

**SUMMARY OF MINUTES OF MEETING**  
**INVESTMENT COUNCIL (IC)**  
**MEETING XXVII**

***“Public consultation as an effective tool for improving decision-making and  
business-public institutions dialogue”***

**Tirana, 1 June 2022, 14:00 – 15:30**

The meeting was held in hybrid form (physically and virtually) and was chaired by the Minister of Finance and Economy, Ms Delina Ibrahimaj, IC Chair. The meeting was attended by 16 IC members and over 30 observers - representatives of local and foreign business associations and state institutions in Albania.

**1. Opening of the Meeting by Minister Delina Ibrahimaj, IC Chair**

In her opening speech, Minister Ibrahimaj highlighted that public consultation is at the core of the government's policy process. The law on public consultation was adopted in 2014, and since then, it has been widely implemented. The public consultation portal was intended as an instrument that would bring the private sector closer to the policymaking, enabling better identification of the issues related to the legislative processes initiated, guaranteeing transparency in the drafting process and the opportunity to contribute to the reforms taken. In 2022, within the public consultation framework, the public became involved through the National Consultation Initiative launched by the government. Since 2017, MFE has submitted to public consultation 52 draft laws, while the private sector submitted feedback for only 8 of them. These draft laws were not only launched for consultation on the public electronic portal but also discussed in roundtables, meetings, or other public discussion events for a more inclusive process. For example, the Law on Electronic Invoicing (fiscalization) was not only launched for public consultation but also widely discussed with stakeholders until it took its final shape embedding many changes from its original form. The Secretariat's study and the discussions in this meeting will help further improve the process. As informed at the previous IC meeting, the MFE has taken the initiative to analyse and initiate legal amendments (where applicable) as per recommendations submitted by different chambers of commerce for various investment climate improvement processes that are not only under the umbrella of MFE but of the entire government. A second meeting will be organised soon where all the recommendations will be analysed once again and all the steps that have been taken will be presented. The past 5 months have been intense with meetings between chambers of commerce and MFE experts. Out of 133 recommendations given by the chambers of commerce, 8 are related to the public consultation process, which will probably be part of this meeting's discussions. Some of these recommendations are currently being implemented but need further decision-making and discussion. For example, one recommendation of the chambers of commerce has been to include in the public consultation the bylaws that accompany important draft laws and, in some cases, provide essential details on the implementation of draft laws—this needs reconsideration. Proposals have been made for law enforcement institutions and legislative institutions to organise preliminary discussions even before the draft law or legal initiative is formally submitted for public consultation. This is a practice that MFE has undertaken for several important draft laws, carrying out a closed non-public consultation process, to come up with a law that considers all the recommendations of the experts in the area. The Law on Income Tax, which has been thoroughly

discussed in the media in recent weeks, is currently in the final consultation stage with experts in the area, and it will be submitted for public consultation next week. The government aims to carry out inclusive reforms where all stakeholders are part of the decision-making process—with the ultimate goal of achieving the economic development of the country.

## 2. Presentation of the Secretariat's analysis

Ms Diana Leka (Angoni), IC Secretariat, thanked the representatives of the business associations and public institutions for the cooperation and said that the Secretariat's analysis focuses on four main pillars: i) the transparency level of consultation, ii) the importance of timely and appropriate identification of private sector representatives, iii) the effectiveness of existing consultation mechanisms, and iv) the stakeholders' awareness on the use of technology in the consultation process. The recommendations for the improvement of the process, consider as a precondition, the serious commitment of the public bodies and business associations to respect the obligations provided by law. More specifically, the recommendations focus on the implementation of the law requirements for timely publications, RIA, possible legal changes related to the expansion of the scope of the law as well as the optimisation of registry functions to increase access and awareness.

## 3. Summary of main comments

Ms Ekaterina Solovova, EBRD, highlighted the importance of this meeting's topic. She underlined that for the public consultation process to be effective, all parties need to be fully engaged. The existence of the current mechanism in place is a very good start. However, *we need engagement and mutual trust to make these tools effective*. Weaknesses are noted in some details, such as engagement, awareness, etc. We can create and raise awareness about all sorts of tools, but if the stakeholders do not engage consistently, proactively and constructively, then no tools will solve the problem. In the end, Ms Solovova expressed the EBRD's readiness to help in the implementation of some of the recommendations approved in this meeting.

