory framework in mining, oil and gas.
- In February 2019, the MSG approved an updated 2018-2019 AlbEITI workplan, which it published on the AlbEITI website.<sup>5</sup>
- In early March 2019, the MSG's new working group on follow-up of recommendations of EITI Reports and Validation agreed a dedicated work plan for this follow-up.
- In early April, the AlbEITI Secretariat, with approval from the MSG, published data complimentary to the 2016 EITI Report, including the industry and civil society constituencies' MSG nominations procedures and disaggregated government unilateral disclosures.

The following section addresses progress on each of the corrective actions. The assessment is limited to the corrective actions established by the Board and the associated requirements in the EITI Standard. The assessment follows the guidance outlined in the Validation Guide<sup>6</sup>. In the course of undertaking this assessment, the International Secretariat has also considered whether there is a need to review additional requirements, i.e. those assessed as "satisfactory progress" or "beyond" in the 2016 Validation. While these requirements have not been comprehensively assessed, the Secretariat's view is that there has been back-sliding on Requirement 4.1 related to the comprehensiveness of disclosures. The assessment also includes an overview of progress on Requirement 4.7 related to disaggregation, where it

<sup>3</sup> EITI Albania (February 2018), '2016 EITI Report', accessed [here](#) in February 2019.

<sup>4</sup> EITI Albania (July 2018), '2017 annual progress report', accessed [here](#) in February 2019.

<sup>5</sup> AlbEITI (February 2019), 'Updated EITI Albania Work-Plan 2018-2019', accessed [here](#) in February 2019.

<sup>6</sup> [https://eiti.org/sites/default/files/documents/validation-guide\\_0.pdf](https://eiti.org/sites/default/files/documents/validation-guide_0.pdf)

is not considered that there has been back-sliding provided the Board's consideration of new information disclosed post-commencement of Validation.

### 3. Review of corrective actions

As set out in the Board decision on Albania's first Validation, the EITI Board agreed 12 corrective actions.<sup>7</sup> The Secretariat's assessment below discusses whether the corrective actions have been sufficiently addressed. The assessments are based on the 2018-2019 work plan, the 2016 EITI Report, the 2017 annual progress report and minutes of the MSG meetings from January 2018 to February 2019, alongside various documents submitted by the national secretariat to the International Secretariat, e-mail correspondence, and stakeholder consultations (in-person and via skype).

#### 3.1 Corrective action 1 (#1.3)

In accordance with Requirement 1.3.a, the civil society constituency should demonstrate that they are fully, actively and effectively engaged in the EITI process. Specifically, civil society should ensure that they are able to fully contribute and provide input to the EITI process and that they have adequate capacity to participate in the EITI. In accordance with Requirement 8.3.c.i, the civil society constituency should develop and disclose an action plan for addressing the deficiencies in civil society engagement documented in the initial assessment and the Validation Report within three months of the Board's decision, i.e. by 13 May 2018. The constituency may wish to undertake an independent review of civil society engagement in the EITI in Albania, broadening the engagement with CSOs with potential interests in EITI implementation. Undertaking a capacity needs assessment and formulating actions to address civil society capacity constraints are crucial, not least to unlock funding from development partners and other relevant parties.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress in meeting this requirement. There was no evidence of any legal, regulatory or practical barriers to civil society's ability to engage in EITI nor to their ability to freely operate, communicate and cooperate with the broader constituency. MSG meeting minutes and stakeholder consultations showed no constraints on civil society's rights or ability to be actively engaged in the EITI. Yet there is little evidence to show that CSOs have used this space to be fully, actively and effectively engaged in EITI implementation aside from voicing critical views at MSG meetings. While funding constraints and lack of effective CSO engagement prevented civil society from fully and effectively influencing the design and implementation of the EITI, there was little evidence to suggest that civil society organisations had taken steps to mobilise funding.

#### Progress since Validation

There is no evidence of any breaches of the Civil Society Protocol since Albania's first Validation under the EITI Standard. Rather, political protests have increased in frequency in the period since the first Validation (2018-2019), with public demonstrations of over 20,000 people organised by opposition parties calling for the resignation of Socialist Party Prime Minister Edi Rama over allegations of corruption in the January-March 2019 period.<sup>8</sup> Amidst this fluid political context, the civil society constituency has started

<sup>7</sup> <https://eiti.org/document/albania-validation-2017>

<sup>8</sup> See Reuters (February 2019), 'Albanian protesters attack PM's office to demand he quits', accessed [here](#) in March 2019; Balkan Insight (March 2019), 'Albania Opposition Supporters Clash with Police During Protest', accessed [here](#) in March 2019; The Washington Post (March 2019), 'Albanian anti-govt protesters try to storm parliament', accessed [here](#) in March 2019.

establishing the basic mechanisms of constituency coordination required for this full and active engagement in EITI implementation. The constituency appears to have agreed a time-bound action plan for addressing shortcomings identified in Validation within three months of the Board's decision (i.e. by 13 May 2018) in accordance with Requirement 8.3.c.i, having submitted the action plan to the MSG and International Secretariat on 13 May 2018. However, the action plan consists of a project proposal by Anila Hajnaj of the Albanian Center for Development and Integration (ACDI) for a project to be funded by Switzerland's State Secretariat for Economic Affairs (SECO), which since December 2018 has supported the establishment of the constituency's coordination on EITI implementation. Whereas only three of the five statutory MSG members from civil society were active in EITI implementation at the time of Albania's first Validation (in 2017), the constituency has belatedly renewed its MSG membership. Civil society representatives and secretariat staff consulted explained that the delays were linked to the lack of availability of funds to support this process until December 2018. In early February 2019, two of the three former MSG members (Anila Hajnaj of ACDI and Sami Neza of the Center for Transparency and Free Information (CTFI)) were nominated to a new term on the MSG, while the third (Baki Bajraktari) was replaced. Baki Bajraktari had previously replaced Ilir Aliaj of the Center for Development and Democratizations of the Institutions (CDDI) as the third CSO MSG member in March 2018. While the infrastructure of coordination has now been put in place, with a constituency website Albnet-EITI, WhatsApp and email groups for dissemination of information, the number of member CSOs remains narrow with only around 12 member organisations.

*Civil society action plan:* Although the civil society constituency appears to have agreed a time-bound action plan to address shortcomings identified in Validation at its meetings on 28 March 2018<sup>9</sup> and 15 May 2018<sup>10</sup>, there is no evidence that the action plan was published by the deadline of 13 May 2018. Secretariat staff confirmed that the action plan was not published online until March 2019. The constituency's action plan consists of a project proposal by Anila Hajnaj of ACDI to SECO in January 2018 to strengthen capacities and coordination structures of the civil society coalition Albnet-EITI, established in January 2016.<sup>11</sup> At the MSG's 15 May 2018 meeting, Anila Hajnaj explained that CSO MSG members had sought out various donors in order to develop an action plan aimed at empowering and improving the capacity of civil society, rather than establishing a clear constituency coordination mechanism. While she noted that SECO would support an assessment of the civil society constituency and EITI, she clarified that this would consist of assessing the level of knowledge about EITI in districts around Albania, rather than a mapping of civil society stakeholders and their relevance to EITI implementation. Civil society stakeholders consulted explained that the project's broader objective was to increase transparency and accountability in the use of extractive revenues and to strengthen and increase the capacities of the AlbNet-EITI Coalition as an effective wide-ranging and nationwide coalition. A civil society representative consulted explained that the CSO MSG members had decided to focus on raising donor funds to support capacity-building first, as they considered that outreach and training were first required before new elections to the MSG could be effectively held. The project was approved by Switzerland's SECO in December 2018, with a EUR 37,000 grant to be executed over the February 2019 - April 2020 period. A civil society stakeholder consulted explained that, while the project's funding would be disbursed through the ACDI, it was meant to be used for the constituency as a whole. The civil society representative explained that ACDI had been chosen as the executing organisation given that the constituency did not wish to register the Albnet-EITI organisation to minimize their tax liabilities.

There was considerable confusion among stakeholders consulted over the distinction between a constituency action plan and the SECO-funded project. Several CSOs considered that the SECO-funded

<sup>9</sup> See AlbEITI website, Minutes of 28 March 2018 meeting, accessed [here](#) in February 2019.

<sup>10</sup> See AlbEITI website, Minutes of 15 May 2018 meeting, accessed [here](#) in February 2019.

<sup>11</sup> Albnet-EITI (March 2019), 'Civil society plan of action 2019-2020', accessed [here](#) in March 2019.

project was the equivalent to a constituency action plan given that it addressed the need to map out relevant stakeholders, included capacity-building activities for the broader constituency and planned for the renewal of civil society's MSG membership. Following consultations in mid-March 2019, the Albnet-EITI and AlbEITI websites<sup>12</sup> belatedly published the outline of the SECO-funded project on 19 March 2019, after the commencement of the second Validation. The published SECO-funded plan of action describes the proposed general activities and expected outcomes, but does not include a detailed breakdown of costs or timeframes for completing each activity.

**Constituency coordination:** The civil society Code of Conduct, agreed with support from Publish What You Pay (PWYP) International in 2015, includes provisions for constituency coordination related to EITI. In particular, Article 8 of the Code of Conduct requires the constituency to consult in advance of MSG meetings and other EITI activities to agree common positions on key issues. There is little evidence of a structured framework for coordination of the civil society constituency in practice during the 2018 period. In written comments as part of stakeholder consultations, one CSO MSG member explained that CSO MSG members coordinated with the broader constituency of NGOs "whenever possible", albeit in an ad hoc manner by "talking to other CSOs, either in CSO meetings, gatherings or open forums organised during surveys and monitoring or implementation of any other project". Several CSOs consulted explained that the lack of tangible constituency coordination in 2018 was due to delays in SECO's approval of the ACDI project proposal, reiterating their views that the main constraint on civil society's engagement in EITI was linked to the availability of funding. While there is evidence of Anila Hajnaj's canvassing the opinion of her two colleagues on the MSG (at the time), there is only limited evidence of outreach by ACDI to the broader constituency in developing the project proposal. A civil society representative consulted insisted that CSOs part of the broader constituency had been consulted in developing the project proposal, with four CSOs attending meetings with the Embassy of Switzerland on developing the project and seven CSOs participating in the implementation of the project on subnational royalty transfers.

Once funding from SECO was secured however, there is evidence of further outreach to the broader constituency from January 2019. According to secretariat staff and CSOs consulted, the CSO coalition on the MSG, funded by SECO, undertook an independent review of CSOs in Albania to identify possible candidates for MSG membership, to undertake capacity-building activities with select CSOs and to facilitate elections of CSO representatives on the MSG in line with the constituency's Code of Conduct. This process appears to have been supported by members of PWYP International. Several civil society representatives highlighted the importance of these activities in establishing a constituency coordination mechanism. Secretariat staff and CSOs consulted highlighted the study undertaken by the ACDI, funded by a grant from Leviz Albania<sup>13</sup> with support from the Open Society Foundation, on the use of subnational mining royalty transfers by local governments. The monitoring project, conducted over the August 2018-January 2019 period, covered five municipalities (Patos, Roskovec, Ura Vajgurore, Bulqiza and Has) and was supported by the NGO Movement Albania. A January 2019 article on the AlbEITI website explained that the study involved surveying "several hundred citizens from different social groups" in over 40 meetings and interviews with a wide range of stakeholders<sup>14</sup> from central and local governments, industry and civil society.<sup>15</sup> A CSO MSG member explained that five open forums were held in January 2019, with a total of 114 participants and the mayors of Roskovec, Patos, Bulqize to discuss best practice in the use of subnational royalty transfers by local governments. The CSO noted that the discussions also touched upon

<sup>12</sup> See Albnet-EITI (March 2019), 'Civil society plan of action 2019-2020', accessed [here](#), and AlbEITI (March 2019), 'Civil society plan of action 2019-2020', accessed [here](#), in March 2019.

<sup>13</sup> Leviz Albania, 'Projects under implementation', accessed [here](#) in March 2019.

<sup>14</sup> Mayors, Tax and Finance Employees in the municipalities of Patos, Roskovec, Bulqize, Has, Ura Vajgurore, heads and employees of the General Directorate of Customs and Taxation, as well as the Regional Directorates of Taxes, Peshkopi, Kukës, Fier and Berat, EITI Board members, business representatives and civil society.

<sup>15</sup> AlbEITI (February 2019), 'Qendra Shqiptare për Zhvillim dhe Integrim, përfaqësuese në Grupin Ndërinstitucional të Punës (MSG) bëhet pjesë e Strategjisë së Bashkëpunimit Zvicerian në Shqipëri', accessed [here](#) in February 2019.

EITI implementation in general and considered that over 1m people would have seen the TV coverage of the study's results in four broadcasts in November 2018.

Two days before the commencement of Albania's second Validation, on 11-12 February 2019, the ACDI held a two-day workshop for the civil society constituency, called "*Civil Society, its role in the Extractive Industry Transparency*". While dedicated to capacity-building on the EITI Standard, the workshop concluded with elections of CSOs to the MSG for a three-year term. Civil society representatives consulted explained that the number of CSOs having signed up to the Code of Conduct had grown from an initial five in 2015 to 12 organisations in 2019. These 12 organisations participated in the civil society workshop and elections in February 2019 (see Requirement 1.4). The CSO MSG members consulted explained that, since January 2019, they now coordinated on EITI-related issues through two different WhatsApp groups (one for the five CSO MSG members and one for the constituency of 12 CSOs), an email list, the new Albnet-EITI website and regular phone calls. Several development partners consulted expressed satisfaction at the constituency's new coordination mechanisms but considered that the constituency's 12 member organisations still remained narrow in light of the diversity and number of NGOs in Albania. They considered that other NGOs focused on environmental aspects of extractive industries, good governance and open data would also be relevant for EITI-related outreach. Several CSOs consulted highlighted that, of the roughly 500 NGOs active in Albania, around half were based in Tirana while the others had low capacity. They considered that there was a low tendency of voluntarism in Albanian civil society, which made it harder to engage with CSOs aside from on specific, funded, projects.

**Capacity:** Both the number and capacities of CSOs engaged in EITI implementation appears to have grown since early 2018. Several CSOs confirmed that the number of CSOs adhering to the constituency's Code of Conduct had grown from five in 2015 to 12 in 2019. The five new MSG members selected in February 2019 include NGOs focused on mining, oil and gas and hydro-power and individuals with a background in law (three representatives), investigative journalism (two representatives) as well as energy and public finance management advocacy. Review of MSG meeting minutes indicates that the input of civil society representatives has gradually become more technical in nature, albeit focused on the issue of subnational royalty transfers. While civil society's input to MSG discussions used to be focused almost entirely on financial capacity constraints in the 2014-2017 period, there were more incidents of input focused on clarifying the flow of subnational royalty transfers in the 2018-2019 period.

However, consultations with CSOs as part of Validation still revealed capacity constraints on the part of both CSO MSG members and their broader constituency. Several stakeholders from different constituencies considered that, while civil society's capacities had grown since the first Validation, there was still a need for capacity development for MSG members, in particular on technical aspects of the EITI Standard. There was consensus among civil society stakeholders consulted that their main capacity constraint was related to the availability of funding for EITI projects, despite the grants from SECO and Leviz Albania. In written comments as part of stakeholder consultations, a CSO MSG member stated categorically that the sole barrier to full, active and effective engagement by civil society in EITI implementation was the availability of funding. Noting provisions under Article 6 of the civil society Code of Conduct, the CSO MSG member noted that MSG members were required to have an advanced knowledge of the EITI and considered that this required training, with support for travel, accommodation and meals "at least". Upon discussions of extractives license management, state participation in the extractives and extractives public finance management, CSOs consulted considered that their capacity to provide input on these issues had not grown in line with their advocacy on subnational royalty transfers.



