

Albania

Chamber of commerce:

The Chamber of Commerce and Industry
of Tirana
Rruga e Kavajës, 6
Tirana
Albania
Tel: +355 4 230 284
Fax: +355 4 227 997
Email: info@cci.gov.al
Web: www.cci.gov.al

Capital markets in Albania

Anisa Rrumbullaku
Kalo & Associates
Tirana

Until very recently it was safe to say that there was virtually no capital market in Albania and seemingly there was little optimism that such would surface in the immediate future. However, following a big push by the Albanian Financial Supervisory Authority (FSA) laws have been enacted to pave the way for change in this regard.

With the technical assistance of EBRD (European Bank for Reconstruction and Development) Albania has passed a new law on municipal bonds and a new law on corporate bonds. These new enactments shall enable companies and municipalities to acquire alternative forms of credit and subsequently EBRD reports that under the new law on municipal bonds a municipality has borrowed money without the need for a state guarantee.

Since the Albanian FSA was restructured from the Securities Commission to its current form the country has enacted various new laws and revamped the securities market, and recently enacted (with the assistance of other international consultants and Kalo & Associates) a new law on collective investment undertakings and a law on pension funds (both drafted in harmony with the relevant EU Directives).

New law on takeover of companies with public offer

Public takeover bids for Albanian companies are not common at all. This is largely due to the fact that there are almost no public companies i.e. joint stock companies with shares offered and issued to the public and the regulated capital markets in Albania, though existing, i.e. the Tirana Stock Exchange, are for various reasons not active. The legislator has just recently adopted the Law on Takeovers of

Public Companies (February 2010), following the recent boost in the building of the capital markets legal framework in Albania that provides a platform for the provision of this new law. This law, together with the rather recent laws on Entrepreneurs and Commercial Companies (2008) and on Securities (2008) harmoniously pave the way for the regulation of public takeovers that the Albanian market may expect in the near future.

Application

The Takeovers Law is applicable to acquisition of securities issued by a company with public offers and registered office in Albania which is listed for trade in an Albanian duly licensed stock exchange and in the case that such acquisition triggers control by the purchaser of the target company. The control threshold is 30% and seems to be in line with the *equity control* as defined in the Law on Entrepreneurs and Commercial Companies.

Approval

The offer for the takeover of a public company before being published must be approved by the Albanian Financial Supervisory Authority (FSA) and which shall be deemed to be tacitly granted in the case that the FSA does not revert with a response within 10 days from the submission of an offer.

Principles

The whole takeover process must be guided by the principles founded in the EU Directive (2004/25/EC) on takeover bids such as: equal treatment of shareholders of target company, shareholders of target company to be provided timely and adequate information for evaluation of the public offer, management i.e. board of directors of the target company to act in the best interest of the company as a whole in line with the fiduciary duties embodied in the Law on Entrepreneurs and Commercial Companies, public offer to be notified only if payment of all offered compensation is guaranteed, the activity of the target company not

to be hindered by the takeover process etc. Most importantly minority shareholders of a target company where the purchaser has purchased 90% of the voting rights resulting from the public bid are entitled to the sell their shares to that purchaser at the same price offered in the initial purchase through the public bid.

Bid term

The offer must remain open from three to ten weeks from the date of the publication of the public offer. Ten weeks is applicable when the management of the target company convenes the shareholders assembly to deliberate on the offer. Competitive offers during the bid term are allowed.

Bid price

The price offered for the shares must not be lower than the higher value of either:

- (i) the fair price of the shares calculated using widely recognised evaluation methods;
- (ii) the average weighted market price of the shares of the previous three months; or
- (iii) the higher price per share paid by the offeror during 12 months prior to the date of publication of the offer. It must be paid in cash or marketable shares with sufficient liquidity. A competitive offer is deemed as more favourable if the price offered is at least 5% higher.

Financial and corporate

Recommended firms

Tier 1

Boga & Associates
Kalo & Associates
Tonucci & Partners
Wolf Theiss

Tier 2

Hoxha Memi & Hoxha
Loloci & Associates
Zaka Kosta & Tashko Law Firm

Tier 3

Apicella & Partners
Drakopoulos Law Firm

The Albanian legal market has a mixed response to a financial crisis which happened outside its borders. "At the start of 2009 we were quite sensitive to the impact of the financial crisis and law firms were concerned for the lack of interest and demand for legal services," says a partner.

