



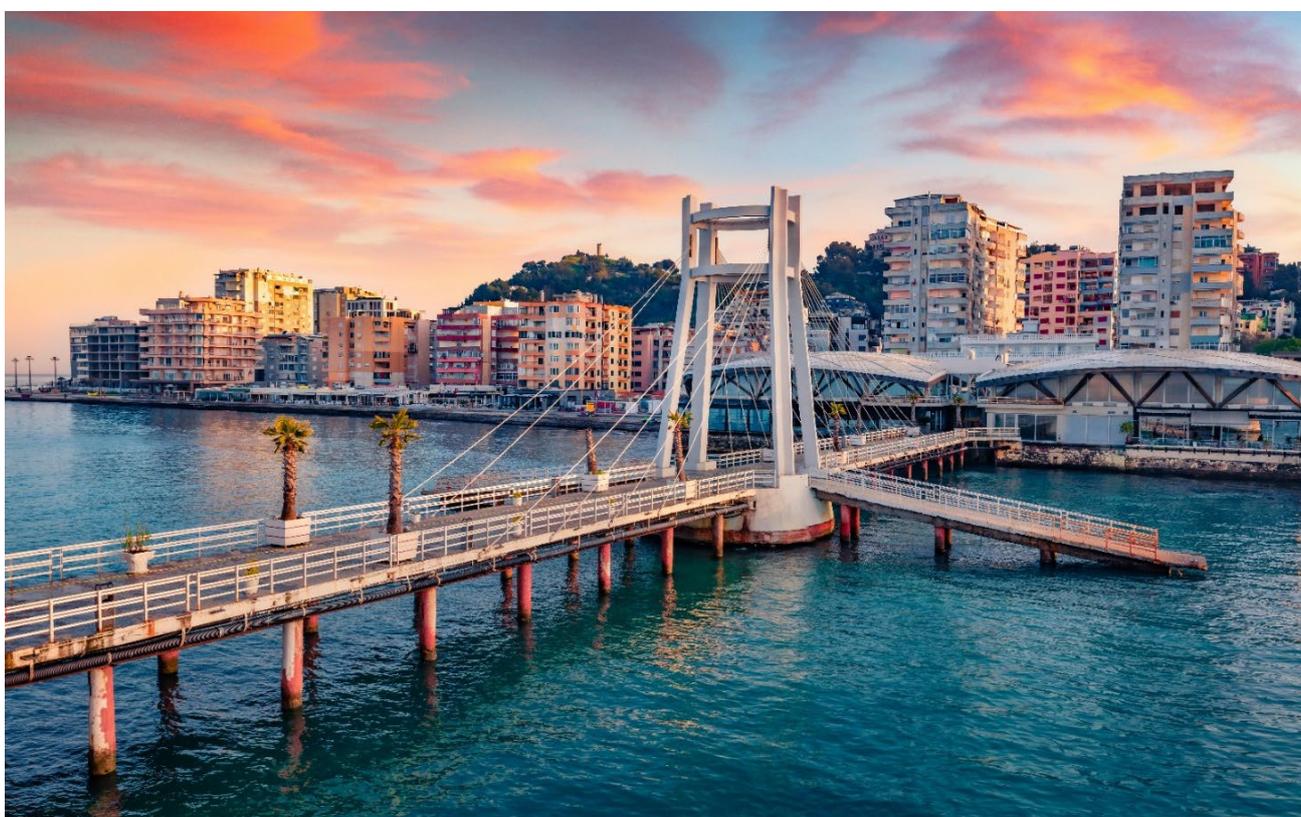
Doing business in Albania

A comparative guide

July 2023

A guide to doing business in Albania

Deloitte Legal compiled this guide for Legal 500, providing an overview of the laws and regulations on doing business in a variety of jurisdictions. The following country chapter contains the relevant information on the systems of law, the legal forms through which people carry out business, capital requirements, how entities are operated and managed, expansion possibilities, corporate governance, employment law and more.



No. Question

A. Legal system and landscape

1 **Is the system of law in your jurisdiction based on civil law, common law or something else?**

The Albanian legal system is a civil law system, with the Constitution being the highest legal act, followed by ratified international agreements, local laws adopted by the Parliament, and the normative acts of the Council of Ministers.

B. Entity establishment

2 **What are the different types of vehicle / legal forms through which people carry on business in your jurisdiction?**

In Albania, business may be carried by a sole entrepreneur, or by establishing a local company, opening a branch, or a representative office of a company.

Legal entities (companies) may be organized in one of the following types:

- **A General Partnership:** is formed by at least two partners, with unlimited liability towards creditors. The partnership is based on a set of rules established in the partnership agreement. The contribution of partners may be in cash or kind (immovable/movable property, rights, labour, and services), contributions that will be equal.
- **A Limited Partnership:** in a limited partnership at least one partner's liability is limited up to the amount of their contribution (limited partner), while the liability of other partners is not limited (general partners). General partners are in charge for the administration of the company as well.
- **A Limited Liability Company ("LLC"):** is established by one or more natural and/or legal persons, the liability of which is limited to the extent of any unpaid share of subscribed contributions. Each of the shareholders owns one quota/part in the LLC having a value correspondent to the shareholder's contribution in the company; such quota/part cannot be offered to the public.
- **A Joint-stock Company ("JSC"):** a joint stock company is a company whose capital is divided into shares subscribed by its founders. Founders are natural or legal persons, who are not personally liable for the company's commitments, and will cover company's losses only to the unpaid part of subscribed shares. A JSC may be a company with a public or private offering.
- **A Joint Venture:** Whilst the first four forms are regulated by the law no. 9901 dated 14.04.2008 "On entrepreneurs and commercial companies," as amended ("Law on Entrepreneurs and Commercial Companies,") Joint Ventures are regulated in the provisions of the Albanian Civil Code, namely articles 1074-1112. This is a form of unlimited partnership and may be entered into by two or more persons, individuals, or legal entities aiming to engage in economic activity or project and divide costs and profits. There are no mandatory capital requirements related to Joint Ventures. The partners are liable to meet the obligations and make the contributions defined in the executed agreement. The partners are jointly responsible for

fulfilling the obligations imposed by the law and their agreement. The registration of the Joint Venture with the commercial registry is of a declaratory purpose and it does not vest such form with legal personality.

