

The Investment Council

- a catalyst for the open and constructive business -
government debate

The Investment Council (IC), as a structure established to facilitate the dialogue between the business and the government, has already entered its second year of activity. Leaving behind a busy period of intensive meetings, analyses and discussions with the businesses and experts of the respective fields, the IC has closed the calendar year 2016 with a positive balance. IC conducted 5 meetings, in line with its agenda, as approved in advance by its members.

During 2016, the Investment Council has discussed the following issues:

1. *Improvement of the Mechanisms for Dispute Resolution between the Business and the Public Administration*
2. *Incentives for the Promotion of Investments: Albania as compared to the other countries of Western Balkans*
3. *Formalisation of Agriculture: The Well-Functioning of VAT Compensation Scheme and Promotion of Investments*
4. *Preliminary findings of a study, funded by EBRD on the agroindustry sector*
5. *On VAT Refund*

A total of 42 recommendations were approved in 2016, which addressed the need for legal amendments, enhancement of transparency and public consultation and the need to improve communication between the business and the public administration.

During this year, IC paid special attention to the monitoring and the status of accomplishment of the 17 recommendations approved during 2015 regarding tax audit and informality issues. 12 out of 37 facilitation measures undertaken with regard to tax procedures, reflect the IC recommendations, with the most important being:

1. Reorganisation of the Tax Appeal
2. Reorganisation of the Taxpayers' Advocate Office
3. Tax precedent and commentaries
4. Informative bulletins and prior notice of tax audit



"Communication with the business through platforms such as the Investment Council has enabled businesses to report on their situation and their real concerns. This communication with the businesses resulted in the improvement of circa 37 tax procedures."

Minister Milva Ekonomi



Fast resolution of disputes between the business and administration within the administrative appeals units

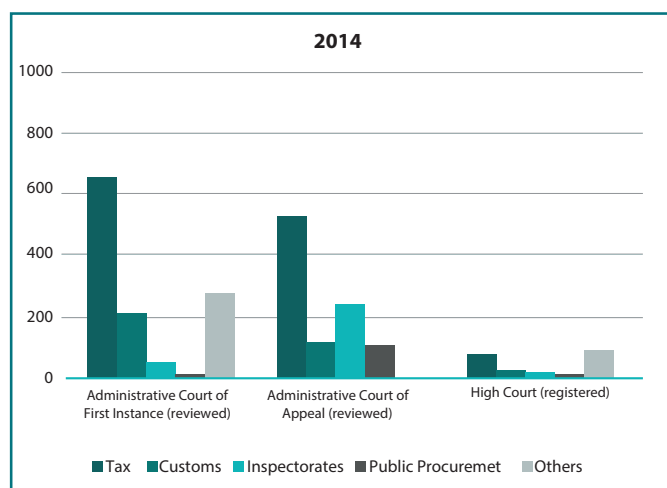
Disputes between the public institutions and the business are deemed as very concerning, since they bear significant costs for parties and at the same time arise insecurity and distrust in the economic activity development of both domestic and foreign businesses.

What is the profile of the most frequent disputes between the business and the administration?
Is it effectively guaranteed to the business the right of appeal to the public administration appeal structures?

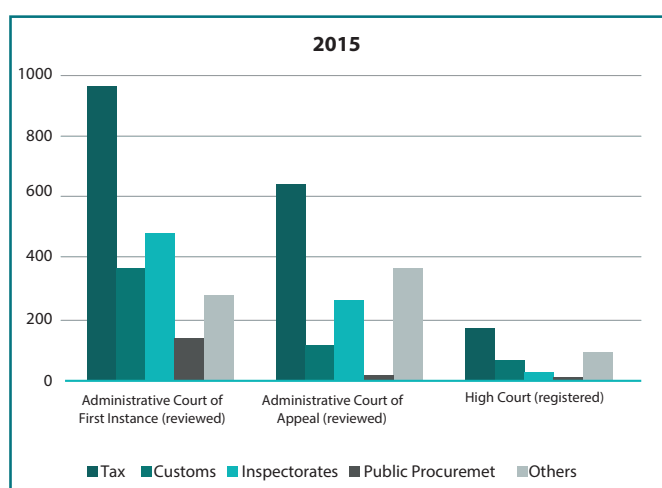
These and other issues were discussed in the IC meeting of 2 March 2016.

