ALBANIA PREPARES FOR NEW MEDIA LAW

After a long cavalcade of discussions, adjournments and amendments, it seems that Albania finally is going to have a new Media Law which will replace the old and outdated media law of 1998. The very first version of the new media law was prepared by the Parliamentary Committee of Education and Public Information back in January 2007 but due to several reasons (mostly political) the reviews and discussions on this draft began only in 2012.

Following the many comments and suggested changes from the various interested stakeholders, making it apparent that in fact the draft was not aligned with EU directives and existing requirements of the Albanian market, the Parliamentary Committee of Education and Public Information prepared a new draft law in line with the remarks and comments of the interested parties.

The current draft is fully aligned with the EU Directives especially with Audiovisual Media Services Directive (Directive 2010/13/EU) and combines two Albanian laws regulating the audiovisual media services in Albania, i.e. Law no. 8410, dated 30.09.1998 “On Public and Private Radio and Television in the Republic in Albania” and Law no. 9742, dated 28.05.2005 “On Digital Broadcasting in the Republic of Albania” which did not cater for the many technological novelties introduced in the audiovisual sector.

A crucial aspect of the draft New Media Law is that it requires digital switchover anticipated to be completed by 17.06.2015 (though many argue this target date is not realistic), also defined in the Albanian Strategy for Digital Switchover approved by the Council of Ministers on 02.05.2012. The law provides the methods and procedures concerning how this digital switchover shall happen in Albania by creating multiplexes (digital platforms) where all actual analogue providers will be allocated (through tender procedures) and granting of frequencies in line with the global process of digital switchover coordinated by ITU (International Telecommunication Union). The Albania public television (RTSH) shall be the first to have a licence for a digital platform, where it can broadcast its own programmes and also may grant the right to broadcast to other operators based on the relevant contracts.

This new draft is still under discussion and will be subject to further review by the Parliamentary Committee (with most of provisions already approved) it is expected that this new Media Law shall be approved by the Parliament very soon, within the coming months or even weeks.

By Enkelejd Seitllari, Senior Associate Corporate & Licensing

NEW ENVIRONMENTAL LAWS NOW IN FORCE

The Albanian Parliament back in 2011 had approved and enacted three new environmental laws to repeal (although partially) the Environmental Protection Law no. 8934, the Environmental Impact Assessment Law no. 8990 and related secondary legislation. All three laws were stated not to enter into force for a period of 18 months which has now elapsed.

The Environmental Protection Law (the New EP Law) which entered into force on 29 December 2012.

The existing secondary legislation related to the Old EP Law will continue to be in force until it is are repealed by a special law. The Council of Ministers and/or the Minister of Environment should approve the replacement of the

FIRM ANNOUNCES APPOINTMENT OF TWO SENIOR ASSOCIATES:

The firm is proud to announce the promotion of two of its Associates to Senior Associates. Mr Oltjon DANO who has been with the firm for over 5 years had made a significant contribution to the Litigation & Arbitration department and is very much valued by clients. The second promotion went to Mr Enkelejd SEITLLARI who has been an integral part of the Corporate & Business Licensing department for over 5 years and played an essential part in most of the largest transactions. He also contributes significantly to completion matters, telecoms and media. Both have shown dedication, hard work and have proven to be valued lawyers for the firm’s clients.

FIRM ADVISES KURUM INTERNATIONAL IN SEALING THE HPP PRIVATISATION DEAL:

Kurum International SHA as the winning bidder of the HEC Ulëz Shkopet and HEC Bistrica 1 and Bistrica HPP privatisations called on the firm to assist in the finalisation of the deal. The main transaction agreements were finally signed on 11.2.2013 with both the Republic of Albania representative and Kurum satisfied.

FIRM NEWS
existing secondary legislation within 2 years from the entry into force of the New Law (i.e. before the end of 2014). Such secondary legislation is focused mainly on technical criteria and documentation necessary for the competent public authority to evaluate an application for an environmental permit.

Section IV of the Old EP Law (regulating, inter alia, impact assessments, cross-border assessment issues, allocation of costs on impact assessments etc) will still be applicable after the 29.12.12.

Law on Environmental Impact Assessment (the New EIA Law) which entered into force on 31 January 2013

This law only repeals the Old EIA Law and its secondary legislation. A new CMD (no. 13 dated 4.1.2013) is issued providing for the rules, responsibility and terms for conducting the procedures for the environmental impact assessment, which will now be subject of such CMD. According to the newly introduced laws and also CMD no. 13, a main competent authority (the National Environmental Agency NEA) will be established, which will play a crucial role in the EIA and environmental permit applications. There will again be two types of EIA procedures, as in the previous law, the preliminary EIA procedure and the in-depth EIA procedure.

There is a level of uncertainty surrounding the actual implementation of these new environmental laws given that the NEA, which has a significant role in the EP process, is not yet established.

Law on Environmental Permits which entered into force on 4 February 2013.

