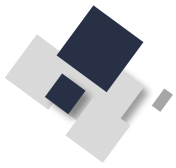


# **PUBLIC CONSULTATION,** AS AN EFFECTIVE TOOL FOR **IMPROVING DECISION-MAKING** & PUBLIC-PRIVATE **DIALOGUE**

Investment Council Meeting,  
1 June 2022



# CONTENT

- ☐ OBJECTIVE AND METHODOLOGY
- ☐ CONTEXT
- ☐ MAIN FINDINGS
- ☐ RECOMMENDATIONS

# OBJECTIVE

**Support trust-building of business community in the process of public consultation**  
by prioritizing interventions and accelerating improvements related to:

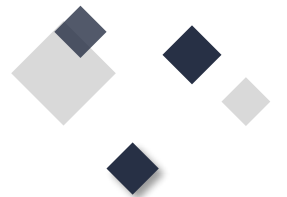
**The level of transparency**  
and implementation of  
public consultation  
procedures



**Effectiveness of existing mechanisms** and/or the provisioning of new mechanisms

**Clear and appropriate identification** of the role of business representatives

**Raising technology awareness & accountability** of the parties involved



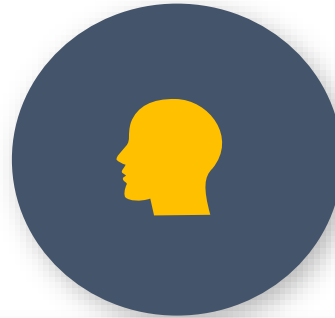
# METHODOLOGY

## DESK-RESEARCH



- **National and international reports**, laws/bylaws
- **Official data analyses**
- **Public consultation models**
- **Monitoring of public consultation practices** as published in RPNC
- **Issues presented to IC Secretariat 2015-2021**

## CONSULTATIONS



- **37 direct and online consultations** with public institutions/ experts/ business associations and chambers of commerce
- **2 focus groups** (with business associations (28 participants) and experts (4 participants))
- **Written comments** from IC members and partners.

## 1 QUESTIONNAIRE



**26/110 identified business associations and chambers of commerce** responded to an online questionnaire

### Questionnaire structure:

- ✓ **familiarity** with public consultation legislation and instruments
- ✓ **interaction** public institutions-private sector
- ✓ **challenges** of the public consultation process

# CONTEXT



EU Progress Report for Albania 2021



The US State Department Report on Investment Climate 2021



**SIGMA**  
Creating Change Together

The Sigma Monitoring Report (2021)



RESPUBLICA

Reports published by the Centre RES Publica(2019)



AMERICAN CHAMBER OF COMMERCE  
DHOMA AMERIKANE E TREGTISE

American Chamber of Commerce (2021)



Foreign Investors Association of Albania

Foreign Investors Association of Albania (2021)



KASH



AREA

**Quality control** in public consultation should be still **strengthened** to focus more on the content than on the process

The business community often complains that the **final versions of laws and regulations do not address their comments and concerns** and that deadlines for presenting comments are often not respected

Public consultation on key policies **has not been successful in generating comments and reactions from stakeholders** and ensuring a meaningful contribution to the drafting of final policies

The process of public consultation **is more than a legal issue, is a political one** and relies on the good will of lawmakers

The law on information and public consultation **lacks binding procedures** for ensuring effective implementation

Frequent changes in tax legislation **have created a chaotic legal framework** which is not only an additional administrative burden and financial cost for taxpayers, but also in many cases, it violates legal security, a constitutional principle in the Republic of Albania

Representatives of associations and interest groups **oppose the violation of legal deadlines** during the public consultation process. For example, for the consultation of the fiscal package and the provision of the comments, only two days are left at disposal

Despite some positive cases (as for some DCMs), the consultation is formally done **only to abide by the procedure** — a total distortion of the appropriate process. AREA has created its own platform to demonstrate how it can be correctly done