The Secretariat identified the institutions with the most frequent disputes with the businesses on the basis of data obtained from the administrative courts for 2014 and 2015. Hence, institutions such as the tax administration, the customs, the inspectorates whose decisions have a considerable financial impact on the businesses, appear to have the highest number of lawsuits filed by the business, as registered in the Administrative Courts of all instances during 2014 and 2015.

GRAPH 1,2 - INSTITUTIONS SUED BY BUSINESSES IN ADMINISTRATIVE COURTS



Source: Ministry of Justice and Administrative Court of Tirana and Appeal

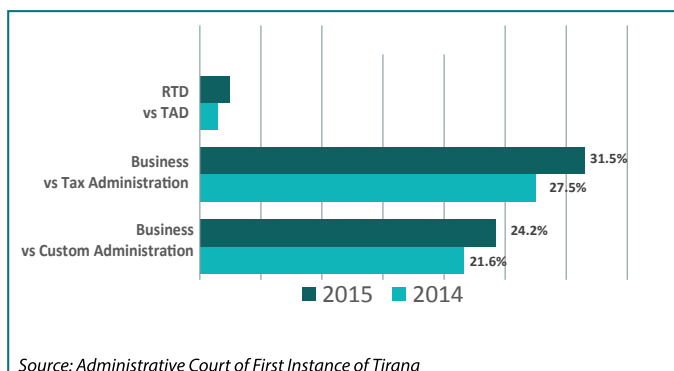


Source: Ministry of Justice and Administrative Court of Tirana and Appeal

Findings:

- over 75% of the total number of registered administrative appeals filed by the business, are related to the tax administration, the customs, inspections and public procurement.
- the conditions as regards the prepayment of tax and customs liabilities before the appeal are considered by the business as limitation to the effective exercise of the right to appeal to the administrative body.
- the administrative appeal to the appeal structures was seen by the businesses as an ineffective, doubtful process and more as a precondition or mandatory preliminary phase to be fulfilled so that they can later address the administrative courts.
- the appeal structures, especially at the General Directorate of Customs and the Inspectorates do not operate independently, lack capacities and consolidated practices and are not unified in the treatment of cases with the business.

GRAPH 3 - COURT'S DECISIONS FOR ACCEPTING LAWSUITS IN FAVOUR OF THE BUSINESS



Source: Administrative Court of First Instance of Tirana

Is appeal within the administration worthwhile?

Recommendations

1. Facilitate Access for Businesses to the appeals procedures
2. Establish independent appeal structures
3. Establish an independent collegial body for appeals in the tax and customs administration
4. Strengthen the appeal structures capacities
5. Publish the appeal procedures
6. The administration to establish unified practices

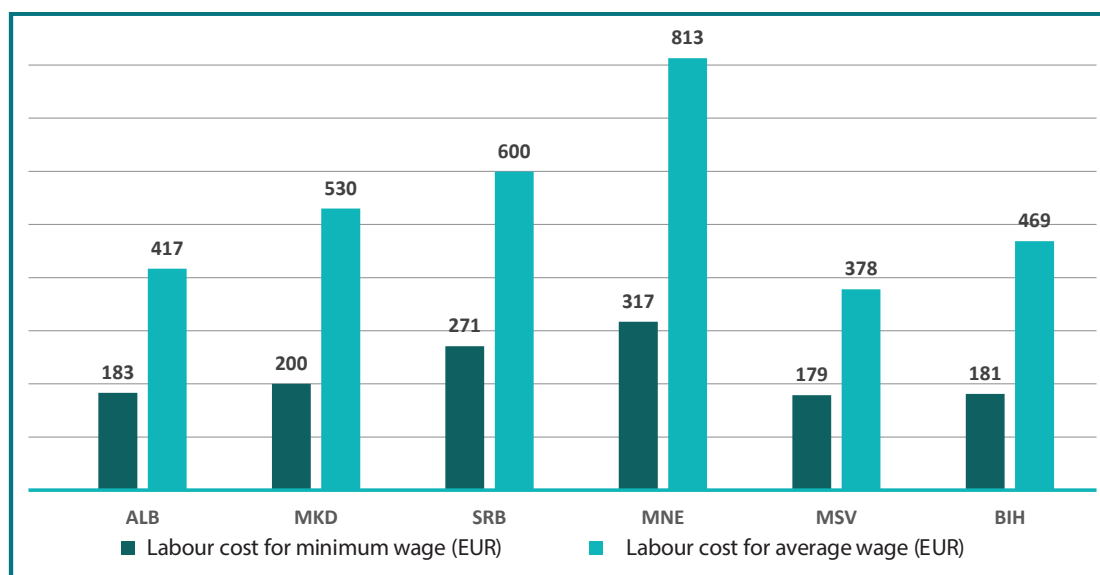
Attracting Foreign Direct Investments (FDIs), Albania as compared to the other countries of Western Balkans

Among the highest foreign investment flows in the last five years, but still far from green field projects, or their diversification in different sectors of the economy.

