

**SUMMARY OF MEETING MINUTES**  
**INVESTMENT COUNCIL (IC)**  
**MEETING XV**  
**Investment Climate 2018 – On Inspections**  
**Tirana, 29 January 2019, 15h30 – 17h10**

The meeting was held at the Ministry of Finance and Economy (MFE) and it was chaired by Ms Anila Denaj, Minister of Finance and Economy, with the participation of 12 IC Members. The meeting was attended by around 35 observers representing the business community, domestic and foreign business associations and representatives from state institutions.

**I. Opening of the meeting and speech by IC Chair, Minister Anila Denaj**

During the first meeting with the business community, in the table of the Investment Council, the Minister of Finance and Economy, Ms Anila Denaj, said that one of the government's priorities remains the establishing of a favourable business climate and she thanked the business members for the continuous participation and collaboration with the Investment Council during these years, by participating in surveys and preliminary consultation meetings, as well as in the meetings of the Investment Council. The government has undertaken important reforms in these years with the aim of creating new opportunities for business growth and job creation in the economy, for example facilitating tax procedures and reducing the fiscal burden for the vast majority of businesses, in particular reducing income tax at 5% for small businesses with an annual turnover of 8-14 million ALL. Another important reform has been the Deregulation Reform, launched in 2014, which despite its own achievements and challenges, resulted in the revision and facilitation of 136 authorizations. This reform will continue further revision of authorizations as well as of permits and licenses in order to abolish those that are considered redundant. An example of success is the digitalisation of taxpayer's services by the Tax Administration, where a considerable number of services are already provided in real time, with electronic signature and digital stamp and at no cost to all users. In line with these facilitating measures and partnership with the business community comes also the Secretariat's Analysis 'On inspections.'

During her speech, Minister Denaj expressed a special appreciation to the EBRD for the support provided to the Investment Council in order to improve the business climate and promote good governance in the country. Ms Denaj also expressed gratitude for SECO (Swiss State Secretariat for Economic Affairs) which together with the EBRD will support the work of the Secretariat and the Council for the next 3 years. As discussed at previous meetings of the Investment Council, preparations for a Unified Investment Law have been completed. This draft law will be fully consulted through the Investment Council with all relevant experts, business associations and stakeholders.

**II. Presentation 'On Inspections' - Secretariat of Investment Council**

*Ms Diana Leka, IC Secretariat*, delivered a presentation to the IC members on the topic of the meeting. The presentation was divided into three parts: i) Objective and Methodology, ii) Context, iii) Findings and Recommendations (*Strategic Approach, Legal Obligations, Institutional Capacities/Appeal*), prepared by the IC Secretariat in close cooperation with experts, business

associations and institutions. In addition, Ms Leka presented some comments and issues raised by the business community in the IC surveys (2015-2018).

Mr Elvis Zerva, IC Secretariat, presented some of the findings identified in the Secretariat's analysis 'On Inspections,' as well as some concrete recommendations for addressing these findings, in particular the recommendations related to the fulfilment of the legal obligations provided by the current legislation on inspections.

### III. Summary of the Main Comments Raised in the Meeting

Ms Anila Denaj, MFE, thanked the Secretariat for the presentation. The findings of the Secretariat's analysis are welcomed by the Ministry of Finance and Economy to intensify the work for the unification of methodologies for all the inspectorates under this ministry. This process will have two main objectives: i) promoting formalization and clear rules of play for all, ii) enhancing the quality of inspections, not necessarily coupled with a higher frequency of inspections. Within the ministry it is being discussed how to start with an analysis plan and then harmonize current policies - *perhaps with some help in the future from our partners*. The Minister encouraged members to submit other elements that were not put forward during the presentation of the Secretariat.

