THE LAWYER
EUROPEAN
AWARDS
2014

For several years KALO & ASSOCIATES is in the short-list of the Lawyer European Awards for the category of "Law Firm of the Year Eastern Europe & the Balkans". The Lawyer European Awards has earned reputation for its process of rating of legal profession in Europe. The jury that makes the evaluation of each law firm prior and after the short-listing is made up of prominent managing partners of private law firms and in-house counsels of multinational companies. The Lawyer's own market research has made the Awards the most comprehensive reflection of the commercial legal market.

The firm is delighted to be shortlisted again which is an indicator of the firm's unshakeable integrity to maintain high levels of client service.

This year the SEE Legal member firm Boyanov & Co. was conferred upon the award "Highly Commended" and the winner for this category was announced Karanovic & Nikolic from Serbia. It was the first time that The Lawyer shortlisted two firms from Albania, as this year the firm Boga & Associates was a Finalist for "Law Firm of the Year: Eastern Europe and the Balkans".

BILATERAL AGREEMENTS BETWEEN ALBANIA and GERMANY

There is a long history of relations between the Republic of Albania and the Federal Republic of Germany, which have been materialized in several agreements between the two countries, dating from the Agreement of 1988 On Technical Cooperation. Also, there have been other important agreements in the 1990s regarding cooperation in areas such as labour and social policy, civil air transport, mining, bilateral investment, culture, non-profit organizations, entrepreneurship, education, agriculture, etc., as well as financial cooperation in relevant projects such as sewerage, family planning, etc.

The cooperation between the two countries continued to grow in the previous decade, especially in financing projects in areas such as power supply, environment etc., and support in the Albania's stabilization and association process. An important step towards the expansion of relations between the two countries was the opening of a German local office in 2008 for development cooperation in Albania, by facilitating the implementation of many important projects of GIZ Office Albania (the German Society for International Cooperation in Albania), whose work is focused on water sector reform, economic, agricultural and rural development, and of KfW (Reconstruction Credit Institute) responsible for the success of some of the most important projects in the recent years in the field of Environment Protection, Water Supply and Sewage, Communal Infrastructure, Social Investment Funds etc. in different regions and cities in Albania such as in Northern Albania, Korca, Pogradec, Elbasan, Kavaja, Kruija etc.

A key role in the German-Albanian relationship nowadays plays also the German Trade and Industry in Albania, which serves from 2008 as a gateway for the German economy to the Albanian market.

Other important examples of German presence in Albania are AviaAlliance (former Hochtiefer Airport) and DEG (German Investment Corporation), which own the majority of the shares of Tirana International Airport and Procredit Bank Albania, part of Procredit group which is led by ProCredit Holding AG, a holding company based in Frankfurt am Main, Germany or even in the pharmaceutical industry with the Representative office in Albania of Berlin-Chemic, in the auto industry with Porsche, Volkswagen, Audi, Opel, in international foundations and institutes like Konrad Adenauer Stiftung, Friedrich Ebert Stiftung and Goethe-Institut, as well as in the telecommunication sector with Deutsche Telekom, whose subsidiary in Greece, COSMOTE is the majority shareholder of the first mobile operator in Albania, AMC, or other important names like ThyssenKrupp, Tirana Business Park, TÜV Rheinland, DHL International etc.

A further positive step to facilitating the business and important in promoting mutual economic relations by avoiding double taxation and to strengthen cooperation in tax-related issues, has been the Double Tax Treaty between the Republic of Albania and The Federal Republic of Germany which is in place from 2010.

A further incentive for German investments in Albania is the fact that by being both countries members of the ICSID Convention, a multilateral treaty formulated by the Executive Directors of the International Bank for Reconstruction and Development (the World Bank) and according to this treaty the investment in Albania benefit from international arbitration and dispute resolution mechanisms. This treaty has been ratified by the Albanian and the German government, and the dispute resolution mechanisms thereunder are applicable to investments in Albania. This has opened up new perspectives for German investors, as well as for Albanian counterparts.
PAYMENT OF COURT FEE
BY EMPLOYEES

According to the Albanian legislation, in order to submit a claim to the court a person is obliged to pay a pre-trial court fee. The issue of payment of the pre-trial court fee by employees in the capacity of the plaintiff has been held subject to trial by the Constitutional Court. The case was brought before the Constitutional Court by the District Courts of Tirana and Pogradec and the Centre for Civic Legal Initiatives claiming that the statutory provisions on payment of the pre-trial court fee contradicts the Albanian Constitution and denies the right to access to the court of employees who are financially incapable to pay such pre-trial court fee.

The Constitutional Court according to its Decision No.7 dated 27.02.2013 has ruled that it is at the discretion of the relevant court to investigate on the basis of the evidences provided by the employee regarding his/her lack of financial means, and to assess, making reference to the civil procedural legislation and relevant legal provisions, whether the employee may be exempted or not, from payment of such court fee.