“Albania provides great opportunities for attracting foreign investment as compared to neighbouring countries, due to its geographical position, the level of competitive social costs, as well as hydro and natural resources. Meanwhile, the news lies with the role of AIDA, further clarified with the Strategic Investment Law, which makes our country more competitive in comparison with the countries in the region”.

Mrs Milva Ekonomi
Minister of Economic Development,
Tourism, Trade and Entrepreneurship

GRAPH 4 - COMPARATIVE OVERVIEW ON LABOUR COST IN THE REGION



Source: Respective statistical offices. Graph elaborated by the Secretariat.

The Western Balkans region is an attraction to foreign investors due to the advantages it bears both in the political context and in the context of macroeconomic stability, fiscal burden, geographical position, law labour costs. Albania appears to be among the countries with the highest foreign investment flow in the region in the last six years, both as regards the value index, being ranked below Serbia, and in terms of GDP, being ranked below Montenegro (8.7% of GDP for 2015).

The country has adopted a liberal legislation in the field of investment, in order to enable the increase of foreign direct investment. The legislation in force does not discriminate foreign investors, while tax policies do not distinguish between domestic and foreign investment by treating investors under equal terms. However,

the fiscal instability in the country during the recent years and especially the scepticism about the manner how the public administration in general and the tax administration in particular implement the legislation, may hinder the application of incentives in practice. The businesses consider as encouraging the Government's commitment to not amend the tax legislation package, but also the further simplification of tax procedures.

Concerns

As compared to the other regional countries, Albania is suggested to prepare final promotional products for investment in priority and competitive sectors, publish the inventory of incentives offered in all sectors, to provide potential investors with feasibility studies at sectorial level, a full list of state assets free from

ownership issues, etc. Furthermore, IC provided some specific recommendations such as the loss carry-forward period (currently 3 years) may be extended to over 5 years, the rate of profit taxation for re-investment is to be discussed, the creation of skilled and certified workforce for specific technological processes, etc.

“It is true that Albania is seen as an attractive country, but it should impose some fundamental conditions. The Justice Reform should be carried out, so that there are no barriers to attracting investments,” said

Mr Yngve Engstroem,
EU Delegation to Albania

“Albania can attract labour intensive industries such as the automotive industry and make use of the low labour cost, the geographical position, etc. There are investors in the automotive industry with “intensive work” interested to invest and the Government has shown a greater interest than expected,” emphasised, inter alia,

Mr Christoph Denk,
Head of EBRD Office in Albania

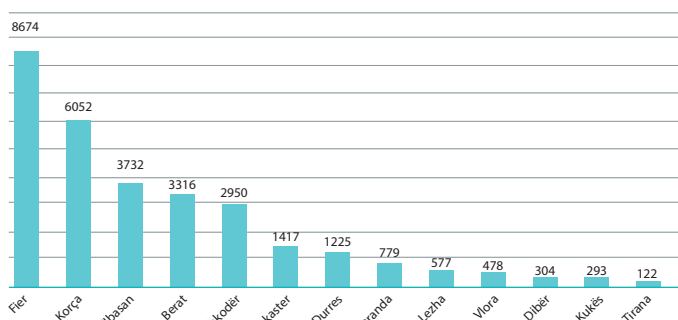
FORMALISATION OF AGRICULTURE

- a difficult but indispensable challenge

Agriculture constitutes one of the main sectors of the Albanian economy, contributing during 1996-2014 to about 25% of the GDP and employing about half of the workforce, but it is at the same time one of the most informal sectors. The Investment Council discussed in Meeting VI the issues concerning the agricultural sector with the focus on the formalization process and the possibilities to further develop this sector, as a very important branch for the country's economy. Specifically, the issues of VAT compensation scheme for farmers and the support provided to promote investment in the sector were addressed.