This newly established law deals only with environmental permits. It provides a new category of environmental permits and classifies them into three areas, respectively A, B and C, depending on the type of activity to be conducted.

Current holders of environmental permits for activities covered in permits A and B should comply with the terms of this new law no later than 8 years from its entry into force. Further within 2 years of its entry into force the permit holder should apply to the National Environmental Agency for the revised terms and conditions of the environmental permit (that shall presumably be based on this new law).

It is often stated that the enforcement of environmental laws and standards in Albania is not seen to be active despite the legal framework being considered to be highly developed. The entry into force of the abovementioned laws although to some extent to co-existing with some old provisions and secondary legislation is believed to promote and facilitate enforcement of standards of both the public authority and private operators.

By Xhet Hushi, Associate, Infrastructure & Natural Resources

On the 20.12.2012 the Albanian Parliament enacted a number of laws all published in the Official Gazette on the 11.01.2013, as follows:

(i) Amendment to Value Added Tax Law


Under this amendment the supply of iron and cement, as well as their importation for companies constructing Hydro Power Plants, using such products for the construction of the HPP, shall be exempted from Value Added Tax.

The amendment provides that the importation of machineries and equipment for the implementation of the investment contracts, with a value of 50 million ALL or higher, is also VAT exempted. In addition, the importation of the machineries and equipment for the implementation of investments contracts in sectors of inward processing and agribusiness regardless of their value shall also be exempted from VAT.

(ii) Amendment to Income Tax Law


LEGAL TAX ALERT

The amendment provides that incomes deriving from indemnification granted from binding court decisions and incomes granted by the state institutions in consideration of achievements in science, sport and culture, are exempted from personal income tax. In addition pursuant to the amendment, individuals who have submitted their personal income tax declaration after 30.09.2012 but within 31.12.2012 will not be subject to penalties. Further, under this amendment, where 50% (previously 25%) of the company ownership structure is changed the company cannot carry forward its losses.

(iii) Amendment to Tax Procedures Law

Law amending Law no. 9920, dated 19.05.2008 “On tax procedures in the Republic of Albania”, as amended; effective as of 26.01.2013. Tax Representatives shall be registered only with the Regional Tax Directorate.

Other changes include the increase of the penalties in the case of failure to duly declare employees. Pursuant to the amendment, such penalties shall amount to 500,000 ALL for the VAT and Profit tax taxpayers and 250,000 ALL for the other taxpayers.

It is noted also that this amendment has removed (whether inadvertently or not) the provision on existing obligations of the Tax Authorities to respond within 30 days to the notification sent from the National Registration Centre or the Court in the case of liquidation or deregistration of entrepreneurs or companies

Amendment to Ministry of Finance Instruction on VAT

On the 22.01.2013 the Minister of Finance amended the Instruction on VAT, which is published in the Official Gazette and entered into force on 31.02.2013. The amendment introduces the legal procedure that contractors and subcontractors operating in the hydrocarbons research and development sector shall follow in order for services related to the research and development phase of the hydrocarbon activities to be deemed considered and accepted as VAT exempted.

The amendment has abrogated and ended the permissibility of taxpayers operating in the research of oil and exploitation of the oil fields to be exempt from VAT for the import of oil by-products required for their activity.

By Tax & Banking Department
ONLINE DECLARATION OF PAYROLL

Following recent legal amendments, all taxpayers beginning from the payroll statement for January 2013 are required to declare social security and health insurance contributions and withholding tax using the online system only. The declaration of payroll from the beginning of 2013 and onwards shall be accepted by the Regional Tax Authorities only through the online system.

The rule of using only the online declaration of the payroll was conceived over than a year ago when a Council of Ministers Decision (CMD) adopted several legal amendments, such amendments including the payrolls in the list of tax documents, the declarations of which had to be done online only. That CMD allowed taxpayers a reasonable grace period of time to adapt their payroll system to accommodate the newly required online submissions.

Taxpayers were then asked, starting from 1st July 2012, to complete and declare the payrolls for contributions of social security, health insurance and income tax using only the online system. However this attempt to achieve the transition from hard copy submission to online submission failed and the Directorate General of Taxation proposed by a letter that the obligation for online payroll declaration to be postponed and become applicable for the tax period starting in January 2013.

This postponement eased the payroll process greatly for taxpayers, especially businesses that have a large number of employees. In the interim period until January 2013 they were allowed to declare at the tax administration the payrolls both manually and online. Taxpayers became better acquainted with the electronic procedures, the software, and were able to complete submission of accurate data in the system and generally become familiar with e-filing requirements. While allowing the submission of the payrolls manually during an interim period time also gave them the assurance that the information and data declared on such payrolls were correct.

This online declaration together with the possibility of making payments electronically through the e-banking system significantly reduces the time spent for declaration and payment of contributions and withholding tax. The results of the online payrolls declaration will become apparent in February 2013 (corresponding to the January 2013 tax period).

