Centre for Legal Empowerment
www.cle.al



National Report Albania 2026

Comparative Analysis on approximation of the new Law on concessions and public-private partnerships with the European Union Directives

OPEN SOCIETY FOUNDATIONS
WESTERN BALKANS

National Report
Albania 2026

COMPARATIVE ANALYSIS ON APPROXIMATION OF THE NEW LAW ON CONCESSIONS AND PUBLIC-PRIVATE PARTNERSHIP WITH THE EUROPEAN UNION DIRECTIVES

Publisher:
Centre for Legal Empowerment

Authors:
Franc Terihati and Arbesa Kurti

Copyright holder:
Center for Civil Communications

Proofreading:
Katerina Dimishkovska

Design:
Relativ

Published: **October 2026, Tirana**

Electronic edition



This report is part of the regional project on Exploring PPP and Concession Potential for Regional Development in the Western Balkans, implemented by the Center for Civil Communications from North Macedonia in partnership with the Centre for Legal Empowerment (Albania), Enterprise Development Agency – EDA (Bosnia & Herzegovina), Lëvizja FOL (Kosovo), Centre for New Initiatives (Montenegro) and Bečej Youth Association (Serbia).

This report was made possible with the support of the Open Society Foundations – Western Balkans. The views expressed are those of the author(s) and do not necessarily reflect the views of the Open Society Foundations – Western Balkans.

Table of Content



INTRODUCTION....4

BACKGROUND....5

HARMONISATION OF THE NEW LAW ON CONCESSIONS AND PUBLIC-PRIVATE PARTNERSHIP WITH THE EU DIRECTIVES....10

CONCLUSIONS....19

REFERENCES....20

Introduction



The system of concessions and public-private partnership is one of the important elements of any country's economy. Through this system, with contribution of private entities, the state may construct works, provide services and perform activities of public interest and for the benefit of its citizens.

Sound administration of this system, while respecting the principles of transparency, meritocracy, non-discrimination, proportionality, efficiency, equal treatment, reciprocity and legal certainty, requires initiatives for adoption of clear legal framework and measures for its rigorous implementation.

Although the current law regulating concessions and public-private partnership has been amended several times, problems continued to be identified both in terms of the clarity of legal provisions and in terms of practical implementation.

In 2025, Albania initiated the procedure for adoption of new law on concessions and public-private partnership aimed at approximating the legal framework with the EU Directives.

The new Law no. 88/2025 was adopted on 12 December 2025 and is expected to enter into force on 12 October 2026. Implementing secondary legislation must be adopted pursuant to this law, in order to enable its application in practice.

The purpose of this study is to analyse the new law's compatibility with the EU Directives and the degree of such compatibility, as well as to provide recommendations where important provisions or procedures have not been included in the new law, with a view to incorporate them in secondary legislation or endure their implementation in practice.

Background

Since 2013, the system of concessions and public-private partnership has been regulated by Law no. 125/2013, which has undergone four amendments and additions over the years.

Despite continuous amendments and tendency to approximate the legislation with the EU Directives, numerous problems have been encountered in terms of law implementation. This has influenced the undertaking of new initiative to approximate the legal framework with the EU Directives - an obligation for Albania arising from Chapter V of the EU acquis.

By way of background, below are some issues identified in international reports regarding implementation of PPP procedures and monitoring in Albania:

European Union's Common Position on Cluster I, Chapter 5 on Public Procurement:

- The EU notes that, in the area of concessions, Albania is only partially aligned with the EU acquis. It invites Albania to continue further approximation, in order to address, among other issues, unsolicited proposals, operational risk and the scope of legislation's application.
- Albania should fully align its national legal framework with the EU acquis in all areas of public procurement, including legislation on concessions and public-private partnership, as well as international agreements that exclude certain procurements from public procurement rules, in accordance with the Treaty establishing the European Community, EU procurement legislation and other relevant provisions of the EU acquis.

Council of Europe 2025 Report, Chapter 5 - Public Procurement:

> (...) further alignment of the legal framework with the EU acquis is needed in the field of concessions and public-private partnership, as well as alignment with the EU acquis in the field of defence and security procurement. The Law on Concessions and Public-Private Partnership (PPP) is only partially aligned with the EU acquis. The in-depth review of the PPP law, aimed at full alignment with the EU acquis, has not yet been completed. Use of new PPPs and concessions remains very low. In 2024, only one procedure was launched and no contract was awarded.

The European Commission's 2024 Progress Report finds that:

"Albania is moderately prepared in public procurement. In the coming year, Albania should, in particular:

- continue efforts to improve competitive procurement procedures;
- further harmonise the legislative framework with the EU acquis in the area of concessions and public-private partnership;
- facilitate implementation of the National Single Project Pipeline (NSPP), including project ranking; and
- advance integration of public-private partnerships (PPPs) into NSPP. (p.7)

Progress has been made in public investment management and public financial management. However, weaknesses in investment planning and execution persist. The ranking of projects in NSPP based on their strategic relevance, maturity and financing has not yet been completed. The necessary legal amendments to integrate public-private partnership into NSPP and into the regular cycle of public investment management are also still unresolved.

