WHITE BOOK

Recommendations for improvement of the business climate in Albania

2021-2025

FIAA

FOREIGN INVESTORS ASSOCIATION OF ALBANIA

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Albania 2021-2025

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is available online at: *www.fiaalbania.al*

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Purpose Of The White Book

The White Book is a flagship document prepared by the Foreign Investors Association of Albania at the start of each governing mandate of the Government of Albania.

Its publication highlights and addresses the main issues that foreign investors and wide business are facing while doing business in Albania. In particular, it proposes concrete institutional and regulatory changes, which are imperative for fostering a business environment, which will trigger future foreign direct investment, as well as ensuring retaining existing foreign investment in Albania.

The content of the White Book is based on concrete experiences on the ground, thereby guiding the Government and its institutions on where to focus while working on further improving the business environment in Albania. This Book, on the basis of its concrete regulatory proposals, represents a unique platform for dialogue between business and Government of Albania. *The aim here, is the creation of ad-hoc working groups with experts from both public administration and business community in order to define concrete solutions and implement recommendations coming from the White Book.*

The content of this third edition treats a significant part of legal and fiscal framework in the country and addresses the most common issues faced and communicated by our members.

We are aware that despite a lot of efforts made during the past four years, the country needs to further improve its business environment, implement reforms in key areas and strengthen its institutions in general and the judiciary system in particular. During the last four years, FIAA has continuously offered opinions and recommendations to improve Albania's legislation in a number of areas by actively working with the Albanian Investment Council of Business and communicating quite extensively with all major institutions like the Council of Ministers, Ministries of Finance & Economy, Infrastructure & Energy, Justice and so on.

However, with the formation of a new Albanian Government and in particular, with the creation of pro-business *institutions and platforms*, we believe we will start a new way of communication in support of the business environment in the country.

Together, we believe we will enhance the cooperation and dialogue between business and relevant institutions by applying our best expertise to further elaborate the addressed issues through ad hoc working groups.

Finally, we would like to express our gratitude to all the experts and all members who contributed to the preparation of the FIAA White Book 2021-2025.

Dr. Constantin von Alvensleben
President

Marinela Jazoj
Executive Director

Foreword by the Ambassador of the Delegation of European Union to Albania

Dear Reader,

It is my honour to share some welcoming notes on the occasion of the publication of the White Book Albania 2021-2025 by the Foreign Investors Association of Albania (FIAA).

The European Union's enlargement strategy requires aspiring countries like Albania to address the "fundamentals" first – this means strengthening the rule of law, economic governance, democratic institutions and the respect of fundamental rights.

In this context, the establishment of a good business environment in Albania is essential for the country's accession path. This is about having rule of law fairly implemented, free and fair competition guaranteed, businesses protected from corruptive practices, proper contract enforcement, as well as clear property ownership rules.

I like to compare Albania to a Ferrari with the handbrake engaged. Indeed, the country has an astounding potential, which will be fully released only when these reforms are fully implemented.

Five years ago, in July 2016, Albania took an important decision to reform its justice system. Since then, the justice reform has started to deliver concrete results, especially in terms of independence and integrity of the system. This crucial reform must be completed in the interest of Albania's society, business community, and the country's future generations. A fair, impartial and efficient justice system is fundamental for a democratic state.

More recently, the COVID-19 crisis and its economic and social consequences have underlined the value for all countries to strengthen their economic governance. Albania will need to continue pursuing reforms to achieve sustainable growth, improve its competitiveness, and making its economy more resilient to climate change. The Economic Reform Program 2021-2023 provides crucial guidance in this respect and for preparing Albania's economy to be ready for EU accession.

This is what the EU integration exercise is all about: building trustworthy institutions, increasing standards, and fostering common values.

Countries that progress well on this path do so by involving and consulting with all key stakeholders. And here is where the FIAA enters in the picture. Throughout the years, FIAA has been a proactive partner and interlocutor of the Government and International Institutions in Albania, including the EU Delegation in Tirana. I have watched with interest the FIAA's increasing role in promoting business values and in lobbying on economic policy issues in the interest of foreign investors in Albania.

While the EU remains Albania's main trade partner and dominates the Foreign Direct Investment stock in Albania, there are plenty more opportunities to increase FDI in the country. Albania's key assets include its favorable geographic position and natural resources, young and well-educated population, an entrepreneurial spirit and investor-friendly environment. Together with traditional sectors of investment, such as energy, transport, infrastructure, telecommunication and banking, Albania has also great potential in the areas of digital economy, creative industry in the financial and service sectors.

The EU has supported and continues to support Albania's efforts through extensive technical and financial cooperation. For example, the "EU for Innovation" programme has given invaluable support to the innovation ecosystem and to individual start-ups. On the other hand, Albania participate in a number of Union Programmes and initiatives benefitting businesses, such as the European Enterprise Network, COSME, Western Balkan's EDIF facility for financing SMEs, Horizon 2020, Erasmus for young entrepreneurs, or Creative Europe.

The most recent initiative, the European and Investment Plan for the Western Balkans, has opened yet another unmatched opportunity for Albania and its economic operators.

Many of the issues that the FIAA analyses in this White Book share a common thread with the EU-supported reforms. I encourage the FIAA and the Government of Albania to engage in a mutually fruitful dialogue, in the interest of the country and of EU-Albania relations.

Luigi SORECA

Ambassador of the Delegation of the European Union to Albania

Foreword By The Minister Of Finance And Economy

Dear Reader,

This White Book edition comes in an important momentum, after two consecutive crises, such as the devastating earthquake of November 2019 and the Covid-19 Pandemic. Despite the unprecedented incidence of these events, the country has remained resilient to the multifaceted challenges inflicted on the government and businesses.

The Government remains fully committed to the improvement of the business environment in general, and the investment climate in specific, as a key objective of the country 2030 Agenda. A favorable and predictable investment environment in Albania aims at attracting and providing certainty to both national and foreign investors.

The Ministry of Finance and Economy is continuously working towards the overall improvement of the business climate in the country. The measures already taken have been materialized through important reforms, strategic documents and action plans aiming at strengthening and facilitating cooperation between public institutions and the private sector and increasing the level of dialogue and information sharing among all the stakeholders.

The inclusion of the private sector in the decision-making process is undisputable in the economic development of the country. Therefore, the continuous engagement of a proactive approach and co-governance, remains key in finding solutions for all the addressed concerns of the business community in the Country.

The White Book will be part of our agenda and will serve as a Guide in treating the concerns addressed by the business community by using a new format of dialogue between the government and the business community.

We will welcome the professional work that the FIAA Experts have put forward and will organize dedicated Ad-Hoc Working Groups with Experts from both Public Administration and Business Representatives in order to define concrete measures and implement recommendations coming from the White Book.

I strongly believe that The White Book is a solid step toward a sustainable and long-term cooperation with the business community in the country.

Delina Ibrahimaj

Minister of Finance and Economy

About Fiaa

The Foreign Investors Association of Albania is the first and the only foreign business organization with 20+ years of experience in Albania. The organization brings together members, businesses and stakeholders with alike values and principles who together share knowledge and ideas to their benefits and to the business environment at large.

FIAA represents the largest and most serious businesses operating in various sectors of Albanian economy with the main aim to dialogue and cooperate with the government and other relevant institutions for a better investment climate and favorable environment in order to attract more foreign investors in the country.

Through its membership, FIAA represents most of the FDI-s in Albania, originating from Italy, Greece, Austria, Netherlands, Norway, China, France, Germany, Turkey, UK, USA, Switzerland and a range of economic sectors such as Banking and Finance, Insurance, Mining, Energy, Oil and Gas, Construction, Real Estate, Consulting, Telecommunications, Trading, Agriculture, Tourism, Manufacturing, etc.

From day one, FIAA clearly declared its status of an independent and non-profit organization and is managed by a Board of seven Directors who are representatives of distinguished companies in Albania. FIAA counts about 100 active members and enjoys a great reputation inside and outside Albania.

It's time to promote and protect your business! Join FIAA now!

FIAA Your Partner for Sustainable Development

Defining Chances

Building Opportunities

Consultancy Services | Lobbying | Networking | Publications

Perspectives On The Business Environment In Albania

General Country Business Situation

The last two years in Albania have been the most difficult that business and the country have gone through. First the Earthquake and after the Pandemic, have severely impacted the business life and society. Nothing is the same anymore! The pandemic has changed our old habits and adapted to the new normality. Business is struggling to cope with this new reality and more than ever, the pandemic has reinforced the need for a well-functioning and predicable business environment for economic growth and stability.

We are aware that not only the business has faced big challenges, but also the Government. However, despite the current situation we are living in, our expectations as business community remain the same.

We acknowledge that despite a lot of efforts made during the past 4 years, the country needs to further improve its business environment by completing reforms in key areas, strengthening its institutions in general, the judicial system in particular and continue the fight against corruption.

In other words, it is fundamental to further support the acceleration of membership negotiations with the EU, along with serious commitment on suitable fiscal consolidation and proper Laws implementation. As Foreign Investors in Albania, it is our role to constantly point out the main obstacles and challenges that would make Albania a favorable country for new investments. That is why we have continuously offered our expertise to help in overcoming the challenges and crisis the country goes through.

In this Edition of the White Book, our recommendations are structured in those Laws and areas that we receive most of the concerns and see them as important to address and follow up to the authorities. Taxes, Inspections, Procedures, Fiscalization Process, Bankruptcy Law, etc, remain top priorities in this edition of the White Book. Despite many good laws having been adopted and implemented, there are still many other laws pending, which require a consistent and professional work of the institutions in charge. The policy-making and legislative drafting processes in key ministries are still subject to shortfalls in research and analytical work and there is not enough transparency and timely consultation with relevant key stakeholders.

In addition, in this new reality we are living in, more than ever, we would like to highlight, that digitalization is now a real need for the whole society, which is now moving towards remote functioning.

Therefore, we strongly believe that Albania need to seize this opportunity and improve its competitiveness both in e-government and in the private sector. Improvements in these areas will bring multiple effects on the future economy and will make the country more attractive for foreign investors.

Business Environment Perception

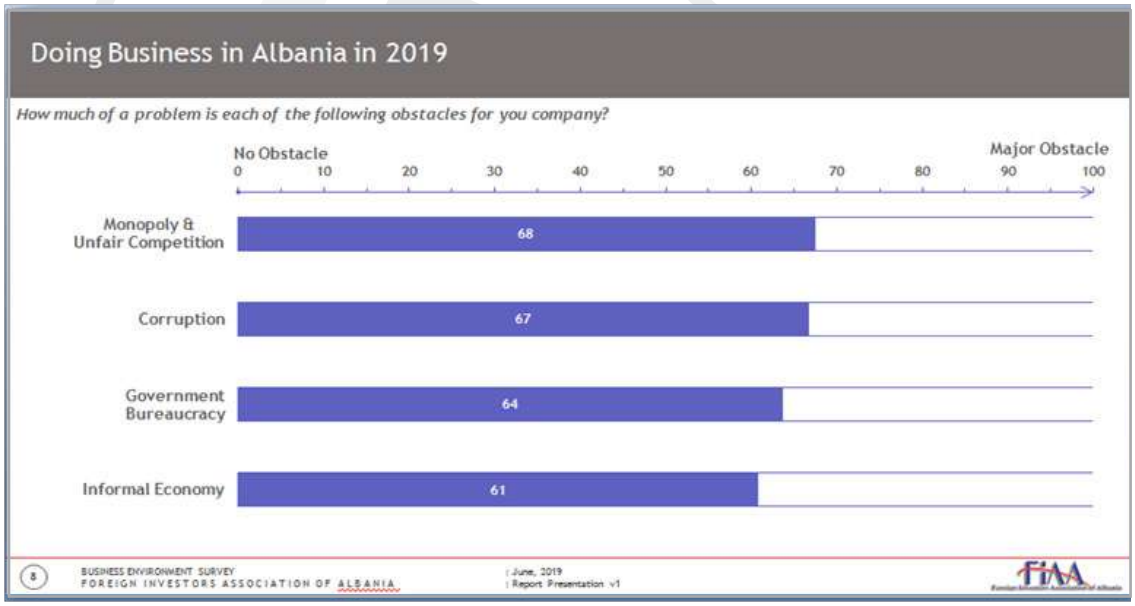
Investment Climate

A good investment climate in Albania is depended on the efficiency of the institutions in the country, but also from other elements like the political climate, risk of Doing Business, the structure of the economy as well as the world trade conditions. In addition of the **Justice Reform Completion,** Foreign Investors claim that **Corruption, Unfair Competition/Monopoly, Informality and Government Bureaucracy** have been continuously identified as the biggest obstacles in the doing business environment of the country. These obstacles continue to be addressed by foreign investors as a hindrance in their business life and are evident in all surveys and analyses of FIAA.

This is also in line with other reports and Surveys like the US Department of State (DASH) Business Climate Report 2021, recently published which, has expressed with high critical marks for the business climate in Albania. The report says that endemic corruption continues to undermine the rule of law and jeopardize economic development. Foreign investors highlight corruption, especially in the judiciary, lack of transparency in public procurement, the informal economy and poor contract enforcement as some of the biggest problems in Albania.

In addition, Albania dropped 19 places in the World Bank Doing Business 2020 study, ranking 82nd, falling from 63rd in 2019. The country continues to have poor results in the areas of issuing construction permits, paying taxes, contract enforcement, property registration, electricity generation and protection of minority investors. Also, Transparency International's 2020 Corruption Perceptions Index ranked Albania 104th out of 180 countries, a two-place improvement from 2019.

In the table below are shown some of the main obstacles encountered and addressed by our members.



FIAA had also recommended 8 measures as important actions which would help the country on minimizing the Corruption phenomenon in Albania. It was titled as: A new approach towards openness – online transparency and good governance. We continue to hope that the Government will take the best out of our professional recommendations and make Albania a better country to invest in.

Meanwhile, in the context of the global economic crisis caused by the pandemic, economic policy measures can significantly affect economic activity and mitigate the severity of the recession. Investments this year were severely affected by the recession caused by the pandemic. According to the EBRD Report, a rebound is forecasted for Albania in 2021 with GDP expected to grow by 4.5 per cent. The economy is expected to grow further at 4 per cent in 2022. These forecasts assume that there will be no resurgence of the pandemic, downside risks include the extent of recovery of tourism during the post-pandemic phase.

FIAA's Cooperation With The Government

The mission of the Foreign Investors Association in Albania focuses on contributing to a favorable investment climate through an open dialogue with the Government and other stakeholders, in order to attract more investors coming to Albania. This edition of the White Book is intended to be presented at the start of the work of the new Government and institutional restructuring as declared by the Prime Minister of Albania.

This, will give the foreign investment community the opportunity to present Albania's challenges in attracting foreign direct investors and give recommendations to the decision makers at this proper moment. FIAA has been working hard to provide a continuous flow of feedback and recommendations to Government Representatives and other related Institutions.

There is also a constant flow of information between FIAA and the business community in order to obtain and understand their feedback on specific concerns they have, while doing business in Albania. Targeted surveys have been conducted in order to gain a better understanding of their issues, followed by specific meetings for generating recommendations and providing solutions.

Moreover, there are four sectorial committees working under the leadership of FIAA, respectively supporting the Mining, Oil & Gas, Energy, Taxes and European Integration areas, in order to better identify the main concerns faced by these industries and bringing together all relevant stakeholders to try and find the pathway to meaningful solutions. In support of the above, various official communications have been made raising these concerns and addressing to the highest authorities.

FIAA positively recognizes all the efforts that Albanian Government has made, the reforms taken in different important areas. We are aware of the Government' engagement on the preparation of important strategic documents on support of Economic Development and further structuring of economic reforms which for, we hope there will be proper and timely implementation and deliver their positive effect to the business climate.

Economic Reform Programme (ERP) 2021–2023, was shared by the Government of Albania for consultation and FIAA has been committed with specific recommendations. The ERP is prepared by the Government of Albania and it presents the medium-term macroeconomic and fiscal framework, as well as the sectorial structural reforms for promoting both the competitiveness and growth of Albania. It is inspired by the European Semester process at the EU level, and is fundamentally an exercise, which aims to help enlargement countries develop their institutional and analytical capacities and prepare them for participation in the EU's multilateral surveillance and economic policy coordination procedures, once they become Member States.

The recommendations of FIAA were mainly focused on:

- As the pandemic has taught us, the need for digitizing the economy is greater than

ever. SME's are a crucial component to bring forward development in Albania, and therefore is outmost important that in the Recovery plan, strong attention should be given to the digitizing of the SME's. Studies in Albania, (EBRD, WB etc) indicate there is much room for enhancing digital adoption, entrepreneurship, and innovation across Albanian businesses.

- There is a need for a dedicated policy framework outlining a series of measures to support an investment environment for the deployment of critical digital infrastructure, through public-private mechanisms.

The European Integration Partnership Platform, which will treat the chapters in frame of the process for European Integration, has been another important step of the Government under the lead of the Ministry of Finance and Economy. Foreign Investors have already committed to be part of the Partnership Platform in the discussion roundtables and consultation on specific Chapters relevant to the specific industries FIAA represents.