Recognition for purposes of VAT compensation of agricultural products by 20%, from 6% that it previously was for agricultural producers and collectors, is considered an important measure for promoting the sector, maintaining the uniformity in the VAT application. Meanwhile, there is a significant increase in the number of farmers registered with a "Taxpayer's Identification Number for Farmers" at tax office, even though for many farmers the procedure is viewed with scepticism and perceived as complex.

GRAPH 5 - FARMERS REGISTERED WITH TIN, 2014-2016



Source: General Tax Directorate

According to the majority of collectors and processors, the scheme is functional in practice, however, the farmers claim to sell their products at the same price as before the implementation of this scheme. There is concern about the low limit of cash transactions up to ALL 30,000 due to the difficulties of farmers in rural areas to access the banking service. The Investment Council suggests to conduct a pilot assessment of the performance of the VAT compensation scheme and the potential impact on the formalization of farmers in an area of intense agricultural activity.

The subsidy schemes fund in agriculture, although with a growing trend in recent years (by 50% in 2015 and 7% in 2016), still remains very low (approx. 15 million EUR) as compared to the needs but also for the countries of the Western Balkans (Macedonia 150 million Euro, Kosovo 60 million Euro) making the Albanian agriculture less competitive in the region. Provision of information and awareness raising of farmers on the VAT registration but also the benefits of formalization

still remain insufficient. Regional agriculture departments have limited capacities to respond to the needs of farmers, the timely provision of information and inter-institutional cooperation with the regional tax directorates.

The establishment of an help desk and specific assistance for the agriculture sector is recommended, which shall enable the provision of fiscal assistance and financial education.



Mr Nikolin Jaka, Chairman of Tirana Chamber of Commerce and Industry said that the current VAT compensation scheme is a local and fragmented initiative, which does not provide neither standard/quality nor food safety. He proposed that the scheme should be extended to the whole production chain, since for example structured farms, which have to abide to the standard and quality requirements, have a high cost while the VAT is not being reimbursed. *"For this reason, to promote investment in agriculture and livestock, we should provide to these investments, VAT refund or reimbursement in production. So agro-processors should receive the product with reimbursed VAT, enabling thus fair competition,"* said Mr. Jaka.

Fragmentation of agricultural land, building permits in agroindustry, quality control of agricultural inputs, monitoring of markets and inputs, information, accountability and competence in the context of local government reform still remain open issues related to

Consultation with farmers



Photo 1. Meeting with farmers in Samatic



Photo 2. Meeting with farmers and stakeholders in Saranda

Agriculture, investments still at low levels

The development of agriculture and agroindustry is one of the government priorities due to the importance of this branch in the employment and the overall economy. However, the sector has suffered a lack of funding and difficulties in generating feasible and profitable projects. In the IC Meeting VII, a summary of the preliminary findings of the analysis on the Agroindustry Sector was presented ¹.



The aim of the study was to identify the barriers and gaps in the agricultural sector in the context of the value chain of the main sub-sectors (meat, milk, fruit, vegetables, olives and medicinal plants) that will lead to sustainable investment, growth and competitiveness of Albanian products, but also to suggest opportunities for investment and financing through mechanisms that will also be provided by the EBRD, EU IPA funds, and other public and private institutions.

Mr Matteo Colangeli, Head of EBRD Resident Office in Tirana, said that EBRD is investing in the agricultural sector through a large Financial Instrument that is being developed with the Government, in cooperation with six financial institutions in Albania. *"EBRD will also assist the participating financial institution in developing tailor-made products for this industry which has historically suffered limited access to credit, and afterwards to market these successfully to farmers and agricultural companies in the country."*

With reference to the preliminary findings of the study, agroindustry in general in the country, despite continuous efforts is not yet a consolidated sector. The primary agricultural or livestock production still does

not offer the required quality and safety standards to be regarded as competitive, and no sufficient quantities for the foreign market requirements are guaranteed. Despite the positive examples, there are difficulties in reaching agreements between producers and processors. This mainly relates to the non-existence of associations of processors and producers to develop framework agreements between the operators.

"The Government continues to be committed, but the sector should have clear ideas in submitting to the fiscal institutions, feasible and tailored requests that will have a real impact on the ground. Increase of VAT compensation rate from 6% to 20% was a bold step and highly controversial, which faced difficulties in practice," said **Mr Ervin Mete, Deputy Minister of Finance**.