The Law on Concessions and Public-Private Partnership (PPP) is partially aligned with the EU acquis. Work on substantive review of the PPP law with the aim of aligning it with the EU acquis is ongoing. (p.56)

Following separation of the Ministry of Finance and Economy, the Agency for Treatment of Concessions (ATRAKO) will fall under the new Ministry of Economy. Both ATRAKO and the Ministry of Finance should strengthen their reporting on PPPs, which is currently lacking.

Contracting authorities should continue to build capacities to manage public procurement processes. With regard to preventing corruption in public procurement, Albania should focus on further strengthen the functioning of the overall system in order to increase competition, compliance and professionalisation".

In the concluding statement of its Article IV Mission for 2023–2024, the IMF states the following:

For 2024:

> "The staff recommends restoring a unified project cycle for public investment projects, maintaining strong feasibility requirements and clarifying multi-year commitment controls to ensure that projects are properly appraised, appropriately prioritised and effectively implemented. Decision-making should be harmonised across traditional procurement and PPPs, with the Ministry of Finance coordinating the entire investment cycle. A Climate-PIMA (C-PIMA), to assess progress since the 2016 PIMA, could support the PIM agenda. For PPPs, unsolicited proposals (80 percent of the current portfolio) should be eliminated and governance should be improved in order to avoid fragmented responsibilities."

For 2023:

> "Continued progress in structural fiscal reforms will help strengthen public financial management. Operationalising public investment management guidelines will improve project classification, management and monitoring. The inclusion of public-private partnerships (PPPs) in the regular public investment framework and in budgetary processes is an urgent need, requiring legal amendments. The planned publication of dedicated fiscal risk statement in 2024 is an important step toward future monitoring of fiscal risks, including risks arising from PPPs, implicit and legal contingent liabilities, and state-owned enterprises. The fiscal risk statement should also clearly identify risk-mitigation measures, including increased oversight and good governance of state-owned enterprises."

Issues identified domestically and initiatives undertaken to address them and reform the legal framework

The problems identified in international reports, as well as by domestic organisations, have been reflected in legal acts and have led to initiatives to amend the legal framework and approximate it with EU Directives. Law no. 125/2013, currently in force, has been amended four times, yet problems have continued to be identified both from legal/formal perspective and in its practical implementation.

i. The explanatory memorandum on several additions to Law no. 125/2013 on Concessions and Public-Private Partnership, as amended (09.12.2022), stated that:

> "The focus of law amendments has been placed on public transparency and obligation of the Agency for Treatment of Concessions, as the institution responsible for the Register of Concessions/PPPs, to publish a defined list of documents; preventing award of concessions or PPPs involving public funds to citizens convicted or sanctioned for a set of criminal offences including, among others, corruption, fraud and money laundering. The control mechanism has been further strengthened by avoiding, as far as possible, concealment of responsibility behind collective responsibility and by explicitly providing for personal responsibility of every official involved in concession/PPP award procedures. Concession approval is also made subject to unanimous vote of all members and to minutes keeping, in every case, which, above all, must contain arguments of members voting against. Key element of the draft law is the obligation of every economic operator to submit financial report proving that it has the necessary capacity to implement the project. This means that the economic operator must possess at least half of the capital needed for implementation of the project, as well as the lawful sources of this amount, which must have been declared to public bodies and for which tax obligations have been paid. The contracting authority, with assistance of specialised law-enforcement institutions, has the obligation to verify the truthfulness of these declarations. The economic operator is automatically disqualified if it fails to prove the lawful source of their income."

ii. In its 2024 Annual Analysis, the Supreme State Audit states that:

> "Violations of procurement legislation continue to be identified, such as lack of genuine competition, biased criteria, unfounded evaluations of operators and weaknesses in contract management. Contracts signed with the single bidder, procedures with missing documentation, and violations in application of selection criteria have been identified.
>
> In several cases, procurements were carried out for services already covered by existing contracts, resulting in double costs for the public budget. Audits of public contract implementation identified payments for works not performed, lack of penalties against contractors, and other deficiencies.

...

Other less significant violations include: lack of legal harmonisation and coherence regarding administrative appeal deadlines in the field of defence and security procurement between Law no. 36/2020 and DCM no. 1170 on procurement rules in this field; discrepancies between Article 20, item 3 of Law no. 9874 and item 5.1 of the Standard Auction Documents, which have caused practical implementation problems; and lack of harmonisation between the Ministry of Tourism guidelines and the law on public auctions, where some criteria for participation of economic operators are inconsistent with the legislation and restrict competition. Coordination issues were also identified, including lack of coordination and communication between the Public Procurement Agency and the Agency for Treatment of Concessions (ATRAKO), causing inaccuracies and delays in monitoring of concession contracts and lack of administrative investigation processes for such contracts; lack of monitoring by PPA of procurement procedures in the field of defence and national security due to absence of IT specialist for administration of the Classified Information System (CIS) and lack of documentation on completion of its implementation; shortages of human resources and specialised capacity in the sector for verification of concession/PPP procedures due to unrecruited vacancies and lack of staff training on concession processes. Problems were also identified in administration of documentation and files, such as lack of proper inventory and archiving of public procurement files, personnel files, and others."