There is evidence of only two capacity-building activities dedicated to civil society in the February 2018-February 2019 period. On 3-5 July 2018, three members<sup>16</sup> of the CSO coalition participated in a civil society capacity-building workshop in Ukraine. The second activity consisted of the 11-12 February 2019 ACDI workshop funded by SECO, which focused on capacity-building for a select group of 12 CSOs.<sup>17</sup> The updated 2018-2019 EITI workplan, approved by the MSG on 7 February 2019, includes several capacity-building activities related both to CSOs specifically and to the MSG, including its CSO representatives.<sup>18</sup> One relates to the SECO-funded project to support improvements in CSOs' engagement in EITI implementation. The other key activity consists of training for national secretariat staff, MSG members (including CSOs) and government staff on "*all aspects of Natural Resource Governance issues such as Fiscal Package, Legal Framework, Local Content, Environment, Taxation, GIS and Cadastre systems, Arbitrage and international Contracts*" in the 2018-2019 period, supported by USD 20,000 of the World Bank grant to the Government of Albania for EITI implementation.

Civil society engagement: Review of MSG meeting minutes for the 2018-2019 period<sup>19</sup> indicates that CSO members have continued to provide active input to MSG discussions, with a growing focus on more technical issues such as disbursements of subnational royalty transfers to local governments. In written comments provided as part of stakeholder consultations, a CSO MSG member considered that civil society was very involved and active in all aspects of EITI implementation, engaging in MSG discussions of "all relevant topics" and providing input in the development of ToRs, EITI Reports, workplans, implementation of beneficial ownership disclosures and commodity trading. However, several stakeholders considered that civil society was still not proactive in MSG discussions related to agreeing the scope of EITI Reports, such as at the time of the MSG's discussion of the Terms of Reference for the Independent Administrator or draft inception report.

While there is evidence of civil society undertaking independent outreach to local communities and dissemination of EITI findings related to extractives royalties, as part of the ACDI project funded by Leviz Albania, there is no evidence of civil society dissemination activities related to other issues such as licensing, state participation or broader extractives governance. One CSO consulted noted the constituency's input to developing a strategy for dissemination of EITI data at the national level, particularly regarding royalty transfers. It was noted that civil society had been active in lobbying local and central government officials regarding the transparency of mining royalties, their allocations and investments in favour of communities in extractives areas. Footage of a public presentation<sup>20</sup> of the ACDI's project on royalties funded by Leviz Albania confirms that there have been discussions of the EITI during dissemination events.

While there is only sporadic evidence of civil society leadership in outreach and dissemination related to EITI, it appears that the AlbEITI Secretariat has continued to be the key driver of outreach and dissemination to the broader civil society constituency. Beyond the 27 February 2017 event held by the AlbEITI Secretariat in conjunction with the Civil Society Support Agency, a round table on "Transparency and accountability in the extractive industry in Albania"<sup>21</sup> that was described in Albania's first Validation, the AlbEITI Secretariat appears to have continued to hold meetings with civil society, including representatives of the media. For instance in November 2017, AlbEITI Director Ardit Kamberi held a

<sup>16</sup> Anejda Rragami, Oltion Alibali and Erald Kapri.

<sup>17</sup> AlbEITI (February 2019), 'Shoqëria Civile, roli i saj në Transparencën e Industrisë Nxjerrëse', accessed [here](#) in February 2019.

<sup>18</sup> See AlbEITI (February 2019), 'Updated EITI Albania Work-Plan 2018-2019', accessed [here](#) in February 2019.

<sup>19</sup> AlbEITI, Minutes of MSG meetings in 2018, accessed [here](#), and in 2019, accessed [here](#), in March 2019.

<sup>20</sup> Leviz Albania, Public presentation of civil society projects, accessed [here](#) in March 2019.

<sup>21</sup> EITI Albania (July 2018), '2017 annual progress report', accessed [here](#) in February 2019.

meeting with the journalists from News 24, Ora News, Monitor, Panorama to discuss the results and findings of EITI implementation and the link to national priorities.<sup>22</sup>

*Access to decision-making:* There is growing evidence of civil society public advocacy related to EITI implementation, particularly with regards to public discussions of the challenges in subnational royalty transfers to local governments in the November 2018-January 2019 period. Several CSO MSG members including Anila Hajnaj and Sami Neza have been extensively quoted in the local press on the preparations and results of the subnational royalty transfer study<sup>23</sup>, following a press conference in late January 2019 held by the ACDI to launch the report.<sup>24</sup> One CSO estimated at over 1m the number of viewers of the four TV broadcast interviews on the royalty study given by Anila Hajnaj in November 2018. Representatives from all constituencies considered the royalty study by ACDI to be a significant achievement for the constituency as a whole. However, there is little evidence of other civil society public advocacy and lobbying on other technical issues and findings of EITI reporting other than the issue of subnational royalty transfers.

However, a CSO consulted explained that the constituency had ideas for other projects related to use of EITI data, in the areas of tracking extractives companies' social expenditures and assessing deviations from statutory regulations in practice. In written comments as part of stakeholder consultations, a CSO MSG member noted that the priorities for EITI implementation by CSOs not directly represented on the MSG included strengthening their voices in decision-making processes at the local level regarding community rights, environmental and social issues, royalty transparency and transparency in revenue collection and transfers to local governments and advocacy to raise subnational royalty rates from 5% to 25%. These issues were discussed at the ACDI's workshop for civil society on EITI held on 11-12 February 2019.<sup>25</sup>

### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on civil society engagement has been partly addressed and considers that Albania has made meaningful progress with considerable improvements on Requirement 1.3. There is no evidence since the first Validation of any legal, regulatory or practical barriers to civil society's ability to engage in EITI nor to their ability to freely operate, communicate and cooperate with the broader constituency. While the civil society constituency developed an action plan for addressing the deficiencies in civil society engagement documented in the first Validation within three months of the Board's decision, i.e. by 13 May 2018, in accordance with Requirement 8.3.c.i, although the action plan does not appear to have been publicly disclosed until March 2019. However, the action plan consisted of a project funded by Switzerland developed by one of the civil society organisations leading on EITI implementation, to address capacity shortcomings within the constituency and establish constituency coordination mechanisms. Implementation of the project only began in December 2018. While there is evidence that mechanisms for the constituency's coordination and canvassing of opinions have recently been established, leading to more regular ongoing contacts and renewed representation on the AlbEITI MSG, the number of organisations involved in the constituency appears too narrow. There is growing evidence of civil society input to the MSG's technical discussions,

<sup>22</sup> EITI Albania (July 2018), '2017 annual progress report', accessed [here](#) in February 2019.

<sup>23</sup> See for instance: Reporter.al (June 2018), 'Mallkimi i burimeve: Bashkitë shohin pak përfitim dhe shumë kosto nga industria nxjerrëse', accessed [here](#); Gazeta Shqiptare (February 2019), 'Municipalities do not take full rent, due to bureaucracy and the lack of knowledge of the law', accessed [here](#); Agjencia Telegrafike Shqiptare (January 2019), 'Sondazhi, bashkitë nuk përfituan maksimalisht nga renta minerare', accessed [here](#); TV Bulqize (January 2019), 'Bulqize. Bashkebisedim mbi efektet e rentes minerare', accessed [here](#); Droni.al (January 2019), 'Qeveria të japë gjithë rentën minerare për bashkitë e vogla', accessed [here](#); Droni.al (January 2019), 'Renta minerare, qeveria duhet të përmirësojë procedurat e përfitimit të rentës nga bashkitë', accessed [here](#); all accessed in February 2019.

<sup>24</sup> Mining Royalty for Communities (January 2019), Press release on a Facebook post, accessed [here](#) in February 2019.

<sup>25</sup> AlbEITI (February 2019), 'Shoqëria Civile, roli i saj në Transparencën e Industrisë Nxjerrëse', accessed [here](#) in February 2019.

outreach and dissemination, although this appears to be entirely focused on subnational royalty transfers rather than other EITI-related issues. While the constituency has certainly made progress in addressing the shortcomings identified in the first Validation, many stakeholders consulted considered that civil society's constituency organisation remained a work in progress pending enlargement of outreach efforts to other NGOs with interests related to the extractive industries and public finance management.

In accordance with Requirement 1.3.e, civil society stakeholders including but not limited to members of the MSG must be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate. The civil society constituency is encouraged to implement all provisions of its Code of Conduct in practice, including those related to regular coordination and canvassing of views, and ensure that adequate outreach is undertaken towards all CSOs with potential interests in EITI implementation.

### 3.2 Corrective action 2 (#1.4)

In accordance with Requirement 1.4.a.ii, the MSG should ensure that its procedures for nominating and changing multi-stakeholder group representatives are public and confirm the right of each stakeholder group to appoint its own representatives. To strengthen implementation, the government is encouraged to ensure that relevant state entities, such as the national oil company Albpetrol, given gaps in reporting on state participation (see Requirement 2.6), are represented on the MSG and that their level of seniority is commensurate with the need for the MSG to take informed decisions and follow up on agreed actions. In accordance with Requirement 1.4.b.ii and 1.4.b.iii, the MSG should undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, and the central role of companies and civil society. Members of the MSG should liaise with their constituency groups. In accordance with Requirement 1.4.b.vi, the MSG should ensure an inclusive decision-making process throughout implementation, particularly as concerns industry and civil society. It is also recommended that the MSG reviews evaluation procedures for its members that all constituencies would agree to follow.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress towards meeting this requirement. The MSG had been formed and included self-appointed representatives from each stakeholder group with no suggestion of interference or coercion, although the lack of representation for the diversity of Albanian extractives industry and civil society on the MSG was a concern. The MSG had adopted clear ToRs that addressed most of Requirement 1.4 of the EITI Standard. While the ToRs lacked provisions such as appointing the IA, engaging in Validation and exercising the right to table an issue for discussion, it seemed these provisions were largely followed in practice. While the MSG's ToRs suggested that civil society and companies were free to elect their members independently according to their criteria, there were no clearly-defined procedures for the selection of MSG members aside from the civil society Code of Conduct, which did not appear implemented, and the general MoU between Alb-EITI and FIAA, which did not clarify selection procedures. While MSG members appeared to regularly attend MSG meetings and keep adequate records, there was little evidence of MSG participation in dissemination and outreach activities, which were led by the secretariat. While capacity appeared strong among government and industry, there was limited evidence that civil society MSG members had sufficient capacity, particularly financial, to carry out their duties. Overall, it appeared that the Alb-EITI Secretariat led EITI implementation, with limited oversight by the MSG.

## Progress since Validation

**MSG composition and membership:** The Albania EITI (AlbEITI) MSG continues to be governed by Prime Ministerial Public Order No. 71 of 21 July 2011<sup>26</sup> and the 2017 update to the MSG's ToR.<sup>27</sup> Public Order No. 71 and the MSG's ToR set MSG membership at 16 representatives, including six members from government and five each from industry and civil society alongside the Deputy Minister of Infrastructure and Energy as MSG Chair, which appears to be respected in practice based on details of MSG membership on the AlbEITI website.<sup>28</sup> However, the AlbEITI website and MSG meeting minutes indicate that seven government agencies hold positions as “permanent contributors to the EITI process” in practice, acting as expert resources for the MSG. In addition, a sixth MSG member from industry, representing the hydro-power sector<sup>29</sup>, is marked as “pending confirmation” on the AlbEITI website. There appear to have been renewals of industry and civil society representation on the MSG in the 2018-2019 period.

**Civil society representation:** The civil society Code of Conduct, agreed in 2015 and published on the AlbEITI website<sup>30</sup>, codifies the process of nominating civil society MSG members through open elections. In addition, after the commencement of Validation in March 2019, the AlbEITI website published an overview of the procedures for nominating civil society representatives to the MSG.<sup>31</sup> The civil society constituency renewed its representation on the MSG following elections held on 12 February 2019, the day before the commencement of Albania's second Validation. In line with its Code of Conduct (Chapter 1), the civil society constituency agreed a call for expressions of interest from CSOs interested in participating in the EITI nominations, which was published via a letter from MSG Chair Deputy Minister of Infrastructure and Energy Enis Aliko published on the AlbEITI website in January 2019.<sup>32</sup> On 11-12 February 2019, the ACDI, whose executive director Anila Hajnaj is a long-standing member of the AlbEITI MSG, organised a workshop on “Civil Society, its role in the Extractive Industry Transparency” with SECO funding, which consisted of two days of capacity-building for a selection of 12 CSOs resulting in elections of five CSO members to the MSG.<sup>33</sup> Three<sup>34</sup> of the former five CSO MSG members were replaced by new representatives, while two former MSG members<sup>35</sup> had their terms renewed. The three new MSG members included two lawyers<sup>36</sup> and one investigative journalist.<sup>37</sup> The election process, which was monitored by development partners and NGOs such as the Open Society Foundation, appears to have been open, fair and transparent. The Albnet-EITI website provides an overview of the election process, including number of votes for each of the successful candidates.<sup>38</sup> Civil society's new MSG membership<sup>39</sup> appears to be representative of the diversity of NGOs in Albania, including organisations focused on mining, oil and gas, hydro-power and including two women out of five representatives. All stakeholders consulted expressed satisfaction at the election procedures – both statutorily and in practice in February

<sup>26</sup> AlbEITI website, “Multi-Stakeholder Group” section, accessed [here](#) in February 2019.

<sup>27</sup> AlbEITI (April 2015), ‘Extractive Industries Transparency Initiative Albania (EITI Albania) Multi-Stakeholder Group (EITI Albania MSG) Terms of Reference’, accessed [here](#) in February 2019.

<sup>28</sup> AlbEITI website, Multi Stakeholder Group section, accessed [here](#) in February 2019.

<sup>29</sup> A representative from Devoll Hydropower Sh.a. / Statkraft.

<sup>30</sup> See AlbEITI website, Regulation of the multi-stakeholder group section - Annex: Code of Conduct of Civil Society Organizations Involved in the EITI Process, accessed [here](#) in March 2019.

<sup>31</sup> AlbEITI (March 2019), ‘PROÇESI I PËRZGJEDHJES TË SHOQËRISË CIVILE’, accessed [here](#) in March 2019.

<sup>32</sup> Ministry of Energy and Industry (January 2019), ‘Invitation to express the interest for participation of associations or representative individuals of civil society’, accessed [here](#) in February 2019.

<sup>33</sup> AlbEITI (February 2019), ‘Shoqëria Civile, roli i saj në Transparencën e Industrisë Nxjerrëse’, accessed [here](#) in February 2019.

<sup>34</sup> Ilir Aliaj from the Center for Development and Democratizations of the Institutions, Baki Bajraktari from the Miners Union Bulqiza and Madlina Puka from the Centre for Research Cooperation and Development.

<sup>35</sup> Anila Hajnaj from the Albanian Centre for Development and Integration and Sami Neza from the Center for Transparency and Free Information.

<sup>36</sup> Lorenc Gordani from the Albanian Center of International Rights and Kushtrim Simoni from the Study Center on Media Policy.

<sup>37</sup> Ola Mitre from the Women for the Protection of Natural Resources.

<sup>38</sup> Albnet-EITI (March 2019), ‘Civil society workshop’, accessed [here](#) in March 2019.

<sup>39</sup> AlbEITI website, ‘Multi-Stakeholder Group’ section, accessed [here](#) in February 2019.

2019 – for nominating civil society MSG members. However, several stakeholders from government and development partners considered that the pool of NGOs formally part of the civil society constituency remained narrow, at only 12 organisations, and called for further civil society outreach to NGOs focused on issues such as environmental impacts, good governance and open data (see *Requirement 1.3*).