In addition, there is a need for an efficient information system of the market, as there are still issues with the orientation of the market, e.g. there is no updated information on what are the potentials, opportunities, prices and competitors. Furthermore, there is a need for a more qualitative, focused and independent technical assistance for operators in the sector.

Minister of Agriculture, Mr Edmond Panariti present in the Meeting pointed out, *that challenges for the Albanian agriculture sector and relevant institutions are closely related to the standards of quality and traceability of products, with a view to making the products competitive in European markets. A model that should be promoted to investors is agro-tourism that can be more profitable and competitive than the economies of scale in farming, where original Albanian brands can be created and can be further expanded, such as with the olive oil."*

"The fight against informality (as a political action) and the review of laws that guarantee food safety, which should be aligned with those of the EU, allowing competitiveness in international markets, are preconditions for the growth and competitiveness of processing industries of agricultural or livestock products industries," said

Mr Luan Leka, Administrator of the company EHW.

¹ Funded by the European Bank for Reconstruction and Development (EBRD). The study constitutes one of the components of the EBRD's Albania Agribusiness Support Facility aimed at promoting and providing opportunities for access to finance for the Albanian agribusinesses.

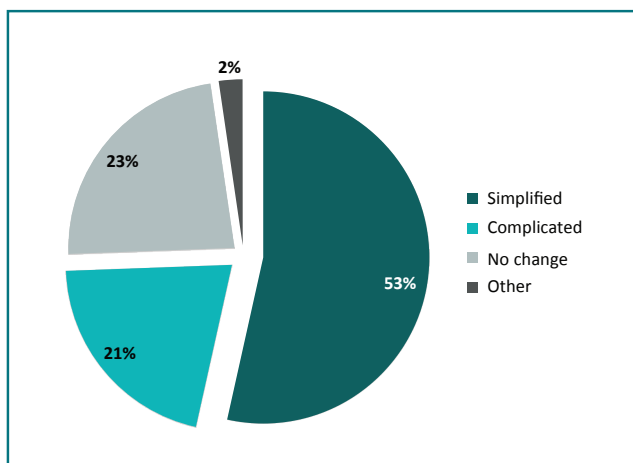
VAT refund has been simplified, but compliance with the deadlines remains a challenge

Untimely and delayed VAT refunds, as well as bureaucratic procedures, have been a source of tension between the tax authorities and businesses until 2013. According to businesses, timely VAT refund has a direct impact on their activities, because it leads further to enough liquidity for daily operations and reduced investment cost. In this context, the Albanian Government undertook a number of legal and institutional changes during 2014-2016 in order to address the concerns continuously raised by businesses.

All of these were the object of the analysis On VAT Refund during the period 2015-2016 discussed in the Investment Council on 23 November 2016. The findings and recommendations were based on the analysis of legal amendments, on the results of the online Survey filled in by 77 businesses, and the analytical data made available by the GTD.

54% of respondents confirm that the VAT refund application procedures have been simplified, whereas 72% of those who admitted to have filed for VAT refund, confirm that the application has been approved and that they have received the VAT refund.

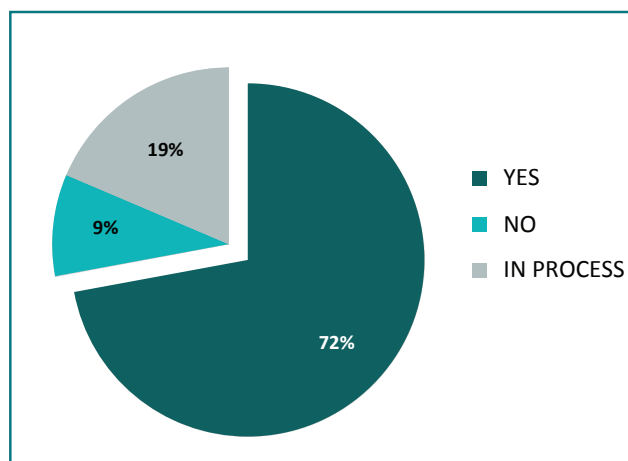
GRAPH 6 - APPLICATION PROCEDURE FOR VAT REFUND



Source: Secretariat's Survey 'On VAT Refund' (September – November 2016)

54% confirm that it is simplified;
23% say the procedure has not changed;
21% think that the format on the system has become complicated, regarding required documentation to be submitted by the taxpayer.