From the above listed, the organization forms usually encountered in Albania are the limited liability company and the JSC without public offering. The other forms are used less frequently.

As mentioned above, business can be carried out in the form of **Branch offices** of foreign companies. Branches are places of business that have the same legal personality as that of the (mother) company.

While **Representative offices** are places of business and have the same legal personality as that of the company – the same as the branches – but that cannot generate revenues, but only promote the business of the (mother) company.

3 Can non-domestic entities carry on business directly in your jurisdiction, i.e., without having to incorporate or register an entity?

Yes. Albanian law provides the alternative of having a **tax representative** in the Republic of Albania for a non-resident taxpayer. Such a non-resident taxpayer can appoint a resident tax representative (agent) and registers with the Regional Tax Directorate, when required by applicable law (law no. 9920, dated 19.5.2008 “On tax procedures in the Republic of Albania,” as amended). Based on current tax legislation, a tax representative is required to be registered only for VAT purposes when a foreign entity provides services to non-VAT registered persons in Albania and the place of supply of services is considered Albania. Other tax laws do not provide for the registration of a tax representative for the purpose of other types of taxes (such as corporate income tax).

4 Are there are any capital requirements to consider when establishing different entity types?

The law on Entrepreneurs and Commercial Companies does not require minimum capital when establishing **General Partnerships, Limited Partnerships** and **Joint Ventures**.

While **LLCs** are required to have a symbolic minimum capital amounting to ALL¹ 100 (less that EUR 1).

JSCs with private offer are required to have a minimum capital amounting to ALL 3.500.000, approximately EUR 30.500².

JSCs with public offer are required to have a minimum capital amounting to ALL 10.000.000, approximately EUR 87.416³.

However, despite the above thresholds, entities may be required to have a higher minimum (initial) capital based on the type of activity that they pursue, as may be set-forth in sector specific legislation.

¹ Albanian Leke

² Exchange rate is 114.40 as per the Central Bank exchange rates dated 10 March 2023

³ Exchange rate is 114.40 as per the Central Bank exchange rates dated 10 March 2023

5 How are the different types of vehicle established in your jurisdiction? And which is the most common entity / branch for investors to utilise?

In order to establish a business entity in Albania, it is necessary to register such an entity/company with the Albanian Commercial Registry held by the National Business Centre, by filing the required documents based on the type of entity.

The companies/entities acquire legal personality on the date of the registration with the National Registration Centre. In the case of the Joint Venture branches and representative offices the registration is made for compliance and declaratory purposes.

The registration usually takes 24-48 hours to be completed and the registration fee is approx. EUR 1.

The NBC, being a one-stop-shop office, enables the simultaneous registration of the new company with other relevant authorities, such as the competent tax authority.

As per section 2 above, the most commonly used vehicle by local and foreign investors is the limited liability company. LLCs are the most common choice of business vehicle because this legal form provides the possibility of sole proprietorship, a simple and flexible corporate structure, and limitation of personal liability; Also, due to the symbolic initial capital required for the incorporation/registration they are popular.

The same applies for branches of foreign companies that are a common form that businesses choose to conduct business activities in Albania.

6 How is the entity operated and managed, i.e., directors, officers, or others? And how do they make decisions?

LLC

The General Meeting of Shareholders is the governing body in the LLC. The General Meeting/Assembly can make decisions either a three-quarter majority of shareholders or a simple majority, depending on the issue they are resolving. In the case of a simple majority decision, the law requires that +30% of the shareholders should be present, while in the case of a qualified majority, +50% of the shareholders should be present.

While the management of the LLC is performed by one or more administrators appointed by the General Meeting/Assembly of Shareholders. The administrators have all the decision-making powers regarding the management of the company (day-to-day activities) within the boundaries set by the law and the company bylaws.

JSC

The General Meeting/Assembly of Shareholders is the governing body in the JSC as well.

- In a JSC with a *one-tier structure*, the management of the company is conducted by the Board of Administration as a single management body, exercising both management and supervision of the company's activity.
- In a JSC with a *two-tier structure*, the management of the company is assigned to one or more administrators, while the Supervisory Board supervises the implementation of the policies of the company with the law and the Bylaws.

The administrators have all the decision-making powers regarding the management of the company (day-to-day activities), while the Supervisory Board only supervises the activity of the administrators and cannot issue binding instructions to the former.

7 Are there general requirements or restrictions relating to the appointment of (a) authorised representatives / directors or (b) shareholders, such as a requirement for a certain number, or local residency or nationality?

Albanian law does not impose any limitation regarding the nationality or local residency for the appointment of representatives, directors, or shareholders.

However, should the directors choose to perform their duties while being on the territory of the Republic of Albania, they will need to obtain all the relevant work and residence permits required for legal residence in Albania.

In the case of JSCs, the Board of Administration should be composed of at least 3 members.

The administrator of the parent company cannot be appointed as an administrator or member of the Board of Administrators.

In addition, any person who has been convicted of crimes committed in the course of their duties to the company, may not, for up to five years after conviction, carry out the functions of legal representatives, members of the Board of Administration, or the Supervisory Board, and of representatives of shareholders at the General Meeting.

8 Apart from the creation of an entity or establishment, what other possibilities are there for expanding business operations in your jurisdiction? Can one work with trade /commercial agents, resellers and are there any specific rules to be observed?

Yes, in Albania it is possible to work through trade/commercial agents and resellers. The contractual relationship with agents and resellers is regulated by the relevant provisions of the Albanian Civil Code.