Draft of the Business and Investment Development Strategy 2021-2027, is another important Document that the GoA has presented recently and FIAA fully believe that it will pave the way for the future and aspire to make Albania fit for EU accession, but it is obvious that a lot of work needs to be done for its proper implementation. FIAA agrees that the Strategy regarding the business climate, describes a largely positive picture for foreign investment. But the reality is often not so positive for existing and future foreign investors. Here, FIAA stresses the need to finish the work on the justice reform and to ensure the rule of law. This is not only important for attracting new foreign investment but, it is equally important for keeping existing foreign investors within Albania, and to ensure they give positive testimonials about Albania.

In addition, it is FIAA's position that Albania needs a binding framework for obtaining tax rulings, making obligatory for the tax administration to respond within a reasonable time frame to requests for advance rulings. Too often foreign investors face conflicting views of different authorities, leading to unnecessary disputes.

Further, it should be also stressed the need for prior consultation before normative acts and ministerial orders are adopted. GoA should always be in discussion with the concerned companies, and not just publish such acts in the Official Gazette, creating a fact and avoiding the discussion.

FIAA will be honored and motivated to function as partner of the newly to be formed GoA, together with all other distinguished business associations, to advise GoA during the next four years. We wish to fill out such role on a sustainable basis, making use of the high competence of FIAA's newly established Board of Directors. Let us create the right framework for on-going consultation in good partnership, and in the best interest of this great country.

What will be most important in 2021 and further on?

- We believe that the climate for foreign investment will need to be further improved.
- Albania will need to stimulate economic growth and make the country fit for EU accession.
- Legal certainty and rule of law are key elements of foreign investors.

Therefore, we will not be tired to insist on the completion of the Albanian justice system and increasing its efficiency. Working together towards a healthy business environment and economy will be our joint task.

FIAA's Role Forward

In this edition, FIAA's White Book addresses issues faced in the most relevant laws which impact the current business climate and also gives recommendations on how these laws should be improved so as to better support future inflows of investments. The issues presented in this document are addressed by our members and reflect the experience of investors and entrepreneurs doing business in Albania.

Before going into details, it is appropriate to point out that some of the problems that have hindered the activity of foreign companies have sometimes been caused by the following problems:

- the decentralized manner in which laws might be administered causing ambiguity and therefore possible misinterpretation;
- the refusal to recognize some laws by some of the State authorities;
- the incorrect application of certain laws and guidance notes which sometime exceed the original intent of the law;
- attempts to administer new provisions which have not yet been passed into law.

More specifically, the issues we have been working on in this edition of the White Book concern the following laws:

- Tax Law
- Business Registration Law
- Banking Regulatory Framework
- Corporate Law
- Concessions Law
- Renewable Energy Law
- Bankruptcy Law
- Hydrocarbons Law
- Fiscal Regime on Hydrocarbons in Albania
- Employment Law
- Law on Invoice and Turnover Monitoring System (Fiscalisation Law)
- Pension Funds Law
- Residence and Work Permit Law
- Carbon Tax/Excise Tax
- Lifting of Import Banning of Green List Materials and Building the Administrative Capacity for Integrated Waste Management
- Trademarks Protection

Each section will provide: (i) Introduction of the Selected Laws; (ii) Summary of the Key Issues; (iii) Summary of the Major Proposals and Recommendations.

FIAA are ready to cooperate with the relevant entities to develop solutions to these challenges.

FIAA MANIFEST PUBLISHED IN FEBRUARY 2021

1. **Need for immediate action on improving the Albanian judicial system, in particular**

   - Efficient start of the Constitutional Court as early as possible, Ensure the proper staffing of all other courts, in particular the Supreme Court, the Courts of Appeal and the Courts of First Instance with judges who have passed the vetting and with young judges who ensure independence and impartiality.

   - Aggressively pursue the fight against corruption on all levels of Government.

2. **Need for improved tax procedural rules, ensuring in particular**

   - Binding framework for obtaining advance tax rulings, making obligatory for the tax administration to respond within a reasonable time frame to requests for advance rulings.

   - Publish all tax rulings issued so that other taxpayers may follow the same treatment.

   - Respect the deadlines for VAT reimbursement to allow for reliable cash planning of all businesses, and obliging the Government to pay interest in case of late payment (automatic interest to be calculated from e-tax system with no need for a request from the taxpayer).

   - Ensure Alignment of position within the government agencies (there are conflicting positions between ministries or agencies, (i.e AKBN rulings are challenged by tax rulings).

3. **Improve permitting process to reflect needs of specific industries** and reduce the delays for obtaining construction permits by streamlining the procedures of the National Council of Territory Adjustment and all other authorities of national and local government responsible for granting construction permits. Definition of binding timelines for granting permits.

4. Ensure better coordination between local authorities and central government to avoid arbitrary actions against businesses located in different administrative areas of Albania.

5. Improve the dialogue with Business and ensure proper responsiveness of the responsible institutions with whom foreign and domestic investors work in Albania.

6. Support the further digitalization of the public administration and in particular, in terms of data sharing with private entities for faster, safer and higher service delivery towards Albanian businesses and citizens

- Invest in e-signature capacities, let it be physically in terms of public technological infrastructure, or legally in terms of its recognition from tribunals.
- Digitize but also optimize: invest in faster and safer delivery of public certificates (tax, property, penal etc.) that are already digitalized, but not sufficiently efficient yet to deliver them to the final beneficiary.
- Support the rapid deployment of digital biometric ID-s as a mean to lower risks in the eve of the rapid increase of digital transactions including the activation of the digital options that the ID has (code, reading of the biometric data from third parties, etc).
- Invest in the creation of a Private Credit Data Bureau, thus increasing the access to finance for population and small entrepreneurs, but also allowing for a higher & safer cross-check by private institutions of the data of those businesses and individuals that are mostly exposed to financial risks but also other risks, such as fraud, criminal or other illicit risks.

7. Create a "Fund of funds" (Guarantee scheme) in order to ensure a higher protection level for businesses in cases of environmental disasters or widespread crisis such as the one we are living currently under the Covid19 pandemic.
    - In regard to environment hazards and earthquakes, the further expansion of insurance products, for businesses and farmers, appears to be the right way forward.
    - The guarantee scheme, should be inclusive, generalized and covering all financial intermediaries serving in particular farmers and small businesses that are vulnerable to crises.
8. Support economies of scale by combining public grants and private funds so more impact can be achieved, with a special focus the rural economy/agriculture, considering the challenging period Albanian economy is currently undergoing.
9. Increase public investment on professional education and with the objective to spread the entrepreneurial culture among young generation by boosting incentives, supporting schemes, educational instruments etc. Beyond the innovation spectrum, professionalism, employment at home and entrepreneurship should be promoted as a clear alternative to illicit rapid gains and immigration.
10. **Ensure high focus on competitiveness to promote investments.** Introduce clear provisions in the law stating that new projects are granted through a competitive process rather than through direct negotiations with the new investor.

I Tax Law

Over the past years, Albania has marked significant progress in improving its tax legislation and business climate.

Positive developments included the introduction of tax incentives, as follows:

- *the reduced corporate income tax rate of 5% for strategic business sectors, such as software production and development, agricultural cooperatives and agrotourism, and automotive,*
- *the reduction of dividend withholding tax rate from 15% to 8%,*
- *the reduced VAT rate of 6% for accommodation services, restaurant supplies by agritourism facilities,*
- *the extension of the carry forward period for tax losses from three to five years for investment over ALL1 billion (approx. EUR8 million).*

Also, the continuous simplification of tax procedures and modernization of the IT tax system, culminating with the provision of many online services by public authorities through the e-Albania portal have contributed in significantly decreasing the administrative burden. In addition, the exclusion of default interest from the obligation to settle tax liabilities assessed by a tax audit, as a precondition for executing the right of appeal, has further improved the position of taxpayers.

In 2018, Albania decided to implement the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and became a signatory jurisdiction and party to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS. Moreover, in 2020 Albania implemented the Common Reporting Standard (CRS) obligating its financial institutions to provide information to the tax authorities, which exchange automatically that information with other jurisdictions on an annual basis. These measures should help in strengthening the fight against tax avoidance and evasion.

However, the frequent changes in the tax legislation, often contradictory to each other and implemented without a proper consultation with the interested parties, have created a chaotic legal framework which is not only an additional administrative burden and financial cost to the taxpayers but also, in many cases, violates legal certainty, a constitutional principle in the Republic of Albania. This issue continues to be raised in all the progress reports issued by the European Commission and various international organizations, which point out also the high level of tax framework complexity in Albania.

- The move of the administrative appeal instance from the tax administration to the Ministry of Finance and its further reformation into a two-tier structure has unfortunately not improved the quality of the proceedings, as an overwhelming proportion of the decisions continue to be in favor of the tax authorities.

- Tax audits continue to be aggressive, indicating that more structural changes are required in order to change the tax authorities' mentality from a penalizing institution to a state revenue collection agency.

- Moreover, the VAT refund process poses still many challenges. Despite the enormous progress made

in 2014 with the refund of long due VAT amounts, taxpayers still face considerable delays.

- Also, the process remains still very burdensome due to unnecessary VAT audits performed regularly for each refund claim, instead of risk-based ones.

The tax legislation requires further modernization and improvement, in particular the secondary one, which seems to follow outdated and, in many cases, wrong approaches to taxation.

- The approximation of our tax legislation to EU Law requires that not only tax laws, but also administrative instructions and guidelines follow the same taxation principles and do not distort them to the detriment of the taxpayer, by introducing burdensome procedural requirements or vague and ambiguous interpretations and often re-interpretation of the laws.

- There are still many problems with the application of tax regulations due to the lack of professionalism and training of the tax administration and continuous budget pressure.

- Further reforms are required in order to transform the role of the tax administration into an institution that guarantees the implementation of the tax legislation, but also guides, understands and protects the rights of the taxpayers.

Finally, a formal procedure should be introduced for the issuance of advance tax rulings, as a tool providing taxpayers with a good level of comfort on certain complex tax matters. Advance tax rulings are in particular useful to foreign investors to get clarity upfront. Thus, they could help to reduce tax controversy and build on legal certainty and an investor-friendly environment. In the past years, it has become more and more difficult to obtain tax rulings, as the tax authorities limit their responses to the citing of the law, without taking any position and providing little or no guidance to the issue. Their claim to have only an executive role in implementing the tax legislation and no power to interpret it, is in full contradiction with the tax procedures code and the aim of tax rulings. It becomes, therefore, of the upmost importance to have a robust tax ruling procedure which ensures that tax authorities are well equipped in order to be able to provide the required level of comfort to taxpayers and foreign investors in particular.

Below are some of the main issues having a material impact to the businesses and our respective recommendations for finding solutions.

Value Added Tax - Procedures for refund and credit

SPECIFIC ISSUE	RECOMMENDATIONS
(1) The tax authorities have failed to refund in due time the creditable VAT to taxpayers. Many entities especially those that are under the investment phases or those that perform export of goods have significant creditable VAT that is due for refund, but the tax authorities have not been able to perform these refunds on a timely manner or at all. The risk related to the refund of VAT is considered a major challenge for any project. Delay or partial VAT refund from Albanian tax authorities, represents a significant cash flow implication for the investors. The possibility to enter into an agreement with the tax administration for the refund of the VAT credit balance in installments has provided some comfort to investors. However, the condition that taxpayers should waive their right to default interest to enter into such an agreement is in contradiction with taxpayers' rights. In the opposite case, where taxpayers enter into for agreement for the settlement of their tax liabilities in installments, they are obliged to pay default interest even during the agreement term.	(1) We would recommend that the condition for taxpayers to waive their right to default interest is removed.
(2) Under the Tax Procedures Law Articles 75 and 76, the VAT refund should take place within 60 days after submission of the request for refund, and 30 days for exporters. This means that both the tax audit for the verification of the amount of the VAT refund and the refund should take place within 30 days. This deadline is rarely met by the tax authorities. Furthermore, under the Tax Procedures Law, if the taxpayer has no outstanding tax obligations and the tax authorities have not refunded in cash the requested amount, when the conditions for refund have been met, the taxpayer is entitled	(2) The Instruction of the Minister of Finance on Tax Procedures to be amended by stating explicitly that if within 60 days for taxpayers/30 days for exporters upon submission of request for refund, the tax authorities have not performed the refund the taxpayer may stop paying other taxes. Otherwise, the taxpayer will be eligible to payment of interest from the tax authorities. In addition, it is suggested that the Instruction states that the tax audit should not extend to periods which have already undergone a prior tax audit and are therefore closed.

not to pay the other tax obligations due, up to the amount of the VAT credit (object of the request for refund). Although the law provisions are clear regarding the 30 days term for refund, and therefore if no refund has taken place within the legally established deadline, the taxpayer may omit to pay other taxes that are due, the Instruction of the Minister of Finance states that only when there is an approval from tax authorities on the VAT to be refunded, the taxpayer may stop payment of other taxes. By using this interpretation, the tax authorities delay the tax audit regarding the VAT refund and therefore prohibit the taxpayer to use its right of tax offsetting. As a consequence, the right of the taxpayer not to pay other taxes when a refund of VAT is due, does not benefit to the taxpayer and remains applicable only de jure. In addition, the tax audit following a refund request often includes periods which have been previously subject to a prior tax audit and therefore should be considered as closed for the sake of providing taxpayers with certainty. Deadlines to object against preliminary reports and appeal against the final tax assessments resulting from an audit following a VAT refund request are reduced to 5 calendar days. In certain cases, this can be an impediment for the taxpayers to protect their rights (e.g. instances where internal approval procedures need to be followed, calendar days falling on weekends, etc).	It is obvious that if tax authorities would conduct an audit within the 60/30 days period and issue a tax assessment, this would be subject to appeal procedures and only the approved VAT credit shall be refunded. Also, the reduction of the period for filing objections to the preliminary tax audit report and appealing the final tax audit report to 5 days from 15 and 30 respectively puts the taxpayer under a high pressure and results particularly difficult for foreign investors, where decisions to appeal are taken on a regional or global level, making thus impossible to respect these tight deadlines and losing the right to object or appeal.
(3) Pursuant to the VAT Law, Article 24, in the case of B2B (business to business transactions) the place of supply of services to a taxable person acting as such shall be the place where that person has established his business. However, if those services are provided to	(3) The Instruction of the Minister of Finance to be amended in order to not introduce further requirements, including procedural ones, beyond what is provided by the VAT Law. Only in case it is proved that the taxpayer has not acted in bona fide and has intentionally abused from the application of the general rule. The

a fixed establishment of the taxable person located in a place other than the place where he has established his business, the place of supply shall be the place where that fixed establishment is located. In absence of such place of establishment or fixed establishment, the place of supply of services shall be the place where the taxable person who receives such services has his permanent address or usually resides. However, the Instruction of the Minister of Finance adds the procedural aspect to an extent that makes it very difficult in practice for the taxpayer to benefit from the provisions above. The Instruction requires among a list of 5 documents also a certificate issued from the tax authorities of the foreign country where the taxpayer receiving the services is registered, in order to issue an invoice not subject to Albanian VAT. This procedure makes it very burdensome the application of the general rule of the place of supply and also creates a high risk for the Albanian taxpayer which, although following the law and the EU Directive principle, can be penalized at the full amount of VAT for lack of supporting evidence.	Instruction of the Minister of Finance should ease the burden of taxpayers for compliance, not increase their bureaucratic burden. In particular, we would recommend that instead of the certificate issued by the foreign tax authorities, Albanian tax authorities should accept any document, including electronic ones, provided by reputable databases, such as VIES database published by the EU and databases published by foreign tax authorities.
(4) Pursuant to the VAT Law, Article 99, para. 4, the taxable person carrying out a supply of services is obliged to issue an invoice for that supply at the moment the services are rendered. In the last years, the tax authorities have heavily abused of this provision. They have on several occasions disallowed the right to credit in input VAT for transport services rendered on a frequent or repetitive basis during a month, arguing that the services have been incorrectly invoiced on a monthly basis, and that they should be invoiced separately for each transport. This in practice increases significantly the number of invoices to be processed for	(4) We would recommend introducing the option to issue summary invoices, to allow for the issuance of a single invoice for supplies of services done on frequent or repetitive basis during a month. The EU Recast VAT Directive, Article 223, provides that […] a summary invoice may be drawn up for several separate supplies of goods or services.

businesses heavily dependent on transport (of materials, stock, etc.) very often leading to a situation where in practice it makes it very difficult and burdensome for the taxpayer to process all invoices and therefore to deduct the VAT.	
(5) According the VAT Law, Article 99, para. 5 the invoice may be issued periodically the same month the services are rendered. Nonetheless the Instruction of the Minister of Finance requires monthly issuance of invoices for periodical services performed continuously.	(5) With respect to periodical services, taxpayers should be allowed to issue invoices at intervals corresponding to the contractual arrangements between parties, following milestones, business cycles, etc, for example for tax services invoices could be issued every three months, and their issuance should not be limited to a monthly basis.
(6) The VAT Law as well as the Instruction do not limit the right of crediting VAT for businesses that are in the process of liquidation, or in investment stage and do not have sales. Pursuant to the dispositions of the Law the right of crediting of input VAT is not conditional on having output VAT, but on conducting a taxable business activity, in line with the principle of VAT neutrality, i.e. VAT should not become a cost for the taxpayer. However, in practice tax inspectors deny the right of crediting VAT in case when taxpayers do not have sales for a certain period.	(6) Ministry of Finance should stipulate in the VAT Instruction the right of taxpayer to credit input VAT to the extent their business activity is taxable, providing detailed and specific guidance in line with VAT Directives Commentaries and ECJ cases on this matter.
(7) The VAT Law and the respective Instruction do not provide for a reference selling price which can be used by a company for determining the VAT basis, and neither liaise such price with the production/buying costs or the requirement for profit to be generated. On the contrary, the VAT law is explicit on the cases where reference should be made on the market value or cost of the product, for purposes of determining the VAT due i.e. such as the case of transactions between related parties.	(7) The Ministry of Finance should clarify through the VAT Instruction that there is no requirement on taxpayers to be selling at a profit, or that their sale price must cover the costs of production/acquisition, in order to avoid an incorrect application of the VAT Law in practice as well as to numerous court cases by taxpayers contradicting VAT liabilities and fines assessed not based on legislation.

