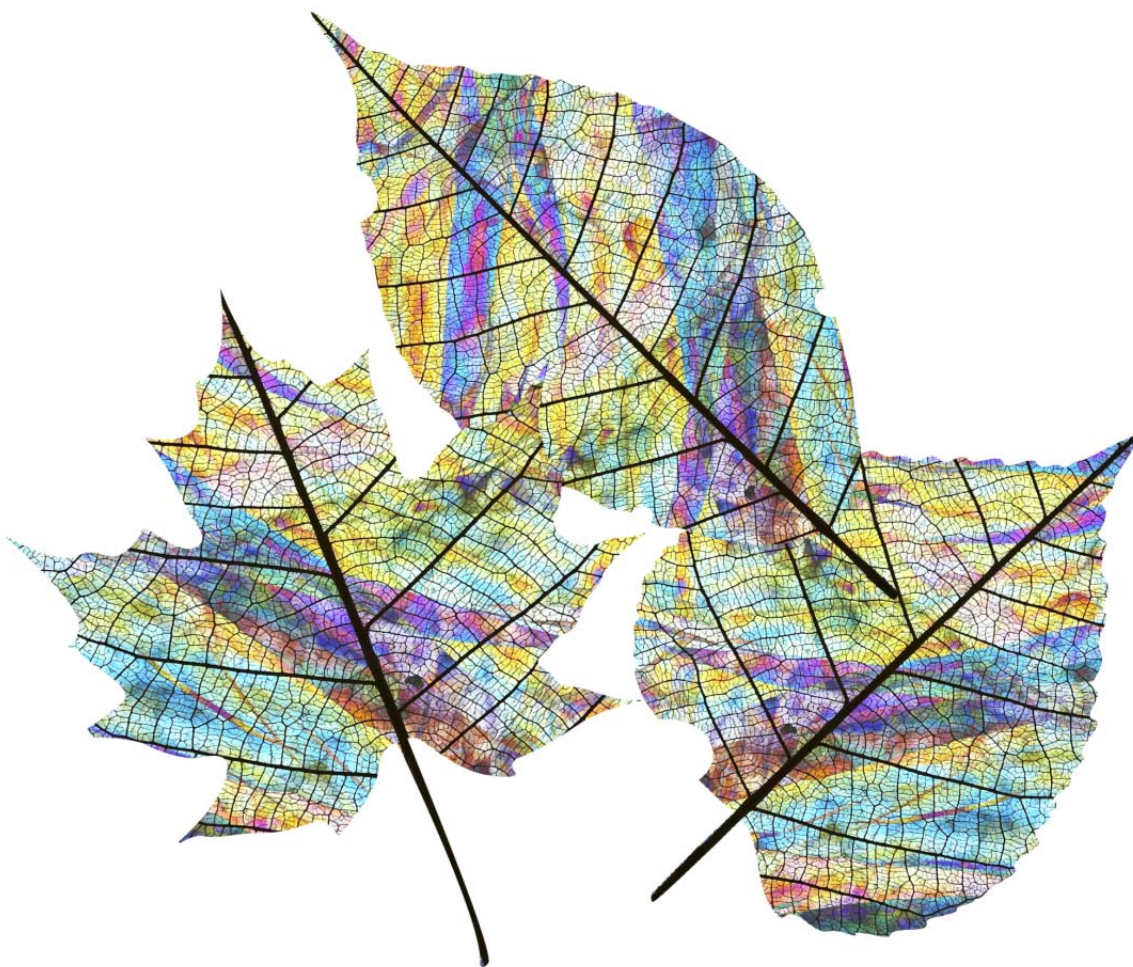


Legal ratings survey of global real estate

Produced by the Allen & Overy Global Law Intelligence Unit and
Real Estate Department together with Global Relationship Firms



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Albania



1. Alien ownership

Q. There are no restrictions on the ownership or leasing of land by aliens?

Comment (1) According to the article 5 of the law No. 7980, dated 27.07.1995 "On buying and selling of land", alien individuals and alien corporations are permitted to own local land with the condition of realising investments on the land, not less than three times the value of the land, in accordance with the construction permit, whilst they can lease local land directly. (2) Local corporations owned or controlled by aliens or having alien directors can own or lease local land. (3) Government permissions are not applied even for major projects with regard to leasing or ownership.

2. Absolute ownership

Q. All nationals (including locally incorporated companies) can own land outright and are not limited to leases or mere occupancy rights?

Comment All nationals (including locally incorporated companies) can own land outright.

3. Proof of title

Q. Proof of title to land is quick and safe?

Comment Problems regarding property title are common and various. Extra due diligence is usually straightforward as regards the proof of title.

