

SUMMARY OF MINUTES OF MEETING

INVESTMENT COUNCIL (IC)

MEETING XVII

Consultation of the Draft Law “On Invoices and the System for Monitoring Transactions”

Tirana, 29 August 2019, 10:00 – 11:30

The meeting was held at the premises of the Ministry of Finance and Economy (MFE), chaired by the Minister of Finance and Economy, Ms Anila Denaj with the special participation of the Deputy Minister of Finance and Economy, Mr. Elton Haxhi and the General Tax Director, Ms Delina Ibrahim. The meeting was attended by 14 IC members and also around 30 observers representing local and foreign business associations and state institutions.

I. Opening of the meeting by the Minister/IC Chair Ms Anila Denaj

At the opening of her speech, Minister Denaj thanked the members for their participation and for the written comments submitted before the meeting. With the approval of the agenda, Minister Denaj continued with the context of this meeting.

The Draft Law “*On Invoices and the System for Monitoring Transactions*” and respective rationale have been published in the electronic register for public notifications and consultations on 31 July 2019. A qualitative objective of this project is to create a more intelligent unit in detecting evasion. This would bring about a more modern administration for the enforcement of the law and for reaching its objectives.

Among other things, this draft law aims to:

- lower the level of informality in the economy;
- improve work of tax administration to collect taxes with efficiency;
- combat unfair competition;
- to simplify tax inspection procedures and bring more efficient monitoring of taxpayers’ tax payments;
- bring a better control of commercial transactions between taxpayers;
- bring a better control and monitoring of payment deadlines among taxpayers;
- accelerate and automate business processes.

It is important that such draft laws, which affect not only the whole spectrum of the business but also the institutions, are well consulted before they are presented in the respective parliamentary committees and eventually sent for approval to the Parliament. During August, MFE has carried out extensive consultations with stakeholders about this draft law while the process will continue.

The public consultation phase closes legally at the end of August. However, due to the fact that August carries some limitations in terms of human resources in certain institutions, but also due to the limitations within the businesses to know this draft in detail, the deadline for receiving comments has been postponed until 15 September 2019.

Fiscalization project is finalized in 2021 and it includes several segments, such as B2C (business-to-customer), B2B (business-to-business) and non-cash transactions via banking system, and B2G (business-to-government). MFE is open to discuss whether the steps and phases of this project are appropriate and what the reasons for negotiating them are. Certain sections of the draft law have raised concerns because they are either not sufficiently clarified or they need to be changed.

II. “What does this draft law consist of? What changes does it bring about?” – Brief presentation by Deputy Minister, Mr Elton Haxhi

The draft law aims to address issues of tax evasion and grey economy. The new monitoring information system, being under construction, is intended to address non-declaration of revenues and on the other hand deductions based on the defined legal levels, mainly as regards to VAT but also as relates to expenses. The expected effects are promising. Experience in other countries such as Croatia, Czech Republic, etc. have shown that the increase in tax revenue has been significant. The draft law has two components, i) the component of ‘cash transaction control,’ which consists in the fiscalization of these transactions enabling real-time transmission of any cash transaction, and ii) the fiscalization of non-cash transactions or otherwise referred to as B2B. In the end, we have also the fiscalization of B2G transactions.

- In the first component there is a *technological change*. In addition to adding some elements to the new invoice, which will be fiscalized in B2C segment, we also have real-time transmission - currently these transactions are recorded with fiscal devices at the end of the day.
- In the second component we have the element of *e-invoice*, according to EU directives, which will enable electronic data transmission and further processing by the tax administration. The objective is to achieve better tax administration and efficiency in tax inspections as well as more sensibility among the public and taxpayers in regard to tax legislation.

What are the steps that each process will follow?

The main modules to be built in support of this draft law are:

- *Fiscalisation* (central system of fiscalization for invoices in the segments B2B, B2C, B2G);
- *Taxpayers’ Registry*, which will be built by the tax administration, similar to the NBC, containing all taxpayers’ data;
- *Assets’ Register* – during the project’s last stage, it has been foreseen that for all transactions of immovable properties, to be set up a register for each taxpayer;
- Risk Management Module;
- Tax Inspection Module.