However, in practice tax inspectors impose VAT and related penalties on sales performed under cost following abusive practices which were established based on the wrong interpretation of the old VAT Law, Article 18.	
(8) The VAT Law has been amended several times since its entry in force in 2015, despite being aligned with the EU Directive since its drafting. In particular, changes introducing exemptions or reduced rates for specific goods or services, or specific schemes tailored for particular projects distort the application of VAT and favor specific businesses or sectors, in contradiction with the VAT principles as laid down in the EU VAT Directive, as well as, state aid principles.	(8) To avoid distortion of the VAT rules, the amendments of the VAT Law should be rather limited. Also, they should undergo proper public consultation, meaning that the stakeholders should be consulted in due time and their concerns and suggestions should be taken into consideration.
(9) The composite supply in the VAT Law and the respective instruction outline that the main part of the supply, i.e. if it is a composite supply of goods or of services is not defined according to which item has the greatest value, but in principle which is the main activity. However, this leaves way to interpretation and possible misinterpretation of the logic of the Law.	(9) The Instruction should clarify the specific treatments for most common scenarios.
(10) As per the VAT provisions petroleum operators holding a petroleum agreement are granted with an exemption for certain supplies of goods and services during exploration phase based on prior approval from the regulatory authority. This approval should be received within 30 calendar days from the issuance of the invoice. This provision was introduced to protect taxpayers from not receiving an answer from the regulatory authority. However, it often happens that formal approvals by the regulatory authority are issued few days after said deadline (e.g. last day falls on a weekend or public holiday, request of additional documentation or clarifications from the regulatory authority, etc.). In these instances, it also often happens that tax authorities challenge the exemption	(10) A combined interpretation of the Joint Instruction along with other provisions already included in the Albanian legislation would help in protecting taxpayers' rights from not receiving a response in due course without posing an additional risk to legitimate VAT exemptions. It would be advisable that VAT provisions clearly state that the late issuance of the approval should not be used by the tax authorities as a valid reason to disallow the VAT exemption. In line with this Article 56.4 of the Law No. 44/2015 "Code of Administrative Procedures of the Republic of Albania": "when the last day of the deadline falls on a Saturday, Sunday or bank holiday, the deadline ends on the following working day".

granted by the regulatory authority besides being a legitimate exemption (listed in the VAT Joint Instruction) issued few days after the deadline for valid reasons.	Additionally, by virtue of the article 91.3 of the Code of Administrative Procedures", it is provided that "if the law provides the obligation of the party to submit documents or proofs, as part or together with the request to start the procedure, the deadlines of this article start from their full submission". Finally, Article 92 of the Code of Administrative Procedures provides that "Except when explicitly prohibited by the law, in justified cases, because of the complexity of the issue, the public administration can extend once the deadline provided in article 91. The extension of the deadline is done for as long as needed for the end of the procedure, in proportion with the complexity of the case in point, but no longer that the initial deadline. The extension of the deadline and the end date of the extended deadline is notified to the party within the period of the initial deadline. Such notice shall provide the reason of the extension".

Corporate Income Tax

The current Law on Income Tax has been enacted more than 22 years ago and was based on different legislation on accounting and in the economic situation of the country. Since 2013, the business community has required from the government the replacement of the current legislation with the aim of modernization of the income taxation. Drafts of the new law have been already circulated and were consulted with the interested parties. However, the process was not finalized, and the business community is yet struggling with a fire-fighting approach, solving one problem at the time instead of addressing multiple issues at the same time. With modernization of VAT, customs and excise legislation, the changing/replacement of the income tax legislation becomes imperative.

Below are some issues faced in the current law on Income Tax that impact business and our respective recommendations for finding solutions.

SPECIFIC ISSUE	RECOMMENDATIONS
(1) The income tax law is outdated and needs to be replaced by a new law, in line with the recent developments on taxation principles made by EU/OECD. In particular, the continuous changes made throughout the years, on one hand trying to modernize certain tax concepts, on the other aiming to incentivize specific businesses or sectors, have resulted in contradicting provisions. To be noted that accounting standards has been in a constant development during these two decades and accounting treatments has been changed in great extends. This creates a vacuum of rules in modern tax legislation, resulting in higher tax burden for taxpayers and allows room for confusion and misinterpretation by the tax authorities. Moreover, the administrative guidelines fail to follow the changes in the law, resulting uncertainty and controversy.	(1) We would recommend that the Income tax legislation law is replaced by an entire new law and administrative guidelines, which should undergo public consultation before being approved. We suggest at least the following should be taken into consideration in drafting new laws: i. separating corporate income tax from the taxation of individuals; ii. aligning taxation of individuals to reflect the net income received rather than their status (i.e. employed, sole entrepreneur or partnerships); iii. application of rules related to non-deductibility of the expenses using principle approach rather that listings of specific rules.
(2) The provisions of Article 27/1 of the Income Tax Law regulating the taxation of capital gains from direct or indirect share transfers, in absence of treaty protection, contradict with general principles of taxation by shifting the tax burden	(2) We would recommend that this Article is revised in line with contemporaneous provisions of EU countries regulating the taxation of capital gains from transfer of shares for non-resident entities. Also, new rules should be introduced to regulate

to the entity which shares are transferred and, thus potentially to the buyer or remaining shareholders. Also, the provisions are unclear and ambiguous resulting in many difficulties when applied in practice – while the tax authorities are unable to provide guidance.	the taxation of capital gains from transfer of shares for entities resident in treaty countries, where the treaty provisions give the right to taxation to Albania.
(3) Tax authorities disregard OECD guidance on the attribution of profits to permanent establishments during tax audits. This results in tax litigations for foreign investors in Albania and in many cases in double taxation.	(3) We would recommend further training to Tax authorities on transfer pricing rules and also ensuring these are embed in their tax audit manuals.
(4) The reorganization of businesses has been a grey area in our taxation system, due to lack of provisions, despite many business reorganizations taking place in the last years. The provisions introduced with the Articles 32/1 and 32/2 on December 2020 were welcome, although no public consultation took place. Still to date there is no administrative guideline published on business reorganizations, making the application of these new rules difficult in practice and uncertain.	(4) We would suggest that the Ministry of Finance issues the relevant administrative guidelines on the provisions on the reorganization of business to provide further clarity on the adequate tax treatment for the benefit of both the taxpayers and the tax authorities.
(5) Depreciation Methods and Rates The current law on Income tax provides as the main method of depreciation's calculation the reducing balance method. Such technique is used for accounting purposes in very few specific cases. Instead the linear method is quite common, especially for buildings. Although, changes to allow as a deductible expense the remaining value of the under certain percentage, the difference in the depreciation charges, remains significant.	(5) We recommend to fully replace the tax rules related to the depreciation and possibly aligning with the accounting standards applicable. We suggest that the new rules to provide for the linear method for all the categories of the property plant and equipment. Such method is easier to be applied and consequently more efficient for the tax authorities to audit and check.

Local Taxes- Temporary Taxes

SPECIFIC ISSUE	RECOMMENDATIONS
The Law on Local Taxes (Article 33) provides that the Municipality Council, when deemed necessary, can impose temporary taxes in the general interest of the community within the territory of its jurisdiction. However, no any further specification is given in the law with regards to the limits of such authority, the necessary reasoning that should support the decision of imposing such taxes as well as the definition of what for the purposes of imposing such taxes would be as necessary for the community. This leaves the Municipality Council with an authority that overpasses the law itself and creates uncertainty for the future.	In order to ensure compliance with the constitutional principles on imposition of Taxes, but also to avoid unpredictability and unjustified financial exposure of the business operators, the Law should define clearly and have the Municipality Councils to clearly define and provide in their decisions, while imposing such temporary taxes, sufficient reasoning on: a) the respective needs of the communities to the benefit of which such taxes are being imposed; b) the terms and criteria for the calculation and implementation of such taxes. Additionally, such taxes should not: (i) apply for more than 2 years in row and not repeated within the 5 years period starting from the last year of implementation of such taxes; (ii) exceed on annual basis 50% of the total yearly local taxes.

II

Business Registration Law

The establishment of the National Business Centre back in 2007 as One Stop Shop public institution aimed for business registration procedures to be: Simpler, Cheaper, and Easier. Once the application has been approved by NBC, the new legal entity will be registered automatically at the Municipality, Tax Directorate, Social Security Institution, Health Insurance and Labor Inspectorate.

Nevertheless, despite the fact that the Business registration process has become fairly short and simple with the establishment of the NBC, in the past year it has resulted that deregistration remains a burdensome process, time consuming and rather unpredictable. The main problems stem from the interaction between the NBC and the tax authorities.

Although the tax procedure legislation provides for strict timelines for the tax authorities to complete the process, they systematically delay it through unnecessary and lengthy tax audits, conducted without any risk analysis and even for historically dormant entities.

It is to be emphasized that during the last four years, no specific measures have been taken on above and no legislative changes have been adopted from the authorities to address the identified problematics in order to provide tailored solutions.

In this updated edition, new problematics faced by the business were addressed, which have to be considered in order for relevant actions to be taken by authorities to provide clearer, simpler and less time-consuming procedures.

SPECIFIC ISSUE	RECOMMENDATIONS
(1) The Law "On Entrepreneurs and Commercial Companies" allows creditors of a commercial company under liquidation to file their claims in the NCB with certain legal deadlines. Instead, the official website of NCB does not reflect a list of companies under liquidation process.	(1) The National Registration Centre must publish and update constantly in its online database the list of companies in liquidation process. This will allow the creditors to raise their claims within legal deadlines.
(2) Foreign investors need to have a complete information on legalization/apostille requirements, among other information made available by NCB.	(2) It would be useful that NRC publishes a complete list of states that can avail of Apostille seal for public deeds submitted in Albania, as well as the updated list of states that have bi/multi-lateral agreements with the Republic of Albania for direct recognition of public documents.
(3) The option of on-line application, provided by the Law, is not fully operational.	(3) It would be feasible that NCB makes available the on-line application for all filings provided by the Law no. 9723 dated 03.05.2007 "On Business Registration", as amended.
(4) The Entity deregistration remains a burdensome process, time consuming and rather unpredictable. The main problems stem from the interaction between the NBC and the tax authorities.	(4) It is very important that NCB and Tax Authorities give solution to this burdensome process which more and more is becoming a serious issue to business.

Although the tax procedure legislation provides for strict timelines for the tax authorities to complete the process, they systematically delay it through unnecessary and lengthy tax audits, conducted without any risk analysis and even for historically dormant entities.	Furthermore, Tax Authorities should put in place procedures and timelines for deregistration of taxpayers from the tax system once the deregistration certificate is issued by NCB.
(5) Rejection of applications for mandatory registrations in the cases of non-submission of the financial statements.	(5) The daily business operation cannot be affected by non-submission of financial statements on time which might be caused due to objective reasons. In any case the delay or non-submission of financial statement should be subject to a financial penalty.
(6) Carrying out specific procedures such as restructuring of entities which are part of international transactions or cross-border mergers, when foreign company is the acquiring entity is quite challenging due to the lack of support from the NBC officials.	(6) Regardless, the lack of specific provisions in the commercial legislation, the NBC officials should be more supportive to the business for specific registrations as long as these cases do not conflict with the Albanian current provisions.

III

Banking Regulatory Framework

The banking legal and regulatory framework and banking safety net structure continued to introduce startling changes, in the context of both improving or reflecting the concerns of the banking industry to provide a safe and sound financial and banking environment, and of a rapid approach with the best international standards and Directives of the European Union (EU), given the country's expected accession into the EU.

A part of banking regulatory issues described in the previous edition of White Book 2017-2021 have been already addressed and the necessary actions are made by the competent institutions. It is worth mentioning the already resolved issues regarding taxes, completion of the framework of the new Law on Bankruptcy, and the approval of the methodology for determining the value of Items in the compulsory execution process.

Meanwhile, some important existing issues need to be examined and properly addressed by the Albanian authorities. Also, new proposals are made by the banking industry aiming safe, fair, constructive, and trustworthy banking environment to increase the lending activities and the role of the banking sector in the real economy of the country. Therefore, the need for constructive communication and consultation process between the decision-making authorities and banks is apparent and important.

The remaining issues required to be addressed from a regulatory, as well as administrative point of view, are summarized in the following table.

ISSUES EXECUTION OF COLLATERAL	RECOMMENDATIONS AND EXPLANATIONS
(1) The joint guideline of the Ministry of Justice and Ministry of Finance for Private Bailiff Tariffs.	(1) Considering the objection of the new two guidelines approved on 26 June 2017, on the level of fixed and success fees for private judicial bailiff's service, especially on the level of the tariffs set on them, the Minister of Justice and the Minister of Finance made some changes and amendments to the guideline through the Guideline No 30, date 30.8.2018. Following an appeal by the National Chamber of Private Bailiffs, the Administrative Court of Appeal has suspended the implementation of the above normative act of the Ministry of Finance and Economy and the Ministry of Justice. The issue has to be discussed in the Supreme Court.

INCREASE LENDING AND DECREASE NPLS	RECOMMENDATIONS AND EXPLANATIONS
(1) Amendments to the law No.111/2018 "On the Cadaster".	(1) Such amendments consist on increasing the opportunities for collateral coverage. Specifically, the Article 50 of the law must be reviewed, foreseeing the possibility for the Bank to create and register in this special mortgage register (*construction permit register*) real rights over the item/property under construction, the ownership of which will be acquired in the future. Other amendments must be done: (i) to foresee the mandatory registration of the entrepreneurship contract, otherwise, it has no legal validity, as well as the obligation of notaries to notarize and register this contract; (ii) to enable the registration of the future mortgage contract at the construction stage (after the construction permit has been registered), as today in practice this registration cannot be done with the reasoning that "the item does not exist yet".
(2) Allowing the access of banks with "selected users" to the electronic real estate register.	(2) Such request must be taken into consideration considering them as creditors who have real rights on the immovable properties. Such access would facilitate the process of mortgaging and verifying the legal status of collateral throughout the life of the loan.
(3) Changes in Decision of the Council of Ministers no. 782, dated 07.10.2020 "On the approval of models of cadastral acts and data's in the content of the cadastral map".	(3) Specific changes must be done to this decision aiming to be in compliance with the Civil Code and specific law. The changes/amendments must issue that documents issued by Cadaster must provide/create legal certainty for stakeholders and parties involved. The Cadaster must also ensure by internal guideline the unified and accurate implementation of this important Decision of Council of Ministers, from all its Regional Offices.
(4) Amendments to Law 26/2019 "On private judicial bailiff service".	(4) The law foresees the secondary activity of the private judicial bailiffs the collection of obligations with understanding, known exclusively as the activity performed by the private bailiff. This legal provision contradicts the primary function

	of the bailiff, that of the execution of executive titles compulsorily, at the same time, it deprives banks of the opportunity to collect loans that do not perform well, increases the time of collection of liabilities artificially, increases the costs for "fee" (commission) of secondary activity, etc.
(5) Issuing a bylaw or guideline pursuant to the Law "On Private Judicial Bailiff" regarding cases where it is revoked or is suspended the license of the bailiffs.	(5) Such act has to well define the continuation of the execution procedure to be followed in cases when is revoked or is suspended the license of the bailiffs.
(6) Providing electronic access of banks to e-Albania platform.	(6) Such access of banks in compliance with the existing legal framework, will improve the service of the banking sector to its customers, will increase the accuracy of data and will secure a secure lending to the economy and increase lending by banks.
(7) The reduction of cash, in order to combat informality.	(7) Policy makers must intervene and regulate the payment activity. Among the measures that can be discussed to fight physical money in circulation and also to fight informality, we would highlight: - Reducing the ceiling of permission to business to make cash payment; - Setting the limit for cash transactions from individual; - Limiting the use of the euro in the economy as a payment currency. Following the measures taken by the Bank of Albania regarding the de-euroization, an initiative that came as a result of the Memorandum of Cooperation between the Ministry of Finance, the Bank of Albania and the Financial Supervisory Authority, it is time for this agreement to be followed by concrete actions, especially by the Ministry of Finance and Economy, in identifying the necessary actions towards more general economic de-euroization.