iii. In the explanatory memorandum for the new draft law on concessions and public-private partnership, current problems and expected effects of the new law are summarised in the table below:

Table no.1

Area	Main advantages	Current problems addressed	Expected effects
Transparency and competition	Open/restricted/negotiated procedures, electronic publications, invitations for expression of interest.	Less appropriate procedures; partial publications.	Increased participation of operators; reduced costs.
Fiscal management	Prior approval by the Ministry of Finance for each project, quarterly monitoring reports, electronic PPP register.	Unidentified contingent liabilities; lack of reporting.	Reduction of budgetary risks; increased fiscal transparency.
Compatibility with the European Union	Approximation with Directive 2014/23/EU.	Terminological inconsistencies; procedural uncertainty.	Facilitation of integration and access for EU investors.
Anti-corruption	Obligation to declare conflict of interests; exclusions for convicted entities.	Unmanaged conflict of interests cases.	Increased institutional integrity.

Based on issues identified in respect to law application, criteria for selection of economic operators, lack of monitoring implementation of PPP contracts, lack of transparency and public information, an initiative for adoption of a new law was undertaken in 2025.

Adoption of an entirely new law enables direct approximation with Directive 2014/23/EU on concession contracts and the public procurement directives, avoiding fragmented interpretations arising from partial amendments to the existing law. The law in force was based on directives that have now been repealed, is not coordinated with the public investment system and contains overlapping institutional roles; for these reasons, adoption of a new law was considered necessary.

Objectives intended to be achieved by the new law are:

1. Strengthen institutional mechanisms on effective monitoring of public-private partnership contracts by improving the role of the ministry responsible for finance and operationalising relevant supervisory structures;
2. Improve the system of data collection and processing on implementation of PPP contracts, in order to enhance the quality of analysis and evidence-based decision-making;
3. Increase human capacity at institutions responsible for managing PPP lifecycle through continuous training programmes and technical assistance;
4. Adapt and harmonise the regulatory framework with the public investment system and budget planning, in order to ensure full integration of concession projects into the state's development policies;
5. Clarify legal provisions in line with international standards, in order to facilitate practical implementation and ensure compliance with the principles of good governance and public financial management;
6. Expand the reporting and monitoring system for PPP contracts, with the aim of increasing transparency, tracking performance and improving public access to information;
7. Clearly define the rules on risk allocation and management between the public and private sector, with the aim of protecting fiscal sustainability and avoiding excessive burden on the state budget.

Harmonisation of the New Law on Concessions and Public-Private Partnership with the EU Directives

Preliminary Remarks

Public-private partnership is one of the main pillars of public financial administration and key instrument for economic development. In the context of EU integration, Albania is obliged to harmonise its legislation with EU standards, in particular under Chapter 5.

Specifically, this obligation derives from the EU primary and secondary law:

a. Primary EU law:

The Treaty on the Functioning of the European Union (TFEU), Article 53 (1) (former Article 47 TEC), Article 62 (former Article 55 TEC) and Article 114 (former Article 95 TEC), which form the legal basis of European regulation of services, the internal market and the harmonisation of legislation related to public contracts. These provisions guarantee freedom of establishment and freedom to provide services, equal and non-discriminatory treatment of economic operators, and define the Union's competence to establish common rules that remove market barriers and ensure fair competition.

The EU-Albania Stabilisation and Association Agreement (SAA): Article 70 (3), Title VI "Approximation of Legislation, Law Enforcement and Competition Rules", Article 72 "Public Undertakings" and Article 74 "Public Contracts", Title VI "Approximation of Legislation", which constitute Albania's legal basis for approximating its legislation with EU standards on the internal market, services and public procurement, ensuring transparency, fair competition and equal treatment of economic operators in concession/PPP procedures.

b. Secondary EU law:

Directive 2014/23/EU on the award of concession contracts constitutes the main basis of the EU acquis in the field of concessions and sets harmonised rules on how member-states plan, award and administer concession contracts. The directive aims to strengthen transparency, competition and equal treatment of economic operators across the internal market by establishing clear criteria for monetary thresholds, calculation of the value of concessions, publication, evaluation and contract-signing procedures.

It also addresses conflict of interests, exclusions, general principles of implementation and rules on modification of contracts during execution. As harmonising instrument, Directive 2014/23/EU aims to ensure common standards throughout the European Union, creating predictable legal environment and facilitating operators' access to other EU markets.

Prompted by problems identified by international actors and domestic institutions, an initiative was launched in 2025 to draft a new law on concessions and public-private partnership.

Law no. 88/2025 on concessions and public-private partnership was adopted on 12 December 2025 and was decreed by the President of the Republic on 8 January 2026. The law was published in the Official Gazette on 12 January 2026.