Main milestones:

- The fiscalization of B2C transactions, i.e. all cash transactions, has been planned to start on 1 January 2020. The technological change, i.e. the communication protocol code between fiscal devices and the central system is to start functioning from 1 January 2020—already published for public consultation.
- The fiscalization of B2G transactions has been scheduled to start from 1 January 2021, while for B2B transactions (e-invoice) to start from 1 July 2021. The new system will also collect information from the banking system on the payment of all transactions that occurred in B2B

segment, to enable the monitoring of fictitious invoices for deduction purposes and tax planning.

The system enables each taxpayer or citizen, when receiving a fiscalized tax invoice containing a unique code, to have the opportunity through the platform to check whether the invoice is valid (registered in the central system) or not. Thus, the engagement of the whole public in this process is required for denouncing those cases that constitute violations. To facilitate the small business, efforts have been made to reduce the cost for certain categories of business—up to a certain extent to have a free fiscal service through the central platform. For this purpose, it has been working also with the National Agency on Information Society (NAIS) to provide also a free app for small and simple businesses which do not have a complicated model. In conclusion, any questions sent to the MFE will receive a detailed answer.

III. Summary of Main Comments

Ms Anila Denaj, MFE, points out two very important elements which still need clarification:

1. *Cost for the business.* This is a type of platform that can be developed by many IT companies in Albania, which is expected to increase competitiveness among them and a reduction in the price. By 15 September 2019, a free app will be created by NAIS. This process will provide a complete information in terms of costs and technical solutions in order to start with the testing process. Fiscalisation will not replace everything that has been done to date, but only an upgrading toward e-invoice.
2. *Technical element - What is the number of businesses that do not have internet coverage? How technically will internet coverage be available throughout the territory in order to ensure seamless functioning?*
A consultation table will be held with operators in the field of telecommunications (29 August). MFE is in consultation to have a detailed map of areas where internet penetration is not possible, so that the tax administration can provide clear rules on how it will operate in cases where there is no internet coverage. A solution will be given to all these issues over the next 3 months (Sep-Dec 2019), while it is being considered what technological solutions the IT companies will provide in relation to project deadlines.

Minister Eduart Shalsi, MSPE, commended the good intention of this initiative and the intensive consultations being carried out. From the business perspective, it is very important the understanding of the whole fiscalization process, therefore a simple explanatory approach should be developed to explain for example what implications fiscalization brings to a small, medium and large business. There are still questions about how it will work, while everyone is aware of the good consequences being brought. MSPE has conducted a simple survey about fiscalization, and thankfully the concept of what it will bring to the business and the economy is clear. What remains to be intensified by 15 September 2019 is business inclusion and making things clearer and user friendly.

Mr Matteo Colangeli, EBRD, thanked Minister Denaj for consulting this important piece of legislation through the IC. He expressed strong support for the spirit and objectives of this initiative. Extensive consultation with stakeholders is particularly important given the breadth of the changes envisaged and the extension of the consultation period until 15 September is a step in the right direction. Implementation will certainly present a number of challenges. Two aspects would deserve particular focus: i) making sure *resources are available* to provide the support and guidance business will need, ii) target *a fair cost-benefit balance* for business as well. The provision of

real-time, more qualitative information to the tax administration should, for example, feed into the risk assessment driving the frequency and depth of inspections.

Ms Diana Leka, IC Secretariat, said that this is an ad-hoc IC meeting at the request of the IC Chair, and therefore no genuine recommendations will be made as per IC format. It is important that the comments are structured and really influence the final version of the draft. The Secretariat has received written comments from AmCham, Confindustria Albania, DIHA (IC members), which have been formally addressed to Deputy Minister Haxhi. As per new IC format, two ad-hoc companies are invited to participate, directly interested in the subject being tackled. In this discussion, the Secretariat has invited Vodafone Albania and A.E.Distribution.

Mr Ilir Trimi, AmCham, valued as positive any initiative which aims at reducing informality and improving revenue collection in the economy. However, AmCham raises some concerns about the timing and the implementation approach of this draft law. Based on AmCham research, electronic invoicing in European countries has initially become mandatory for B2G transactions. Afterwards, these countries have chosen to voluntarily apply electronic invoices for B2B segment, and as a final step, B2C segment. Therefore, it was suggested that this line of implementation should be applied also in Albania. Given past experiences in the introduction of other new systems, such as the submission of financial statements to the National Business Centre (NBC), major problems have always been encountered at the beginning of their application. For this reason, the fiscalization process should start with the public procurement transactions and continue with large businesses and then medium and small ones. The full list of AmCham comments and concerns has been submitted in written to the IC Secretariat.