Mr Enio Jaço, Amcham, said that public consultation is paramount and one of the work pillars of Amcham, also highlighting the collaboration with the working groups created by MFE. In fact, there is low involvement of the private sector in this regard and the main reason has to do with the lack of trust. There is an existing platform in place, and this serves as a good start to the public consultation process. But this platform has some serious flaws. Amcham has identified that the Law on Public Consultation *lacks an enforcement mechanism*. In their analysis, they observe that over 50% of the laws that are passed are not subject to the rules set by the law on public notification and consultation, which is thought to be a good law. For this reason, an enforcement mechanism would help in this regard. Also, regarding the complaint about the lack of consultation, Amcham has drafted some recommendations on how this process can be improved.

Mr Aleko Polo, Union of Albanian Producers, stressed that public consultation becomes important when it is effective. The fact that the private sector has reacted to only 8 draft acts out of 52, shows a strong lack of trust. Let us be frank and accept the fact that the consultations made so far have no value at all and are done superficially. The standard, referring to the Law on Public Consultation, is the notification of draft acts at the register of public notification and public consultation, for which not only the associations but also their members have no idea what really happens. For the public consultation process to be effective, some more user-friendly mechanisms than the electronic register need to be considered, which must be used in due time and place. Public meetings are crucial, especially before the laws are published on the register. Meetings of public consultation should be held at the premises of business associations/chambers (the most prominent ones) to create a friendlier atmosphere—as in reality, meetings are often held at the

premises of the ministries where the ministers/deputy ministers do not stay until the end of the meeting, delegating the presence to their subordinate staff who have no political power and capability to make changes. He also stressed the importance of consultation of the draft bylaws, which, as previously confirmed by the Minister, will be taken into account, and supported the imposing of sanctions in case of non-implementation of the public consultation law.

Mr Emanuel Salinas, World Bank, said that the realisation of dialogue between the public and private sectors is a complex process as he shared some lessons learned from the experience of other countries.

- Firstly, it is good that there is a public consultation platform in place, but it should have high visibility and be easily accessible by everyone. In addition to the platform, it is also important to have a mechanism that invites the public to join this platform (e.g. through social media).
- Secondly, there should be a “sample” to evaluate the public consultation process as well as a mediator regarding the treatment of different/opposing comments about the same law which come from the public—a process that should provide clear output. The private sector that spent time commenting on relevant drafts needs responses to those comments as to whether or not they have been taken into account and for what reason they have not been taken into account. Before a law is amended/drafted, it is important to explain the reasons for the change in legislation in a simple and widely understood language.
- Finally, the adopted/amended laws should be monitored and evaluated to measure their impact and be transparent to the public.

Ms Edona Bilali, MSPE, said that from the point of view of the Ministry of State for the Protection of the Entrepreneurship, the first law undertaken by this Ministry, “On the support and development of startups” was an exemplary model of public consultation as it was shaped directly from the ecosystem. Consultations took place from its very inception until its approval. Stakeholders were notified and consulted in formal and informal meetings. The Ministry has not received any complaints regarding the implementation of the law on public notification and public consultation, neither directed to this Ministry nor to any other ministries.

Mr Nikolin Jaka, CCI TR, raised the following issues:

- *The stakeholders should properly understand the issues related to the public consultation and develop the right dialogue to resolve them.* Consultation of laws and bylaws is important for public-private dialogue, therefore in this context, the commitment of the Minister to promote the inclusion of bylaws in the public consultation is to be appreciated.
- Business representation is currently made in a chaotic way, making it difficult to identify the right partners vis-à-vis state institutions in the frame of public consultation. Currently, *no chamber or association has the professional capacity to handle public-private dialogue in high quality and appropriate manner.* The consultation should be oriented towards chambers of commerce as a party with wide representation.
- *Adequate consultation of economic laws by institutions and private sector representatives requires in-depth and well-paid expertise*, going through a detailed and often lengthy procedure until the law is submitted for approval.
- *The current 20-day deadline for consultation practices is short* and often does not matter whether or not the consultation takes place.
- *There are no development policies* for the proposed laws to be in line with. Fiscal laws cannot be made for the purpose of revenue collection without considering the general context of economic development.