Article 79 of the Law provides that: "This law shall enter into force 9 months after its publication in the Official Gazette, except Article 77, item 1 of this Law, which shall enter into force 15 days after publication in the Official Gazette."

Pursuant to the above provision, the new law enters into force on 12 October 2026. Until October 2026, provisions under the current law on concessions and public-private partnership, namely Law no. 125/2013, as amended, will continue to apply.

The new law aims to create stable and transparent environment that promotes private investment in infrastructure and public services through long-term cooperation between the public and private sector. The article on definitions lists core terms such as "concession", "public-private partnership", "mixed contract" and "right of exploitation".

The new law sets out the rules for planning, award, administration and supervision of concession/PPP contracts, based on the principles of transparency, non-discrimination, proportionality, efficiency and legal certainty.

The new law is intended to produce the following positive effects:

- creation of unified framework on competitive procedures;
- public interest protection through ex-ante and ex-post control by the ministry responsible for finance;
- establishment of transparent rules for PPP/concession contract award, implementation and monitoring;
- creation of risk allocation and management mechanisms;
- harmonisation of procedures with EU standards on the award of concession contracts;
- strengthened supervisory role of the ministry responsible for finance, the Public Procurement Agency (PPA) and the institution responsible for concessions;
- promotion of value for money and public interest protection.

In addition to legal provisions that have been amended and aligned with the EU Directives, institutions must take necessary measures for their full implementation in practice, following the best international practices.

Approximation of Law no. 88/2025 on Concessions and Public-Private Partnership with the EU Directives

One of the main reasons behind the initiative to adopt new law on concessions and public-private partnership was its full approximation with Directive 2014/23/EU.

According to accompanying documentation to the law, specifically the table of concordance, the new law is partially aligned with Directive 2014/23/EU. Some articles are fully compatible with the directive, some are partially compatible, and some provisions have not been incorporated.

With regard to reasons for partial approximation or non-incorporation, the institutions state that this is linked to the fact that Albania is not member of the European Union and, therefore, these provisions cannot apply here. For several articles that are not aligned or are partially aligned, however, there is no analysis of reasons for non-alignment.

The terms, procedures and principles have been approximated with Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, with regard to the competitive procedure, notification communications, deadlines and the standstill period. Some provisions are fully incorporated, some are partially incorporated and some are not aligned.

Below, the legal provisions that are fully aligned, partially aligned and not aligned are presented in simplified table format, in order to provide complete overview of the law's approximation with the EU Directive.

Legal Provisions Fully Aligned

The table below presents legal provisions that are fully aligned with Directive 2014/23/EU. Data presented here have been analysed/taken from the table of concordance accompanying the draft law.

Table no. 2

No.	Title/Object	Directive	Law no. 88/2025
1	Subject matter and scope	1(1)	Article 2
1	Principle of free administration by public authorities	1(2)	Article 9/3
2	Effect on justice systems	2(2)	Article 9/4
3	Principle of equal treatment and non-discrimination	3(1)	Article 9/1/2
4	Definitions	5 (1), 5 (3)–5 (13)	Article 3
5	Contracting authorities	6(1) and 6(4)	Article 15/1–15/2
6	Contracting entities	7(1)	Article 15/2–15/3
7	Monetary threshold and methods for calculation of concession's estimated value	8 (2)–8 (6)	Article 25
8	Exclusions applicable to concessions awarded by contracting authorities and contracting entities	10 (9)	Article 5/1
9	Specific exclusions in the water sector	12 (1)	Article 5/1
10	Concession duration	18 (1)–18 (2)	Article 59/1–59/2
11	Mixed contracts	20 (1)–20 (5)	Article 7/1–7/5/a
12	Mixed procurement contracts involving defence or security aspects	21 (2)–21 (3)	Article 7/2–7/3/c/ç and 7/5
13	Reserved concessions	24 (1)	Article 28
14	Research and development services	25 (1)	Article 29/1–29/2
15	Economic operators	26 (1)–26 (3)	Article 30/1–30/4
16	Nomenclatures	27 (1)	Article 33
17	Confidentiality	28 (1)–28 (2)	Article 17/1–17/3
18	Applicable rules on communication	29 (1)–29 (2)	Article 32/1–32/2
19	General principles	30 (1)–30 (3)	Article 31/2–31/4
20	Concession notices	31 (1)–31(3)	Article 34/1 and 34/9 and 27/3
21	Concession award notices	32 (2)	Article 48/2
22	Form and manner of publishing notices	33 (1)	Articles 34/2–34/3, 48 and 27/3–27/4
23	Combating corruption and preventing conflict of interests	35 (1)	Article 18/1–18/2
24	Technical and functional requirements	36 (1)–36 (3)	Article 36/1–36/4
25	Procedural guarantees	37 (1)–37 (6)	Article 37/1–37/7
26	Selection and qualitative assessment of candidates	38 (1)–38 (9)	Article 38/1–38/11
27	Time limits for receipt of applications and tenders for concessions	39 (1)–39 (5)	Article 39/1–39/5
28	Provision of information to candidates and tenderers	40 (1)–40 (2)	Article 40/1 and 40/3
29	Award criteria	41 (1) and 41 (3)	Article 41/1, 41/5–41/7
30	Subcontracting	42 (2)–42 (4)	Article 62/1, 62/4, 62/7
31	Modification of contracts during their term	43 (2)(i)(ii)–43 (5)	Article 60/7–60/10

The table above shows that approximately 31 legal provisions, out of 79 legal provisions/articles contained in Law no. 88/2025, are aligned, amounting to about 50% of the entire legal text. Aligned provisions mainly concern principles, scope of application, definitions, time limits, the conduct of procedures, selection of economic operators, contract modification and termination. It should be emphasised that, as the table shows, one or several points under the same provision have been approximated, while other points have not been aligned or are partially aligned.