C. Entity operation

Please answer the following questions only for the most common entity / ies within your jurisdiction:

C1. Governance

9 Are there any corporate governance codes or equivalent for privately owned companies or groups of companies? If so, please provide a summary of the main provisions and how they apply.

The corporate governance framework in Albania is essentially comprised of the following:

- the law no. 9901, dated 14.4.2008 "On entrepreneurs and commercial companies," as amended;
- the law no. 10 091 dated 05.03.2009 "On the legal audit, the organization of the profession of the legal auditor and the certified accountant," as amended;

- the law no. 9662, dated 18.12.2006 "On banks in the Republic of Albania," as amended.

A voluntary corporate governance code exists in Albania, but it is generally not implemented.⁴

C2. Capital

10

What are the options available when looking to provide the entity with working capital? i.e., capital injection, loans etc.

Traditional options for providing an entity with working capital are available in Albania.

The sole shareholder or the General Meeting/Assembly of Shareholders may decide to increase the company's capital by a capital injection based on the requirements laid down in the bylaws, (i.e., in proportion to the owned shares or by applying dilution formulas).

In addition, shareholders' loans are a common option for providing the companies with needed working capital. The approval procedures defined in the Bylaws to the company and profit margins required are applicable. These agreements must be entered into on an arm's length basis.

Shareholders may also resolve to convert the loan into capital injection based on approvals' modalities defined in the bylaws, increasing the share capital of the company.

Further, the most common approach for profitable companies is by resolving not to distribute dividends to shareholders after the approval of the annual financial statements and identification of the year's profit, but by converting the profit to a capital increase. This decision brings, as a result, a proportionate increase of the part each shareholder owns in the share capital of the company.

A company may also seek from another entity in the same group, banks, or other third parties, working capital. Such loans are not convertible in share capital and remain due and payable to the lending party as per the terms of the loan agreements.

C3. Return of proceeds

11

What are the processes for returning proceeds from entities? i.e., dividends, returns of capital, loans etc.

Companies may return value to their shareholders in different ways. The most common form is the distribution of dividends.

Shareholders are entitled to share the declared profit in the annual financial statements unless provided otherwise. However, the distribution of dividends is allowed only in case:

- the company's assets will fully cover its liabilities; and
- the company will have sufficient liquid assets to make payments of its liabilities as they fall due in the next twelve months.

⁴ <https://ecgi.global/code/corporate-governance-code-unlisted-joint-stock-companies-albania>

It is the responsibility of the administrator to issue a “solvency certificate” which explicitly confirms that the proposed distribution meets these criteria.

The return of capital is applicable only in specific cases. Companies may decrease their capital to cover losses. If the decrease in capital is as result on the return of capital to the shareholders, such an action will be considered as a dividend distribution. The decision for such a return is made with a qualified majority of shareholders (see point 12 below).

As regards the payment of loans to shareholders, a such repayment is made based on the terms and conditions of the loan agreement that should be entered into on an arm’s length basis.

C4. Shareholder rights

12

Are specific voting requirements / percentages required for specific decisions?

The law requires either a *three-quarter majority* of members to vote or a *simple majority*, however, the Bylaws can provide for a higher majority. In the case of a simple majority decision, the law requires that +30% of the members should be present, while in the case of a qualified majority, +50% of the members should be present.

The following company acts require a *qualified majority*:

- An amendment of Bylaws
- An increase/decrease in the capital
- Profit distribution
- The reorganization and dissolution of the company

The law on Entrepreneurs and Commercial Companies provides that the dismissal of administrators is made by simple majority and such a majority cannot be amended in the bylaws. Regarding other decisions, the shareholders may provide them in the bylaws of the company for a simple or qualified majority based in their discretion.

13

Are shareholders authorised to issue binding instructions to the management? Are these rules the same for all entities? What are the consequences and limitations?

The rights and obligations of the shareholders are defined in the Law on Entrepreneurs and Commercial Companies and in the incorporation acts of the companies (Bylaws and/or Charters). The minimal or maximal thresholds of powers that are classified as mandatory by the law on Entrepreneurs and Commercial Companies cannot be amended in the bylaws or the decisions of the General Meeting of the Assembly of Shareholders or the Sole Shareholder, as the case may be.

The law on Entrepreneurs and Commercial Companies provides a non-exhaustive list of issues over which the General Meeting of the Assembly Shareholders or Sole Shareholder can resolve. Further, the said law sets out clearly the principles that should guide the shareholders in their decision-making process. Such principles include, without being limited, the principle of loyalty meaning that when exercising their rights, the shareholders are to take into consideration the interests of the company and other partners, members, or shareholders, will not abuse the form of the company and will not treat the company as their personal wealth. Any powers exercised in breach of the above are challengeable and can be declared null and void, imposing personal liability to the shareholders for any caused damages.

C5. Employment

14 What are the core employment law protection rules in your country (e.g., discrimination, minimum wage, dismissal etc.)?

Right / Protection	Details
National Minimum Wage	The current national minimum wage in Albania is ALL 34 000 (approx. 297 EUR). The minimum wage will be increased to ALL 40 000 (approx. 349 EUR) starting from 1 April 2023 pursuant to the Decision of Council of Ministers no. 113 dated 01.03.2023 "On determining the minimum salary at the national level".
Holiday	Employees are entitled to at least 4 calendar weeks of paid yearly holiday, for each year of employment.
Working Hours	The normal length of working hours during the week is 40 hours. Employees may be asked to work additional hours; however, such additional hours may not be requested in the event the employee has already worked for 48 hours in a week, save for in certain statutory exceptions. Extra working hours are limited to 200 hours per year.
Rest Periods	Weekly rest periods must be at least 36 hours per week, whereby 24 of these hours need to be uninterrupted. This statutory rest period does not include Sundays.
Pension rights	Employers are legally obliged to register every employee with the tax authorities. As such, employers are legally obliged to make social security and health contributions payments for each of their employees, based on the latter's gross salaries. Employers may contribute to defined private pension plans of employees. Such private plans are entered into by the employee with a private pension plan managing entity by means of a contract.
Discrimination	Employees are protected by law against any kind of discrimination in the workplace, especially against discrimination on: <ul style="list-style-type: none"> • Race • Colour • Religion • Sex • Political opinion • National or Societal origin • Physical or mental disability • Family connections
Maternity Leave / Pay	Maternity leave can last up to 365 calendar days, including here a minimum period where pregnant woman cannot work of 35 days

