

MATRIX OF RECOMMENDATIONS

PUBLIC CONSULTATION AS AN EFFECTIVE TOOL FOR IMPROVING DECISION MAKING AND PUBLIC – PRIVATE DIALOGUE

May 2022

This matrix of recommendations aims to summarize the recommendations and solutions proposed in the Technical Note and serves as an Internal Plan for monitoring from AIC secretariat team in order to follow up their implementation.

The following recommendations are product of the analyses and consultation of IC Secretariat with a large number of stakeholders and experts both in private and public sector on the functioning of the public-private consultation mechanisms. The following are some suggestions / recommendations which aim to address the findings through a consolidated approach. This approach is based on 3 (three) main pillars: (a) implementation of the obligations of the parties (institutions and private sector representatives) as currently provided in the public consultation legislation; (b) some legal changes which are not an end in themselves, but instruments for the sustainable development of medium-term consultation according to a simple regulatory framework and premises in order to increase the confidence of the parties involved; (c) optimizing the functions of the electronic register as one of the instruments of open government in terms of their use as currently offered and possible improvements in order to increase access, transparency and awareness; but use of the platforms both by government and other stakeholders remain a challenge and the core issue is how to build and sustain trust among them. We would like to highlight that business community needs to believe that the public sector will respect their promise and stay committed to the process while business associations should further upgrade their corporate capacities.

Intervention / Recommendation	Responsible institutions/ Institutions included in implementation	Term
Recommendation 1 Extension of the area of law no. 146/2014 'On Notification and Public Consultation'¹, adding the draft normative bylaws²- CoM Decisions and Instructions of Ministers which regulate one or several legal relations		

¹ Amending articles 1,4 and 15.

² This recommendation is in coherence with the findings of the IC analysis, comments from business associations and chambers of commerce, with the recommendations of the European Commission as well as with the need to have better quality bylaws which have often been problematic for the business climate (e.g. the changes during 2021 in the Instruction no.24 'On Tax Procedures' regarding the procedure of blocking the accounts of debtors and natural persons in the capacity of administrator, created an immediate and unnecessary confusion for businesses, which will not had taken place in the conditions of a good consultation and according to the procedures currently provided for draft laws). The Progress Report 2021 for Albania states that: 'while the 2014 Law on public consultation, laying down the procedural norms for transparency and public participation in decision-making, is generally in line with European standards, consultations often remain artificial exercises. In addition, the scope of the law needs to be extended to government decisions. The guidelines and monitoring framework for public consultation adopted in January aim to improve governance arrangements for a better implementation of the law (see also Public Administration reform). The term normative bylaws refer to the definition given in Article 3 point 2 of Law 44/2015 "Code of Administrative Procedures of the Republic of Albania" and the explanation in the Commentary of the Code of Administrative Procedures by SIGMA-2018.

<p>with impact on entrepreneurship and in particular those in the field of taxes, fiscal, customs, procurement and public-private concessions/partnerships that do not fall under the category of restrictions as defined in Article 4. As a rule, the deadlines for consulting draft normative bylaws are recommended to be respectively 20 working days and 40 working days as provided in Article 15 of the law. In order not to limit the efficiency of the administrative bodies to regulate with their acts issues that require speedy actions and proportionally with the purpose intended for consultation of the draft normative bylaws, the deadline for consultation in these specific cases can be foreseen at least 10 working days. In these cases, the public body together with the draft normative bylaw should publish in the register the reasons for its consultation within the shortened period of at least 10 working days.</p>	<p>PM Office MFE/MSPE MSRP</p>	<p>Medium-term</p>
<p>Recommendation 2</p> <p>Regulatory Impact Assessment Report (RIA/VNR)³ as essential consultation documents suggesting for alternatives to regulatory solutions, are recommended to be subject of public consultation from the early stages of drafting the draft-act (even before drafting the of the draft act itself) and part of the package of documents that are published in the electronic register together with the draft act, the notification for consultation and other data related to the consultation.</p> <p>Immediate implementation of this obligation for institutions which is also provided in the <i>Instruction for Public Consultation Process</i>⁴ is suggested to be accompanied in the medium term with a clear provision in <i>Article 6 Obligation for public notification and consultation</i> of law no. 146/2014 'On Notification and Public Consultation', raising to the level of law the obligations of institutions regarding RIA currently defined in the bylaws.</p> <p>(1)</p>	<p>PM (Dept. RIA) Ministries</p>	<p>Medium-term</p>
<p>Recommendation 3</p> <p>Structuring of an efficient and clear mechanism for administrative measures in case of non-implementation of the provisions of Law 146/2014 'On Notification and Public Consultation' as a proportional instrument to increase the awareness of the public body and administration for the implementation of obligations in the field of consultation public⁵.</p>		

³ RIA/VNR format as approved with CoM Decision 197 date 11.04.2018.