Ms Laura Qorlaze, IFC, thanked the Secretariat for preparing this analysis on such an important issue such as inspections. Inspections are carried out in many important sectors such as: food safety, health, etc., and consequently they have a direct impact on the lives and well-being of citizens. As relates to one indicator in the analysis showing a reduction in the number of inspections, there is, on the other hand, a perception or message from the business, which shows that there is an increase in the frequency of inspections. This may be an indicator of other issues. Therefore, it would be important and interesting to make a further analysis on this indicator. Reduction in the number of inspections may also be due to lack of human capacity in inspectorates. At the beginning of the reform, there was a re-structuring of inspectorates, a reduction of their number coupled with the reduction of human capacities, which may have led to a reduction in the number of inspections. Meanwhile, this may also be an indication of methodological shortcomings. It is commonplace that in the absence of an accurate methodology based on risk assessment, the inspectorates constantly control the same companies.

In the Project "*Investment Climate and Competition*", funded by SECO, among some components, is also assistance to the National Food Authority (NFA), where IFC is involved. IFC assistance consists in designing and developing a methodology on risk-based inspections, so inspections are not be made on an ordinary selection but on a risk-based selection. Key elements: Methodology, implementing guidelines and a range of trainings. If inspections were to be carried out on a risk basis, the human resources of NFA (or of other inspectorates) would be used more effectively and efficiently. On the other hand, this would alleviate the burden of time and the financial cost of the business. For this reason, Ms Qorlaze suggests that these two parameters should be taken as indicators in the analysis that will be carried out by the Ministry of Finance.

Ms Ines Muçostepa, UCCIAL, congratulates Minister Denaj for her new position. She also thanked Minister Shalsi for his cooperation so far and his new position. The current topic is probably one of the most important topics that has ever been tackled by the IC. Ms Muçostepa congratulated the Secretariat for the presentation, which summarises all the issues that the business community has brought to date. There can be no free competition or formality in the market, unless inspection concerns are properly addressed. Once the inspections were seen as a campaign of attack to the business, nowadays there is no such fierce attitude toward the business. Business community has offered its support, while it demands the inspections to be conducted in a transparent and efficient way. Ms Muçostepa emphasizes that it is important to intensify the joint work, since the business

is often at the forefront of various legislative norms or processes that start with very few consultations. This has been one of the main demands raised by the business. The preliminary dialogue with the business would solve many of them.

Ms Zsuzsanna Hargitai, EBRD, expressed the readiness of EBRD to support in taking forward this reform. EBRD has been supporting in the last two years the inspection reform in Serbia; it is a reform that takes a lot of efforts, and the results are not immediate. Based on that experience, Ms Hargitai mentioned as a key element the establishment of working groups with responsible agencies and businesses in order to have a full consultation. She also highlighted the importance of good planning of inspections, in order to avoid unnecessary burden on businesses, as well as of the transparency of the methodology and findings of inspections.

In Serbia, EBRD supported the coordination between inspectorates, drafting of methodologies, and more recently the launching of a call centre for the users on inspections, in order to provide transparent information and gather all complaints from businesses. Ms Hargitai emphasized also the importance that the Authorities should give to the salaries and trainings for the inspectors. On behalf of EBRD, she expressed the willingness to support the Ministry of Finance to implement recommendations that may come out of this meeting or further consultation with the businesses, hoping that the inspection reform in Albania shall be completed in due time.

Ms Anila Denaj, MFE, said that, as presented in the presentation of the Secretariat, a very important element is the way the inspection reports are appealed and handled. The procedures followed for the review of appeals are very important. They indicate whether or not there is a high degree of communication by the inspectors. In the communication platforms of the inspectorates, the instruments of appeal should be encouraged, while the required documentation and the timeframes should be transparent. This would have an impact on good governance of the internal administration processes.

Mr Ertan Güngör, BKT, said that there are many laws in Albania, but when it comes to bylaws or the implementation manuals, many things are missing. Perhaps this is also an issue because if these are missing, then it leads to misinterpretations, then this leads to disputes and in the long run in corruption.