ADMINISTRATIVE ISSUES	RECOMMENDATIONS AND EXPLANATIONS
(1) Drafting and approving a Decision of Council of Ministers, for not carrying the unpaid taxes from the former owner of an immovable property, to the new owner (bank).	(1) It is needed to be determined that the Bank, as the owner of a property obtained from an enforcement proceeding, is not responsible for unpaid obligations of electricity, water, taxes, fees and fines. These obligations belong to the previous owner of the property. The OSHEE (FSHU) and the Water Supply and Sewerage must have the liability that according to Bank's demand associated with the ownership document, to close the existing contract with the former/previous owner and to set up the new supply contracts with the new owner (bank). Setting clear rules that the unpaid obligation cannot be carried over to the new property owner, but the collection of these obligations will be followed under the provisions of CPC with former/previous owner.
(2) Drafting and approving a Decision of Council of Ministers associated with specific procedures and time limits for the Local Offices of Registration of Real-estate for the processing of orders and bailiff decisions.	(2) Determining with bylaw, obligatorily applicable to all network of local offices of registration of real estate and contractors or subcontractors of their service, the procedures and deadlines for the specified processing/registration of enforcement acts and definition of strict deadlines for their response/or putting in dispose the documents, as well as accompanied by administrative measures by the employer (Central Office of Registration of Immovable Properties) in case of their violation.
(3) Increasing the number of judges in the Administrative Appeal Court.	(3) The number of judges of the Administrative Appeal Court is insufficient to cope with the influx of court files that goes in this court. In these conditions' parties are damaged by the failure of a decision given within the legal deadlines, which basically are considered as a violation of human rights by the Constitutional Court and that of Strasbourg. According to the law the practice must be reviewed by the appeal within 30 days, while they are taken into consideration only after 2 years (over 600 days of delay).

(4) Amendments to law no. 10192, dated 3.12.2009 "On the prevention and fight against organized crime, trafficking, corruption and other crimes through preventive measures against assets" amended and to the law no. 34/2019 "On the administration of sequestrated and confiscated assets".	(4) Such amendments must be focused/consist on the procedure provided in this law and the effects produced by taking/imposing preventive measures on sequestration/confiscation of assets of persons who are subject to anti-mafia law against third parties who have real guarantees over these assets. The legal situation which banks are currently facing due to the object of their commercial activity, is that, based on anti -mafia law, it is decided to seize the assets over which banks enjoy the real right of mortgage (which precedes the imposition of this precautionary measure), to guarantee the repayment of the loan which banks have disbursed in favor of the borrower, which later in time has been subject to anti-mafia law. The law presents some vague, obscure, contradictory provisions against the principles of law as a whole and presents contradictions and inconsistencies in relation to criminal legislation and, in particular, to civil law. In these cases, banks should be part of the litigation, the opposite would have irreparable consequences in the future, for banks legal and economic security.

IV Corporate Law

The current Corporate Law governing business organizations in Albania (i.e. Law no. 9901 "On Entrepreneurs and Commercial Companies") entered into force on 21.05.2008.

It is modeled on commercial legislation found in Germany, Italy and Great Britain. It constitutes the main body of legislation for business organizations aiming to approximate the Albanian legislation with the legislation of other European countries and the acquis communautaire.

Despite the fact that it introduces a more flexible and regulated structure of entities engaged in business activities, its implementation up to date still urges the need to further improvements and developments.

Below are mirrored some aspects, which inter alia would be recommended for further amendments and improvements to bring the Corporate Law closer to European standards. In addition to the five issues addressed in the previous editions, which have not been given solutions so far, we have included two more recommendations.

SPECIFIC ISSUE	RECOMMENDATIONS
(1) Article 14, paragraph 2. Article 14 states general principles of the Corporate Law. Paragraph 2 of this article sets out the principle of equal treatment of shareholders of the company. Taking in consideration the case of joint-stock companies, where the shares may be either preferred shares or ordinary shares, shareholders may belong to different categories. Therefore, shareholders of different categories shall be treated differently, and shareholders of the same category shall be treated equally in compliance with the EU definition on equal treatment.	(1) We suggest amending this provision, by better elaborating the principle of equal treatment with regard to different categories of shareholders.
(2) Article 92, paragraph 2, article 124, article 195 etc. These and other provisions of the Corporate Law set time limits expressed in days. However, they do not specify whether the days should be counted as calendar days or business days, leading to confusions and/or delays in meeting important deadlines that may cause the loss of rights, such as: notification of the minority shareholders on the decision of the General Assembly (GA) about initiation of a claim to the court against the decision(s) of the administrator(s), otherwise minority	(2) We suggest filling the loopholes by defining if the time limits are expressed in calendar or business days, in order to avoid any potential inconvenience.

shareholders shall proceed to raise the claim themselves; payment of contributions to the share capital of the company, otherwise shareholders lose the right to participate in the GA; making present the claims of creditors of the company to the liquidator of a company in liquidation process within the time limit, otherwise creditors lose their rights.	
(3) Article 95 paragraph 2; Article 156, paragraph 2; Article 158, paragraph 2; Article 167, paragraph 3. In such provisions are set out restrictions to the appointment of administrators, members of the board of directors and members of the supervisory board. The restriction contained in letter (a) of article 156, paragraph 2, expressly refers to companies registered in the Republic of Albania, whilst restrictions under letter (b) and (c) of the mentioned article, as well as those indicated under article 95, paragraph 2, paragraph 2 of article 158 and paragraph 3 of article 167, do not provide for such reference. This might lead to the conclusion that such restrictions apply to companies or group of companies worldwide (regardless the place of registration).	(3) We suggest to explicitly state in the law if such restrictions apply to companies, regardless of their place of registration.
(4) Article 118, paragraph 2 and article 119, paragraph 5. According to article 118, paragraph 2 "in case private or public offering, the issuing of shares should follow the procedures set out in the law on securities". According to article 119, paragraph 5, provisions of the Corporate Law on the share ledger kept by the joint stock companies do not exclude obligation of the latter to register the shares in accordance with the provisions of the law on securities. In our opinion, application of the procedure for the issuance and registration of securities as per the provisions of law no. 9879, dated 21.02.2008 "On Securities", also in case of private offering turns to be an administrative and/or economic burden for the companies and	(4) We suggest application of provisions of Law on Securities to joint-stock companies with public offering and non-applicability of such provisions to the ones with private offering.

results in a prolonged procedure of issuance and registration of shares, regardless of their number or purpose (private or public offering). To be noted that Law on Securities regulates transactions of dematerialized securities, whilst the shares issued as per provisions of the Corporate Law are classified as materialized (this is confirmed also by article 150 of the Law on Securities).	
(5) Article 194. Article 194 requires registration with the National Business Center (NBC) of the information about the liquidator of the company. In practice, this registration is carried out as an application, which as required by the Law on NRC is confirmed by a written confirmation. On the other hand, article 195 of the Corporate Law provides that the liquidator shall, inter alia, publish to the website of the NBC two consequent notifications for the creditors on the fact that the company is undergoing the liquidation process. What seems impractical is the publication process. The current procedure requires the liquidator to physically submit to the counter of the NBC the notification documents, without taking any written confirmation of performing the filing. Instead, the liquidator must check online on the NCB's website if the publication has been made. Even though the data of the liquidator are registered, and the notification is published, both these processes consist in submitting documents to the NBC and in both cases, should be given a written confirmation in order to guarantee the liquidator that the filing has been properly performed and to ensure consistency among the legal provisions.	(5) We suggest the amendment of the NCB Law in order to grant uniformity, practicality and certainty to the subjects that shall carry out a registration and/or publication by providing a written confirmation not only for applications, but for any document that is required to be deposited and/or published.
(6) TITLE V (i.e. Articles et seq.) of the Law, provides a detailed description of all cases and the procedures for the capital increase for Joint Stock Companies. Unfortunately, there are	(6) We suggest adding a chapter with provisions for capital increase specifically for Limited Liability Companies, same as it has been done for the Joint Stock Companies.

no specific detailed provisions provided for limited liability companies, regarding the capital increase.	
(7) There is a gap in legislation on branches of foreign companies and how their legal representative is held responsible in Albania. The only relevant provision remains article 9 of the Corporate Law, under which, branches are considered places of business and have the same legal personality as the company. Without a clear definition of the branch's legal representative responsibility under Albanian law and no case law, the latter is often vested with responsibilities of an administrator of an Albanian company.	(7) We suggest adding a section on treatment of branches of foreign offices, with clear definition on the responsibilities under Albanian law of the legal representative of a branch of a foreign company.

V

Concessions Law

Concessions and Public Private Partnerships (PPPs) are primarily governed by Law no. 125/2013, dated 25.04.2013 "On Concessions and Public Private Partnership", as amended ("**Concessions & PPPs Law**") and Decision of the Council of Ministers no. 575, dated 10.07.2013 "On Approval of Rules and Evaluation of the Granting of Concessions/Public-Private Partnerships", as amended ("**Decision 575**").

The Concessions & PPPs Law, which abolished Law no. 9663, dated 18.12.2006 "On Concessions", was amended in 2014, 2015 and 2019 and is partially harmonized with the EU Directive 2004/18/EC.

The previous edition of the White Book 2017-2021 contained a series of recommendations which have been reinstated even in this new edition 2021-2025, considering that the formers have not yet been taken into account by the Authorities. More specifically, the issues of SPVs change of ownership, the symbolic price (EUR 1) concessions and usage of public assets need careful assessment and further attention. Regardless of this fact, this new edition of the White Book is even more enlarged as it brings forth a more comprehensive package of recommendations containing three more suggestions for legal interventions in additional to the three aforementioned issues. Consequently, the following table sets out all issues and relevant explanations to the same.

SPECIFIC ISSUE	RECOMMENDATIONS
(1) Change of ownership of SPV Article 32, point 3 of the Concessions & PPPs Law provides that changes in the ownership or the management of the Special Purpose Vehicle (SPV) are subject to the approval of the contracting authority and the Ministry of Finance, unless such changes are due to trading of shares in a regulated capital market. Such provision is vague and fails to specifically address the procedure that shall be followed in this case, as well as the criteria that will be applied by the contracting authorities in granting the approval for the change of ownership/ management of the SPV. It may be interpreted that article 32, point 3, provides for a formal approval from the contracting authority, where the latter will not make any detailed evaluation of the capacities of the new (private) shareholders of the SPV, taking into consideration that the concession contract was awarded after evaluating the technical and economic criteria of the initial shareholders. In practice, the transfer of shares of SPV(s) has	(1) It is recommended the amendment of Article 32, point 3, so as to specifically provide for the procedure and criteria that will be followed by the contracting authorities (and the Ministry of Finance) to grant their approval in relation to the changes of ownership/management of the SPV.

resulted in the involvement of new shareholders, the capacities of which may not always be sufficient to implement the concession contract, albeit the duty and obligations primarily rely on the SPV itself. The above-mentioned issue is not addressed by Decision of the Council of Ministers no. 575, dated 10.07.2013 "On the approval of the rules for the evaluation and granting of concessions/ public private partnerships", as amended.	
(2) Symbolic price (EUR 1) concessions Under article 4, point 3 of the Concessions & PPPs Law, it is provided that in special cases the Council of Ministers may offer concessions to economic operators, local or international, against the symbolic price of EUR 1.	(**2) Symbolic price (EUR 1) concessions** We would propose the amendment of point 3 of article 4 to better clarify the cases in which the Council of Ministers may offer concessions of EUR 1. The former Concessions Law, provided that the cases where symbolic price concessions were awarded aimed at promoting investments in priority sectors that were in accordance with strategic objectives of the Albanian government.
(3) Usage of public assets Under article 27, point 6 of the Concessions/ PPPs Law, the Concession/PPP agreement shall also regulate, in accordance with the tender documentation, the award decision and the selected bid, all matters that are related to ownership of immovable property and other property that is subject of the concession/ PPP agreement, and ownership of immovable property and other property that emerges based on the concession/PPP agreement, for its duration as well as after its termination. As a matter of other relevant laws such as Law no. 8743, dated 22.02.2001 "On immovable state properties" as amended, and Law no. 8744, dated 22.02.2001 "On the transfer of state public properties to local government authorities", it may be that the administration rights over the state-owned property planned	**(3) Usage of public assets** While the Concessions/PPPs Law offers general language to address all matters related to the property subject of the concession agreement, we propose that detailed language should be added with the aim of imposing on the contracting authorities the obligation to fully obtain the administration rights over the state-owned property subject to the concession project, as soon as possible (already at the pre-bidding phase and at the latest, upon signing the concession/PPP agreement).

to be granted under a concession/PPP, are not clearly established and transferred to the relevant contracting authority before the concession agreement is entered into (often they are under the administration of another central or local agency). In many cases, the legal status and administration rights of state-owned properties are not easily and fully addressed even after the concession agreement is signed, i.e. even where the state-owned property matters are set to be completed as a condition precedent under the concession agreement. This creates substantial insecurity for the investors and could hinder any financing as well.	
(4) **Stabilization clause (Article 41)** Article 41 aims at giving some space to investors to mitigate the financial burden encountered if case of adverse legal changes. Often in contractual arrangements the scope of the stabilization clause is limited to changes of law that are discriminatory to the specific investor or otherwise go beyond those changes that are necessary in light of Albania's EU commitments.	(4) In order to limit the discretion of the contracting authority in granting such a stability promise and create a level playing field among different investors that might benefit from such a clause, it is recommended to provide further details in the law on the nature of legislative changes that may fall under the stabilization clause and those that should not (such as non-discriminatory changes and those that that are necessary in light of Albania's EU commitments).
(5) **Governing law of the concession contract [Article 27 (1) and (2)]** The current Law imposes Albanian law as the law governing the concession contract. Often foreign investors are not comfortable with Albanian law governing the contract, because compared to other laws such as English law, Swiss Law etc., it is not fully elaborate on certain contractual matters, and often suffers lack of proper/uniform jurisprudence.	(5) It is recommended that at least where foreign investors are involved, the Law creates sufficient room for the parties to choose a governing law that is different from Albanian law. This is without prejudice to the law applicable to the administrative matters such as tax, issuance of licenses and permits or other mandatory provisions of Albanian law which apply in any case.
(6) **Step in rights and direct agreements** The current Law on Concessions/PPPs, differently from the old regime, does not clearly address the step-in rights in the context of direct agreements. It generally provides for the possibility that the contracting authority,	(6) It is recommended that a stronger language is inserted in the Law on Concessions/PPPs, so as to impose on the contracting authority not simply the right, but the obligation to commit to step-in-mechanisms, where so required by the foreign investor.

along with the contract, concludes additional and/or tie-in contracts and/or agreements, in which case the contracting authority shall notify beforehand the MFE. Additional and/or tie-in contracts and/or agreements are particularly those concluded to secure the financing required for the contract performance [Art. 27(4)]. In Article 40, it also provides for the assignment of rights under the agreement by way of security subject to the prior approval of the contracting authority. This, in our view does not mean that step-in rights and direct agreements are not allowed under Albanian law. However, it means that the contracting authority has the right, but not the obligation to commit to such clauses, when so required by the private investor. In practice and in the course of negotiations of specific contracts we have encountered the reluctance of the contracting authority to commit under a step-in right clause, whilst we believe this should not be the case at least for major projects that depend on financing from IFIs. The contracting authority should accept such a clause if proposed by the investor.	

VI

Renewable Energy Law

The Albanian energy market has undergone a deep transformation.

The institutional and regulatory framework for energy and in general the energy market in Albania are reflective of the policy progress achieved over the last decades. Albania is part of the Athens Memorandum and the Energy Community Treaty ("**EnC Treaty**") and strives to comply with the targets to join Pan-European Energy Market set there in order to establish a liquid spot power market, enhancing the utilization of public and private resources based on best international practices, where the foreign investors can rely upon. The market has undergone some liberalization and indeed the recent re-structuring of the State-owned electricity enterprises has enhanced its technical, economic and corporate performance and allowed a partial opening of the market.

Pursuant to Albania's obligations undertaken in the context of the EnC Treaty, on 30 April 2015, the Albanian Parliament adopted the new Power Sector Law no. 43/2015, dated 30 April 2015 ("**Power Sector Law**"). The Power Sector Law transposed the Third Energy Package of the EU acquis (including full transposition of Directive 2009/72/EC, 13 July 2009 concerning common rules for the internal market in electricity and Regulation (EC) 714/2009).

The actual package of key laws in the energy sector, includes also the Law on the Promotion of Use of Energy from Renewable Sources ("**Law on Renewable Energy**"), as well as laws in the efficiency field, such as Law on Energy Efficiency no.124, dated 12 November 2015, as amended, Law on Energy Performance of Buildings no. 116, dated 10 November 2016 and the Law on Energy Labelling of Products no. 68/2012, dated 21 June 2012. Considerable progress has been made with the enactment of certain secondary legislation, particularly under the Law on Energy Performance of Buildings and Law on Energy Efficiency.

Meanwhile, the secondary legislation under the Law on Renewable Energy is yet to be fully completed, especially in respect of the supporting mechanism of contracts for difference. During the last years, several legal developments have marked a progress towards a more liberalized market. The balancing rules were approved initially under a dry-run period, and as of 2021 effective also with financial implications. Certain amendments were introduced to the Power Sector Law to enable the transmission system operator (OST) to achieve full autonomy and the distribution company (OSHEE) to complete the unbundling. In 2018 OSHEE created three subsidiaries, the universal service supplier (FSHU SHA), the free market supplier (FTL SHA), and the DSO (OSHEE SHA). After several institutional and legal reform, the Albanian Power Exchange (ALPEX) was officially incorporated. It will need to procure services for the operation of the day-ahead market and market coupling. ALPEX is expected to start operations soon.