*Industry representation:* There is no evidence that the industry constituency had codified its process for nominating MSG members since the first Validation. While stakeholders consulted confirmed that the same process remained in place as that described during the first Validation, namely that the Petroleum and Mining Committee of the Foreign Investors Association of Albania (FIAA) agreed on representatives during one of its ordinary meetings, they confirmed that these procedures had not been publicly codified to date. However, they considered that the lack of publication of industry’s MSG nominations procedures was an oversight and expressed no objection at the proposal to publish a description of the process on the FIAA website. After the commencement of Validation in March 2019, the industry constituency published its MSG nominations procedures on the FIAA and AlbEITI websites.<sup>40</sup> Industry stakeholders consulted confirmed that the FIAA had led the renewal of industry MSG representation in the first half of 2018. They explained that the FIAA’s Petroleum and Mining Committee had led the process for nominating five new MSG representatives, but that the government had directed (through a letter from the MSG Chair) Albpetrol to nominate a sixth industry MSG representative from the SOE, as documented in the minutes of the MSG’s 15 May 2018 meeting.<sup>41</sup> While most industry representatives consulted considered Albpetrol to be part of the government constituency, government representatives considered it to be part of the industry constituency. Upon discussion, the MSG explained that the Albpetrol representative had been nominated in line with the soft recommendation from Albania’s first Validation, rather than as a result of the industry constituency’s nominations. Industry representatives consulted explained that the five industry MSG members had been selected on the basis of their being some of the largest investors in Albania’s extractive industries as well as on their willingness to participate fully in EITI implementation. They noted that some large locally-owned extractives companies such as AlbChrome had refused to take a proactive role in EITI implementation despite outreach to locally-owned companies by FIAA and the Ministry of Infrastructure and Energy. Despite the absence of locally-owned extractives companies on the MSG, which was exacerbated by the lack of industry association for locally-owned extractives companies in Albania, stakeholders consulted considered that industry representation on the MSG was broadly representative of the structure of Albania’s extractive industries. Several industry stakeholders expressed satisfaction at the fact that hydro-power companies were now directly represented on the MSG.

*Government representation:* Government representation appears to have continued to be determined in line with the MSG’s ToR (paragraph VII/b), namely through appointment by the heads of their representative institutions within 15 days of receiving the request for new representatives from the AlbEITI Secretariat. There have been only ad hoc changes in representation in the 2018-2019 period. For instance on 28 January 2019, Ilir Bejtja was appointed to replace Enis Aliko as Deputy Minister of Infrastructure and Energy<sup>42</sup>, thereby also replacing him as EITI MSG Chair as confirmed on the AlbEITI website in February 2019.<sup>43</sup> Ilir Bejtja previously held these positions from October 2013 to September

<sup>40</sup> FIAA (March 2019), ‘FIAA is part of the Multi Stakeholders Group at EITI Secretariat Albania’, accessed [here](#); and AlbEITI (March 2019), ‘PROÇESI I PËRZGJEDHJES TË INDUSTRIËS’, accessed [here](#) in March 2019.

<sup>41</sup> See AlbEITI website, Minutes of 15 May 2018 meeting, accessed [here](#) in February 2019.

<sup>42</sup> Albanian Daily News (January 2019), ‘Director of KESH dismissed’, accessed [here](#) in February 2019.

<sup>43</sup> AlbEITI (February 2019), ‘The appointment of new Chairman of Multi-Stakeholder Group (MSG)’, accessed [here](#) in February 2019.

2017.<sup>44</sup> After the commencement of Validation in March 2019, the AlbEITI website published an overview of the MSG nominations procedures for government entities.<sup>45</sup>

*Terms of reference:* The MSG's ToR remain unchanged since the 2017 update to the ToR published on the AlbEITI website.<sup>46</sup> As described in Albania's first validation, these ToR cover all aspects listed under Requirement 1.4.b. The MSG's ToR appear to be broadly followed in practice, based on review of MSG meeting minutes and stakeholder consultations. Since the first Validation, the MSG has continued its efforts to lobby for Parliament to enact a Draft Law on Transparency, covering key EITI provisions, drafted by its contractor Eurosupport-Fineurop Support S.r.l in 2017.<sup>47</sup> The updated 2018-2019 EITI workplan foresees the enactment of the Transparency Law and implementing regulations by December 2019.<sup>48</sup>

*Representation:* There is growing evidence of constituency consultations on EITI-related issues by all three constituencies, even if only in recent months before the commencement of Albania's second Validation. Civil society representatives consulted confirmed that they had established two WhatsApp messaging groups (one for CSO MSG members and one for the 12 members of the broader constituency), through which they canvassed for opinions ahead of MSG meetings (*see Requirement 1.3*). Several industry representatives noted that industry MSG members consulted with foreign-invested extractives companies through the FIAA's Petroleum and Mining Committee. They also noted that they had undertaken outreach to locally-owned extractives companies to improve the level of mining companies' participation in EITI reporting and to solicit interest in joining the MSG, although they noted that large locally-owned companies like AlbChrome had refused to take a more active role in EITI implementation. Industry and civil society representatives consulted highlighted debates over subnational royalty revenue-sharing formula as areas where the two constituencies had been particularly engaged in public advocacy on EITI-related issues.

It appears based on stakeholder consultations that government MSG members consult to an extent with their respective institutions as part of their participation in MSG meetings. However, when asked why industry MSG members approved quality assurances for companies' EITI reporting when very few reporting companies adhered to these assurance procedures in practice, industry MSG members explained that they had misunderstood the requirement for external auditor certification of EITI reporting template as a condition imposed by the global EITI Board.

*Internal governance and decision-making:* Evidence made available during Validation and stakeholder consultations confirmed that the MSG continued to adhere to its ToR in practice in the 2018-2019 period. Review of MSG meeting minutes on the AlbEITI website indicates that the MSG met six times in 2018 and twice in the first two months of 2019.<sup>49</sup> All stakeholders consulted confirmed that any MSG member was able to table issues for discussion and that notice of meetings and circulation of relevant documents were done sufficiently in advance of MSG meetings. MSG members consulted confirmed that all MSG decisions in the 2018-2019 period had been taken by consensus, as confirmed in a review of MSG meeting minutes. Stakeholders consulted, including from civil society, confirmed that MSG deliberations and decisions since the first Validation had treated all constituencies as equal partners.

<sup>44</sup> Ministry of Infrastructure and Energy website, 'Ilir Bejtja, Deputy Minister', accessed [here](#) in February 2019.

<sup>45</sup> AlbEITI (March 2019), 'PROÇESI I PËRZGJEDHJES TË INSTITUCIONEVE SHITËTËRORE', accessed [here](#) in March 2019.

<sup>46</sup> AlbEITI (April 2015), 'Extractive Industries Transparency Initiative Albania (EITI Albania) Multi-Stakeholder Group (EITI Albania MSG) Terms of Reference', accessed [here](#) in February 2019.

<sup>47</sup> EITI Albania (July 2018), '2017 annual progress report', accessed [here](#) in February 2019.

<sup>48</sup> AlbEITI (February 2019), 'Updated EITI Albania Work-Plan 2018-2019', accessed [here](#) in February 2019.

<sup>49</sup> AlbEITI website, 'MSG meetings' section, accessed [here](#) in February 2019.

With regards to the ToR's provisions for the MSG Chair to undertake annual evaluations of MSG members, which had been controversial during the first Validation, MSG meeting minutes indicate that the MSG agreed evaluation procedures at its 15 May 2018 meeting<sup>50</sup> and discussed the evaluation for 2018 at its 7 December 2018 meeting.<sup>51</sup> None of the MSG members consulted expressed any concern about the evaluations' implementation in practice. A copy of the 2018 evaluation of MSG members provided by the AlbEITI Secretariat proved that the evaluation consisted only of an attendance chart of MSG members (provided in Annex A).

### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on multi-stakeholder group oversight has been addressed and considers that Albania has made satisfactory progress on Requirement 1.4. The MSG has been formed and includes self-appointed representatives from each stakeholder group with no suggestion of interference or coercion, even if nominations procedures for industry had yet to be publicly codified at the commencement of Validation (13 February 2019). The constituency guidelines for nominating industry representatives were published on the websites of AlbEITI and the industry association (FIAA) after the commencement of Validation, in March 2019. While only extending to a dozen NGOs, the mechanism for civil society nominations on the MSG was open to the public in February 2019, and CSO members of the MSG are operationally and in policy terms independent from government and companies. Information on nominations procedures is publicly available. The ToR for the MSG addresses the requirements of the EITI Standard and stakeholders have not highlighted any significant deviations from the ToR in practice. Meetings are convened with sufficient advance warning and MSG members generally appear to have sufficient time to review documents ahead of meetings. Attendance of the large majority of MSG members is consistent. The MSG does not practice a per diem policy.

To strengthen implementation, AlbEITI is encouraged to ensure that each constituency's MSG nominations procedures are publicly codified, and that all changes in MSG membership are tracked on the AlbEITI website. Albania may wish to consider other opportunities for embedding multi-stakeholder oversight of systematic disclosures of EITI data into national legislation.

### 3.3 Corrective action 3 (#2.2)

In accordance with Requirement 2.2.a, the MSG should ensure annual disclosure of which mining, oil and gas licenses were awarded and transferred in the year(s) under review, highlighting the technical and financial requirements and any non-trivial deviations from the applicable legal and regulatory framework governing license awards and transfers.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress towards meeting this requirement. While the 2015 EITI Report provided a list of mining licenses awarded in 2015, and implied that no new oil and gas license was awarded in 2015, it only described the statutory license allocation process, including the technical and financial criteria, but not any deviation in practice. There was evidence of one oil and gas license allocation in July 2015. The process for transferring licenses was described for the oil and gas sector, but not for mining, and the report did not clearly state whether any mining, oil and gas licenses

<sup>50</sup> AlbEITI website, Minutes of 15 May 2018 meeting, accessed [here](#) in February 2019.

<sup>51</sup> AlbEITI website, Minutes of 7 December 2018 meeting, accessed [here](#) in February 2019.

were transferred in the year under review. Given the fact that the mining licenses were awarded through bidding, the list of unsuccessful bidders and actual bid criteria for each round should have been disclosed.

### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

***Awards/transfers:*** In *oil and gas*, the 2016 EITI Report confirms that one new PSA was awarded to Albanides Energy for Block 8 in March 2016 (p.30). The report also describes the award of PSAs in 2015 and 2017 (p.30) and two licenses for oil refining in 2016 (p.32). In terms of transfers, the report cites transfers of interests in seven oil and gas licenses in 2016 (pp.27-30). The report states that Shell acquired 100% of the interests in Blocks 2 and 3 from Petromanas Albania GmbH, as well as the company's entire Albanian operations in February 2016 (p.28). The report also describes GBC Oil's acquisition of 100% interest in four onshore oilfields (Gorisht-Kocul, Cakran-Mollaj, Ballsh-Hekal and Delvina Condensate) from TransAtlantic Petroleum in February 2016 (p.29). Finally, the report describes the transfer of interests in the Rasë-Pakisht oilfield from Phoenix Petroleum to Fin Pek Petroleum in May 2016 (p.178).

In *mining*, while the 2016 EITI Report does not refer to the number or identity of mining licenses awarded in 2016, the register of mining licenses published on the AlbEITI website in 2018 lists 66 licenses awarded in 2016.<sup>52</sup> There is no information on mining license transfers in 2016 either in the 2016 EITI Report. A senior government official confirmed that there had been transfers of mining licenses in 2016. While the official considered that the National Register of Licenses and Permits provided all necessary information on license transfers, including the names of the transferor and transferee, date of transfer, as well as the transfer deed itself, the website<sup>53</sup> did not seem to provide this information upon review by the International Secretariat.

In May 2019, the name of the transferor and transferee have been made available on the list of mining licenses published on the AlbEITI website<sup>54</sup>. Upon review by the International Secretariat, 38 licence transfers could be counted.

***Award/transfer process:*** In *oil and gas*, while the 2016 EITI Report does not provide a description of the process for awarding of transferring licenses, it does provide links to the relevant sections of the websites of MEI<sup>55</sup>, AKBN<sup>56</sup> and Albpetrol<sup>57</sup> (p.39), from which general description of the process for awarding and transferring licenses is provided (based on the hydrocarbon law<sup>58</sup>). Oil and gas licenses can be awarded either through competitive bidding or through direct negotiations, and each transfer process has to be approved by the Ministry of Infrastructure and Energy.

In *mining*, the 2016 EITI Report provides a detailed description of the process for awarding and transferring licenses (p.64-66), through biddings round for competitive mining areas and through direct negotiations on a first-come-first-served basis for open mining areas. A senior government official confirmed that all licenses for minerals are awarded through bidding (around 90% of the number of mining licenses awarded every year), while awards on a first-come-first-served basis were used only for

<sup>52</sup> AlbEITI (2018), Register of mining licenses, accessed [here](#) in March 2019.

<sup>53</sup> National Register of licenses and permit, accessed [here](#) in March 2019

<sup>54</sup> AlbEITI (2018), Register of mining licenses, accessed [here in May 2019](#)

<sup>55</sup> Ministry of Infrastructure and Energy website, 'Oil and gas blocks and licenses' page, accessed [here](#) in February 2019.

<sup>56</sup> AKBN website, 'Rregullore për procedurat e miratimit të marrveshjeve' page, accessed [here](#) in February 2019.

<sup>57</sup> Albpetrol website, 'Blocks' page, accessed [here](#) in February 2019.

<sup>58</sup> Accessed through the [AlbEITI website](#), May 2019



quarrying licenses covering construction materials. Licenses awarded for quarrying were temporary licenses for three years.

*Technical and financial criteria:* For *oil and gas*, the report provides a cursory overview of the technical and financial criteria assessed in awards of petroleum agreements (p.40) but does not provide the specific technical and financial criteria assessed. According to a senior government official consulted, the amendment to Albania's Exploration and Production Law in 2017, which aligned it with EU regulations, required information on technical and financial criteria to be available on the MIE's website. The official confirmed that specific technical and financial criteria existed for both awards and transfers, with no weighting of criteria since all needed to be fulfilled for an application to be considered. However, there is no evidence that the specific technical and financial criteria assessed for awards and transfers of oil and gas licenses is publicly-accessible. The official confirmed that the technical and financial criteria were broadly the same for awards and transfers, with an additional clause stipulating that the government could veto license transfers involving foreign investors on national security grounds. Several government stakeholders consulted confirmed that technical and financial criteria included review of the last three years of financial statements, previous experience undertaking similar work and expert staff CVs. They did not consider it sensitive to disclose the specific technical and financial criteria for awards and transfers of oil and gas licenses and considered that this should already have been done.

For *mining*, the report provides a cursory overview of the general technical and financial criteria assessed in applications for license awards through competitive tender (p.65) and provides a link<sup>59</sup> to where individual bid notices, including terms of reference and bid criteria, are published on the MIE website. However, the report does not describe the technical and financial criteria assessed in applications for license awards through the first-come-first-served process, nor criteria assessed in mining license transfers. Government officials consulted considered that the technical and financial criteria for mining license awards and transfers should be available<sup>60</sup> on the National Business Register website<sup>60</sup>, although independent review of the website did not identify a clear list of such criteria.

*License awardee information:* For *oil and gas*, the report provides the names of the company awarded the new PSA awarded in 2016 (p.30) and the names of the transferrer and transferee companies for the oil and gas licenses covered by PSAs in which participating interests were transferred in 2016 (pp.27-29).

For *mining*, while the report does not provide the names of the companies that received the 66 licenses awarded in 2016, the list of mining licenses on the AlbEITI website provides these names.<sup>61</sup> Information on mining licenses transferred in 2016 was not published on the AlbEITI website or the 2016 EITI Report at the start of Validation.

*Non-trivial deviations:* For *oil and gas*, the 2016 EITI Report highlights the lack of clarity around the process followed for the award of the one PSA concluded in 2016, by noting that "*the MIE did not disclose whether this contract was allocated through a bidding process or a negotiation process, and who were the non-winning applicants*" (p.130) and that "*methods and criteria applied for allocation of the PSAs are not disclosed*" (p.40). The report does not comment on the existence of non-trivial deviations in the transfers of participating interests in oil and gas licenses in 2016. None of the stakeholders consulted raised concerns over non-trivial deviations in the award of transfer of oil and gas licenses, although several government and civil society considered that there were instances of companies deviating from their agreed work programmes in practice during licenses' periods of validity.