GRAPH 7- 72% OF THOSE WHO ADMITTED TO HAVE FILED FOR VAT REFUND, CONFIRM THAT THE APPLICATION HAS BEEN APPROVED AND THAT THEY HAVE RECEIVED THE VAT REFUND



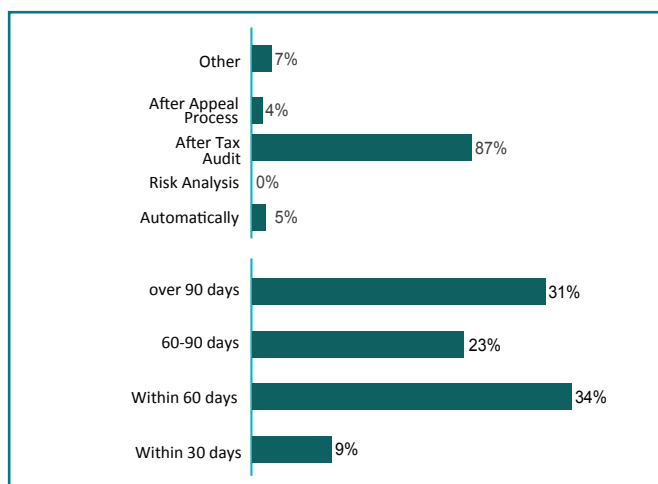
Source: Secretariat's Survey 'On VAT Refund' (September – November 2016)

Survey:

According to the Secretariat analysis of the survey, as well as the direct meetings with the businesses, the Chamber of Commerce and Industry and the field experts, appeared that:

It is noted an improved accountability towards refund (2015-2016), however meeting VAT refund deadlines remains a challenge for the administration. There is improved accountability of the administration in carrying out VAT refund in compliance with legal deadlines. Regardless of this, answers to the Survey indicate that in a considerable number of cases refund has been executed after the expiration of 30 and 60 days.

GRAPH 8 – WHEN DID VAT REFUND OCCUR ?



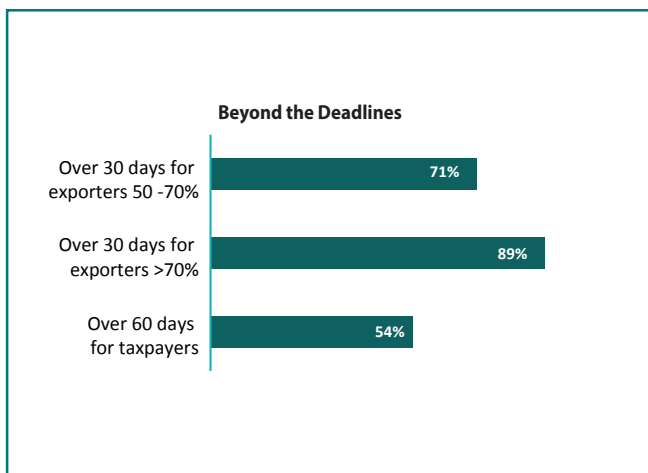
Source: Secretariat's Survey 'On VAT Refund' (September – November 2016)

The GTD confirms that during 2016 only 13 requests have been approved within 30 days and 174 within 60 days, and that in many cases delays result from the actual lack of administration's ability to conduct the audit, to prepare the report within 30 or 60 days, especially where the audit is carried out to taxpayers whose transactions are very **complex**.

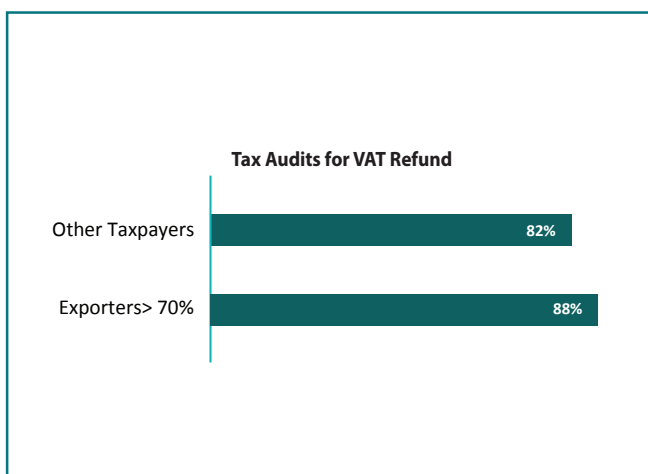
The tax administration almost always carries out a tax audit for purposes of VAT refund

Only a very small number of businesses, mainly from the cut-and-trim industry, have benefited from the automatic VAT refund, i.e. within 30 days and without undergoing tax audits. GTD data also point at a very low number of automatic refund cases, to be specific, 5 cases for 2015 and 11 cases for 2016. Some businesses are reluctant to apply for VAT refund even in cases where they have enough recoverable VAT to be refunded.

