

## **EITI Albania**

**BO Roadmap Albania** 

EITI Albania Draft Beneficial Owr	nership Roadmap				2016	2017	2018	2019	2020
			Responsible	Estimated					
	Activities tart up	Sub Activities	agency EITI Albania	cost	5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12	2 1 2 3 4 5 6 7 8 9 # # #	1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 1
	1.1 Technical Assistance	a Trainer/Coach/Moderator /Consensus Building	EITI Albania/ Consultancy	\$ 90,000					
		b Legal and Regulatory Framework Review		\$ 80,000					
	1.2 Financial assistance		EITI Albania						
Objective 1: Identify needs		Identify funding for the implementation of the roadmap and further funding for implementation of the beneficial a ownership requirements on an ongoing basis							
	Capacity Building for 1.3 stakeholders	a Capacity Building for MSG	EITI Albania Consultancy						
		b Coaching Capacity Bulding for Government Entities c Coaching and Capacity Bulding for Companies	Consultancy Consultancy	\$ 25,000					
	Enforcement: International and unified guidance for countries 1.4 on BO	d Exchange activities with other countries going through BO	EITI Albania/Intl Sec	\$ 20,000					
		Clear Recomendations that countries should adopt (Albania is about to open candidacy negotiations with the							
h	nstitutional framework for beneficial ow	a EU) mership disclosure	Intl. organisations EITI Albania						
Objective 2: Establishing the best/most effective manner to implement BO disclosure (i.e. whether by incorporating the BO definition and disclosure obligations in existing legislation or otherwise)	Undertake Legal and Regulatory Review with regard to BO Locally and on Internal Level with a 2.1 focus on :			see 1.1. b.					
		Reviewing local legal and regulatory framework to help identify the set of laws and regulations that are already in <sup>a</sup> place and those who need revision to overcome regulatory or practical barriers to disclosure of beneficial ownership	Consultancy						
		reviewing whether national laws include a <b>definition of</b> <b>beneficial owners</b> exploring existing international and b national definitions, and agreeing an appropriate definition and ownership thresholds in order to operationalize reporting of beneficial ownership.	Consultancy						
		Reviewing and/or amending existing company filing requirements upon company registration to include c beneficial ownership information, and considering adding filing requirements related to beneficial ownership disclosure in bidding processes and license registries for extractive projects. Engage international and local lawyers to advise on BO	from MF, MJ, ME,						
		<ul> <li>definition and implementation.</li> <li>Revieing international practice with regard to BO with a focus on identifying those practices that will enable the country to enforce BO disclosure as well as the best</li> <li>e international practices</li> <li>Reviewing existing international definition s and</li> </ul>	Consultancy Consultancy						
		f definitions used in other countries Identify Approximation of legislation with EU directives	Consultancy + Govt.Working group from MF, MJ, ME, Parliamentary						
		g and other accepted international regulations on BO	comission						
	Consultations with government agencies in order to identify the agency(ies) that is responsible or could best suited to oversee, collate and maintain beneficial 2.2 ownership information		Govt.Working group from MF, MJ, ME, Parliamentary comission						

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	Consultation with stakeholders								
	with a view to determine the								
	level of detail of the beneficial								
	ownership disclosures								
	(nationality, country of								
	residence, level of ownership, how ownership is exerted, date								
	of birth, residential address,								
	means of contact, etc.),								
	including opportunities and				death and a second				
	3.1 challenges with such disclosures		EITI Albania lead MF, MJ, ME,		election period				
			Parliamentary						
		a Consultation with government	comission						
Objective 3:									
Level of detail to be disclosed	đ	b Consultation with civil society	Moderator /Consensus Building						
		b consultation with civil society	/consensus building						
			Moderator						
		c Consultation with companies	/Consensus Building						
	Agree an appropriate definition								
	and ownership thresholds and								
	disclosure in order to operationalize reporting of		MSG, MF, MJ, ME,						
	3.2 beneficial ownership?		Parliamentary comission \$	20,000					
		a MSG to meet, discuss and agree on definition of BO.	EITI Albania + MSG						
			Cart Marking arous						
			Govt.Working group from MF, MJ, ME,						
	Implement legal and regulative		Parliamentary						
	3.3 changes			30,000	elections period				
	Politically exposed persons	see activity 2							
	Politically exposed persons	See activity 2							
Objective 4:	Investigate existing national and								
Reporting obligations for Politically Exposed Persons	international definitions and reporting requirements for PEPs								
Folitically Exposed Persons	with a view to identifying								
	national policy objectives on this	5							
	subject and aligning the								
	beneficial ownership definition 4.1 accordingly		EITI + Consultancy						
	Data timeliness		EITI + CONSULATICY						-
	Review what would be the most								
	appropriate time for data								
	collection of beneficial								
Objective 5:	5.1 ownership information		EITI Albania + MSG						4
Activities aimed at exploring	B How to reflect changes in								
what would be the most appropriate time for data	ownership over time, once a								
collection of beneficial	5.2 baseline has been established								
ownership information	Identify an appropriate								
	mechanism for companies to								
	assure the data in the beneficial								
	ownership declarations prior to								
	5.3 data collection	see legal review	EITI + Consultancy						+
1	Data collection procedures and data ac	ressibility							
	pora concentri procedures and data ac	costonity							
	Identify the companies that will								
	be required to participate in								
	6.1 beneficial ownership reporting		MSG						4
	Identify the most efficient and								
	sustainable data collection approach, including for example								
	developing a beneficial								
	ownership declaration form, or								
	adaptation of the EITI's model								
	beneficial ownership declaration	1							
	form as tools for collecting								
	6.2 heneficial ownership data		FITI Albania MSG						
Objective St	6.2 beneficial ownership data		EITI Albania, MSG			I			I