<sup>59</sup> Ministry of Infrastructure and Energy website, Mining license bid notices section, accessed [here](#) in March 2019.

<sup>60</sup> National Register of licenses and permit, accessed [here](#) in March 2019

<sup>61</sup> AlbEITI (2018), Register of mining licenses, accessed [here](#) in March 2019.

For *mining*, the 2016 EITI Report does not comment on the existence of non-trivial deviations in license awards in 2016, but states that, according to the MIE, the involvement of the Public Procurement Agency (APP) and the Public Procurement Commission (PPC) in overseeing the fair and non-discrimination basis for allocating mining licenses “*should be sufficient to prevent any corrupted or discriminatory practices and address the participants’ concerns on a timely basis*” (p.66). The report does not comment on any non-trivial deviations in mining license transfers in 2016, if applicable.

*List of bidders for licenses awarded through bidding*: In *oil and gas*, the 2016 EITI Report implies that no license was awarded through bidding in 2016 (p.40). Government stakeholders consulted confirmed that Block 8 was awarded to Albanides Energy through direct negotiations rather than through licensing round. This license was then cancelled in late 2017.

In *mining*, although it is unclear from the report how many of the 66 mining licenses awarded in 2016 were granted through competitive tender, one government official consulted indicated that all licenses for minerals were awarded through licensing rounds and that the first-come-first-served process applied only to quarrying licenses for construction materials, which accounted for less than 10% of the number of licenses awarded on average. The 2016 EITI Report provides a link<sup>62</sup> to the bid criteria for mining license bidding rounds (p.65). The 2016 EITI Report explains that the list of non-winning applicants is communicated by electronic posts to all bidders but that these lists are not publicly-disclosed (p.65). The report explains that the MIE stated that the disclosure of non-winning applicants is not allowed under the Law on Public Procurement and that any changes to the law would need to be carefully considered from the perspective of non-winning applicants (p.66).

### Secretariat’s Assessment

The International Secretariat is satisfied that the corrective action on license allocations has been partly addressed and considers that Albania has made meaningful progress with considerable improvements on Requirement 2.2. The 2016 EITI Report and mining, oil and gas license registers published on the AlBEITI website identify the mining, oil and gas licenses awarded in 2016 and the oil and gas licenses in which participating interests were transferred in 2016, including the 38 mining licenses that were transferred in 2016. While descriptions of the general processes for awarding and transferring licenses are publicly available for both mining and oil and gas, there is no evidence that the detailed technical and financial criteria for oil and gas license awards and transfers or for mining license (for quarrying of construction materials) awards on a first-come-first-served basis or transfers are available to the public. Stakeholder consultations indicated a lack of constraints on disclosing the list of mining licenses transferred in 2016 and the specific technical and financial criteria assessed in license awards and transfers in both mining and oil and gas. Although the 2016 EITI Report highlights the MSG’s assessment of non-trivial deviations in mining, oil and gas license awards, it does not describe the MSG’s approach to assessing non-trivial deviations in license transfers in 2016. The report is transparent about legal constraints hindering disclosure of non-winning bidders for mining licenses awarded through licensing rounds, although this could be a significant challenge to Albania’s adherence to Requirement 2.5 on beneficial ownership disclosure for companies bidding for extractives licenses.

In accordance with Requirement 2.2, Albania is required to publicly disclose a comprehensive description of the process for transferring or awarding licenses in mining, oil and gas, including the specific technical and financial criteria assessed, and an assessment of non-trivial deviations from statutory procedures for

<sup>62</sup> Ministry of Infrastructure and Energy website, Mining license bid notices section, accessed [here](#) in March 2019.

awards and transfers in the year under review. Where licenses are awarded through a bidding process, the government is required to disclose the list of applicants (including non-winning applicants).

### 3.4 Corrective action 4 (#2.3)

In accordance with requirement 2.3.b, Albania should ensure that dates of application, award and expiry, commodity(ies) covered and coordinates for all oil, gas and mining licenses held by material companies are publicly available. The government is encouraged to make this information available for licenses held by all companies, regardless of their materiality.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress towards meeting this requirement. The 2015 EITI Report provided a link to the public mining, oil and gas license register, although there were gaps in the public provision of dates of application and coordinates for some mining, oil and gas licenses.

#### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

For *oil and gas* licenses, the 2016 EITI Report notes that the MIE does not publish an updated register of licenses (p.44). However, it provides links to the website homepages of AKBN<sup>63</sup> and Albpetrol<sup>64</sup> and explains that the two provide lists of the PSAs under their administration and the licenses they hold (p.44). However, the report highlights that these listings do not disclose the date of applications or of contract award, and highlights that these lists of oil and gas PSAs may contain outdated information (p.44). It also notes that the registers published in December 2017 provided only the initial names of the operators who were granted the PSAs and did not provide information on any subsequent changes in ownership or transfers of rights. Thus, the report notes as an example that the registers did not provide information that the operations in the oilfields of Cakran-Mollaj, Ballsh-Hekal and Gorisht-Kocul were transferred to GBC Oil Ltd. in February 2016 (p.44). While the AlbEITI website has published an oil and gas license register<sup>65</sup>, it contains all the information on the AKBN and Albpetrol website as well as the missing dates of award, license coordinates and commodities covered, but does not provide the dates of application. In addition, the same gaps in comprehensiveness as the license registers on the AKBN and Albpetrol websites are apparent, as the new PSA granted to Albanides Energy Sh.a. is absent. However, several government and secretariat representatives consulted explained that the current list of oil and gas licenses on the AlbEITI website was the most recent list following twice-yearly updates and noted that the register published in early 2017 would have included the Albanides Energy PSA before it was cancelled in late 2017. An independent review by the International Secretariat of the former license register<sup>66</sup> published on the AlbEITI website in 2017 confirmed these stakeholder views, implying that the register published on the AlbEITI website is regularly and comprehensively updated. The 2016 EITI Report explains that the AlbEITI oil and gas license register is updated twice a year but that dates of application for all oil and gas licenses is missing “because of time elapsed since contract award practice” (p.44). A government official consulted indicated that it was possible to source the dates of application for all active oil and gas

<sup>63</sup> AKBN website, accessed [here](#) in March 2019.

<sup>64</sup> Albpetrol website, accessed [here](#) in March 2019.

<sup>65</sup> AlbEITI website, Oil and gas license register, accessed [here](#) in March 2019.

<sup>66</sup> Internet Archive, ‘AlbEITI website’ scrape from 2017, accessed [here](#) in March 2019.

licenses based on a review of physical documents in the MIE's archives and indicated the Ministry's plans to digitalize dates of application for future oil and gas license awards.

For *mining* licenses, the report notes that the MIE maintains a public register of mining licenses and provides a link<sup>67</sup>, noting that all information listed under Requirement 2.3.b is accessible aside from dates of application and license coordinates, but highlights that the frequency of updates of the MIE license register is unclear (p.66). However, the report also notes that the AlbEITI website has published a mining license register<sup>68</sup> that provides all of the information listed under Requirement 2.3.b, aside from dates of application for licenses awarded prior to 2012 (pp.66-67). It explains that these dates of application are missing "*because of time elapsed since contract award practice*" (p.67). It notes that the AlbEITI register is updated with information from MIE, AKBN and SHGJSH twice a year (p.67). Spot-checks by the International Secretariat of specific licenses held by some material mining companies suggest that the register is comprehensive of all mining licenses active in 2016. A government official consulted noted that dates of application for all active mining licenses were available in hard-copy documents from the MIE's archives and expressed willingness to disclose these in future.

### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on license registers has been addressed and considers that Albania has made satisfactory progress with improvements on Requirement 2.3. The 2016 EITI Report and mining, oil and gas license registers published on the AlbEITI website provide all of the information listed under Requirement 2.3.b (including license-holder name, dates of award and expiry, commodity(ies) covered and coordinates), albeit not the dates of application for licenses held by material companies. The report is transparent about challenges in sourcing dates of application. Stakeholder consultations indicated that it would be possible to source dates of application for the majority of licenses held by material companies, based on the MIE's hard-copy archives. The International Secretariat's view is that the lack of publicly-accessible dates of application is a marginal issue that does not affect Albania's progress in meeting the overall objective of transparency in license information.

In accordance with Requirement 2.3, Albania is required to maintain a publicly-available register or cadastre system(s), including comprehensive information on licenses held by all oil, gas and mining companies. In the interim, Albania should ensure that future information listed under Requirement 2.3.b, including dates of application, are publicly accessible for all licenses held by material mining, oil and gas companies.

### 3.5 Corrective action 5 (#2.4)

In accordance with Requirement 2.4.b, Albania is required to document in future EITI Reports the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. This should include relevant legal provisions, any reforms that are planned or underway as well as an overview of contracts already published.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress towards meeting this requirement. The 2015 EITI Report clarified the government's policy on contract disclosure in the oil and gas sector, but

<sup>67</sup> Ministry of Infrastructure and Energy website, Mining license register, accessed [here](#) in March 2019.

<sup>68</sup> AlbEITI (2018), Register of mining licenses, accessed [here](#) in March 2019.

not in mining. The report did not comment on actual contract disclosure practice despite key stakeholders being aware of several contracts being available in the public domain.

### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

**Government policy:** In *oil and gas*, the 2016 EITI Report notes that the Government of Albania is “positive towards contract disclosure” despite the lack of provisions related to contract disclosure in the Petroleum Law (p.43). However, it explains that contract disclosure “is not set as an unnegotiable term” (p.43), implying that the actual disclosure of oil and gas contracts in practice is subject to negotiation between the two parties to the contract (government and company) (p.43). Upon consultations, several government officials confirmed that the government’s policy was in favour of contract disclosure in the oil and gas sector. One industry representative noted an ambiguity in the practice of contract disclosure: while PSAs included confidentiality provisions, they required publication in full in the official government gazette in order to take force. The representative confirmed that all PSAs to date had been published in the official gazette.

In *mining*, the 2016 EITI Report explains that there are no provisions in the Mining Law related to disclosure of mining concession contracts and quotes the MIE’s view that terms of mining contracts cannot be disclosed due to “confidentiality arrangements” (p.68), understood to mean confidentiality provisions of mining concession contracts. The 2016 Report does not clarify whether the government has a generally pro- or anti-disclosure policy related to mining contracts, above and beyond the existence of confidentiality provisions. The report notes the MIE’s statement that there are no planned regulatory changes in the short term related to contract disclosure either in oil and gas or mining (pp.43,68). However, several government and industry stakeholders consulted considered that the government policy was clearly in favour of mining contract disclosure and noted that the three mining concession contracts had been published in the official gazette.

**Actual practice:** In *oil and gas*, the 2016 EITI Report lists the specific oil and gas PSAs that have been published, either on the Resource Contracts portal<sup>69</sup>, attached to the Decision of the Council of Ministers (DCM) approval accessible through the official gazette<sup>70</sup>, or the Open Data Albania portal<sup>71</sup> maintained by the Albanian Institute of Science (pp.43,172-178). Stakeholder consultations highlighted that all oil and gas contracts were publicly available, starting with the 2004 PSA<sup>72</sup> with OMV, aside from the original PSA with Bankers Petroleum for the Patos Marinza oilfield.

In *mining*, the report notes that no mining concession contracts have been publicly disclosed to date and provides a recommendation that the practice of contract disclosure upon agreement by both contractual parties in the oil and gas sector be replicated in the mining sector (p.68). While it notes that the full text of “many” mining licenses has been publicly disclosed through the National Business Centre, with a link<sup>73</sup> provided (p.68), it does not specify the exact list of licenses that have been published to date. However, several government and industry stakeholders consulted considered that all mining contracts to date had been published in the official gazette. A senior government official confirmed that only three contracts had ever been concluded in the mining sector, covering mining concessions in bitumen, copper and

<sup>69</sup> Resource Contracts portal, Albania contracts, accessed [here](#) in March 2019.

<sup>70</sup> Government of Albania Official Gazette, accessed [here](#) in March 2019.

<sup>71</sup> Open Data Albania portal, accessed [here](#) in March 2019.

<sup>72</sup> OMV PSA from 2004 - <http://80.78.70.231/pls/kuv/f?p=201:Vendim%20%20KM:562:27.08.2004>

<sup>73</sup> National Business Centre website, Mining licenses section, accessed [here](#) in March 2019.

chromium signed in 2001, and that all three contracts<sup>74 75 76</sup> were available in the official gazette. This was independently confirmed.

**Accessibility:** The report provides guidance on accessing oil and gas PSAs and the full text of mining licenses, as noted above.

### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on contract disclosure has been addressed and considers that Albania has made satisfactory progress on Requirement 2.4. The 2016 EITI Report clarifies the government's policy on contract disclosure in the oil and gas sector, but not in the mining sector. Stakeholder consultations confirmed that the government had a pro-disclosure policy in practice in the mining sector. While there is little evidence that the MSG has taken steps to codify this government policy for the mining sector, the Secretariat's view is that the government's pro-disclosure policy for mining contracts in practice, combined with the small number of contracts in the mining sector (three), mean that the broader objective of contract transparency has been achieved. The report provides general guidance on accessing the contracts published in the mining, oil and gas sector, but does not confirm that the three mining concession contracts concluded to date have been published in the official gazette, even though this was independently verified during consultations.

To strengthen implementation, Albania is encouraged to clarify the government's policy on contract disclosure in the mining sector and publicly document the list of contracts that have been disclosed to the public. Albania may wish to take steps to facilitate access to published contracts that are accessible through the official gazette, for instance through publication on the AlbEITI website or the Resource Contracts portal.

### 3.6 Corrective action 6 (#2.6)

In accordance with Requirement 2.6.a, the MSG should provide an explanation of the prevailing rules and practices related to SOEs' retained earnings, reinvestment and third-party funding. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies in line with Requirement 2.6.b.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress in meeting this requirement. The 2015 EITI Report did not provide a comprehensive list of companies operating in the mining, oil and gas sectors in which the government holds equity, although it did provide reference to the rules (but not practices) related to the financial relations between SOEs and the government, albeit only concerning retained earnings and reinvestment, not third-party funding. The existence of loans or loans guarantees from the state or any SOE to companies operating in the mining, oil and gas sectors was unclear in the 2015 EITI Report, although there was extensive information on state loans and guarantees to hydro-power companies.

<sup>74</sup> See Official Gazette (2001), 'Ligj Nr.8791, datë 10.5.2001, Botuar ne Fletoren Zyrtare nr. 29, viti 2001 (Qershori) Ndryshuar me Ligjin Nr. 79, date 29.07.2016, Botuar ne Fletoren Zyrtare nr.146, viti 05.08.2016', accessed [here](#) in March 2019.

<sup>75</sup> See Official Gazette (2000), 'Ligj, Nr.8590, Dt.Aktit:23.03.2000, Botuar ne Fletoren Zyrtare nr. 7, viti 2000 (Prilli) Ndryshuar me Ligjin Nr. 80, date 29.07.2016, Botuar ne Fletoren Zyrtare nr.146, viti 05.08.2016, accessed here in March 2019.

<sup>76</sup> See Official Gazette (2001), 'Ligj nr. 8761, datë 02.04.2001, Botuar ne Fletoren Zyrtare nr. 18, viti 2001 (Prilli) Ndryshuar me Ligjin Nr. 73/2017, Botuar ne Fletoren Zyrtare nr.127, 1 qershor viti 2017', accessed [here](#) in March 2019.

## Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

**Materiality:** In *mining*, the 2016 EITI Report states that the SOEs in the mining sector are currently under liquidation and that the Ministry of Economy and Finance is in the process of selling its equity through privatization (p.53). The report confirms that none of the mining SOEs paid any dividends to the government in the past six years, providing a link<sup>77</sup> to Ministry of Finance dividend reports published on its website as evidence (p.53).