Legal Provisions Partially Aligned

A great part of the provisions are not fully aligned, but only partially aligned. The following table presents, in comparative form, the legal provisions that have been partially approximated.

Table no. 3

No.	Title	Directive no. 2014/23/EU	Law no. 88/2025
1	Definitions	Article 5(2): "economic operator" means any natural or legal person, or public entity, or a group of such persons or entities, including temporary associations of undertakings, which offers execution of works and/or work, supply of products or provision of services on the market.	Article 3/17: "Economic operator" means any natural or legal person, or such entities, offering on the market, respectively, execution of works and/or works and services.
2		Article 8(1): This Directive applies to concessions whose value is equal to or greater than EUR 5,538,000.	Article 24/1–24/2: For the purposes of this law a monetary threshold applies. The minimum monetary threshold is approved by the Council of Ministers decision.
3	Exclusions	Article 10(1): The Directive does not apply to service concessions awarded to contracting authority or contracting entity, or to an association thereof, on the basis of an exclusive right. It also does not apply to service concessions awarded to an economic operator on the basis of an exclusive right granted in accordance with the TFEU and EU acts laying down common rules on market access.	Article 5/1(k): This law does not apply to public service concessions awarded by one contracting authority to another contracting authority or to an association of contracting authorities on the basis of an exclusive right enjoyed under the legislation in force.
3		Article 10(3): The Directive does not apply to concessions for air transport services based on the grant of an operating licence within the meaning of Regulation (EC) no. 1008/2008, or to public passenger transport services within the meaning of Regulation (EC) no. 1370/2007.	Article 5/1(i): The law does not apply to air transport services based on the grant of an operating licence under the legislation in force.
3		Article 10(4): The Directive does not apply where a contracting authority or entity is obliged to award or organise concessions in accordance with different procedures established by an international legal instrument, an international organisation or an international financing institution. Member States must communicate the relevant legal instruments to the Commission.	Article 5(d) and (dh): The law excludes concessions/PPPs subject to different rules under agreements with one or more states, or under the procedural rules of international organisations or international financial institutions. In cases of conflict with such obligations, the relevant agreement prevails.
3		Article 10(7): The Directive does not apply where the protection of essential security interests of a Member State cannot be guaranteed by less intrusive measures, including confidentiality requirements.	Article 5/1(b): The law does not apply where implementation must be accompanied by special security measures under the applicable legislation or where required for protection of essential interests of the state.

3		Article 10(8): The Directive excludes several categories of service concessions, including acquisition or lease of immovable property, audiovisual and radio media programme material, arbitration and conciliation services, certain legal services, financial services, loans, certain civil protection/emergency/risk prevention services provided by non-profit organisations, and political campaign services.	Article 5/1(c), (ç), (dh), (e), (ë), (f) and (g): The law provides analogous exclusions for immovable property, audiovisual/radio programme material, international organisation or financial institution procedures, arbitration and conciliation, financial services, loans and civil protection/emergency/risk-prevention services, with certain differences in scope and formulation.
3		Article 13(3): Subject to Article 17 and the fulfilment of Article 13(4), the Directive does not apply to concessions awarded by a joint venture formed exclusively by several contracting entities for the purpose of carrying out activities listed in Annex II to an undertaking affiliated with one of those contracting entities.	Article 5/1(k): The law refers to public service concessions awarded by a contracting authority to an authority enjoying an exclusive right under the legislation in force.
4	Social and other specific services	Article 19(1): Concessions for social and other specific services listed in Annex IV are subject only to the obligations arising from Article 31(3) and Articles 32, 46 and 47.	Article 27/1–27/3: Social and other specific service concessions are subject only to the obligations defined in that article; the types of services are determined by the Council of Ministers decision; and the contracting authority/entity publishes prior information notice containing specified minimum information.
5	Mixed contracts	Article 21(1): Mixed contracts containing elements of a concession covered by the Directive and procurement or other elements covered by Article 346 TFEU or Directive 2009/81/EC are governed by this article. Contracts covering several activities are governed according to the relevant provisions of the Directive and Directive 2014/25/EU.	Article 7/3: Where contracting authorities/entities choose to award a single contract, the applicable regime is determined according to whether the contract includes elements of concessions, public contracts or defence/security procurement, and whether it is objectively justified to award a single contract.
6	Contracts covering several activities	Article 22(1)–(3): Contracting entities may award separate contracts for each separate activity or a single contract. The choice must not be made with the objective of excluding contracts from the scope of the Directive. Where a contract covers several activities, it is subject to the rules applicable to the activity for which it is principally intended; where that cannot be determined, the Directive sets rules for determining the applicable regime.	Article 7/1–7/3: In contracts covering works or services governed by this law and supplies/works/services governed by other regimes, authorities/entities may award separate contracts or a single contract where separate awards are objectively impossible. The applicable regime is determined based on the characteristics of each part and the main object of the contract.
7	Contracts involving several activities including defence/security	Article 23(1)–(2): Contracting entities may award separate or single contracts, but the choice must not aim to exclude the contract from the Directive or Directive 2009/81/EC. Where one activity is covered by Article 346 TFEU or Directive 2009/81/EC, the contracting entity may apply specific rules or award without applying the Directive where objectively justified.	Article 7/2 and Article 7/3(d): The law provides rules for contracts covering activities subject to this law and activities covered by defence and security procurement rules, allowing the contracting authority/entity to choose the applicable regime where the single award is objectively justified.