"There were no M&A of the size we were used to in 2007/2008," says another partner and, agrees another, "financing has been delayed due to the need for extra securities, so fewer new projects were coming in through the end of 2009 and start of 2010."

The Greek crisis also created an unknown factor, though some saw positives to it: "One million Albanians live in Greece and they transferred their deposits to Albania, so in early 2010 there was a \$150 million increase in Albanian bank deposits; I don't think the crisis in Greece will affect us." Another partner notes that Greek and Albanian joint ventures may start entering the market.

Two buzz words propped up the market: energy and Kosovo. The first provided a string of large mandates to firms for concessions, constructions and financings of hydropower plants, a 1,300MW thermal power plant and the winding up of the privatization of the state power distributor OSSH. The latter offered the opportunity of a fresh market to tap into, the prospect of which, say partners, lured Eversheds to establish an office in Tirana in 2010.

Despite worries, a number of large and very innovative projects were handled. The market saw the first ever Euro bond issuance by the Republic of Albania for approximately €350 million and an interesting €200 million merger between Digitalb and Supersport. Other top deals included the Rreshen to Kalimash motorway; two aircraft lease transactions and a number of highlight deals in the micro-finance sector.

Other developments include the arrival of Optima Legal & Financial onto the scene and

new legislative amendments, unanimously considered positive, which simplify business registration and licensing.

Boga & Associates

Boga & Associates is an indisputable market leader in the Albanian market. The firm's three top corporate lawyers, Genc Boga, Renata Leka and Sokol Elmazaj have each been with the firm for over ten years, and with this consistency they have achieved an enviable level of quality control.

"One of the competencies is that they are very accurate in what they write, and I don't remember a case that we were provided with a legal opinion that turned out later not to be correct," says a client. Other clients say the firm is "very punctual in delivering on promises" and "very ethical and professional". "Leka is very accurate with her legal advice and has saved us from a lot of trouble" says another happy client.

In one of the most high profile deals in the market, Boga and Elmazaj advised the Hungarian branch of Citibank Europe on a standby letter of credit in favour of the state power distributor OSSH to finalise its privatisation process to CEZ.

In the energy sector the firm advised Swiss power producer Alpiq in post bid concession negotiations with the Ministry of Energy to build and operate an 80MW hydropower plant and an Italian power company on the possible construction and operation of a 1,300MW thermal power plant.

The firm also acted in the finance sector for the European Bank for Reconstruction and Development (EBRD) on the financing of leasing company Landeslease with the aim of channelling funds to small to medium enterprises (SMEs).

Leading lawyers

Genc Boga
Sokol Elmazaj
Renata Leka

Kalo & Associates

"Kalo has been everywhere this year and I have met them on more than several transactions" says one competitor. Kalo's corporate practice, led by partners Përparim Kalo, Alban Caushi, Sophia Darling and senior associates Jona Bica and Anisa Rrumballaku, has been especially prominent on energy and aircraft deals.

"They have a very sophisticated knowledge and legal skill and they are certainly one of the top firms, I was impressed by the advice I got" says a client.

In May 2009, the firm advised Deutsche Bank and Greek Alpha Bank on a financing to the Council of Ministers for its planned €250 million Rreshen to Kalimash motorway.

Darling led a team to assist DEG Deutsche Investitions- und Entwicklungsgesellschaft on a €17 million loan to build a shopping mall, and Kalo advised Ansaldo T&D and Carlo Garvazzi consortium on a €25 million project for a new power substation construction.

The firm handled two large aircraft deals, advising Volito Aviation Services and DVB Bank SE on the lease of two airbus planes for \$40 million and CIT Aerospace Sweden on a \$30 million aircraft lease to the independent Albanian airline BelleAir. The firm, often under the supervision of partner Ardjana Shehi, advised on a further two \$100 million loan and €4 million a long-term loan to two energy companies and a facility related to the construction and operation concession of a hydropower plant.