Mr Roban D'Souza, FLAA, supported the comments of the EBRD and Amcham, confirming that the purpose of the law is good enough, and raised two additional comments:

1. *The transition process.* A significant number of businesses, especially large ones, are already issuing electronic invoices and therefore there are some questions in terms of the preparations for the transition to the new format in terms of alignment with new software systems. Therefore, it is necessary some flexibility in the timelines as well as a cost-benefit analysis;
2. *Education campaign* to encourage people to conduct online transactions and use credit cards, and a focus on the positive outcomes that derive from the implementation of this law. Although the law is good, people need time to change their behavior.

Mr Bledar Mankollari, DIHA, commended the extensive and active consultation of this very important and positive draft law, which perhaps should have been drafted time ago. DIHA members have raised some questions at both strategic and technical level. Most importantly, *the law implementation should start first with the B2G, B2B and then B2C transactions. What are the costs for the business? How will it be implemented?* If we take a business where the financial module is only one of the modules, how this solution will be incorporated by MFE into their softwares? Does the last quarter of 2019 give enough time to provide solutions? Does Albania have such an expanded IT infrastructure to immediately meet all the needs of businesses? The costs for corrections would be very high. Full DIHA comments have been submitted in written to the IC Secretariat.

Minister Anila Denaj, MFE, supported all business concerns. Deadline until 15 September gives enough time to provide the information needed to build a fiscal application. Current fiscal equipment and devices, computers, tablets and mobiles are all hardware components that can be still be in use. From business perspective, more available opportunities create less dependency and less costs for the business.

All the parallel acts which make reference to this law will be ready by November 2019, so that when the process starts, all the acts have been considered, including as well also those that will accompany and regulate all the procedures.

Ms Ines Muçostepa, UCCIAL, thanked MFE for this initiative, valued as highly positive by the entrepreneurs, in the framework of reducing informality and increasing transparency in doing business. UCCIAL distributed the draft law for consultation to its members, and although it was sent during peak holiday period, there has been a quite considerable interest in addressing this issue. Businesses have perceived and clearly expressed that the time lines are really short, because:

1. We are dealing with a law which brings many *technical specifications* (e.g. computer equipment that entrepreneurs must have, uninterrupted internet connection), while it requires full clarity and accuracy during the process. Are we really ready for proper implementation within such a short period of time?
2. *The instructions to follow this law should be consulted with the business*, to properly clarify the implementation part of this law. Everyone will need training, both tax administration and the business. *Could it start as a pilot project for a given sector of the economy and in a specific important city, such as Tirana or Durrës?* For proper implementation, the time line should start with B2G transactions—in the European countries, the implementation line has been B2G, B2B and B2C while the time periods from one process to another have taken several years (up to 10 years).

The main business concern is related to the additional costs this will incur, and whether the government has made any assessment on the impact of this law. While EU directives have been applied, *how about Albania's own specifics—have they been taken into account?*

Mr Mario Mariani, EU Delegation, thanked Minister Denaj for this initiative and strongly supported the intent and objectives of this draft law. *The expected impacts* are numerous as relates to the rule of law, fair and sound competition, reducing the circulation of cash in the economy, etc. The EU Delegation has consistently advocated for proper public consultation, which should not be done solely online. In this case, the consultation has been more open, more engaging and more participatory. For this law to succeed, the business community must be on the side of MFE before 15 September, and the engagement should continue further, by raising the awareness of the business and the general public. It is also necessary to share the details in determining the cost-benefit analysis for both public administration and business. Other important factors for successful law enforcement are adequate deadlines and stages. Much appreciated for calling the Investment Council to discuss this draft law.

Ms Delina Ibrahim, GTD, said that the project in question is *very complex and challenging for both the tax administration and the business*. Currently, the GTD is in consultation process for reorganizing its organizational structure, necessary for this project to properly start and be monitored. Within November 2019, it is anticipated that all tax administration affected by these processes (service administration, registration administration, taxpayers' service) will be trained at both central and local level.