	<p>prior to birth, and 63 days after birth. For woman carrying more than one child, the period will be extended to 390 days, including a 60-day period prior to birth, and 63 days after birth.</p> <p>Maternity pay is equal to 80% of the average net daily pay of the last 12 months from the date of birth, covering the prebirth phase until 150 days after birth. For the subsequent period, maternity leave is equal to 50% of the average net daily pay of the last 12 months from the day of birth.</p>
Paternity Leave	<p>The Albanian Labour Code provides for 3 days of paid leave to the husband/partner in the case of childbirth.</p> <p>Paternity leave is granted to fathers or adopters of children, who are included in the mandatory social security scheme, after the 63-day period from birth has elapsed, in the event that such leave cannot be exercised by the mother. The maximum period of leave is 10 months from childbirth.</p>
Shared Parental Leave	<p>There is no specific provision regarding shared parental leave, however, as mentioned above, parents can alternate between them the leave periods available after birth.</p>
Statutory sick pay	<p>In instances where the employee cannot work because of sickness, the employer must provide them with at least 80% of the wage for a period of 14 days, not covered however by mandatory social security contributions.</p> <p>Employees can also avail themselves of compensation in cases where they suffer, among other things, from a professional sickness, as defined by the applicable legal and sublegal acts.</p>
Statutory Notice Periods	<p>In the case of employment contracts of an undetermined length, each of the parties can terminate the employment with a 5-day notice period during the “probation period”; the first 3 months of employment are considered to be a “probation period”.</p> <p>After the probation period, the statutory notice period that parties need to adhere to are:</p> <ul style="list-style-type: none"> • 2 weeks for the first 6 months of employment • 1 month for the first year of employment • 2 months for two to five years of employment, and • 3 months for any period over five years of employment.
Unfair dismissal	<p>Termination of an employment contract by the employer is considered as unfair dismissal in the following instances:</p> <ul style="list-style-type: none"> • The employee has claims arising from the employment contract; • The employee has fulfilled a legal obligation; • Termination was done for reasons linked to the employee's personality and which does not have any legitimate connection with the work relationship;

	<ul style="list-style-type: none"> • Termination was done for reasons linked with the exercise by the employee of a constitutional right, which does not bring about the breach of obligations contained in the employment contract; • Termination was done for reasons connected to the membership of the employee in legally created syndicates, or the employee's partaking in legal organizations performed by syndicates; • Is in contradiction with provisions of article 144 of the Labour Code regarding the reasons for terminating an employment agreement (i.e., performance, behaviour of the employee, or the operational needs of the employer). <p>In instances of unfair dismissal, the employee can, within 180 days from the day the notification period ends, sue the employer in court. This period is extended in the event of new findings related to the case becoming known after the 180-day period. The extension is for 30 days from the day the new findings became known.</p> <p>Unfair dismissal is legally void. Hence, if proven, employers must compensate the employee with up to a year of salary.</p>
<p>Statutory Redundancy Payment</p>	<p>There is no mention of statutory redundancy payment in the Albanian Labour Code.</p> <p>However, it provides that the employee is entitled to a seniority bonus in cases when the employment contract is terminated by the employer and the employee had been employed for not less than three years. The seniority bonus is at least equal to 15 day's salary, for each full year of employment.</p>
<p>Statement of particulars</p>	<p>Written employment contracts must at least contain the following information:</p> <ul style="list-style-type: none"> • Identity of the parties • Place of employment • General description of the work to be performed • Date of start of employment • Employment term in instances of contracts of determined length • Duration of holidays • Notification periods • Comprising elements of the wage and date of payment • Normal weekly working hours • Probation period • Disciplinary measures • Reference to the collective contract, if any.

15

On what basis can an employee be dismissed in your country, what process must be followed and what are the associated costs? Does this differ for collective dismissals and if so, how?

Unfair Dismissal

An employee that has entered into an unlimited term employment contract and has successfully completed the probation period of 3 months, would be categorized as unfairly dismissed unless the following process is followed:

- the employer should deliver prior notification to the employee indicating its intention to terminate the employment contract and the reasons for such termination.
- no less than 72 hours after the delivery of the notice a meeting must take place in order to discuss the intention to terminate the employment contract.
- the employee must be notified no less than 48 hours after the meeting and no more than one week after such meeting of the decision to terminate the employment contract and the reasons for such termination such as:
 - performance,
 - behaviour of the employee, or
 - the operational needs of the employer.

If the employer fails to comply with such termination procedure, the employer is liable to pay to the employee a penalty equal to the salary of two months.

Upon completion of such process the statutory notice periods shall apply accordingly:

- 2 weeks for the first 6 months of employment,
- 1 month for the first year of employment,
- 2 months for two to five years of employment, and
- 3 months for any period over five years of employment.

As a conclusion of the above employment contract with unlimited term shall be considered terminated (dismissal completed) upon the completion of all above listed steps.

The other scenario that does not fall under unfair dismissal is the termination with immediate effect for reasonable cause, that as per the Albanian Labour Code would be any serious circumstances that do not allow for the continuation of employment. In such case the employee is not entitled to benefit from the seniority bonus.

Associated Costs

The costs of a dismissal will depend on the reason for the dismissal. Potential costs will include:

- Notice period salary (see above); and
- Seniority bonus (see above).