The firm has also continued to establish itself in Kosovo under partner Gazmend Nushi, where it recently advised on an acquisition in the mining sector.

Leading lawyers

Alban Caushi
Sophia Darling
Përparim Kalo

Tonucci & Partners

Tonucci & Partners has an obvious strength in winning mandates from Italian clients and, thanks to its regional network and alliance with Mayer Brown, on complex cross border transactions. In a recent development, the well connected Marco Monaco Sorge replaced Gianluca Carlesso as the office's managing partner.

Despite some notable departures over recent years Tonucci has consistently presented a highly talented team of corporate lawyers. Enklid Milaj "has made a very good mark and impressed me with his abilities" says a local partner, while Artur Asllani, Neritan Kallfa and Sorge are recommended by a client for their "skills, experience, contacts and superb reputation in the Albanian market".

"I am happy with their legal service; they are quite skilled [...] in terms of their knowledge of law in more than one field," says another client. "We did a financing of a hospital so we needed to know about health law; we did a mining project financing and needed mining law; they have remarkable knowledge and in general are very responsive."

The firm has been especially active in banking and finance, recently advising the EBRD and IFC on a complicated €120 million loan to Cayman-registered Bankers

Petroleum Albania. In banking work, the firm advised Veneto Banka on regulatory issues, and in March 2010 it successfully defended Raiffeisen Bank against a state competition authority's abuse of dominance case. Elsewhere, the firm advised US-based Opportunity Transformation International, and microfinance company Opportunity Albania, in the latter's sale of its entire capital. The firm also won mandates from Mobile 4 AL, Milan stock exchange listed Tod's and Todini Costruzioni Generali and continues to advise clients such as Enel and Tozzi Renewable Energy.

Leading lawyers

Marco Monaco Sorge
Neritan Kallfa

Wolf Theiss

Wolf Theiss had an especially active year, clinching some of the highest value and most complex mandates. Partner Sokol Nako and associate Endrit Shijaku spearhead the firm's local corporate expertise and both come highly recommended by clients. The pair acted on all the firm's top deals.

"The firm in general is excellent, responsive, very well qualified [and] organised", says a client who instructed the team on a complex and high value transaction. Competitors are confident that the loss of Enyal Shuke to private practice in June 2009 will not affect the firm's position. Nako and Shijaku closed four of the biggest deals in the market during the first half of 2010.

In a deal of the year, Nako and Shijaku, with the help of Austria partner Claus Schneider, assisted JP Morgan and Deutsche Bank as lead managers on the first ever issue of an Albanian Euro bond. The advice needed was without precedent and the bond had an estimated value of €350 million to €400 million.

On the M&A side, the firm advised a private equity group on a 100% acquisition in the financial sector and acted for Digitalb and Supersport, Albania's largest media companies, in executing a €200 million reorganization and five year merger structure.

In the construction sector, the firm was hired by Antea Cement and Balfin Group for the €35 million construction of one of the largest shopping malls in the country.

Wolf Theiss also advised in the privatization of the state power distributor, which was completed in May 2009. The team has been developing its Tirana office as a spring board for work in Kosovo and Macedonia.

Leading lawyers

Sokol Nako

Hoxha Memi & Hoxha

Having been founded in 2003, Hoxha Memi & Hoxha has developed a reputation as a firm capable of handling the biggest deals in the country and it has begun to offer competition to the established four.

They are "very good, committed, sharp, quick, pro-active [and] business orientated" says a client. Aside from the name partners, Selena Ymeri and Ilir Johollari come highly recommended by clients.

Despite the tougher times of 2009 and 2010, the firm won a repeat mandate from the Albanian American Enterprise Fund (AAEF) which saw Andi Memi, Johollari and Ymeri advise on a €2.4 million equity investment for the financing of the Tirana East Gate shopping mall, one of the largest in Albania.

In May 2009 Memi, Ledia Beci and Ymeri advised another repeat client Credins Bank on a €7 million subordinated loan agreement with the European Fund for South East Europe.