⁴ Order no.3 date 29.01.2021 of General Secretary of Council of Ministers "On the Approval of Instruction for the Public Consultation Process"

⁵ The structuring of mechanisms of administrative measures can follow the models provided in similar laws such as: Law 107/2021 "On Co-Government", Law 119/2014 "On the Right to Information"

<p>Administrative measures are recommended to enable not only the administrative responsibility of the coordinator for public notification and consultation, but also of the superior and/or head of the public body as defined by law, in cases where lack of consultation and/or violation of public consultation procedures (e.g., non-publication of the consultation report) did not occur due to the actions or omissions of the coordinator. For this, it is recommended amending the Article 21 of Law 146/2014 ‘On Notification and Public Consultation’ thus creating a mechanism to control the duties and administrative functions directly involved in the consultation of the draft law.</p>	<p>PM Office Deputy Prime Minister</p>	<p>Medium-term</p>
<p>Recommendation 4</p> <p>Timely fulfillment of the institutional obligation by the Ministries for the Publication of the Annual Public Consultation Plans and the Public Consultation Reports in the electronic register and on the official websites of the institutions.</p> <p>For this it is suggested:</p> <p>(a) <i>immediately</i>, strict implementation of the deadlines for their publication as set out in the <i>Instruction for Public Consultation Process</i>.</p> <p>(b) <i>in the medium term</i> it is suggested to assess the possibility of providing a deadline for their publication in Article 6 <i>Obligation for notification and public consultation</i> of the law.</p>	<p>PM Dept. of Development and Good Governance (PM) Ministries</p>	<p>Short- term</p>
<p>Recommendation 5</p> <p>Although progress is being made, associations/chambers of commerce need to increase their capacity and work for a higher standard of interaction in the country's public policy consultation processes.</p> <p>To this end, they need to increase their managerial capacity/resources and expertise in terms of: (a) inclusiveness in representation; (b) advocating for the interests of members (by sectors, size of companies or their geographical location); (c) increasing the capacity of the private sector to be active in the institutional decision-making process through a proactive approach to transparently proposing legal initiatives that regulate entrepreneurship issues. At the strategic level, their resources and challenges for a higher institutional standard may require a more in-depth analysis, with options that also consider the "business representation model" by strengthening the role of chambers of commerce by delegating and entrusting them to provide services to enterprises. <i>In this context, reactivating the working group for the revision of the draft law on business</i></p>	<p>MFE Business associations/ Chambers of commerce and Industry</p>	<p>Long term</p>

<p><i>chambers through extensive consultation with all stakeholders may be an option for strengthening the role of chambers and business associations.</i></p>		
<p>Recommendation 6</p> <p>Institutionalization of the process of identification of consultation actors according to the provisions of the Instruction on Public Consultation Process and the Orientation Matrix.</p> <p>For this purpose, the ministries/local self-government units should prepare and publish in a transparent and open manner for registration (for example the model of the Albanian Parliament) the identified list of potential actors for consultation (including but not limited to individuals, experts, think- tanks, NGOs, chambers of commerce and business associations, development partners, public-private consultation platforms, universities, research institutes) as well as the categorization of businesses by sectors of the economy and their current activity, to include them in a timely and voluntary manner from the first stages of project consultation according to their areas of interest.</p>	<p>PM</p> <p>Dept. of Development and Good Governance (PM)</p> <p>Ministries Local self-government units</p>	<p>Medium-term</p>
<p>Recommendation 7</p> <p>Improving the functions of the electronic register for public notification and consultation to create easy access for all stakeholders by enabling:</p> <ul style="list-style-type: none"> (1) Interactivity (possibility of registration of subjects for the fields when they want to receive automatic notifications by e-mail) and automatic notifications by email on the status of the public consultation procedure (open / closed / inquiry within institutions / reopened / postponed, etc.); (2) Generate quantitative monitoring reports of public notification and consultation procedures for the public, chambers of commerce/business associations and interest groups as mechanisms to increase transparency and positive pressure on institutions for more focus on public consultation procedures. 	<p>PM</p> <p>AKSHI</p> <p>Ministries</p>	<p>Medium-term</p>
<p>Recommendation 8</p> <p>Promoting the electronic register as the legal standard of notification and public consultation as well as raising the awareness of users (institutions and businesses) on making transparent suggestions, comments, and responses on public consultation in coherence with objectives of the digitization of public services reform.</p> <ul style="list-style-type: none"> (1) Following and implementing <i>good practices</i> of public consultation by not being satisfied with the process of notification and public consultation of drafts only according to the basic legal standard, but by diversifying 	<p>PM</p>	<p>Medium-term</p>