Despite all the positive developments in this industry and solutions given to some of the issues addressed in the last edition of the White Book, below we have listed certain key concerns yet to be treated by the authorities and the respective recommendation for each of them.

SPECIFIC ISSUES	RECOMMENDATIONS
(1) The Law on Renewable Energy has introduced a substantial change of the support schemes, by substituting the feed-in-tariff scheme (fixed-price FIT payments), with the so-called 'contracts for difference' scheme. This means that renewable energy producers will compete for the investment to be made and the support of the energy sold in the market, receiving a variable premium as the difference between the auction price and the electricity market price. The secondary legislation in relation to contracts for difference support scheme has been however not yet fully adopted.	(1) More progress should be made with the timely enactment of secondary legislation in relation to the new support scheme introduced by the new Law on Renewables. This will provide investors with a chance to fully assess the implications of such support schemes and hence decide whether to invest or not in the industry. Due to the strategic kind and size of the investments, the government should consult the new rules and methodologies with the interested targeted stakeholders.
(2) The adoption of the Net-Metering scheme was the main step towards ensuring compliance with the Renewable Energy Directive and formulating the policy needed to deployment of distribute renewable resources. Specifically, to meet the requirements repeatedly expressed by the World Bank reports, in particular the "Doing Business 2014", the recent interventions of the Ministry and of the Energy Regulatory Authority have already opened the way for the network to receive energy input produced by businesses and households by generating distributed resources based on net energy measurement scheme up to 500kW.	(2) The implementation of the net-metering scheme has to be particularly regarded as favorable, if considering the problems of network in Albania and the concentration of production in north, due to the fact that the DER are produced directly in the place where their consumption is needed. In particular, one third of the total number of consumers is located in the capital and the rest in the largest urban and rural areas of the western lowland or in other areas with high solar radiation such as Elbasan, Korça, etc. Moreover, the self-consumption of electricity produced on-site boost the citizen participation in the energy transition and enable a technological and social development. Instead, direct investments for building of long lines in remote areas make the network operators to adapt their grid development plans to accommodate more renewable energy on urban ones. As per the above, the rapid addressing of remaining commercial and technical issues is essential, having a framework in which first of all the energy authority (ERE) should play a key role in securing market competition. In addition, it is of core importance that the distribution operator applies non-discriminatory and transparent rules and tariffs for all forms of distribution network usage.

(3) Governing law of the project development agreement The current law does not regulate the matter of the law governing the project development agreement. Often foreign investors are not comfortable with Albanian law governing the contract, because compared to other laws such as English law, Swiss Law etc., it is not fully elaborate on certain contractual matters, and it often suffers lack of proper/uniform jurisprudence.	(3) It is recommended that at least where foreign investors are involved, DCM no. 349 creates sufficient room for the parties to negotiate and choose a governing law that is different from Albanian law. This is without prejudice to the law applicable to the administrative matters such as tax, issuance of licenses and permits or other mandatory provisions of Albanian law which apply in any case.
(4) The DCM no. 349/2018 provides in Chapter III/1, paragraph 6.ç.ii) that *"the offerors must present at the moment of application the legal documentation, compliant with the provisions of the Civil Code, that proves the long-term relation on land/property that will be used for the construction and the operation of the generating source".*	(4) We suggest to adjust this obligation of the bidding phase considering the liabilities it can cause to the potential investors in case of non-success of the bid.
(5) The Law on Renewable Energy and the key sublegal act already approved by the Council of Ministers (DCM no. 349, dated 12.06.2018) provide for certain incentives and government support to the projects awarded the right to develop and operate a RES plant. As a legal matter, we believe there is sufficient room for investors awarded such a project to also apply and qualify as strategic investors (under the Law no. 55/2015 "On strategic investments in the Republic of Albania"). However, in practice we have noticed some reluctancy from the contracting authority officials to actually have such investors qualify for such a status. Meanwhile, such a status might make a difference for the investors in certain situations, especially where they wish to have their contract approved by law of parliament.	(5) We recommend that the Ministry of Infrastructure and Energy considers the possibility of reflecting already in the bidding documents anticipating the award of a renewable energy project, the options for bidders to also apply and qualify as strategic investors if awarded the bid. Further alignment between MIE and AIDA (Albanian Investment Development Agency) may be necessary to simplify the procedures for application and obtainment of the strategic investment benefits.
(6) The Law on Renewable Energy provides among others in article 8, point 3 that *"… The Conditions and procedures for granting the supporting measures, that include the aid from the State Budget, are approved with the Decision of Council of Ministers, with the proposal of the Minister. These measures, in any case are granted in compliance with the legislation in force on state aid".*	(6) We suggest that together with the provisions of the law no. 9374/2005 "On state aid", the law on renewable energy may refer to the provisions of the Law no. 9121/2003 "On the protection of competition" as amended and in general the EU competition legal framework to the extent applicable in Albania.

VII

Bankruptcy Law

The new Bankruptcy Law no.110/2016 has brought some novel concepts, but, above all, it has enabled the inclusion into a single law of several new provisions and also of some interpretations, the latter based on and created by the to date court practice related to the previous bankruptcy law.

Among the most important new concepts of the new Bankruptcy Law, to be mentioned are the provisions related to extra-judicial agreements for the restructuring of debt for commercial entities, new dedicated provisions for administrative violations, making reorganization of some public entities or local government units possible subject to the bankruptcy law, the involvement of the prosecutor in the insolvency process.

Among some of the interpretations and practices created by the court practice related to the previous bankruptcy law, it is worthy to mention the followings: the use of court experts before the opening of the insolvency proceeding, provisions relating to the National Insolvency Agency, clarification of the possibility for the bankruptcy of a natural person (individual) and of some other subjects, clarification for secured creditors regarding the enforcement of security out of insolvency proceedings, insolvency proceedings over hereditary property and joint marriage property.

Regarding the legal provisions that still have the potential to create problems in the daily practice, there are to be mentioned the issues related to availability of funds to support the cases where the debtor does not have sufficient assets to cover the costs of the insolvency proceeding and indefinite suspension of the process until the funds are made available, the protection over the insolvency estate until the opening of the insolvency proceedings if these are not opened within the legal timeframes, securing of the shareholders' personal property until it is confirmed that there were no misconduct, abuse, etc., which led to the state of insolvency, the priority ranking of bankruptcy claims provided in the new Bankruptcy Law in comparison to the ranking provided in the Civil Code and according to some conventions to which Albania is a party to, the lack of expressed alternative for the sale of the debtor, the unclear role of the National Insolvency Agency in court insolvency proceedings, some unconstrained decision-making rights of the administrator which can apply without having the confirmation of the creditors meeting, the simultaneous repayment of the creditors belonging to the same ranking of preference, etc.

Since the new Bankruptcy Law is now effective (May 2017), some of the above novelties and problems can and will be tested by the relevant court practice, which should aim to create good and sustainable court precedents to bring effective benefits to the interested subjects and to the entire Albanian economy.

Additionally, the new Bankruptcy Law itself and the procedures therein are affected by other pieces of legislation, which in this edition of the White Book have generally identified in the below table. Such laws contain requirements which might create burdens for the operation of bankruptcy proceedings. For instance, the general bankruptcy rules envisaged by the Bankruptcy law and their interrelation with main pieces of legislation such as the Companies Law, Civil Code, Civil Procedures Code, Tax legislation, Securing Charges law etc., should be given further attention. On the other hand, laws that constitute exceptions from the general bankruptcy regime, must be also harmonized with the bankruptcy law. Usually, such exceptions apply to entities of the banking industry and the non-banking financial markets.

SPECIFIC ISSUE	RECOMMENDATIONS
(1) Regarding the legal provisions that have the potential to create problems in the daily practice, may include the issues related to the need for availability of funds to support the cases where the debtor does not have sufficient assets to cover the costs of the insolvency proceeding and indefinite suspension of the process until the funds are made available, the protection over the insolvency estate until the opening of the insolvency proceedings, if these are not opened within the legal timeframes, securing of the shareholders' personal property until it is confirmed that there were no misconduct, abuse, etc., which led to the state of insolvency, the priority ranking of bankruptcy claims provided in the new Bankruptcy Law if compared to the relevant ranking provided in Civil Code and according to some conventions to which Albania is a party to, the lack of expressed alternative for the sale of the debtor, the unclear role of the National Insolvency Agency in court insolvency proceedings, some unconstrained decision-making rights of the administrator which can apply without having the confirmation of the creditors meeting, the simultaneous repayment of the creditors belonging to the same ranking of preference, etc.	(1) Some of these problems can and will be tested by the relevant court practice, which should aim to create good and sustainable court precedents to bring effective benefits to the interested subjects. Alternatively, Bankruptcy Law could be amended in order to address such issues.
Practical Aspects	**Practical Aspects**
(1) Number of bankruptcy court cases is very limited.	(1) Increase business awareness on benefits from the bankruptcy proceedings, and increase awareness of creditors on their relevant rights.
(2) There is only a limited number of bankruptcy administrators who are licensed to act as such.	(2) Increase number of bankruptcy administrators, strengthening of their professional capacities through the organization of continuous training and workshops for the licensed bankruptcy administrators.

Harmonization of Bankruptcy Law with other laws	Necessary Legal interventions
There is a gap between the law on payment systems and the Bankruptcy Law, precisely concerning the involvement or not of financial collateral in the bankruptcy mass. As indicated by articles 26, letter "a" and Article 28, paragraph 1 of the payment systems law, financial collateral agreements constitute an exemption from the normal bankruptcy procedures in terms of enforcement and execution of the collateral. However, such exemption is not explicitly foreseen by the LoB, by thus creating a legal inconsistency between two very important pieces of legislation.	Further alignment is needed between the Bankruptcy law and the law on payment systems to ensure the applicability of the exceptions of financial collateral agreements (close-out netting provisions) from the bankruptcy procedures. In such a context an additional article can be added to the Bankruptcy law, potentially article 74/1 that states: *Notwithstanding the opening of insolvency proceeding, Close-out" netting provisions contained in financial collateral agreements and/ or pledged financial collateral shall be valid and enforceable, and shall take immediate effect, without prior notice or approval of any court, or action from any other public entity or officer, in accordance with provisions of the legislation in force on payment systems.*
Whilst it is clear that the spirit of the Bankruptcy law is to allow also the bankruptcy of individuals, the clerical error with the dual usage of two different terms (individuals and natural persons, if read in Albanian language), for the natural persons in the LoB seems to put some unnecessary doubts if not read in harmony with subsequent articles of the LoB, since individuals according to the LoB can be indeed declared bankrupt.	To accommodate a more comprehensive wording that would clarify the distinction among the concepts of individuals and natural persons, Paragraph 6 of article 3 of the Bankruptcy law can be amended to include also the word individual, so that uniform reading of the same term is made through the law. As already mentioned, we do not believe that is necessary, but anyways suggested it to avoid any possible wrongful interpretation.
There is a literal error, in point 4 of article 7 of the Albanian version of the Bankruptcy law which stipulates that, bankruptcy perdures of the exempted institutions are regulated in a specific law. This cannot be the case as different areas of law and activities are carried out by the exempted institutions.	We suggest that the first sentence of point 4 of article 7 must read as follows: *This law does not apply to insurance companies, banks, pension funds, investment funds securities and other institutions that collect deposits from the public or other institutions financial, for which the bankruptcy procedure is regulated in their special laws.*
An intervention in the definitions of the Bankruptcy Law is also necessary to define some terms that are used throughout the law, but do not have an appropriate meaning in the definition. For instance, article 125 uses the term "extraordinary administration" without properly explaining what this means.	The definitions article must be updated to include undefined terms throughout the law.

VIII

Hydrocarbons Law

As stated in the previous iteration of the White Book, Law No. 7746, dated 28.07.1993 "On Hydrocarbons (Research and Production), (hereinafter referred to as "Hydrocarbon Law") has been amended in 2017. Below are presented some issues, which the investors operating in the hydrocarbons sector are addressing for improvement. In this updated edition, new problematics faced by the business are addressed, and need to be considered for relevant actions from authorities to provide clearer, simpler and less time-consuming procedures.

SPECIFIC ISSUES	RECOMMENDATIONS
(1) There is a lack of transparency in the application procedures for licenses/acquiring PSAs in the oil sector. There is a lack of clear qualification criteria, details and timings on the application procedures resulting in a certain lack of legal certainty, especially where there is more than one applicant for the same block.	(1) Licensing regulations should be re-drafted to offer much more detailed and transparent qualifications criteria. Even if not introducing competitive tender procedures, applicants should know what their position is, where there is more than one applicant for the same block.
(2) The applicability and subsequent enforceability of hydrocarbon agreements has proven to be a contentious matter in practice. While acknowledging their widespread practical application, the Hydrocarbon Law creates ambiguity at establishing the priority of application for hydrocarbon agreements, when the latter are assessed in light of, or interact with, other laws such as the PFL. This is also a consequence of the interpretative leeway provided by the wording of some provisions in such laws. While stability clauses are recognized, the uncertainty surrounding the applicability of hydrocarbon agreements where such clauses are contained, in light of the latter's potential interaction with other laws predominantly pertaining to taxation, constitutes a barrier to incentivization of investors and thus defeats the purpose of having a hydrocarbon agreement in the first place. In other words, agreements lose their practical, and thus economical, value if their enforcement is not only unwarranted, but could potentially be, wholly or partially, up for interpretation.	(2) In order to address the identified issues pertaining to the enforceability of hydrocarbon agreements, and consequently of the stability clauses pertained therein, the formulation of a new provision within Article 5 of the Hydrocarbon Law is recommended. As such, the provision could read as follows: *"A legally and duly enacted hydrocarbon agreement and amendments thereto must be adhered to and applied in its entirety, not only by the contracting governmental entity, but by all governmental entities, the competences of which are affected or triggered by the enforcement or application of the hydrocarbon agreement, irrespective of the date of its entry into force".*
(3) The article 13/1 of the Law provides in paragraph 2 that the *"Scientific Institute of Hydrocarbons is an advisory body as regards all scientific issues in the petroleum area, being in charge of*	(3) We suggest the opponency role of the Institute not to be used during the application of the Petroleum Agreements, such as to challenge the right of the Contractor to perform the

performing researches, analysis, consultancies and opponency, monitoring, on behalf of state bodies and institutions, throughout the execution of petroleum operations of exploration and production in the territory of Albania, and to the sectors of processing, transport, storage and trading of petroleum products".	petroleum operations in line with the Good International Petroleum Industry Practices.
(4) The article 13/2 of the Law provides for the role of the State Agency responsible for Petroleum (currently AKBN). In paragraph 2 it is provided that the *"Agency shall cooperate with the Scientific Institute of Hydrocarbons as regards all the scientific issues in the petroleum area, and in respect of studies, opponency, consultancy and technical assistance".*	(4) We suggest giving to the determinations of this Agency, while monitoring the application of the Petroleum Agreements, a binding effect towards other Governmental Agencies such as Tax Authorities etc. For the paragraph 2 we suggest that the opponency role of the Scientific Institute and State Agency to be considered during the negotiation phase of the Petroleum Agreements and not during their application.
(5) The article 13/4 of the Law provides that the *"Activity of exploration and production of petroleum shall be carried out by experts holding professional license for research/ design and implementation activities for the exploration and production of oil and gas. This provision shall not apply to foreign experts, exercising activities for a period not exceeding 12 months as of the date of foreign expert entry in the territory of Albania".*	(5) This provision may cause significant challenges to the application of the HR policies of the Contractors to the Petroleum Agreements, in particular regarding the employment of foreign experts. There is a lack of highly skilled petroleum professionals in the local market, hence there is need to hire international experts. The Industry practice is to circulate highly skilled experts from one location to another depending on the performance Petroleum Operations. Such professionals cannot receive a license in every location they work.
(6) The law does not address a situation where operators of different sectors (example: oil and mining sector) both have a valid license/right to operate on the same territory for a different material/mineral. A license/right to operate under the Hydrocarbon law is of an exclusive nature. A license of an exclusive nature can be granted to applicants operating in another non-competing sector. When both these operations can be conducted simultaneously and do not hinder each other, there is no mechanism or an obligation for a relationship between them. This creates the ambiguity on how operations shall be conducted, with one of the licenses usually revoked/suspended.	(6) The Hydrocarbon Law may provide a section/ chapter to determine that holders of a license for hydrocarbons operations can conduct activity in the same territory, simultaneously, with holders of other types of licenses, through an agreement between them. Main clauses or principles of the agreement can be defined by the Hydrocarbon Law. Other countries' legislations can serve as best practice.

IX

Fiscal Regime on Hydrocarbons in Albania

As a pivotal contributing factor to the overall development of the economy of a country, large-scale investments cater for a specialized regulatory and incentivizing framework. These investments, mainly from foreign sources, usually have a well-established positive effect in value, job and subsequent income generation for the targeted countries. Axiomatically, investors require for strong and properly drafted legal frameworks, which, to the furthest extent possible, alleviate investment barriers and uphold the security and certainty of investors.