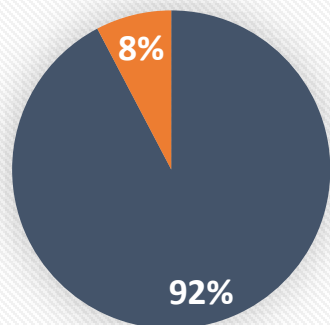
# OFFICIAL DATA

Frequency Index of Public Consultation	Quality of public consultation	Consulted draft acts	Public meetings	Annual Public Consultation Plan	Acceptance rate
72,22% compared to 79,57% in 2020 with a decline of 7,35 percentage points	There is a decline of 0,72 points (4,94 points in QI-2021 from 5,66 points in 2020, and 5,12 in 2019)	13 from 14 consulted draft acts are published in the RPNC – high level of legal compliance	Of the 14 acts consulted, public meetings have been organized for 11 acts — the frequency index for the organization of public meetings reached the rate of 78.57% compared to 63.01% in 2020	92.3% of consulted draft acts were part of the Annual Public Consultation Plan	The acceptance rate of the contribution made by interested parties in public consultations of draft laws and strategies in 2021 (the first half of the year) is 82.66%, compared to 59.79% in 2020

According to Report of Public Consultation Performance, Centre for Governance, July 2021

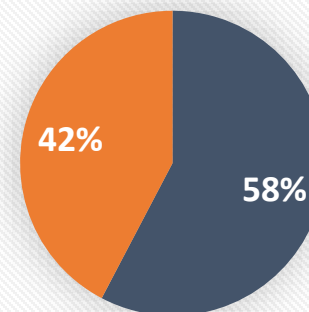
# BUSINESS vs PUBLIC CONSULTATION

Are you aware of whether there is a law on public consultation in Albania?



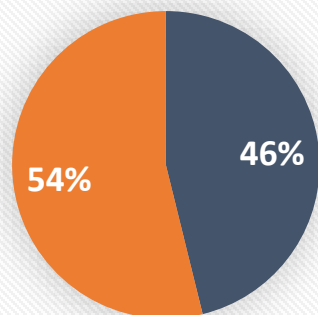
■ Yes ■ No

Do you know the procedure of public consultation of draft acts?



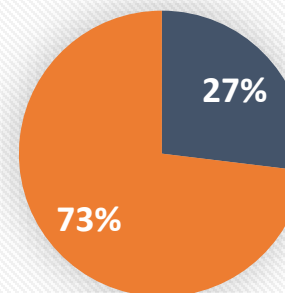
■ Yes ■ No

Are you aware of the deadlines for public consultation?



■ Yes ■ No

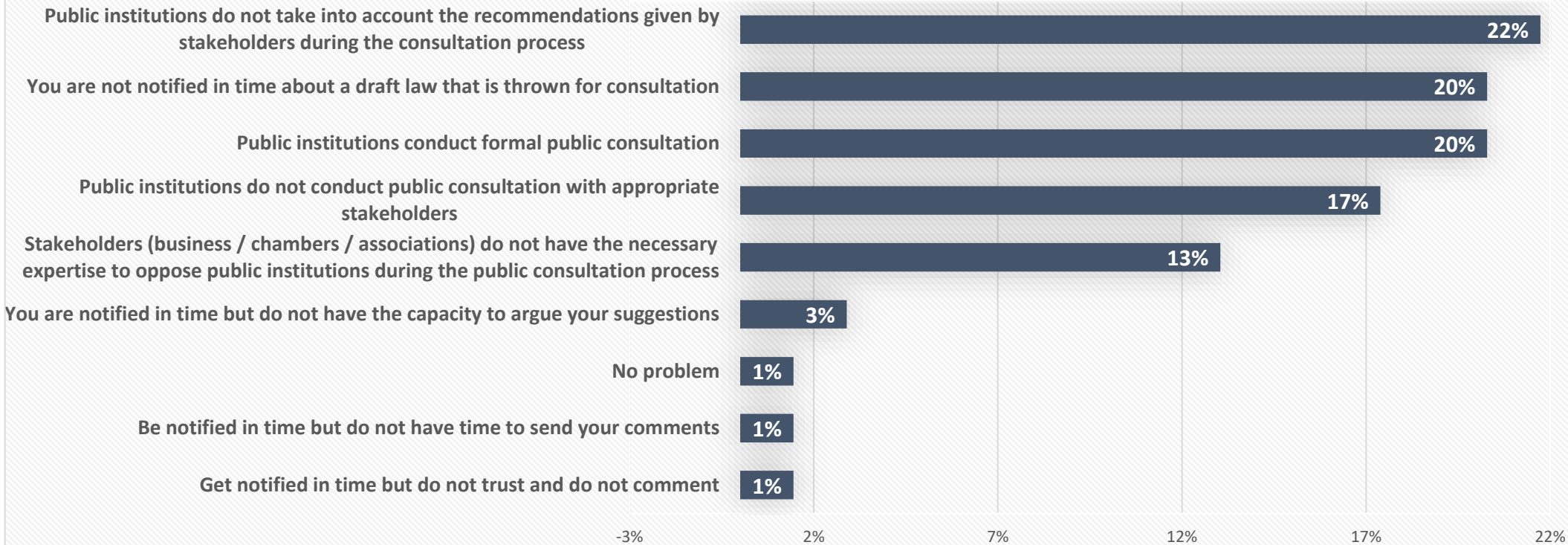
Do you have information on the Electronic Registry for Public Notification and Consultation?