In *oil and gas*, the 2016 EITI Report confirms that Albpetrol Sh.a. is considered the only SOE in the oil and gas sector (p.36). It confirms that state participation in Albpetrol gives rise to material revenues through the SOE's payments to dividends to the state as its sole shareholder, on the same terms as private companies (p.37), and through its sale of the state's in-kind revenues (pp.40-41). The report confirms that Albpetrol did not pay a dividend to the state in 2016, despite having done so in previous years, and provides the value of its payments to the national budget in 2016 (p.38).

The report lists three other SOEs, of which one<sup>78</sup> was under liquidation since 2011, and two<sup>79</sup> were active but not involved in upstream oil and gas nor paid any dividends in the 2011-2016 period (p.37). The report confirms that AKBN is not a SOE, but rather a public agency reporting to the Minister responsible for energy (p.15), a non-budgetary public institution collecting extractives revenues (p.132). Senior government officials consulted highlighted the planned reforms to AKBN's legal status, expected in 2019, with one of the options considered consisting of reforming AKBN's status into a government agency whose accounts would be recorded in the national budget.

**Financial relations:** The 2016 EITI Report explains that Albpetrol is required to pay the same taxes and levies to government<sup>80</sup> as all private companies, as well as dividends to the government as its sole shareholder (p.37). The report quotes Albpetrol's and MIE's assurances that there are no special arrangements governing transfers between Albpetrol and the Government (p.37). This implies that Albpetrol is subject to the same rules as privately-owned commercial companies, i.e. that its Board of Directors can decide on the level of dividends, of retained earnings, of reinvestment in its operations, and that Albpetrol does not receive government subsidies, although this is not explicitly stated in the 2016 EITI Report. Neither the 2016 EITI Report nor the Albpetrol website<sup>81</sup> confirms whether Albpetrol is statutorily entitled to raise funding from third parties, either debt or equity. The report only provides a cursory description of past plans to privatize Albpetrol, noting that current privatization plans are unclear (p.39). Representatives of the SOE stated that Albpetrol had the right to raise third-party-financing, both debt and equity, but that the company did not resort to third-party financing in practice given the oil and gas revenues it collected and retained to finance its operations. The representatives explained that Albpetrol's ability to raise third-party financing was enshrined in the company's statutes, but expressed uncertainty over the public accessibility of these statutes. In terms of actual practice, the report provides key figures from Albpetrol's audited 2016 financial statements (as well as those for the 2011-2015 period), including net operating revenue, profit before tax and dividends paid to the state (p.38), noting that dividends paid by Albpetrol have been volatile and not closely linked to its profits or the level of

<sup>77</sup> Ministry of Finance website, 'Dividend reports', accessed [here](#) in March 2019.

<sup>78</sup> PetrolAlba Sh.a., involved in retail and storage of oil.

<sup>79</sup> TransNafta Sh.a. involved in transport of refined oil products and Uzina Mekanike e Naftës Sh.a. involved in mechanic servicing of oil industrial parts.

<sup>80</sup> Profit Tax, VAT, Social and Health insurance, Royalties and Tax Penalties.

<sup>81</sup> Albpetrol website, Balance sheet data, accessed [here](#) in March 2019.

retained earnings (p.131). The report also describes the source of crude oil production collected by Albpetrol and the way in which it is marketed and sold, including in 2016 (pp.40-43). While the EITI Report only notes that Albpetrol's audited 2016 financial statements are accessible through the National Business Register, independent verification by the International Secretariat confirmed that Albpetrol's audited 2016 financial statements and related audit report are accessible through the register<sup>82</sup>, albeit subject to an in-depth search.

***Government ownership:*** The report confirms that the Ministry of Finance and Economy holds 100% equity in Albpetrol and 15% in the ARMO oil refinery (p.17). It appears that Albpetrol does not hold equity in any other upstream extractive companies, which was confirmed in consultations with government officials. The report notes that Albpetrol owns exclusive exploitation and exploration rights in all existing oilfields and some exploration blocks in Albania in areas under its jurisdiction (p.37). The specific list of exploration blocks under Albpetrol's administration is provided (p.23). The report describes Albpetrol's "sub-granting" of rights for oil and gas exploration and production in areas under its administration to private companies since 2003 (p.11). While the report notes that Albpetrol is the contracting party in all PSAs granted rights in areas under its administration (p.37) and that Albpetrol is licensed by MIE under the same terms as included in the PSAs under its administration (p.41), it does not provide Albpetrol's participating interests in the PSAs. According to several government officials consulted however, Albpetrol does not hold any participating interests in PSAs it has concluded with private companies. The report recommends that the MIE maintain an updated register listing all SOEs and other participations in the companies operating in the extractive sector of oil, including changes in the government ownership (p.132).

***Ownership changes:*** While the 2016 EITI Report does not refer to any changes in government ownership during 2016, stakeholders consulted confirmed that there had not been any changes in state equity in extractives companies, including in Albpetrol, in 2016. This was confirmed through independent review of Albpetrol's audited 2016 financial statements by the International Secretariat.<sup>83</sup>

***Loans and guarantees:*** The 2016 EITI Report confirms that Albpetrol has not received nor granted any loan to the government to date (p.38). It notes that Albpetrol held a total of ALL 12bn in trade receivables from ARMO by end-2016 as a result of past oil sold to the oil refinery (p.38). However, the report does not refer to the MSG's assessment of any loans or loan guarantees provided by the government to any upstream extractives companies that were outstanding in 2016. According to government officials consulted, Albpetrol had provided loans to government entities like AKBN in the past, but these were not outstanding in 2016. Government officials consulted confirmed that the government had not provided any loans or loan guarantees to mining, oil and gas companies in 2016, in contrast to its provisions of loan guarantees in the hydro-power sector.

## Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on state participation has been partly addressed and considers that Albania has made meaningful progress on Requirement 2.6. The 2016 EITI Report clarifies that Albpetrol was the only material SOE for EITI reporting purposes in 2016 and describes the financial relations between Albpetrol and the state, both statutorily and in practice, aside from the rules related to its ability to raise third-party financing. Stakeholder consultations confirmed that the Albpetrol company statutes clearly codified the rules related to third-party financing, although the public accessibility of these statutes was unclear during Validation. The report provides an overview of state

<sup>82</sup> National Business Register website (December 2017), Albpetrol 2016 financial statement accessed [here](#) and 2016 audit report accessed [here](#) in March 2019.

<sup>83</sup> National Business Register website (December 2017), Albpetrol 2016 financial statement accessed [here](#) and 2016 audit report accessed [here](#) in March 2019.



equity in extractives companies, including terms associated with state equity, and, while it does not explicitly confirm the lack of changes in state participation in 2016, stakeholder consultations confirmed that there were no changes in state participation in 2016. While the report only confirms the lack of outstanding loans and guarantees from Albpetrol to extractives companies in 2016, without reference to any government loans or guarantees to extractives companies, stakeholder consultations confirmed that the government did not have any outstanding loans or guarantees to extractives companies in 2016.

In accordance with Requirement 2.6, Albania should publicly clarify the rules and practice related to Albpetrol's ability to raise third-party financing, any changes in state participation in the year under review and any outstanding loans and guarantees from either Albpetrol or the state to companies in the mining, oil and gas sector. Albania may wish to consider improvements in the accessibility of Albpetrol's published audited financial statements as a means of clarifying the practice of financial relations between Albpetrol and the state.

### 3.7 Corrective action 8 (#4.6)

In accordance with Requirement 4.6, the MSG should undertake appropriate scoping of direct subnational payments by extractive companies to LGUs, establishing a comprehensive basis for the MSG's materiality discussions regarding direct payments to LGUs. The MSG may wish to consider a sampling approach, which would allow these payments to be investigated without creating an unreasonable reporting burden.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress towards meeting this requirement. It was considered possible that further work on this issue would demonstrate that this requirement was not applicable in Albania, as it seemed likely that subnational payments to LGUs were not material. However, the MSG clearly agreed to include subnational payments to LGUs within the scope of the reporting process, noting the significance of these payments to local communities. In the absence of comprehensive government data, the approach adopted based on selecting LGUs for reconciliation based on company data appeared reasonable. However, there appeared to be significant gaps in the reporting from companies and in the participation of LGUs.

#### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

**Materiality:** The 2016 EITI Report explains that the ToR for the IA, adopted by the MSG, excluded local taxes from the scope of reporting because they were considered to be general in nature, i.e. not extractives-specific (p.107). However, it states that mining, oil and gas companies were required to report "any other payments" to local governments of more than USD 5k (p.107). While the report does not provide an assessment of the materiality of local taxes levied from extractives companies by all local governments in which extractives companies operate, it estimates the value of local tax payments by material companies to the seven local government selected for reporting (Municipalities of Fier, Patos, Bulqizë, Roskovec, Prrrenjas, Kukes and Kruje) as 2% of total reconciled revenues in 2016 (p.102). However, the selection of the seven material local governments is based on their being "major extractives LGUs" (p.102) rather than being based on a quantitative materiality threshold, i.e. an assessment of all local governments' local tax revenues from all extractive companies. The report further clarifies in its recommendations that the seven local governments were selected on the basis of regional production

levels reported by AKBN for 2016 and thus did not include all local governments collecting local taxes from extractives companies (p.125).

Consultations with government and industry stakeholders indicated that municipalities have tax-raising powers and the ability to set or determine types and rates of local taxes. Upon consultation, the IA considered that regional production data offered a satisfactory proxy for determining the materiality of payments to local governments, since mining, oil and gas companies' payments to local governments were correlated with their activity and production in each local government area. None of the stakeholders consulted raised objections to this approach to selecting local governments for EITI reporting, given the absence of centralised information on direct payments to local governments at the national level. Stakeholders confirmed that material companies did not disaggregate local taxes by revenue streams in their EITI reporting. While some government officials consulted considered that the Ministry of Finance's Directorate of Local Governments perhaps had data on direct payments to local governments, further consultations with the Ministry of Finance confirmed that the ministry only had data on aggregate revenues collected by local governments, but not on revenues disaggregated by revenue stream or type of company.

**Reporting:** The results of reconciliation of companies' direct subnational payments to the seven local governments are provided (p.162), albeit not disaggregated by revenue stream, only by local government and company. In its recommendations, the report emphasises the need for reporting of direct subnational payments to be disaggregated by revenue stream (p.125).

In terms of local governments' reporting, the report highlights that three of the seven local governments did not submit reporting templates (p.125). The report also highlights challenges in ensuring timely reporting from the other local governments selected for reporting (pp.125-126). Based on the reconciliation results provided (p.162), it appears that all material companies reported direct subnational payments to the seven local governments. However, the report states that reporting companies provided the required quality assurances for only a total of 61% of direct subnational payments reported (p.102) (*see Requirement 4.9*). Nonetheless, it provides the IA's assessment of the comprehensiveness of reconciliation of these direct subnational payments by stating that, "considering the relatively low materiality of this payment flow and the level of assurance provided, any omission or misstatement uncovered would not significantly affect the comprehensiveness of the EITI Report" (p.102).

**Discrepancies:** Final unresolved discrepancies in the reconciliation of direct payments to the seven local governments are provided (p.162), albeit without explanation for the nature of discrepancies. Aggregate final unreconciled discrepancies amounted to 22.1% of direct subnational payments reported by companies.

### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on direct subnational payments has been partly addressed and considers that Albania has made meaningful progress with improvements on Requirement 4.6. The 2016 EITI Report provides a summary of the MSG's assessment of the materiality of direct subnational payments and its selection of seven material local governments on the basis of regional production data. While the lack of a materiality definition based on an assessment of direct subnational payments in 2016 is a concern, the approach appears viable given the lack of centralised information on direct subnational payments, the correlation between companies' production levels and their payments to local governments, and the lack of stakeholder concerns over the comprehensiveness of reconciliation coverage yielded by this approach. While material companies appear to have reported their direct payments to local governments, the lack of disaggregation of this reporting by revenue stream is a

concern. There are also significant gaps in local governments' reporting of direct subnational revenues, with only four of the seven material local governments submitting EITI reporting templates. The Secretariat's view is thus that, while significant aspects of the requirement have been addressed, the broader objective of transparent in direct subnational payments is not yet achieved.

In accordance with Requirement 4.6, Albania is required to ensure that all company payments to subnational government entities, when material, are disclosed and reconciled. Albania is encouraged to publicly disclose a more detailed explanation of the types of local taxes collected by local governments and to enhance its outreach to local governments ahead of future EITI reporting and reconciliation of material direct subnational payments.

### 3.8 Corrective action 10 (#4.9)

In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with Requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the MSG and Independent Administrator should:

- Examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his/her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided.
- Ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
- Ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress towards meeting this requirement. The MSG appeared to have approved the selection of the IA for the 2015 EITI Report, including a ToRs consistent with the Board-approved template, as well as the reporting templates. While the IA appeared to have reviewed material entities' statutory audit procedures prior to agreeing quality assurance procedures for ensuring the reliability of reconciled data in the 2015 EITI Report, there was no evidence that the IA reviewed reporting entities' actual audit practices. It was unclear why the industry MSG members approved quality assurance procedures that no company followed in practice. The 2015 EITI Report did not assess the significance of reporting from entities that did not comply with the agreed

quality assurance procedures. The lack of any assurance from the IA on the comprehensiveness and reliability of reconciled data was a concern and represented a deviation from the IA's ToRs for the 2015 EITI Report. The IA had prepared summary tables of data in the Albania's EITI Reports.

### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

***Appointment of the Independent Administrator (IA):*** Funded by World Bank grants through the Extractives Global Programmatic Support (EGPS) procurement of the IA followed World Bank procurement guidelines through competitive bidding, with the AlbEITI Secretariat acting as the procurement entity for all contracts. The IA's ToRs, evaluation of bids and selection of the winning bid were all submitted to the World Bank for no-objection approval. Deloitte Audit Albania was the winning bidder for the 2015 and 2016 EITI Reports, which were procured as a single contract signed on 18 July 2016. The procurement rounds for the 2015 and 2016 EITI Reports were based on consultant's qualification (QCBS). There is no evidence of MSG involvement in the evaluation and selection of bidders for the 2016 EITI Report and it appears that the bid evaluation committee for the 2015 and 2016 EITI Reports was composed exclusively of AlbEITI secretariat staff. However, review of MSG meeting minutes indicates that the MSG approved of the selection of the IA.

***Terms of Reference for the IA:*** The MSG approved the ToR for the IA of the 2015 EITI Report via circular on 1 March 2016.<sup>84</sup> The approved ToR appear to be consistent with the Board-approved standard ToR for IAs.

***Agreement on the reporting templates:*** In the 2016 EITI Report, the IA confirms that it prepared draft reporting templates that were approved by the MSG in July 2017 (pp.111-112). However, the final report notes that the current template failed to address some requirements of the EITI Standard, namely related to disaggregation of all revenue streams (p.103). It appears that the MSG had approved the reporting templates as part of its review of the IA's inception report for 2016, in March 2017, prior to data collection.

***Review of audit practices:*** The report provides a brief summary of statutory audit and assurance procedures for extractives companies (p.94) and provides a clear list of the specific extractives companies whose audited financial statements are accessible on the NRC portal<sup>85</sup> in (pp.96,180-185). Similarly, the report provides an overview of statutory audit and assurance procedures for government entities and Albpetrol (p.98) and confirms that the Supreme State Auditor completed its audit of 2016 public accounts, with a link provided in the report (p.98). It also confirms that Albpetrol was the only public institution to have prepared audited financial statements for 2016 (p.98), while AKBN and local governments did not. The overviews of statutory audit procedures refer to international audit standards (pp.94,98). Several government officials consulted confirmed that AKBN did not yet have audited financial statements.