The oil and gas industry is a particularly sensitive sector due to high capital costs and prolonged timeframes for return on investment. Consequently, oil and gas investors are particularly keen on strong and well-drafted regulatory frameworks which permit for a smoother, and ultimately beneficial, endeavor on their end. Oil and gas constitute some of the most valuable natural resources of a country, and as such, they present a substantive potential for generating considerable revenues, both for states and investors.

Unsurprisingly, the situation is not different for Albania. The hydrocarbon sector is a considerable contributor to the Albanian economy. As such, implementation of regulatory frameworks on this sector has been a pressing issue at the forefront of the Government's agenda. This is especially true in relation to the fiscal regime surrounding hydrocarbon operations in Albania, regulated by the newly enacted Law No. 153/2020 'On the Fiscal Regime in the Petroleum Sector' (hereinafter referred to as "PFL"). Certain provisions of the latter, however can lead to an unclear interplay between the PFL on one hand, and the Income Taxation Law (hereinafter referred to as "ITL") or VAT Law, on the other. Usually, these inconsistencies occur as a result of term vagueness or interpretative leeway provided by certain provisions of the PFL. These inconsistencies can in turn prove to be detrimental to the efficient conduct of business in the gas and petroleum industry, since they can lead to legal uncertainty or even to possible double taxation of certain items of income.

Considering the inherent difficulties of the business, as well as its importance for both the State and investors, improvement of the issues in the fiscal treatment of hydrocarbon operations should be an important objective of the Government. Accordingly, this document will list some of the main identified issues regarding the fiscal treatment of hydrocarbon operations in Albania, as well as our proposed solutions to tackle these identified issues.

SPECIFIC ISSUE	RECOMMENDATIONS
Scope of application of the PFL, as to include subcontractors in the fiscal treatment reserved for operators of hydrocarbon rights.	
(1) As currently drafted, Article 2 of the PFL aims at, inter alia, eliminating the possibility for abuse in relation to the tax treatment of certain supplies performed in relation to hydrocarbon operations, by extending the scope of application of the law, and subsequently of the envisaged tax rate, to subcontractors who fulfill <u>one of</u> the conditions contained in this Article. These conditions include:	(1) The issues identified in this regard are of particular importance to the Albanian Government, as they either are observations which can directly influence the willingness of investors to enter into PSCs, or technicalities which undermine the overall purpose of the Article. While anti-abuse provisions are welcome in this scenario, balancing their scope of applicability is an important exercise for ensuring the neutrality

- Treating the subcontractor as an operator, if the subcontractor is a related party according to the definition provided in article 2 of the ITL.

- If the subcontractor is an operator of hydrocarbon operations and performs essential activities, which occur when the contribution of the subcontractor amounts to 25% or more of the expenses for the hydrocarbon operation.

- If the main purpose behind the agreement with the subcontractor is the avoidance from the subcontractor of the tax rate imposed by the PFL, in favor of the move favorable rate envisaged in the ITL.

As it currently stands, the wording of the Article above can prove to be more comprehensive and inclusive than necessary for ensuring anti-abuse measures. Given that, the above-mentioned criteria are not cumulative, the risk of exceeding the intended scope becomes prominent. This would practically entail that the majority of subcontractors ought to be taxed at the 50% tax rate, hence leading to increased costs for the operator/contractor, which would then ultimately lead to a decreased interest for investing in the hydrocarbon sector in Albania, thus decreasing the overall revenue generated by the Government.

Although Article 2 of the PFL extends the application of the special regime to related parties and certain subcontractors, it does not specify which parts of the Law will be applicable.

Additionally, the provision implies that a self-assessment by the taxpayer is necessary for determining the tax treatment for subcontractors. This can constitute an administrative burden for operators, and be contradictory to the anti-abuse aim of the provision.

Finally, a clear-cut determination of the period and the specific rules for which the 25% contribution is to be calculated is necessary, of the legal instrument. As it currently stands, this provision of the PFL may be detrimental to the potential profitability of the Albanian Government.

Hence, in this regard, reframing the scope of application of the PFL is advisable, as to limit the applicability of the PFL regime to subcontractors who fulfill all the criteria mentioned in the provision cumulatively.

In addition, any subcontractor falling under the application of this provisions will be regarded as performing petroleum operations. For this reason, it is advisable that the relevant regulatory authority is given due regard in such determination. This is also in line with Article 25 of the PFL, according to which the tax authorities must consider the regulatory authority's determination of whether a person is performing petroleum operations.

On the second condition ("the subcontractor is an operator"), it would be also important to be explicit on the condition that the subcontractor needs to be an operator and as such with the relevant approval from the regulatory authority.

In order to avoid unintended misinterpretations, but also to ensure the ultimate goal of the Government is achieved and building on the legal certainty for investors, it is also recommended that the bylaws implementing Article 2 of the PFL specify which articles or sections of the Law (in addition to the tax rate) will be applicable to related parties and subcontractors meeting the criteria set out in said article.

Finally, we recommend that the period and specific rules used to determine the contribution threshold of the subcontractor, be clearly specified in the Law or implementing by laws, as to avoid potential, purposive or not, misinterpretation.

given the potential abusive conduct that can ensue between the operator and subcontractor, as to the computation of the latter's expenses for a given fiscal period. The Decision of the Council of Ministers no. 397, dated 30.06.2021 "On the approval of detailed rules for subcontracting juridical persons that perform petroleum operations" recently issued for the implementation of this Article 2 does not sufficiently address the concerns above as: • It does not provide any detailed rules for the application of this Law on related parties, • It fails to specify which other provisions of the Law (if any) are applicable on the subcontractors in addition to the tax rate, and • It lacks provisions on the self-assessment, computation method and compliance obligations of the concerned related parties and subcontractors.	
(2) ***Obligation to apply PSCs and their interplay with the PFL.*** Article 17 of the PFL purports to establish the priority in application of the provisions of the Law, as compared to the provisions of a PSC entered into force after the entry into force of the PFL. However, the wording of certain parts of the Article can provide interpretative leeway regarding the obligation to take into consideration the provisions of PSCs entered into force before the PFL. Hence, while the priority of the PFL over PSCs entered into force after the Law is clear, the priority of pre-existing PSCs is not clearly promulgated. More specifically, this Article stipulates that for petroleum agreements, or their respective amendments entered into force before the	(2) Uncertainty related to the fiscal treatment of pre-existing PSCs in the light of the newly enacted PFL, is a pressing issue which needs to be addressed. A clearly delineated interplay between the provisions of the PSC and taxation laws must be achieved for ensuring legal certainty and security for hydrocarbon investors. Accordingly, it is advisable to specify that the adherence to provisions of pre-existing PSCs, which are more favorable for the operator/ operators, is <u>mandatory</u> for Tax Authorities when dealing with the fiscal treatment of items of income subjected to the provisions of such PSCs. It is important to ensure that agreements entered into before the entry into force of the Law are to take precedence over the latter in case of conflict of norms, in the same manner in which the Law takes precedence over agreements entered into after the entry into force of the Law.

PFL, the Tax Authority shall merely take into consideration the contents of these agreements before applying the appropriate fiscal treatment to taxable events. This can undoubtedly lead to legal uncertainty for operators who have been conducting their hydrocarbon activities on agreements long before the PFL was enacted. Additionally, as it stands the current wording of the Article it is unclear whether future amendments to existing effective petroleum agreements, not related to fiscal terms, may cause the application of the Law to the entirety of the petroleum agreements. In addition, Article 18.2 of the PFL incorporates a rule according to which the protection of a fiscal stability clause cease to apply 12 years after the first commercial production under the petroleum agreement. Despite the fact that Article 18.1 of the PFL specifically refers to petroleum agreements concluded after the entry in force of the Law, paragraph 2 is not explicit on this. It may result obvious that the intention of Article 18.2 is to limit the benefit of fiscal stability clauses just of petroleum agreements concluded after the Law; this interpretation would be in line with the last amendment of the Hydrocarbon Law which explicitly honored the unlimited stability clause for petroleum agreements effective prior to the entry in force of said law; however, we believe that by making this explicit also in the PFL, it would help in avoiding unintended misinterpretations.	Similarly, it is suggested that it is specified that petroleum agreements which are concluded prior to the effective date of the PFL, which are amended thereafter take also precedence provided that the amendment does not affect the fiscal terms of the relevant agreement. In addition, it would be also advisable that it is explicitly stated the unlimited duration of the stability protection for petroleum agreements concluded prior to the Law.
(3) ***Joint Operation Agreements*** The PFL does not address at all one of the most important aspects of the existing international practices in the oil and gas industry: the Joint Operating Agreements. Upstream projects require high levels of capital investment and involve high risks, hence, investors often seek to share the risks and costs by bringing more parties to farm in a percentage of interest in the Petroleum Agreement. This form of unincorporated Joint Venture is a widely	(3) It is advisable to introduce in article 4 definitions on these terms: Participating Interest, Joint Operations Agreement, Operator, Non-Operator, Joint Interest Statement. Following, it is advisable to add special provisions to envisage the transactions occurring between the Operator and Non-Operator(s) under a Joint Operation Agreement, their tax documentation and their recognition for petroleum profit tax purposes, respectively in articles 7, 10, 11 of the PFL.

used international practice in the oil and gas industry, which is regulated by Joint Operating Agreements ("JOA"). A JOA is an agreement between the Contractors of a PSC to jointly contribute and benefit from hydrocarbons operations provided in the relevant PSC, based on their respective Participating Interest percentages.

In a JOA, the Contractors nominate together the Operator of the joint operations, responsible for conducting joint hydrocarbons operations on behalf of all Contractors (including the Operator itself as one of the Contractors). The other Contractors (the non-Operators) share the risks and costs of the joint venture. They contribute and benefit to/from hydrocarbons joint operations according to the Joint Interest Statement prepared by the Operator, whereby each Contractor accounts for its respective share of the expenses, income, rights, obligations and any other tax and accounting items.

From the Albanian tax and accounting legislation perspective, 'joint arrangements' and 'joint operations' are only defined by the accounting standards: under the international ones in IFRS 11 'Joint arrangements', and under the national ones accounting standards in NAS 14 'Investments in participations and joint arrangements' (such standards are in line with IFRS 11 'Joint arrangements').

The PFL fails to address:

- The concepts of Operator vs. non-Operator,
- The regulation of the relationship between the Operator and non-Operators,
- The JOA between the Operator and non-Operators,
- The documentation recognized for the purpose of the JOA.

X

Employment Law

Employment in private sector in Albania is mainly governed and regulated by the provisions of the Law no. 7961, dated 12.07.1995 "The Labor Code of the Republic of Albania" as amended. The Labor Code has been amended several times over the years and the last one was amended in December 2015 (Law No. 136/2015). Notwithstanding the many amendments, other interventions are necessary as the table below shows.

In addition, to the below interventions we would recommend for the legislator to undertake a major overhaul on the Code and polish it from some provisions that today do not reflect the state of affairs in employment relationships. Examples of the remainders of the past are abundant like the articles dedicated to passages (article 56), skeletons and platforms (article 58), pits of water, reservoirs (article 60) and in general all articles under Chapter VIII (Safety and Protection of Health). In our view, this chapter should be reviewed in its entirety with many articles to be removed. The Labor Code should provide at least under this chapter general rules leaving the details to the sublegal acts (i.e. according to the specific industry or sector they will regulate).

Our recommendations are concentrated on the provisions of the Labor Code. Under this section, we have not addressed matters that employers, consultants, etc., encounter in their everyday operations (practical issues and/or deficiencies in the application of the law provisions). The present section also does not address other laws and sub-legal acts constituting the corpus of the employment legislative acts as we see paramount that first the review of the Labor Code should be made.

SPECIFIC ISSUE	RECOMMENDATIONS
(1) The Labor Code under article 37 regulates the 'Disciplinary measures' to be taken towards employees. The mentioned article and the Labor Code though are missing specifics on what are those disciplinary measures. From the reading of the Labor Code, it might be carved out that the written reprimands might constitute a disciplinary measure, but this is all. In this respect, the Labor Code should be amended to include a non-exhaustive range of disciplinary measures. This would constitute a guideline for the employers and will also prevent abusive disciplinary measures on the employees.	(1) The Labor Code should be amended to include a non-exhaustive list of disciplinary measures that might be included in the respective (employment) contracts.
(2) The Labor Code stipulates in several articles (especially under article 97) on the possibility of the Council of Ministers to differently regulate aspects of employment of specific industries such as mining, oil, agriculture, etc. The need for intervention of the Council of Ministers is much required for sectors of industry such as	(2) The Council of Ministers should provide for detailed rights and obligations for employment relationship to be performed in the extractive industry (i.e. and other sectors as applicable). The extractive industry should benefit from different daily and weekly working hours (longer ones). Indeed, the longer hours should be

the extractive one (oil & gas, mining), which due to operational and working requirements are hard to be contained within the boundaries set by the Labor Code in terms of working hours day-offs and overtime.	balanced with adequate relief measures (rest and/or financial remuneration). Best practices from countries within the EU and US where the extractive industry is very active might be taken as example. Overtime, weekly day-off and shifts are to be regulated differently too. The extractive industry requires more flexible approach for overtime hours performed by its employees (the weekly overtime and the 200 hours per year are too restrictive). Due to their operational needs both the overtime hours per week and in the 200 hours per year should be increased and of course balanced with additional benefits. Again, examples from international best practices can be useful. The extractive industry should be accorded with a different scheme on shifts both in terms of length and payment. As per above, international best practices can be taken into account here. The Labor Code sets Sunday mandatory as weekly day-off. Work on Sundays is remunerated with extra salary and/or time-off. For specific industries, Sunday is a normal working day and as consequence, employers are faced with increased financial burden if are to regularly pay extras on top of the salary or provide their employees with additional time-off. It is necessary to regulate this aspect by at least giving to specific industries the necessary room for maneuver, that might be having a flexible weekly day-off.
(3) With the amendments of 2015 to the Labor Code, the legislator amended also article 144 (paragraph 3) by introducing the obligation of the employer to indicate in the written notice on the termination of the contract the reasons for termination (performance, behavior of the employee or operational needs of the enterprise). The amended article 144 (paragraph 3) has been taken further as the	(3) Amendment to article 144 of the Labor Code should include deletion of the specific grounds of termination being those performance, behavior and operational needs of the enterprise.

legislator has established that failure to provide the termination grounds (one of the three) will be treated as termination of employment with no grounds under article 146. Consequently, termination of the employment contract is considered invalid, and the employer who caused the termination of the contract is obliged to pay to the employee damages that may amount up to one year of salary, payment which is added to the salary that the employee must receive during the notice period.

The above is a restrictive approach that also conflicts with other provisions of the Labor Code. It is a restrictive approach as the employer is bound to fire employees only for those reasons. It conflicts with other provisions of the Labor Code and especially with article 153. Based on article 153 of the Labor Code, each of the parties to the employment contract may immediately terminate at any time the relationship for justified causes, which do not allow the continuation of the employment on a good faith basis.

Based on the aforementioned article are considered justified causes, the severe breach of contractual provisions by the employee or in case of repeated minor breaches of contractual obligations by the same in spite of warnings delivered by the employer.

The repeated minor breaches of contractual obligations might well fall under the categories of performance or behavior grounds for termination of article 144 of the Labor Code. Under these circumstances, the employer faces quite a challenge as he/she has to choose between the two types of termination procedures. Failure has dire consequences for the employer as he/she might be liable to pay damages that may amount up to one year of salary. As such, it is recommended to amend at least article 144 of the Labor Code.

(4) Article 149, paragraph 3 of the Labor Code regulating the termination of the limited duration employment contracts, stipulates that in case of termination of the contract before the term, the procedure set forth under article 144 of the Labor Code should be followed by the employer. First of all, limited duration employment contracts cannot be terminated before the term set forth in the contract, except for cases of immediate termination for justified causes as per article 153 of the Labor Code. From the reading of paragraph 3 of article 149, it is understandable that the said provision regulates the immediate termination of the limited duration employment contracts, given the limited duration employment contract can be terminated before the expiry of its term only for justified causes, which do not allow the continuation of the employment on a good faith basis. The procedure required by the said article 149 implies that the employer should he want to terminate the relationship, first he has to invite (notify in writing) the employee to a meeting to discuss his intentions to terminate the employment. At least 72 hours from the delivery of the notice, a meeting must take place in order to discuss about the intention of terminating the employment. In the meeting, the employee presents its counterarguments (if any). Should the employer fail to comply with such procedure of termination, he might be liable to pay to the employee a penalty equal to 2 (two) monthly salaries. The termination procedure results to be too burdensome for the employer, especially if this approach is compared to the unlimited duration employment contract. In fact, for immediate termination of the unlimited employment contract, the legislator with the amendments of the year 2015, abrogated the obligation of the employer to follow the above descripted procedure. Hence, the disparity of treatment in our view should be restored and paragraph 3 of article 149 of the Labor Code should be deleted.	4) The paragraph 3 of the Labor Code should be deleted.

XI Law on Invoice and Turnover Monitoring System (Fiscalisation Law)

In 2019 the Ministry of Finance and Economy started a rapid consultation phase with the groups of interest and taxpayers for the implementation of a new law on Invoice and Turnover Monitoring system, aiming the digitalization of the invoicing process. The scope of the Law on Fiscalisation is to set out the principles, rules, criteria, obligations, timelines and procedures to be followed by taxpayers regarding the issuance and fiscalisation of invoices as well as declaration of sales and purchases ledgers.