In case of failure to comply with the termination procedure as listed above the cost may consist of:

- two months' salary for failure to comply with the termination procedure
- notification period salary,
- up to one year's salary as compensation
- seniority bonus (after three years of employment)

Collective dismissals

Collective dismissal occurs in instances where termination of employment relationships is conducted by the employer due to reasons unrelated to the employees, when the number of dismissals within a 90-day period is at least 10 for an organization employing up to 100 employees; 15 dismissals for organizations employing from 100 to 200 employees; 20 dismissals for organization employing from 200 to 300 employees; and 30 dismissals for organizations employing more than 300 employees.

When planning to conduct collective dismissals, the employer must notify in writing the appropriate employees' representative organization. In lack thereof the employer notifies the employees by way of a noticeable publication in the workplace.

The employer must consult with appropriate representatives of affected employees, or in lack thereof, with employees themselves, in order achieve agreements and solutions for possible effects of collective dismissals. Such consultations must be made within 20 days of the notification day as per the above paragraph unless the employer is willing to accept a longer timeframe.

If an employer does not adhere to their statutory legal obligations in relation to collective dismissals, he is obliged to pay a compensation to the employee equal to 6 months of salary. Such compensation is added to the compensation to which employees are entitled to in the event statutory notice periods are not adhered to by the employer.

16

Does your jurisdiction have a system of employee representation / participation (e.g., works councils, co-determined supervisory boards, trade unions etc.)? Are there entities which are exempt from the corresponding regulations?

Albanian Labour Code provides the right of professional organizations and/or unions for both employers and employees. Their purpose is to represent and protect the economic, professional and social interests of their members. Such organizations or unions have the right to create and/or become members of federations and confederations. These organizations, federations and confederations earn their legal personality upon presentation to the Court of Tirana of their articles of association and internal bylaws.

In turn, these organizations, federations and confederations can, either separately or jointly, be involved in representation of employees, as well as negotiation and mediation talks, in the event of collective contract negotiation or collective dismissals as elaborated above.

C6. Anti-corruption / bribery / money laundering / supply chain

17

Is there a system governing anti-bribery or anti-corruption or similar? Does this system extend to nondomestic constellations, i.e., have extraterritorial reach?

The Criminal Code (law no. 7895 dated 27.01.1995 "Criminal Code of the Republic of Albania," as amended) is the primary legislation governing anti-bribery in Albania. It contains anti-bribery and anti-corruption provisions that are found in the special part of the Criminal Code, specifically Chapter III "Criminal acts related to property or in the economic area," which includes Section IV "Criminal acts in the commercial companies," and Chapter VIII "Crimes against the State Authority." Both active and passive bribery in the private and public sectors are classified as criminal offenses under the Criminal Code.

Additionally, the law no. 9917 dated 19.05.2008 "On prevention of money laundering and terrorism financing," as amended, aims to prevent money laundering and of products originating from criminal offenses, as well as the financing of terrorism. The responsible authority for the implementation of

such law is the Albanian General Directorate for the Prevention of Money Laundering. See below in question 19 for a general overview of the scope of the aforementioned legal act.

There is also specific legislation to protect whistleblowers in both the public and private sectors who report suspicious corrupt conduct or practices. The law no. 60 dated 02.06.2016 "On whistleblowing and whistle-blower protection," as amended, includes mechanisms for the protection of whistleblowers and the obligations of public authorities and private entities concerning whistleblowing. In addition, several laws and bylaws govern fraudulent conduct that may be relevant in the context of bribery or corruption.

Albanian law concerning bribery and corruption does not have extraterritorial application.

18

What, if any, are the laws relating to economic crime? If such laws exist, is there an obligation to report economic crimes to the relevant authorities?

See responses to question 17, above.

For legal entities the legislator has approved law no. 9754, dated 14.06.2007 "On criminal responsibility of legal entities" providing responsibility, criminal actions, and sanctions against entities involved in criminal activity.

In addition, in certain circumstances, there may be an obligation to report money laundering to the relevant Albanian General Directorate for the Prevention of Money Laundering. In general terms, the obligation applies to individuals and organisations operating in certain regulated sectors, such as banks, law firms, accountancy practices, etc.

19

How is money laundering and terrorist financing regulated in your jurisdiction?

Money laundering and terrorist financing are regulated by the law no. 9917 dated 19.05.2008 "On prevention of money laundering and terrorism financing," as amended. Broadly, the legislation: (i) requires obliged entities to undertake appropriate customer due diligence; (ii) requires obliged entities to establish an internal money laundering reporting function; (iii) criminalises the handling of or dealing in criminal property.

The law defines the obligation to report with the responsible authority, that is the General Directorate for the Prevention of Money Laundering, which reports directly to the Minister of Finances, and serves as Financial Intelligence Unit of Albania.

20

Are there rules regulating compliance in the supply chain (for example comparable to the UK Modern Slavery Act, the Dutch wet kinderarbeid, the French loi de vigilance)?

There are no specific rules similar to the UK Modern Slavery Act (etc.) in Albania.

The protection against compulsory labour is regulated under the Albanian Labour Code which is based on generally accepted norms of international law, and on the other hand Albania has ratified since 1996 the European Convention of Human Rights and abides the provisions of the same.

C7. Compliance

21

Please describe the requirements to prepare, audit, approve and disclose annual accounts / annual financial statements in your jurisdiction.

Pursuant to the Law on Entrepreneurs and Commercial Companies, entrepreneurs and commercial companies have the obligation of keeping accounting books, prepare and publish financial data and reports on the state of activity progress, including audit reports of accounting experts certified in accordance with the applicable law.

The law no. 25 dated 10.05.2018, "On accounting and financial statements" is the main piece of legislation governing the accounting and financial statements activity. This law is partially harmonised with the 2013/34/EU directive on annual financial statements, consolidated financial statements and related reports.

Classification of enterprises and groups for financial reporting purposes

This law introduces limits for the classification of enterprises and groups for financial reporting purposes. For the purpose of financial reporting, enterprises are classified among the following categories on the basis of certain indicators determined at the reporting date.