Mr Agim Ismaili, NFA, said that NFA has reduced the number of inspections compared to a national risk-based plan. NFA has put into practice a novelty during 2018 that is business self-control. In a letter sent to thousands of companies, NFA has asked them to self-control and as per pertinent law to notify when they are not in compliance with the standards or notify the deadline when they will become fully compliant whenever the violations are not very alarming. This method coupled with continuous business communication, as well as with full punishment as per pertinent law on violations, has yielded results. All indicators show that businesses have invested heavily in the safety standards, and much is being discussed on this issue today. According to Mr Ismaili, the business has not expressed any complain on the communication with NFA. About 70-80% of NFA acts are appealed to the appeal structure, and in the court over 85% of the cases have been won by the NFA. Even for those cases where NFA has lost, official complaints have been filed for the judges at the High Council of Justice. The main approach has been business self-control, meanwhile there is little inter-institutional cooperation, as explained during meetings with the Secretariat. Consequently, when all the institutions do not perform their job, there have been cases where the NFA has inspected the same company four times, because it has committed 4 times a violation. Measures have been taken that the administrative punishment has an influence and an impact.

Furthermore, Mr Ismaili explained that at the border, NFA inspection has another nature compared to field inspection, because it involves all people entering and leaving. Inspection is

done due to extra risk. Certainly, there is a need for improvement, and therefore it is working with IFC to increase risk indicators, as well as issues related to the capacity to conduct analysis, etc.

Ms Anila Denaj, MFE, said that recently the MFE is discussing the alignment of methodologies within tax and customs institutions. This should be a systematic approach. Systematization would be the main word for this year, so that the work is done with lower human resources, more efficiently and the business to feel the weight of the inspections proportionally and not on seasonality terms. Perhaps in this regard, there will be more inputs in the next meeting.

Mr Eduard Shalsi, MSPE, expressed the pleasure and privilege of being part of the IC. Inspections are a field that has long been a concern to everyone. There has been significant progress in the work compared to the inspectors and inspectorates of the previous years. NFA used to be a slightly degraded institution. There is no reason to hide the NFA's problems and how many exasperations have been created. NFA Director, has begun a turnaround in NFA's philosophy, which should be encouraged. On the other hand, NFA is an institution which needs even greater support from the logistical point of view and from the human resources point of view. In the past, there used to be a lot political interference in these institutions with appointment of unprofessional militants, which consequences are still felt. The country needs stable institutions, and it will be impossible if the workplaces are inadequate while the greatest challenge remains human resources (*which should be appointed on merit, without political interventions*) and institutional strengthening. The part of transparency is also very important. The State Labour Inspectorate has recently launched an IT-based program that will bring some progress in the institution's transparency by giving the opportunity to the business to self-correct. Information technology today offers the opportunity to get closer to the business, to communicate more directly and to eradicate the notoriety of inspectorates among the business. There is still much to be done about inter-institutional communication. The role of the Central Inspectorate is precisely to coordinate inspectors and inspectorates with one another. The Secretariat's analysis is interesting and it is a material that can serve for brain-storming, to be analysed and understood and to draw some concrete conclusions with concrete deadlines regarding the work of inspectorates. At the end of his speech, Mr Shalsi encouraged everyone to use information technology to communicate with the institutions.

Mr Edmond Spahiu, Albstar, thanked the Secretariat for the prepared material, which clearly conveys the message that *formalisation, fair competition, inspections*, but also *institutional coordination and interaction* are equally important links of the chain that clearly defines the investment climate. On the inspection part, the recommendations given by the IC on what can be better done in the future show that the inspection reform works but it is deemed necessary to reflect on the quality. As a representative of a relevant business in the country, Mr Spahiu affirmed that the chain link of inspections works, but it is a matter of trust and reciprocal sentiment among the business, while all the other above-mentioned factors are complementary and equal throughout this chain. It is a fact that each business requires to perceive and feel a standardized business climate because fair competition is very important to the business. Every business does not want to take this kind of sentiment as a result of the process but as a continuous and dynamic process. Perhaps it needs to be thought of ways on how to standardize it. For example with the publication of periodic results of the various inspections that are being carried out, of the problems faced during inspections, of the corrective effects they have, etc. Ultimately, each business individually learns from the controls and inspections carried out in other businesses, highlighting the problems they have had and the effect of the conducted inspections.

Ms Diana Leka, IC Secretariat, said that the recommendations prepared by the Secretariat have required publishing of the methodology, the decisions of the complaints and possibly the centralization of the complaints, for which there are debates among some actors. Publishing in some ways educates. Sector is a very important element in inspections. In sectors that bear risks

such as food, health, etc. perhaps publishing is a necessity as part of the technical specifications. The Secretariat in this paper has analysed the problem at macro level.