***Assurance methodology:*** The report describes the assurance methodology agreed for companies' EITI reporting, which consisted of certification from external auditors and reporting templates signed by company management (pp.97,113). It appears that government entities were required to also submit an "assurance report" from their "statutory auditors or selected auditor" for their reporting templates although the report only refers to general "reporting entities" rather than to material government entities specifically (p.97). Upon consultations, the IA clarified that government entities were only required to officially submit their EITI reporting to the IA and that independent certification from the Supreme State Auditor was not required. Senior government officials consulted explained that government EITI reporting for 2016 had been submitted to the IA electronically, with no additional signatures were required. All

<sup>84</sup> <http://www.albeiti.org/multi-stakeholder-group/msg-meetings/year-2016/>

<sup>85</sup> NRC portal, accessed [here](#) in March 2019.

stakeholders consulted, including the IA and industry, explained that the MSG and IA had considered that the requirement for certification from external auditors was a condition imposed by the EITI Standard, rather than up for the MSG's deliberations with the IA. MSG members consulted noted that they now planned to have a more detailed discussion of an approach to quality assurances that was realistic for all material companies to comply with. As a potential alternative, the IA noted that it would be comfortable with the reporting template being signed by each company's management, but noted that less than 50 reporting companies had provided this management sign-off for their 2016 reporting templates.

A summary of the worked performed by the IA is provided (pp.110-113). The report refers to the IA's work being undertaken in line with International Standard on Related Services (ISRS) 4400 and that the reconciliation procedures were not designed to constitute an audit or review equivalent to ISA or ISRS (p.3).

***Confidentiality:*** While the report does not refer to mechanisms implemented to ensure the confidentiality of financial information pre-reconciliation, the reference to the IA's work being undertaken in line with ISRS 4400 (p.3) implies that adequate confidentiality mechanisms were implemented in practice.

***Reconciliation coverage:*** The report does not provide the final reconciliation coverage (i.e. reconciled revenues as a share of total extractives revenues). All reconciliation coverages provided in the report relate to coverage of the flows in scope (i.e. the share of payments from material companies that could be reconciled in light of reporting omissions), with a total of 92% of extractives revenues in the scope of reconciliation duly reconciled (p.101). While the report is transparent about the challenges in disaggregating the extractives component of common taxes paid by material companies, it does not provide a reconciliation coverage of total tax and non-tax payments, which would be relatively low given that it would include extractives companies' payments related to non-extractives activities. However, this final reconciliation coverage can be estimated as 64.86% based on data in Tables 1, 31 and 43 of the 2016 EITI Report (pp.13,141,145-147).

***Assurance omissions:*** A detailed breakdown of data submissions and assurance submissions per company is included in Appendix 6 (pp.180-185), showing that only 17 companies provided the agreed quality assurances for their EITI reporting (p.97). It is possible to estimate the materiality of payments from each of the non-complying companies using NIUS/TIN numbers provided in Appendix 6 (pp.180-185) and the aggregate reconciliation results provided in the report (pp.141,145-147).

A similar breakdown for government entities is provided (p.98), which shows that none of the material government entities provided the required quality assurances for their EITI reporting. While this implies that none of the government revenues reported were subject to the quality assurances required for EITI reporting, namely provision of their audited accounts, the report explains that the IA reviewed the Supreme State Auditor reports for all of the material government entities (public institutions and SOEs) and did not identify any finding that might affect the accuracy and comprehensiveness of figures in the EITI Report (p.98).

***Data reliability assessment:*** The report provides the IA's assessment of the comprehensiveness of 2016 reconciled financial data (pp.100-101), although the IA's assessment of the reliability of reconciled data is rather ambiguous (pp.100-101).

In terms of comprehensiveness, the report provides the IA's assessment that the low materiality of omissions from non-reporting entities means that "any remaining omission or misstatement uncovered by the reconciliation would not significantly affect the comprehensiveness of the EITI Report" (p.101). More broadly, the report notes that the likelihood of omissions of fiscal payments from the scope of reconciliation is considered "very low" given the high regulation of these payments and the fact that companies are "keen to report all payments made and have these numbers agreed to the fiscal agents

reporting” (p.100). The report highlights that the reconciliation process was not designed to identify any payments that could have been omitted by both companies and government entities however (p.113). Several government officials confirmed that it was not possible to disaggregate common taxes (such as Tax on Profits) to distinguish tax paid on extractives activities and those paid on non-extractives activities, which explained the low reconciliation coverage calculated based on the government’s full unilateral disclosure of revenues in Table 1 of the report, which included common taxes on non-extractives activities.

In terms of reliability, the report contains the IA’s assessment of the underlying audits of reporting entities rather than an assessment of compliance with agreed quality assurance procedures specifically for EITI reporting. Indeed, the report notes that “reconciliation procedures performed are not aimed to uncover fiscal evasion. However, this risk is mitigated by the fact that 78.7% (chart 38) of flows were reported by entities that have undergone through statutory audit” (p.101). Yet the report also notes that, given the lack of sufficient disaggregation of revenues collected by the General Directorate of Taxes and the Albanian Custom Administration in their financial accounts, the IA could not compare data in their EITI reporting templates to their published annual accounts (p.113). The report also comments, in its recommendations, on the “poor quality of data available” (p.123), casting doubt on the reliability of reconciled financial data in light of significant gaps in quality assurances for EITI reporting provided by reporting entities (see “assurance omissions:” above). Upon consultation, the IA explained that it could not provide a clear assessment of the reliability of reconciled financial data due to the significant omissions in quality assurances by reporting companies.

***Sourcing of information:*** All non-financial information in the 2016 EITI Report appears consistently sourced, albeit with some limitations in guidance for accessing source materials (e.g. absence of consistent hyperlinks to documents available online). The audited financial statements of Albpetrol are not available on their website as stated in the report, but require in-depth research on the National Business Register.<sup>86</sup>

***Summary tables:*** Summary data for all of Albania’s EITI Reports, including 2016, have been prepared and are accessible through the Albania country page of the EITI website<sup>87</sup> and on the homepage of the AlbEITI website.<sup>88</sup>

***Recommendations:*** Chapter 11 of the 2016 EITI Report provides an overview of follow-up on recommendations of previous EITI Reports, including comments on progress in their implementation (pp.123-138). Recommendations on the basis of the 2016 EITI Report are also provided in Chapter 11 and marked as “new” (pp.126,131-133).

## Secretariat’s Assessment

The International Secretariat is satisfied that the corrective action on data reliability has been partly addressed and considers that Albania has made meaningful progress with improvements on Requirement 4.9. In accordance with Requirement 4.9, the reconciliation of payments and revenues has been undertaken by an IA, appointed by the MSG, and applying international professional standards. The IA and the MSG agreed ToR for the production of the 2016 EITI Report consistent with the standard ToR and agreed upon procedures issued by the EITI Board, and applied this ToR and procedures in practice. The final report provides a statement from the IA on the comprehensiveness of the (financial) data presented,

<sup>86</sup> National Business Register website (December 2017), Albpetrol 2016 financial statement accessed [here](#) and 2016 audit report accessed [here](#) in March 2019.

<sup>87</sup> Revenue collection section, Albania country page, EITI website, accessed [here](#) in March 2019.

<sup>88</sup> AlbEITI website, accessed [here](#) in March 2019.

including an informative summary of the work performed by the IA and the limitations of the assessment provided, but does not provide the IA's assessment of the reliability of the reconciled data. It is possible to calculate the final reconciliation coverage and there is sufficient information in the report to assess the materiality of payments from reporting companies that did not adhere to the agreed quality assurances for their EITI reporting, which are significant. With only 17 of the 121 material companies adhering to agreed quality assurances for their EITI reporting, stakeholder consultations confirmed that it was not possible for the IA to provide an assessment of the reliability of reconciled financial data in line with the IA's ToR. Industry MSG members' approval of quality assurance procedures that few companies followed in practice reflects broader challenges in the MSG's oversight of technical aspects of EITI implementation in 2016-2017 (see *Requirement 1.4*). However, the 2016 EITI Report adequately sources information, provides an overview of follow-up on recommendations from EITI Reports and Validation and provides a new set of recommendations. Summary EITI data tables have been prepared for all fiscal years covered by EITI reporting.

In accordance with Requirement 4.9.a, the EITI requires an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the IA agreed by the EITI Board, the MSG and IA should develop and agree quality assurance procedures for Albania's EITI reporting, based on a review of audit and assurance practices in the year under review. Albania should ensure that the IA provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the IA must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report. Albania should ensure that the IA provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided. In accordance with requirement 8.3.c.i, the MSG should develop and disclose an action plan for addressing the deficiencies in the reliability of reporting documented in the initial assessment.

### 3.9 Corrective action 11 (#5.1)

In accordance with Requirement 5.1.a, the MSG should ensure that the allocation of extractives revenues not recorded in the national budget are explained, with links provided to relevant financial reports as applicable. The MSG may wish to explore the extent to which it could use extractives-specific GFS classifications from its EITI summary data tables as a means of disaggregating the extractives components of common taxes in existing MoF systems.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress in meeting this requirement. While the 2015 EITI Report highlighted extractives revenues collected by AKBN and Albpetrol as being off-budget (i.e. not recorded in the national budget), it only provided an explanation of the allocation of funds collected by Albpetrol, not AKBN. While the report did not refer to national or international revenue classification systems, the first Validation understood that national revenue classification systems were based on GFS-2001 classifications.

#### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

Table 1 in the 2016 EITI Report highlights that a total of ALL 19.415bn out of ALL 21.382bn in extractives revenues are transferred to the national budget (p.13). Elsewhere, the report confirms that 89,5% of oil and gas revenues are recorded in the national budget (p.48). Of the 10,5% of oil and gas revenues not recorded in the national budget, the report confirms that Albpetrol collects 10,1% of oil and gas revenues and AKBN collects 0,4% (p.48). While the report does not provide an explicit link to Albpetrol's 2016 audited financial statements, it refers to them in several places and provides links to the Albpetrol website (p.111). While the Albpetrol websites only states that the 2016 audited financial statements are forthcoming (and thus not accessible from the website), they are accessible through the National Business Centre website<sup>89</sup>, as confirmed in Appendix 6 of the report (p.185). In terms of the 0,4% of oil and gas revenues collected and retained by AKBN, the report confirms that AKBN does not make any payments to nor receive any transfers from the government, apart from specific activities planned in the national budget (p.15). It notes that AKBN's annual financial accounts are not publicly-accessible nor made available to the IA in preparation for the 2016 EITI Report (p.15). However, the report does confirm that AKBN retains its revenues in order to finance its activities (p.15), implying that AKBN's retained earnings are used for operational expenditures rather than capital investments. This was confirmed by several senior government officials consulted, who confirmed that AKBN did not yet have audited financial statements. The officials consulted highlighted the planned reforms to AKBN's legal status, expected in 2019, with one of the options considered consisting of reforming AKBN's status into a government agency whose accounts would be recorded in the national budget.

### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on distribution of revenues has been addressed and considers that Albania has made satisfactory progress on Requirement 5.1. The 2016 EITI Report identifies the extractives revenue streams that are not recorded in the national budget and provide an explanation of and links to audited financial statements of Albpetrol, which collected and retained around 10% of government oil and gas revenues in 2016. While the report identifies AKBN as a government agency collecting and retaining 0,4% of government oil and gas revenues in 2016 without providing a link to the agency's financial statements, it does provide a cursory explanation of AKBN's management of retained revenues, used for the agency's recurrent expenditures. Stakeholders consulted confirmed the lack of availability of AKBN financial statements and highlighted ongoing reforms of the agency's legal status. Given the low value of AKBN retained earnings, the EITI Report's cursory explanation of the management of these revenues and stakeholder views about ongoing reforms to potentially bring AKBN on the government's balance sheet, the International Secretariat's view is that all aspects of the requirement have been met and that the broader objective of clarity on off-budget revenues has been achieved.

To strengthen implementation, Albania is encouraged to ensure that financial reports on all off-budget extractives revenues, including those collected and retained by AKBN, be publicly-disclosed. Albania may wish to use EITI reporting to provide an annual diagnostic of government reforms of off-budget revenues to strengthen public accountability in the reform of agencies such as AKBN.

### 3.10 Corrective action 12 (#6.1)

In accordance with Requirement 6.1.a, the MSG should agree a clear distinction between mandatory and voluntary social expenditures prior to data collection and ensure that material mandatory social

<sup>89</sup> National Business Centre website, accessed [here](#) in March 2019.



expenditures are comprehensively disclosed in future EITI Reports. Where beneficiaries of mandatory social expenditures are a third party, i.e. not a government agency, the MSG should ensure that the name and function of the beneficiary be disclosed. The MSG may wish to consider the extent to which disclosure of actual mining, oil and gas contracts (or review of key terms) would be necessary to provide a comprehensive assessment of the existence of mandatory social expenditures. The MSG may also wish to consider the feasibility of reconciling mandatory social expenditures.

### Findings from the first Validation

The first Validation found that Albania had made inadequate progress towards meeting this requirement. The MSG did not seem to have assessed whether mandatory social expenditures exist under contractual terms ahead of data collection and there was widespread confusion over whether any such mandatory social expenditures existed. The 2015 EITI Report provided unilateral reporting of social expenditures by one oil and gas company (although this may have been erroneously included) but did not clarify whether these were mandatory and did not include the IA's concerns over the comprehensiveness of reporting of mandatory social expenditures in the 2015 EITI Report. The MSG appeared to have made no attempt to distinguish between mandatory and voluntary social expenditures, cash and in-kind expenditures nor to clarify the identity of any non-government recipient of mandatory social expenditures.

### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

The 2016 EITI Report notes that the government, oil companies and “the largest mining companies” informed the IA that currently active PSAs, mining concessions and licenses do not require companies to make mandatory social payments (pp.49,69). The report notes that the IA corroborated these statements by a review of publicly-available contracts (pp.49,69). This is confirmed in the 2017 annual progress report.<sup>90</sup> The report adds that the timing and value of companies’ social payments is decided by the oil and mining companies at their discretion (pp.49,69), although it does note that oil companies must disclose the budgeted social expenditures to AKBN or Albpetrol (depending on the jurisdiction) for approval as part of their annual budgets (p.49). In the mining sector, there was consensus among all stakeholders consulted that there were no mandatory social expenditures by law or by contract. In oil and gas, while one government representative expressed a general impression that the 2014 amendments to the Bankers Petroleum PSA on the Patos-Marinza oilfield included provisions for mandatory social expenditures, none of the other stakeholders consulted (including from government) considered that any oil and gas PSA included such provisions. Several government and industry representatives and the IA noted that companies could claim up to USD 2m in voluntary social expenditures as cost recoverable items but were adamant that there were no legal provisions requiring companies to make such payments.

Nonetheless, it appears that material companies were requested to disclose any mandatory or voluntary social expenditures as part of their reporting templates, as the report notes that none of the oil and gas or mining companies reported any mandatory social expenditures (pp.117,119). The report confirms that no oil and gas companies reported any voluntary social expenditures (p.117). In mining, the report discloses one company’s reporting of voluntary social expenditures, of a total of ALL 282,620 to the Municipalities of Tirana and Kukës (p.119), albeit not disaggregated by local government.

### Secretariat’s Assessment

The International Secretariat is satisfied that the corrective action on social expenditures has been addressed and considers that Requirement 6.1 is not applicable to Albania in the year under review

<sup>90</sup> EITI Albania (July 2018), ‘2017 annual progress report’, accessed [here](#) in February 2019.

(2016). The 2016 EITI Report states categorically that there are no mandatory social expenditures in either mining or oil and gas, based on its review of available contracts and consultations with government and industry stakeholders. The Secretariat's stakeholder consultations broadly confirmed this. While material companies were requested to report details of their voluntary social expenditures in the 2016 EITI Report, none of the reporting mining, oil and gas companies reported such payments.

To strengthen implementation, Albania is encouraged to ensure that mining, oil and gas companies publicly disclose details of their voluntary social expenditures, with all information listed under Requirement 6.1. Albania may wish to use EITI reporting as an annual diagnostic of companies' voluntary social expenditures, with a particular focus on oil and gas companies' cost recoveries of social expenditures.