By Emel Haxhillari
Associate, Tax & Employment

PROJECT UPDATES

INSIG PRIVATISATION:
The 5th attempt of privatization of INSIG has begun with the process of the selection of transaction advisors. Now all 100% of the state shares will be put up for sale, as IFC and EBRD exited by exercising the Put Option for 39 per cent of the shares they held in the company. In previous attempts, the Ministry of Finance relied on internationally recognised BNP Paribas as key transaction advisors. However it appears this time around no international consultants participated in the tender. Of the bids submitted the commission for the evaluation of bids has declared all technical bids not valid, except for one firm that would appear to be announced preferred bidder. It is expected that the sale should close before the end of this year.

ALBTELECOM PRIVATIZATION
Two consortia bid for the Osumi river HPP cascade with a projected capacity of over 300 MW. After evaluating the offers METE declared the temporary union of companies “Genosumi” LTD”, Constructora Quebec “LTDA”, “Orteng Equipamentos E Sistemas” LTD and “Pëllumb Çela” SHPK as the winners. METE is still the phase of drafting the bid package for Vjosa River HPP which is expected to be launched within this year (with a projected capacity of 300 MW). METE also plans to re-activate the Skavica project over the Drini i Zi River (re-evaluated with a theoretical capacity of over 300 MW) and issue a new bid package also within this year.

HPPs PRIVATISATION
METE has declared that the public auction for the sale of the remaining stake of the state in the telecommunication company Albtelecom (that offers fixed phone and internet service throughout Albania) shall now be opened and take place later this year from 10 December 2012.

“The Couple”, by Ilir Pojani


**KOSOVO Office**

**KOSOVO BECAME 66TH MEMBER OF EBRD**

The European Bank for Reconstruction and Development approved Kosovo as its 66th member, saying it wants to boost economic growth and rebuild infrastructure in the Balkan nation.

On the other hand the Kosovo Parliament on 13 December 2012 through the Law no. 04/L-169 “On Ratification of the Agreement Establishing the European Bank for Reconstruction and Development” has approved the ratification instrument of the Decision no.137 rendered by Governors Board of the EBRD.

Following the ratification by the Assembly of the Republic of Kosovo of the Agreement Establishing the European Bank for Reconstruction and Development, the Kosovo Government is obliged to meet all obligations arising from the ratified agreement.

The Bank will seek to support Kosovo’s economy and improve the lives of the people there, facilitate transition and contribute to regional stability. To this end, it will ensure the necessary coordination with other international financial institutions and international donors. The Board of Governors’ decision was welcomed by the EBRD President, Suma Chakrabarti, who said: “The EBRD will be delighted to be able to address Kosovo’s needs. The Bank will work to develop the private sector as well as investing in infrastructure improvements and will help to strengthen the economy more generally. This will benefit all people living in Kosovo.”

Currently the EBRD is involved in 29 projects in Kosovo with net business volume to the value of 66 Million EUR (source: [http://www.ebrd.com/pages/country/kosovo.shtml](http://www.ebrd.com/pages/country/kosovo.shtml)).

**NEW LAW ON ENFORCEMENT PROCEDURES**

The Kosovo Assembly has approved the new Law no. 04/L-139 “On Enforcement Procedure” which introduces private enforcement agents (bailiffs). This Law provides for the procedure in which courts and private bailiffs follow to enforce executive titles and credible documents (e.g. invoices and other public documents). The private bailiff shall be independent and shall carry out functions only in accordance with the Law on Enforcement Procedure.

The introduction of private bailiffs will take effect from next year 1st January 2014, i.e. after the Ministry of Justice conducts the licensing process for the appointment of private bailiffs. The number of private bailiffs to obtain licensing shall be determined by the Ministry of Justice; they shall be appointed based on territorial jurisdiction of basic courts and one bailiff shall be assigned for 25,000 inhabitants. Private Bailiff Companies may be established but only by licensed bailiffs and to conduct the business under the conditions and in accordance with the provisions of the Law on Business Organizations.

It is expected that the introduction of private enforcement agents will improve the system of enforcement of judgments which is considered as one of the weakest points in the justice system.

**By Vegim Kraja, Associate**

**PROJECT UPDATES**

**CONCESSION OVER BREZOVICA SKI RESORT:**

The Government of Kosovo for a second time has rendered the decision to postpone the term until 14 March 2013 for submission of bidding for privatization of the 75 % of shares in Post and Telecommunication of Kosovo. The Minister of Economic Development Besim Beqaj who is at the same time chairman of Government Privatization Committee, has justified the re-postponement of the term, with the purpose of increasing the value of the targeted company.

**TPK KOSOVA E RE:**

Following the removal of Kosova B from this project, the Steering Committee has examined the new developments in connection with the preparation of the Call for Proposals and the transaction structure.

The publication for the Call for Proposals together with the draft Project Agreements are expected by the end of March 2013.

EBRD has indicated it may be interested in financing this project.

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