■ Yes ■ No

# MAIN ISSUES - Business associations perception

## What do you think is the main problem regarding public consultation?

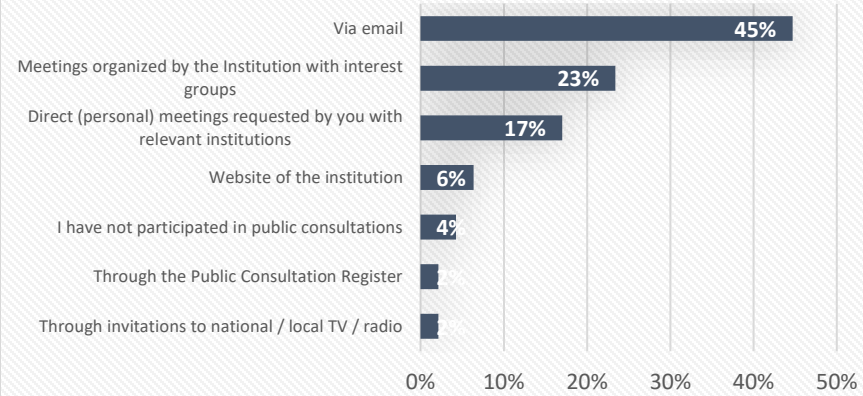




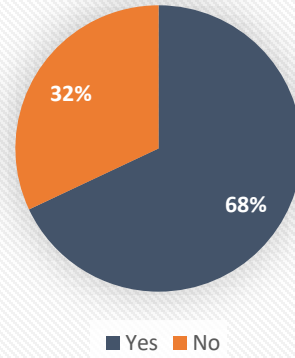
# NOTIFICATION – PARTICIPATION - CONTRIBUTION

## *Business perception*

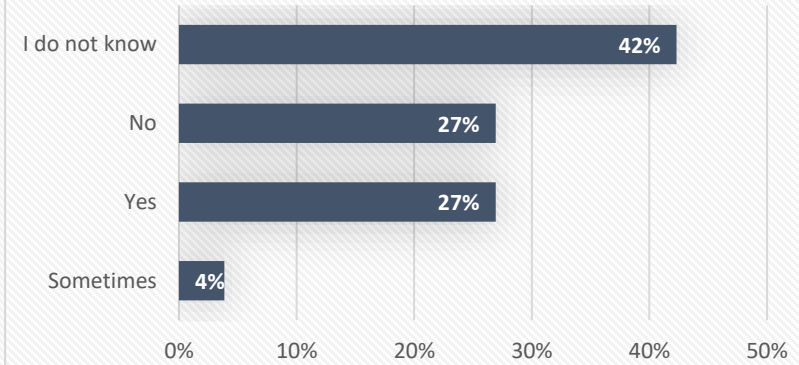
If you were part of the Public Consultation, please specify how you became aware of the process:



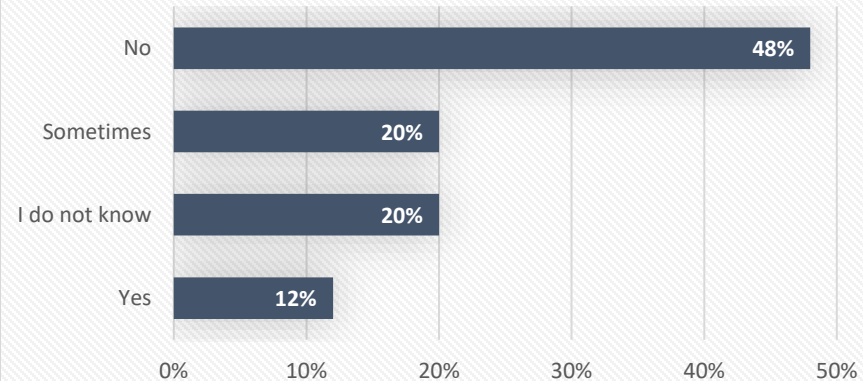
If you were part of the Public Consultation, did you provide comments / suggestions / recommendations on the submitted draft act?



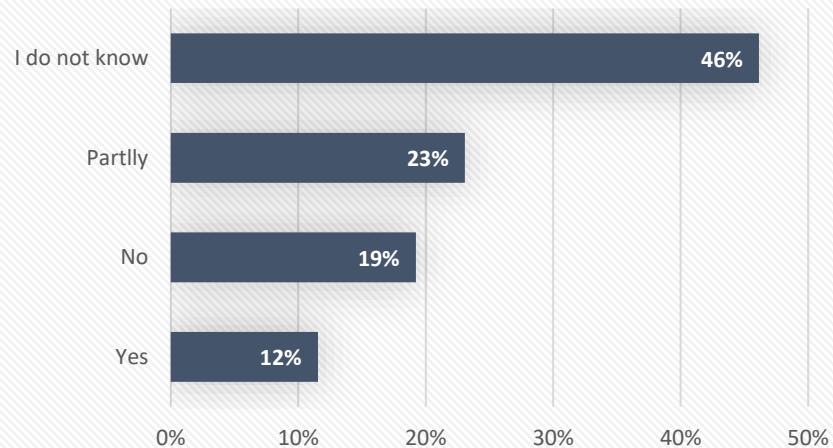
If you participated in the public consultation, was it documented in the minutes which were also made known to you?



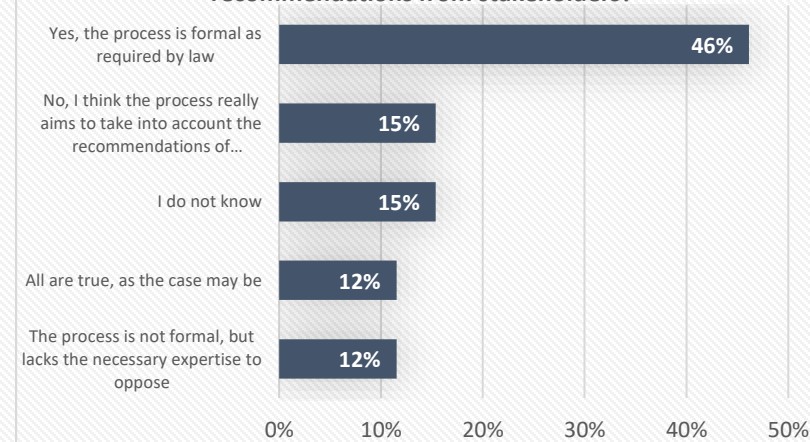
If you provided comments/suggestions during the consultation process did you receive a response from the institution regarding their consideration or arguments regarding their non-consideration?



Have your remarks / suggestions / comments been taken into consideration?



Do you think that the Public Consultation process is a formal process and is not intended to receive recommendations from stakeholders?