### 3.11 Corrective action 13 (#6.2)

In accordance with Requirement 6.2, the MSG should consider the existence and materiality of any quasi-fiscal expenditures undertaken by extractive SOEs and their subsidiaries, ensuring that all material quasi-fiscal expenditures are disclosed in future EITI Reports

#### Findings from the first Validation

The first Validation found that Albania had made no progress towards meeting this requirement. There was no evidence that the MSG had ever considered the issue of quasi-fiscal expenditures in relation to Albpetrol or any other extractives SOE.

#### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

The 2016 EITI Report refers to statements from the MIE and Albpetrol that law and regulations governing Albpetrol's activity do not include arrangements for quasi-fiscal expenditures (p.39). Nonetheless, the report also notes that *"Albpetrol employs the largest share of the petroleum workers, despite its declining activity, this could indicate Albpetrol's engagement to employ larger workforce at the cost of its operations efficiency driven by social objectives"* (p.39). In the mining sector, the report also refers to the MIE's confirmation that there are no arrangements for quasi-fiscal expenditures (p.54).

After the start of Albania's second Validation, the MSG considered the existence and materiality of quasi-fiscal expenditures by extractives SOEs at its 27 February 2019 meeting. In its decision number 3, taken at the MSG meeting, the MSG expressed its agreement with the "IA statement in the EITI Report regarding the quasi-fiscal expenditures and that the law and the regulations governing the activity of Albpetrol sh.a. do not foresee such expenditures."<sup>91</sup> In consultations, the IA confirmed that it had reviewed Albpetrol's audited 2016 financial statements and had not found evidence of any expenditures that could be considered quasi-fiscal. Several government officials noted Albpetrol's social expenditures, which included sponsorship for sports activities, but considered that these were not a form of quasi-fiscal expenditures but rather voluntary social expenditures agreed by the Albpetrol Board of Directors.

#### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on quasi-fiscal expenditures has been addressed and considers that Requirement 6.2 is not applicable to Albania in the period under review

<sup>91</sup> See Decision number 3, MSG meeting decisions for 27 February 2019 meeting, accessed [here](#) in March 2019.

(2016). The 2016 EITI Report includes a summary of the MSG's deliberations on quasi-fiscal expenditures and its conclusions that Albpetrol did not undertake any quasi-fiscal expenditures in the year under review (2016). While the report bases this conclusion on the MSG's review of applicable laws and regulations, stakeholder consultations with the IA confirmed that Albpetrol's audited 2016 financial statements had also been reviewed in the course of the MSG's assessment.

To strengthen implementation, Albania may wish to provide a more detailed assessment of the MSG's review of Albpetrol's audited financial statements, which are publicly-accessible, as a means of demonstrating the lack of quasi-fiscal expenditures in the year under review.

### 3.12 Corrective action 14 (#7.3)

In accordance with Requirement 7.3, the MSG should take steps to act upon lessons learnt, to identify, investigate and address the causes of any discrepancies, and to consider the recommendations resulting from EITI reporting. The MSG, in consultation with government stakeholders in particular, may wish to consider institutionalising its mechanisms for following up on recommendations from EITI Reports and Validation as a means of ensuring stricter attention to implementation.

#### Findings from the first Validation

The first Validation found that Albania had made meaningful progress in meeting this requirement. There was limited evidence of MSG follow-up to act on lessons learned, to identify, investigate and address the causes of discrepancies and to consider the recommendations for improvements from the IA in previous EITI Reports. Minutes of MSG meetings did not reveal substantial discussions on recommendations and lessons learned from EITI Reports. Successive EITI Reports covering five years had included the same recommendations. The annual progress report provided some assessment of follow-up on past EITI recommendations, albeit only to a limited extent. The AlbEITI Secretariat had been the driver of follow-up on recommendations, bilaterally with relevant agencies through ad hoc working groups, although the lack of multi-stakeholder engagement had limited the extent to which secretariat follow-up had had an impact.

#### Progress since Validation

The MSG discussed the draft recommendations to include in the 2016 EITI Report at its 28 March and 15 May 2018 meetings.<sup>92</sup> There is also evidence in MSG meeting minutes of the MSG discussing the causes of discrepancies in the reconciliation of payments and revenues, both ahead of publication of the 2016 EITI Report and during outreach and dissemination. The MSG also extensively discussed the recommendations and corrective actions from Albania's first Validation at its 28 March 2018 meeting.<sup>93</sup> The 2017 annual progress report documents the MSG's follow-up on recommendations from past EITI Reports, up to and including the 2015 EITI Report, noting that the MSG's follow-up on recommendations in the 2016 EITI Report and from Validation would be documented in the 2018 annual progress report.<sup>94</sup> The 2016 EITI Report provides an overview of follow-up on recommendations of past EITI Reports (up to and including 2015), noting that further efforts were required to improve reporting and analysis of extractives activities

<sup>92</sup> AlbEITI (March 2018), Minutes from MSG's 28 March 2018 meeting, accessed [here](#); and AlbEITI (May 2018), Minutes from MSG's 15 May 2018 meeting, accessed [here](#) in March 2019.

<sup>93</sup> AlbEITI (March 2018), Minutes from MSG's 28 March 2018 meeting, accessed [here](#) in March 2019.

<sup>94</sup> AlbEITI (June 2018), 2017 annual progress report, accessed [here](#) in March 2019, p.32.

and revenue flows.<sup>95</sup> There has been some media coverage of recommendations in EITI reports, including a February 2018 article by RTV SCAN Director of Information Enio Civici published on the AlbEITI website.<sup>96</sup>

At its 11 January 2019 meeting, the MSG discussed establishing a working group to ensure structured follow-up on recommendations from Validation and past EITI Reports, a working group that it formally established at its 12 February 2019 meeting. In particular, the MSG's new working group is expected to *"point out the discrepancies in the legal, fiscal and regulatory framework in the field of mining, oil and gas and institutional support for the finalization of the Draft Law on Transparency in the Extractive Industries Sectors."*<sup>97</sup> According to a press release on the AlbEITI website, each of the three constituencies on the MSG chose a representative to be part of this working group.<sup>98</sup> As reflected in the updated 2018-2019 EITI workplan, the MSG's working group on follow-up on EITI recommendations was due to agree an action plan for follow-up on recommendations from Validation and past EITI Reports by 1 March 2019, with structured follow-up on past recommendations planned for the February-December 2019 period.<sup>99</sup> The dedicated AlbEITI workplan on follow-up of recommendations from EITI Reports and Validation was agreed in early March 2019 and shared as part of the documentation for the second Validation by the AlbEITI Secretariat. The dedicated work plan includes specific activities to follow up on individual recommendations, with clear timeframes and individual responsibilities. The updated 2018-2019 EITI workplan also includes plans for the contracting of consultancy services to support the government's follow-up on past EITI recommendations in the April-September 2019 period, supported by USD 10,000 of the World Bank's grant.<sup>100</sup> The updated 2018-2019 EITI workplan foresees the enactment of the Transparency Law and implementing regulations by December 2019.<sup>101</sup>

### Secretariat's Assessment

The International Secretariat is satisfied that the corrective action on follow-up on recommendations has been addressed and considers that Albania has made satisfactory progress on Requirement 7.3. The AlbEITI MSG has, belatedly (in February 2019), established a working group with a time-bound plan to act upon lessons learnt, to identify, investigate and address the causes of any discrepancies and weaknesses of the EITI process and to consider the recommendations for improvements from the IA.

To strengthen implementation, AlbEITI and the government may wish to consider formalising government mechanisms for following up on recommendations from past EITI Reports and Validation as a means of ensuring the sustainability and continued effectiveness of follow-up channels.

## 4. Assessments of requirements previously assessed as satisfactory in 1<sup>st</sup> Validation

In the course of undertaking this assessment, the International Secretariat has also considered whether there is a need to review additional requirements, i.e. those assessed as "satisfactory progress" in the 2016 Validation. In particular, the Secretariat reviewed possible back-sliding in the 2016 EITI Report on requirements related to comprehensiveness (Requirement 4.1) and disaggregation (Requirement 4.7). The Secretariat's view is that there is evidence to suggest progress has fallen below the required standard

<sup>95</sup> AlbEITI (December 2018), '2016 Albania EITI Report', accessed [here](#) in February 2019, p.88.

<sup>96</sup> AlbEITI (February 2018), 'EITI in Albania, main recommendations for extractive industries – by Enio Civici', accessed [here](#) in February 2019.

<sup>97</sup> AlbEITI (January 2019), 'MSG decisions in 2019', accessed [here](#) in March 2019.

<sup>98</sup> AlbEITI (February 2019), 'Takim i MSG në funksion të prioritetëve dhe sfidave EITI', accessed [here](#) in February 2019.

<sup>99</sup> AlbEITI (February 2019), 'Updated EITI Albania Work-Plan 2018-2019', accessed [here](#) in February 2019.

<sup>100</sup> AlbEITI (February 2019), 'Updated EITI Albania Work-Plan 2018-2019', accessed [here](#) in February 2019.

<sup>101</sup> AlbEITI (February 2019), 'Updated EITI Albania Work-Plan 2018-2019', accessed [here](#) in February 2019.

on Requirement 4.1 and warrant consideration by the EITI Board, for a downgrade to “meaningful progress”. The Secretariat recommends that the Board exercises its discretion in taking account of disaggregated data disclosed after the commencement of Validation, and concludes that Albania continues to have made “satisfactory progress” on Requirement 4.7.

## 4.1 Assessment of Requirement 4.1

### Findings from the first Validation

The first Validation found that the 2015 EITI Report included the MSG’s definition of the materiality thresholds for payments and companies to be included in reconciliation based on production volumes, including a justification for why the thresholds were set in this way and at this level. However, the setting of a qualitative rather than quantitative threshold for selecting material revenue streams (as a share of government revenues for instance) was considered a concern. However, while two of the revenue flows listed in Requirement 4.1.b had only been excluded from reconciliation based on general reference to their lack of materiality, there was no evidence to suggest that their value was significant. The companies that did not report were named and the value of their payments to government was provided relative to government-reported revenues. The share of non-reporting companies appeared to be insignificant. The 2015 EITI Report did not explicitly state whether all material government entities reported all revenues, although stakeholder consultations confirmed that all national government entities had fully reported and that omissions from local governments were not considered material. While the commentary from the IA on the comprehensiveness of the EITI Report was limited to a statement on the lack of assurances, it was possible to calculate the materiality of omissions. Given that these appeared immaterial, in light of the low materiality threshold adopted for selecting material companies and in light of the EITI Board’s decision in other comparable cases like Mongolia, the first Validation found that Albania had made satisfactory progress in meeting this requirement.

### Progress since Validation

The Albania EITI MSG approved and published the 2016 EITI Report in July 2018.

*Materiality threshold for revenue streams:* For oil and gas, the 2016 EITI Report describes the materiality threshold of zero for selecting oil and gas revenue streams (both contractual payments and fiscal payments) for reconciliation (p.106). It notes that “license fees” and “entry fees” were excluded from reconciliation as the report states that they did not give rise to “substantial payments” in previous years (p.107), but does not justify their exclusion on the basis of their value (materiality) in 2016. Nonetheless, the approach of excluding these two revenue flows is consistent with that of previous EITI Reports assessed in Albania’s first Validation, which concluded that their exclusion did not warrant a downgrade in the assessment given that “there was no evidence to suggest that their value was significant”.<sup>102</sup> In consultations on the 2016 EITI Report, the IA confirmed that both license streams were below the materiality threshold of USD 50,000 for revenue streams at the central government level in 2016. For mining, the report describes the materiality threshold of zero for selecting revenue streams for reconciliation (p.107). It explains that revenues (in both mining and oil and gas) not directly related to upstream extractives activities were excluded, including import tax and local taxes applied to all companies (p.107). During consultations however, the IA clarified that only Bankers Petroleum imported crude oil and that local tax payments to a selection of local governments had been reconciled. All revenue streams listed under Requirement 4.1.b (where applicable) were included in the scope of reconciliation, aside from license fees and entry fees.

<sup>102</sup> See EITI (August 2017), ‘Validation of Albania: Report on initial data collection and stakeholder consultation’, accessed [here](#) in March 2019, p.80.

In addition, the report explains that the MSG agreed to include “any other payments” of more than USD 50 000 for payments made to the state and USD 5 000 for payments made to local governments in all sectors (p.107).

Descriptions of material revenue streams: The report describes material revenue streams in both mining (pp.70-72) and oil and gas (pp.46-49).

Materiality threshold for companies: For *oil and gas*, the report confirms that all companies were selected to report, with a de facto materiality threshold of zero, with the exception of Albanides Energy, which it justified by the fact that the company was only awarded an oil and gas block in March 2016 (p.107), albeit without confirming whether the company made any payments to government in 2016. Several government officials consulted explained that the PSA with Albanides had been rescinded shortly after the award (in 2017) due to non-payment of obligations to government.

For *mining*, the MSG selected for reporting all mining companies operating an exploration license, with a de facto materiality threshold of zero in attempt to discover material payments arising from exploration activities (p.107). In addition, the MSG selected mining companies holding a production license based on their annual revenues, differentiated by mineral sub-sector<sup>103</sup> (p.107-108). However, the report raises concerns over the reliability of AKBN mineral production data, which is based on companies’ self-reporting (p.108). While the selection of material companies based on annual revenues rather than the materiality of their payments to government is a concern, upon consultations the IA noted that mining companies’ payments to government were directly or indirectly linked to their annual revenues and it was thus unlikely that companies considered non-material would make material payments to government. Nonetheless, the IA reiterated concerns over the accuracy of official production data from AKBN, hinting at the likelihood of companies under-valuing their production and thus minimising their payments to government.

Material companies: The report provides the names of material companies in oil and gas (p.144) and in mining (pp.163-165).

Material company reporting: The report confirms that all material oil and gas companies submitted reporting templates (p.116) and notes that only 81 of the 120 material mining companies reported (pp.105,118), with the names of non-reporting mining companies provided (pp.163-165). The value of each non-reporting mining company’ total payments to government is provided (pp.145-147). The aggregate value of payments from non-reporting companies was 19% of total mining revenues unilaterally disclosed by government. This can be calculated as 4,62% of total extractive revenues disclosed by government, with each company accounting for less than 0,5% of total extractives revenues aside from one company, Gener 2, one of the largest construction companies in Albania, which accounted for 1,47% of extractives revenues.

In addition, the report notes that three reporting companies<sup>104</sup> refused for their payments to government to be published disaggregated by company (p.119), with each payment stream from the three companies presented in aggregate, not disaggregated by company (pp.149,151,153,156,157,158,160,161) (*see Requirement 4.7*). The combined value of their payments to government can be calculated as 8,06% of mining revenues and 2,4% of extractives revenues disclosed by government. Based on their individual

<sup>103</sup> The MSG selected mining companies operating on a production license according to the following criteria (pp.107-108): for the Chromite sub-sector, all companies with annual revenue > USD 600,000; for the Copper sub-sector, all companies operating in this sector; for the Nickel Sub-Sector, all companies with annual revenue > USD 300,000; for the bitumen or bitumen sands sub-sector all companies with annual revenue > USD 320,000; for the limestone sub-sector all companies with annual revenue > USD 250,000; for the clay sub-sector all companies with annual revenue > USD 260,000; for the Gypsum alabaster sub-sector all companies with annual revenue > USD 650,000; for the limestone slabs sub-sector all companies with annual revenue > USD 180,000.

<sup>104</sup> Alb Lea International, Salillari, Xhireton.

reporting (unpublished due to their confidentiality concerns), the biggest company accounted for 1,6 % of the total extractive revenues while the other two accounted for less than 0,7 % of total extractive revenues.

***Material government entities:*** The report lists the three central government entities, one public institution and one SOE as well as seven local government included in the scope of reporting based on their collection of material revenue streams (p.98). The selection of seven local governments is covered elsewhere in this assessment (*see Requirement 4.6*). While the report does not include the Ministry of Economic Development, Tourism, Trade and Entrepreneurship (MEDTTE) in the scope of reporting, the ministry is only responsible for collecting dividends from Albpetrol and the report confirms that Albpetrol did not pay any dividend to government in 2016 (p.38).