On November 20, 2013, with the last amendment to the Instruction no.13, dated 12.2.2009 “On determining the fee for the court administration and the Ministry of Justice actions and services, for the State Bailiff’s Office services, for the Prosecution Office services, for the Notary services, and Immovable Properties Registration Office services”, the pre-trial court fees were reduced compared to their last amendment in March 2010, thus providing that each person willing to submit a claim to the court must pay a pre-trial court fee of 1% (instead of 3%) of the claimed amount if it is higher than 100,000 ALL, or a fee of 3,000 ALL (instead of 12,000 ALL) if the claimed amount is less than 100,000 ALL.

It is a fact though that in practice, courts do not request employees the payment of the pre-trial court fee.

Shirli Gorenca, MPA, Associate

BILATERAL AGREEMENTS BETWEEN ALBANIA and GERMANY

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the “Treaty between the Federal Republic of Germany and the Republic of Albania concerning the encouragement and reciprocal protection of investments” (BIT), there is the possibility for conciliation and arbitration of investment disputes between these two Contracting States at the International Centre for Settlement of Investment Disputes, with seat at the principal office of the World Bank in Washington.

Developing the existing ones and creating new possibilities of bilateral cooperation, are crucial in keeping such good relations to Germany, as they are very important not only for the further development of a sustainable economic growth in Albania but also for stability in the region.

FIRM NEWS

TAXPARTNER, ARDJANA SHEHI APPOINTED TAXPAYER REPRESENTATIVE: Based on the Order of the Minister of Finance “On approval of the taxpayer representatives in the Tax Council”, Ardjana Shehi, Tax & Banking, Partner of KALO & ASSOCIATES was appointed taxpayer representative of the Italian Chamber of Commerce.

KALO & ASSOCIATES selected legal counsel for Albania by SPORTFIVE, the first sports marketing agency to have acquired and to sublicense the broadcast and exhibition rights of the Olympic Games. “The International Olympic Committee’s decision to award SPORTFIVE these rights (Olympic Winter Games in Sochi in 2014 and the Games of the XXXI Olympiad in Rio in 2016 in 40 European countries) marks a milestone in Olympic Games broadcast history”.

THE ITALIAN CHAMBER OF COMMERCE IN ALBANIA (C.C.I.A.) organized a workshop about the recent introduction in Albania of the administrative jurisdiction titled “Dialogues of administrative law: the borders of the administrative jurisdiction under the new law no. 49/2012, On the organization and functioning of the Administrative Court and the administrative handling of disputes” inviting as lecturer one of the Associates of KALO & ASSOCIATES, Dr. Michela Marucci. Michela is an Italian jurist who has been working at KALO & ASSOCIATES since one year and a half. The interest on this topic was extremely high which was reflected in the big attendance. The focus was on practical matters how and within what period businesses should file an administrative appeal and how the administrative courts are going to proceed.

GERMAN – ALBANIAN ECONOMIC CONFERENCE

In Essen, Germany, the Integrative German – Albanian Association (IDEAL), headed by Anduca Stephan, former CEO of Tirana International Airport in collaboration with the Chamber of Commerce and Industry of Tirana and Chamber of Commerce and Industry of Essen organized an economic conference regarding Albania, Kosovo and Macedonia. Our Managing Partner Mr. Kalo was a panelist and delivered on legal framework foreign investors have to consider prior to entering the Albanian and Kosovo market. The conference and the initiative was “blessed” by the Albanian Prime Minister Edi Rama through a letter sent to
FIAA ECONOMIC FORUM

Managing Partner, Perparim Kalo, who is also the Vice President of FIAA, contributed as a panelist in the Economic Forum on the Issues and Challenges that Foreign Investors are facing in Albania organized by FIAA. The highlights focused on the strengthening of the collaboration with the Government for a better investment climate in Albania. The foreign investors were offered the possibility of a dialogue with the Minister of Finance, Mr. Shkreli Cani who treated issues related to Finance and invited the Business to be part of the Fiscal Package 2015 consultation process.

LEGAL TAX ALERT

Recent Changes brought by Fiscal Package in the tax legislation

The Albanian Parliament approved on December 28, 2013 several amendments to several tax laws (“the Fiscal Package”). These amendments are already published in the Official Gazette.

Amendment to Income Tax Law

The recent amendment to Law no.8438, dated 28.12.1998 “On income tax”, as amended, has increased the rate of Corporate Income Tax from 10% to 15%. Further, the Personal Income Tax related to employment has been changed and the following is applicable:

<table>
<thead>
<tr>
<th>Taxable amount (ALL/month)</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 30,000</td>
<td>0%</td>
</tr>
<tr>
<td>30,001 – 130,000</td>
<td>13% of the amount over 30,000 ALL</td>
</tr>
<tr>
<td>130,000 +</td>
<td>13,000 ALL + 23% of the amount over 130,000 ALL</td>
</tr>
</tbody>
</table>

The above changes are effective as of January 1st, 2014.