The law was approved at the end of 2019 with immediate effect in 2020. However, due to the inability of the governmental authorities to certify the software providers on time and spread of the pandemic situation, the implementation of this law was postponed in 2021. The law started to apply from 1 January 2021 for transactions made between businesses and government (B2G transactions) and from 1 July 2021 for cashless transactions between Business to Business (B2B). The Law will be fully adopted on 1 September 2021 when the last category concerning cash transactions between B2B and business to customers (B2C), would be required to be reported under the new rules.

Even if currently a number of software providers are certified to offer invoicing software solutions for invoice issuance in accordance to the legal provisions in force, there are still numerous obstacles which impede a smooth transition to the newly introduced processes. From the practical perspective, several issues are faced by the taxpayers having started the invoicing process as per the new rules and started the adoption of the invoicing solutions:

- Digitalization of the invoicing process is associated with high costs which are not refunded or subsidized by the government due to the rapid implementation of the law.
- The Central Invoicing Platform is not accessible by the taxpayers for invoicing purposes (except from some limited categories). Inability to access the platform for invoicing purposes for at least a transitory period after the entry into force of the law, requires the mandatory purchase of a new software or adoption of the existing ones used for accounting purposes by the taxpayers.
- Taxpayers have difficulties to find a long-term invoicing solution as the process of testing of new software may not be given as a trial version by software providers. The arrangements with software providers should be agreed on a case by case basis and it results to be time-consuming for both taxpayers and software providers.
- Lack of a transitory period of invoicing through the Central Invoicing Platform creates obstacles for the taxpayers to understand the process and be able to select the adequate invoicing tool and/or an integrated corporate management resource tool.
- The Central Invoicing Platform is still under development and testing by the Albanian tax and information security authorities in Albania, which makes difficult understanding and adopting to the new rules.
- The legal provisions introduced in the Law on Invoice and Turnover Monitoring system in some cases supersede or substitute provisions which should have been integrated in the VAT Law and its implementing provisions (such as single/multipurpose vouchers, invoicing of fiscal representatives, moment of issuance of the invoice for prepayments, situations for which correcting invoices are issued etc).

- The Central Invoicing platform (Self-Care) manual or instructions provided are not comprehensive and updated. In addition, the terminology used in these manuals is different from the terminology used in the Fiscalisation law or other laws such as VAT Law giving raise to confusion to users of platform or requiring additional adoptions of invoicing software in the future.

- Even though the tax authorities have undertaken a number of trainings for the taxpayers divided on their category of business, they are still unable to explain and provide practical solutions on issues or troubleshooting faced in invoicing processes.

- Part of the daily activities in relation to purchases, fiscalisation of imports etc., are not integrated on certified software, thus, companies should simultaneously use the Central Invoicing Platform and the software on daily basis, consequently increasing the possibility for human mistakes in reporting and sometime doubling the work done.

  The Central Invoicing Platform can be accessed with the credentials used for accessing the other governmental portal for electronic services **www.e-albania.al**. This creates a potential for breaching the security of the personal data of the employees of the company and/or other confidential information privileged for the company.

- The level of the penalties imposed are high considering the complexity of the practical implementation of the law and its sub-legal acts. In addition, penalties are provided for a large variety of violations, such that the same situation can be classified simultaneously under two to three different violations. It is unclear whether multiple penalties can be imposed for the same situation. Following the suggestions provided by all stakeholders, the deadline for the application of penalties related to the Fiscalisation legislation is postponed up to 1 January 2022. However, considering the complexity of the law and the short period of implementation, it is advisable to have a legal or sub-legal provision for the suspension of penalties (grace period) for at least a year period from the beginning of the implementation of the new law according to the typology of transactions.

- An administrative act published on 2 July 2021 postponed the application of penalties related to the Fiscalization legislation to after 1 January 2022. However, the Ministry of Finance and Economy or the General Tax Directorate failed to clarify immediately whether taxpayers were allowed to continue issuing and exchanging non fiscalized tax invoices (based on the previous format) and, if yes, for how long and based on what conditions. Most importantly, there was a lack of clarity on whether the taxpayers receiving non-fiscalized invoices during the period 1 July-31 December 2021 were entitled to credit the input VAT and recognize the related costs as deductible for corporate income tax purposes.

- In other countries the implementation of electronic invoicing has been extended in time to allow time for all stakeholders to adapt, be informed, get trained and understand the problems their systems may face. The two months period from second category of transactions (cashless B2B) to the last category might not be sufficient for testing and adapting to this new invoicing process. Consequently, it becomes a necessity to postpone the deadline for implementation of the second and third category of transactions, to allow the National Agency of Information Society (NAIS) and tax authorities address issues that will be identified during the first round of implementation.

- Limited guidance has been provided for reporting obligations of banks and other financial institutions on the processing of payments of electronic invoices.

- Several companies, which prior to entry into force of the Fiscalisation law were regulated by special laws, are now obliged to change their whole operating model which have been built during years. For illustration purposes, Lotaria Kombëtare, in its capacity of the licensed operator for the organization of national lottery games is regulated by special laws and its operating model is different from other taxpayers operating in Albania, mentioning here also its additional real time reporting obligations to the supervisory body, AMLF (in fact, with entry into force of the Fiscalisation law Lotaria Kombetare will have duplication of turnover reporting infrastructure). This new law has huge impact on these taxpayers by considerably affecting the continuation of their activity in Albania. Therefore, the authorities should carefully evaluate the impact the new law has on specific taxpayers that do operate in specific sectors and in this regard provide tailored guidance, exemptions, simplified application models such as summary invoices which are issued in accordance with requirements of the Fiscalisation law etc. These types of exemptions, facilities or incentives are present in the legislation of neighboring countries that have implemented similar fiscalization measures (e.g. in Croatia, where a similar fiscalization model for cash transactions is applicable, the activity of taxpayers in the gambling sector is exempted from the obligation to issue fiscalized invoices).

XII

Pension Funds Law

Since 2015, Albanian Financial Supervisory Authority has drafted some amendments to the Law no. 10 197, dated 10.12.2009 "On voluntary pension funds".

This Law regulates the creation, operation and supervision of voluntary private pension funds in Albania.

The amendments aimed to reflect in legal framework in force the current developments of the market, as well as to harmonize it with the EU Directives (e.g., IORP Directive), IOPS principles and guidelines and best practices.

After consultation with market participants, the draft law is still pending to the Ministry of Finance without any known reason.

Approval of the amendments, where the most important are the new fiscal incentives for pension fund members and sponsors, are very important for encouraging the membership of the people in voluntary pension funds and further development of these schemes in Albania.

Below are some of the main issues these funds are addressing for consideration of the respective Legislator along with some recommendations for finding solutions.

SPECIFIC ISSUE	RECOMMENDATIONS
Current law "On voluntary pension fund" defines the following fiscal regime regarding the fund members/ sponsors.	Management Companies of voluntary pension funds have proposed in the draft-amendments of the Law the following improvements:
(1) Contributions made by a unit holder to a pension fund shall be deducted from the taxable personal income base of that person, up to a limit as defined in article 88 of the Law (up to the annual contribution of All 200 000 for members under 50 years old, and up to All 250 000 for members older than 50 years).	(1) Raising the max. limit of the annual contribution/ per member being tax deductible.
(2) Contributions made by an employer to an occupational pension scheme as benefit of its employees shall be deemed an operating expense, up to the yearly amount of ALL 250,000 per employee and shall be considered as deductible expense for employer's taxation purposes.	(2) Raising the max. limit of the annual contribution of employer for each employee considering as deductible expense.
(3) Meanwhile, any payment (pension) from the voluntary pension fund to the members shall be subject to personal income tax.	(3) For any payment (benefit/pension) from voluntary pension fund, only the return from investment to be taxable.

Taking into consideration that tax incentives are the best way to encourage people to save for their retirement, the opinion and the suggestion of the market is to introducing more generous tax incentives for the voluntary pension fund members.

XIII

Residence And Work Permit Law

Albania is relatively an easy country to enter in and to get information on all the documents and procedures for obtaining a residence permit.

Foreign nationals can enter in Albania after obtaining a Visa or in case they have a valid Schengen visa granted. The entry with visa rule is not applicable to EU citizens, US citizens, Kosovo citizens and certain nationals of foreign countries with which Albania has entered into bilateral agreements.

Residence and work permits are regulated according to Law no. 108/2013, dated 28 March 2013 "On Foreigners", as amended and the respective sub legal acts. This law regulated the regime of entering into and exit of foreigners from the Republic of Albania as well as their residence, work and treatment in the country. The law determines the functions and competencies of the state authorities and other subjects, public and private, Albanian and foreigners, related to foreigners.

Foreign citizens who enter Albania without a visa are permitted to remain in Albania for up to 90 days within a 180-day period, with no entry fee. All foreign citizens who intend to work and live in Albania need to be provided either with Work Permit, or Work Registration Certificate, or Certificate of Exemption from the obligation to obtain a work permit, depending on their citizenship, the type of work and the duration of stay in Albania.

The request for the work permit should be completed before starting any work, and all required applications, which can be obtained from the Immigration Office, Albanian embassies in one's country of origin or at regional labor offices, must be filled out. Generally, the granting or refusal of a work permit takes no longer than 30 days after submitting the appropriate documentation.

A work permit can be granted with or without time restrictions. The validity period of the work permit is based on the type of work permit. The work permit will expire if the deadline is exceeded, if the foreigner leaves Albania for a period longer than six months or does not start the activity for a period of three months from the date the work permit is issued.

EU citizens, Schengen countries citizens and USA citizens are exempted from the obligation to be provided with work permit or work certificate. However, they must be provided with a certificate from the relevant authority stating that they are exempted from the obligation to obtain a work permit (i.e. Certificate of Exemption). The Certificate of Exemption is issued by the relevant Albanian authority within 5 (five) working days from filing of the application.

In addition, the following are entitled to the same rights and obligations with Albanian citizens regarding the labor legislation:

a) citizens of European Union and Schengen area countries and family members of citizens of one of the member states of the European Union and the Schengen area who are not citizens of these countries and who have legal residence in the Republic of Albania;

b) citizens of one of the countries of the Western Balkans, Bosnia and Herzegovina, Montenegro, Kosovo, Serbia and Northern Macedonia;

c) foreigners employed in different sectors, in order to regulate the consequences and recovery from natural disasters.

Some progress was made in the preparations for participation in the EURES (European Employment Services) network. The National Employment Service has launched a programme to computerize all employment offices, including the creation of jobseekers and employers' databases, with the aim of making the system compatible with the EURES network standards.

There has been some progress as regards coordination of social security systems. Bilateral agreements on social security with Greece, Belgium, Turkey, Germany, Romania, Hungary, Macedonia, Luxemburg and Czech Republic have been signed. Negotiations with Italy and other major countries have continued.

The draft law "On Foreigners" is currently being considered in the parliament. The draft law aims to continuously improve the legislative framework of migration, further align migration legislation with the directives relevant to the European Union, improving the provisions related to the issue of employment of foreign nationals in the Republic of Albania, clarifying the deadlines time and procedures for obtaining a unique permit, as well as reducing unnecessary barriers for the employment of foreign nationals in the territory of the Republic of Albania. In addition, facilitation is also provided for the categories of foreign pensioners and stateless person in light of the process of obtaining a residence permit in Albania.

SPECIFIC ISSUE	RECOMMENDATIONS
(1) In order to apply for the category of "transfer within the company" work permit, as part of the required documentation for the application, the tax certificate issued from the Tax Office evidencing that the Albanian company does not hold any tax obligations, is required.	(1) Given the existence of an integrated system between the Employment Office and the tax administration, the requirement to submit a certificate showing that the Albanian company has no unpaid tax liabilities, will create only administrative procedures that will prolong the issuance of the work permit. Such information should be automatically exchanged by the authorities upon application for the category of "transfer within the company".
(2) Physical presence of the seeker/s is required in the moment of the submission of the documents when applying for a residence permit for the first time. The state authority does not recognize the specific Power of Attorney.	(2) We suggest that the state authorities accept the submission of the permit documentation from another person other than the seeker, in case the application is supported by a specific Power of Attorney.
(3) According to the "Law on Foreigners" of the Republic of Albania, in order for a foreigner to apply for a work permit in the category of "transfer within the company" the signed employment contract with the foreign employer must be submitted.	(3) When applying for a work permit in the category of "transfer within the company", the applicant should only be required to submit the transfer declaration signed between the home country and the company in which the foreigner is transferred in Albania, instead of submitting the signed employment contract with the foreign employer in the home country.
(4) Both the Employment Office and the Immigration	(4) The procurement of double copies of apostilled

Office require original apostilled Employment Contract to obtain respectively the work permit and residence permit.	documents is expensive and time consuming. While it is best that apostilled documents are requested only in case of foreign official documents and not agreements between private persons, at least the apostilled copy of the Employment Contract is requested either by the Employment Office or by the Immigration Office, and the information is exchanged automatically between both offices.
(5) When applying for a residence permit, the foreigner must submit the application form along with copies of the required documents on the e-Albania portal. After submitting the documents online, the law requires as well that the same documents to be submitted in original, physically at the immigration office, including the application form.	(5) These requirements are duplicate of each other. Obligation to apply online and perform the same procedure physically at the Immigration office not only does it not simplify the application procedure, but instead, it costs more time, work, queues and paper consumption. We would suggest that the obligation to physically submit the application file to the immigration office be removed and that the application for the residence permit be made only online. Documents uploaded can receive the electronic signature.
(6) The lack of a contact number for requesting information regarding the procedures for obtaining a residence permit.	(6) Citizens are often forced to wait in line to receive information on various aspects of the procedure followed for applying for a residence permit or obtaining a visa. In this case, our suggestion would be to hire a responsible person to provide such information by phone or email. This would avoid the influx into the immigration office and would provide a faster and more practical service to citizens.
(7) When a foreign citizen applies for the renewal of a residence permit with the motive of family reunification, the birth or marriage certificates must be submitted in original and be dully apostilled, despite the fact that these documents were already submitted during their first residence permit application.	(7) Ideally, this process should be digitized and made online by uploading scanned documents, duly equipped with the relevant electronic signature. Otherwise, when applying for a residence permit for the first time and during the renewal of the permit, the foreigner should at least be asked to submit only notarized copies of certificates instead of original ones.
(8) Registration with the City Hall is done physically at the Town Hall.	(8) Considering that no original documents are required for the registration with the City Hall, the registration should be done via the e-Albania portal.

XIV

Carbon Tax/Excise Tax

SPECIFIC ISSUE	RECOMMENDATIONS
Due to the latest Amendments during 2012 to the Law "On Excise" and "National Taxes", Albania currently imposes indirect taxes on solid fuels in the amount of 5 lek/kg (i.e. 2 lek/kg for Excise and 3 lek/kg for Carbon Tax). These taxes, increase the import price of fuel by 45% - 50%. Such an increase to the cement industry is translated into a significant burden in its cost structure having an effect of ~2.5-3-Euro additional cost per ton of final product depending on the type of the cement produced. In the international trade markets this cost handicap is significant and unless abolished, is expected to significantly undermine the Albanian Cement export capacity. Neither the EU nor the neighboring countries (with the exception of a small tax in Kosovo) have indirect taxes imposed on solid fuels used by the industry. Energy products and electricity, in EU countries is taxed only when they are used as motor or heating fuel, and not when they are used as raw materials/combustibles in the production process or for the purposes of chemical reduction or in electrolytic and metallurgical processes. *(EU directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity).*	Exempting Excise and Carbon TAX on solid fuels, thus, following the standard applied in EU, is expected to re-establishing level playing conditions in the cement market of Albania and as such improve the competitiveness of the local industry, which has been disproportionately affected by the economic crisis. It should be noted that the local cement industry adds significant local value to the final product, contributes to trade revenues of Albania with ~48 million EURO per annum and provides employment to over 800 direct employees. **An alternative solution, considering the significant impact these taxes have to the state budget, is (i) the removal of Carbon and Excise Tax to the extent applicable for exports performed and the imposition of equivalent custom duties to imported Cement related products OR (ii) at least, the exemption of the cement industry from the Excise Tax liability pursuant to Article 10 point 3 letter ç) of the Law on Excise Duties and the application of a Carbon Tax refund scheme in the form applicable to the Excise Tax.**
Having said the above, the Excise Tax as well as the Carbon Tax being indirect taxes are *commonly imposed to the final product* and as such are born by the final consumer. The way such indirect taxes are currently imposed in Albania, they burden the intermediary product, thus affecting the manufacturer. In addition to the above and in relation to the Excise TAX, even the reimbursement mechanism provided by the Excise LAW does not provide the necessary release offered by the EU legal framework since the European legislation apply **excise exemption and NOT `reimbursement** for energy products when they are used as raw materials/combustibles in the production process or for the purposes of chemical reduction or in electrolytic and metallurgical processes.	