8	Concession award notices	Article 32(1): No later than 48 days after the award of a concession, contracting authorities and entities must send a concession award notice on the results of the procedure. For social and other specific services, notices may be grouped quarterly and sent within 48 days after the end of each quarter.	Articles 45/2 and 48/1: The preliminary winner notice is published immediately, but no later than 7 days after completion of the evaluation procedure; the winner notice is prepared immediately, but no later than 5 days after approval of the summary report.
9	Access to concession documents and additional information	Articles 34(1) and 34(3): Contracting authorities/entities must provide unrestricted and full direct access free of charge by electronic means to the concession documents from publication of the concession notice or invitation. Additional information must be provided to participants no later than six days before the deadline for receipt of tenders, if requested in good time.	Articles 26/1–3 and 37/5: Tender documents are drafted and handled by the concession/PPP commission under the relevant legal provisions; detailed rules are approved by the Council of Ministers decision; additional information may be included under other legal/sub-legal acts; and necessary procedural information and amendments to tender documents are communicated to interested operators.
10	Mandatory exclusion grounds	Article 38(4): Contracting authorities/entities must exclude an economic operator convicted by final judgment for participation in a criminal organisation, corruption, fraud, terrorist offences, money laundering or terrorist financing, child labour and other forms of trafficking in human beings. The obligation also applies where the convicted person is a member of the operator's administrative, management or supervisory body or has representation, decision-making or control powers.	Articles 38/4 and 38/5: Any economic operator convicted by final court decision for the listed criminal offences is disqualified from concession procedures for five years from enforcement of the sentence, unless another period is determined by the court. The obligation also applies where the convicted person is a member of the administrative, management or supervisory body of the operator or has representation, decision-making or control powers.
11	Modification of concessions during their term	Article 43(1): Concessions may be modified without a new procedure where modifications were provided for in clear, precise and unequivocal review clauses; where additional works or services by the original concessionaire have become necessary and a change of concessionaire is not possible for economic or technical reasons and would cause significant inconvenience or duplication of costs; where unforeseen circumstances require modification without altering the overall nature of the concession; where a new concessionaire replaces the original one under a review clause, corporate restructuring or assumption of obligations; or where the modifications are not substantial. Certain notices must be published.	Article 56: Contracts may be amended through an annex, generally not earlier than two years from commencement of implementation and where provided for in the notice and contract. The article regulates amendments initiated by the parties, cases where no new procedure is required, publication of notices, thresholds for non-substantial amendments, criteria for substantial amendments, and prior approval by the ministry responsible for finance for all amendments.
11	Termination of concessions	Article 44(1): Member States must ensure that contracting authorities/entities may terminate a concession during its term where a modification requiring a new procedure has occurred; the concessionaire should have been excluded at the time of award; or the Court of Justice of the EU finds that a Member State failed to fulfil Treaty obligations in the award of the concession.	Article 59: The contracting authority/entity may terminate the contract where the concessionaire/private partner cannot fulfil its obligations due to insolvency, serious breaches or other impediments; where modification would require a new award procedure; where the concessionaire/private partner should have been disqualified; or where the private partner fails to secure project financing within 12 months, unless otherwise stipulated. The parties may also terminate for impossibility, serious breach or by mutual consent, with prior information to the ministry responsible for finance.

12	Monitoring	Articles 45(1)–45(2): Member States must ensure correct and efficient implementation by assigning monitoring tasks to one or more authorities or structures, and must ensure monitoring of concession award rules. Monitoring authorities must be empowered to report fraud, corruption, conflict of interests, serious irregularities or systemic problems to audit authorities, courts, ombudsman institutions, national parliaments or relevant committees.	Article 60/1–60/2: The Contract Implementation Unit is a permanent unit within the contracting authority responsible for managing the concession/PPP contract from entry into force until termination. Its tasks include implementation planning, monitoring non-financial and financial performance, risk management, reporting and documenting implementation, final evaluation or extension, handling claims, and obtaining specialised expertise where needed.