GRAPH 9: BEYOND THE DEADLINES

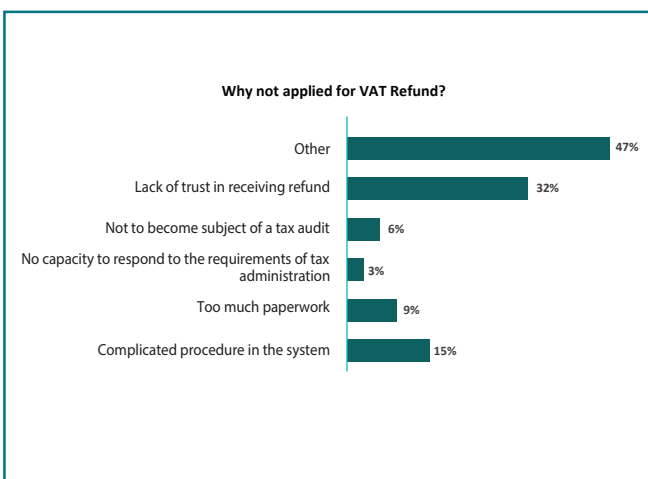


GRAPH 10: TAX AUDITS FOR VAT REFUND



The reasons for this are listed below:

GRAPH 11 - REASONS FOR NOT APPLYING FOR VAT REFUND

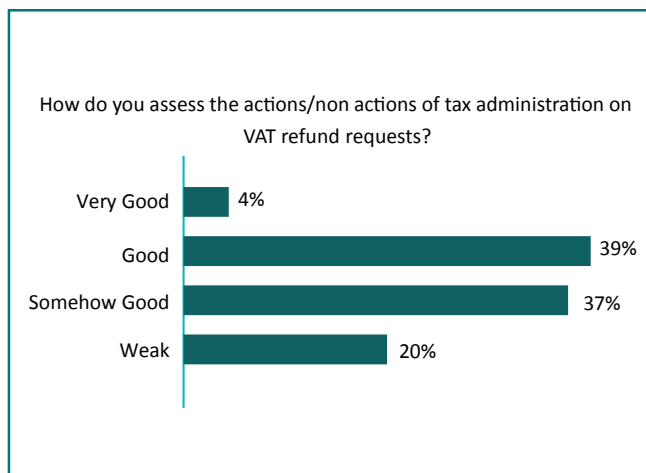


Source: Secretariat's Survey 'On VAT Refund' (September – November 2016)

There is a general improvement of the business opinion about the behaviour of the tax administration not only in terms of VAT refund.

Therefore, according to the Survey data, the work of tax administration regarding the requests for refund has been rated as "somewhat good" by 40% of the respondents and as "good" by 31% of respondents.

GRAPH 12: ASSESSMENT ABOUT TAX ADMINISTRATION



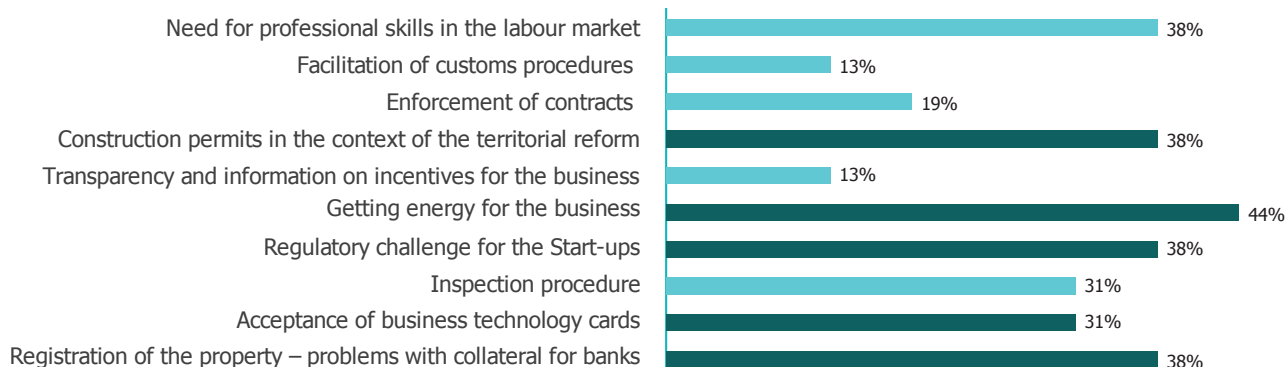
Source: Secretariat's Survey 'On VAT Refund' (September – November 2016)