***Government reporting:*** Despite significant delays in reporting described (p.112), the report confirms that all central government entities, including Albpetrol, duly submitted reporting templates aside from the MIE (p.98). However, the report confirms that the MIE was not responsible for collecting revenues from mining, oil and gas companies (p.107).

***Discrepancies:*** The report provides an explanation of the resolution of initial discrepancies (pp.115-119) and the value of final unresolved discrepancies, which amounted to a net ALL 440 242 000, or 3,15% of total revenues disclosed by government. The report includes the IA's assessment that discrepancies did not raise questions over the comprehensiveness of the reconciliation (*see Requirement 4.9*).

***Full government disclosure:*** The report presents full government unilateral disclosure of revenues for the eight main material revenue streams<sup>105</sup>, but presents a category of "other" that appears to bundle together several revenue streams including tax penalties, tax on dividend, excise tax, carbon tax, circulation tax and guarantee executed (p.13). The value of these "other" payments to central government account for 30.5% of mining, oil and gas revenues unilaterally disclosed by government<sup>106</sup> (p.13). The report only notes that comprehensive disclosure of all revenue streams is "*not supported by the Government's information systems*" (p.13). However, upon consultations, the IA was able to provide a breakdown of the revenue stream labelled "Other", which consists of Custom duties (imports), Excise tax (imports), VAT (imports), Carbon tax (imports) and Circulation tax (imports). This disaggregated information was published on the AlBEITI website on 15 April 2019.<sup>107</sup>

In addition, the two material revenue streams of social & health insurance and personal income tax are presented in aggregate, not disaggregated by revenue stream (p.13). The IA also provided the disaggregation for the "social and health insurance & personal income tax". This disaggregated information was published on the AlBEITI website on 15 April 2019.<sup>108</sup>

A government representative consulted confirmed that the figure for Tax on Profits provided in Table 1 of the 2016 EITI Report (p.13) was the government's full unilateral disclosure of revenue from all 606 extractives license-holders.

## Secretariat's Assessment

**The International Secretariat's assessment is that Albania has made meaningful progress on Requirement 4.1.** The 2016 EITI Report includes the MSG's definition of the materiality thresholds for payments and companies to be included in reconciliation based on companies' annual turnover, including a justification

<sup>105</sup> Share of oil production, Bonuses, Royalty, Tax on profit, Social & health insurance and personal income tax, VAT, Dividends.

<sup>106</sup> ALL 6,093m out of a total of ALL 19,967m.

<sup>107</sup> AlBEITI (April 2019), 'EITI Report 2016 supplement', accessed [here](#) in April 2019.

<sup>108</sup> AlBEITI (April 2019), 'EITI Report 2016 supplement', accessed [here](#) in April 2019.

for this approach to scoping. The setting of a qualitative rather than quantitative threshold for selecting material revenue streams (as a share of government revenues for instance) is a concern. Nonetheless the approach can reasonably be concluded to provide comprehensive coverage of all material revenue streams given the correlation to companies turnover and production. While two of the revenue flows listed in Requirement 4.1.b have only been excluded from reconciliation based on general reference to their lack of materiality, stakeholders confirmed that their value in 2016 was below the materiality threshold for revenues. The companies that did not report are named and the value of their payments to government is provided relative to government-reported revenues. A total of 39 of the 121 material extractives (mining) companies did not report, up from six non-reporting companies in 2015, accounting for 19% of total mining revenues and 4,62% of total extractive revenues unilaterally disclosed by government. Although 38 of these 39 non-reporting companies accounted for less than 0,5% of total extractives revenues each, one company, Gener 2 that is one of Albania's largest construction companies accounting for 1,47% of extractives revenues in 2016. The report nonetheless provides the assessment of comprehensiveness of the reconciled financial data, if not of its reliability (*see Requirement 4.9*). There is little evidence of follow-up with non-reporting companies on the part of government or industry. While full government unilateral disclosure of material revenues, including from non-material companies, was not provided consistently disaggregated by revenue stream in the 2016 EITI Report, the AlbEITI website published the government's full unilateral disclosure of revenues disaggregated by revenue stream on 15 April 2019.<sup>109</sup>

In light of the significant jump in number of non-reporting companies and the materiality of their payments, the International Secretariat's assessment is the broader objective of comprehensive reconciliation has not been fully achieved and that Albania has made meaningful progress in meeting this requirement.

In accordance with Requirement 4.1, Albania should ensure that the materiality threshold for selecting companies in future EITI reporting ensures that all payments that could affect the comprehensiveness of EITI reporting be included in the scope of reconciliation, and ensure that all material companies participate in EITI reporting. Albania may wish to consider revisiting its materiality threshold for selecting mining companies to strike a balance between the comprehensiveness of disclosures and the quality of reporting. The MSG may wish to consider a sampling approach, which would allow these payments to be investigated without creating an unreasonable reporting burden.

## 4.2 Assessment of Requirement 4.7

### Findings from the first Validation

The first Validation found that Albania had made satisfactory progress in meeting this requirement. The 2015 EITI Report presented reconciled information disaggregated by company, revenue stream and government entity.

### Progress since Validation

The AlbEITI MSG approved and published the 2016 EITI Report in July 2018. Reconciled financial data is presented disaggregated by government entity, by company for all companies aside from three mining

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<sup>109</sup> AlbEITI (April 2019), 'EITI Report 2016 supplement', accessed [here](#) in April 2019.



companies and by revenue stream (pp.141-144,148-160), aside from social and health insurance and personal income tax presented in aggregate, not disaggregated by revenue stream (pp.143,154-157).

The report explains that three reporting companies<sup>110</sup> refused for their payments to government to be published disaggregated by company (p.119), with each payment stream from the three companies presented in aggregate, not disaggregated by company (pp.149,151,153,156,157,158,160,161). Upon consultation, the IA explained that the three companies had not wished for their payments to be presented by company as they considered that this would disclose commercially sensitive information. The value of payments from these three mining companies amounted to 8.7% of total reconciled mining revenues (p.147), which can be calculated as 2,2% of the total reconciled revenues. After the commencement of Validation, the IA communicated the payments of the three companies disaggregated by revenue streams. This information was published on the AlbEITI website on 15 April 2019.<sup>111</sup>

In terms of the social and health insurance and personal income tax presented in aggregate, not by revenue stream (pp.143,154-157), the IA explained that it had received disaggregated data from the government but not from companies, which had all submitted data on their payments in aggregate for the three payment streams, even though they did pay these taxes separately in the Treasury system. Upon consultations, the IA provided the government's disaggregated unilateral disclosures, per company and revenue stream, for social and health insurance and personal income tax. This information was published on the AlbEITI website on 15 April 2019.<sup>112</sup>

As a result of new documents published on the AlbEITI website in early April 2019, it can be argued that all reconciled financial data has been presented disaggregated by company and revenue stream.

### Secretariat's Assessment

Subject to the Board's consideration of new information published after the start of Validation, the International Secretariat's assessment is that Albania has made satisfactory progress on Requirement 4.7.

The 2016 EITI Report presents much of the reconciled financial data disaggregated by company and revenue stream, while the AlbEITI website published new data after the start of Validation in April 2019 to levels of disaggregation required.

To strengthen implementation, Albania is encouraged to ensure that all tax and non-tax data is published disaggregated to levels commensurate with Requirement 4.7, i.e. by company, revenue stream and government entity. Albania should make progress in implementing project-level EITI reporting ahead of the deadline for all EITI Reports covering fiscal periods ending on or after 31 December 2018, agreed by the EITI Board at its 36th meeting in Bogotá.

## 5. Conclusion

Having reviewed the steps taken by Albania to address the 12 corrective actions requested by the EITI Board as of the commencement of its second Validation (13 February 2019), it can be reasonably concluded that **five of the 12 corrective actions have been fully addressed** and that **Albania has made**

<sup>110</sup> Alb Lea International, Salillari, Xhireton.

<sup>111</sup> AlbEITI (April 2019), 'EITI Report 2016 supplement', accessed [here](#) in April 2019.

<sup>112</sup> AlbEITI (April 2019), 'EITI Report 2016 supplement', accessed [here](#) in April 2019.

**meaningful progress in implementing the EITI Standard, with *considerable improvements across several individual requirements*.**

The Secretariat recommends that the Board exercises its discretion in taking account of new information published in the course of stakeholder consultations, which could be considered oversights. The new information consists of disaggregated data disclosed after the commencement of Validation, necessary to avoid back-sliding on Requirement 4.7 and demonstrate satisfactory progress on two more corrective actions. The new information disclosed after the commencement of Validation was independently verified and meets the Board-approved criteria<sup>113</sup> for considering new information post-Validation.

**Should the Board consider new information disclosed in the 13 February-10 April 2019 period, the Secretariat's assessment is that Albania has fully addressed seven of the 12 corrective actions, having made "satisfactory progress" on the corresponding requirements, and has made "meaningful progress" with *considerable improvements* in addressing the other five corrective actions. In addition, the Secretariat's assessment is that there has been back-sliding in Requirement 4.1, on the comprehensiveness of disclosures.** This would result in an overall assessment of "meaningful progress" with considerable improvements across several individual requirements, with six corrective actions. The outstanding gaps relate to civil society engagement (*Requirement 1.3*), license allocations (*Requirement 2.2*), state participation (*Requirement 2.6*), comprehensiveness of disclosures (*Requirement 4.1*), direct subnational payments (*Requirement 4.6*) and data reliability (*Requirement 4.9*).

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<sup>113</sup> EITI (February 2019), 'The Board adopted criteria to consider developments and information disclosed after the commencement of Validation', accessed [here](#) in March 2019.

## Annexes

## Annex A – AlbEITI MSG evaluation (attendance) for 2018

PJESËMARRJA E MSG-SË SHQIPTARE GJATË VITIT 2018											
ANTARET E MSG-SË		Data	Mars - 28		Maj - 15		Qershor - 21		Dhjetor - 07		
PËRFAQËSUESIT E QEVERISË SHQIPTARE			Mesatarja		Mesatarja		Mesatarja		Mesatarja		
Anëtarët	Institucioni	Mesatarja		Mesatarja		Mesatarja		Mesatarja		Mesatarja	
Z. MEHMET HASALAMI	Ministria e Infrastrukturës dhe Energjisë		1.5		3		1		1		1
Znj. MAJLINDA HAFIZI	Ministria e Financave dhe Ekonomisë		1.8		1		2		3		1
Z. TETIS LUBONJA	Ministria e Drejtësisë		2		2		2		1		3
Z. NIKOLL KAZA	Sherbimi Gjeologjik Shqiptar		1.8		2		1		2		2
Z. AZBI ARAPI	Ajensia Kombëtare e Burimeve Natyrore		2		1		3		3		1
Pa pjesëmarrës	Drejtoria e Përgjithshme e Talmëve		1		1		1		1		1
<b>Mesatarja e Pjesëmarrjes së grupit</b>			1.7		1.7		1.7		1.8		1.5
<b>ANËTARE TË SHOQATAVE TË SHOQERISË CIVILE</b>											
Z. SAMI NEZAJ	Qendra për Transparençë dhe Informim të Lirë		2		3		3		1		1
Znj. ANILA HAJNAJ	Qendra Shqiptare për Zhvillim Institucional		3		3		3		3		3
Z. BAKI BAJRAKTARI	Sindikata e Minatoreve Bulqizë		1.5		1		3		1		1
Ne pritje të konfirmimit të anëtarëve	Qendra për Zhvillim dhe Demokratizim të Institucioneve		1.5		3		1		1		1
<b>Mesatarja e Pjesëmarrjes së grupit</b>			2		2.5		2.5		1.5		1.5
<b>ANËTARE TË GRUPEVE TË INTERESIT</b>											
Znj. ORKIDA DRAGOTI	Devoll Hydropower Sh./STATKRAFT		1.5		3		1		1		1
Z. PANDELI BOMBAJ	SELENICA BITUMI		1.5		3		1		1		1
Z. PERPARIM ALIKAJ	FIAA		2.5		3		3		1		3
Z. DRITAN DERVISHAJ	ANTEA CEMENT		3		3		3		3		3
Z. TURKER SENGONUL	SHELL UPSTREAM ALBANIA		1		1		1		1		1
<b>Mesatarja e Pjesëmarrjes së grupit</b>			1.9		2.6		1.8		1.4		1.8
<b>KONTRIBUES TË PËRHERSHËM TË PROÇESEVE EITI</b>											
Znj. ANISA CANAJ / Z. DRITAN SPAHIU	ALBPETROL		2.3		3		3		1		2
Znj. ARJANA DYRMISHI / Z. OLTION KUKË	Drejtoria e Përgjithshme e Doganave		1		1		1		1		1
Z. ATHANAS KARAJA	Ministria e Turizmit dhe Mjedisit		2.3		2		2		2		3
Znj. ERJOLA SADUSHI / Z. AGIM NASHI	Enti Rregullator i Energjisë		2.5		3		1		3		3
<b>Mesatarja e Pjesëmarrjes së grupit</b>			2.1		2.3		1.8		1.8		2.3
<b>LEGJENDA DHE SHËNIME</b>											
LEGJENDA:								3	Prezent		
								2	Dërguar përfaqësues		
								1	Jo prezent		

## Annex B – Materiality of payments from non-reporting companies in 2016

Company	Payments USD	%mining	%extractives
<b>TOTAL</b>	<b>5 176 260,67</b>	<b>16,58 %</b>	<b>4,62 %</b>
Gener 2	1 933 929,43	6,20 %	1,72 %
Alb-Mi sh.p.l	482 817,79	1,55 %	0,43 %
Alb Mine&Ch	315 442,24	1,01 %	0,28 %
Lim - Em	304 253,26	0,97 %	0,27 %
FABRIKA E P	219 469,95	0,70 %	0,20 %
Silbora	206 951,83	0,66 %	0,18 %
Pakti	204 382,15	0,65 %	0,18 %
Qeramika A	142 307,07	0,46 %	0,13 %
Mustafai	137 119,38	0,44 %	0,12 %
BL - Arsi sh.p	135 717,74	0,43 %	0,12 %
Florida	115 273,08	0,37 %	0,10 %
Benaks-94	104 809,09	0,34 %	0,09 %
Tur-Alb-Kron	91 743,19	0,29 %	0,08 %
Vellezerit Llu	85 024,97	0,27 %	0,08 %
Cahani	82 068,63	0,26 %	0,07 %
Lita Brothers	74 488,48	0,24 %	0,07 %
Kurti	65 869,18	0,21 %	0,06 %
Arkev	61 035,93	0,20 %	0,05 %
Albtani -08 K	56 774,61	0,18 %	0,05 %
Ra-Krom Tira	55 832,13	0,18 %	0,05 %
Tanusha	51 377,48	0,16 %	0,05 %
Afrimi-K	45 158,69	0,14 %	0,04 %
Alion	39 608,51	0,13 %	0,04 %
Xhuljano 08	33 639,44	0,11 %	0,03 %
Brajan 2013	30 828,10	0,10 %	0,03 %
Leshnica	28 773,96	0,09 %	0,03 %
Glejdis	19 204,12	0,06 %	0,02 %
Koxherri	15 103,91	0,05 %	0,01 %
Gerda - 07 sh	12 647,01	0,04 %	0,01 %
Blerimi Kostu	11 358,14	0,04 %	0,01 %
Foralb Alaba	5 598,52	0,02 %	0,00 %
Pirali	3 689,38	0,01 %	0,00 %
Gjomakaj Gr	2 658,29	0,01 %	0,00 %
Alpha Alaba:	1 216,37	0,00 %	0,00 %
Roimar	88,61	0,00 %	0,00 %
Bytyci	-	0,00 %	0,00 %
IllyriaMinera.	-	0,00 %	0,00 %
Kromex	-	0,00 %	0,00 %
TopiEki	-	0,00 %	0,00 %

Source: Appendices 1 & 2 of Albania's 2016 EITI Report and AlbEITI summary data.