- Micro-enterprises
- Small enterprises
- Medium-sized enterprises
- Large enterprises

Applicable accounting standards

Public interest entities that meet certain criteria and the regulators of public interest entities (*e.g., the Bank of Albania and Financial Supervising Authority*) will apply International Financial Reporting Standards (IFRS). While all other enterprises will apply National Accounting Standards (NAS). Entities may also select the voluntary application of the IFRS.

Consolidated financial statements

The law introduces specific provisions in relation to the preparation of consolidated financial statements by groups of enterprises, which include the parent and its controlled entities.

Signature, approval, submission, and publication of the financial statements

At the end of each financial year, the company prepares annual statutory financial statements, which are to be signed by the legal representative of the entity and the person responsible for the preparation of the financial statements and approved by the decision-making body of the company (i.e., the General Assembly of Shareholders).

By the 31st of March of the subsequent financial year, entities must submit their statutory financial statements, the audit report on them (if required) and other documentation, as required by law, with the competent tax authority.

By the 31st of July of the subsequent financial year, entities must submit for publication to the relevant authority where they are registered (i.e., National Business Centre) annual financial statements, the audit report on them (if required), and other documentation as required by the law.

(Note: the financial year is compatible with the calendar year in Albania)

Medium, large, and public interest entities, as well as non-profit organizations having assets or income of over ALL 30 million are to publish annual financial statements and other documentation as required by law also on their official websites no later than 7 months from the reporting date.

Audit of financial statements

The law no. 10 091 dated 05.03.2009 “On the legal audit, the organization of the profession of the legal auditor and the certified accountant,” as amended, aims to improve and strengthen the public supervision of the legal auditor profession, as well as the regulation of the certified accountant profession, and provides the provisions that regulate the legal audit of annual, individual and consolidated financial statements, the organization of the profession of the legal auditor, of audit companies, of the approved accountant, as well as the regulation of professional organizations in the field of accounting.

22 Please detail any corporate / company secretarial annual compliance requirements?

Please refer to section 21 above regarding annual corporate requirements.

23 Is there a requirement for annual meetings of shareholders, or other stakeholders, to be held? If so, what matters need to be considered and approved at the annual shareholder meeting?

The general meeting of shareholders shall be convened at least once a year for the approval of financial statements.

24 Are there any reporting / notification / disclosure requirements on beneficial ownership/ultimate beneficial owners (“UBO”) of entities? If yes, please briefly describe these requirements.

Based on the law no. 112 dated 29.07.2020 “On beneficial owners registry,” as amended (“law on the Beneficial Owners Registry”), entities are obliged to identify and register the beneficial owner who is defined as any natural person(s) who ultimately owns or controls the entity and/or the natural person(s) on whose behalf a transaction or activity is being conducted. Further, each entity holding 25% and more shares directly or indirectly in the entity (Reporting Entity in Albania) should be scrutinized for identification of the UBO.

The registration of the Ultimate Beneficial Owner is to be made with the UBO register held by the National Business Centre.

Monetary fines and the suspension of any applications with the Commercial Register will apply to entities failing to perform the registration of their UBO.

The amendments approved in January 2022 aim to expand the category of obliged entities that must be registered with the UBO register, by extending the registration deadline, introducing the simultaneous registration of the UBO along with the establishment of the obliged entity, increased penalties in the case of a failure to comply with legal requirements.

C8. Tax

25

What main taxes are businesses subject to in your jurisdiction, and on what are they levied (usually profits), and at what rate?

Corporate Income Taxation ("Profit Tax") is the main tax that businesses in Albania are subjected to. Profit Tax is levied on all resident legal entities, and on any other person regardless of its legal form, if its annual turnover exceeds ALL 8 million (approximately 69.933 EUR). Resident companies are subject to profit tax on their worldwide income, while non-resident companies are subject to profit tax only on the income generated in Albania. For Albanian tax law purposes, the taxable profit is determined based on the accounting result adjusted by non-deductible expenses and non-taxable revenue.

The Profit Tax rate varies from 0% to taxpayers whose total annual income does not exceed ALL 14 million (approximately 122.383 EUR), to 15% to taxpayers whose total annual income is above this threshold. Certain taxpayers are subjected to a 5% Profit Tax rate, as will be elaborated further. For entities registered for simplified corporate income tax purposes (usually those with annual turnover not exceeding or expected to exceed ALL 8 million), the rate is 0% where their annual turnover does not exceed ALL 8 million.

Capital gains from the sale of a company's non-current business assets are taxed as part of the company's ordinary business income at a rate of 15%. Taxation of capital gains is also extended to the indirect alienation of shares if such shares derive at least 50% of their value from immovable property situated in Albania; or in cases where there is an indirect transfer of an asset by means of a deemed disposal method if certain statutory conditions are fulfilled.

Losses may be carried forward for three consecutive years unless there is a direct or indirect change in ownership of 50% or more of the company's shares or voting rights. The carry back of losses is not permitted.

Albania also levies a tax on profits derived from petroleum activities. Such qualified activities are taxed at a rate of 50% according to the provisions of the industry-specific Law on Petroleum Fiscal Regime (law no. 153 dated 17.12.2020 "On the fiscal regime in petroleum sector").

Depending on the specific instance, businesses may also be subjected to real estate taxes when engaged in immovable property transfers, to periodical property taxes which are calculated depending on the size, use and location of the property, and to custom and excise duties.

26

Are there any particular incentive regimes that make your jurisdiction attractive to businesses from a tax perspective (e.g., tax holidays, incentive regimes, employee schemes, or other?)

Taxpayers making use of a technological industrial development zone (regulated by a specific law) are subjected to 50% reduced profit tax for a period of 5 years from the day of the commencement of its activities in such a zone. Furthermore, tax deductions of 20% of a company's annual capital expenses, in addition to the standard depreciation, is allowed for a period of 2 years from the day of commencement of its activities in such a zone.