At European Union level, the rules and minimum levels of excise taxation on energy products, including solid fuels, are set out in *EU Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for taxation of energy products and electricity*[1] Article 2, point 4, letter (b), paragraph 5, of which excludes energy products used in mineralogical processes. On the other hand, the legislations of the regional countries contain identical provisions to exempt from excise energy products used in mineralogical processes. Although, it contains identical provisions to the legislation of the regional countries and the Member States of the European Union, for the exemption from excise of energy products used in mineralogical processes, from 2012, when Law no. 61/2012 dated 24.05.2012 "On Excises in the Republic of Albania" has been approved and until now applies incorrectly with legal provisions, (See Article 10 point 3 letter ç) of the Law), and cement producers have been unjustly denied the legal right to receive an exemption from the Excise Tax on petroleum coke/energy products, as competitors in the region and in the European Union have benefited and continue to benefit. On the other hand, the genuine fiscal nature of the Carbon Tax is also emphasized on page 40 and page 130 of the Third National Communication of the Republic of Albania, in frame of the Convention on Climate Change [quote]: "*Although the purpose of the Carbon tax was to discourage the use of carbon emissions to protect the environment and address climate changes, it has no direct link between the revenues from this tax and the funds used to protect the environment and address climate change*", which has nothing to do with the European Union Emission Trading System-EU ETS, in frame of which the European Manufacturing Industry of non-metallic mineral products receives preferential treatment. At the same time when the Albanian Parliament has approved the imposition of a Carbon Tax on coal and	

petroleum coke, the 2011 proposal of the European Commission to impose a tax on "carbon dioxide" as an integral component of the Excise Tax of energy products, after 5 years discussion in the European Parliament and in the absence of consensus among all Member States, in 2015 has been withdrawn by the European Commission[2], and such a tax does not currently exist.	

A controversial issue particularly affecting petroleum companies concerns the application by the tax administration of Excise Tax, but also Carbon Tax and Circulation Tax on the import of oil by-products (namely diluents) which used solely to facilitate the extraction of the oil.

Excise Tax By definition the Excise Tax is levied on the designated products that are placed for consumption in the territory of the Republic of Albania, therefore, the obligation to pay the Excise Tax arises at the moment when the product is placed for consumption. The list of designated products include energetic products used as fuel for engines and combustibles, which is not the case for the diluents and other similar oil by-products that get injected and blended with the crude oil to facilitate its extraction and transportation (i.e. no burning and no energy release from the diluent). However, the tax administration regards the Excise Tax applicable in such cases by not recognizing its dual use as per article 10-point 3, letter c of the Excise Law. This tax treatment may result in a double taxation, once during the usage of such by-product for the extraction of the oil and secondly during the placement of the oil in market.	It would be advisable to align the Albanian tax provisions and practices with the ones from EU and as such avoid Excise duties, as well as Carbon taxes on energy products, which are not used as combustible neither supplied for consumption. Regarding Excise duties, a solution could be to expressly exempt such cases from Excise Tax in article 10-point 3, letter c of Excise Law or in the definition of the energetic products on which Excise Tax is levied in article 51. As to the Carbon and Circulation Tax, it would be advisable to include similar exemption to the one in article 10 point 3 of the Excise Law.

Carbon/Circulation Tax The purpose of the Carbon Tax is to penalize the use of carbon emissions to protect the environment and address climate changes. Similarly to Excise duties, Carbon Tax shall be levied when the relevant product is actually burnt or consumed producing carbon emissions. Another issue of particular importance to petroleum companies is the imposition of Carbon Tax and Circulation Tax by the administration on petrol/gasoil used by these companies for their technological needs in the course of petroleum operations, which is neither used as fuel, nor is it burnt in any form.	

XV Lifting Of Import Banning Of Green List Materials And Building The Administrative Capacity For Integrated Waste Management

Recycling, Reuse and Recovery of Waste is currently a multibillion business successfully exercised all over the Europe. On the other hand, it is also a business sector with a multimillion potential also for Albanian textile companies, shoe manufacture, plastic, cartoon, cement, ceramics etc.

Although the Albanian waste management legal framework has been prepared according to EU directives and regulation, its full transposition is not yet completed and its implementation/enforcement is lacking behind. As such, the practices of waste management applied in the country as per waste management hierarchy is too rudimentary and is having serious impediments (i.e. Lack of waste separation at source, lack of infrastructure for easy access at waste sites, lack of appropriate practical arrangements for promoting waste re-use, recycling and energy recovery, lack of clearly stated responsibilities at all levels, banning of imports of green list materials due to the approval of the law no. 156/2013 for amendment of law no. 10 463/ 2011 on "Integrated waste management" etc).

As a result, waste streams in Albania continue to be dispersed (i.e large volumes of waste are collected in a single-bin system and then deposited in landfill sites or directly deposited on illegal dumpsites), while landfills do not operate according to EU Integrated Waste Management standards and guidelines.

These circumstances encourage informal practices (i.e. unauthorized groups of individuals scavenging waste in the streets or disposal sites in search of recyclables, which are then sold for recycling) and more importantly, do not provide suitable streams for utilization.

For these reasons, we believe that if the Albanian government would prioritize and efficiently coordinate its efforts, speeding up the process for remedying the abovementioned situation through removing the import banning of green list materials, but at the same time establishing and properly maintaining the necessary legal, technical and administrative infrastructure in line with the EU standards on Integrated Waste Management, then, companies will not only be willing to build capacities, but also invest with the necessary infrastructure to utilize such waste.

A 2014 study, titled "NAMA Proposal Replacing fossil fuels with non-hazardous waste in the Albanian cement industry" supported by UNDP Climate Change Programme (page 33, 34), states that - *"According to the data from Association of Recyclers, there are more than 60 recycling companies that have been established and are operating. The interest shown for this quite new activity in Albania was high, but for objective reasons (competition, lack of sources and regulations) a considerable number of projects abandoned the initiative. The recycling companies have established collection systems in Albania based on their assumption (legislation allowed at that period) that more than 60-70 % of their raw volumes would be imported. Main reasons to base the investment in more than 50% imported raw materials was mainly for to enrich the quality of their final product and to satisfy the payback time of the investment. Due to the ban of imports of green list waste, reflected on the law no. 156 of 2013 (for amendment of law no. 10 463 of 2011 on "integrated waste management"), the recycling companies have dramatically reduced their production capacity by 60-70%. The ban of import of waste found them completely unprepared and is seriously threatening their investment."*

Additionally, according to the European Integrated Pollution Prevention and Control Bureau (EIPPCB) (2010), the Cement production has the necessary characteristics to be considered as the most suitable process for the co-processing of waste materials.[1] On the other hand, the Cement plants need investments which vary from 2-20 million EURO based on the rate of substitution of fossil fuel with AF, in order to install

[1] Stockmeyer, M. 2014, "NAMA Proposal Replacing fossil fuels with non-hazardous waste in the Albanian cement industry", UNDP Climate Change, p. 35

auxiliary processing and feeding facilities for properly utilizing the waste. Therefore, the need for sustainable streams (not yet locally available) again is of crucial importance for such investments to take place.

Another example of companies that would be expected to invest is that of textile industry, elaborated in a CSR Report (2015) by experts of MVO Netherland in collaboration with Dutch Embassy in Albania, according to which the re-fiberization of textile waste in combination with a yarn spinning can be a promising business case for Albania as Western brands are becoming more interested in circular garment concepts. A new technology based on chemical recycling needs to be up scaled in a pilot plant.[2]

As a conclusion, lifting the import banning of green list materials as well as establishing and properly maintaining the necessary legal, technical, and administrative infrastructure in line with the EU standards on Integrated Waste Management, would bring to both the Albanian Economy and the society at large the following benefits:

- **Development of the Recycling, Reusing and Recovering Business Sector;**
- **Increasing the competitiveness of the domestic processing industry by utilization of Alternative Fuels;**
- **Increasing employment as well as revenues from taxes;**
- **Decreasing Co2 and greenhouse gas emissions;**
- **Preserving non-replaceable resources and protecting the environment;**
- **Avoiding negative impacts of waste incineration and landfilling;**
- **Avoiding new investment in incinerators or landfill facilities.**

[2] Van Yperen. M., Van der Graaf. M, 2015 "CSR in Albania observations & recommendations", MVO Nederland, p. 14

XVI

Trademarks Protection

Albania is part of the World Intellectual Property Organization (WIPO) and has signed and transposed in the national law the majority of the international treaties related to the protection of the intellectual property such as the Paris Convention, the Madrid System, the Nice classification etc.

The General Directory of the Intellectual Property (GDIP) is the Albanian authority that is competent for the registration of all objects of intellectual property (including trademarks) and operates as an autonomous agency under the supervision of the minister responsible for the economy.

The Law no. 9947, dated 7.7.2008 *"On industrial property, as amended",* is the main legal text that regulates the protection of the intellectual property in Albania. Although it aims to ensure the effective protection of trademarks in Albania, the reality shows that the unauthorized use of trademarks is widely spread in country. Such illegal use of trademarks, especially of international well-known marks, causes severe damage reputation to the rightful owners of the marks and potential harm to the consumers of the relevant market.

In our view, the legal process of seeking interruption of the unauthorized use of well-known marks and subsequent remediation claims is complex and insufficiently clear. Below there are listed some of the main issues business is impacted, along with the given recommendations which for, we believe there is room for improvements.

SPECIFIC ISSUE	RECOMMENDATIONS
The Paris Convention provides in article 6*bis* on *"Well-Known Marks"* that: *"(1) The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration,* ***and to prohibit the use****, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or use* ***to be well known*** *in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods.."* In that respect the Law no. 9947, dated 7.7.2008 *"On industrial property, as amended"* provides for the protection of well-known marks, article 156 (4): *"The rights recognized to owner of a registered trademark…, are recognized also to the owner of the well-known mark in the Republic of Albania…".* Details and criteria's on the recognition of well-known marks are established with the Decision of Council of Ministers No. 315/2018 *"On trademarks"*, in articles 58 et seq. These criteria's will be assessed by the competent authority in Albania (i.e. GDIP).	The effective protection of well-known marks appears very problematic to the owners of such marks. The articles 58 et seq. of the Decision of Council of Ministers no. 315/2018 are not sufficiently clear and exhaustive and, in our opinion, they do not fully implement the requirements of the article 6*bis* of the Paris Convention. Our suggestion is to amend the articles 58 et seq. of this DCM no. 315/2018 for providing clear steps to follow for recognizing and prohibiting the unauthorized use of well-known marks in Albania. It is suggested the creation of a public database of well-known marks in Albania to give immediate information and awareness to the public and Courts while treating such cases, and to also link it with the enforcement of the consumer protection regulations.

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The FIAA Committees of Energy, Oil & Gas, Tax/Financial & Legal Committees as well as the European Integration Committee.

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The Albanian Association of Banks (AAB) is a non-profit organization, established in April 1999, which represents the commercial banks that have established their activities in Albania.

AAB through its Managing Bodies seeks to promote the most up-to-date banking standards of its member banks, the development, stability and efficiency of Albanian banking system in general, thereby contributing to the advancement of the Albanian economy.

AAB is a representative body which in partnership with public and private sector stakeholders contribute to improve the business environment and to discuss key industry issues defining common strategies for the Albanian financial sector.

AAB is established with the mission to:

- Support and promote the Albanian banking sector operations and interest;
- Represent the banking sector both locally and internationally;
- Develop cooperation with peer organizations;
- Encourage, promote and actively support the most up-to-date banking standards and banking education.
- Maintain harmony and coherence in policies on issues affecting the sector;
- Assist in the process of harmonization of the Albanian legislation in line with the European Union standards, as well encourage, and support the integration process.

AAB is a member or associate member or partner of the following international/national organizations.

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- INTERBALKAN Forum of Banking Associations
- OECD International Network on Financial Education (INFE)
- Financial Technology Transfer Agency (ATTF)

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- National Economic Council
- Tax Council
- ICC Albania
- National Labor Council
- National Payment System Committee

BOGA & ASSOCIATES

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Firm overview

Boga & Associates, established in 1994, has emerged as one of the premier law firms in Albania, earning a reputation for providing the highest quality of legal, tax and accounting services to its clients. The firm also operates in Kosovo (Pristina) offering a full range of services. Until May 2007, the firm was a member firm of KPMG International and the Senior Partner/Managing Partner, Mr. Genc Boga, was also the Senior Partner/Managing Partner of KPMG Albania.

The firm's particularity is linked to the multidisciplinary services it provides to its clients, through an uncompromising commitment to excellence. Apart from the widely consolidated legal practice, the firm also offers the highest standards of expertise in tax and accounting services, with keen sensitivity to the rapid changes in the Albanian and Kosovo business environment.

The firm delivers services to leading clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods.

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Areas of practice

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TAX: Tax Advice, Tax Audit Services, Tax Compliance

ACCOUNTING: Bookkeeping Services, Accounting Advice, Forensic Services

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Deloitte.

Deloitte Albania

Deloitte Albania sh.p.k was established and has been operating in the Albanian market since 4 October 1996. It is one of the leading professional services organizations in the country, providing tax, audit, legal, consulting, risk services and financial advisory services.

We have a team of over 260 professionals, possessing technical competence and an in-depth knowledge of the issues that companies face. The expertise of our team and the experience gained through continuous work with domestic and international clients in the Albanian market enable us to take an innovative and systematic approach to resolving issues.

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Established in 1994 we became soon a leading full law practice in both Albania and Kosovo. The firm acts for prominent foreign and multinational companies and agencies, which operate in a variety of sectors and industries across the globe. We have tried hard to be solution driven, by offering tailored legal advice to suit specific needs of clients.

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The firm is very often a first choice for Fortune 500 companies for services in the areas of (M&A/Privatization), banking and finance, aviation, energy & natural resources, etc. We have particular expertise in concessions, PPPs and project financing.

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KPMG in Albania is a member firm of the global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. KPMG in Albania was established in 1996 and is currently one of the leading professional services firms providing Tax, Legal, Accounting and Advisory services in the Albanian market. Since 2005 the company has presence also in Kosovo through the Pristina's office. KPMG in Albania also forms part of the firm's network in Central and Eastern Europe and operates within the KPMG in the Balkans cluster, comprising of the KPMG offices in Bulgaria, Albania, Kosovo and North Macedonia.

The strategy of KPMG Albania is based on four priorities: **being market-focused, issues-led, driven by operational excellence and having a high performance culture.** Through these priorities, our overall vision is to be the clear choice.

This includes being one of the leading multidisciplinary professional services firms in Albania and being a quality service provider to all of our clients, placing quality at the heart of our agenda. As an organization we have a strong belief that by attracting extraordinary people and applying our deep expertise and sector knowledge we are able to deliver real results to the benefit of our clients and our communities.

In Albania, KPMG has a tradition of professionalism and integrity, combined with a dynamic approach to advising clients in a digital-driven world. Quality is the cornerstone of our business and we recognize the importance of being transparent about how we stay relevant in the dynamic business environment with increasing public expectations.

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PwC established its presence in Albania in 2005. PwC in Albania uses the benefit of its hands-on experience to provide a strong level of local understanding and support, in accordance with the international professional standards of the PwC worldwide organisation.

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In Albania, PwC provides a full range of assurance, business advisory, tax and accounting services to local clients and foreign investors. We offer solutions that provide competitive advantages to our clients and meet their needs, using our local and international expertise as well as our broad industrial and service experience.

At PwC in Albania, our services are organised into Lines of Service. Each of these lines is covered from professionals who are holders of Association of Chartered Certified Accountants (ACCA) certificates and members of the Institute of Certified Public Accountants in Albania and whose goal is to help our clients build value, manage risk and improve their performance.

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Assurance Services

Our audit and assurance approach is tailored to suit the size and nature of your organisation. With our deep understanding of local and international regulation and legislation we offer a broad range of innovative, high-quality and cost-effective solutions to our clients.

Aiming to exceed client expectations, by continuously reviewing our own effectiveness and efficiency, and by maintaining close communication with the client, we offer our expertise in Audit Services, Capital Markets and Accounting Advisory Services, and Risk Assurance Services.

Accounting and tax services

PwC in Albania provides comprehensive tax and accounting services, including tax reporting and strategy services for transformations, deals and data automations. We provide tax advice for inbound and outbound transactions, mergers and acquisitions, carve-outs, divestitures and spin offs. We assist with tax planning and (re)structuring from both an Albanian and international tax perspective, and we offer opinions on tax matters including research, discussions, memoranda, and assistance with dealing with the tax authorities. We give clients the benefits of international expertise and in-depth understanding of the local law, with the aim of maximizing tax efficiencies and solving their tax and accounting problems. Among others, our staff has substantial practice experience in income tax, international tax, transfer pricing, VAT and other indirect taxes, and Global Employee Mobility matters.

Legal Services

Our legal team has the local and international knowledge and experience in assisting clients in all legal aspects of their business in Albania, including cross-border transactions. With a commercial awareness approach and solution-oriented mindset, we are dedicated to providing advice, strategy and alternative resolutions.

Advisory services

Our Advisory Services practice focuses on the strategic development of businesses, including the purchase or sale of businesses and assets. We are able to provide an exceptional service to clients by effectively linking local and regional commercial reality with international resources and finding a position of mutual acceptability and consensus.

We support and advise our clients in developing a new project by providing financial due diligence, feasibility studies, valuation, business plan preparation and market surveys. We advise our client on the entire process of mergers and acquisitions or takeovers of businesses or parts of businesses. We do rely on a strong regional collaboration when dealing and delivering projects to public sector institutions and international donors.

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