

### Issue 04/15

To keep you up-to-date with the latest economic and financial developments, this bulletin provides information that may affect the operation of your business in Albania.

#### **Constitutional Court to order temporary suspension of the Law 99/2015**

The Constitutional Court of the Republic of Albania resolved on 23.12.2015 to issue a temporary injunction by suspending the implementation of the law no. 99/2015 "On Some Amendments and Additions to Law no. 9920, dated 19.05.2008 "On Tax Procedures", for the time period until the Constitutional Court will review and rule whether the provisions of the said law are in breach of any constitutional right. The most important amendments introduced by law no. 99/2015 may be found in our [Tax Alert publication \("Issue 03/15"\)](#).

This decision comes as a result of a motion filed with the Constitutional Court by the Organization for the Entrepreneurs and Market Protection (the Claimant) to abrogate certain provisions of the law no. 99/2015 as incompatible with the Constitution of the Republic of Albania.

The Claimant argues *inter alia* that the new provisions of the law no. 99/2015 infringe article 17 of the Albanian Constitution, which stipulates that restriction of human rights is justified only for a public interest, and must be proportional with the circumstances that triggered such restriction.

It is expected that the Constitutional Court will rule on the merits of the claim by early next year. Until that time, the tax administration shall apply the old provisions of the Law "On Tax Procedures".

#### **New Law "On the National Business Center"**

On 26.11.2015 the Parliament of Albania enacted the law no. 131/2015 "On National Business Center" (the NBC), which has been published on the Official Gazette no. 215 and entered into force on 29.12.2015 (the "NBC Law").

Below is a summary of the major highlights of the NBC Law.

##### *Purpose of the Law*

The NBC Law aims to further facilitate doing business in Albania by offering the registration and licensing procedures through one institution, which will be the National Business Center. Upon establishment of the NBC, the National Registration Center ("NRC") and the National Licensing Center ("NLC") will cease to exist.

##### *Functions of NBC*

In addition to the functions currently performed by the NRC and the NLC, the NBC will have the following functions:

- Issuing advisory opinions concerning practical implementation of legal and sublegal acts in the field of registration and licensing of commercial entities;
- Conducting studies regarding the quality of commercial laws; informing and advising the minister responsible of trade and the Council of Ministers on their projects in the business registration and licensing field.

## *Organization of NBC*

NBC has jurisdiction in all territory of the Republic of Albania, as the only institution which provides services to the public. The Chambers of Commerce and Industry will collaborate with the NBC based on agreements, whereby providing service desks in their premises, implementing the functions of NBC in accordance with the requirements of the NBC Law.

NBC is expected to fully operate 90 days from entry into force of the Law (ie 28.03.2016).

## **New Draft Law on Chambers of Commerce**

The Ministry of Economic Development, Tourism, Trade and Entrepreneurship ("MoE"), as the supervising entity of the activity of chambers of commerce and industry ("Chambers") and of the Union of Chambers of Commerce and Industry ("Union"), with the proposal of the latter has compiled the draft law "On some Changes and Additions to the Law no. 9640, dated 09.11.2006 "On Chambers of Commerce and Industry".

The main novelty of the draft law is the controversial reinstatement of compulsory membership of legal entities with the Chambers.

MoE argues that this amendment comes as a necessity of the financial difficulties the Chambers are facing. According to the MoE, the Chambers and the Union are unable to fulfill their minimal obligations deriving from international agreements which might compromise their membership with international organizations such as EuroChambers, Association of Balkan Chambers etc.

The main amendments consist of the following:

- Membership to a Chamber shall become compulsory for all legal entities and voluntary for natural persons, registered with the Albanian Commercial Register.
- Members of the Chamber shall pay the annual membership fee within the 31st day of March of each year. The amount and the procedures to collect such fees shall be determined by the assembly of the Union.
- Membership to the Union shall be compulsory for all the Chambers. They shall transfer to the Union, as a membership fee, 30% of their funds collected from the annual membership fees.

As regards the other business organizations, their membership to the Union shall be voluntary, based on bilateral agreements between these organizations and the Union.

The requirement that business associations must have at least 100 members, in order to be denominated as chambers, shall be reduced to 50 members.

The draft law has been submitted by the Council of Minister to the Parliament for discussion and approval.

# BOGA & ASSOCIATES

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