Additionally, accommodation facilities falling under the category of "four and five-star hotels with special status" are exempt from profit tax for a period of 10 years from the day of the

commencement of their activity. The incentive is available to accommodation facilities that obtain “four and five-star hotels with special status” before 31 December 2024. On the other hand, facilities qualified as “certified agrotourism subject” before 31 December 2021, are entitled to a reduced corporate income tax rate of 5% for a period of 10 years.

Furthermore, a reduced profit tax rate of 5% applies to companies producing or developing software. The same reduced tax rate of 5% is also applied to taxpayers engaged in the automotive industry.

Finally, a tax rate of 5% is applied to all taxpayers who conduct their economic activities pursuant to the law no. 38 dated 05.04.2012 “On agricultural cooperation companies”.

Taxpayers investing more than ALL 1 billion in qualifying business projects may carry forward losses for five consecutive years.

Other incentives include a participation exemption whereby domestic and foreign-source dividends and profit shares of partnerships received by resident entities are tax-exempt income.

Depreciation is also available to owners of assets. The straight-line method of depreciation is used only for intangible assets, while tangible assets are divided in three major groups where the declining balance method is used for buildings at a rate of 5%, computer software at a rate of 25%, and all other assets at a rate of 20%.

Other incentives are provided by means of deductions, especially in relation to expenses incurred in relation to participation in fairs and expositions abroad, or in relation to expenses incurred from sponsoring activities, with greater deduction possibilities granted specially to sponsoring related to press publishers and for artistic, cultural and sporting events. Certain qualified taxpayers sponsoring recognized sports teams are entitled to deduct an amount equal to three times the amount sponsored.

27

Are there any impediments / tax charges that typically apply to the inflow or outflow of capital to and from your jurisdiction (e.g., withholding taxes, exchange controls, capital controls, etc.)?

Dividend income and profit distributed by resident companies or partnerships are excluded from the taxable profits of the recipient if the payer is subject to corporate income tax in Albania, regardless of the extent of the recipient's participation. On the other hand, dividends and profit shares of partnerships paid to non-resident companies are subject to a final withholding tax on the gross amount at the rate of 8%, unless otherwise provided for by a tax treaty.

Similarly, internal payments of interest are exempt from withholding taxes, whereas interest paid to non-resident companies is subject to a final withholding tax on the gross amount at the rate of 15%, unless otherwise provided for by a tax treaty.

Once again, similar to interest payments, internal royalty payments are exempt from withholding taxes, whereas royalties paid to non-resident companies are subject to a final withholding tax on the gross amount at the rate of 15%, unless otherwise provided for by a tax treaty.

Finally, withholding taxes of 15% are levied on the gross amount of:

- technical service fees, management fees, insurance fees and payments for financial services;
- payments for construction, installation, assembly, or related supervisory work;
- rental payments; and
- payment for the performance of entertainment activities.

- However, withholding tax does not apply if payments are made to a tax-registered entity in Albania.

Double taxation relief may be granted under a tax treaty. Albania allows a tax credit if supporting documents, as required by the Ministry of Finance, are submitted to the General Tax Directorate and approval is obtained from the directorate.

28 **Are there any significant transfer taxes, stamp duties, etc. to be taken into consideration?**

There are no stamp duties or transfer taxes in relation to transfer of securities in Albania.

The main significant transfer tax is the immovable property transfer tax. Such tax is levied upon the transfer of immovable property located in Albania, by either a foreign or Albanian tax-registered person.

Taxable transfers include the sale and donation of immovable property. In the case of sale, the taxable base is the gross proceeds realized; in the case of a donation, it is the value of the property as assessed by the immovable property registration office. No deductions are allowed.

The seller and the donor are the persons liable for paying the tax. The tax is calculated as a fixed amount per m2 for buildings (ALL 1,000 for residential buildings; ALL 2,000 for commercial buildings in Tirana and Durrës; ALL 1,500 for other buildings; less for other cities) and as a percentage (2%) of the taxable base for other immovable property.

C9. M&A

29 **Are there any public takeover rules?**

The law no. 10236 dated 18.02.2010 "On the takeover of public companies" ("law on the Takeover of Public Companies") determines merger control rules relating to the conditions and procedures for the takeover of at least 30% of shares in Albanian or foreign public companies seated in Albania and that are listed at the Albanian stock exchange. Since there is no operational stock exchange in Albania, the said law remains unimplementable in practice.

30 **Is there a merger control regime and is it mandatory / how does it broadly work?**

The legal basis for regulating merger controls in Albania is found mainly in law no. 9121 dated 28.07.2003 "On the protection of competition," as amended ("law on the Protection of Competition"). Enforcement of the Albanian merger control regime is overseen by the Albanian Competition Authority (with the Competition Commission as its decision-making body).

The notification of a merger to the Authority is mandatory if, in the financial year preceding the concentration:

- the aggregate worldwide turnover of all the participating undertakings exceeds ALL 7 billion (approximately EUR 61 million), and the individual turnover in Albania of at least one of the participating undertakings exceeds ALL 200 million (approximately EUR 1.7 million); or:
- the aggregate turnover in Albania of all the participating undertakings exceeds ALL 400 million (approximately EUR 3.4 million), and the individual turnover of at least one of the participating undertakings in the domestic market is over ALL 200 million (approximately EUR 1.7 million).

31 Is there an obligation to negotiate in good faith?

Negotiation in good faith is a basic principle enshrined in the Civil Code of the Republic of Albania, that is the main law regulating contractual relationships and behaviour.

32 What protections do employees benefit from when their employer is being acquired, for example, are there employee and/or employee representatives' information and consultation or co-determination obligations, and what process must be followed? Do these obligations differ depending on whether an asset or share deal is undertaken?

In the event of transferring an enterprise or part of it, all rights and obligations, powers and liabilities under the employee's employment contract are transferred to the transferee. Liabilities arising before the transfer, such as unpaid salaries, are excluded from the applicability of the general rule; such liabilities remain with the transferor (i.e., the (old) employer).