In addition, the project has a *communication strategy*, along with an action plan, where the first step of public information dissemination is the launching of the draft law and the initiation of roundtables. These roundtables are to be followed by the establishment of several technical groups to follow up some of the technical issues that will accompany the entire process of this project and duly advise the tax administration/MFE about the process. Meanwhile, the cost-benefit analysis will be published on 29 August 2019 on the public consultation portal.

Ms Anila Denaj, MFE, added that the draft law will be followed up in two plans in parallel: i) *education*, not only through social media, but also through events and explanatory videos to address questions that the business may still have — this cannot be done yet until the end of September, ii) *approval* in the relevant committees.

Minister Denaj said that the business should understand that it is impossible to continue violating the law. If it took 10 years for other countries' to attain fiscalization during its inception period, Albania will probably need fewer years (since it not starting from scratch). All incoming suggestions will be taken into account in respect to setting deadlines, however there should be no deviations in the path.

Mr Artan Xhiani, Confindustria Albania, thanked for the organization of this consultation meeting and the approach used for collecting business voice. Confindustria's full comments on the draft law have been submitted in written to the IC Secretariat. Main raised issues:

- *The law requires very specific instructions* from MFE and/or other institutions and possible interventions in the law are often mentioned. For example, out of 49 articles in total, nearly 30 articles require specific instructions. This means that the instructions will play a significant role on the implementation of this law, the absence of which, at the moment of speaking, creates much uncertainty. Therefore, the instructions should come out before the discussions about the law are over.
- Another issue are *the costs incurred to the business*. Considering the order in which the law is to be implemented, starting with the B2C segment, this *category of business is the most unprepared one* as it has the least technical and human capacities. Inclarities are always a cost to the business.
- *The current infrastructure is yet neither ready nor adequate* to implement this on a large scale. There are still territories that are not covered by internet.
- *The law needs to be studied better*, i.e. its implementation approach and timing. The time available until January 2020 is short, also due to the envisaged technological difficulties. For example, the current companies in Albania offering such software solutions may have obstacles in updating the softwares to accommodate this type of requirement. It would be good to start with B2G, B2B and then B2C, as per European directive.
- Another concern is that the law has some *articles that are entranched with other laws*, such as the Law 'On VAT' and the Law 'On Tax Procedures.' The interaction between these laws may need to be better studied, as they may cause ambiguities or request specific interpretations and interventions, e.g. the article on the issuance of a tax invoice or the article on the cash daily limit.

Minister Anila Denaj, MFE, said that the way of doing business will change, of course not radically, but things will not stay the same. All this change does not come for the purpose to change the business model, which is not a duty of the ministry to do, but to better organize the cash and non-cash ratio—this is to some extent a derivative of the law (not its objective). Some of the elements mentioned will be clarified within November and before its approval in the parliament.

Mr Elton Haxhi, MFE, replicated in relation to the proposed line of implementation. The line articulated at this meeting is correct, but it is needs to take into account also the context of the country. Albania has already a long experience with the use of fiscal cash registers, therefore the respective education is already consolidated. Apart from the technology and information being transmitted, almost nothing else changes. Therefore, it is deemed correct to start with B2C, followed by B2G and finally B2B. It starts with B2C also due to the informality level in this part of the economy, which needs to be to addressed as soon as possible. Regarding the starting time for B2C segment, this is a discussion which is worth to be considered by MFE.

Ms Jonida Lakuriqi, Vodafone Albania, expressed strong support about this draft-law, being in line also with Vodafone's Digital Strategy. Introducing an electronic invoice would greatly ease operational costs, but also facilitate communication and bring more innovations. Among others, Ms Lakuriqi said that:

- It is indeed a problematic issue for the *law to lack adequate guidelines*, but also for intervening in certain articles of the law, which occasionally create ambiguities or, by having a general character fail to address specific industry issues, such as in the case of telecommunications, which is a regulated industry - subject to monitoring by other authorities, such as the Authority of Electronic and Postal Communications (AEPC).
- It should be studied if there will be any *overlapping* between the provisions of this law with those of other laws, such as the Law “On VAT.”
- To organize a roundtable with telecommunications operators as the industries have in-depth knowledge of the day-to-day problems. Vodafone Albania has provided its comments and recommendations through the AmCham.
- Electronic invoices can be sent not only via email but also via *mobile applications* which allow generation and storing of these invoices in printable form. This would greatly facilitate communication.
- Another aspect is the retail networks through which Vodafone Albania operates, mostly in the form of a franchise. Articles 23-24 of the law have some in clarity regarding the fact that when the invoice is sent electronically, the payment is conditioned to be in electronic form. The majority of post-paid subscribers prefer to pay at Vodafone stores, compared to paying at the bank, because store penetration is greater, opening hours are longer and the service efficiency is much higher. Also, in the concept of law, these agents fall into the category of banks and non-banking financial institutions. Very important for the industry to have a better clarification.
- *Deadline for implementation of integration.* From a first contact with the contractors which deal with system updating and integrations, the starting time is nearly impossible — four months until January, to fully integrate these systems. In the case of Vodafone, the systems are fully integrated with the Group’s systems, which is an international one, and this would require even more time. Businesses that are part of international groups in Albania may also have this problem.

Minister Anila Denaj, MFE, supported the proposal (by the GTD) for setting up a technical group, which should be consolidated over the next two weeks to address more technical and sectorial concerns, to take into account all respective input.

Mr Elton Kuka, A.E.Distribution, said that based on the experience of a company dealing with the sale of fiscal equipment, the comments raised by the IC members need indeed a thorough consideration: i) the *starting time is relatively short* and needs more consultation, ii) *what are the costs incurred to the businesses*. The initiative has long been welcomed and efforts have been made to bring it closer to the new Croatian system.

Ms Diana Leka, IC, raised two issues: i) *Is the tax administration ready to handle such a reform in terms of timelines and professionalism* (in all analyses conducted by the Secretariat, the business arises as problematic the quality and professionalism of inspectors), ii) the *limited time and capacity of business (specifically the small) to comply with the instructions* that will accompany the law.

Ms Laura Qorlaze, IFC, valued this initiative as quite necessary and raised two suggestions:

1. *Education of all parties* (users, tax inspectors, state administration). Consultation with the business but also the raising of public awareness should take an important part of the work in the coming months—underlining why this new system is being set up and the necessity to combat informality;
2. *System testing* — another reason for phased application. If something goes wrong, this problem should pertain to a smaller and more easily manageable group rather than implement it on a larger scale.

Minister Anila Denaj, MFE, stated that this initiative aims to reduce on-site inspections (a subject already debated in the KI as January 2019) and improve public administration mindset based on factual data. MFE is working on a good training package, with local and international expertise, which may deem necessary provision of support by the international development partners. The Investment Council is a forum where business concerns can always be addressed, why not also from the critical angle, and invited participants to raise imminent issues pertaining to the investment climate in the country.

IV. Closing of the meeting

Once no further issues were raised, Minister Denaj thanked the participants and invited them to the upcoming discussions of the Investment Council.

The meeting was closed at 11:30 am.

List of participants

Government Representatives

1. Ms Anila Denaj, IC Chair/Minister of Finance and Economy
2. Mr Eduard Shalsi, Minister of State for Protection of Entrepreneurship
3. Ms Natasha Ahmetaj, Deputy Governor, Bank of Albania
4. Mr Genc Çeli, Coordination Director, AIDA, delegated by Mr Sokol Nano, CEO

Business Representatives

1. Mr Rohan D'Souza, President, FIAA
2. Ms Ines Muçostepa, Chair of UCCIAL
3. Mr Artan Xhiani, Founding Partner-Confindustria Albania, delegated by Mr Sergio Fontana, President
4. Mr Ilir Trimi, CEO, AmCham, delegated by Mr Enio Jaço, President
5. Mr Bledar Mankollari, CEO, DIHA, delegated by Ms Stephanie Sieg-Farka, President
6. Mr Elton Kuka, Administrator, A.E.Distribution sh.p.k.
7. Ms Jonida Lakuriqi, Head of Legal and Compliance, Vodafone Albania

Development Partners

1. Mr Matteo Colangeli, Head of EBRD RO in Albania
2. Mr Mario Mariani, Head of Cooperation, EU Delegation in Albania
3. Ms Laura Qorlaze, Contry Representative, IFC

Absent:

1. Mr Nikolin Jaka, Chair, Tirana Chamber of Commerce and Industry
2. World Bank