Afterwards, Mr Jaka said that it is time for action and he called for:

- The parties to sit for dialogue and transparency, especially during the difficult time that the business is going through following several crises in the past 3 years, placing an emphasis on the increased business costs, high energy costs, etc.
- The preparation of a legal package for the country's economic development, especially for those sectors that have a positive performance and for those legal initiatives that help these sectors or foreign investors for more investments in the country.

Currently, IC is the only efficient structure which operates institutionally for all the problems that the private sector has. If 50% of the IC recommendations were implemented, the country would have a better ranking in the doing business indicators. CCI Tirana will submit in writing all its comments related to the issue of public consultation to the Secretariat.

Ms Marinela Jazoj, FIAA, said that the findings of the Secretariat are not new to FIAA, having already identified the lack of public consultation as a major problem for the business climate in the country. Ms Jazoj highlighted the following issues:

- *Business associations should be consulted in the preliminary stages of drafting laws and bylaws.* The process should provide enough time for the parties to be involved. She mentioned the contribution given to the consultation of the draft Unified Investment Law prepared by IFC and the World Bank 3 years ago and the fact that no trace has been left of this draft, while great energies were provided by the stakeholders and experts involved in the consultation process.
- *The existence of other non-consultation practices*, for example, from the local government (municipalities and municipal councils). Some of them are facing legal charges from AREA association for unconsulted and non-transparent decision-making to the damage of the business, by imposing arbitrary local tariffs. Consultation at the local and central level helps in terms of business-institutional relations by avoiding litigation.

Eventually, she commended the practice recently initiated by the MFE in relation to the working groups set up to discuss the recommendations of the business associations on various issues but stressed that these meetings should be held at the stage of drafting acts and not when problems have already arisen during the implementation phase.

Ms Ines Muçostepe, UCCLAL, raised two issues:

- If the business does not get feedback for the suggestions or comments submitted or when it is asked to organise consultation tables for draft laws at a short notice, then the *trust in the consultation process decreases*;
- 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.

Ms Ledia Muço, EU Delegation, appreciated the addressing of such an important topic by the IC, which is an issue shared also with the other member states of the Western Balkans, and part of the discussions that Albania has had with the European Commission in the framework of ERP (Economic Reform Program) 2022-2024. Quoting the recommendation made on May 24 in the ERP where, among other things, it is mentioned that: "*Albania has agreed to assess the effectiveness of the consultation mechanisms and revise it with input from businesses and social partners in order to make the process more comprehensive practical and transparent...*". She underlined that concrete steps should be taken, instead of just identifying the problem.

Mr Sokol Elmazaj, FIAA, said that although the law on public consultation was approved in 2014, still in 2022 there are strong remarks about its non-functioning, showing that the real problem is the philosophy that the state has on how it regulates the function of its entities (natural persons or

commercial entities). The government should change the approach and the philosophy of making its rules by showing the maximum predisposition to listen to the organised voice of the business or even individuals. 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.

Minister Delina Ibrahimaj, MFE, thanked for the raised comments and responded in a summarised way as below:

- The importance of undertaking inclusive processes. Based on the comments submitted in this meeting and taking into consideration the other 8 recommendations previously submitted by the private sector related to the public consultation, there is a need for an intervention to regulate what the law may have left evasive (such as penalties—although not fully agreeing with the various legal opinions raised—or even for more specific rules for all the arguments mentioned in this meeting).
- A common will is needed to use technology-based solutions, which are part of the law and the process. to facilitate the time of discussions by making them more efficient and transparent. The fact that from 2014 until today, this instrument is not used by businesses shows that there is work to be done from both sides. Therefore, we should not suffice only with meetings and round tables, but we should also use this instrument which is in line with all the best international practices, and we should work together to use it. Minister Ibrahimaj brought again as a model, the consultation of the draft law on fiscalization, which was widely consulted with stakeholders and the inclusion of its bylaws in the public consultation portal. Chambers of commerce should promote the use of the electronic portal. On the other side, no comments have been made on many draft laws, such as:
  - Law on Private Insurance. There have been roundtables, and consultations with relevant operators, but no comment was submitted. This law affects all businesses, not only individuals;
  - Business Development and Investment Strategy;
  - Intellectual Property Strategy.
- The main fiscal laws are drafted in cooperation with the IMF, WB, IFC—so they are widely consulted with international experts in the area. The Law on Income Tax is foreseen in the MFE plan to be approved by the end of the year, while it will be launched for consultation starting from June, in order for the process to be as inclusive as possible since it affects many categories of taxpayers or individuals, by applying international best practices. The mid-term revenue strategy has been suspended for the time being as it has been decided not to make changes in the tax level in moments of high uncertainty caused by the international crisis.
- Monitoring of draft laws. This should include not only preliminary communication, inclusiveness, and explanation of important legal acts in plain language but also monitoring post-implementation. In the present meeting, it was discussed the implementation of the Law on Public Consultation (a kind of monitoring post-implementation), and with the input of all participants, we will consider legal initiatives to be taken.
- Business should not continue with perceptions but with analysis and evidence. It is not easy to go into detail of each recommendation while the representatives of the business associations need to be clearer in their recommendations.
- Fundamental bylaws that are at the centre of the laws deserving a public consultation because of the great impact they have, must be consulted. Although this is not provided by law, on behalf of the MFE, the Minister expressed her commitment to consult such bylaws with stakeholders in particular for fiscal policies to be oriented toward the economic development of the country—where collaboration can be established also with the IC for analysing the work done and future interventions.

At the end of this meeting, the Secretariat will list all the recommendations raised, and based also on the recommendations raised by Amcham, it will be reached a good result for proposals for legal changes, while an action plan should be developed to create the opportunity to move forward.

### **Closing of the meeting**

Upon the conclusion of all comments, the meeting was considered closed.



## List of participants

### Government Representatives

1. Ms Delina Ibrahimaj, IC Chair/Minister of Finance and Economy
2. Ms Edona Bilali, Minister of State for the Protection of the Entrepreneurship
3. Ms Natasha Ahmetaj, Deputy Governor, Bank of Albania
4. Mr Arian Leço, Head of Entrepreneurship Department, Albanian Fund for the Development of Diaspora

### Business representatives

1. Mr Nikolin Jaka, Chair of Tirana Chamber of Commerce and Industry
2. Ms Ines Muçostepa, Chair of Union of Chambers of Commerce and Industry (UCCIAL)
3. Ms Eni Xheko, Chair, Turkish Chamber of Commerce and Industry in Albania (ATTSO)
4. Mr Aleko Polo, Executive Director, Union of Albanian Producers
5. Mr Enio Jaço, President, AmCham Albania
6. Ms Alida Kondi, Board Member, Women Economic Chamber
7. Mr Ardian Lekaj, Chair, Albanian Chamber of Business Diaspora
8. Ms Marinela Jazoj, Executive Director, FIAA (*ad-hoc*)
9. Ms Anita Shushku, Chair, AREA (*ad-hoc*)

### International partners

1. Mr Emanuel Salinas, Country Manager, World Bank
2. Ms Ekaterina Solovova, Head of EBRD Albania
3. Ms Ledia Muço, Advisor for Economic Affairs, delegated by Mr Hubert Perr, Head of Cooperation, EU Delegation

### **Absentees:**

1. Mr Sokol Nano, CEO, AIDA
2. Ms Laura Qorlaze, Country Representative, IFC Office

### **Special guests from the government:**

1. Mr Hantin Bonati, Deputy Minister, MIE
2. Mr Eris Çela, Legal Director, Prime Minister's Office
3. Mr Besmir Beja, General Director, Ministry of Justice

### **Other participants:**

1. Ms Ardita Seknaj, Secretary General, ICC Albania
2. Ms Valbona Ylli, Chair, LEA
3. Ms Valbona Karakaçi, Programme Manager, Bashki të Forta
4. Ms Adelina Farriçi, Chair, Association of Local Autonomy
5. Ms Thalia Pulla, Municipality of Dropull
6. Chamber of Commerce and Industry of Vlora