Objective 6: Activities aimed at increasing data accessibility		Exercise on volontary BO disclosure with EITI report based a on EITI model	EITI Albania, MSG				
		b Identify perception and readiness from the operators	EITI Albania, MSG + Consultant				
		c Recommend best approach	Consultant				
	Increase data accessibility, for example by publication of data						
	in electronic or other open data 6.3 formats						
	0.5 10111813	Scoping study to test IT systems na do comparative					
		a analyses	Consultant				
	Consider establishing a public						
	beneficial ownership register, ideally integrated in existing						
	corporate or extractive license						
	6.4 holder registers			?			
	unforeseen consultant costs		\$	150,000		_	
	Minimum Total without system						
	provisions		\$	415,000			

NOTE: The process of implementation of the legislation under which it will establish rules for the dissemination and/or declaration of information about the real owners who benefit or control the extractive industry, oil, gas and minerals, requires an extensive analysis in relation to the current legislative framework in force, in order to highlight the legal framework which already regulates certain elements of beneficial ownership and addresses the need to additional frame legislation to regulate the other elements of the BO, already untreated and unregulated.

In this sense, it should be said that to some extent, that Albania has made little progress with respect to the issue of regulation of certain elements of BO. Specifically:

1.Based on Law No. 9917, dated 19.5.2008 "On prevention of money laundering and financing of terrorism ", is treated narrowly the concept of BO, the beneficial owner. In fact, the law treats narrowly our issue, however is a good point of reference for further initiatives in this direction.

Specifically, under Article 1 of Law No. 9917, dated 19.5.2008 "On prevention of money laundering and financing of terrorism" "Beneficial owner" is the natural or legal person, on whose behalf a transaction is executed. Here are included also those persons that exercise effective final control over a legal person. Final effective control is the relationship, in which a person:

a) owns directly or indirectly at least 25 per cent of the shares or voting rights of a legal person;

b) alone owns at least 25 percent of the votes of a legal person under an agreement with partners or other shareholders;

c) de facto determines the decisions taken by the legal person;

ç) controls in any way the election, appointment and dismissal of the majority of the administrators of the legal person".

However, if we analyze more in details the provisions of this law, we conclude that in relation to the all inclusive regulation of the BO, presents two problems:

Ø Adjustments that this law makes and the treatment of BO, relates closely to the prevention and supervision of financial operations through which money laundering is realized. Thus the provisions of this Law may regulate specific issues relating money laundering, coming from illegal activities. Meanwhile the concept of BO is all inclusive and has to do with the identification of the factual beneficial owner, even if the company's activity is regular.

Ø Secondly, the entities to which apply the provisions of this law, appear in an exhaustive list and create opportunities for certain categories of entities operating in the extractive industry, to attempt not to be subject of the enforcement of the provisions of this law. In addition to the reporting obligations, are charged entities that in lawyers, notaries, property registration offices, etc. Thus this law does not impose genuine obligations in relation to companies to disseminate information on the BO.

2. A positive development in terms of the process of BO, should be considered the adoption of the legal framework, it becomes possible that within the verification of the figure of certain subjects such as judges and prosecutors and other categories of subjects involved in this process, to verify the data, even for cases when these categories of subjects are actually beneficial owners or factually control companies or their bodies. However, in this case the scope of this legal framework is very narrow, having to do with a certain category of subjects and does not impose general rules concerning BO.

We evaluate that the drafting, adoption and implementation of a legal framework in terms of BO, must be all inclusive by placing liability for the dissemination of data of the BO to companies realize. Also, it should also be evaluated the way it will be accomplished the imposing of this obligation and the mechanisms that will be used to ensure the effective implementation, since the monitoring mechanism and measures that will be applied in case of failure to comply with this obligation are crucial to the success of law enforcement. In this sense, the composition, adoption and implementation of a legal framework in terms of BO, requires a deep analysis and interaction with the actual legal framework, specifically with the following laws:

Law No.9901, dated 14.4.2008 "For traders and trading companies";

Law No. 9917, dated 19.5.2008 "On prevention of money laundering and financing of terrorism"; Legal framework for judicial reform: Law No. .9367, dated 7.4.2005 "On the prevention of conflicts of interest in exercising public functions"; Law No. .9049, dated 10.4.2003 "On the declaration and audit of assets to liabilities of the elected and certain public officials "; Criminal Code of the Republic of Albania:

Law No. 10,279, dated 20.5.2010 "On administrative offenses"; International conventions to which the Republic of Albania adheres.