RECOMMENDATIONS:

1. Budget plans should not condition the tax administration's decision-making on delays in the refund of recoverable VAT.
2. Ease the procedural burden for the tax administration and businesses;
3. Transparency over internal procedures in addressing VAT refund cases;
4. Structuring of the information provided to the business by GTD, through an interactive website, aiming at providing fiscal education of taxpayers and increased transparency.
5. The reform launched in 2015, should be further structured, efforts towards the enforcement of anti-informality measures should be improved;
6. Businesses/Associations need to further strengthen "their capacities" in terms of receiving timely and accurate information regarding any changes that affect the environment they operate in.
7. Integration and consolidation of government agencies in the e-Albania Portal;
8. Constant periodic trainings for the tax administration, specific also for VAT refund.

In the last Meeting of 2016 (23 November), IC discussed and approved the topics to be analysed during 2017. The topics were previously presented and voted online by the members of the Council. Topics were proposed based on a database prepared by the Secretariat, in line with the issues brought up directly by businesses, but also as found by the Surveys, meetings and international reports. In this context, it was decided as follows.

Voted Subjects for 2017



Investment Council and Secretariat honoured with Business Award 2016

On 17 December 2016, at its annual gala dinner, the Tirana Chamber of Commerce and Industry awarded Albanian personalities, leaders of institutions and also important companies and enterprises. Investment Council and Mrs Diana Leka, as representative of the Secretariat of Investment Council, were honoured by the Chamber of Commerce of Tirana for 2016 with the motivation: "For the contribution provided in raising the concerns of the business and the standard established in the approach to address these concerns".

PHOTO-The granting of the award



In her speech, **Mrs Diana Leka** said: "It is a great pleasure for us to receive Tirana CCI Business Award for 2016. This award belongs to the Secretariat's staff and experts for the hard work, to the Chairs of the Investment Council for their commitment and support, and obviously to the chambers and business operating in Albania that trusted in our work and provided inputs on their problems. This award will serve as a stimulus for our work in 2017." This award is an indicator of the performance of Investment Council and Secretariat achieved during 2016.

Upcoming IC Meetings for 2017

Meeting 9 – 13 February 2017

Agenda Item: Finding professional skills at the labour market – 'Business Case' of the BPO sector for investors in Albania

Meeting 10 – May 2017

Agenda Item: Facilitation of Customs Procedures from a sectorial point of view.



Investment Council is supported by the Ministry of Economic Development, Tourism, Trade and Entrepreneurship and EBRD – Italian Technical Cooperation Fund.



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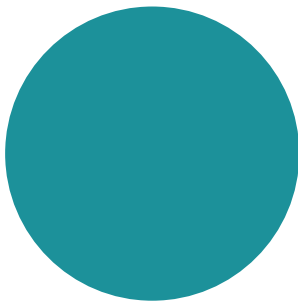
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Important Figures on Investment Council 2015-2016

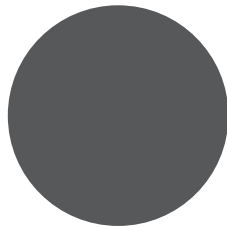
The Secretariat maintained a high number of meetings with over 300 stakeholders from public institutions, business associations, businesses, donors, experts, etc.

In 2 years

8 IC Meetings



6 Focus Group Meetings



Website audience



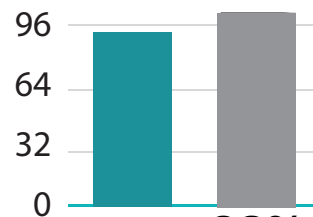
3 Surveys on:

- Tax Inspection
- Informality in the Economy
- On VAT Refund



297

Surveys's Respondents



93% Participation Level in all IC Meetings

54 Recommendations



19 Recommendations accomplished

**10 in process of discussion
8 evaluation**