*Mr Agim Rrapaj, National Agribusiness Council*, thanks the EBRD for its support to this Council. IC is indeed a table where the business feels good. There is a general agreement with the conclusions, decisions and recommendations that have come out from the IC table. Mr Rrapaj said that he has followed the work of this Council since the beginning and there is an ever-growing quality in its activity. Therefore, participation in these kinds of meetings is always a pleasure. Regarding the topic, it is worth mentioning also the local inspections in order to pay attention to their importance. Local inspections overlap with central inspections and this often creates a nuisance to the business. Mr. Rrapaj acknowledged the communication actions taken by Mr. Ismaili regarding business self-correction. The detailed material, sent by the NFA, will soon be published in the Albanian Agribusiness newspaper in 3,000 print copies to be distributed to all the members, constituting a real contribution to their awareness. There is a radical change in the behaviour of inspectors. They are no longer the "predators" of the past, of course there are a few remaining ones but they are a repressed and intimidated and this alleviates the work of the business. Another important element is the strong business support and he requires an analysis by the Ministry of Finance on the efficiency of the investments made for laboratories. If this is not carried out, work will remain for long at this level. In the end, Mr Rrapaj thanks the initiative undertaken by the State Labour Inspectorate for digitalisation. At first, this is seen as somewhat difficult and incomprehensible, but there will be many positive effects coming out from this. For this reason, he expressed gratitude to Mr Sefer, the Director of this institution, because this initiative was an adjustment between advanced technology and what could be perceived. Perhaps even the EBRD can positively influence this digitalization, as it would greatly facilitate the business.

#### **IV. Reporting on the Previous IC Recommendations**

*Mr Elvis Zerva, IC Secretariat*, delivered a brief presentation on the three-year IC activity (2015-2018) in figures, the tackled areas of findings as well as the progress on the most important IC recommendations. Mr Zerva also thanked the administration institutions, especially those who are permanent IC members for the detailed information made available to the Secretariat during December 2018 - January 2019.

*Ms Ledia Muço, EU Delegation*, approved the findings of the Secretariat's analysis as regards to the business concerns in the area of inspections, and in more specific as relates to the need for institutional capacity building. One such case is the State Market Surveillance Inspectorate, which is currently receiving support of this nature from European Union funding. Meanwhile, all public administration reform is under observation within the integration process. Ms Muço raised a comment on the assessment presented by the Secretariat on the status of IC recommendation on the progress of public consultation of legal acts. In the consultations format of the EU Delegation with regard to reporting on the progress of economic reforms with the business community, where the Secretariat also participates, apart from the fact that laws are published online, the perception of the business is that there is no great improvement regarding the consultation of laws. For this reason, to say that progress has been made, perhaps needs to be revised. Ms Muço mentioned RIA (Regulatory Impact Assessment) as an important part in the institutional consultation. It is a process that should be practiced more in institutional work, more precisely between the institutions themselves, when undertaking a legislative or regulatory process to consult in advance with the other institutions the deriving effects. For example, an amendment that may affect trade policies or bring other effects. Therefore, many institutions need to be involved in competitiveness policies.

*Ms. Diana Leka, IC Secretariat*, said that when the IC started working in 2015, the Government had passed in November 2014, Law 44/2014 “*On Public Consultation*”. Until second half of 2015, the law existed but its implementation was weak. At that time, this was one of the first laws in the Balkans. When the Secretariat assesses the progress of IC recommendations, this is made against 2015. Of course there are many issues, but it should be well defined which will be the assessment starting point. A donor has made an assessment on the number of passed laws, and the number of consulted laws. In the Secretariat’s assessment, it has not been easy to retrieve public information. Everything reported by the Secretariat is based on the official data, but there is a change, and the baseline is 2015. Based on Secretariat’s observations, it is noted online publishing of draft laws but there are no comments by the stakeholders. Perhaps, this needs a more in-depth statistical analysis.