4. Cost of land transfers

Q. There are no material costs in transferring land or a lease of land used for business purposes or in the grant of a long lease of land used for business purposes, other than normal legal and registration fees and reasonable taxes on any gains?

Comment [(1) There are no other costs other than normal legal and registration fees.

In accordance to the article 28 of the law No. 9632, dated 30.10.2006 "On local tax system", as amended, the seller has to pay the tax "On property transfer", which is calculated as 2 % of the property value.

(2) As regards leases, the tenant bears local taxes such as: green tax, cleaning tax and lighting tax, which are defined on a yearly basis by the Council of the Municipality. Taxes on the property (i.e. tax on the real estate) are borne by the owner of the property.]

5. Mortgages

Q. Mortgages of land and related assets (by non-consumers) are very protective of the mortgagee as creditor?

Comment (1) Though the mortgage of land and related assets is a protective security instrument for the creditor, in practice the creditors face several difficulties in the procedures for enforcing such instrument.

6. Controls on terms of leases of land

Q. The law relating to business leases of commercial premises is very protective of landlords and the law does not restrict or control

the terms of leases of such land (ignore rights of termination on default)?

Comment The law restricts or controls certain terms of a lease of commercial premises, e.g. (1) The decision of the Council of Ministers No. 469, dated 03.06.2015 "On designation of the minimal rent levels for tax purposes" provides the formula for establishing the minimal rental levels. The rental price cannot fall under the levels established by such decision. Furthermore, pursuant to the article 803 of the Civil Code, leases cannot last more than 30 years, unless the law provides otherwise. (2) In accordance to the article 805 of the Civil Code the landlord is obliged to perform all necessary repairs to the premises and the tenant bears only the daily maintenance, whilst the lease contract can validly exclude the obligation of the landlord to insure or make the premises safe. Article 816 of the Civil Code provides that the tenant is not entitled to compensation for improvement costs unless the consent of the landlord for carrying them out has been obtained. (3) When a lease of business premises expires, the landlord can evict the tenant and the tenant has no protection unless the parties otherwise have provided by the contract, such as a right to a new lease. (4) Pursuant to the article 818 of the Civil Code, the lease can validly exclude the ability of the tenant to assign or sub-lease. (5) A tenant is released from its obligations under a lease when it assigns the lease. Article 818 of the Civil Code provides for the right of the tenant to pass the lease to a third party if it has the consent of the landlord.

7. Termination of leases**Q. A landlord can freely terminate a lease of commercial premises on default by the tenant if the lease so provides?**

Comment (1) A landlord can immediately terminate a business lease if the tenant does not pay the rent or breaches other terms of a lease of land used for commercial purposes if so provided. (2) If the tenant becomes insolvent, the landlord can terminate the lease of such land if so provided. However, pursuant to article 94 of Albanian Insolvency Law, if the tenant becomes insolvent the landlord cannot terminate the lease of such land for the following reasons:

- for default of lease prior to the insolvency opening procedure;
- due to the debtors' economic situation deteriorating.

8. Foreign direct investment**Q. The law is friendly to foreign direct investors in land?**

Comment Albanian law, especially the Law on Foreign Investments, guarantees full legal protection for foreigners' investments. Private investments are not subject to nationalisation or expropriation, unless specifically required by law for the public interest. Parties to a dispute may agree to submit claims to arbitration. Foreign investors also have the right to submit disputes to an Albanian court.

The Law on Foreign Investments provides "special state protection" for investments/projects exceeding EUR 10 million. Such protection is granted where a dispute arises between the foreign investor and a private party claiming title over the land where the project is or will be built and/or developed.

This protection involves the state replacing the foreign investor in a court dispute and undertaking to compensate the claimant if the court rules in its favour.

Anyhow the practice shows different problematic scenarios with regard to implementation of procedures regarding acquisition and investment over the land.

9. Development of land**Q. No official permissions are required to build on or change the use of land, other than normal public safety and environmental restrictions?**

Comment As per the law No. 107/2014 "On territory planning and development" any legal entity must apply for development permission with respective public authority for land development. The change of use of land is regulated by the decision of the Council of Ministers No. 410, dated 27.06.2012 "On definition of rules and procedures changing the land categories resources". As per above, developments and change of use of land are strictly regulated. There are different rules for urban and agricultural land.

10. Environmental

Q. The rules governing the environment and liability for clean-ups in relation to land are very light and relaxed?

Comment (1) Subject to Environmental Law, the liability for environmental damage is based on the "polluter pays" principle. It also provides for the liability of the company owning or leasing the land in cases of contamination. Additionally public administration bodies are also responsible to assure environment safety.

General comment The practice for land transactions is quick and efficient because they are performed by the public notary which verifies online the property status. The Real Estate Registration Office registers the rights on the property within a short term.

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