Article 139 of the Labour Code foresees an information and consultation procedure in the event of the transfer of an enterprise. The transferor and the transferee are obliged to inform the trade union in the capacity of the representative of employees, or, in the absence of a trade union, the employees are informed of and explained the reason for the transfer, its legal, economic, and social effects that the transfer will have on the employees, and the measures to be undertaken in this regard and engage in consultations regarding the necessary measures to be taken at least 30 days prior to the completion of the transfer.

Should the employer terminate the contract without following the above procedures of information and consultation, each employee is entitled to compensation equal to 6 months of salary in addition to the salary they would have received during the prior notice period.

An employee cannot be dismissed because of a business sale, unless the dismissals are due to economic, technical, or organisational reasons that impose changes to the organisational structure of the company.

C10. Foreign direct investment

33 Please detail any foreign direct investment restrictions, controls or requirements? For example, please detail any limitations, notifications and / or approvals required for corporate acquisitions.

Regulation of foreign direct investment in Albania is primarily achieved by the application of law no. 7764 dated 02.11.1993 "On foreign investments," as amended ("law on Foreign Investments"), and the law no.55 dated 28.05.2015 "On strategic investments in the Republic of Albania," as amended ("law on Strategic Investments").

The law on Foreign Investments offers to foreign investors in Albania full legal protection regarding their investment. Private investment cannot be nationalized, expropriated, or subject to any similar measure, except in special cases provided by law such as public interest. Parties to a dispute may agree to submit claims for consideration by an arbitration institution. Foreign investors have the right also to submit disputes to an Albanian court. Other incentives offered to foreign investors are equal treatment to domestic investors, the possibility of repatriation of profit/dividends after taxation, and repatriation of funds from liquidated companies. Furthermore, the Republic of Albania has entered

into bilateral agreements for the promotion and protection of reciprocal investments with several countries.

On the other side, the law on Strategic Investments has defined certain economic sectors as strategic:

- Energy and mining.
- Transport, electronic communications infrastructure and urban waste.
- Tourism (tourist structures).
- Agriculture (large agricultural farms) and fisheries.
- Economic zones.
- Development priority areas.

The main requirements relating investment which fall under the scope of the abovementioned law are primarily monetary and size of workforce engaged in the project or investment, with predefined thresholds which such investment need to fulfil in order to be subjected to, and therefore receive the protection afforded by, the law on Strategic Investments.

Additionally, the abovementioned law warrants for certain securities and restrictions which the strategic investor ought to comply by or present to the authorities, in order to be eligible to receive such status by the law, such as provision of financial data showcasing their ability to uphold their financial commitments in light of the strategic investment, or provision of adequate proof regarding their clean judicial status.

While there are no restrictions as to the objective scope of the law, as far as monetary and other thresholds dictated by applicable sublegal acts are fulfilled, an administrative application procedure must be completed by each investor wishing to obtain such a status.

Such a procedure includes, but is not limited to, the presentation of business and financial plans, social and economic impact studies, detailed lists of requirements that investors expect from the state, proof of financial means etc. Such application procedure, and the conditions contained therein, are the main control mechanisms applied by the competent Authorities in dealing with and assessing the viability and legitimacy of purported foreign direct investment. Consequently, notification requirements are thus not related to the nature of the strategic investment, but rather to the completion of the above-mentioned application procedure.

34

Does your jurisdiction have any exchange control requirements?

There are no such requirements under Albanian law currently.

D. Entity closure

35

What are the most common ways to wind up / liquidate / dissolve an entity in your jurisdiction? Please provide a brief explanation of the process.

The most common method to dissolve an entity is via a voluntary liquidation procedure and involves the appointment of a liquidator.

The liquidation of an entity in Albania is regulated mainly by the law on Entrepreneurs and Commercial Companies and the law no. 9920 dated 19.05.2008 "On tax procedures in the Republic of Albania," as amended.

The deregistration process from the Albanian Commercial Register is subject to two-phases procedures:

First Phase

In order to initiate the liquidation procedures, the enterprise is to adopt a resolution on opening of the liquidation process and appointment of a liquidator for carrying out the liquidation process. This resolution should be registered with the Commercial Registry, held by the National Business Center.

Once appointed, the liquidator is to step in, in lieu of the legal representative of the enterprise and will bear, from then on, all the powers of the latter. The liquidator will, inter alia, manage the assets of the enterprise and settle the claims of the relevant creditors thereof, by serving formal notice to the latter, twice, in a period of 30 days in between them.

Second phase

Following the settlement of the relevant obligations of the enterprise, the liquidator will prepare the financial statements of the opening and closing date of the liquidation process, which will be approved through a second and final resolution of the Company, by way of which the liquidator himself will also be removed from office and the enterprise dissolved.

For deregistration purposes, this resolution should be filed with the National Business Center, along with other documents required by the law.

Generally, the liquidation process triggers a tax audit, which is to be performed prior to the deregistration of the enterprise from the tax authorities and may take up to 30 days.

Contacts



Sabina Lalaj
Partner

slalaj@deloittece.com

+355 44517927



Ened Topi
Senior Manager

etopi@deloittece.com

+355 44517906



Erlind Kodhelaj
Senior Manager

ekodhelaj@deloittece.com

+355 44517939

Deloitte.

Legal

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte Legal means the legal practices of DTTL member firms, their affiliates or their related entities that provide legal services. The exact nature of these relationships and provision of legal services differs by jurisdiction, to allow compliance with local laws and professional regulations. Each Deloitte Legal practice is legally separate and independent, and cannot obligate any other Deloitte Legal practice. Each Deloitte Legal practice is liable only for its own acts and omissions, and not those of other Deloitte Legal practices. For legal, regulatory and other reasons, not all member firms, their affiliates or their related entities provide legal services or are associated with Deloitte Legal practices.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.