*Mr Eduard Shalsi, MSPE*, says there is a problem regarding consultation with the business. Over the past few days, it has been discussed with the Minister of Finance about some measures which have gone beyond the government's goal. The raised comment by the EU Delegation has incited another step. What is being discussed in coordination with the Ministry of Finance is that if we have the law published, and as observed by the Secretariat in many cases no feedback is received, we should be a bit more proactive. We should send messages to the business affected by the law to avoid justifications. In the new fiscal package, several decisions have been taken already affected more businesses than anticipated. Therefore, by improving the database of companies we will be able to notify in advance those business categories affected by the law. This would be a real treasure at these moments as we do not have detailed databases of the companies separated by categories. This would require a serious commitment for a more accurate database. It remains true that there are many opportunities to improve business consultation.

*Ms Diana Leka, IC Secretariat*, said that if the proposed recommendations are approved by the IC members, they will be sent to the Government for follow up. In a slightly more pragmatic approach, from this table it may be suggested that for some of the inspectorates that are under the Ministry of Finance and Economy, we can at least take a further step toward a more structured cooperation in order to give a model on how to move forward. Secondly, as set out in the recommendations, the ‘inspectorate’ is a very technical notion and it has many elements inside. Perhaps we can consider those sectors for which we are competitive, such as construction, health, etc. Some time ago communication between the Labour Inspectorate and the Tax Office was very difficult.

## **V. Tentative Subjects for 2019 IC Agenda**

*Ms Diana Leka, IC Secretariat*, presented around 13 tentative subjects for the 2019 IC Agenda. The list of proposed subjects will be sent to the members for voting and after being consulted in the next few weeks also with the new business IC members for 2019, a definitive list of concrete subjects will be ready for the 2019 IC Working Agenda.

## **VI. Closing of the meeting**

Minister Denaj thanked the Secretariat for the work done. At the end of the 1-year membership mandate to the IC, Ms Denaj thanked the members of the business community for their contribution during this period and encouraged them to continue cooperation with the IC in other formats. Ms Denaj expressed her availability to hear any other comments beyond the IC table. The date for the next meeting will be notified by the Secretariat at a later time.

The meeting was closed at 17h10.

## List of participation

### Representatives from the Government

1. Ms Anila Denaj, IC Chair/Minister of Finance and Economy
2. Mr Eduard Shalsi, Minister of State for Protection of Entrepreneurship
3. Mr Xhavit Curri, Deputy General Director of GTD, in the absence of General Tax Director, Ms Vasilika Vjero
4. Mr Arben Seferi, Deputy General Director of Administrative Department, in the absence of General Customs Director, Ms Belinda Ikonimi

### Business Community

1. Mr Edmond Spahiu, CEO, Alb-Star Sh.p.k.
2. Z. Tom Kristian Larsen, FIAA's President
3. Ms Ines Muçostepa, Chair of Union of Chambers of Trade and Industry (UCCIAL)
4. Mr Ertan Güngör in the absence of Mr Seyhan Pencabligil, CEO, BKT

### International Partners

1. Ms Zsuzsanna Hargitai, Director for Western Balkans, EBRD
2. Ms Ledia Muço, Economic Advisor, in the absence of Ms Olga Anghelakis, Head of Operation Section for Economic Reform and Infrastructure, European Delegation in Albania
3. Ms Laura Qorlaze, Representative of IFC in Albania
4. Ms Hilda Shijaku, Economist at the World Bank Office in Albania

### Other participants in the table

1. Mr Philipp Keller, Deputy Head of Mission at the Embassy of Switzerland in Albania on behalf of SECO
2. Mr Agim Ismaili, General Director, NFA
3. Mr Arben Seferaj, General Director, State Labour Inspectorate
4. Mr Agim Rrapaj, Chair, Albanian Agrobusiness Council (KASH)

### **Not attended:**

1. Ms Natasha Ahmetaj, Deputy Governor, Bank of Albania
2. Mr Sokol Nano, CEO of AIDA
3. Z Mr Grigor Joti, Chair, Association of Trade Union of Albania
4. Mr Isuf Ferra, CEO, Ferraco