Shpati Hoxha and Johollari advised BelleAir, the largest independent Albanian airline, on a \$30 million aircraft lease. The firm also conducted due diligence for the Austrian Gaming Industries in June 2010 for what may be the biggest acquisition of shares in a local gaming company to date.

Leading lawyers

Shpati Hoxha
Andy Memi

Other ranked firms

Loloci & Associates maintains its position as an established firm in the market under the management of Krenar Loloci, "a highly reputed professor of constitutional law" in the words of one competitor. Recent clients of the firm include Vodafone, Philip Morris and Balkan Resources.

Zaka Kosta & Tashko Law Firm is another of the generation of younger firms carving out a space in the market. It is known for having good corporate knowledge and being especially strong in the litigation field.

Apicella & Partners is managed by former Tonucci partner Bernardino Apicella, who established the firm in 2007. Apicella is an established top quality lawyer capable of handling the biggest of cases that come through the market. Competitors note that in such a short time he has made himself a leading player in the market.

Some peers nevertheless argue that only time will tell whether the team at Apicella can maintain its profile. One challenge may be to compete with the wave of second generation firms that set up in 2003 and 2004.

Greek firm **Drakopoulos Law Firm** joins the rankings for the first time for its Tirana office managed by Gjergji Gjika and Alban Ruli. The firm is strategically well placed to advise European investors into Albania. "They are better [than others] when it comes to issues between local companies and an international companies using EU law", says a client.

The firm advised on a €13 million sale of land, including due diligence and establishing an SPV and bridge loan from Tirana Bank for the development of an industrial park.

"One of the outstanding lawyers [...] , though the entire team is fantastic, is Gjergji Gjika," says a client. "Gjika has been excellent in his communication skills to his team and us, for achieving the objective diligently and in the most profitable manner for us, since he is truly a business-oriented lawyer, with his finger on the market pulse."

Elsewhere, The firm advised SGS (Société Générale de Surveillance) on a €6.5 million build-operate-transfer concession of the National Vehicle Inspection Service for the refurbishment of 14 test centres, and the construction of a new test centre in Tirana.

Megatek sought the counsel of Ruli and Evis Jani on a €50 million retail and warehouse site development for the largest DIY store in Albania. The transaction included an international tender and a €20 million syndicated loan from two banks.

Other notable firms

Ballanca Law Firm was established by former Tonucci & Partners partner Erinda Ballanca. Ballanca has a strong name in the market and will be one to watch for in future transactions.

The Italian branch of Eversheds, **Eversheds Bianchini**, has established a subsidiary in Tirana managed by local partner Marco Lacaita. Competitors read this as a move to tap into the Kosovo market though they also note that the entry into the market has not been very aggressive.

The firm is targeting real estate, foreign investment (especially from Italian clients), joint-ventures and energy-sector corporate work. Lacaita works alongside Mirko Daidone, the firm's eastern Europe coordinator.

Optima Legal & Financial was formed at the beginning of 2008 by two former Kalo & Associates senior lawyers Ilir Daci and Florian Piperi. The two partners, supported by a team of five associates, are starting to establish themselves in the domestic market. "In local terms, they're better than anyone else," says a client.

The firm certainly had an active year in which it won mandates on a number strong

real-estate transactions and financings. It also reaped with benefits of a retainer relationship with the Soravia Group, which mandated Daci, Dael Dervishi Piperi and Ilva Daci on a €200 million investment for a coastline tourism development in southern Albania.

In other work, the firm advised MDC on a €5.5 million structuring of financing for a residential project, and Alpine Bau Greece on a €43 million infrastructure project for the construction of the Levan to Vlore section of Pan-European Corridor VIII.

Dervishi and Daci acted for IHB Group in a €10 million deal with the Government of Macedonia to take over and restore one of the country's biggest breweries.

The firm has also advised on a number of financings geared towards providing funding to small to medium enterprises (SME) and in one highlight, it acted for the Italian Cooperation in a €27.5 million Italian-Albanian SME development programme.

Shuke Law was established by former Wolf Theiss partner Enyal Shuke and may well be one to watch in the coming years. Shuke is recognised by the market as having good experience in infrastructure projects.