<p>the methods of public consultation (open meetings, surveys, etc.) according to forecasts of the law to enable a wider range of stakeholders.</p> <p>(2) Organizing joint trainings (representatives of institutions and the private sector) focusing on the rights and duties of the parties within the consultation process with the aim of increasing trust, where the parties are willing to communicate and respect the obligations arising from the requirements of the law of public notification and consultation and special laws.</p>	<p>Dept. of Development and Good Governance (PM)</p> <p>AKSHI</p> <p>Ministries</p> <p>Business associations/ Chambers of commerce and Industry</p>	
<p>Recommendation 9</p> <p>Optimization of the functionalities of the electronic register by the local self-government bodies as public bodies in the sense of law 146/2014 by publishing in the electronic register the draft objects subject to consultation in the local communities as well as the reports of individual consultations.</p> <p>Publication in the electronic register does not limit the implementation of mechanisms, procedures and deadlines applicable under specific laws, but creates greater opportunities for inclusion and transparency in local decision-making and creates opportunities for unification of public consultation practices.</p>	<p>PM</p> <p>Dept. of Development and Good Governance (PM)</p> <p>AKSHI</p> <p>Local self-government units</p> <p>Association of Albanian Municipalities</p> <p>Association for Local Autonomy</p>	<p>Medium-term</p>
<p>Recommendation 10</p> <p>Increasing of the role and institutional capacities related to the function of coordinator of public consultation within the institutions, suggesting that the fulfillment of functions should be the responsibility of structures at a higher level than <i>the specialist</i>. Job descriptions should clearly define the rights and duties of notification and public consultation coordinators within the institution regarding access to</p>	<p>PM</p> <p>Dept. of Development and Good Governance (PM)</p>	<p>Medium-term</p>

information on projects planned for consultation and of those consulted, as well as the manner of reporting, transparent publication of pre- and post-consultation activities. as well as the manner of interaction with the consulted actors.	DAP Ministries	
--	---------------------------------	--

Suggestions from Members	Subject
Perhaps, it is time for the government to do an internal analysis to understand what is not working in enforcing this law. The time has come to amend the law, including the bylaws in its scope. ⁶	
Non-proper identification of consulting actors, emphasizing that the law on chambers of commerce and industry should be brought again for the discussion taking into consideration the fragmented business representation due to a large number of associations and the confusing confrontation of the business representatives with the public administration. ⁷	Ines Muçostepa, UCCIAL

Abbreviation :

PM – Prime Ministry Office

DPM – Deputy Prime Minister

MFE- Ministry of Finance and Economy

Dept. RIA – Departament in PM that coordinates the Regulatory Impact Assesment

AKSHI – National Agency of Information Society

DAP – Departament of Public Administration

MSPE – Minister of State for Protection of Entrepreneurship

⁶ This suggestion is in line with the recommendation nr 1 in the matrix

⁷ This suggestion is in line with the recommendation nr 5 in the matrix

MSRP - Minister of State for Relations with Parliament

UCCIAL – Union of Chambers of Commerce and Industry, Albania

Term :

Short term- period from 1 to 6 months.

Medium-term – period from 6 month to 1 year.

Long term – period over 1 year.