Amendment to Tax Procedures Law

The recent amendment to Law no.9920, dated 19.05.2008 “On tax procedures in the Republic of Albania”, as amended, includes, amongst other, the below changes:

i. The limit of cash transactions has been decreased from 300,000 ALL to 150,000 ALL;

ii. The deadline for the submission of the objection to the preliminary tax audit report has been extended from 5 (five) to 15 (fifteen) calendar days;

iii. For purposes of the appeal of a tax assessment notification, the taxpayer will now have two alternatives: (i) to pay the tax liability (excluding penalties only), or (ii) to provide a bank guarantee for the relevant tax liability (excluding penalties only). 

The above changes are effective as of January 1st, 2014.

Amendment to Local Taxes Law

The recent amendment to Law no.9632, dated 30.10.2006, “On the local taxes system”, as amended, has provided for the Simplified Corporate Income Tax applicable on small businesses (i.e. businesses generating an annual turnover lower than 8,000,001 ALL) according to the following:

<table>
<thead>
<tr>
<th>Annual turnover (in ALL)</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 2,000,000</td>
<td>25,000 ALL/year</td>
</tr>
<tr>
<td>2,000,001 – 8,000,000</td>
<td>7.5%</td>
</tr>
</tbody>
</table>

The above changes are effective as of January 1st, 2014.

Amendment related to health contributions

The relevant recent amendment to Law no. 10383, dated 24.02.2011 “On compulsory health insurance”, as amended, provides that the calculation basis for purposes of health contributions shall be the gross salary of the insured person.

The above changes are effective as of January 1st, 2014.

PROJECT UPDATES

NATIONAL FOOTBALL STADIUM

It will be decided soon after a long bidding process, between France’s Bouygues Batiment International and Italy’s Serenissima Construzioni to design, finance, build and operate the new stadium. The new stadium having nearly 22,000 seats will be the country’s largest ever sport investment and the cost of it is expected to be nearly million Euros. The construction of the new stadium shall meet the requirements to be adequate for any international match and it shall be financed by the federation, FIFA, UEFA and Albanian government.
CHANGES IN THE PRACTICE OF WORK PERMITS

The procedure and fees related to residence and work permits services in Kosovo are undergoing some legislation amendments and changes in practice at the moment, due to EU requirements and implementation of the new Law on Foreigners (August 2013). Public officials of the Ministry of Labor and Social Welfare state that the practice, timeframes and official fees regarding the relevant permits for foreign employees will be subject to change in early February 2014.

Accordingly, the new practice being discussed is that foreigner will not apply for work permits by the Ministry of Labor and Social Welfare anymore, but by the Ministry of Internal Affairs, though up to date public officials cannot yet notify any standard procedures, fees, documents to be required by the new practice to be implemented. However, it is now confirmed that in practice, since February 15th, the consent by the Labor Inspectorate for work permits is not required anymore. This was a burdensome procedure which aims at the simplification of the work procedures of foreign citizens working in Kosovo.

Atdhe Dika, Associate

PROJECT UPDATES

POST TELECOMMUNICATIONS OF KOSOVO PRIVATIZATION:
The privatization of 75% of the shares in Post Telecommunication of Kosovo has been postponed for several times, due to political issues in the Kosovan Assembly and in the Governmental Privatization Committee in Kosovo. The declared preferred bidder for the acquisition of 75% of shares in Post Telecommunication of Kosovo was the German-American Consortium “Axos & Najafi”. Currently the Government of Kosovo has cancelled the bidding and a complaint by the bidder has been filed to the relevant privatization Kosovan authorities. KALO & ASSOCIATES was engaged as local legal advisor by Gowlings, which is part of the transaction advisors consortium jointly with RBI and Lazzard.

TREPQQA MINES:
On November 2011, the Parliament of Kosovo promulgated the Law on Reorganization of Certain Enterprises and their Assets (the “Reorganization Law”), which law represents the legal frame for organization of the Trepcsa Enterprise under the administration of the Privatization Agency of Kosovo (“PAK”).

A tender for the Provision of Professional service for the reorganization of Trepcsa - Enterprise under PAK administration was announced in December 2013 and the bidders have submitted their offers in early January 2014. However, lately there have been discussions on a political level in Kosovo to change the legal framework and status of Trepcsa Enterprise and list the latter as a Public enterprise where the Government and the Assembly of Kosovo would have its ownership.

MOTORWAY (ROUTE 6):
Recently Bechtel-Enka has been announced as the winning bidder in the bid for the construction of the “Prishtine - Hani i Elezit” Motorway. The official agreement with the Government has not been signed yet and is expected to be concluded by the end of the month of February.

Disclaimer: The contents of this newsletter is for information-purposes only and are not intended in any way as legal or other professional advice. It is advised that professional advice should be sought prior to any action being undertaken based on any of the contents of this newsletter.

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