



REPUBLIC OF ALBANIA

COMPETITION AUTHORITY

PRESS RELEASE

ALBANIA 2018 REPORT CHAPTER 8 "COMPETITION POLICY"

The European Commission (EC) has published the Albania 2018 Report on the Opening of Negotiations for Albania in European Union (EU) Membership.

The EC has assessed the role of the Albanian Competition Authority as a leader and coordinator for Chapter 8 "Competition Policy". *"According to the Report, Albania has some level of preparation / is moderately prepared in competition policy"*.

For more information of the findings of the Report 2018 for Chapter 8 please refer as follows:

"Albania has some level of preparation / is moderately prepared in competition policy. There was some progress on legislative alignment during the reporting period. However, significant efforts are needed to further improve legislative alignment and enforcement in the area of State aid".

In the coming year, the country should in particular:

- ensure the operational independence of the State Aid Commission (SAC) and strengthen the capacity of the State Aid Unit;
- step up efforts to improve its enforcement record in the area of State aid control.

Antitrust and mergers

The alignment of the legislative framework is broadly in line with the acquis and the provisions of the SAA. The Law on Protection of Competition is largely aligned with Article 101 on restrictive agreements and Article 102 on abuses of dominant position of the TFEU. It also provides for prior control of mergers, in line with the Merger Regulation. Secondary legislation is broadly in line with the relevant EU regulations and Commission guidelines. In 2016, the Albanian Competition Authority (ACA) simplified its procedures for handling certain concentrations and its regulation on commitment procedures.

As regards the institutional framework, the ACA is responsible for implementing the Law on Protection of Competition. Formally, it is an operationally independent

authority reporting to Parliament, which appoints its chair and four board members. The ACA can adopt secondary legislation, impose fines and remedies if competition rules are breached, authorise mergers, with or without conditions, or prohibit them. It can conduct sector enquiries and, at its own initiative, issue opinions and recommendations on draft laws that may affect competition. A leniency programme for companies providing information on cartel cases is in place. Parties may appeal ACA's decisions before the courts.

Regarding enforcement capacity, the ACA has 39 staff members, which is considered adequate. The level of expertise has been strengthened through ACA staff participating in a number of seminars and workshops. On implementation, during the reporting period the ACA adopted 46 decisions, including 2 decisions on prohibited agreements and 13 decisions approving concentration notifications. Few decisions in the area of antitrust or mergers seem to result in effective remedies: no leniency applications have been reported since 2016 and only one suspected cartel case, on cinema distribution, was under investigation. The ACA should continue to step up its enforcement of competition rules.

State aid

The legislative framework is broadly in line with the *acquis* and with the provisions of the SAA. Amended in 2016, the Law on State aid largely reflects Articles 107 and 108 of the TFEU on the definition of compatible and incompatible State aid as well as on procedures. During the reporting period, Albanian legislation was amended to align it with the Regulation on *de minimis* aid granted to undertakings providing services of general economic interest and with the latest modifications to the General Block Exemption Regulation. However, further alignment with secondary EU legislation on State aid control is still needed.

As regards the institutional framework, the SAC is responsible for implementing the Law on State aid. Given that its secretariat is part of the Ministry of Economy and Finance, which is an aid-granting institution, the SAC cannot be considered an operationally independent authority as the SAA requires. The Law on State aid provides that new aid measures must be notified to the SAC and found to be compatible before they can be put in place. The SAC can order the recovery of unlawfully granted, incompatible aid. Its decisions can be appealed in court.

With limited resources, the enforcement capacity of the SAC is insufficient and needs to be strengthened. It has yet to be shown that the Law on State aid is being implemented effectively. Since the beginning of 2016, the SAC has assessed 13 State aid schemes and 2 *ex officio* cases. No negative or recovery decisions were taken. It is important that State aid rules are reflected in the public finance management strategy and that the SAC's advisory role is presented to line ministries and regional and local authorities. Advocacy must be stepped up to achieve prior notification of aid measures to the SAC.

Liberalisation

The laws on protection of competition and on State aid are applicable to public undertakings and undertakings with special or exclusive rights, except when their application obstructs the performance of the particular tasks of services of general economic interest that are assigned to them.

There has been no investigation of State aid for public undertakings or undertakings with special or exclusive rights. As regards the rules on financing services of general economic interest, their enforcement needs to be further demonstrated.