# IC FINDINGS – PUBLIC CONSULTATION QUALITY

## LEGAL DEFICIENCIES

- Draft legal acts that have neither been notified nor published (Fiscal package 2022)
- Lack of preliminary consultations on draft legal acts
- Lack of obligation of institutions to consult draft bylaws
- Lack of an efficient mechanism for implementing administrative measures
- Local self-government units are not listed at RPNC

## INSTITUTIONAL DEFICIENCIES

- Annual Public Consultation Plans are not published systematically and according to the approved standard
- Notification and public consultation practices are not unified
- Lack of institutional response to business suggestions
- No proper and structured role of notification and consultation coordinators within the institutions

# IC FINDINGS – BUSINESS AND OPTIMIZATION OF PUBLIC CONSULTATION PROCESS

RECOGNITION	The business community knows that a legal framework dedicated to public notification and consultation has been adopted in Albania
REPRESENTATION	The representative body/entity of the private sector remains somewhat unclear during the consultation process and the level of opposition/expertise is perceived as limited
RPNC (Electronic Register for public notification and consultation)	Private entities do not recognize/comment on the RPNC but are mostly oriented towards open consultations/direct meetings
INITIATIVE	In the RPNC was not identified any proposal/initiative from the business community to public bodies to start the procedure of drafting and approving legal acts, according to the annual plan published by the public body.

# IC FINDINGS – CONSULTATION CHANNELS & PROMOTION

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The process remains formal and business is not notified in due time

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Information is not systematically published

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Lack of transparency in different stages of consultation process

# RECOMMENDATIONS



## **Political commitment**

POLITICAL COMMITMENT IN THE IMPLEMENTATION OF THE OBLIGATIONS OF THE PARTIES  
(INSTITUTIONS AND REPRESENTATIVES OF THE PRIVATE SECTOR)



## **Legal changes**

LEGAL CHANGES AS INSTRUMENTS FOR SUSTAINABLE DEVELOPMENT OF CONSULTATION IN  
THE MEDIUM TERM



## **Awareness - Technological instruments**

AWARENESS IN THE USE OF TECHNOLOGICAL INSTRUMENTS DURING PUBLIC CONSULTATION  
PROCESS

# RECOMMENDATION - POLITICAL COMMITMENT

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**Timely fulfilment 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

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**Regulatory Impact Assessment Reports (RIA)** as essential consultation documents suggesting alternatives to regulatory solutions are recommended to be **subject to public consultation from the early stages of drafting the draft act**

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**Increasing the role and institutional capacities** related to the function of coordinator of public consultation within the institutions by suggesting that the fulfilment of these functions should be the responsibility of structures at a higher level than a specialist

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**Clear and appropriate identification of consultation actors** according to the provisions of the Instruction on Public Consultation Process and the Orientation Matrix.

# RECOMMENDATIONS - LEGAL CHANGES AS INSTRUMENTS FOR SUSTAINABLE DEVELOPMENT OF CONSULTATION IN THE MEDIUM-TERM

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**Extension of the area of law no. 146/2014 “On Notification and Public Consultation”, adding the draft normative by-laws**

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**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”**

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**Associations/chambers of commerce need to enhance their capacity and work for a higher standard of interaction in the country's public policy consultation processes**

# RECOMMENDATIONS - AWARENESS OF THE USE OF TECHNOLOGICAL INSTRUMENTS

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**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 to draft acts

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**Optimization of the functionalities of the electronic register by the local self-government units** as public bodies within law 146/2014 by publishing in the electronic register the draft acts subject to consultation in the local communities as well as the reports of individual consultations

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**Improving the functions of the electronic register** for public notification and consultation to create easy access to all stakeholders



# Discussions

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## Institutional challenges

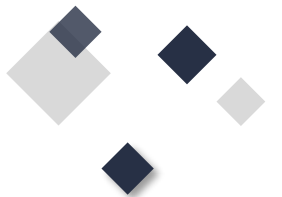
Challenges of central and local institutions, for (i) early identification/notification of private sector representatives and (ii) response/feedback to business comments as essential factors for increasing trust and ensuring a comprehensive public consultation process

## Raising awareness

Suggestions from the private sector - legal, technical and institutional focus on raising the awareness of stakeholders in the public consultation process

## Electronic Register

In the context of digitalization reform, is it still a challenge for the private sector the use of the electronic register, as the main instrument defined by law for public notification and consultation? How can the private sector upgrade its capacities to optimize consultation benefits and better afford its costs?



**THANK YOU!**  
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