Referring to the above table, it is found that some inconsistencies relate to references in the Directive to the EU legal framework for specific issues regulating particular fields, such as air licences.

From principled and procedural perspective, the partial alignment that may affect implementation in practice relates to:

> **Monetary threshold:** the directive defines a monetary threshold, specifically EUR 5,538,000, while the law provides, in principle, that there is monetary threshold but leaves it to be determined by secondary legislation.
>
> **Notification deadlines:**-under the directive, the notice deadline is no later than 48 days, whereas under the new law it is no later than 7 days.
>
> **Transparency:** partial approximation also concerns transparency and publication of acts. The directive provides that all documentation related to the concession process, from development of the procedure to completion of the contract, must be published free of charge. The new law provides that tender documentation is published in accordance with the legislation in force and that specific arrangements will be made under secondary legislation. It is considered that the provision on transparency and publication of acts should have been fully aligned with the directive, as transparency is one of the most important elements of this procedure. It should be emphasised that one of the main problems of the 2013 law was precisely the lack of transparency in public procurement procedures.

Legal Provisions Not Incorporated

According to accompanying documentation to the new Law no. 88/2025 on concessions and public-private partnership, many legal provisions have not been incorporated into the new law.

For some of them, it is stated that, because Albania is not member of the European Union, these provisions cannot apply. For others, it is stated that they are provisions of principle and therefore do not require approximation/incorporation. For many of the provisions not approximated with EU Directives, however, no reason is provided.

Table no. 4

No.	Title/Object	Directive	Reason for non-compliance
1	"Regional authorities" include all administrative authority units listed non-exhaustively in NUTS 1 and 2 under Regulation (EC) no. 1059/2003. "Local authorities" include all administrative authority units belonging to NUTS 3 and smaller administrative units under Regulation (EC) no. 1059/2003.	6 (2)–6 (3)	This is linked to the nomenclature of administrative divisions of EU countries and is not relevant for Albania at this stage.

2	Entities granted special or exclusive rights. "Public undertaking" means any undertaking over which contracting authorities may exercise, directly or indirectly, a dominant influence by virtue of ownership, financial participation or the rules governing it.	7 (2)–7 (4)	No reason provided.
3	Revision of monetary thresholds.	9	This provision relates to the activity of the European Commission and does not require approximation.
4	Exclusions applicable to concessions awarded by contracting authorities and contracting entities.	10 (2), 10 (5), 10 (6), 10 (10)	The provision refers to Member States and is inapplicable to Albania for point 10(2). No reason is provided for the other points.
5	Specific exclusions in the field of electronic communications.	11	No reason provided.
6	Concessions awarded to an affiliated undertaking.	13 (1), 13 (2), 13 (4), 13 (5), 13 (6)	No reason provided.
7	Concessions awarded to a joint venture or to a contracting entity forming part of a joint venture.	14 (1)	No reason provided.
8	Notification of information by contracting entities.	15 (1)	The provision refers to Member States and is inapplicable to Albania.
9	Exclusion of activities directly exposed to competition.	16	No reason provided.
10	Concessions between entities within the public sector.	17 (1)–17 (5)	No reason provided.
12	Nomenclatures – the Commission is empowered to adopt delegated acts to adapt the CPV codes mentioned in the Directive, where changes in the CPV nomenclature must be reflected in the Directive and do not imply a modification of its scope.	27 (2)	The provision refers to the European Commission and is inapplicable to Albania.
13	The Commission is empowered to adopt delegated acts to amend the list in Annex X when necessary to add new international agreements ratified by all Member States or where existing international agreements are no longer ratified by all Member States or are otherwise amended.	30 (4)	The provision refers to Member States and is inapplicable to Albania.
14	Exception from the obligation to publish a concession notice where works or services can be supplied only by a particular economic operator, including where the purpose is the creation or acquisition of a unique work of art or artistic performance.	31 (4), 31 (5)	No reason provided.
15	Notices are to be drawn up, transmitted electronically to the Publications Office of the European Union and published in accordance with Annex IX. The Publications Office confirms receipt and publication date, which constitutes proof of publication.	33 (2)–33 (4)	The provision refers to the European Union and is inapplicable to Albania.

16	Where, in duly justified circumstances, unrestricted and full direct access free of charge by electronic means to certain concession documents cannot be offered for exceptional security or technical reasons or because of particularly sensitive commercial information requiring a very high level of protection, the contracting authorities/entities must indicate in the notice or invitation how the documents will be made available.	34 (2)	No reason provided.
17	By law, regulation or administrative provision, and having regard to Union law, Member States specify the conditions of implementation for the article, including the maximum period of exclusion if the economic operator does not take measures to demonstrate reliability.	38 (10)	The provision refers to Member States and is inapplicable to Albania.
	Award criteria must be linked to the subject matter of the concession and must not confer unrestricted freedom of choice on the contracting authority/entity. They may include environmental, social or innovation-related criteria.	41 (2)	No reason provided.
18	Compliance by subcontractors with the obligations referred to in Article 30(3) must be ensured through appropriate action by competent national authorities acting within their responsibilities and competences. Member States may provide for stricter liability rules under national law.	42 (1), 42 (5), 42 (6)	This is a provision of principle and does not require approximation.
19	The results of monitoring activities under paragraph 2 must be made available to the public through appropriate means of information.	45 (3)–45 (4)	The provision refers to Member States and is inapplicable to Albania.
20	Articles 46, 47, 48, 49, 50, 52, 53, 54 and 55 refer to amendments to the Directive.	46, 47, 48, 49, 50, 52, 53, 54, 55	The provisions refer to amendments to the EU acquis and are inapplicable to Albania.

In addition to provisions that have not been approximated because they are not applicable in Albania, questions arise in relation to provisions concerning specific aspects of the conduct of concession and public-private partnership procedures. No comment or explanation is provided regarding the reasons why these provisions were not incorporated into the new law, for example, the provisions on public undertakings or the revision of monetary thresholds.

Based on the review of materials accompanying the draft law, it is found that many of the issues raised during the consultations are also linked to incomplete approximation with the directives. The drafters state that these elements will be regulated under the secondary legislation expected to be adopted subsequently.

Conclusions



Adoption of a new law on concessions and public-private partnership, harmonised with the EU Directives, is a positive step not only for Albania's EU accession process, but also for sound administration of public funds and provision of quality and effective services to citizens, as well as construction works in accordance with contemporary standards and the public interest.

Drafting and adoption of the new law is only one link in the long chain of the public procurement process. Therefore, all links must be established and function properly until successful completion of public procurement contract.

Drafting of secondary legislation is an important stage where concrete and clear rules on law implementation must be included in detail, from the moment public procurement award initiative is launched until completion of the contract.

As stated above, some provisions are only partially aligned. Taking into account the working group's position that these elements will be included in secondary legislation, it is important that they be included clearly and understandably, in order to avoid incorrect interpretations or partial implementation of the law.

The purpose of the new law is to reform the entire structure and system of concessions and public-private partnership. It is therefore necessary to take measures and initiatives for continuous training of staff at competent institutions for full implementation of the law.

An important novelty, provided for and emphasised by the new law, is development of an integrated electronic platform for contract reporting and transparency, which will enable real-time tracking of all PPP contract phases, giving the public and interested institutions regular and structured access to information.

Transparency of public procurement procedures has been one of the most significant problems of the 2013 Law, also addressed in national and international reports. Therefore, monitoring and audit structure should be established to ensure rigorous implementation of the law.

Every citizen, journalist and civil society organisation should have access to documentation and information related to public procurement at all stages of the public-private partnership development process.

Effects of the law and secondary legislation, as well as their manner of implementation in practice, should be monitored after the law enters into force.

References

https://neighbourhood-enlargement.ec.europa.eu/document/download/a8eec3f9-b2ec-4cb1-8748-9058854dbc68_en?filename=Albania%20Report%202024.pdf

file:///C:/Users/User/Downloads/mcs102723-albania-alb-staff-concluding-statement-of-the-2023-article-iv-mission%20(1).pdf

https://www.elibrary.imf.org/view/journals/002/2025/345/article-A001-en.xml [last accessed on 28.04.2026]

file:///C:/Users/User/Downloads/mcs102723-albania-alb-staff-concluding-statement-of-the-2023-article-iv-mission%20(1).pdf

https://kuvendiwebfiles.blob.core.windows.net/webfiles/20221212133228 9034Relacion.pdf

Annual Report of the Supreme State Audit, accessed at: https://kuvendiwebfiles.blob.core.windows.net/webfiles/20250402082132 4444KLSH%20-Raporti%20Vjetor%20Performances%20KLSH%202024.pdf, dated 22.04.2024

https://parlament.al/dokumentacioni/aktet/6ed92e3c-c173-4b47-a32c-5d4698d7cf67

https://president.al/presidenti-begaj-dekreton-shpallje-ligji-nr-88-2025/

Explanatory memorandum to the Draft Law on Concessions and Public-Private Partnership

Report of the Committee on Human Rights and Public Information, Parliament of Albania, available at: https://parlament.al/dokumentacioni/aktet/6ed92e3c-c173-4b47-a32c-5d4698d7cf67

Impact Assessment Report, available at: https://parlament.al/dokumentacioni/aktet/6ed92e3c-c173-4b47-a32c-5d4698d7cf67

Report of the Committee on Europe and Foreign Affairs, available at: https://kuvendiwebfiles.blob.core.windows.net/webfiles/20251210145849 9325Raport%20i%20Komisionit%20p%C3%ABr%20Evrop%C3%ABn%20dhe%20Pun%C3%ABt%20e%20Jashtme.pdf

https://kuvendiwebfiles.blob.core.windows.net/webfiles/20251104134918 4691Tabela%20e%20perputhshmerise-Direktiva%20e%20Koncesioneve%202014-23-EU-SHQ.18-06-2025.pdf

See the Table of Concordance with the Directives of the European Union, available at the link enlisted above.